

ACADEMIC PUZZLE - THE RELATIONSHIP BETWEEN ORIGINALITY, PLAGIARISM AND SIMILARITY IN THE CONTENTS OF DOCTORAL THESES

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Abstract

In a world where every individual strives to showcase his originality, peculiarities and traits that make him different from others through all possible means, whether we are talking about the style of clothing, the image on social media, hobbies, the language used, or the works read or created, this paper aims to discover how originality manifests in scientific works and what steps to follow in order to create the academic puzzle called a doctoral thesis, considering the pieces that don't seem to fit together, despite having multiple similar aspects: originality, plagiarism and similarity.

These three concepts are of particular importance in the academic world, sparking intense discussions and within civil society in recent times, with profound implications for the integrity of research and the genuine understanding of individual academic contributions.

In today's information age, where access to resources and technologies is readily available to all, originality seems to constantly dilute, while the phenomenon of plagiarism is on the rise, becoming increasingly prominent and complex, diminishing trust in research studies and the work done.

In the context in which doctoral theses should represent significant contributions to human knowledge, we aim that from this paper to clearly result the meaning and purpose of the three terms within the work intended to form the basis for awarding the doctoral title to its author.

Keywords: *originality, thesis, research, plagiarism, similarity, scientific work.*

1. Introduction. The key piece - Originality

Originality appears as a sort of motto that we often repeat in our lives and seek around us, yet too rarely do we pause to truly understand it. When we find ourselves in the position to answer the question of what originality means and how it should manifest, we find ourselves unable to formulate a response. However, when we think of a creative work, regardless of its field, the word „original” resonates in our minds, even appearing involuntarily in our consciousness.

Derived from the Latin „*originalis*”, which seems to be related to the term „*origo*” (meaning: origin, descent, innate) and the term „*orior*” (translated: to rise, to elevate, to grow), the meanings of originality are found somewhere at the intersection of the idea of birth, beginning, growth or elevation.

As the world has developed and spoken languages evolved, the term has been adopted into the vocabulary of peoples around the globe, generally maintaining the same meaning of being „original” or „authentic”.

Building on these landmarks, it follows that originality can be associated with the concept of one's own, untouched or uninfluenced source. At the same time, in the context of creativity, originality refers to the ability to produce new and unique ideas, works or concepts.

According to the Explanatory Dictionary of the Romanian Language¹, the term „*originalitate*” is defined as representing a particular way of being, even extrapolating to strange or extravagant. Also from a linguistic perspective, the word „originality” is defined according to the Oxford Dictionary² as the ability to think independently and creatively and also „the quality of being special and interesting and not the same as anything or anyone else”.

Searching for a legal definition of this term in the national legislation, we observe that it is completely absent, although originality is evoked in multiple national and conventional legal texts as a condition for the protection of a work through copyright.

Thus, art. 7 of Law no. 8/1996 on copyright and related rights³ establishes as a fundamental principle that „original works of intellectual creation in the literary, artistic, or scientific domain, regardless of the mode or form of their expression and irrespective of their value and purpose, constitute objects of copyright”.

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¹ <https://dexonline.ro/definitie/originalitate/definitii>, accessed on 01.01.2024.

² https://www.oxfordlearnersdictionaries.com/definition/english/original_1?q=ORIGINAL, accessed on 05.01.2024.

³ Republished in the Official Gazette of Romania, Part I, no. 489/14.06.2018.

Similarly, the University Doctoral Studies Code approved by GD no. 681/2011 and amended by GD no. 134/2016 defines the doctoral thesis as „the original scientific work elaborated by a doctoral student within doctoral studies, a legal requirement for obtaining the title of doctor”.

From these two legislative texts, inserted for illustrative purposes from the multitude of articles referring to the analysed notion, we deduce that the originality of the work is one of the essential conditions⁴ for its existence as such, even if national legislation does not explicitly formulate it as a unique protection condition⁵.

Furthermore, there is a position in doctrine stating that originality is actually the sole condition for the protection of a work through copyright, as it absorbs the other two conditions⁶ (referring to the concrete form of expression and susceptibility to being made available to the public).

In the absence of a legal definition, it has fallen upon theorists and practitioners the difficult task of defining in a comprehensive and faithful manner the term „originality”, a term that is otherwise extremely controversial, considered vague and imprecise. In specialised doctrine, there are divergent opinions regarding the definition of originality, particularly in relation to the existence of the relationship between originality and plagiarism.

Some authors understood to define originality from an objective point of view, emphasising its relation to plagiarism, establishing as a principle that a work is original when it is not plagiarised⁷, supporting, through an artistic analogy, the idea that originality exists in the absence of plagiarism, much like darkness represents the absence of light⁸.

On the other hand, other authors support the subjective interpretation of the term, interpretation according to which what gives a work its original character is actually the personal contribution of the author, it being necessary for the work to bear the imprint of the author's personality⁹, he projects his self in the expression he chooses to give to ideas¹⁰.

These seemingly divergent positions in defining the notion of originality find their explanation in the two regulatory systems existing in France and England, states that have greatly contributed to continental development, being real sources of inspiration in all fields, from art and literature to law and administration. While in French law originality is viewed as a subjective notion, correlated with the personal imprint of the author¹¹, the system existing in England and adopted across the continent, including in the United States of America, known as copyright, considers a work to be original when it is not copied from another work¹².

It is worth noting a position asserted in recent doctrine and embraced by a large number of authors, which, in the desire to define the notion of originality as comprehensively as possible, combines the two positions expressed at the doctrinal level, defining the notion of originality both objectively and subjectively.

Objectively, it is considered that a work is original if, compared to previous works, it is not copied and shows a minimum of intellectual effort. Subjectively, a work is appreciated as original if it bears the imprint of the author's personality¹³, which manifests in scientific works through the idea and its realisation, as well as through the intrinsic form of expression of the work (words, figures of speech, etc.), an ensemble from which the author's intellectual creation activity and talent must be evident¹⁴.

We consider the first approach to be bold, but we tend to agree with the second position expressed in doctrine, appreciating that originality is an extremely vague notion, indeed difficult to define, but one that can exist independently of the notion of plagiarism, considering the broad dimensions through which it can manifest

⁴ In the list of authors who appreciate that for a work to be protected it must meet 3 conditions, namely originality, concrete form of expression, and susceptibility to being brought to the public's attention, we find: C.R. Romițan, *Originalitatea – condiție esențială de protecție a creațiilor intelectuale din domeniul literar, artistic și științific*, in *Dreptul*, no. 7/2008, Bucharest, 2008, p. 73; Y. Eminescu, *Dreptul de autor*, Lumina Lex Publishing House, Bucharest, 1994, pp. 41-44; I. Macovei, *Tratat de drept al proprietății intelectuale*, C.H. Beck Publishing House, Bucharest, 2010, p. 431.

⁵ V. Roș, *Dreptul proprietății intelectuale*, vol. I. *Dreptul de autor, drepturile conexe și drepturile sui-generis*, C.H. Beck Publishing House, Bucharest, 2016, p. 205.

⁶ V. Roș, A. Livădariu, *Condiția originalității operelor științifice*, in *Revista Română de Dreptul Proprietății Intelectuale* no. 2/2014, Universul Juridic Publishing House, Bucharest, 2014, p. 14.

⁷ D. Negrilă, *Protecția ideilor prin drept de autor. Aplicarea în domeniul Codului studiilor universitare de doctorat*, in *Revista Română de Dreptul Proprietății Intelectuale* no. 1/2017, Universul Juridic Publishing House, Bucharest, 2017, p. 33.

⁸ S.D. Șchiopu, *Unele considerații cu privire la originalitatea tezelor de doctorat*, in *Revista Română de Dreptul Proprietății Intelectuale* no. 1/2018, Universul Juridic Publishing House, Bucharest, 2018, p. 30.

⁹ Also see C. Romițan, *Condiții cerute pentru protecția operelor în cadrul dreptului de autor*, in *Revista de științe juridice* no. 1/2007, Universul Juridic Publishing House, Bucharest, 2007, p. 88.

¹⁰ V. Roș, A. Livădariu, *op. cit.*, p. 13.

¹¹ M.Șt. Rădulescu, *Conceptul de originalitate în domeniul creației științifice*, Diacronia Publishing House, Târgu Mureș, 2016, p. 35, <https://www.diacronia.ro/ro/indexing/details/A25182/pdf>, accessed on 06.01.2024.

¹² *Ibidem*.

¹³ V. Roș, A. Livădariu, *op. cit.*, p. 13 and E.E. Ștefan, *Etică și integritate academică, Ediția a II-a, revizuită și adăugită*, Pro Universitaria Publishing House, Bucharest, 2021, p. 261.

¹⁴ <https://lege5.ro/gratuit/gmztomjvgu4a/examinarea-originalitatii-operelor-litigioase#N9>, accessed on 07.01.2024.

- ideas, form, expression. Therefore, a work that bears the imprint of its author's personality, through composition, structure, selection of quotations, notes, personal comments, and form of expression, can be considered original.

Furthermore, it seems forced to define a concept, admittedly abstract, by formulating a single negative definition, which defines originality precisely by what it is not. Such a definition violates one of the basic rules in Aristotelian logic, namely the rule of logical affirmation, which presupposes that the definition should not be negative if it can be affirmative. A definition should show what the defined term is, rather than what it is not, as such an approach is likely to generate confusion and ambiguities.

In the same sense, there is opposition to the existence of a negative definition of the term „originality” by an author in a very recent article, where she argues that the originality of a doctoral thesis is not ensured by adhering to all standards of professional ethics (plagiarism being considered and framed by law as a criterion of adherence to professional ethics standards), „there being a part-whole relationship between the originality of the scientific paper, on the one hand, and the professional ethics standards of the doctoral thesis, on the other hand. Due to this perspective, it is stated that the originality of a scientific work can subsist even in the case where instances of plagiarism are found, with the obvious exception being when the work has been entirely plagiarised¹⁵.

This assertion is based on the essential idea that originality and the absence of plagiarism are two distinct conditions that must be fulfilled and verified when submitting the doctoral thesis, a position reinforced by art. 19 of the Methodology for the Evaluation of Doctoral Theses¹⁶, which distinguishes between the condition of originality and the condition of adherence to professional ethics standards, within which plagiarism is included.

The same author cited above argues that strictly regarding the originality of a scientific work, it is not affected by lawful and limited borrowings from pre-existing works¹⁷.

Furthermore, we appreciate that it is almost inevitable and difficult for the topic or issue chosen by a doctoral student not to have been addressed in pre-existing studies¹⁸ or to be based on unexplored domains, given the limited scope of research areas¹⁹. Pre-existing studies and research can be incorporated and presented in the new work, with personal argumentation and the imprint of the doctoral student's personality, manifested through the mode of exposition, the chosen structure, and the conceptualization of the content of the work.

Regardless of how much has been written on a particular topic, we believe that a new original work can be produced, as this requirement can be fulfilled through the approach to the subject matter, the style of presenting ideas, the emphasis on certain aspects of the subject, but especially through the exposition of the author's critical thinking, personal comments, proposals for future research, and personal notes. All these elements, from our perspective, are sufficient to confer originality to a scientific work, regardless of the subject matter underlying the drafting of the work in question.

In the absence of a legal definition of the term „originality”, it should be noted that attempts have been made, through University Codes of Ethics and Professional Conduct, to provide a definition or at least some contexts from which the meaning and essence of the notion of originality can be inferred. For example, the Code of Ethics and Professional Conduct of „Nicolae Titulescu” University in Bucharest²⁰ dedicates an entire article (art. 16) to the notion of originality, treating it alongside the notion of the value of scientific work. In clear and comprehensive terms, this code establishes that „originality represents the external form, the author's own mode of expression, manifested in their personal imprint, in clothing the content of ideas in their scientific work with words [...]. Lack of originality can stem either from appropriating someone else's expressions (plagiarism) or from a banal form of expression”.

Ultimately, we support and align with the opinion of an author who believes that the originality of a work is difficult to define and cannot be analysed according to pre-established and absolutely mandatory criteria, as this criterion for evaluating a work must be examined in each particular case, in relation to the existing body of

¹⁵ L.D. Răducu, *Originalitatea și valoarea științifică a tezelor de doctorat. Evaluarea tezelor de doctorat și consecințele îndeplinirii, respectiv ale neîndeplinirii, acestor condiții*, in Dreptul no. 10/2023, Bucharest, 2023, pp. 56-57.

¹⁶ Annex no. 2 to OMEC no. 5229/17.08.2020, approving the methodologies regarding the issuance of the habilitation certificate, the granting of the doctoral title, as well as the resolution of complaints regarding non-compliance with quality or professional ethics standards, including the existence of plagiarism, within a doctoral thesis.

¹⁷ L.D. Răducu, *op. cit.*, p. 58.

¹⁸ Despite this personal assertion, in doctrine, a distinction is made between absolute originality and relative originality, stating that „a work is absolutely original when it is not in a relationship of dependence on a pre-existing work”, and the work is relatively original when elements are borrowed from a previous work in its content (V. Roș, *op. cit.*, 2016, p. 211). It is thus appreciated that in the case of elaborating a doctoral thesis, there is the possibility, at least theoretically, of achieving absolute originality, since borrowing may only concern the idea/ideas not protected by copyright.

¹⁹ V. Roș, *op. cit.*, p. 208.

²⁰ <https://www.univnt.ro/index.php/comisia-de-etica/>, accessed on 07.01.2024.

works in a particular field of creation, taking into account the category of the created work (literary, scientific, dramatic, cinematographic, etc.)²¹. Similarly, the court is always called upon in cases that come before it to apply the laws, customs, and principles of law, in relation to the specific circumstances of the case.

The doctrinal debate on this term seems to have been constructive as it has been proposed to replace the controversial term „originality” with „uniqueness”²², considering it more suitable, clearer and excluding any possibility of reference to the value criterion of the work. Moreover, the notion of uniqueness more easily suggests the idea of the author's personal imprint within the work.

Before finalising the analysis of the notion of originality, a brief reference to art. 259 para. (1) of Law no. 199/2023 on higher education²³ is necessary, which provides that „Authors of bachelor's, master's, and doctoral theses are responsible for ensuring the originality of their content”.

Therefore, upon completion of doctoral studies, the doctoral student will complete and sign, prior to the oral defense of the thesis, a declaration of authenticity as the author of the thesis, declaring under their own responsibility that the work is the result of their own intellectual activity, does not contain plagiarised portions, and that bibliographic sources have been used in accordance with national legislation and international conventions on copyright. This declaration may entail liability for false statements in accordance with the law.

From a model of a declaration of authenticity available online²⁴, it is observed that it includes mentions regarding both originality and plagiarism, being signed by both the doctoral student and the supervising professor. Therefore, it can be considered a guarantee regarding the two criteria for analysing the doctoral thesis, being a statement of truth from the author who documents and actually writes the work, as well as from the one who corrects the manner in which the scientific process was conducted²⁵.

Furthermore, following the model existing in the United Kingdom, some authors argue that even the editorial success of a book could indicate originality, along with favorable reviews and the number of citations of a scientific work in specialised books, scientific articles, or its inclusion in the bibliography of other books, articles, studies, theses, or specialised courses²⁶.

We appreciate that these aspects can only confirm the originality of a work, as they are analysed only after publication. At the same time, the editorial circulation, public interest, and citation of the work are elements that far exceed the author's sphere of control and do not always represent reliable indicators of meeting the condition of originality. Editorial success or public recognition can be influenced by multiple factors, such as the book's price, the niche subject matter, which may be less appealing to a majority, the advertising surrounding the book, the cover design, and many other similar aspects that are primarily determined by the audience or the publishing house and not by the author.

2. Foreign Piece - Plagiarism

In assembling the complex puzzle titled doctoral thesis, after establishing the rules by which originality manifests and creating its framework, it seems that we are faced with an extra piece on the table, a foreign piece that does not fit the existing framework and disturbs the cohesion and coherence of the entire work, distorting reality. This piece is known as plagiarism.

Plagiarism has been written about extensively and will continue to be, as the topic of plagiarism in doctoral theses has recently come to light, has not been fully exhausted, and represents a serious problem in the academic world, being referred to in recent specialised literature as an endemic academic plague²⁷, with serious implications for the integrity and credibility of the higher education system. In this context, it is essential to understand the nature of plagiarism, its impact on research, and the consequences for both doctoral students and the academic community.

Beyond its legal implications, plagiarism is a matter of ethics and dignity²⁸, as the etymology of the word is highly suggestive in this regard. The term „plagiarism” comes from the Latin „*plagiarius*”, which translates to „one who steals and sells the slaves of another”.

²¹ <https://lege5.ro/gratuit/gq4dsojtgmya/originalitatea-piatra-de-temelie-a-dreptului-de-autor>, accessed on 05.01.2024.

²² V. Roş, *op. cit.*, p. 209.

²³ Published in the Official Gazette of Romania, Part I, no. 614/05.07.2023, consolidated as of September 13, 2023.

²⁴ On the website of Transilvania University of Braşov, https://www.unitbv.ro/documente/cercetare/doctorat-postdoctorat/sustinere-teza/Anexa_4_Declaratie_autenticitate.doc, accessed on 05.01.2024.

²⁵ E.E. Ştefan, *Etică şi integritate academică*, 2nd ed., revised and supplemented, Pro Universitaria Publishing House, Bucharest, 2021, p. 188.

²⁶ M.Şt. Rădulescu, *op. cit.*, p. 42.

²⁷ G. Pelican, *Plagiatul - o plagă academică endemică. Scurte consideraţii*, in *Revista Themis*, no. 1-2/2021, p. 229, https://inm-lex.ro/wp-content/uploads/2021/12/Themis-1-2_2021-3.pdf, accessed on 27.12.2023.

²⁸ *Idem*, p. 230.

It seems that the roots of this ailment are quite ancient, existing from ancient Greece and Rome to the history of our days²⁹, with accusations of plagiarism being well-known concerning figures such as Aristotle, William Shakespeare, Albert Einstein, La Fontaine, Ion Luca Caragiale, and many other authors, without a precise delineation over time and space and with incidence in all fields involving creative or research activities.

In our country, interest in this subject reached its peak in 2012 when Victor Ponta, the Prime Minister of Romania at the time, was accused of plagiarism in his doctoral thesis obtained from the University of Bucharest Law School. At that time, the report of the National Council of Ethics concluded that the thesis contained significant portions copied from the works of other authors, and Victor Ponta was forced to resign from the position of Prime Minister following public pressure.

Subsequently, the phenomenon gained momentum as more and more plagiarised works were discovered. According to a statistical analysis conducted in a specialised work, based on public information provided by CNATDCU³⁰, from 2016 to 2021, only 40 doctoral titles were awarded (an average of 5 titles per year), while during this period, a total of 60 doctoral titles were revoked.

In concrete terms, as emphasised by an author in a relatively recent work³¹, the public intensification of this phenomenon does not stem from an increase in the number of plagiarists over time but is primarily due to technological advancements. Through a wide range of software and programs created and perfected, technology is able to detect plagiarism, thereby uncovering more and more works written in violation of professional ethics rules.

Plagiarism and violations of scientific research rules are not a problem only in our country, being spread all over the world. Annette Schavan, the former Minister of Education of Germany, resigned in 2013 after the University of Düsseldorf revoked her doctoral title in philosophy. Her thesis was accused of plagiarism, and the university concluded that she had violated academic ethical standards by unauthorised appropriation of others' ideas.

In our neighboring country of Hungary, the situation was serious in 2012 when the President of Hungary, Pal Schmitt, resigned following accusations of plagiarism in his doctoral thesis defended at the University of Physical Education in Budapest. It was discovered that significant portions had been taken from the works of other authors without proper citation. Even Joe Biden, the current President of the United States, did not escape suspicions of plagiarism. He was accused in 1987 of plagiarising during his presidential campaign, borrowing passages from speeches of other politicians without proper citation.

The most recent case of plagiarism that has a strong impact on both academic and civil society is the case of Claudine Gay³², the President of Harvard, who resigned on January 2, 2024, following allegations of plagiarism³³. These accusations concern not only her doctoral thesis, which received the Toppan Prize for the best political science dissertation in 1998 but also 50 other works by the author, of which, at the time of writing this essay, only 2 have been confirmed as plagiarised by the Harvard Board of Trustees.

Transitioning from these concrete elements to theoretical ones, we can define plagiarism as the unauthorised use or imitation of the ideas, texts, or results of others without proper acknowledgment, presenting them as one's own. In the case of doctoral theses, where originality and contribution to knowledge are crucial, plagiarism undermines the foundation of academic research, constituting a violation of ethical norms and academic standards.

Legislatively, compared to the notion of originality, the concept of „plagiarism” is defined in art. 4 para. (1) letter (d) of Law no. 206/2004 on good conduct in scientific research, technological development and innovation³⁴ as „the presentation in a written work or oral communication, including in electronic format, of texts, expressions, ideas, demonstrations, data, hypotheses, theories, results, or scientific methods extracted from written works, including in electronic format, of other authors, without mentioning this and without referring to the original sources”.

Despite the seemingly significant effort of the legislator to clarify the meaning of this notion, some authors believe that the current legal definition of plagiarism is inadequate and confusing³⁵.

According to doctrinal interpretations, in order for plagiarism to be present, two cumulative conditions

²⁹ For the development of the historical background, see V. Roş, *Contrafacerea şi plagiatul în materia dreptului de autor. Retrospectivă istorică şi încercare de definire*, in *Revista Română de Dreptul Proprietăţii Intellectuale*, no. 1/2004, Universul Juridic Publishing House, Bucharest, 2004.

³⁰ The National Council for Attesting Titles, Diplomas, and University Certificates.

³¹ G. Pelican, *op. cit.*, p. 230.

³² She was the first person of color appointed to lead Harvard University, and also the second woman to hold this position in history.

³³ <https://www.theguardian.com/education/2024/jan/06/harvard-claudine-gay-plagiarism>, accessed on 11.01.2024.

³⁴ Published in Official Gazette of Romania no. 505/04.06.2004.

³⁵ B. Popoveniuc, *Plagiarism and the Crisis of Higher Education*, in *Revista Românească pentru Educaţie Multidimensională* no. 3, vol. X, p. 3, <https://doi.org/10.18662/rrem/57>, accessed on 27.12.2023.

must be met:

- a) the appropriation/reproduction of one or more elements included in the legal definition without specifying this fact and without indicating the reference work
- b) the source of the plagiarism to consist of an original work, to take on a concrete form of expression, and to be susceptible to being brought to the general public's attention.

Regarding the first condition, there have been extensive discussions regarding the subjective aspect of appropriation/reproduction, namely whether the existence of an intention to plagiarise is necessary or not. Divided into two camps, doctrine has put forward two positions. Some authors argue that intention is imperatively necessary as a volitional element³⁶, while others maintain that the law contains no mention of the subjective aspect but focuses exclusively on the simple act of committing plagiarism, without considering whether it is committed intentionally or is the result of negligence, such as errors in documentation or the author's ignorance³⁷.

Neither the second condition has escaped controversy and opposing positions of specialists in the field, as analysing the condition of originality, a minority part of the doctrine argued that this condition does not need to be fulfilled. However, this theory remained isolated, being refuted by judicial practice and the majority position expressed in recent specialised literature³⁸.

Undoubtedly, the causes of plagiarism in doctoral theses can be diverse, from pressure to produce quick results and time constraints to personal ethical weaknesses. However, the consequences of plagiarism can far outweigh any immediate benefit the author may gain, as the discovery of plagiarism in a doctoral thesis can lead to the withdrawal of the doctoral title and loss of trust within the academic community, aspects that make us wonder if the risk is truly worth it.

Nevertheless, as supported in specialised literature, the issue of determining plagiarism is delicate because it often involves a subjective judgment from third-party examiners or consumers of works, also relating to the ethics of creative activity and the subjective position of the creator³⁹.

3. Verification Step - Similarity Report

Completing the creative work we set out to do, our puzzle seems to be ready. We have all the pieces assembled, and the doctoral thesis is original, fluent, ethically and academically well-written. But is it really so? Could appearances be deceiving us? To verify this, we have nothing else to do but to take the puzzle in its entirety and check it. Does it match the picture on the box we started with? Or is it actually a different puzzle? A copy?

Within the doctoral thesis, this verification step takes the form of a similarity report.

The similarity report, under this name, is a relatively new term in national legislation, related to the verification of doctoral theses using software that demonstrates the presence or absence of plagiarism in the work⁴⁰.

The similarity report of doctoral theses represents a crucial component in assessing the originality and academic integrity of a research work. This analytical tool is used to detect any coincidences between the content of the thesis in question and other existing sources, including publications, academic papers, or other theses. The process is essential for ensuring the quality and authenticity of academic research, as well as for preventing plagiarism.

This report is generated by specialised software called anti-plagiarism systems or similarity detection software. It compares the text of the doctoral thesis with an extensive database, identifying sections that have significant similarity with other sources. The result is expressed as a percentage, reflecting the degree of similarity between the text of the thesis and the identified sources.

According to art. 6 letter c) of Annex 2 entitled „Methodology for the Evaluation of Doctoral Theses” to Order no. 5229/2020 of the Minister of Education and Research approving the methodologies regarding the granting of the habilitation certificate, the award of the doctoral title, as well as the resolution of complaints regarding the non-compliance with quality or professional ethics standards, including the existence of plagiarism, within a doctoral thesis, the recognized programs by CNATDCU and used at the level of IOSUD/IOD for determining the degree of similarity for scientific papers, are 5: „iThenticate, Turnitin, Plagiarism detector + PDAS (PDAS - Plagiarism Detector Accumulator Server), Safe Assign, and www.sistemantiplagiat.ro”.

³⁶ B. Florea, *Reflecții despre plagiat*, Hamangiu Publishing House, Bucharest, 2018, p. 9.

³⁷ G. Pelican, *op. cit.*, p. 234.

³⁸ See also: V. Roș, A. Livădaru, *Controversata problemă a protecției ideilor în dreptul român*, in *Revista Română de Dreptul Proprietății Intellectuale* no. 2/2017, Bucharest, 2017, p. 45.

³⁹ V. Roș, *Contrafacerea și plagiatul în materia dreptului de autor. Retrospectivă istorică și încercare de definire*, in *Revista Română de Dreptul Proprietății Intellectuale* no. 1/2004, Universul Juridic Publishing House, Bucharest, 2004.

⁴⁰ E.E. Ștefan, *op. cit.*, p. 298.

Despite providing the list of approved programs and basic rules, it should be noted that the legislator intentionally or inadvertently omitted to establish an official threshold, adopted normatively, regarding the issuance of a plagiarism diagnosis when verifying a scientific work⁴¹, leaving this aspect to the discretion of universities.

As a suggestion for future legislation, it would be appropriate to correct this omission and establish a uniform threshold that would be considered accepted regarding plagiarism. We believe that such a modification would have a beneficial effect in terms of standardising academic and research standards, eliminating existing discrimination between universities, and helping to improve the quality of higher education. Additionally, creating a national database accessible to any of the 5 similarity programs would be necessary for the fair evaluation of all works.

Procedurally, prior to defending the doctoral thesis before the guidance committee, the doctoral student submits the text of his thesis to the university in electronic format. The doctoral thesis is then entered into the similarity detection program, which generates a similarity report that is then submitted to the doctoral supervisor.

Depending on the program used by the university, the similarity report will provide one or more similarity coefficients indicating the percentage of text with all similar phrases discovered by the system in other documents, and similar fragments that exceed a certain number of words (*e.g.*, 30 words). Additionally, at the end of the report, a list of documents identified by the software as possible sources for certain fragments of the thesis is included.

Once generated by the program, this similarity report will be communicated to the doctoral supervisor, who is responsible for carefully and thoroughly examining the passages highlighted in the report to definitively establish the existence of plagiarism or self-plagiarism. It has been proven that these programs fail to provide an objective and correct response on their own, requiring a final human analysis of the conclusions generated by the software. Thus, this report cannot be viewed as an absolute tool, as there are situations where the similarities highlighted within it are justified, such as correct citations or the use of established expressions.

These deficiencies of the similarity report stem from the multitude of errors that the program may present, primarily caused by its technical nature. It is quite common for the program to indicate high percentages of similarity with text sequences that are not related to plagiarism or the work itself.

Regardless of these errors, which can be attributed to a lack of understanding of the text and critical thinking, the biggest problem with these programs lies in their databases, which are extremely limited. They do not recognize old works that do not have electronic versions or unpublished works, nor do they recognize translations done correctly from languages other than the one in which the software is used.

In addition to these identified weaknesses of the similarity report, there are also some advantages to using such programs. The most important aspect of the similarity report is that it can highlight plagiarism and incorrect or inappropriate citations, drawing the attention of the supervising professor. Through the cooperation of the doctoral student, who may have unintentionally, hastily, or negligently failed to fully adhere to citation norms, any deficiencies can be remedied so that their work takes on a correct form that can be utilised.

Subjecting a work to the similarity test is therefore a process that contributes to improving the quality of research and ensures a transparent approach in the evaluation process of doctoral theses.

We observe that the similarity report does nothing more than verify the existence or non-existence of plagiarism by overlaying the text of the doctoral thesis with a certain database, highlighting potential cases of plagiarism or inappropriate use of other works. This report is limited to these aspects and cannot determine the originality of the text, which is a rather subjective condition, as emerged from the analysis conducted in the first part of the essay, and cannot be subjected to the assessment of an automatic, technical program, which by its nature lacks creativity and critical thinking.

Furthermore, we align with the opinion that a work can be original even if it closely resembles other works, as long as its similarity is coincidental⁴².

4. Some aspects of comparative law regarding originality, plagiarism, and similarity in Italian law

Similarly to our domestic law, Italy adopted long ago legislation dedicated to copyright, namely Law no. 633/1941 on copyright⁴³, updated by Law no. 93/14.07.2023. The provisions of this law are correlated with the

⁴¹ *Idem*, p. 302.

⁴² <https://asdpi.ro/index.php/ro/anul-2020/85-ro-rrdpi-2020-1/531-dreptul-de-autor-in-era-digitala-o-perspectiva-asupra-licentelor-comune-creative-commons-2>, accessed on 05.01.2024.

⁴³ <https://www.altalex.com/documents/codici-alex/2014/06/26/legge-sul-diritto-d-autore>, accessed on 09.01.2024.

provisions of the Italian Civil Code⁴⁴, which dedicate an entire title - Title 9, Rights over Intellectual Works and Industrial Inventions, articles 2575 to 2594, which faithfully reproduce provisions from Law 633/1941.

According to art. 1 para. (1) of Law no. 633/1941: „Intellectual works of a creative nature belonging to literature, music, figurative arts, architecture, theatre, and cinema are protected by this law, regardless of their mode or form of expression”⁴⁵.

It can be observed that the requirement for a work to be protected under this legislation revolves around the concept of creative character. Traditionally⁴⁶, this character is divided into two conceptual components: originality and novelty, a distinction also supported by court decisions.

Regarding originality, since this notion is of interest in the present essay, it can be said that within the doctrine of this state there have been extensive discussions in defining the term, in the absence of a legal definition. However, among the two predominant orientations in defining this notion, Italians have chosen to embrace the one that interprets originality in a subjective sense, as a personal contribution of the author or as his/her personal „imprint” identified in the work. In this sense, even the Court of Cassation of Italy, civ. s., in the reasoning of judgment no. 20925/27.10.2005, ruled that „(...) creativity, within works of ingenuity, is not necessarily constituted by the idea itself, but also by the form of its expression, *i.e.*, its subjectivity, so that the same idea can be the basis of different authorial works that can nevertheless be or become different through the subjective creativity that each author invests (...)”⁴⁷.

And in this legislation, we note that the requirement for originality is based on the idea that the work must result from a certain intellectual effort and must reflect the author's personality imprint. Italian doctrine has reached a consensus that originality is a rather ethereal concept and difficult to define *a priori*, and the minimum level of originality, subjectively appreciated, for a work to be protected seems to be quite low. Thus, many courts have recognized as eligible for protection even works whose intellectual content is very modest, however, they ruled that essentially, the work must reflect the cultural and creative individuality of a specific subject (the author).

Moving on to the second key notion, plagiarism, it is worth mentioning that in Italian legislation this term is not expressly found, because according to doctrinal interpretations, this word refers more closely to the author's inalienable right to the paternity of the work and exists even when there is no violation of the author's right to economic exploitation of the work, equating the notion of plagiarism with that of counterfeiting. According to Italian law, when a person appropriates representative and creative elements of another's work to introduce them into another work under their own name, we are dealing with a „qualified and aggravated counterfeiting”, *i.e.*, an abusive reproduction of another's work with the appropriation of copyright (art. 171 of Law no. 633/1941).

Responsibility for such acts is provided for in the framework law on copyright (art. 171 *et seq.* of Law no. 633/1941), with both the consequences known to our internal law, namely the withdrawal of the doctoral title, as well as imprisonment or pecuniary penalties (fine), depending on the actual circumstances of the act of appropriating elements from another work. For example, art. 171-ter.(1) of Law no. 633/1941 provides that: „in the event that the offense is committed for non-personal use, any person shall be punished with imprisonment from six months to three years and with a fine ranging from 2,582 euros to 15,493 euros if: (...) b) reproduces, transmits or illegally disseminates in public, by any means, literary, dramatic, scientific or educational works or parts thereof, musical or drama-musical works or multimedia, even if included in collective or composite works or databases”⁴⁸.

Even representatives of public authorities in Italy have not escaped accusations of plagiarism regarding doctoral theses. In 2008, Mariannae Maria, Minister of Simplification and Public Administration, was accused of plagiarism, publicly asserting that in 35 out of 94 pages of her thesis entitled „Essays on the Effects of Flexibility on Labor Market Outcomes”, there are passages almost identical to those found in other publications. The same

⁴⁴ <https://testolegge.com/italia/codice-civile>, accessed on 09.01.2024.

⁴⁵ The original text: „Sono protette ai sensi di questa legge le opere dell'ingegno di carattere creativo che appartengono alla letteratura, alla musica, alle arti figurative, all'architettura, al teatro ed alla cinematografia, qualunque ne sia il modo o la forma di espressione.”

⁴⁶ S. Aliprandi, *Capire il copyright. Percorso guidato nel diritto d'autore*, Ledizioni Publishing House, Milano, 2012, <https://books.openedition.org/ledizioni/221>, accessed on 10.01.2024.

⁴⁷ G. Spedicato, *Il diritto d'autore in ambito universitario*, Simplicissimus Book Farm Publishing House, Bologna, 2022, p. 12, https://amsacta.unibo.it/id/eprint/3018/3/Spedicato-il-diritto-d-autore-in-ambito-universitario-web.pdf?fbclid=IwAR2cebZrKPFcji6XNA-J8GtNLN6E-vGOG-Oz3C8W4vW_zhJybHK0ufGvXyQ, accessed on 10.01.2024.

⁴⁸ The original text: „È punito, se il fatto è commesso per uso non personale, con la reclusione da sei mesi a tre anni e con la multa da euro 2.582 a euro 15.493 chiunque a fini di lucro: (...) b) abusivamente riproduce, trasmette o diffonde in pubblico, con qualsiasi procedimento, opere o parti di opere letterarie, drammatiche, scientifiche o didattiche, musicali o drammatico-musicali, ovvero multimediali, anche se inserite in opere collettive o composite o banche dati”.

accusations were faced in 2020 by the Minister of Education, Lucia Azzolina, regarding her thesis obtained in 2009 at the University of Pisa. From the data available online, we have not been able to identify whether these accusations were mere allegations or proven facts. What has been proven, however, is that the problem of plagiarism exists and has a huge scope even in this country.

Last but not least, we mention that in Italy, as in many other countries, similarity detection software is used to check the originality of works and to avoid plagiarism. These tools identify portions of text that are similar or identical to other sources, including academic publications, previous theses, or online materials.

One of the most widespread and commonly used tools in this regard is Turnitin, which compares the text of a thesis with a vast database to highlight any similarities. Educational institutions such as the University of Palermo or the University of Campania Luigi Vanvitelli have purchased licenses for access to iThenticate, plagiarism detection software provided by Turnitin (iParadigms company). Another program used is Compilation, used for example by the University of Milan⁴⁹. Regarding the threshold of similarity that the evaluated work must not exceed, we note that there is no legislatively established threshold, each university having the freedom to set a minimum threshold through its own academic policies and regulations.

In conclusion, this brief analysis of comparative law emphasises that in an era of globalisation, cultural and academic exchanges between Italy and Romania can influence the evolution of perceptions regarding originality and plagiarism. Moreover, analysing elements of intellectual property law in a global context can reveal how countries adapt their views and standards in the face of challenges in copyright law.

5. Conclusions

The process of researching and writing a scientific work such as a doctoral thesis is difficult and demanding one, requiring the full dedication of its author, by imprinting their creativity, personality and the results of their work, as this work constitutes the core of doctoral university studies.

In this context, originality plays an important role, as original discoveries are fundamental to scientific progress, even though analysing this condition is complex, subjective, and extremely difficult.

The issue of defining the originality of research will remain a widely discussed topic in all legislations for a long time due to its importance in academic communities, as only the production of an original work is able to improve a field and expand the body of knowledge, leading to progress.

When aspiring to a certain title, in this case, that of a doctor, which can only be obtained through an academic diploma, effort must be made and personal contribution must be ensured. It all comes down to responsibility, integrity towards oneself and towards the academic environment, characteristics that are able to confer the respect and appreciation that a doctor in his field of study deserves.

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