

ACADEMIC ETHICS COMMITTEE - FUNCTIONING, LEGAL FRAMEWORK AND ETHICS

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Abstract

In Bulgaria, a legal commission on academic ethics has been operating since recently; it is a subsidiary body to the Minister of Education and Science. The regulations of this special body are structured through the Law of Academic Staff Development of the Republic of Bulgaria. Its functions are related to the implementation of certain control of the procedures for obtaining of the educational and scientific Doctor degree and the scientific Doctor of Science degree, as well as for academic positions in Bulgarian universities.

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A priori, the question arises as to how to structure this Academic Ethics Committee, which is determined by order of the Minister of Education and Science. In the practice of forming the membership of such committee, the selection criteria, which must be high enough to be able to guarantee a certain impartiality, are not clear. These are not defined either in the Law for academic staff development of the Republic of Bulgaria and the regulations for its application or in other public normative document. Determining the membership of this kind of national specialized body is of particular importance both for its functioning as well as the competences of its members. Those are currently in active employment relationships with certain universities or research organizations, which predetermines their direct dependence on their managers, who are at the same time their employers. Last but not least, it is worth mentioning the direct connection between the Minister of Education and Science and the heads of higher education institutions in Bulgaria, who have contractual relations of special type of management contracts. These direct and indirect relations create preconditions for dependence of this specialized body - the Academic Ethics Committee.

This study attempts to provide a legal and ethical response to the actions of the Academic Ethics Committee at the Bulgarian Ministry of Education and Science.

Keywords: Academic ethics committee, functioning, legal framework.

1. INTRODUCTION

Academic ethics is a concept that describes the behaviour of a scientist or researcher not only in the academic community but in the society in general. Academic norms are not defined in quite a specific way and bear the marks of moral behaviour in all aspects of this concept. To what extent and how these norms

can be determined in an indisputable way could be a subject of a separate discussion and a way of determining public relations in this direction.

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Most generally, plagiarism is defined as follows: Plagiarism is a claim to authorship of a work that has been actually created by someone else. Although it may not always be related to copyright infringement, plagiarism is generally considered reprehensible. From Latin, the term "plagiarism" means the authorship claim to articles, works, books, etc., which, in fact, have been already created by another author. Thus, plagiarism publishes someone else's work or part of it under one's own name. Thus, the plagiary starts to gain undeserved benefits. In most countries, plagiarism is punishable by law. The current Penal Code of Bulgaria (Art. 173, para. 1) (2022a) declares plagiarism a crime, defining it as follows: publishing or using under own name or pseudonym somebody else's work of science, literature and art or a significant part of such work.

This specialized body in Bulgaria considers such cases and it is this committee's task to appoint three experts, who in the internal organizational documents are called arbitrators. The procedure for the selection of these arbitrators is not public and raises certain doubts about their selection and expertise. Generally, they should be from the same professional field and not only; they should also have proven high competencies related to the examination of the specific dissertation or the respective procedure for holding an academic position.

The lack of any rules calls into question the actions or inactions of the selection of arbitrators, drafting of quality opinions and the possibility for them to be objectified enough.

2. LEGAL ASPECT OF ACTION PROCEDURE OF THE ACADEMIC ETHICS COMMITTEE UNDER THE MINISTER OF EDUCATION AND SCIENCE

The proceedings under Article 35 of the Law on the Development of Academic Staff in the Republic of Bulgaria should be developed before the competent body, namely - the rector of the respective higher school, and not the Minister of Science and Higher Education. In this case, the Minister has misappropriated this function, which the legal hiatus of the law has provided, but rather his function is only advisory and does not give rise to legal action.

The relevant hypothesis in this case is that of para.1, item 1 – following the established order, it is necessary and sufficient to prove plagiarism in scientific papers, on the basis of which the person has participated in a procedure for acquiring a scientific degree and has acquired one. In this case, this proof was made after the inspection of a body with special competence, being firstly duly referred - the Academic Ethics Committee at the Ministry of Education and Science. The referral for inspection is clearly laid out in paragraph 4c of the additional provisions of the Law on the Academic Staff Development in the Republic of Bulgaria, according to which signals for plagiarism and/or unreliability of the submitted scientific data in relation to completed procedures for acquiring scientific titles and holding of academic positions under this law, as well as acquisition of scientific degrees and scientific titles by the order of the repealed scientific degrees and

scientific titles Law, shall be considered and checked by the Academic Ethics Committee according to Art. 30, para. 5 - 12 of the Law on the Academic Staff Development in the Republic of Bulgaria. Two steps on the verification of the received report have been made - the first one concerns its admissibility, the second - in essence, concerns the validity of the stated allegations (Art. 30, para. 5 of the Law on the Academic Staff Development in the Republic of Bulgaria). The decisions regarding the first step are made by a three-member committee appointed by the Minister of Education and Science (Art. 30, para. 4 of the Law on Education and Science); a qualified lawyer should also be a part of this committee. After assessing the admissibility of the report, according to Article 30, paragraph 6 of the Act, the Academic Ethics Committee is assigned to perform the inspection under paragraph 4, item 2. The content of the latter, as well as the explicit text of Art. 30, para. 12 (both imperative) indicate that a full and comprehensive inspection is due, for which the Committee shall file a report in written to the Minister of Education and Science. The content of the report is laid out in detail in Article 30, paragraph 9 of the Law, and the algorithm of proceeding in paragraph 8 to paragraph 11, which are have not been precisely observed. The initiation of the special proceedings under Art. 35, para 2 and para 3, in connection with para 1 of the same norm, is bound only by the presence of the prerequisite referred to by the legislator - plagiarism in scientific papers on the basis of which the person has acquired or participated in a procedure for obtaining a scientific degree, proven by the statutory order (as described in detail above).

The provisions of Art. 35, para. 1, item 1 and Art. 35, para. 2 and 3 of the Law on the Academic Staff Development in the Republic of Bulgaria, indicated as a legal basis for the issuance of the relevant administrative act of the rector of the higher school, read: Art. 35, para. 1, item 1 of the Law on the Protection of the Rights and Freedoms of Persons with Disabilities: has held or participated in a competition for an academic position. Art. 35, para. 2: In the cases of para. 1, item 1 the scientific degree, acquired by the order of this law with, which the violation is connected should be taken away as well. Art. 35, para 3: The revocation of a scientific degree and the dismissal shall be carried out by the rector of the higher school by the order of the Higher Education Act and the regulations of the higher education enterprise, respectively - by the head of the scientific organization in accordance with the regulations of the respective organization.

According to Art. 2, para. 1 of the Law on the Academic Staff Development in the Republic of Bulgaria, the academic staff includes the persons holding academic positions in the higher schools and the scientific organizations, as well as other persons, determined in the Higher Education Act, and according to para 3 of art. 2, the academic positions are: assistant, chief assistant, associate professor and professor. The provision of Article 48 of the Higher Education Act specifies the positions of research and teaching staff of higher education institutions: for habilitated lecturers - associate professor and professor, for non-habilitated lecturers - assistant and chief assistant; lecturer and senior lecturer; the latter are the positions of non-habilitated persons, who are assigned only teaching activities to non-specialists in linguistics, sports, art, etc.

All of the above indicates that the members of the academic staff of a higher education institution are assistant, chief assistant, associate professor, professor, lecturer and senior lecturer. The analysis of the provision of Art. 35, para.1 of the Law on the Academic Staff Development in the Republic of Bulgaria points out that it explicitly regulates the cases in which a person is dismissed from their academic position, one of which is duly established plagiarism.

In this case, the rector of the higher school in their condition of bound competence, in the absence of discretion, dismisses the person from the academic position (in respect of which plagiarism has been established), when that person had participated in the procedure for obtaining a scientific degree. Simultaneously with the dismissal from academic position, the scientific degree obtained under this law, to which the violation is related, shall be revoked. According to Article 35, para. 2, in conjunction with Art. 35, para 1, item 1 of the Law on the Academic Staff Development in the Republic of Bulgaria, the dispositional actions of the rector of the higher school are in relation to a person holding an academic position in the respective higher school, as the act of the competent body has two operative functions: dismissal from academic position and revocation of the scientific degree.

By argument to the contrary, since the legislator explicitly states that the revocation of the scientific degree is "in the cases of para. 1, item 1", "plagiarism done by a person holding academic position" should be undoubtedly proved in accordance with the established procedure, according to which that respective person should be dismissed from this position, i.e., all ordered actions are addressed to persons holding academic positions.

The inevitable conclusion arises that the competent body of one such procedure is the respective rector of the higher school, and not the Minister of Education and Science even more so a particular subsidiary body.

Objective circumstances, outside the legal aspects. An analysis of the committee's activity gives rise to a number of important questions, namely: How does the Academic Ethics Committee violate non-existent legal doctrines? Or why do people who are entrusted with drafting opinions turn out not to know or implement the necessary regulations?

Here, too, questions arise about accusations of auto plagiarism. For those who have been making such accusations for many years, I would like to clarify - the term "auto plagiarism" exists outside the Bulgarian legal framework. A person can be accused of non-compliance with a law, regulation, ordinance, but to be accused of something that is not introduced into law, such as the term "auto plagiarism", is in itself far from legal and scientific norms and standards. There are various hypotheses for the introduction of this term. The last one I know is on behalf of the Bulgarian Chamber of Commerce. It is presented at the following link: <https://www.bia-bg.com/standpoint/view/28961/> (2022b).

My question here concerns much deeper aspects than the direct accusation of plagiarism, rather it concerns the competence of the people who are tasked with drafting opinions on plagiarism. It is common knowledge that proposal for a change in a law is not enforced until it is voted on and officially adopted. Just as the occasional creeping proposals for the return of the death penalty in Bulgaria do not automatically make it a valid punitive measure in our country.

In order not to be outdone, I will quote a scientific article by Prof. Robert George Cooper (a verbatim quote from the article) - a distinguished research associate at Penn State University; Honorary Professor at McMaster University, Canada. Finding out that I had quoted his publication, Prof. Cooper, whom I do not know personally, sent me his latest article on the same subject so that I could use it in my future work. What immediately strikes is that:

- The completely new part, the one that is different from the previous article, is within two paragraphs. Everything else repeats the previous post;
- More than half of the sources in the presented bibliography are the works of Prof. Cooper himself;
- No one accuses Prof. Cooper of auto plagiarism, plagiarism of copyright and co-authored works and "imported" texts by co-authors.

3. DETERMINING THE SO-CALLED "GOOD PRACTICES" BY THE ACADEMIC ETHICS COMMITTEE

3.1. Since when has "good practice" been mandatory in Bulgarian legislation?

I allow myself to summarize in one question the many statements of the members of the Bulgarian Academic Ethics Committee, because, in practice, they are based on "good practice" and cover allegations of inaccuracies in citations and plagiarism of authorial and co-authored works.

We must specify that the citations in the scientific papers are firstly made, according to the established requirements of the respective higher schools, and secondly - according to the current standard for citation, namely: BDS 17377: 1996. When published in various scientific journals, their editorial policy determines the method of citation, as well as other technical requirements.

Arbitrators' opinions often show ignorance of rules and norms, including the use of indirect citation as "presentation of multiple publications and authors whose cited publications do not address the cited thesis." Indirect citation or the so-called paraphrasing, allows retelling a quote or presenting information in your own words. This type of citation summarizes information with reference to several sources and is used to summarize a voluminous theoretical concept, procedure or research results, voluminous citations not applicable to the entire text, as well as foreign language source citations when the author is not fully convinced of his own translation - activities typical of any dissertation research paper. Paraphrasing helps the author to present in detail the sources used and to indirectly convey the scientific theses developed. According to Brenda Spatt (See Brenda Spatt, *Writing From Sources*, 8th ed. Bedford / St. Martin's, 2011 <https://archive.org/details/writingfromsourc0000spat/page/n579/mode/2up>) (Spatt, 2011), there are two main reasons for using periphrasis, namely: to present indirect information or evidence when there is no specific reason to use direct citation or to present to the audience an accurate and comprehensive account of ideas taken from sources that the author explains, interprets or disagrees with and disputes. Scanning your and other scholarly publications, especially in social sciences, I find that indirect citation is a common practice and is not considered plagiarism.

The indirect citation is also explained in an article published on the website of the Institute for Economic

Research at the Bulgarian Academy of Sciences, as can be seen from the following two links: links: <https://www.iki.bas.bg/>, (2022c); <https://www.iki.bas.bg/files/Nauchnoto%20citirane.pdf>, (2022d).

As to connect the statement with the above question - here the good practice is rejected by the members of the Bulgarian Academic Ethics Committee as irrelevant. I would be far more inclined to accept this statement if this same committee wouldn't not make it mandatory in the next indictment to draw up division protocols, although the legislation does not require them as per the relevant procedures.

Various reports from the Academic Ethics Committee state that: "The provision of division protocols in such cases is a traditional academic practice imposed long before the latest amendments to the Law on the Academic Staff Development in the Republic of Bulgaria". "Good practice" does not have binding nature and is not a reason for subsequent restrictive and punitive measures against anyone, even when it is not available in a specific procedure. Only laws and rules explicitly written and approved by the respective administrative order may be obligatory. In general - the application of the current legal framework to past actions I would equate to the Revival process in Bulgaria (then - the People's Republic of Bulgaria) and the time when the names of deceased people were forcibly changed. An act deeply unethical and immoral. And again I will allow myself to give an example with a publication of the current Minister of Education and Science Nikolai Denkov. It is about "Dynamics of Particles on Interfaces and in Thin Liquid Films", published in "Encyclopaedia of Surface and Colloid Science" - something that according to the current Regulations for the implementation of the Law on Academic Staff Development in the Republic of Bulgaria is unacceptable. If we follow the logic of the members of the Committee, what does it matter when it is been published - in relation to the current legislation, this is a violation.

Have the members of the Bulgarian Academic Ethics Committee wondered what would be the result of an alleged check for the availability of division protocols of all dissertations submitted in Bulgaria? Therefore, an interesting example in this direction would be the publications of Nikolay Denkov (<https://ras.nacid.bg/dissertation-preview/3765>) (2022e) and, in this case, what exactly the division protocols will look like:

- "Direct Measurement of Lateral Capillary Forces" by: Orlin D. VeleV, Nikolai D. Denkov, Vesselin N. Paunov, Peter A. Kralchevsky, and Kuniaki Nagayamaj (<https://pubs.acs.org/doi/10.1021/la00036a056>);
- "Formation of Two-dimensional Structures from Colloidal Particles on Fluorinated Oil Substrate" with authors: Genady S. Lazarov, Nikolai D. Denkov, Orlin D. VeleV and Peter A. Kralchevsky (<https://pubs.rsc.org/en/content/articlelanding/1994/ft/ft9949002077>);
- "Charging of Oil-Water Interfaces Due to Spontaneous Adsorption of Hydroxyl Ions" by K. G. Marinova, R. G. Alargova, N. D. Denkov, O. D. VeleV, D. N. Petsev, I. B. Ivanov, and R. P. Borwankar (<https://pubs.acs.org/doi/10.1021/la950928i>).

Can a division protocol be provided for each of the joint publications and what is the percentage of the scientific contribution of each of the authors? Who exactly is the author of a table, graph or specific conclusion, so that the next time it is used it could be cited - all these are entities for which there is no way to create division protocols? Or should we, by analogy, question the authorship of one of the co-authors in these publications and accuse him of plagiarism? And what is the contribution of a certain co-author in a particular publication, when it is in last place. Or, if I may borrow an expression from the Bulgarian Academic Ethics Committee - "good practice" is considered to single out as leading author the one whose contribution is the biggest and, accordingly, his name comes first. This statement may not always be objective, but in most cases the lead author is the first author in a particular scientific publication.

I personally defend the thesis that your work in a team not only gives better results but also allow for more successful dissemination. However, the question remains open - if there is no division protocol, how is it determined whether author A copied from B or vice versa? Relevant conclusions are observed in the opinions of a number of arbitrators, namely - in general publications the specific authorship cannot be traced and set. What these conclusions are based on is something one cannot find stipulated in writing and there is no way to be done so.

One more thing - accusing someone of plagiarism, does that mean that their Bulgarian and foreign co-authors plagiarized as well?

4. CONCLUSION

Collaboration with colleagues in research and dissemination of results in publications should not be considered a vicious practice, but encouraged instead.

The Bulgarian Academic Ethics Committee bases its opinions on good practice yet, is it possible to provide a list of good practices that are mandatory, those that are recommended and others that are prohibited? All this summed up gives reasonable assumptions for bias and compromising the work of this specialized body under the Minister of Education and Science.

As plagiarism, the Committee points out to definitions which are in fact approximately or completely identical in different sources. Scientific definitions and terminology in most cases cannot be assigned to one author, which leads to the impossibility of naming one. The same applies to appendixes, figures and tables created within the framework of the research conducted by any scientist - it turns out it is necessary to explicitly state that these were created by the author himself. Every scientist uses their own developments and applications many times, without mentioning oneself as the author, which certainly does not make the latter a plagiarist.

An interesting fact from the present analysis shows that the same arbitrator has prepared more than one standpoint on the procedures of the same scientist, which makes the procedure flawed and biased - at least because he has already formed an opinion in one of those standpoints.

The lack of consistency in the standpoints prepared, the selective presentation of evidence based on good practices on one hand and their non-acceptance on the other hand, inevitably leads to the following questions, which concern the objectivity of the procedure.

The lack of clear rules and criteria for the selection of arbitrators raises difficult questions related to the assessment's objectivity of both the arbitrators and the entire committee.

Thus, in determining what plagiarism is, can you answer the question - were the arbitrators reviewers and how well do they know the whole process? Do they have, and if so - how many, publications in the reference systems of Web of Science and Scopus? The same question, with no less intensity, applies to the authors of the standpoints - what their publishing activity is, if any. And this puts on the agenda the question of how the standpoints were taken - by competence or under someone's pressure.

It is the publication of articles referenced to in world scientific databases as Web of Science, Scopus, Springer, etc., that is an objective proof of the lack of plagiarism in the works of their authors. Therefore, my last question is: if, based on the conclusions and decisions made by the Academic Ethics Committee, it is claimed that the scientific community can thus be deceived, who will dare, not in theory but in practice and with the respective legal responsibility and consequences, to question the qualities of the examiners in these referenced publications?

Scientific articles, independently written or in co-authorship with scientists from different countries, reflect, analyse or study social processes. Forgive my question but how can the division of a social process description in a scientific article, report or study be defined? Not only is this practically impossible, but it cannot even assess the intellectual contribution of the scientist concerned, which can amount to only 5% of the text and still give high scientific value.

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