

# THE PROBLEMS OF LEGAL AND ETHICAL REGULATION: A CASE STUDY OF THE PLAGIARISM LAWSUIT

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## **Abstract:**

Academic plagiarism is one of the challenges the academic institutions meet in maintaining the high-quality standards of research and higher education. The contradictions between legal and ethical regulation of plagiarism cases indicate the need for more efficient solutions for prevention and resolution of the plagiarism and other acts of research misconduct at academic institutions. This paper presents a case study of the lawsuit where one Lithuanian University was sued for “illegal revocation” of a doctoral degree due to plagiarism. The arguments provided by the parties to the legal process during the court hearings illustrate the prevalence of cynical attitude towards ethical norms and regulations in academia as well as in wider society. The authors suggest that academic institutions should rely more on the multiple benefits provided by ethics tools and that the congruence between legal and ethical norms is essential for building academic integrity.

**Key words:** plagiarism, ethics, law, ethics institutionalization, academic integrity

## **1 Introduction**

Plagiarism cases that emerge in the academia of different countries regularly reveal the incongruity between legal and ethical regulation of this issue. Universities unwillingly and inconsistently deal with plagiarism (Luke, Kearins, 2012), are afraid to apply sanctions and wait until the courts will do it. On behalf of the courts, they often return the evaluation of plagiarism to the academic institutions (Sonfield, 2014) or solve only single cases and substantially do not contribute to solving the plagiarism issue as a systematic problem of academia. Apparently, the lessons given by the accidentally found and legally investigated acts of plagiarism are not sufficient to prevent from this wrongdoing on the macro- or mezo-levels of a science system. Every single lawsuit of plagiarism is dealt differently, neither academic institutions nor the courts share the common attitude: different decisions and unequal sanctions are applied. As Sonfield notes, “this separation of the legal versus the ethical nature of plagiarism is a complex one, involving the subtleties of the law and past actions of the courts, and involves a number of issues” (Sonfield, 2012, p. 80). Every single instance of plagiarism is unique and requires careful examination of all the circumstances and facts, but universal standards on the systematic level also should exist and serve as a prevention of plagiarism and other types of research misconduct.

Plagiarism as an instance of research misconduct is not only a problem of individual morale and behaviour, but also an indicator of inefficient management by academic institutions. Those academic institutions that become aware of plagiarism as an organizational problem start to manage academic integrity through the system of ethics infrastructure which enables to reduce academic misconduct efficiently. It is the

ultimate goal and function of ethics infrastructure that is introduced and sustained by the processes of ethics institutionalization (Vasiljević, 2014).

From the point of view of academic institutions plagiarism, just as any other academic shortcoming, is unwanted and harmful behaviour that should be replaced by academic integrity, formed by the use of ethics tools. Academic integrity covers “the values, behaviour and conduct of academics in all aspects of their practice (teaching, research and service)” (Macfarlane, Zhang, Pun, 2012, p. 3). Academic integrity, defined as a professional conduct precisely adhering to all the institutional standards, policies and regulations, is a desirable model for research conduct (Bertram Gallant, 2008; Macfarlane, 2009; McCabe, 2003; Steneck, 2006; Whitley, Keith-Spiegel, 2001). This model of research behaviour is unachievable without the standards, principles, policies and procedures adhering to which both the individuals and academic institutions could self-regulate their actions.

Researchers of management and business ethics apply the conceptual framework of integrity management to the analysis of academic integrity (LeClair, Ferrell, Fraedrich, 1998; Paine, 1994; Petrick, Quinn, 1997; Shrivastva, and Associates, 1988; Tichy, McGill, 2003; Worden, 2003). From this point of view organizations are seen as corporate subjects of morality, that encourage their members to refuse from unwanted or socially unacceptable behaviours by introducing a set of relevant processes and procedures aimed at it (Brenkert, 2004; Brown, 2005; Johnson, Phillips, 2003; Kaptein, Wempe, 2002; LeClair, Ferrell, Fraedrich, 1998; Maak, 2008).

The discussions in legal academic literature on the relevance of legal and ethical regulation of plagiarism also stress the necessity for academic institutions to enforce and develop their own institutional regulations or measures to be applied in such cases, as legal rules are not applicable to all the forms and cases of plagiarism and do not grasp the peculiarities of research activities: “These authors emphasize the need for publishers, journals, colleges and universities to develop more clear definitions of academic plagiarism, to instate written and published policies, and for academics and their professional associations to place a stronger emphasis on intellectual honesty. More education on the issues of such honesty and dishonesty to new academics is also urged (Bast and Samuels, 2008; Latourette 2010)” (cited in Sonfield, 2014, p.79).

As a primary reason for incongruity between legal and ethical regulations the difference between the objects covered by copyright law and notion of plagiarism is most often discussed: plagiarism comprises the whole creative process meanwhile copyright covers only the result of creative activity: “At a basic level, plagiarism involves the creative process while copyright infringement involves the creative result. [...] The creative result nature of copyright infringement involves the damages caused by the infringement to the original author of the work [...]. Cases of academic plagiarism rarely, if ever, impact the original author’s use of, or the economic interest in, his or her original work in a clearly quantifiable manner (Stearns 1992)” (Sonfield, 2017, p. 80). This is one of the reasons why the cases of plagiarism are rarely dealt with in the courts.

As academic plagiarism covers a much wider range of research activities than copyright, it can’t be grasped or solved solely by legal measures and therefore it is often not a real legal issue: “While the law is relatively clear with regard to copyright

infringement, academic plagiarism generally does not involve such infringement under the law. Thus, while copyright infringement is clearly a legal issue, academic plagiarism is generally a professional and moral issue, governed by established academic ethical standards, and by university and other professional guidelines and policies, where they exist” (Sonfield, 2014; Nimmer, 2004; Stearns, 1992).

Academic plagiarism causes material damage. But more importantly it causes moral or reputational harm to various subjects: an individual author, the profession of a researcher, the field of research, an academic institution or even the whole institution of science as its basis of advancement is the originality of research and due credit of it. Thus, plagiarism should be dealt as morally reprehensible and unacceptable dysfunction and managed with a set of ethical tools. Unfortunately, such a clear moral position is not recognizable in reactions towards plagiarism in many academic institutions (Luke, Kearins, 2012).

Academic institutions which introduce and apply ethical tools directed to deal with academic misconduct and particularly plagiarism, most often mimic or replicate legal measures and use legalistic forms of discourse: “The language of plagiarism as used in many university plagiarism policies and processes has developed from legal concepts of copyright. [...] Many tertiary institutions have drawn heavily on the language of Law as the discourse chosen to define and describe how plagiarism will be handled in a university. [...] reliance on legal language positions institutional approaches to university plagiarism policies within legal rather than learning frameworks. As a result, teaching and learning activities designed to enhance and improve understanding plagiarism and academic integrity may become peripheral to quality assurance measures” (Sutherland-Smith, 2014, p. 32).

The norms both of the law and ethics are drawn on the basis of the grounding concepts of human good (public good, public interest, social welfare). Modern and morally mature societies have internalized the rules and norms as a cornerstone of decent life and compliance is viewed as a respected trait of individual personality and as highly valued social virtue imperativeness of which applies to all the subjects, including organizations as moral entities (Kaptein, Wempe, 2002). The civilized social life and productive activity of organizations are unimaginable without it (Worthley, 1999).

Globally a concern for academic integrity is growing as it became apparent that the habits of academic dishonesty formed during the studies later are moved to professional practices causing various negative consequences (Martin, Rao, Sloan, 2009; Nimmer, 2004; Larkham, Manns, 2002). The knowledge and competencies not acquired due to small cheating later turn into particular economic and ecological losses (Vasiljeviėnė, 2011). Some societies achieve such moral maturity level when compliance and integrity are taken for granted by natural evolution; others purposefully form such understanding through the use of ethics institutionalization (or both ways are used).

A variety of ethics tools applicable in forming the desirable behaviour of employees in the organization enables to accomplish more functions than a legally sanctioning or educational approach to misconduct. The authors of this paper emphasize the advantages of more subtle impacts of ethics tools: honour sanctions, reputation mechanisms, informed consent, the formation of transparent and just organizational

structures and functions through the use of management methods. All these benefits may be provided by the ethics institutionalization in academic institutions.

Even in the countries globally considered as leaders in higher education (USA, UK, or Australia) not all the academic institutions efficiently apply ethics tools and still are looking for systemic solutions to fight various forms of research misconduct. The countries and academic institutions differ in their reactions and measures used to deal with plagiarism, i.e. they either a) tolerate it (try to ignore or hide it, avoid to mention it or publicize the fact, especially if senior researchers and managers are involved, researchers fail to trigger a scandal or become whistleblowers), or b) demonstrate intolerance by transparently and consistently fighting it as any other socially harmful behaviour. Ways of reacting depend on the socio-cultural environment existing both on mezo- and macro-levels.

Problems of dealing with plagiarism are even more severe in those countries that only recently started following the standards and good practices of the advanced leading academic institutions. In such transitional cultures, the understanding of the need and benefits provided by ethical regulation is very weak. Usually, legalistic regulation is viewed as entirely sufficient in all types of professional activity; meanwhile, ethical regulation (limited to ethics codes and commissions) is used only to comply with formal requirements of legal acts. Moreover, openly nihilistic or cynical attitude towards ethical standards predominates: in a professional realm all means to achieve the goal are acceptable if they do not breach any legal act.

Similar features of such transitional socio-cultural environment are observed in Lithuania, which underwent many political and social transformations during last 25 years. In public discourse and organizational practices, there are a lot of examples of lack of respect for the rule of law and integrity. There is a common tendency to imitate the European and global standards in case they cannot (or are not perceived as worth) to be met. These characteristics are rudiments of the Soviet rule, when citizens were excluded from law-making, and high standards and the ideal of a quality of life were merely sound declarations with no relation to actual reality. The citizens did not interiorize laws and norms introduced in such way, and they were not committed to fulfil, obey or respect it. Therefore, people developed moral justification for violating or imitating soviet normative regulations (Ungvari-Zrinyj, 2001; Vasiljevičė, Freitakienė, 2002). The society learned to view the laws as a set of empty declarations which “are created to be broken” or can be “turned to the direction you need”. The perceived gap between the declared norms and actual practices results in a sceptic attitude towards ethics. The cynical view has deeply entrenched in everyday life of the society, as incongruity between the moral norms and actions is taken for granted (people declare high moral values, but do not hold to them while making actions). The predominance of cynical attitude towards morale is a result of intensive and numerous societal transformations that have brought the society such radical changes in political structures, values systems and norms that those systems and structures started to be perceived as temporary, arbitrary and eventually not functioning in life (the so-called normative confusion or major normative shift) (Sverdiolas, 2006).

Within such cultural mindset, it is natural that ethical regulation in organizations is very narrow as no one believes it can actually work. In academic institutions of

Lithuania ethical regulation is limited to ethics codes and commissions. Ethics codes of these institutions are poorly developed, reviewed only in case if higher education laws change substantially; thus they are not adaptable to actual challenges academia faces. Notably, ethics commissions when investigating cases of research misconduct also tend to ground their decisions on more “solid” institutional documents, i.e. having clear legal status, e.g. statute or studies policy than on ethics code. The study of ethics codes of all Lithuanian higher education institutions has revealed that in majority of them “plagiarism” is not mentioned and defined; if it is mentioned, it applies only to one group of academic community, i.e. students. None of the analysed ethics codes mentioned academic plagiarism (Novelskaitė, Pužėtaitė, 2013). This fact means that Lithuanian academic institutions do not use ethics tools effectively in dealing with research misconduct. As academic institutions lack knowledge, measures and skills how to solve issues of academic misconduct, they avoid taking clear decisions and tend to pass them on legal institutions.

One of the aims of this article is to demonstrate this symptomatic attitude towards legal and ethical regulation of research conduct through the case study of the plagiarism lawsuit recently investigated in Lithuanian courts.

## 2 Material and Methods

Several research methods are applied in this paper: a case study, non-participating observation (participation in court hearings), document analysis (court protocols and notes from the court hearings). The plagiarism scandal lasted for a long period (2003-2015) and was discussed in national mass media on several occasions. Chronologically detailed description of the case and ethical interpretation of it was published in an academic journal (Jurčiukonytė, 2014). In the analysis of this case, the authors limit their research to the court process (2012-2014) where the plagiarist sued the University for revoking his doctoral degree.

This case of plagiarism is vast and complex from the ethical point of view; it is impossible to explore all the aspects within the limits of this paper. Thus, the case study is concentrated upon the positions represented by the parties, the arguments they provided and the attitudes towards regulation of law and ethics in the case of plagiarism. The description of most significant allegations will be presented, followed by the discussion of results. In the description of the case all the expressions or longer phrases of the parties, cited from the court protocols or decisions, will be indicated with abbreviated reference “CP” (Court Protocols, Civil Case No. 2-457-773/2012-2014).

## 3 The description of the case

The first revocation of a doctoral degree during the period of the Independent Republic of Lithuania took place in 2012. The degree was revoked after 10 years the doctoral thesis was defended when the University identified the breach of academic integrity in the dissertation (the results previously published by other scientists were used by the plagiarist as his own in his doctoral thesis). One of the researchers whose data was used improperly noticed this fact soon after the dissertation was defended (2003)

and informed about it the University (alumni of which they all were). Although the correspondence and various discussions of the University and governmental bodies and even legal investigation took place during the extensive period (2003-2009), no clear decision or action was undertaken. Partly the decision was complicated due to the form of the plagiarized data. It was the data from the laboratory experiments expressed in the form of tables and graphs that according to the Lithuanian Copyright Law is not an object of the copyright. Another possible reason why the plagiarism case was not resolved was the big impact of the plagiarist's father. He was a professor of the same science area at the same University, a head of a department and the supervisor of those researchers whose data was used by the plagiarist. From the 4 researchers who previously announced the data in their dissertations and articles, only one raised the issue of the plagiarism, in the beginning internally, in the University, but later as there were no actions from the University, publically as well (we further refer to this researcher as "the author"). In 2009, the new Law of Science and Education was adopted. It introduced new legal norm, i.e. the right for universities to revoke the scientific degrees due to the facts of the breach of academic integrity (including previously issued degrees). In 2011 new rector of the University finally decided to end up public discussions about the plagiarism case and appointed the expert group to evaluate the academic integrity in the discussed dissertation. As the expert group decided that academic integrity was breached, the rector took the decision to revoke the degree from the plagiarist.

The plagiarist represented by the lawyer and supported by his father in the court as a third party directly related to the plaintiff claimed that the University revoked his degree illegally due to multiple legal and procedural breaches. Major arguments of the applicant that are relevant to the subject of this article maybe be grouped as follows:

1. previous legal investigation and court decisions did not find the copyright infringements in the dissertation thus the University had no right, necessity or legal basis to restart the examination with respect to plagiarism in the dissertation;
2. the procedure of revocation proceeded by the University was created and applied incompatibly with the legal acts and regulated procedures;
3. the revocation of the degree is a result of personal conflict between the author and the plagiarist's father, and the plagiarist himself is the "demonstrative victim" of this conflict.

Further we analyse all three claims in detail aiming to provide typical illustrations and most important arguments used by the parties with respect to it.

**1) "There is no copyright infringement in the dissertation; therefore there is no other reason or legal basis for the University to examine it with respect to plagiarism or academic dishonesty".**

During the entire court process the plagiarist purposefully aimed to equate the object of copyright and plagiarism assuming that the data he used from the research of previous scientists is not under the copyright thus they have no authorship and can't be neither stolen nor plagiarized. The plagiarist resented that the Expert group appointed by the

University motivated their decision about his academic dishonesty with a non-existing notion of “research integrity” that is not defined in any legal act. As he put it, “research integrity” is “a new principle and combination of words” (CP) which previously did not exist: “the term “research integrity” appeared in the University’s Regulation of doctoral studies only in 2011. Meanwhile I defended my thesis in 2002, at the time when this regulation did not exist; thus I could not breach the principle of “research integrity” (CP). Moreover, the plagiarist sought to prove that the notions of “academic integrity” and “research integrity” are two different terms and officially asked the State Commission of the Lithuanian Language to explain it.

The University argued that the basis for the revocation of the degree was the obligation of the researcher clearly to reveal the relation of his research with the research previously done. The lawyer of the University, who represented his client during the whole process, explained to the court: “Previous legal investigation found that many graphs from other researchers were used without references in the dissertation. Although this fact was not recognized as a copyright infringement, it is significant with regard to research integrity. The doctoral student must define the originality, the novelty of his dissertation and precisely define the relation of it to the works of other authors” (CP). The plagiarist and his father protested it: “Can you indicate the law that allows you to say that the reference is obligatory under the graph? Where it is said that the graphs need to be cited, where is this methodology regulated?” (CP).

The supervisor of the plagiarist, the head of the department at the time, while witnessing in the court firmly supported the position of the plagiarist: “Academic dishonesty would be in the case of copyright infringement. No one can forbid using the dissertations of others, and I do not see anything dishonest here. If the work is plagiarized from A to Z then it is dishonesty, but if the work of others is used for the purposes of review, in parts and helps to widen the scientific basis, it is being done everywhere else in the world. I have authored dozens of books. Requirements for doctoral thesis today are different; it reminds me of a situation as if you are examined after ten years. Of course, you can go through an examination ten years after your studies, but under other framework and according different rules. Dishonesty appeared only after years” (CP).

The plagiarist denied the fact of the plagiarism by saying that the research data, published in the dissertations and articles of other authors in a form of graphs and tables, used in his thesis without references, is not an object of copyright infringement. Furthermore, according to the plagiarist, the generation of the data and its graphical representation “did not require intellectual efforts”: “Graphs are produced by a group of people and it does not require intellect” (CP). (Meanwhile the author explained that for every graph and data set to appear it took long hours in the laboratory.) Later trying to minimize the value of the data the plagiarist called it simply as “pictures” (so frequently that even the judge in his final decision also puts it as “graphs (pictures)”).

The court disapproved this claim saying: “that “research integrity” comes from the general principle of honesty (*bona fides*). [...] In the legal system of Lithuania the principle of honesty is embedded in a Civil Code. [...]. Although “research integrity” *expressis verbis* was not defined in the Regulation on Doctoral Studies [...], but its ultimate content was embedded in the requirements for the doctoral thesis and its

defence procedure” (CP). Thus, the court stated that the principle of “research integrity” is implicitly incorporated into the more general legal norms and documents, generally and specifically applicable to research activity.

## **2) “The University revoked the degree by breaching the series of legal acts, regulated procedures and exceeding its power.”**

The plagiarist blamed the University for numerous legal and procedural violations during the process of degree revocation. He claimed that the expert group was comprised illegally, the functions appointed to the group were incorrect, the experts were not from the right disciplines (had no necessary expertise to evaluate his dissertation), the plagiarist had no right to offer his candidates as the experts; the experts being scientists of physical sciences could not assess the issues of “research integrity”, etc. Moreover, the plagiarist questioned the norms of “research integrity” and “degree revocation” in the related laws; he even intended to apply to the Constitutional Court to evaluate these norms considering their conformity with the norms of the Constitution. The judge rejected this intention and continued further hearings.

The lawyer of the University explained that legal acts mention only the right of degree revocation in case of breach of research integrity but says anything about the procedure of revocation. Thus, the University had to create the procedure on its own, following the principles of legality, transparency and proportionality. The expert group was comprised of the experts delegated from different institutions, all the documents and information investigated by the experts was available for all the interested parties on-line (the plagiarist and the author as well). All the revocation process (the group meetings, project of conclusions, etc.) was organized by the lawyer or in consultation with him. One of the experts who witnessed at the court explained: “We knew that we were sued after our decision; therefore we asked the lawyer to participate everywhere and help us” (CP).

The court rejected this claim by stressing the autonomy and freedom of higher education institutions to choose and define inner procedures of degree revocation. In its decision it said: “In doing this the University has to follow the standard of highest responsibility, carefulness and precision and hold to the principle of legal state in order that the rights of interested persons are ensured and especially that the rights of a person whose degree is under scrutiny are protected (the right to be heard, to provide evidences, explanations, etc.)” (CP). Besides, the court noted that by the right to revoke a degree a university is accomplishing its function of an inner quality assurance in the preparation of researchers. The University held to all these principles while judging upon the degree of the plagiarist, concluded the court.

As witnesses of the case were invited the members of dissertation defence committee which attributed the degree (2002) and the members of the expert group that recognized the breach of research integrity (2012). Participants of dissertation defense committee witnessed that 1) the thesis made an overall very good impression (“it was thick”, “it was much more lengthy than others”, “very comprehensive research”), 2) that the doctoral student was very confident and defended its thesis very well, 3) there were no doubts that the thesis was original and that the student conducted all the research

himself. At the final decision of the court the defence committee was reprimanded for too superficial assessment of the doctoral thesis of the plagiarist: “the committee was obliged to explore carefully who is the author of the data and graphs, not to judge only upon the general impression of the thesis” (CP).

### **3) “The revocation of the degree is a result of personal conflict between the author and the plagiarist’s father, and the plagiarist himself – the demonstrative victim of this conflict”.**

The plagiarist held to the position that all the plagiarism scandal and the revocation of the degree is a personal conflict between researchers. “The conflict is evident, namely it is the father and the son issue. From the first semester, everybody was telling me that I have no possibility to work in this University”, said the plagiarist. The father of the plagiarist who allowed his son to freely access and use the data of his doctoral students, cited the comments of others on the personal character of the plagiarism scandal in the court: “It’s a pity that a young man became a victim of the conflict between senior ones” (CP); “expert group having recommended revoking the degree punished this young man for a second time. It can be proved by the thoughts expressed in the mass media that the author whose work was plagiarized was fighting both with the son and the father. She devoted her life to destroy this doctoral degree. Such aims are beyond any limits of human decency” (CP).

The witnesses, mostly ex-colleagues or doctoral students of the plagiarist’s father also were making allusions to the personal conflict behind the plagiarism case: “My morale does not allow me to judge why all ended like this, I prefer to keep silent here” (CP). They openly supported him and his son, demonstrated their loyalty to his authority, e.g. “If not your data and your permission to use it, probably I would not exist [as a researcher]” (CP).

“The University revoked the degree only due to the efforts of the author to publicize the libel lasting for long years against him, his father and the University”, asserted the plagiarist. He cited the words of the University rector told him personally that the revocation could have been not necessary, but it was the only measure to stop further public discussions and complaints of the author. The representative of the University did not deny it: because of the pressure of mass media and governmental bodies, “the University could not stand still without doing anything, we had to investigate it” (CP).

The plagiarist did not see any immorality in the method he chose to use in his doctoral thesis. On the contrary, he called the plagiarism scandal and the revocation as an immoral act. To his mind, the degree revocation process and its publicizing is inappropriate from the moral point of view: “Unjustified conclusions, built upon the principle of “research integrity”, created by the expert group, gave a basis for the rector to achieve the dishonourable goal: to recall the doctoral degree for the first time in the history of Lithuania after 10 years since its attribution. I do not agree with such irresponsible decision of the rector because this act not only punishes a person undeservedly but also humiliates the prestige of researchers in the society” (CP). His father added: “the publicizing of such information humiliates the prestige of the University. It humiliates me as well” (CP). The plagiarist called the conclusions of the

expert group as “undefined and unmotivated, contradicting both to the law and the principles of good morale, because I was made a demonstrative victim for the system of science and higher education” (CP).

During the court hearings, there was emotionally tensed atmosphere between the parties of the case, in particular between the plagiarist, his father and the author. The plagiarist, teamed up with his lawyer and his father, kept to the tactic of attacking, used the offending tone while raising questions to the witnesses (the expert group members or the author). The ex-colleagues of the author expressed the depreciating attitude towards her efforts, viewed her as the one who ruined the peaceful life of the department and beautiful memories of “old good times when we were young”.

#### *The end of the court process and the final decision*

In the final decision the court explained the “research integrity” as it is interpreted in the legal doctrine: “It is such an inappropriate behaviour in the field of research which breaches researcher ethics during the research. Research dishonesty usually means the fabrication or falsification of research actions, the plagiarism of scientific results and findings, duplicate publication”.

The court concluded that the fact of research integrity breach is objective, and it was proved by the University in a proper way: “the complainant [i.e. plagiarist] used the scientific results (data) and findings of other researchers that was visualized in 58 graphs (pictures) out of 119, without giving reference neither to the dissertations or publications of the authors, nor to the data basis personally accessed [from the father’s collection of his students works]. The court concludes that such an inappropriate conduct in research was a breach of researcher ethics and it resulted in objectively incorrect evaluation of quantitative and qualitative indicators of his work, judging upon meeting the main requirements of the scientific research” (CP).

Rejecting all the claims of the plagiarist, the court also expressed the critique towards the University for not carefully ensuring the quality of the process of researchers preparation: “The University only after huge efforts of one of authors whose data was plagiarized and only 10 years after the defence and attribution of the degree, conducted a careful examination of possible research dishonesty. It is to be noted that the University has to introduce and apply an efficient doctoral studies and thesis examination control system so that the facts of research dishonesty would be identified in due time without causing the breach of other person’s legitimate interests and rights” (CP). At this point the University representative agreed: “University is a community of researchers. The lack of the competence allowed this situation to evolve so far. Yes, the University could undertake serious actions straight after the conclusion of its Ethics Board (2003), but there was not enough decisiveness and will” (CP).

The plagiarist put the appeal to the court of higher instance, but the board of the judges also rejected his claims and approved the court decision to be applied without changes.

## 4 Results and discussion

The described lawsuit raised three major issues in terms of legal and ethical regulation that were mostly discussed and evidenced. Below all three of them are concluded and evaluated. Afterwards follows the overall discussion and conclusions.

### 1. “There is no copyright infringement; thus there is no plagiarism or research dishonesty.”

The norms of research integrity (in this case, proper references to previous research) are perceived as an axiom in academia, but the plagiarist interpreted it as an entirely legal norm that does not exist if not imposed by a legal act. The plagiarist’s defence against the accusations of plagiarism rested only on legal standards and completely ignored the norms of academic ethics. The opinion that research integrity did not exist before it was mentioned in Regulation of Doctoral Studies is an illustration of the cynical attitude towards ethics we discussed in the introduction.

### 2. “The University revoked the degree by breaching the series of legal acts, regulated procedures and surpassing its power.”

The law introduces the right of a university to revoke the degree in case of research misconduct but not the procedure how to do it. The University in this particular case has created the procedure following the legal principles and with the close assistance of the lawyer. The University chose a form of the *ad hoc* committee instead of its permanent ethics commission and obliged it to take the decision having legal status. It means that the University considers the decisions of ethics commission as a not sufficient for the rector’s decision to revoke the degree. The revocation procedure, created for this particular case, was not (and probably is not) at the place as a standard operational procedure applicable in such cases. The court decided that the University applied the revocation procedure correctly from the legal point of view, but noted that it was not done in time (ten years earlier, as the fact of plagiarism was reported). The University did not control and prevent the “unethical doctoral thesis” nor during the preparation period or defence procedures, neither after the allegations of plagiarism became official and publicized. The role of the plagiarist’s father as an influential figure at the University and in the plagiarism scandal also remained unevaluated from the point of view of research integrity. It was obvious that the University avoided look deeper in the preconditions of the plagiarism scandal and to achieve maximum transparency in this story. The University revoked the degree not by its will but because of public pressure. It took care of research integrity by doing as little as it was necessary to end up the public escalation of the scandal.

### **3. “The revocation of the degree is a result of personal conflict between the author and the plagiarist’s father, and the plagiarist himself – the demonstrative victim of this conflict.”**

The plagiarist interpreted whole plagiarism “bubble” as a personal conflict between the author seeking to prove that her work was plagiarized and his father. The plagiarist depicted himself as a victim of this conflict. Also he expressed his disappointment that the University surrendered to the pressure of mass media and governmental institutions, that it did not defend him, was not loyal to him. The plagiarist did not admit any fact of plagiarism or research misconduct in front of any evidences or at any moment of the court hearings (“deny everything, no matter what”). On the contrary, he reversed and used moral norms to evaluate the revocation decision, and especially the efforts of the author by calling it “public libel against him, the University, the prestige of science and academia in general”. The representative of the University did not hide the sceptical or depreciating attitude towards the role the author played in the plagiarism scandal as well.

The final decision of the court was supportive of the University’s actions, to the research integrity as such, also appreciating the efforts of the author who aimed to achieve the ethical evaluation of the plagiarism. But the court hearings were not so friendly and positive, particularly in respect to the author. The plagiarist’s lawyer neglected, reverted or manipulated the norms of research integrity for his client’s purposes. During the period of the degree revocation lawsuit, the plagiarist’s father, represented by the same lawyer, sued the author for the libel against his person in the same court. In two months the same court brought out two very contradicting verdicts in two lawsuits directly related to the same scandal of plagiarism: on the one hand, it recognized the fact of plagiarism, legality of degree revocation and emphasized the efforts of the author in it, on the other side, it called her efforts a libel and punished her with an enormous financial penalty (much too heavy for her as living only on retirement pension). The two lawsuits were heard by two different judges, but personal differences should not become an obstacle to ensure justice consistently.

The case is an example of the viewpoint eliminating ethics from the legal judgment (“plagiarism is to be judged only by legal, not ethical categories”). We face typical situation here: the law is not able to regulate every particular activity and to safeguard it from all the forms of misbehaviour. If relevant organizations do not take measures of ethical self-regulation by proper ethics tools, there is no other way to stop it just through legal sanctions if the fact of employee misbehaviour is caught and proved. There are a lot of instances or research misconduct that law does not consider as a breach, and academic institutions also do not have regulations how to deal with it. Thus, there is a certain gap between the legal and ethical regulation of research which is left on behalf of the assumed researchers’ consciousness.

The cynical attitude to the norms of research ethics and attempts to present the fact of plagiarism as a personal conflict in this case implies that the stage of moral development in the society or this particular academic institution can be defined as pre-conventional one, i.e. there is no social agreement on what is considered to be right or wrong, just or unjust, objective fact of subjective interest. In this stage, any

means are justified if they help to meet one's goals. Thus, it becomes acceptable to freely manipulate with moral norms and legal acts in order to prove that what is an obvious fact, actually does not exist, that the objective fact (plagiarism identified by multiple expert examinations) is translated as a subjective fantasy, libel, and retaliation. A researcher in technical sciences suddenly becomes an expert in legal acts, at the same time completely forgetting that methodological requirements for academic writing and basic norms of research integrity existed in all the times and political systems. This attitude shared by a part of the academic community prefers to draw on the old habits, accepted pseudo norms or rule of authority than following core values of research or judging by objective criteria. Objective point of view does not exist, either one is loyal and supports the position of the academic group or is a traitor if dares to doubt the settled order of things.

In a socio-cultural environment where the moral norms are perceived as not related to everyday practices, it is typical to justify one's actions by such phrases as "everyone does so", "this is life", "all world is doing like this". The absence or inefficiency of ethics infrastructure helps to continue with such explanations in case of various shortcomings: "It's ok, nothing happened, no breach of legal acts". Adhering only on the legal regulation assists further prevalence of anomies or socially unacceptable phenomena in the society and academia as well, it serves as a basis of justification to reject naturally evolving ethical dilemmas, to silence one's remorse.

The ultimate respect for rules and regulations is achieved not by prescribing, dictating and preaching, but by offering relevant factors (clearly defined values or virtues) according which to reconstruct social behaviours. It is the primary function of both legal and ethical rules, a cause forming respect to it, its authority. The process of ethics institutionalization interrupts the situation where breaking the laws or rules is taken for granted. It is achieved by establishing an explicit normative discourse on socially desirable behaviours compatible with interests and expectations of other individuals and society as a whole and by introducing the processes and procedures enacting and supporting this normative discourse.

The organizational (professional) discourse plays a significant role in fighting the misconduct. If this discourse maintains clearly critical, intolerant attitude towards research misconduct (by emphasizing the criteria of being "cool" or "successful"), it works as a prevention system against the academic shortcomings. Then each member of an academic institution is perfectly aware what is the standard or code of professional behaviour expected from him and what awaits him or her in case of breaching this code. First and immediate negative consequence in case of a violation is a loss of respect from your colleagues, your profession. It is a natural reaction if research integrity is established as an organizational norm in an academic institution. The depreciating opinion of colleagues or profession becomes an effective sanction. Ethics assists to activating the honour mechanism in academia as the most efficient self-regulatory tool.

The lawsuit analyzed in this article demonstrated that the University was not exercising its autonomy at its full length and did not benefit from the system of ethical self-regulation, so that plagiarism and other cases of research misconduct could be resolved within the academic institution, without interference of outer agents (mass media or the courts). Organizations naturally become aware of a need for such

institutional systems and tools after a pressure from society. In this case, the outer pressure was too weak (i.e. the socio-cultural environment was too accustomed to total moral indifference), so that the University could continue without resolving the case of plagiarism for ten years. Only the quixotic efforts of a single individual concerned with truth and morale led to the resolution of plagiarism scandal after more than a decade. The plagiarism scandal, becoming public, severely damaged the reputation of the University. It was the unmanaged risk, i.e. one more price to pay for not using ethics tools to resolving research misconduct inside the University.

## 5 Conclusions

The case study of the plagiarism lawsuit affirms the total predominance of legal regulation over the ethical one in minds of a significant part of the academic community as well as legal bodies. Several contradicting attitudes towards research ethics were represented by the members of the same academic community (even the same academic institution): 1) the apathetic attitude (the University), 2) the nihilistic attitude (the plagiarist), and 3) the concerned attitude (the author). The latter attitude is the rarest and most difficult way to undertake for an individual researcher in this academic community, as showed the development of the plagiarism scandal. Academic institutions still are not able to self-regulate through ethics infrastructure, and cynical attitude continues to prevail. Even the “elite” (highest academic ranks) of society spread such views, so it is not surprising that high standards of professional honour can’t become the norm of any professional activity.

The described discussions on plagiarism in the court hearings revealed that the principle of academic integrity has only recently entered the academic normative discourse of Lithuanian academic institutions. As it happened so belatedly, the academic integrity is not yet established as a norm of academic institutions.

Natural moral evolution of society is a long process, and the wider and more efficient institutionalization of ethics in academic institutions is straighter and shorter way to achieving research integrity *de facto*. Consistent introduction of ethics infrastructure leads to the value of compliance, comprising all the regulations applied to particular field of activity (legal acts, administrative regulations, standards of professionalism, ethical norms), i.e. implies the coherent unity of legal and ethical principles (instead of isolation or contradiction between them). The efficiently used ethics infrastructure enables academic institutions to cover and manage those intermediate spheres that are not or could not be regulated by relevant legal norms. These intermediate gaps between law and ethics need to be regulated for the sake of the quality of any professional activity, as well as for the public interest. And the ethics tools are best suitable for meeting this goal.

The findings of this case study revealed that in some academic communities it is a norm to close your eyes to the facts of plagiarism or any other kind of misconduct. Individual and institutional avoidance to raise the issue of plagiarism means that it is not viewed as a breach of their rights or norms of research ethics. It may be called a distorted conception of honour in research. This misconduct case as an example of such distorted conception of honour, as the authors hope, should help to raise the awareness

of academic communities and institutions on risks brought by the ignorance towards plagiarism issue.

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