

REFLECTIONS ON THE CONDUCT OF PEOPLE WHO CHECK AND SANCTION PLAGIARISM

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Abstract

The establishment of a general framework for the evaluation of plagiarism, accepted by the majority of those involved in the creation of intellectual works, is the main objective pursued in the present study. Obviously, the author does not propose to definitively outline the limits of such a plagiarism assessment framework, but outlines some criteria and exigencies that characterize it, being aware that only through the contribution of those interested in different spiritual fields can one agree such a standard. The question of the plagiarism, old-fashioned and the punishment of the plagiarists, which is necessary for justice, has a wide range of difficulties of appreciation. That is why the present study was born on the basis of the lack of unanimously accepted criteria for assessing the originality of intellectual creations. The author hopes that his imperfect approach will be welcome and arouse approval and interest. The author believes that in the world of today, the Internet and computer science, where an IT program can show the degree of plagiarism of any literary, artistic or scientific work, the evaluation of the suspect work of plagiarism must be done primarily by man and not by technical equipment, either very sophisticated. The man, endowed with correct thinking, artistic and scientific sense, vocation, modesty, temperament, etc., can control and weigh better than the IT apparatus of plagiarism and especially, can better determine the applicable sanction. This is why the present study is based on the truth that plagiarism judges, specialists dedicated to intellectual creation, are able to value the criteria of the plagiarism authors, correct their flaws and give them the chance to -and develops the natural vocation.

Keywords: *model work; judges of plagiarism; criteria of appreciation; firmness and malleability; the principles of Bangalore.*

1. Introductory considerations

Plagiarism theme fruitful reflection, continues to attract the interest of large groups of classes sociale. Evident that the approach to the issue of plagiarism varies in relation to the social environment in which examines the phenomenon and even within the same social groups, from school to another, or from one author to another. The explanation of the diversity of opinions is simple: differences of personality and subjective option, diverse ability to explore and predict the consequences of the phenomenon, differences of social and personal experience.

However, there is an almost unanimous attitude of condemnation of plagiarism, condemnation based on similar or close conceptions found in a common area, namely that of fundamental ethical and legal values.

Terminations of plagiarism are aimed in particular at the immorality of the facts, generally caused by the plagiarism greed for obtaining titles and unmerited honors. Some convictions are vehemently exposed, but not sufficiently motivated ethically and legally, with no limits of tolerance.

This is why we believe² that it is necessary to express and coagulate opinions on the plagiarism phenomenon not only of jurists but of all categories of authors of intellectual creation from all literary, artistic and scientific fields.

At the risk of error, AFIM that creators of works spiritual world there opinion to blame for plagiarism, plagiarist and tendency exclusively to protect the institutions of society attacks and revealing their poor functioning. Perhaps it's time to put on the wallpaper and discuss their responsibility for plagiarism.

Establishing a legal, legal and moral framework in which to analyze plagiarism does not mean that we will fall into the extreme of the implacable condemnation of the perpetrators. Even if such a framework is accepted by the majority opinion, it must not be a fatality for those who are

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² See Bujorel Florea, *Reflecții privind plagiatură(I)*, „Revista Română de Dreptul Proprietății Intelectuale” no.1/2017, p.36.

plagiarizing and for the judges appointed to judge cases of this nature. We have called "judges" the people appointed to analyze suspicious works to be plagiarized and to apply the related sanctions because their status must be very close, if not identical to what is required of judges. In particular, individuals who judge plagiarism, having a generally accepted legal framework at a given time, must also enjoy the freedom to judge things through their own vision, their own conscience. In this sense ruled and Constantin Noica, stressing that ethical standards have not absolute and universally valid. "A law ethics can be good for some and inadequate for others, work in one context and ineffective in another, right now and inappropriate may late, etc., "said the great Romanian philosopher³. The same will be the frame of analysis of plagiarism that we propose in succession. The final goal is that the sanction applied by judges contributes to the removal of plagiarism, undoubtedly lacking in ethics.

2. The conduct of people who check and sanction plagiarism

Trying to discern the fullest extent the general criteria and requirements that must be weighed plagiarism issues, we found a surprising fact simplicity meaning that it poartă. Este capacity of each author, be he a plagiarist point, to correct himself and to impart the correctness and authenticity of his acts of creation.

In other words, any whistleblower, if he is wrong, can totally change his attitude and enlist among known authors only by highlighting their own qualities. The Creator, viewed as a human person, is a potential infinitude. We do not consider the meaning of praising without a measure the creative capacities of someone, but we think of the fact that every person is the depository of the making and transformation springs, correcting his existence, towards another self-esteem, in the context of granting respect by others.

To avoid plagiarism, we need patterns, not to be copied, but to be taken as landmarks, as examples in setting and highlighting the creative mode and the goals of creation. The examples belong to each category of creators, from any field of creation: literary, artistic or scientific. Models can exert a positive influence on the later authors' creative work, can trigger consistent creative energies, in the sense of engaging subsequent authors in the orbit of producing authentic works. The examples are identified with the creative personalities of each spiritual domain.

In fact, when we talk about creative patterns, we have in mind both their authors and their spiritual works. The works of these authors are addressed to both creative professionals and to the general public. They encourage the creation of works that illustrate the personal merits of the authors, and not the plagiarism of others' works. Plagiarized works are fundamentally different from model creations, precisely because they do not reflect the value of their author, but the creative efforts and talents of others, unrecognizable, unworthy.

Therefore, in the context, model works are not necessarily represented by out-of-common creations, but by all those who qualify not to be finger-plagued. In other words, models do not mean authors whose creations reveal something new, although it is clear that such authors find their place among models. But mainly by model, we understand that work that does not necessarily concern itself with the subject it presents, but with the way it is expressed, that is, in an original form of expression. The authenticity of an intellectual work derives not so much from the novelty of the themes, of the exposed subjects, which are generally known, but from the way they are presented. The audience is rather interested in what the author says, but what the author says.

Genuine spiritual works are meant to convey to the audience a clear message, namely the urge to look at things from an optimistic perspective. Interesting is the doctrinal view that we have to distinguish between the message that contains an exhortation and the one that refers to the advice. Advice can often have a neutral character, a dose of interest directed more towards the counselor's image, and less to help the counselor. It is often said that the counsel expresses to be

³ See L. Pamfil, *Etica retrospectivă la Constantin Noica, între metafizica greacă și formalismul kantian*, in I. Copoeru, N. Szabo (coord), *Dileme morale și autonomie în contextul democratizării și al integrării europene*, Ed. Casa Cărții de Știință, Cluj-Napoca, 2007, p.92.

given. Unlike this, the exhortation also implies some involvement, meaning that the person who conveys it is not indifferent to the attitude that subsequent authors in the field will embrace.

If the counsel can mean a certain distance between the one who gives it and the one who receives it, the exhortation assumes the proximity between the two to identify common aspects, common bridges, to reveal and promote human symbols and values, valid in all times. Subsequent authors of spiritual creations should not feel harmed by the exhortations of their forerunners. The creative personality of subsequent authors can not be suspected of being bound by accepting others. On the contrary, their creative capacity can be enriched.

Plagiarized intellectual creation works must be examined and appreciated from different perspectives, so that the conclusions are not focused on unilateralism. The analysis of plagiarized spiritual works from several points of view can lead to the revelation of all the faces of the respective creations, without losing the authors' stamina, but on the contrary, it can contribute to its consolidation.

At the same time, the criteria for assessing spiritual works in terms of plagiarism must be clear, rigorous and objective. Under no circumstances should the examiner's own value axis be different, if it differs from the prototype officially established by the authority empowered in the matter.

Examiners can not give up the firm application of analysis grids. Ethical morality is the word of order, but we think it should be accompanied by a certain degree of malleability. In such cases, malevolence does not mean weakness, but rather the sign of thought flexible, thoughtful nature to save abnormal situations and to put things right. Developing things is to establish the framework within which to analyze and eventually sanction the plagiarism, but also in which the sovereign dignity, based on personal merits, of the plagiarists can be manifested in the future.

At the same time, if by their behavior the proven plagiarists will continue on the same line without complying with the legal and moral norms related to plagiarism, the sanctions must be very severe. Because persevering in adopting an attitude of understanding towards those who do not deserve, it is not a sign of goodwill, but an incontestable error.

In the end, solving the plagiarism problem is not a complicated philosophy. The solution is simple, as in other such cases of disregarding moral and legal norms: the laws of nature must be followed. Solving the problem of plagiarists usually leads to the termination of illicit conduct, but not the shedding of the impulse and their desire to lean on the creative act, placed on personal intellectual efforts. If this is the case, namely whether the primary plagiarists are stopped and discouraged permanently in the pursuit of spiritual creation, the plagiarism judgment and punishment do not attain their purpose. The aim is to bring the plagiarist on the right path. Otherwise, we do nothing but we strike the whip to drive the Pharisees out of the temple of spiritual creation. The purpose of the plagiarism case is to persuade the plagiarist to participate in the act of creation by his own vocation and to become an interlocutor of creative virtues.

In turn, the specialists appointed to share justice, the judges of the plagiarism act, should have an independent stance, not be influenced by excessive public opinion, various interventions and demands, personal conformisms and interests, and many such things found to the antipod of objective justice.

In the process of determining by judges the measures to punish the offenders, the emphasis should be placed on the ability of the latter to correct themselves. The balance is inclined towards what is called the granting of the first chance to the plagiarist. To the extent that he does not correct his attitude in the future, then we have to deal with deviant behavior, with the self-definition of that person as a character that aims to achieve goals by means not at all commendable, illicit, and as such must be removed from the environment of the authors of intellectual creation. Such an author will not be able to understand that a success built on the merits of others can not be tolerated. In this situation, the margin of attenuating circumstances that I recommended to the plagiarist judges in the trial of the first plagiarism must be replaced by that of the aggravating circumstances, given the plagiarity of the plagiarist in repeating the illicit deed.

There is also the question of how the decision to find and sanction plagiarism should be shown and on what grounds it is based. We start from the notion that no one is perfect. As such, the decisions by which the plagues are punished can not be perfect. Still, we tend to take action alongside a motivation to express balance and wisdom. Wisdom is more important than anything because it gives respect, moral value and education.

In turn, the proven and punished plagiarist can not become perfect. But every man, the more an author of spiritual works, has the intention to aspire to his perfection, we could say incessantly. This behavior must be imprinted with the judgment by which the act of plagiarism has been sanctioned.

The plagiarist may have the feeling, perhaps even the certainty, that the persons who analyze his allegedly plagiarist work treat him as an author who is guilty of the presumption of innocence. Moreover, the plagiarist can see in the examiners integrity, for whom his future matters, not being treated as any. This consciousness can save the plagiar more than the sanction itself, place it on the ground of a fierce struggle with its own limits, to overcome itself.

It is not easy to achieve this. The plagiarist may have, or believe that he has the awareness of his own value, and from this perspective, the plagiarism verdict can irreparably affect him.

The plagiarism sentence must say things by name. In addition to respecting the plagiarist and trusting his own value. Above all, if the given sentence would not disarm the plagiar, in the sense that he would continue to create spiritual works but of here with his own intellectual efforts, effervescent, means that the plagiarist is recovered from the intellectual domain in which he is found.

We dare to believe that nothing removes the plagiar more than certain intellectual creation concerns than the impression that the judgment of his plagiaristic deeds has been done in order to put him in an inferiority hypostasis through a dismal destructive contempt.

Perhaps the plagiarism sentence should put the plagiarist in a paradoxical hypostasis. On the one hand, to make him realize that the unpleasant situation he is in, the suffering he has and the suffering he suffers are caused by the person himself. But at the same time, to become aware of it that he is endowed with the intellectual qualities that will help him to analyze what is happening with him, to discover the origin and the cause of his suffering, and that he is in his power to transfigure it to the contrary. In this way, the sentence of condemnation would be the expected notion, namely to dispel the doubts, to recommend stunning, and to mobilize the plagiar to overcoming self and returning to normality.

On the other hand, those who judge plagiarism must have an aura of corfiots, indisputable human and professional values in the creative field reported to have committed plagiarism. The attributes that predict the specialists designated to assess whether and to what extent a spiritual work is a plagiarism are part of a multiple register. Of course, it is not necessarily necessary for the professional and human value of judges to be of such a nature that, they place them in the Empire, but a certain level of professional and human recognition must be enjoyed in society.

Such a sentence of condemnation, consisting of objections and objective considerations made by the Examination Board on the plagiarized work, could be a support for the plagiar in the process of correcting his conduct. Faced with such a judgment, the plagiarist can move to a saving lime in the field of intellectual creation. Exit from the hypostasis not quite enjoyable by the plagiarist can be found by trying to treat his own wounded habit, if one can say so, by wanting to overthrow the sentences of condemnation, in the idea of a sort of revenge, in the sense of creating in the future some authentic spiritual works.

In some situations, even the theme of the work found to be plagiarized by the examiners can be resumed in a new intellectual creation that enters, step by step, in the gallery of authentic works.

In other words, from the plagiarism trial, the plagiarist understands that even if the subject of plagiarism was treated by another author, it can be resumed and re-rendered, provided that what is taken from the authors the previous ones to be credibly assimilated, that is, not to remain in the

form of copying simply. Speaking of Shakespeare, accused of plagiarism, Emerson⁴ said the great poet took some bricks, from another beard, from someone else's plaster, when he was building up some spiritual works. But each time the resulting construction had a fantastic cohesiveness that the genius instilled into disparate components, the architect being Shakespeare, an authentic author, no doubt.

Returning to the plagiarism condemnation decision, let us add that only the considerations that fall within the bounds of loyal motivations can give credibility to the device (the sanction applied).

The motivation of the plagiarism sentence to be formulated in a clear and understandable language by the general public. Even though the language of the judgment is, as a rule, populated with legal expressions in Latin, or other admissions difficult to understand by the general public, it is important that motivation is as precise and rational as possible.

Last but not least, the motivation of the plagiarism decision must be in line with its purpose and should give legal reasoning to the solution through the legal institutions and the legal principles underlying the solution.

A judgment whose reasoning cultivates common sense can be an effective panoply to change the career of the plagiarist and bring it on the right path. In the panoply of such a sentence, the plagiarist can identify ways of correcting his fate in the spirit of spiritual creation, such as tenacity, perseverance, and the desire to find the authentic creative style. The plagiarism decision may cause the plagiarist at the beginning of the spiritual consecration to follow and step into the career step by step, each such stage having its significance and importance. The exaggerated tendencies to skip some stages may cause the risk that they are subsequently overcome. Obviously, by exception, they can also be authors whose works are made and occupy positions on the podium without having passed all the steps necessary for a recognized professional training.

The appearance of plagiarized aspects in the sentence must be clearly and precisely reflected, eliminating any doubt, subtle nuances or suggestive expressions.

Because the judgment given in the plagiarism case to reach its goal, something still needs to be done. The judgment should contain reasonable explanations of the plagiarized aspects, objective presentation of the real state and not be based on dictated reasons in the political sphere, or at the discretion of those who judge the situation. These last-mentioned reasons would only lead to the plagiarist's attitude of plagiarism, the potestative right that the plagiarist attributes, and not to the triumph of virtue in the act of spiritual creation.

Such a sentence may have the potential to outline the idea that the attitude towards plagiarism is converted to its opposite, that is to say, in honesty with the act of creation. It is no less true that honesty is the business card of any authentic author of intellectual creation.

Judgment of the plagiarism process and the sentence given in such a case should not only imply accusatory aspects but also constitute an alarming signal in a sort of reminder that the plagiarism must not be more than ever.

The solution that the examiners of plagiarized works say must also be moral. This essential requirement means, as Aristotle said in his *Nicomahic Ethics*⁵, that the purpose of any human action is to obtain the good, which Aristotle equated with happiness. In the case of a plagiarism sentence, the good that it is called upon to accomplish concerns both the good person of the plagiarist, and especially the good of society⁶.

And another requirement can be highlighted in the plagiarism activity. This is an unquenchable rule formulated by Aristotle⁷. The wise man pointed out that in order to avoid making mistakes, especially in the act of judgment, we must keep the middle way. This is a way of virtue. It

⁴ Emerson, Ralf Waldo (25.05.1803-27.04.1882), poet, essayist and American writer. On the international level, he became known as the work *Essays* and the *Representative Mens* (1850), the last of which included biographies of personalities - see *Enciclopedia Universală Britanică Vol.V.*, Ed. Litera, , Bucharest, 2010, p.298.

⁵ See Aristotel, *Etica nicomahică*, Tr. Brăileanu (trad.), Ed. Antet, Bucharest, 2007, p.16.

⁶ In this way, see Cristinel Ghigheci, *Etica profesior juridice*, Ed. Hamangiu, Bucharest, 2017, p.42.

⁷ See Cristinel Ghigheci, *op.cit.*, p. 109.

seems that Aristotle's excitement finds its full applicability in the matter of weighing justice, the field of the judgment of some illicit deeds being, by excellence, one of equilibrium and moderation. It is commonly known that extreme solutions can lead to errors in balanced and merciful.

Balance and temperance imply modesty in the professionalism of those who judge. A professional who is a member of the plagiarism appraisal and sanctioning committee must have the awareness of his / her own professional competence in the field. However, if he overestimates his professional training, then the decision on the case of plagiarism given to the judge may be erroneous. The doctrine of psychology⁸ has set a set of questions for people who judge certain cases to help them overcome the dilemmas about professional ethics that they will adopt.

Individuals who judge plagiarism must fulfill, as any judge, the reserve requirement. This implies respecting the principles of judicial deontology. It is about the principles of independence, impartiality and integrity. The reserve has in its content the restraint regarding the public presentation of personal opinions regarding the plagiarism case to be judged. Prudence requirements are related to the specific case of plagiarism to be examined. The reserve requirement requires that the person appointed to judge the case of plagiarism does not express his / her opinion in relation to the plagiarism until a decision has been reached in the process of analysis of the work considered plagiarism. The ban on publicizing and expressing opinions on the plagiarism case to be examined is both a guarantee of the protection of the rights and interests of the plagiarist, and a guarantee of the impartiality and independence of the persons designated to investigate the plague⁹. Individuals who judge plagiarism, even if they are not judges, must enjoy a good reputation, a condition imposed on any magistrate. "Professional reputation is a consequence of the moral and professional integrity of each judge and prosecutor and gives the magistrate credibility and security in the exercise of the profession, as well as authority in expressing professional opinions. "The same reputation as that of magistrates is also required for those who judge plagiarism¹⁰. Good professional reputation is, "a fundamental value in the exercise of the function."¹¹

A particularly important aspect in the proper judgment of cases of plagiarism is to ensure the independence of those who appreciate whether a work is plagiarized or not. The independence of these persons is a guarantee that the judgment will be done according to the law and the content of the work examined. The decision made under the conditions of full independence of the persons designated to judge the plagiarism will be received by the public opinion with confidence and the respective act of justice will not be questioned. In fact, following the analogy between the position of those who judge plagiarism and those of magistrates, we can assert, without fear of mistakes, that the independence of these people is not only a right, but an obligation. This obligation must be related to the responsibility for the status of person designated to judge a case of plagiarism¹².

A quite sensitive requirement for a person called to judge a plagiarism case might refer to the need for it not to be influenced by public opinion in making the decision. But the examining person of plagiarism can not, in everyday reality, be isolated from the social environment. We could say that on the contrary, in order to be connected to the social exigencies, it is necessary to be aware of everything that is happening in society. On the other hand¹³, however, the plagiarist should not be influenced by the passions of the crowd, many of which are contrary to the law.

Indeed, in commentary 31 to the Bangalore Principles, which is, in our view, fully applicable to the critics of plagiarism, like judges, it is stated that "... it would be unreasonable to expect that he (the judge- BF) to withdraw completely from public life to a totally private life

⁸ See S.J.Knepp, M.C. Gottlieb, M.M. Handelsman, *Dileme etice în psihoterapie. Abordări pozitive în procesul decizional*, Ed. Trei, Bucharest, 2016, p.160-161, *apud* Cristinel Ghigheci, *op.cit.*, p.112.

⁹ See D.Pantazi, *Obligația de discreție nu impune izolarea magistratului de celelalte profesii juridice*, published interview on www.juridice.ro, *apud* Cristinel Ghigheci, *op. cit.*, p.136.

¹⁰ See, Decision no. 724 of 23 October 2015 of the Judges Section of the SCM, published on <http://integritate.iefep.ro/jurisprudenta.html> (consulted on 15.10.2017).

¹¹ See Cristinel Ghigheci, *op. cit.*, p.143.

¹² See A.Rădulescu, *Independența și imparțialitatea judecătorului ca standarde profesionale în procesul civil*, in I.Copoeru, N.Szabo(coord.), *Dileme morale...*, *op.cit.*, p.203.

¹³ Mihai Eminescu said that: "Passion is high, passions are debilitating".

centered around the house, family, friends. The total isolation of the judge from the community in which he lives is neither possible nor beneficial.¹⁴ "Being connected to social life, the examiner will know the requirements of the real world, which he will perceive in terms of the requirements of the legal norms in force.

3. Conclusions

In essence, all that I have outlined about the conduct of those who are commanded to control plague-suspect works, and to lay down measures to punish the offenders, is limited to achieving one goal: to be right.

This social desiderate has been included in national consciousness as a first-rate determination. Not for nothing, Nicolae Balcescu and the revolutionaries around him chose the words: "Justice-Fraternity". Without restoring justice, solving the plagiarism problem would have no positive resonance among the public to which spiritual creations are addressed. To the extent that righteousness is established, anarchy of all sorts drives away from the space of spiritual works. Establishing the rule of justice has nothing to do with the possible desire of vindication of the plagiarist. Plagiarism judges are expected to give relief, not so much in the interest of the plagiarist as the social one. The punishment will undoubtedly be ineluctable, but it is important to be right. A righteous punishment has the gift of not leading to the downfall of the primary plagiar in the rank and especially of not closing his creative options in his spiritual field. Only so will punishment achieve its purpose and be endured not as a vengeance, but as an extended hand to overcome and reintegrate into the world of the creators of intellectual works.

The motivation of punishment has a particular significance for the subsequent conduct of the plagiar: it must give birth to the plagiarism that it has been treated as a human value in conflict with the social environment. In no case does the motivation of the punishment applied to the plaintiff irradiate the idea that the sanction would originate a fault without guilt. The plagiarist is convinced that he has been wrong both with society and with the moral court of his own person. In other words, the decision to sanction plagiarism would put the plagiarist in the position to analyze as objectively as possible the plagiarized work and what happens to him, until he can understand the origins of the causes, have brought in such a circumstance. If he is able to objectively realize this, then the decision to sanction plagiarism has been such as to give him the power to change his attitude in the so fascinating process of spiritual creation.

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¹⁴ See C. Dănileş (trad.), *Comentariu asupra Principiilor de la Bangalore privind conduita judiciară*, C.H.Beck, Bucharest, 2010, p.45.