

THE IMPORTANCE OF ETHICS COMMISSIONS IN LIGHT OF THE NEW REGULATIONS OF THE ROMANIAN NATIONAL EDUCATION LAW

Adrian NICOLESCU¹

¹University of Craiova, Craiova, Romania

Abstract

In the last period, we witness numerous slippages from good conduct in scientific research, manifested at the level of state or even private higher education institutions and, thus, it is necessary to create some protection mechanisms, but also some bodies, be it institutions or ethics commissions that can ascertain and apply sanctions. While in the past, the ethics commissions established at the level of each university operated on the basis of law no. 1/2011, currently they are the prerogative of the new national education law no. 199/2023, but also of university documents, as the case may be, the University Charter, the Code of Ethics and, last but not least, the own Regulations. The law of national education expressly provides what are the attributions of the ethics commission, and, at the same time, defines its composition, but also the cases of incompatibility. In case of deviations from good conduct in scientific research, the ethics committee can act either *ex officio* or based on a notification from a natural or legal person.

Keywords: ethics committee, misconduct, academic environment, normative act

Considering the fact that higher education institutions are responsible for the obligation to comply with the norms of university ethics and deontology, ethics commissions were created at the level of higher education institutions that have a significant role in preventing and combating deviations from good conduct in scientific research. The new Romanian national education law no. 199/2023 provided in chapter XX, entitled University ethics and deontology, some general provisions that can be supplemented with normative acts established at the level of each university.

Unlike the old normative act, the new national education law contains much more generous and complex provisions, even if, in terms of the duties of ethics commissions established at the university level, they are not exhaustive. In accordance with the provisions of article 163 of the Romanian higher education law no. 199/2023, the duties of the university ethics commissions are as follows: to monitor, within the institutions, compliance with the codes of university ethics and deontology; to ensure the fulfillment of the orders of the Minister of Education for compliance with the legal framework in the field of university ethics and deontology; to analyze and resolve deviations from the rules of university ethics and deontology, based on notifications or by self-notification; to contribute to the elaboration of the Code of university ethics and deontology, through proposals addressed to the university senate for adoption and inclusion in the university charter; to make an annual report on the state of compliance with university ethics and deontology norms, which is presented to the rector and the university senate and constitutes a public document; to carry out prevention activities regarding the violation of university ethics and deontology norms; to monitor the implementation ethics and academic integrity courses; to propose to the university senate for adoption the regulation for the organization and

operation of the ethics commissions; to collaborate with the advisory commissions at the national level; other duties provided by this law or established according to the university charter.

In order not to generate confusion, the legislator made clear references, in the Romanian normative act in force (article 162 para 4 of law no. 199/2023), to the method of constitution of the ethics commission, indicating certain prohibitions regarding the fact that people who hold the position of rector cannot be part of the ethics commissions, nor the president of the senate, vice-rector, dean, vice-dean, administrative general director, administrative deputy general director, department director, branch director, extension director, as well as neither the director of a research-development, design or micro-production unit in the institution of Higher Education.

All these prohibitions or incompatibilities that arise after a person has been appointed to the university ethics committee, impose on the person in question the legal obligation to leave the respective situation within a period of 15 working days (article 162 para 4 of law no. 199/2023).

In accordance with art 162 para. 7 of Romanian law no. 199/2023, people can participate as guests in the meetings of the university ethics committee, including the legal advisor of the institution. Similar to the old regulation, in order to further strengthen the legal force of the decisions issued by the ethics commission, the legislator provided that they be approved by the legal advisor of the higher education institution. Moreover, in accordance with art. 164 of law no. 199/2023, the legal responsibility for the decisions and activity of the university ethics commission rests within the higher education institution.

The legal instrument, in this case, the framework regulation for the organization and operation of university ethics commissions, is approved by order of the Minister of Education, after the University Management Ethics

Commission has been consulted. According to art. 165 para. 2 of law no. 199/2023 in compliance with the framework regulation of organization and operation, the university ethics commissions draw up their own organization and operation regulations, which are approved by the decision of the university senate, according to the provisions of this law. Considering the fact Romania continues to join numerous international conventions and treaties, the international regulations to which the country adheres to will also be respected in the elaboration of the norms related to university ethics and deontology, as well as in the effective development of research-development and innovation activities our country is part to.

As an example, the regulation of the operation and organization of the ethics commission established at the level of the University of Craiova provides in art. 12 the fact that "the university ethics committee only resolves complaints that refer to members of the university community." Anonymous petitions or those in which the petitioner's identification data are not entered are not considered and ranked. At the same time, the Commission has the right to refer itself ex officio. In this sense, the anonymous reports will be the subject of an analysis by the Commission in which self-reporting decisions can be made."

In the current landscape, research ethics is a basic pillar for all universities in Romania, and the new regulations in force provide the legal framework for the establishment of a subcommittee dedicated to research ethics at the ethics commission level. The purpose of this subcommittee is defined by the legislator in the framework of art 162 par. 3 of law no. 199/2023 which provides that it aims to implement research ethics policies, in accordance with scientific ethics regulations, which must cover the following aspects: publication and authorship, respect for the dignity of research participants, management of research data, collaboration, conflicts of interest, fraud, ensuring effective research

environments, respectively preventing harm in research and innovation. It is important that research ethics is a priority for the academic environment, and this aspect should not be neglected, on the contrary, it should also be made aware by students in all activities undertaken in the higher education process. This commitment to research ethics leads to the maintenance of high standards in the academic environment and, at the same time, to the promotion of research based on respect for ethical principles and values.

In accordance with art 168 para. 1 of law no. 199/2023, the deviations from the norms of ethics and deontology in teaching and university research are numerous, and this law offers an exhaustive list, which we will not review in its entirety, but only those that we consider more relevant: non-respect of confidentiality in the evaluation; discrimination within the evaluations based on the criteria provided by art. 2 paragraph 1 of Romanian Government Ordinance no. 137/2000, republished, with subsequent amendments and additions; evaluation fraud; plagiarism; non-compliance with the provisions and legal procedures regarding university ethics and deontology, which are part of the university charter, as the case may be, including non-implementation of the sanctions established by the commissions university ethics, by CNATDCU or CNEMU; non-respect of the dogmatic and canonical specificity of the founding cult, in the case of confessional education.

A serious deviation from university ethics, but also from the system of university ethical values, is plagiarism, which has aroused interest not only from the academic environment, but also from the specialized literature that considered this phenomenon, as endemic (Hermann&Kappe&Zaka, 2006, pp 1050-1084), which can be combated with a sustained effort from all the actors involved. Also, in the opinion of other authors (Bujorel, 2017, p. 81), "plagiarism means the presentation of the work or a part of the work of another author, without

mentioning the source of inspiration, so that it is understood that the respective work, or the parts taken would belong to the one who makes them public."

In the new regulations, respectively the Romanian higher education law no. 199/2023 (art 169 lit. d), there is provided clarification of the notion of plagiarism as being "the presentation as being a creation or allegedly personal scientific contribution in a written work, including in electronic format, of texts, ideas, demonstrations, data, theories, results or scientific methods taken from works written, including in electronic format, by other authors, without mentioning this and without referring to the original sources."

In the current regulation, the conflict of interests, but also the situations of incompatibility, are presented in detail, in order to avoid possible confusions or circumstances in the future in which the method of prevention and quick resolution of these cases is not known. Moreover, in accordance with the provisions of art. 170 para. 2 of the Romanian law on higher education no. 199/2023, "in the event of a conflict of interests, the teaching or research staff is obliged to stop carrying out any activity provided for and to immediately inform the hierarchical head to whom they are directly subordinate."

The legal obligation to undertake all the legal measures required for the impartial exercise of specific activities, within a period of no more than 3 days from the date of becoming aware of it, was established in the charge of the superior hierarchical head (art 170 para 2 law no. 199/2023).

Also, in accordance with art. 170 para. 6 of the Romanian higher education law no. 199/2023, "persons in the situation of incompatibility provided for have 15 days to eliminate the situation of incompatibility, including by suspending them from one of the positions."

The circumstances of the deeds and the possible application of a sanction for deviations from the norms of ethics and deontology in the didactic activity

and university research are verified by the ethics commissions established at the university level. In accordance with art. 171 paragraph, 2 of the higher education law no. 199/2023, any person can notify the university ethics committee of the higher education institution regarding the commission of an act that may constitute a deviation from university ethics and deontology. The notification is made in writing or online and is registered at the registry of the educational institution."

In the current legislative context (art 171 para 4 of Law no. 199/2023), any notification submitted to the ethics committee goes through a double check of admissibility, one in accordance with the provisions of the Code of Ethics and University Deontology, and another in accordance with the provisions of the Code of Ethics and Professional Deontology. This control of admissibility is imperatively necessary, and any notification submitted by a natural person or by a legal person must include a reasoned justification regarding the non-compliance with the rules of ethics and professional deontology, with concrete examples and indication of the supporting considerations and the sources of documentation.

The Ethics Commission, established under the terms of the above mentioned law, has a lever in terms of admissibility control, in the sense that if it finds that the notification submitted does not meet the admissibility conditions, it can adopt a decision rejecting it as inadmissible, without it meaning that such notifications shall not be registered, as in accordance with art. 171 para. 3 of law no. 199/2023 on higher education, all notifications received by the university ethics commission, from the level of the higher education institution, are recorded, regardless of whether they are admissible or inadmissible. The registration number will be sent to the applicants, at the mentioned contact address."

The legislator instituted the responsibility of the members of the ethics commission to respect the confidentiality of the identity of the author of the referral throughout the resolution and settlement of the case they have pending (art 171 para 5 of Law no. 199/2023). The legislation in force clarifies the situations in which the investigated person is unjustifiably absent, and thus article 171 para. 6 of the law on higher education provides that, "in the case of the research procedure provided for in paragraph 2, the researched person will be summoned in writing by the president of the university ethics committee, specifying the object, place, date and time of the meeting. The non-appearance of the investigated person at the summons made, without an objective reason, communicated in writing, entitles the university ethics committee to continue the investigation in order to resolve the referral."

In conclusion, the establishment of ethics committees at the level of higher education institutions is quite important considering the fact that they play a crucial role in promoting and maintaining ethical standards and university integrity in the academic environment, especially since university ethics commissions are a real guarantor of preventing and combating the phenomenon of plagiarism, which has recently grown exponentially at the level of universities and has aroused interest not only for specialists, but also for public opinion.

Regarding the legislation in the field, we cannot fail to note a sustained effort on the part of the legislative forum that adopted a normative act that, in our opinion, respects the criteria of clarity, precision, foreseeability and predictability, in order to ensure the security of legal relations, in this case the Romanian Law on higher education no. 199/2023, which refers in the content of its provisions to the constitution and operation of these university ethics commissions.

References

Bujorel, F. (2017). Reflecții privind plagiatul (II), în *R.R.D.P.I.* nr. 2.

Hermann, M.,Kappe, F., Zaka, B. (2006). Plagiarism-A Survey. *Journal of Universal Computer Science*, vol 12, no 8.

Legea învățământului superior.nr. 199 din 2023.