

PLAGIARISM IN HIGHER PROFESSIONAL EDUCATION IN FLANDERS: A LEGAL PERSPECTIVE

Karen Weis

Abstract: In the present contribution, plagiarism in higher education institutions (HEIs) in Flanders will be approached from a legal perspective. The main objective is to sketch to what extent Flemish HEIs consider plagiarism as an important issue and create an overview of how it is dealt with.

The following research questions will be addressed:

- How do institutions of higher education define plagiarism in their respective regulations?
- Which sanctions and procedural rules are applicable when a case of plagiarism is discovered at a Flemish HEI?
- How the administrative court on student matters assesses the policy of HEIs on plagiarism?

Those research questions will be tackled on the basis of literature studies of legislation, jurisprudence and legal doctrine. First, the European and national laws on plagiarism will be studied. Second, the translation of these rules into the institutional regulations of Flemish HEIs (definitions, procedure and sanctions) will be investigated.¹ Third, the legal interpretation of plagiarism by Council for the settlement of disputes on study progress decisions and the assessment of concrete cases by HEIs of plagiarism, will be studied.

By considering plagiarism from a regulatory perspective, this study stresses the importance of developing a comprehensive and coherent network of legal provisions as to ascertain that plagiarism is dealt with in a similar manner in every HEI.

Key words: Plagiarism – legislative framework – exam regulations – definitions – procedure – sanctions – case law

1 Plagiarism in the framework of intellectual property

There is no statutory definition of the concept “plagiarism”, nor has a European or national (Belgian) court defined the term. This is remarkable, as the notion is used both in national, European and international legislation and jurisprudence on a regular basis.

In legal doctrine, plagiarism is defined as “*intentionally taking the (literary) property of another without attribution and passing it off as one’s own, having failed to add anything of value to the copied material and having reaped from its use as an unearned benefit*”.² Plagiarism does not limit itself to the copying of the text solely (such as copyright laws), but also the copying of the ideas that lie behind this text without referral to the original source.³ In that sense, plagiarism is closely related to copyright laws, though a case of plagiarism does not always imply a violation of copyright and vice versa.⁴

¹Some of these regulations were translated in English by the HEIs, others were translated by the author.

²L. STEARNS, “Plagiarism, process, property, and the Law”, *California Law Review* 1992, vol. 80, 516-517.

³S. McLEEMEE, “What is plagiarism”, *The Chronicle of Higher Education* 2004, vol. 51, 17.

⁴Art. XI. 189 § 1 Wetboek van economisch recht, *BS* 29 maart 2013.

Copyright laws only form a small part of the whole legal framework concerning intellectual property. Other legal (sub) domains concern patents, design rights and trademarks, though this paper will solely focus on the impact of plagiarism in written assignments (as this is the most apparent form of plagiarism in HEIs).⁵

The legal framework concerning copyright in Belgium consists of legal sources of both international, European and national level.⁶ With regards to plagiarism, article XI.189 of the Belgian Code of Economic Law is of relevance.⁷ This article contains the right to quote from a work that was made public, but only for the purpose of criticism, polemics, review, *education* or in the context of *scientific work*, on the condition that this citation is carried out in a way that is compatible with the fair professional practice standards and only if the aim warrants this quotation. If possible, according to the law, the quotation must always “*mention the source and the author’s name*”.

A violation of this “right to quote” thus exists when:

1. the work that was quoted was not made public in a lawful manner;
2. the quotation was not done for the purpose of criticism, polemics, review, education or scientific work;
3. the way the work was quoted, is not in accordance with the fair professional practice standards and/or the aim is not in proportion with the quotation or;
4. source and author were not mentioned, although the source (and/or author) were known to the writer.⁸

In case one of the conditions mentioned above is not fulfilled, the author violating the right to quote, is punishable and the original author can request punitive damages in court. This has happened in Belgium, for example when the quotation was made with a commercial aim⁹ or in a case where the citation was disproportionately long (31 pages).¹⁰

If we think of plagiarism in an academic context, it is in most cases the fourth or third issue of the list above that arises. This also corresponds to the definition of plagiarism mentioned above (*. . . passing it off as one’s own . . .*). Plagiarism committed in an educational context has never led to a punitive damages case before the Belgian courts. The lack of disclosure of papers made in the context of higher education explains this. Nevertheless, institutes for higher education can sanction students that commit plagiarism in the framework of the regulations they adopt on the rights and duties of students. It is in this framework that this paper studies the attitude of Flemish

⁵A. KUR & T. DREIER, *European intellectual property law*, Cheltenham, Edward Elgar, 2013, 3.

⁶For an overview of the different sources of copyright laws in Belgium: see D. VOORHOOF & K. VAN DER PERRE, *Handboek auteursrecht. Editie 2013-2014*, Gent, Academia Press, 2013.

⁷This provision was introduced in the Belgian law on copyright of 1994 and Directive 2001/29/EG of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society only introduced minor changes to this provision (see M. JANSSENS, “De uitzonderingen op het auteursrecht anno 2005 – een eerste analyse”, *AM* 2005, afl. 5, 486.

⁸F. GOTZEN & M. JANSSENS, *Wegwijs in het intellectueel eigendomsrecht*, Brugge, Vanden Broele, 2009, 41-42 and L. VAN BUNNEN, “Le statut des citations en droit intellectuel”, *ICIP* 2012, 714.

⁹Antwerpen 25 juni 2007, *AM* 2007, afl. 5, 461.

¹⁰F. GOTZEN & M. JANSSENS, *Wegwijs in het intellectueel eigendomsrecht*, Brugge, Vanden Broele, 2009, 42.

HEIs towards plagiarism committed by their students. Before we start this analysis, it is however necessary to provide a quick overview of the Flemish higher education landscape.

2 The Flemish higher education landscape

Higher Education in Flanders is offered by universities and by university colleges. Universities offer academic Bachelor-Master programs, Advanced Master and PhD programmes. University colleges offer professional Bachelor programs.¹¹ Universities and university colleges are affiliated to each other in the framework of a “university associations”. These are strategic partnerships between one university and at least one university college.

There are 5 university associations in Flanders today:

- University of Leuven association – consisting of 6 HEIs: KU Leuven, LUCA School of Arts, Odisee, Thomas More, UC Leuven Limburg (UCLL) and Vives;
- University of Ghent association – consisting of 4 HEIs: UGent, Arteveldehogeschool, HoGent and Howest;
- University of Antwerp association – consisting of 4 HEIs: UAntwerpen, Artesis Plantijn Hogeschool, Hogere Zeevaartschool and Karel de Grote-Hogeschool (KdG);
- University of Brussels association – consisting of 2 HEIs: Vrije Universiteit Brussel (VUB) and Erasmus Hogeschool;
- University of Hasselt association – consisting of 2 HEIs: UHasselt and PXL.¹²

In the Belgian federal system, the Flemish legislative and executive authorities are competent to regulate topics regarding education for the whole Flemish Community and HEIs located in this part of Belgium.¹³ The process of association was also instigated by this Flemish community in 2003 in the aftermath of the Bologna process.¹⁴ The main goal of these affiliations of HEIs in Flanders was the rationalization of higher education in Flanders, while creating a stable context for cooperation in which the synergy between the institutions could grow successfully.¹⁵ In this paper, we will also try to assess whether or not this process of association influences the policies and rules on plagiarism.

¹¹DEPARTMENT OF EDUCATION AND TRAINING, “Reform of the organizational structure of Higher Education in Flanders and the impact on European/international cooperation”, <http://www.ond.vlaanderen.be/hogeronderwijs/>.

¹²VLAAMSE UNIVERSITEITEN & HOGESCHOLENRAAD, “Partners”, <http://www.vluhr.be/p157>.

¹³Article 24 Belgian Constitution.

¹⁴Decr. VI. 4 april 2003 betreffende de herstructurering van het hoger onderwijs in Vlaanderen, *BS* 14 augustus 2003.

¹⁵Ontwerp van decreet betreffende de herstructurering van het hoger onderwijs in Vlaanderen, *Parl. St.* VI. Parl. 2002-03, nr. 1571/1, 24.

3 Plagiarism in the regulations of Flemish higher education institutions

1) *The Educational and Examination Regulations of Flemish HEIs*

The decision of the Flemish Government of 11 October 2013 on the introduction of the Flemish Higher Education Code contains several articles on the creation of Educational and Examination Regulations by Flemish higher education institutions.¹⁶ It is in the framework of these regulations that HEIs have to determine – within the legal boundaries created by the Flemish community – how they will regulate certain topics related to education and exams in their institution.¹⁷ These regulations should be made public before the beginning of the new academic year and should be easily available for students. They are binding upon students from the moment they have enrolled, and also apply to the school and its personnel. They can be created individually by HEIs, though in the framework of some university associations, cooperation when writing these regulations is becoming more and more usual.¹⁸

Article II.221 of the Flemish Higher Education Code regulates the content of the *Education Regulation* that has to be adopted by each HEI before the beginning of the new academic year. It determines that each Education Regulation should at least contain a number of provisions on (for example) the goals of each educational program offered by the HEI, rules regarding the enrolment of students, the conditions on the basis of which exemptions can be attributed to students, the organization of the school year etc. *Exam regulations*, on the other hand, should contain rules regarding the different evaluation moments that take place in Flemish HEIs.¹⁹ Article II.222 of the Code for example determines that Exam Regulations should comprise amongst others rules on the way exams are held, in which periods they take place, the way results are made public and how exam commissions are to be organized, etc. It should also contain a provision on the appeal against decisions of exam commissions.

These Exam Regulations are of interest for the discussion on how plagiarism is dealt with in Flemish HEIs. Article II.221, 11° of the Code namely explicitly determines that a HEI should, in its Exam Regulation, foresee in a provision on the way it deals with *irregularities* taking place during exams. The concept of “irregularities” is not defined in the Flemish Higher Education Code. This creates the possibility for HEIs to write and adopt their Exam Regulations in a way they deem it necessary to tackle each possible problem, without any limitation to what can be seen as an irregularity and what not. In practice, we see that plagiarism is considered in most HEIs as such an “irregularity”.

In the following chapter, we will discuss how plagiarism is regulated in the different Exam Regulations of the Flemish HEIs. We will focus on the definition of the concept,

¹⁶BVR 11 oktober 2013 tot codificatie van de decretale bepalingen betreffende het hoger onderwijs, BS 27 februari 2014 (hereafter: Flemish Higher Education Code).

¹⁷Article II.220 Flemish Higher Education Code.

¹⁸This will become apparent when studying the provisions on plagiarism of the Exam regulations of the Flemish HEIs.

¹⁹Article I.3, 24° of the Flemish Higher Education Code namely defines exam as “every evaluation in the framework of course of the extent to which the student has mastered the corresponding competences”. It is thus broader than for example, the taking of a written or oral exam and can also comprise the evaluation of written papers or finished exercises.

the procedures to be followed when one discovers a case of plagiarism and the sanctions that can be given.

2) *Plagiarism in the Exam Regulations of Flemish HEIs*

1. *Definition of the term “irregularity”*

In the majority of the Exam Regulations adopted by Flemish HEIs, a definition of the broad term “irregularity” was inserted. These definitions however vary. Some try to give a real definition, while others only sum up different situations that can qualify as an irregularity. The different definitions will be discussed within the framework of the respective university associations, as similarities and differences can be discussed more easily within the framework of associated HEIs.

a) *Leuven University Association*

The definition of the term irregularity is more or less identical in all HEIs member of the Leuven University Association. In the regulation of KU Leuven, fraud is defined as “*any conduct on the part of a student during an examination in an attempt to make it completely or partially impossible to arrive at an accurate assessment of his own knowledge and skills or those of other students*”. Plagiarism is always explicitly mentioned as an example of such an irregularity.²⁰ LUCA²¹, Vives²², Thomas More²³ and Odisee²⁴ have integrated this exact provision in their respective regulations.

In the Exam Regulation of UCLL, an irregularity is defined as “*any student behaviour related to an assessment by which said student entirely or partially impedes or tries to impede a fair judgment of knowledge, understanding and/or skills of oneself or of other students*”.²⁵ Although the wording is different, in essence the same provision is envisaged. Within this association, it is thus possible to state that there is a large similarity between the HEIs.

b) *Ghent University Association*

The regulations of UGent include several definitions, but no definition of irregularity or an equivalent term, such as fraud, are provided. Article 79 § 2 of the UGent Exam Regulation however clearly states, as an example, that committing plagiarism is considered a form of fraud.²⁶ This is the only explicitly mentioned example for the term “fraud” in this regulation.

HoGent and Howest did not include an explanation of the term in their list of definitions, but – in case of HoGent – different examples of irregularity are enumerated. Article 60 § 1 of the regulation namely determines that every kind of irregularity

²⁰Art. 84 § 1 Regulations on Education and Examinations KU Leuven.

²¹Art. 84 Education and Examination Regulation LUCA.

²²Art. 49 Education and Examination Regulation Vives.

²³Art. 72 Education and Examination Regulation Thomas More.

²⁴Art. 83 Education and Examination Regulation Odisee.

²⁵Art. 128 Education and Examination Regulation UCLL.

²⁶Art. 79 § 2 Education and Examination Code UGent.

will be brought before the examination commission. These irregularities can include “*attempted fraud, assistance to fraud, inciting fraud which is recorded with regard to an exam, continuous assessment, internship*”.²⁷ The third paragraph of the same article puts forward two specific situations that will be seen as fraud: the use of mobile phones and PDA’s during exams and plagiarizing. Plagiarism is thus explicitly mentioned as an irregularity in the regulation of HoGent. In HoWest, article 68 of the Education and Examination code also gives examples of what can lead to the assessment of an irregularity by an examination commission: “*plagiarism, fraud or any other type of deception*”.²⁸ There is no general definition for fraud.

The Educational & Examregulation of Arteveldehogeschool does not include a list of definitions of legal terms. Definitions are spread out throughout the whole regulation. Article 95, titled definition of irregularities describes irregularity as “*any act, any behaviour or any situation that disrupts the normal course of the assessment or prevents the assessor from making an objective assessment of the competences of the student is an irregularity*”. This more or less has the same intent as the provisions of the Exam Regulations of the HEIs from the Leuven University Association. This Artevelde-article however also clearly states that “*it does not have to be proven that malicious intent has been involved*”.²⁹ This last sentence is unique in Flanders and will, without a doubt, be useful in discussions with students regarding the unintentional character of the committed irregularity.

c) Antwerp University Association

Within this association, there is again diversity when it comes to the definition of the concept of fraud or irregularity. The University of Antwerp defines fraud as “*any deceit during the taking of an exam, as well as any other deliberate irregularities that may influence the result attained by the examinee*”.³⁰ Article 18.2.1 of the Exam Regulation subsequently determines that the possession with the possibility of use of tools with which fraud maybe committed (such as mobile, iPod, etc.) can also be considered as fraud, even if such an infringement is recorded after the event. In this document, plagiarism is mentioned as an example of fraud (art. 18.2.2). At UAntwerpen, one can also be sanctioned when one has contributed to committing irregularities.³¹

The other three institutions define fraud in a manner that can be best compared to the definition put forward by the University of Leuven association. Artesis-Plantijn defines it as “*any conduct on the part of a student during an examination or the organization thereof in an attempt to make it completely or partially impossible to arrive at an accurate assessment of his own knowledge, skills and competences or those of other students*”.³² Karel de Grote hogeschool (KdG) defines irregularity as “*any behaviour of a*

²⁷Art. 60 § 1 Education and Examination Code HoGent.

²⁸Art. 68 Education and Examination Code HoWest.

²⁹Art. 95 Study Contract Artevelde Hogeschool.

³⁰Article 18.2 Education and Examination Regulation of the University of Antwerp.

³¹Art. 18.5.3. Education and Examination Regulation of the University of Antwerp.

³²This HEI has individual regulations for each department, though a high number of provisions are identical in each regulation. See article 20.1 Education and Examination Regulations of Artesis-Plantijn Hogeschool.

student resulting from an evaluation moment in which making an objective assessment of his skills - or those of other students - can be partially or completely impossible". Subsequently, some examples of irregularities are given: bringing and/or use of unauthorized aids such as course materials, crib sheets, mobile phones, PDA's, flash drives, MP3 players, iPods and calculators; misuse of the exam tool or any form of oral, written, or electronic communication, unless it forms part of the examination procedure.³³ The Hoge Zeevaartschool (Antwerp Maritime Academy) defines fraud or irregularity as "*any conduct on the part of a student during an examination as to make it completely or partially impossible to arrive at an accurate assessment of his own knowledge, skills and competences or those of other students, even when the fraud was recorded after the event*".³⁴ As examples the presence of unauthorized aids in the exam room (course materials, non-registered calculators, electronic devices like cell phones, notebooks, palmtops, smartwatches, ...) are given.

d) Brussels University Association

Erasmus Hogeschool does not define fraud, nor irregularity in its Exam regulation. The chapter titled "irregularities" immediately determines the procedure that needs to be followed in case an irregularity is committed.³⁵

The Vrije Universiteit Brussel defines irregularity in manner similar to the manner used by the University of Leuven Association. Article 118 § 2 of the Teaching and Examination regulation describe irregularity as "*any behaviour by a student in an examination setting which renders, or attempts to render, partially or wholly impossible a proper assessment of the student's own knowledge, understanding and/or skills or those of other students*". Plagiarism is also considered to be an irregularity in the context of this article.³⁶

e) Hasselt University Association

UHasselt and PXL use very similar definitions for irregularity. UHasselt describes it as "*any kind of behaviour of a student that makes or intends to make it entirely or partly impossible to form any correct judgement about his own or other students' acquired competences within the scope of an examination/evaluation*". Plagiarism and the possession of forbidden tools that could be used during an examination/evaluation, are also explicitly considered irregularities.³⁷

In the exam regulation of PXL, the words knowledge and understanding are added to the above mentioned sentence (after the word "competences"). The same article also explicitly mentions that such irregularities can be established either before or after an exam or even after deliberations.³⁸ Plagiarism is explicitly mentioned as a specific irregularity. The use of tools is not explicitly mentioned.

³³Article 4.3 University College Education and Examination Regulations KdG.

³⁴Article 73 Education and Examination Regulations Zeevaartschool.

³⁵Art. 23-24 Education and examination regulations Erasmus Hogeschool.

³⁶Art. 118 § 2 Teaching and Examination regulation Vrije Universiteit Brussel.

³⁷Art. 9.1 Education and examination regulations UHasselt.

³⁸Article 29 Examination regulations PXL.

f) Conclusion: the definition of the concept “irregularity”

After studying the different provisions on the definition of the term “irregularity” it becomes apparent that there is a large diversity in the Flemish HEI landscape as how to describe this concept. Some HEIs use the word “fraud” instead of “irregularity” and one even uses both in one Regulation. As to the exact definition, a majority of HEIs defines the concept as behaviour of a student that makes or intends to make it entirely or partly impossible during an exam to form any correct judgment about the students’ own or other students’ acquired knowledge, skills, understanding and competences. The wording may vary between institutions, but the main goal is identical: create a definition that is very wide as to comprise as many cases of irregularities as possible under the definition. Some HEIs find it necessary to explicitly categorize some acts as an irregularity or fraud. Strictly speaking this should not be necessary when the definition is broad enough. Nevertheless it is useful to explicitly mention the possession of certain tools, as – in practice – it is possible to discuss whether or not the sole possession (and thus not the use) of tools such as cell phones and smart watches could be seen as an irregularity in the framework of the definition mentioned above. Not providing a definition of the term “irregularity” is – legally speaking – dangerous. It is better that this concept is defined, to avoid legal discussions in case an irregularity is ascertained. Last, the explicit mentioning of the lack of necessity for a proof of malicious intent by Arteveldehogeschool can be seen as a “best practice”. This also will avoid (legal) discussions with students.

This table presents the main elements of the different definitions of fraud/irregularity by Flemish HEIs.

2. Definition of the term “plagiarism”

a) Leuven University Association

The definition of the concept “plagiarism” is practically identical in all HEIs member of the Leuven University Association. Five out of six institutions state that plagiarism is “*a form of examination fraud that consists of the action of copying the work (ideas, texts, structures, images, plans. . .) of someone else without adequate acknowledgement, in an identical form or slightly changed.* The copying of one’s own work is considered examination fraud (and not plagiarism).³⁹ UCLL defines plagiarism as “*an irregularity which consists of copying (entirely or partially) other people’s work (ideas, texts, structures, images, plans...) literally or in a slightly modified manner without adequately citing the source*”.⁴⁰ Although the wording is slightly different, the idea is identical to the definition used by the other five institutions.

³⁹Art. 84 § 1 Regulations on Education and Examinations KULeuven, art. 84 Education and Examination Regulation LUCA, art. 49 Education and Examination Regulation Vives, art. 72 Education and Examination Regulation Thomas More, art. 83 Education and Examination Regulation Odisee.

⁴⁰Art. 128 Education and Examination Regulation UCLL.

Table 1
Definition of fraud/irregularity

	Irregularity	Fraud	Conduct which makes it impossible to make an accurate assessment	Own skills/knowledge/competences	Skills/knowledge/competences other students	Deceit/irregularities that influence results	Plagiarism = fraud/irregularity	Use of forbidden tools	Malicious intent is not necessary	Can be ascertained even after the exam
Leuven Association										
KULeuven		x	x	x	x		x			x
LUCA		x	x	x	x		x			x
Vives		x	x	x	x		x			
Thomas More		x	x	x	x		x			
Odisee		x	x	x	x		x			x
UCLL	x		x	x	x		x			
Ghent Association										
UGent		x					x			x
HoGent		x					x	x		
Artevelde	x		x	x			x			
HoWest		x					x	x		
Antwerp Association										
UAntwerpen		x				x	x	x	x	x
KdG	x		x	x	x		x	x		
Artesis Plantijn		x	x	x	x		x			
Zeevaartschool	x	x	x	x	x		x	x		x
Brussels Association										
VUB	x		x	x	x		x			
Erasmus	x									x
Hasselt Association										
UHasselt	x		x	x	x		x	x		x
PXL	x	x	x	x	x		x			x

b) Ghent University Association

The HEIs that are member of the Ghent University Association all use their own definition of plagiarism. Three out of four definitions are rather long. UGent for example defines plagiarism as “*the presentation of (parts of) a source as original and your own, without adding any acknowledgements. It can relate to different forms of production, such as texts (written, oral), images (photographs, film, graphs, diagrams, figures, etc), music, databases, a structure, a line of reasoning, or ideas*”.⁴¹ More or less along the same line, HoGent describes the concept as “*the presentation of (parts of) a source as original and your own, without adding any acknowledgements. It can relate to different forms of production, amongst other: the copying or summarizing and/or translation of small or large parts of texts, figures, tables, numbers, photographs, film, data, ideas, a line of reasoning etc. without clear and correct acknowledgment and without incorporation of the citation in one’s own work*”.⁴² Art. 79 § 2 also states that for each study programme, the respective Examination Boards can complete or specify this basic definition of “plagiarism”. This information is to be communicated to the students taking the study programme in question.⁴³

Artevelde Hogeschool also uses a rather long definition, but this one is very different from the two mentioned above. In Part 7 of its regulations, it defines plagiarism as “*acquiring all or part of someone else’s work without having properly made reference to this. Failure to comply with the agreements established in the study contract in connection with the mention of the original source according to the APA standard is considered by the university college as a form of plagiarism. This applies to all types of sources (texts, images, music, databases,...). Also the use of translations and paraphrases without adequate acknowledgement according to the APA standard falls under plagiarism*”.⁴⁴

HoWest only uses a short definition. Article 2 defines plagiarism as “*each imitation of another author’s work (ideas, texts, structures, illustrations, plans. . .); identically or slightly altered without the indication of a quote and/or without adequately crediting the source*”. This is rather limited definition of plagiarism, especially when compared to those mentioned above of the same university association.

c) Antwerp University Association

Within the framework of the Antwerp University association it is surprising to find that two out of four institutions only work with examples of what could constitute plagiarism.

The UAntwerpen for example states that plagiarism is committed when, amongst others, the student is guilty of (a) literally copying, also in translation, a text or the structure of a text, tables, data etc. without crediting the source; (b) paraphrasing a substantial part of the contents or the tenor of a text (e.g. reasoning, argumentation), without crediting the source (both published and unpublished sources); (c) letting

⁴¹Section II (definitions) Education and Examination Code UGent.

⁴²Section I (definitions) Education and Examination Code HoGent.

⁴³Art. 79 § 2 Education and Examination Code UGent.

⁴⁴Part 7 (Education Lexicon) Study Contract Artevelde Hogeschool.

someone else write a text or a substantial part of it (“ghost writing”), which may appear amongst others from the oral explanation or defence by the student.⁴⁵

KdG defines plagiarism as the “*acquisition of other people’s work in identical or slightly modified form, without adequate acknowledgment*”. Next to this definition, article 4.3 of the Exam Regulation also mentions that the university college also includes as plagiarism (1) submission of purchased or adapted pieces as their own work; (2) reuse of own work as new work; (3) simulation or falsification of (research) data.⁴⁶

Both Artesis – Plantijn and the Zeevaartschool - use very short definitions, respectively “*the acquisition of other people’s work without adequate acknowledgment*”⁴⁷ and “*without clear acknowledgment, the copying (whole or partly) of data when making written assignments or projects*”.⁴⁸ In their essence, these definitions however try to reach the same goal as the definitions mentioned above, by KdG.

d) Brussels University Association

Erasmus Hogeschool does not define plagiarism in its Exam regulation. This is the only HEI that does not provide such a definition. Vrije Universiteit Brussel on the other hand defines the concept as “*the use of other people’s phrasing, adapted or otherwise, without careful acknowledgement of sources as well as any form of fraud that is a violation of scientific integrity*”.⁴⁹ This mentioning of “scientific integrity” is striking. One could ask whether or not for example the falsification of research data could lead to an assessment as plagiarism under this definition.

e) Hasselt University Association

UHasselt defines plagiarism as “*copying or translating the work of others in either identical or slightly altered form, without crediting the source*”. Getting a third party to draw up a text, is also considered to be plagiarism.⁵⁰ PXL reuses the definition of UHasselt, but adds the following sentence after “crediting the source”: “*(...) while making f.e. written assignments such as bachelor papers or projects*”.⁵¹ The provision on the help of a third party was not introduced in the PXL regulation.

f) Conclusion: the definition of “plagiarism”

Plagiarism is not defined in a streamlined manner in Flanders. There are certain aspects of plagiarism that are put forward in almost each Exam Regulation of every HEI, but other aspects are only mentioned in one or two regulations.

The aspects on which almost all HEIs agree is the fact that plagiarism involves the copying (or presenting) of the work of another without adapting (or only slightly changing) it, without adequate acknowledgement for the original author(s). Most

⁴⁵Art. 18.2.2 Education and Examination Regulation of the University of Antwerp.

⁴⁶Art. 4.3. University College Education and Examination Regulations KdG.

⁴⁷Art. 23 Education and Examination Regulations of Artesis-Plantijn Hogeschool.

⁴⁸Art. 73 § 2 Education and Examination Regulations Zeevaartschool.

⁴⁹Art. 118 § 2 Teaching and Examination regulation Vrije Universiteit Brussel.

⁵⁰Art. 9.1.2. Education and examination regulations UHasselt.

⁵¹Art. 29 Examination regulations PXL.

Exam Regulations also define – as examples – which kinds of information can be plagiarized: ideas, texts, structures, images, plans, photographs, film, graphs, diagrams, figures, music, databases, reasoning, etc. The viewpoint as to the subject of possible plagiarism is thus broad in Flanders and surely does not only focus on literature.

Some HEIs also broaden the traditional definition of plagiarism beyond the traditional meaning of plagiarism:

- Paraphrasing without adequate acknowledgment
- Translating without adequate acknowledgment
- Ghostwriting
- Re-use of own work
- Simulation/falsification of research data
- Any other violation of scientific integrity

In the overview (tab. 2), the different components of the definition of plagiarism in each HEI in Flanders can be found.

In the subsequent chapter, the procedural rules regarding the assessment of irregularities committed during an exam (including plagiarism), will be compared. This will provide an overview of how Flemish HEIs actually decide upon sanctions for plagiarism.

3. Procedural rules regarding the assessment of irregularities during exams

a) Leuven University Association

Within the framework of the Leuven University Association, there is – again – a large similarity between the different exam regulations in regards to the procedure that needs to be followed when an irregularity is committed.⁵²

First, in all “Leuven HEIs”, the regulations determine that after seizure of any incriminating evidence and the part of the examination that was already completed, the student in question may continue his assessment and examination session. This includes the examination at which the irregular conduct was established. The seized evidence, in almost all HEIs of the Leuven association, is then transferred to the chairman of the examination committee (though not at UCLL, where the ombudsperson receives the evidence). The notification of the irregularity and the transfer of the evidence should happen as soon as possible.

In the following phase, the procedure is slightly differently regulated in the HEIs connected to the Leuven University Association, albeit only in the clearness of the wording. In most of the HEIs, it is a limited examination committee (consisting of fewer members than the regular committee) that hears the examiner and the student and examines the seriousness of the infringement. In case of plagiarism, all Exam Regulations mention that an expert from outside the commission can be involved in

⁵²Art. 85 Regulations on Education and Examinations KULeuven, art. 85 Education and Examination Regulation LUCA, art. 50 Education and Examination Regulation Vives, art. 73 Education and Examination Regulation Thomas More, art. 84 Education and Examination Regulation Odisee, art. 129 Education and Examination Regulation UCLL.

the hearing. At UCLL, it is however again the ombudsperson that hears the student and the examiner first, Afterwards the limited examination commission can do the same.⁵³

In the regulations of KULeuven, LUCA and Odisee the exact role of this limited Examination commission is not very clear. It is only mentioned that in case of fraud, the limited commission “*prepares the decisions by the examination committee about this*”.⁵⁴ When compared with VIVES, for example – where it is clearly stated that the limited commission *can* write a proposal for a decision regarding the irregularity – the exam regulation of these three HEIs remains very vague as to the role of the limited commission.⁵⁵ There is nevertheless a large chance that the limited commission plays same role, though it is not explicitly mentioned in the Exam Regulation. At Thomas More, it is the task of the limited commission to determine (after hearing everyone involved) whether or not the regular examination committee should meet (within 4 weeks).⁵⁶ At UCCL, the limited board of examiners will prepare a proposal of decision.⁵⁷ In every HEI, the limited commission can decide to convene the examination committee ahead of the date fixed

In all HEIs, a regular examination commission (linked to the study programme) is to decide upon the consequences of the committed irregularity. This is clearly the case in VIVES, Thomas More and UCLL. In case of KULeuven, LUCA and Odisee, this is also the case, but is mentioned in other articles of the regulation (and not those on procedure).⁵⁸

At KULeuven, LUCA and Odisee, one severe sanction, the exclusion of the student from a programme of study, with or without the loss of the right to register, can only become final after approval by an ad hoc commission on fraud.⁵⁹ This is done to ensure that for the whole HEI the strictest sanctions are applied for similar cases.

The appeals window opens after notification of the exam result by the faculty.

b) Ghent University Association

Within the Ghent University Association, there is a large variety when it comes to procedure. The University of Ghent for example has a very detailed provision on the procedural rules to be followed when confronted with a case of fraud, whereas – for example – HoGent only has a very short article. Artevelde and HoWest have a medium

⁵³Art. 129 Education and Examination Regulation UCLL.

⁵⁴Art. 70 Regulations on Education and Examinations KULeuven, art. 70 Education and Examination Regulation LUCA, art. 69 Education and Examination Regulation Odisee.

⁵⁵Art. 50 Education and Examination Regulation Vives.

⁵⁶Art. 73 Education and Examination Regulation Thomas More

⁵⁷Art. 129 Education and Examination Regulation UCLL.

⁵⁸Art. 71 Regulations on Education and Examinations KULeuven, art. 71 Education and Examination Regulation LUCA, art. 70 Education and Examination Regulation Odisee.

⁵⁹This commission consists of the Vice-Rector of Education Policy, three representatives of faculties considered to be experts on the matter and three chairpersons of examination committees (respectively one for each group), a legal expert and a staff officer of the Educational Policy Unit acting as secretary. Art. 86 § 2 Regulations on Education and Examinations KULeuven, art. 86 § 2 Education and Examination Regulation LUCA, art.85 § 2 Education and Examination Regulation Odisee.

detailed provision, but what is very striking is that all four HEIs have very differing procedural rules.⁶⁰

At the UGent, when a student is suspected of committing an irregularity (including plagiarism) the examiner shall promptly notify the chair of the Examination Board (organised per study programme). The same goes for Artevelde and HoWest. At HoGent, this notification should be sent to the Dean.

At UGent, the examiner may immediately discontinue the on-going evaluation for this student, or s/he may give the student a new, blank exam copy.⁶¹ At HoGent, the examiner has the same choice (“he/she *may* discontinue”).⁶² At Artevelde, this possibility of continuing the exam is not regulated. The same applies to HoWest. In all HEIs of this association, the student may (at his/her own risk) continue to take the other exams of the same session.⁶³

There are no selected exam commissions in the HEIs of the UGent association. At UGent and Artevelde, it is this examination commission related to the study programme that decides upon the consequences of the irregularity.⁶⁴ At HoGent it is the dean that takes this decision.⁶⁵ In HoWest, it is the chairman of the examination board that decides, although in some cases the decision of the president needs to be ratified by the board.⁶⁶

Every Exam Regulation determines that the student needs to be heard (the UGent regulation is very detailed and even determines at which email address the student will receive his/her invitation). At UGent, the student can be represented by a legal adviser.⁶⁷ Strikingly, at Artevelde and HoWest, the student can be assisted by the ombudsman.⁶⁸ This is rather strange, as the ombudsman is an employee of the school.

At UGent, the examination board will convene as soon as possible after the hearing to arrive at a decision on the case in question.⁶⁹ The content of the report of this board and to whom it should be sent is also regulated in a very detailed manner in the Exam Regulation.⁷⁰ At Artevelde, it is also this examination board that decides upon the sanction. The meeting is called by the chairman, and it is also this chairman that prepares a preliminary report.⁷¹ This is not done by the chairman at UGent.

At HoGent it is the dean that decides upon the sanction for the irregularity. Strikingly, the Exam Regulation explicitly determines that “in case the dean determines that the accusation is unfounded, the exam in the framework of which the irregularity

⁶⁰Art. 79 Education and Examination Code UGent, art. 60 Education and Examination Code HoGent, art. 68 Education and Examination Code HoWest, art. 97 Study Contract Artevelde Hogeschool.

⁶¹Art 79 § 1 Education and Examination Code UGent.

⁶²Art. 60 § 2 Education and Examination Code HoGent.

⁶³Art 79 § 10 Education and Examination Code UGent; art. 60 § 2 Education and Examination Code HoGent. Art. 68 Education and Examination Code HoWest, art. 97 Study Contract Artevelde Hogeschool.

⁶⁴Art 79 § 3 Education and Examination Code UGent; art. 97 Study Contract Artevelde Hogeschool.

⁶⁵Art. 60 § 5 Education and Examination Code HoGent.

⁶⁶Art. 68 Education and Examination Code HoWest.

⁶⁷Art 79 § 4 Education and Examination Code UGent.

⁶⁸Art. 68 Education and Examination Code HoWest & art. 97 Study Contract Artevelde Hogeschool

⁶⁹Art 79 § 5 Education and Examination Code UGent.

⁷⁰Art 79 § 9 Education and Examination Code UGent.

⁷¹Art. 97 Study Contract Artevelde Hogeschool.

was ascertained, is resumed”.⁷² This implies that decisions are taken by the dean at the moment of the exam itself. Article 60 § 5 seems to confirm that, as that article states that “a decision regarding fraud can be taken at every moment”.

At HoWest, it is the president of the examination board, who, after having consulted with the examiner and/or observer involved, the respective student, the programme coordinator and/or ombudsman and/or examination board, takes a relevant decision and who communicates this in writing, motivated and dated, to the respective student.⁷³ Only a zero score as a result of an irregularity during an examination must be ratified by the examination board.

Appeal is possible from the moment the decision is communicated to the student

c) Antwerp University Association

Again, one can find a large variety in procedural rules within the framework of this association. Once evidence of fraud or plagiarism is found, the examiner should contact the chair and secretary of the examination board and the ombudsman (UAntwerpen)⁷⁴, the president of the Examination Commission (Artesis – Plantijn)⁷⁵, the ombudsman (KdG)⁷⁶ and the student administration (Zeevaartschool).⁷⁷ Both at KdG and the Zeevaartschool, the contacted authorities will alarm the president of their respective examination boards. In the Exam Regulation of KdG, “if necessary” is used for this contact. This implies that the ombudsperson has the competence to decide whether or not the facts that led to the notification could constitute fraud and thus lead to a procedure.⁷⁸

At the Zeevaartschool, the student that is caught committing fraud should immediately leave the exam room.⁷⁹ The UAntwerpen regulation mentions that the student may continue to take the exam during which the irregularity was observed.⁸⁰ In the Artesis-Plantijn exam regulation is explicitly determined that student will get a new copy of the exam.⁸¹ The KdG regulation writes that – if it does not undermine the correct assessment of the knowledge of the student – he/she can continue taking the exam.⁸² At the Zeevaartschool and UAntwerpen, the students can – at their own risk – take part in the other exams of the same session.⁸³ The two other HEIs do not mention this possibility, but also do not prohibit it.

The student has the right to be heard. At UAntwerpen, he/she has the right to be assisted by a person of choice.⁸⁴ At KdG, legal assistance is explicitly mentioned as a

⁷²Art. 60 § 2 Education and Examination Code HoGent

⁷³Art. 68 Education and Examination Code HoWest.

⁷⁴Art. 18.4 Education and Examination Regulation of the University of Antwerp.

⁷⁵Art. 20.2 Education and Examination Regulations of Artesis-Plantijn Hogeschool.

⁷⁶Art. 4.3 University College Education and Examination Regulations KdG.

⁷⁷Art. 76 Education and Examination Regulations Zeevaartschool.

⁷⁸Art. 4.3 University College Education and Examination Regulations KdG.

⁷⁹Art. 75 Education and Examination Regulations Zeevaartschool.

⁸⁰Art. 18.5.2 Education and Examination Regulation of the University of Antwerp.

⁸¹Art. 20.2 Education and Examination Regulations of Artesis-Plantijn Hogeschool.

⁸²Art. 4.3 University College Education and Examination Regulations KdG.

⁸³Art. 80 Education and Examination Regulations Zeevaartschool & art. 18.5 Education and Examination Regulation of the University of Antwerp.

⁸⁴Art. 18.6.1. Education and Examination Regulation of the University of Antwerp.

possibility.⁸⁵ At the Zeevaartschool, the student can be assisted by the ombudsperson. The student is heard by the president of the examination commission at Artesis-Plantijn⁸⁶, KdG⁸⁷ and Zeevaartschool.⁸⁸ At the UAntwerpen, the student will be heard by the fraud commission, a separate body within the faculty solely dealing with cases of fraud.⁸⁹

UAntwerpen is not the only HEI of the Antwerp University Association that works with a separate commission dealing with fraud: after hearing the student, the president of the examination board of Artesis-Plantijn will assemble the so called “examination fraud commission”.⁹⁰ In both institutions, fraud is thus not decided upon by the regular examination commission. At KdG the regular examination commission of the study program does decide upon the case of fraud. The meeting can even be held electronically when a physical meeting has no further value and the student does not wishes to be heard.⁹¹ At the Zeevaartschool, it is in principle the chairman of the examination commission that decides upon the case, though he/she can decide to assemble the whole commission if it is deemed necessary. There are no guidelines in the exam regulation as to determine in which cases this should be done.⁹²

The decision needs to be sent to the student. After this is done, the student can appeal against the decision.

d) Brussels University Association

At the Vrije Universiteit Brussel, it is the dean of the faculty that decides upon the disciplinary sanction when an irregularity is committed.⁹³ When an examiner or another individual with supervisory authority notes that a student is involved in irregular activities during an exam, they will inform the student accordingly and they may interrupt the current examination of the student in question, where applicable following confiscation of the contested material and previously produced copy.⁹⁴ The events must be reported to the Dean in writing without delay.⁹⁵ Before taking this decision, the Dean must hear the student (that can be assisted by a legal counsel) and if necessary – he/she will discuss the case with the Chairman of the Examination Board.⁹⁶ No clear guidelines are provided to determine which cases should be discussed with

⁸⁵Art. 4.3 3 University College Education and Examination Regulations KdG.

⁸⁶Art. 20.3 Education and Examination Regulations of Artesis-Plantijn Hogeschool.

⁸⁷Art. 4.3 University College Education and Examination Regulations KdG.

⁸⁸Art. 77 Education and Examination Regulations Zeevaartschool.

⁸⁹Art. 18.6.1 Education and Examination Regulation of the University of Antwerp. The faculty determines the composition of the fraud commission at the start of each academic year. The chair and the secretary of the examination board with which the student is registered are ex-officio members of the fraud commission.

⁹⁰Art. 20.3 Education and Examination Regulations of Artesis-Plantijn Hogeschool. This commission consists of three members of the regular examination commission that are not linked to the incident or their replacements. Other members are the president of the examination commission, the secretary and the ombuds (though these three members do not have a right to vote).

⁹¹Art. 4.3 University College Education and Examination Regulations KdG.

⁹²Art. 78 Education and Examination Regulations Zeevaartschool.

⁹³Art. 118 § 3 Teaching and Examination regulation Vrije Universiteit Brussel.

⁹⁴Art. 118 § 1 Teaching and Examination regulation Vrije Universiteit Brussel.

⁹⁵Art. 118 § 1 Teaching and Examination regulation Vrije Universiteit Brussel.

⁹⁶Art. 118 § 4 Teaching and Examination regulation Vrije Universiteit Brussel.

this Chairman. The student can – pending the decision of the Dean – still take part in the other exams of the same session.⁹⁷

At the Erasmus Hogeschool, irregularities committed during exams should be notified directly to the director of the department and the ombudsperson.⁹⁸ The director hears the student.⁹⁹ Decisions on disciplinary sanctions are taken by a departmental commission, different from the regular examination commission.¹⁰⁰ The student can continue to take his/her exams pending the decision of the commission.¹⁰¹

Appeal can be introduced after the decision was sent to the student.

e) Hasselt University Association

Both institutions from this association deal with irregularities in separate commissions that differ from the regular examination commissions. At UHasselt, the decision regarding the existence and consequences of the irregularity are taken by the Examination Board's Office.¹⁰² At PXL, it is the so called "progress commission" that is competent in these matters.¹⁰³ Only in cases of severe fraud, this commission can request that the whole progress commission (similar to an examination commission) decides upon the case. In other cases, a limited commission can decide.¹⁰⁴

When irregularities are found, the examiner has to report this to the chairman of the Examination Board (UHasselt)¹⁰⁵ or the chairman of the progress commission (PXL). The chairman will then notify the ombudsperson. The student can continue to take the exam in framework of which the irregularity was determined, after – for example – forbidden objects are seized. The student also has the right to continue taking other exams.¹⁰⁶

The chairman of the Examination Board's Office (UHasselt) or the president of the progress commission (PXL) will hear the parties involved.¹⁰⁷ Only in the exam regulation of UHasselt it is mentioned that the student can seek the help of a legal counsel.¹⁰⁸ The respective commissions can also hear the student if he/she requests this.

The Examination Board's Office (UHasselt) or the limited progress commission (PXL) decides upon the irregularity and its consequences.¹⁰⁹ UHasselt is the only

⁹⁷Art. 118 § 3 Teaching and Examination regulation Vrije Universiteit Brussel.

⁹⁸Art. 23 § 1 Teaching and Examination regulation Erasmus Hogeschool.

⁹⁹Art. 23 § 2 Teaching and Examination regulation Erasmus Hogeschool.

¹⁰⁰This commission consists of at least 4 members. The ombudsperson is a member, but he/she only plays an advisory role.

¹⁰¹Art. 23 § 3 Teaching and Examination regulation Erasmus Hogeschool.

¹⁰²The Office is formed by the chairman and vice-chairman of the Examination Board. The chairman may also invite an ombuds person and/or another expert. See art. 3bis, 1 Education and examination regulations UHasselt.

¹⁰³This limited commission exists of the president, secretary and at least three not-involved members of the progress commission. The ombudsperson has an advisory role (art. 32 Examination regulations PXL).

¹⁰⁴Art. 32 Examination regulations PXL.

¹⁰⁵Art. 9.2 Education and examination regulations UHasselt.

¹⁰⁶Art. 9.2 Education and examination regulations UHasselt & art. 32 § 1 Examination regulations PXL.

¹⁰⁷Art. 9.3, § 2 Education and examination regulations UHasselt & art. 32 Examination regulations PXL.

¹⁰⁸Art. 9.3, § 2 Education and examination regulations UHasselt.

¹⁰⁹Art. 9.3, § 3 Education and examination regulations UHasselt & art. 32 § 2 Examination regulations PXL.

institution that determines that “when it is ruled that an irregularity did not occur, the student may ask to retake the examination in question”.¹¹⁰

Appeal may be filed starting from the day after the student in question was informed of the decision.

f) Procedure: conclusion

The procedural rules on the assessment of irregularities and the determination of its consequences, defer impressively throughout the Flemish high education landscape. This can be seen in the following tables.

This clearly shows that there is no common viewpoint on how – internally – irregularities (including plagiarism) should be assessed.

In the subsequent chapter, we will discuss which sanctions can be applied by the Flemish HEIs according to their regulations. Again, we will find that there is a large diversity in possible sanctions.

4. Sanctions

As it is quite easy to put the different sanctions that can be pronounced when the commitment of an irregularity is as ascertained in tables, this chapter will discuss the application of these sanctions solely in such tables. These are the sanctions that are foreseen in the Flemish HEIs exam regulations:

- Retake the exam (in case the exam was not taken in a valid way);
- Receive appropriate mark taking into account the irregularity;
- Zero on the exam/part where an irregularity was committed (f.e. on the paper in which plagiarism was committed);
- Zero for the course unit (0/20 as a final result for this course)
- Zero for all the exams of that exam period (and thus not solely the exam during which an irregularity was committed);
- Exclusion for the course unit for a year (meaning that the student will not be able to retake the exam in summer);
- Change of subject/promotor for thesis (f.e. when plagiarism was committed in the framework of this thesis);
- Exclusion from the whole study programme for year (the student can at the earliest enroll again in the next academic year and loses all the results obtained in the examination period/whole year);
- Exclusion from the school, for a limited period of time (max. at Flemish HEIs is 10 year);
- Participate in module on plagiarism (self-study)

¹¹⁰Art. 9.3, § 5 Education and examination regulations UHasselt.

Table 3
Procedure (I)

	Student can finish exam	Student can still take other exams	Investigation carried out by chairman exam commissions	Investigation carried out by ombudsperson	Investigation by the dean/director department	External expert in case of plagiarism	Student has a right to be heard	Student can use legal counsel	Student is assisted by ombudsperson during hearing
Leuven Association									
KULeuven	x	x	x			x	x		
LUCA	x	x	x			x	x		
Vives	x	x	x			x	x		
Thomas More	x	x	x			x	x		
Odisee	x	x	x			x	x		
UCLL	x	x		x		x	x		
Ghent Association									
UGent	(x)	x	x				x	x	
HoGent	(x)	x			x		x		
Artevelde	x	x	x				x		x
HoWest	x	x	x				x		x
Antwerp Association									
UAntwerpen	x	x	x				x	x	
KdG	x			x			x	x	
Artesis Plantijn	x		x				x		
Zeevaartschool		x	x				x		x
Brussels Association									
VUB		x			x		x	x	
Erasmus		x			x		x		
Hasselt Association									
UHasselt	x	x	x				x	x	
PXL	x	x	x				x		

Table 4
Procedure (II)

	Limited examination commission makes a proposal	Decision is taken by examination commission	Decision is taken by limited examination commission	Decision is taken by body specialized in fraud	Decision is taken by dean/director department	Decision is taken by the president of the examination commission	Electronic meeting of examination commission is possible
Leuven Association							
KULeuven	x	x					
LUCA	x	x					
Vives	x	x					
Thomas More	x	x					
Odisee	x	x					
UCLL	x	x					
Ghent Association							
UGent		x					
HoGent					x		
Artevelde		x					
HoWest						x	
Antwerp Association							
UAntwerpen				x			
KdG		x					x
Artesis Plantijn				x			
Zeevaartschool						x	
Brussels Association							
VUB					x		
Erasmus				x			
Hasselt Association							
UHasselt				x			
PXL			x				

- Results & certificates already obtained declared null and void (when the exam fraud is so serious that any favourable decision is deemed non-existent under the law)¹¹¹

Table 5 represents the sanctions that can be imposed by Flemish HEIs according to their exam regulations.

Again, it is striking that the HEIs do not have one sanction completely in common. Even imposing a zero score for the whole course unit, is not a sanction that can be proposed in all HEIs. It is also striking that some schools have a limited number of options, f.e. the Zeevaartschool, HoWest and Artevelde. Especially at Artevelde and the Zeevaartschool, the sanctions are very strict (zero score for all the exams or exclusion). This will probably stimulate lecturers to deal with irregularities independently, without consulting the procedural body that – according to the Exam regulation – should deal with cases of fraud. This opens the door for procedural irregularities, maybe leading to internal or external appeal procedures.

In a small number of exam regulations, the criteria that need to be taken into account when deciding upon the sanction for an irregularity that has occurred, is also determined.¹¹² In the framework of the Leuven Association, it is explicitly mentioned that these criteria apply to cases of plagiarism.

3) Conclusion: plagiarism in the Flemish HEIs – legislative framework

The legislative framework regarding irregularities (and more specifically plagiarism) committed in Flemish HEIs is very fragmented. This is caused by the fact that schools can determine themselves, in their Exam Regulation, how they define an irregularity and how they want to deal with it. This leads to very differing regulations throughout Flanders. The idea of the university associations does not lead to a larger similarity: only the Leuven association has succeeded in creating a rather uniform text, though not every member of the association strictly follows it. Within the framework of the other associations, every school clearly determines what they deem necessary.

It is therefore very difficult to discover tendencies. Most HEIs define irregularities in a very broad manner (though not all). The same can be said for the definition of plagiarism: in some schools, the traditional meaning of plagiarism is broadened beyond

¹¹¹Art. 86 Regulations on Education and Examinations KULeuven; art. 86 Education and Examination Regulation LUCA; art. 51 Education and Examination Regulation Vives; art. 74 Education and Examination Regulation Thomas More; art. 85 Education and Examination Regulation Odisee; art. 130 Education and Examination Regulation UCLL; art. 79 § 6 Education and Examination Code UGent; art. 60 § 5 Education and Examination Code HoGent; art. 68 Education and Examination Code HoWest, art. 97 Study Contract Artevelde; art. 18.5.2. Education and Examination Regulation of the University of Antwerp; art. 20.5 Education and Examination Regulations of Artesis-Plantijn Hogeschool; art. 4.3 University College Education and Examination Regulations KdG; art. 80 Education and Examination Regulations Zeevaartschool; art. 118 § 5 Teaching and Examination regulation Vrije Universiteit Brussel; art. 23 § 4 Teaching and Examination regulation Erasmus Hogeschool; art. 33 Examination regulations PXL; art. 9.3 Education and examination regulations UHasselt.

¹¹²Art. 86 Regulations on Education and Examinations KULeuven; art. 86 Education and Examination Regulation LUCA; art. 51 Education and Examination Regulation Vives; art. 74 Education and Examination Regulation Thomas More; art. 85 Education and Examination Regulation Odisee; art. 118 § 6 Teaching and Examination regulation Vrije Universiteit Brussel.

Table 5
Sanctions

	Retake the exam	Receive appropriate mark	0 on the exam/part where an irregularity was committed	0 for the course unit	0 for all the exams of that exam period	Exclusion for the course unit for year	Exclusion from the whole study programme for year	Change of subject/promotor for thesis	Exclusion	Participate in module on plagiarism	Results & certificates already obtained declared null and void
Leuven Association											
KULeuven	x	x	x	x	x	x	x	x	x	x	x
LUCA	x	x	x	x	x	x	x	x	x	x	x
Vives	x	x	x	x	x		x	x		x	
Thomas More	x	x	x	x	x	x	x	x	x		
Odisee	x	x	x	x	x	x	x	x	x	x	x
UCLL			x	x	x	x					x
Ghent Association											
UGent		x	x	x					x		x
HoGent				x	x						
Artevelde					x				x		
HoWest			x	x	x						
Antwerp Association											
UAntwerpen			x	x	x	x	x				
KdG			x	x	x	x	x		x		
Artesis Plantijn			x	x	x	x					
Zeevaartschool					x				x		
Brussels Association											
VUB			x	x	x		x		x		
Erasmus				x	x	x	x				x
Hasselt Association											
UHasselt		x	x	x		x					x
PXL	x		x		x	x	x				x

Table 6

Criteria taken into account when deciding upon sanctions

	Proportions of irregularity	Kind of irregularity	Experience student	Intentions of student (malicious intent)
Leuven				
KULeuven	x	x	x	x
LUCA	x	x	x	x
Vives	x	x	x	x
Thomas More	x	x		x
Odisee	x	x	x	x
UCLL				
Ghent				
UGent				
HoGent				
Artevelde				
HoWest				
Antwerp				
UAntwerpen				
KdG				
Artesis Plantijn				
Zeevaartschool				
Brussels				
VUB	x		x	x
Erasmus				
Hasselt				
UHasselt				
PXL				

these traditional boundaries. Ghost-writing and even falsification of research data can be qualified in Flanders as plagiarism.

With regards to procedure and sanctions, it is even more difficult to find clear evolutions. What is most apparent is that – in a majority of HEIs – a smaller body (a body of one or a limited number of persons) is involved in the preparation and/or making of the decision. In other HEIs, an overarching body is involved when the harshest sanctions are applied, as to make sure that the exam regulation is applied in a similar manner for the same type of cases throughout the whole HEI. This can be seen as a good practice, to make sure that there is some sense of legal certainty for the students with regards to the consequences of their behaviour. As to the sanctions, it is striking that some HEIs only have a very limited choice of sanctions. When these options are small and only concern strict sanctions, this will – without a doubt – cause hesitations for lecturers to report plagiarism.

In the following chapter, we will study how the Council for the settlement of disputes on study progress decisions deals with cases of plagiarism committed in Flemish HEIs. This will provide an insight on how these schools deal with plagiarism in the framework they created themselves in their regulations, but – more importantly – how a the decisions HEIs take on plagiarism, are assessed by an independent legal body.

4 Plagiarism in the case law of the Council for the settlement of disputes on study progress decisions

1) The Council for the settlement of disputes on study progress decisions

In 2004, the Flemish community established a Council for the settlement of disputes on study progress decisions (CSDS).¹¹³ This Council was founded to relieve the Council of State, the general administrative court of Belgium, from the workload that was caused by the appeals of students against decisions taken by their HEIs.¹¹⁴

Today, the Council is a fully functioning administrative court dealing with approximately 400 cases each year.¹¹⁵ A chamber of the council consists of one president (a legal expert with a thorough knowledge of higher education) and two assessors (that should have at least 5 years' experience as a member of academic or assisting staff of a HEI).¹¹⁶

In terms of procedure, an appeal has to be lodged within 5 calendar days after the day the student was notified of the decision on the internal appeal. A student first has

¹¹³Decr. VI. 19 maart 2004 betreffende de rechtspositieregeling van de student, de medezeggenschap in het hoger onderwijs, de integratie van bepaalde afdelingen van het hoger onderwijs voor sociale promotie in de hogescholen en de begeleiding van de herstructurering van het hoger onderwijs in Vlaanderen, *BS* 10 juni 2004, 43763. This law was integrated in the Flemish Higher Education Code in 2013.

¹¹⁴L. VENY & B. VERBEECK, "Grasduinen omtrent enkele aspecten van het examencontentieux van de raad voor betwistingen inzake studievoortgangsbeslissingen" in X, *Liber Amicorum Marc Boes*, Brugge, Die Keure, 2011, 562.

¹¹⁵In 2013, the council dealt with 413 cases, 68 more than in 2012. The case load of the Council has steadily been growing every year (see X, "Jaarverslag werkzaamheden 2013", <http://onderwijs.vlaanderen.be/studenten/klachten-en-problemen/beroep-aantekenen-bij-de-raad/beslissingen-van-de-raad/verslagboeken>, 2.

¹¹⁶Art. II.287 Flemish Higher Education Code.

to exhaust all existing internal remedies within his/her HEI, otherwise the appeal is declared inadmissible.¹¹⁷ Arguments given before the Council also need to have been presented within the framework of the internal procedures otherwise they cannot be discussed by the Council.¹¹⁸ The Council is competent to control the application of the legal framework (including national and regional legislation and the regulatory framework created by the individual HEIs) and the general principles of administrative law.¹¹⁹

In the framework of plagiarism cases, the Council clearly uses these competences. The control of the general principles of administrative law (for example the principle of legal certainty, the proportionality principle, the fair play principle etc.) creates the most interesting case law in the framework of plagiarism. This case law namely proves that HEIs, which are public actors, do not only need to respect their own regulations, but also the general principles of administrative law even when this would lead to decisions that are – in principle – not in accordance with the text of their regulations.

In the following chapter, the case law of the council on plagiarism is discussed. We will use a topical approach to structure the different cases.

2) Plagiarism before the Council for the settlement of disputes on study progress decisions

1. Definition of plagiarism

The Council, in his jurisprudence, clearly states that it is not competent to replace the decision of the HEI on the existence of plagiarism. It is thus not the task of the CSDS to determine whether or not the student is guilty of committing plagiarism. It is competent however to decide whether or not the HEI, on the basis of the facts of the case and the regulatory framework provided, reasonably could establish that the student had indeed committed plagiarism.¹²⁰

The Council thus only interferes when a HEI has overstepped the boundaries of the reasonable. In practice it is thus very difficult for a student to win a case on the basis of the argument that he/she did not commit plagiarism.

As the cases on the definition of plagiarism are always very factual, it is easier to discuss some examples. In case 2007/059 for example, the Council agreed with a Flemish HEI that copying a part of a text without mentioning the source, is plagiarism. The fact that 9consisted of this plagiarized text, proved that the decision of the HEI to sanction the student was not delivered in an unreasonable manner.¹²¹ In case 2209/036, the Council found that – in line with the exam regulation of the HEI – the fact that the source was mentioned in the bibliography, but not on the pages where the source was quoted, does not avoid the rightful qualification as plagiarism. The fact that the student did not intend to commit plagiarism, does not impact the qualification of plagiarism, as the Exam Regulation of the HEI explicitly determines that malicious intent does

¹¹⁷Art. II.294 Flemish Higher Education Code.

¹¹⁸Art. II.285 Flemish Higher Education Code.

¹¹⁹Art. II.291 Flemish Higher Education Code.

¹²⁰CSDS 17 June 2009, nr. 2009/036; CSDS 16 May 2014, nr. 2014/052 & CSDS 30 September 2014, nr. 2014/024.

¹²¹CSDS 9 November 2007, nr. 2007/059.

not need to be proven.¹²² In case 2014/052, the qualification as plagiarism of the behaviour of a student that copied 3 pages from a source for her assignment, without any acknowledgment, was accepted. The qualification as fraud was also accepted.¹²³

In case 2005/030, the student handed in a paper where she copied several paragraphs from a website. The lecturer notified the dean of this case of, what he called, plagiarism. The dean however decided that this was a case of fraud, as the student did refer to the source in her text. The student was consequently sanctioned for fraud but appealed to the CDSC. The Council did not find that the dean's decision was unreasonable, as the parts that were copied from the website were long, with very concise acknowledgments and no personal contributions were provided by the student.¹²⁴

Specific issues arise when papers that are handed in by students are similar to the work of other students. In most cases, it then arises that these students cooperated while making the papers. In case 2013/031 the Council found that the explanation given together with the assignment at the beginning of the school year, did not prohibit cooperation between students but also did not allow it. It found a provision in the explanation in which it was stressed that the assignment should always be an original piece of work. This was enough for the Council to decide that papers that were for 95% copied lead to an assessment of fraud (and thus not plagiarism).¹²⁵ A different conclusion was reached in case 2013/094. In this case, students also cooperated but the school allowed cooperation between groups for this assignment.¹²⁶

The only time the Council has critiqued the definition applied by the HEI can be found in decision nr. 2014/0024. In this case, the student copied integral parts of texts from several sources, including the acknowledgments that were incorporated in these original texts. The HEI defined plagiarism as "*the use of other people's phrasing, adapted or otherwise, without careful acknowledgement of sources as well as any form of fraud that is a violation of scientific integrity*". The Council found that this definition deviates from the regular meaning of plagiarism, which normally stresses the intentional element in the behaviour of the student. The Council regrets the fact that this definition is so broad and general. Nevertheless, it found that the decision of the HEI was not taken in an unreasonable manner. Even then, the argument of the student was thus declared unfounded, notwithstanding the explicit critique of the Council. The HEI has not amended the definition of "plagiarism" in its Exam Regulation.¹²⁷

2. Use of anti-plagiarism tools

In several Flemish HEIs, anti-plagiarism systems are used. In some cases, students are obliged to use these tools themselves as means of self-control, but lecturers can also use it to control the work that was handed in. One of the most used systems in Flanders is "Turn-it-in". The Council has dealt with two cases where Turn-it-in was used to determine a case of plagiarism that was subsequently sanctioned as such.

¹²²CSDS 17 June 2009, nr. 2009/036.

¹²³CSDS 16 mei 2014, nr. 2014/052.

¹²⁴CSDS 13 October 2005, nr. 2005/030.

¹²⁵CSDS 13 March 2010, nr. 2013/031.

¹²⁶CSDS 13 March 2010, nr. 2013/031.

¹²⁷CSDS 30 September 2014, nr. 2014/024.

In case 2010/012, the Council stated that the results of a Turn-it-in test can only be used as an indication of plagiarism. It is up to the school to provide an overview of the passages that were plagiarized, as plagiarism is not sufficiently proven to exist solely on the basis of the Turn-it-in results.¹²⁸ In case 2014/204, the Council confirms again that the result of an anti-plagiarism tool can only be used when the investigation on plagiarism provides sufficient evidence in a trustworthy manner. It is thus necessary for the HEI to use the result as an indication, but should carry out subsequent investigations.¹²⁹

3. Procedure

1) Right to be heard

In all Flemish HEIs, the student has the right to be heard when he/she is suspected of having committed plagiarism. Discussions however arise when the student is not in the possibility to attend the hearing. In case 2010/012, the student could not defend herself because she was abroad for family reasons. She therefore sends an e-mail as to request to be heard by telephone. She never received an answer to this e-mail and the decision was taken without a possibility for her to defend herself. The Council decided, taking account the extensive consequences of the applied sanction, that it was unreasonable not to answer her e-mail and deprive her from her right to be heard. Her complaint was thus declared founded.¹³⁰

It is different when a student does not turn up at a meeting at which he/she requested to be heard, without a legitimate reason for being absent. The fact that a decision was taken without hearing the student in such a case, is not found to be illegitimate.¹³¹

2) Irregular composition of the fraud commission

In some HEIs, the decision either needs to be taken by a specialised fraud commission, though in others this commission only needs to give its seal of approval in case a certain strict sanctions is applied. In case 2010/012, the latter was applicable: as the student was excluded from the school for committing plagiarism, the fraud commission of his university approved the exclusion. The commission however was not completely present (though it is unclear who was missing). As the Exam regulation of the HEI in question did not mention a quorum, the Council could not do anything else than conclude that every member of the fraud commission needed to be present.¹³²

3) Independence of the internal appeal commission

The fact that the internal appeal committee decides in the same way as the Dean, does not make this appeal committee biased.¹³³ What does make it partial, is the fact that

¹²⁸CSDS 12 May 2010, nr. 2010/012.

¹²⁹CSDS 30 September 2014, nr. 2014/204.

¹³⁰CSDS 12 May 2012, nr. 2010/012.

¹³¹CSDS 17 August 2012, nr. 2012/132.

¹³²CSDS 12 May 2010, nr. 2010/012.

¹³³CSDS 16 May 2014, nr. 2014/052.

the Dean who took the decision against which the appeal was launched, is a member of the internal appeal commission even if he or she only plays an advisory role.¹³⁴

4) *Motivation of the decision of the internal appeal commission*

It is not sufficient for the appeal commission to decide upon an appeal by using the phrase: “*after ample deliberation we have decided that there are no sufficient reasons to reconsider the decision of the examination commission*”. This does not provide the student the possibility find the reasons for which the commission has determined to reject the appeal. The obligation to motivate administrative decisions was consequently violated in this case.¹³⁵

4. *Sanctions*

1) “*Nulla poena sine lege*”

In case 2010/043 the student was given a combined sanction: two sanctions that were foreseen in the Study Contract as individual sanctions where applied together. This combination of sanctions was however not explicitly foreseen in the Study Contract, but the contract did mention that “*the exam commission can impose every sanction it deems appropriate*”. The Council ruled that the student needed to be certain in assessing which sanctions could be imposed when committing plagiarism. Combining two sanctions, a possibility not explicitly foreseen in the Study Contract, therefore violates the principle of legal certainty.¹³⁶

2) *Proportionality of the sanction*

The majority of the decisions of the Council, and especially the more recent ones, concern the (dis)proportionate nature of the sanction that was imposed for the committed plagiarism. The Council – like when deciding upon the classification of a case as plagiarism – only declares a complaint founded when there is a clear disproportion between the seriousness of the offence and the severity of the sanction.¹³⁷

The Council takes into account several elements when deciding whether or not a sanction is indeed disproportionate. The case law will be discussed in the framework of these elements.

– **Extent and nature of the plagiarism**

The extent of the plagiarism is always taken into account when deciding upon the proportionality of the sanction. In case 2007/059, 9plagiarized. The Council found the sanction “*exclusion for the course unit for the rest of the year*” proportionate.¹³⁸

¹³⁴CSDS 23 July 2013, nr. 2013/095bis.

¹³⁵CSDS 12 May 2010, nr. 2010/012.

¹³⁶CSDS 16 August 2010, nr. 2010/043.

¹³⁷CSDS 9 November 2007, nr. 2007/059; CSDS 17 June 2009, nr. 2009/036; CSDS 12 May 2010, nr. 2010/12; CSDS 17 August 2012, nr. 2012/132; CSDS 8 August 2013, nr. 2013/094; CSDS 23 August 2013, nr. 2013/156; CSDS 16 May 2014, nr. 2014/052; CSDS 22 July 2014, nr. 2014/083; CSDS 30 September 2014, nr. 2014/182 and CSDS 30 September 2014, nr. 2014/204.

¹³⁸CSDS 9 November 2007, nr. 2007/059.

In case 2013/156, the student had plagiarized almost half of his paper (he translated a text, only crediting the source in his bibliography). The sanction “exclusion from the study programme for the whole year” combined with the loss of all grades obtained in June, was not found disproportionate by the Council.¹³⁹

In case 2014/204, the Council ruled that the HEI did not sufficiently take into account the nature of the plagiarism committed by the student. The student was found guilty of using “inaccurate references”. This is very different from not mentioning any source, thus the Council. The only thing that was taken into account according to the Council, was the extent of the “plagiarism”. This led to the exclusion of the student from the course for the whole academic year, a disproportionate sanction according to the Council.¹⁴⁰

– Malicious intent student

In case 2013/094, which was already mentioned above, the students of a group work were sanctioned because one of them copied from another group. In the framework of the sanction, the council ruled that it was unfair that the “honest partner” that did not know the irregularity was committed, was sanctioned equally harsh as the dishonest partner that committed plagiarism. This can be done, according to the Council, but only when the Exam Regulation explicitly foresees in this possibility. In this case, the sanction (exclusion from the course for the whole year) was found to be disproportionate in light of the honest intentions of the student that launched the appeal. Especially the fact that the student lost the opportunity to re-take the exam in the summer, was found to be too severe.¹⁴¹

In case 2014/052, the Council ruled that accidentally handing in a previous draft version of the assignment (an unfinished version, without sources) cannot exonerate the student from her behaviour. It is her task to control whether or not she hands in the correct version.¹⁴²

– The foreknowledge of the student on plagiarism

In case 2009/036, the fact that the student argued that she did not have enough foreknowledge on the citation rules, was not agreed upon as an excuse for committing plagiarism by the Council. It was up to the student to inform herself on these rules.¹⁴³ In case 2013/156, the fact that the student was likely to be less familiar with plagiarism because of his previous studies, was also not taken into account as a mitigating circumstance.¹⁴⁴

Also influential is the fact whether or not in the framework of the course, guidelines are given regarding citations and plagiarism. In case 2014/052, this clearly happened on several occasions (on the online platform, in the handbook and in a PowerPoint presentation given in class). Thus, notwithstanding the fact that the student was a first year, she should have known what plagiarism was, how it can be

¹³⁹CSDS 23 August 2013, nr. 2013/156.

¹⁴⁰CSDS 30 September 2014, nr. 2014/204.

¹⁴¹CSDS 8 August 2013, nr. 2013/094.

¹⁴²CSDS 16 May 2014, nr. 2014/052.

¹⁴³CSDS 17 June 2009, nr. 2009/036.

¹⁴⁴CSDS 23 August 2013, nr. 2013/156.

avoided and that it cannot be tolerated.¹⁴⁵ The same was decided in case 2014/204. In this case, several guidelines were given to the students on how to cite correctly and avoid plagiarism.¹⁴⁶

Previous studies can however mitigate the fact that no clear guidelines on plagiarism were given in the framework of the course. In case 2014/182, the Council argued that – as the student had already followed master programmes – he should have been aware of the citation rules.¹⁴⁷

– Study phase of the student

In case 2014/083, the student was found guilty of plagiarism in the framework the last course she needed to take to receive her degree as a nurse. The sanction for her plagiarism was the exclusion from school, and this for 3 years. The Council found this sanction to be too severe: as the student was in the last phase of her studies, the fact that she cannot enrol for that final course during three years disproportionately influences the position of the student. The application of the harshest sanction foreseen in the regulation was thus disproportionate.¹⁴⁸

In case 2014/204, the Council took into account that the student – because of his exclusion from the course for the whole year – could not obtain his master's degree and consequently could not enrol in a specialised master. This, linked with the fact that the nature of the plagiarism was not taken into account (see above), led to the establishment of the disproportionate nature of the sanction.¹⁴⁹

In the framework of case 2014/182, a similar problem existed: the student was following a master and was also excluded from the school for plagiarism. However as he was a recidivist (*see below*) the Council did not find this exclusion disproportionate.¹⁵⁰

– Recidivism

In case 2014/182, the student was excluded from the HEI after committing plagiarism for the second time in the framework of the same course. This sanction was not deemed disproportionate by the Council, as the student knew that – in case he committed plagiarism again – he would be sanctioned severely. He also did not seek help from his supervisor after the sanction was given in January, although he had the chance to do this.¹⁵¹

– Motivation of the application of these criteria

In practice, several HEIs have incorporated some of these criteria in their Exam Regulation (see above, table 6). It is thus not uncommon today that exam commissions or other sanctioning authorities already mention and touch upon these criteria in their decisions. It is however crucial that –when doing this and

¹⁴⁵CSDS 16 May 2014, nr. 2014/052.

¹⁴⁶CSDS 30 September 2014, nr. 2014/204.

¹⁴⁷CSDS 30 September 2014, nr. 2014/182.

¹⁴⁸CSDS 22 July 2014, nr. 2014/083.

¹⁴⁹CSDS 30 September 2014, nr. 2014/182.

¹⁵⁰CSDS 30 September 2014, nr. 2014/182.

¹⁵¹CSDS 30 September 2014, nr. 2014/182.

adding a corresponding qualification (such as “heavy”), this qualification needs to be thoroughly motivated. Just adding the word “heavy” does not suffice.¹⁵²

5 Conclusion

Plagiarism is barely regulated in international, European or national laws. Therefore, in an educational context, there is a large discretionary competence attributed to the HEIs on how they deal with plagiarism in Flanders.

This leads to a very diverse legislative framework. Almost every HEI in Flanders uses his own definitions, procedures and sanctions. It is difficult to find trends or “guidelines” in the current regulation of plagiarism in Flemish HEIs. The creation of university associations has only led to more similarity in the framework of one association, namely the University of Leuven Association. In the framework of other associations, the ongoing cooperation is not specifically reflected in the exam regulations.

It might be interesting for the Flemish HEIs to look for best practices for the creation of better regulations on plagiarism. The case law of the Council for the settlement of disputes on study progress decisions could play a leading role in this regard. The case law clearly acknowledges that some practices are not acceptable in light of the general principles of administrative law. Today, it is clear that HEIs do not really learn from decisions taken by the Council. Changes, that are required in light of case law, are not made.

The following best practices can be found:

- The definition of “irregularity”: this definition should be broad, and the Exam regulation should surely contain a clear definition. This is important as it is a safety net for cases that cannot be qualified as plagiarism
- The definition of “plagiarism”: this definition should – taking into account the critique of the CSDS – not be too broad. It is safer to have a rather strict definition of plagiarism and a broad definition of irregularity, as cases that do not qualify as plagiarism can then be sanctioned. The tendency of the CSDS is to be more strict on the assessment (and definition) of plagiarism, and it is thus dangerous to qualify behaviours such as ghost writing and falsification of research data as plagiarism. It is safer to qualify them as irregularities.
- Malicious intent: if a HEI finds that malicious intent is not necessary to commit a irregularity (including plagiarism), it is best to explicitly regulate this in the Exam regulation.
- Procedure: with regards to the procedure, it is impossible to state which procedure is better. It is advisory that the decision should not be taken by one person. When there is discussion, it easier to provide decision that is better motivated and more carried by the academic staff.
- It is clear that the student has the right to be heard. However, not all HEIs provide the student the right to be helped by a legal representative. This should be the case.

¹⁵²CSDS 12 May 2010, nr. 2010/012.

In schools where the students are represented by the ombudsman, this could lead to judicial problems in term of the independency of this aid.

- With regards to sanctions, it is crucial that the HEI provides sufficient possibilities, varying in severity. When the choice is limited and sanctions are harsh, there is a larger threshold for lecturers to report plagiarism. This will lead to sanctions applied by lecturers individually, without following the procedures of the Exam regulations. This could eventually to more procedures before the CSDS.
- Use of anti-plagiarism tools: it is crucial that – when used – anti-plagiarism tools are only used as an indication of the commitment of plagiarism. It does not suffice to print the report and the highlighted areas of text to prove plagiarism. It requires further attention from the correcting lecturer.
- Guidelines on plagiarism: the CSDS has to today never found that the lack of clear guidelines on citations and plagiarism has exonerated a student from committing plagiarism. This is because all cases concerned master students that are supposed to have a clear foreknowledge on these rules. For younger students it is therefore advisable to provide clear guidelines on plagiarism and citation rules (in the framework of the course or even the whole study program).

Literature

- D. VOORHOOF & K. VAN DER PERRE, *Handboek auteursrecht. Editie 2013-2014*, Gent, Academia Press, 2013
- F. GOTZEN & M. JANSSENS, *Wegwijs in het intellectueel eigendomsrecht*, Brugge, Vanden Broele, 2009, 41-42
- M. JANSSENS, “De uitzonderingen op het auteursrecht anno 2005 – een eerste analyse”, *AM* 2005, afl. 5, 486
- A. KUR & T. DREIER, *European intellectual property law*, Cheltenham, Edward Elgar, 2013, 3
- S. McLEEMEE, “What is plagiarism”, *The Chronicle of Higher Education* 2004, vol. 51, 17.
- L. STEARNS, “Plagiarism, process, property, and the Law”, *California Law Review* 1992, vol. 80, 516-517”
- L. VAN BUNNEN, “Le statut des citations en droit intellectuel”, *ICIP* 2012, 714.
- L. VENY & B. VERBEECK, “Grasduinen omtrent enkele aspecten van het examencontentieux van de raad voor betwistingen inzake studievoortgangsbeslissingen” in X, *Liber Amicorum Marc Boes*, Brugge, Die Keure, 2011, 562”

Copyright statement

Copyright © 2015. Author(s) listed on the first page of article: The author(s) grants to the organizers of the conference “Plagiarism across Europe and beyond 2015” and educational non-profit institutions a non-exclusive licence to use this document for personal use and in courses of instruction provided that the article is used in full and this copyright statement is reproduced. The authors also grant a non-exclusive licence to Mendel University in Brno, Czech Republic, to publish this document in full on the World Wide Web (prime sites and mirrors) on flash memory drive and in printed form within the conference proceedings. Any other usage is prohibited without the express permission of the author(s).

Author

Karen Weis (karen.weis@khleuven.be), Katholieke Hogeschool Leuven, Belgium