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Academic honour the Montenegrin way

Plagiarisms in Montenegro and
the failure to sanction them



Podgorica, 2016

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ACADEMIC HONOUR THE MONTENEGRIN WAY
- plagiarisms in Montenegro and the failure to sanction them-

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Introduction

Since the introduction of the Bologna system of study, the higher education in Montenegro has undergone intensive adaptation to the European academic space. This process also revealed systemic problems that are plaguing our higher education institutions.

There are three main providers of higher education in Montenegro:

- **University of Montenegro (UoM)**, a public university founded in 1974, with 18771 students in the school year 2016/17, and 588¹ persons employed in the capacity of academic staff;
- **Mediterranean University**, the first private university founded in 2006, with 1601 students and 65 members of academic staff², and
- **University Donja Gorica (UDG)**, founded in 2007, with 2216 students and 168 members of academic staff³.

There are also another ten independent higher education institutions that do not have the status of a university, but operate as independent departments - Faculty of Business and Tourism Budva, Faculty of Montenegrin Language and Literature Cetinje, Faculty of Administrative and European Studies, Faculty of International Management in Tourism and Hospitality Miločer, Faculty for Mediterranean and Business Studies Tivat, Faculty of Management Herceg Novi, Faculty of Business Management Bar, Faculty of Business Economics Bar, Faculty of Transport, Communications and Logistics and Maritime Faculty Bar. Around 1500 students altogether are attending these universities. Official figures on the numbers of academic staff are difficult to obtain. The data collected by the CCE indicates that these seven institutions employ between them some 160 members of academic staff.

These figures could be indicative of a dynamic market competition in which different actors specialise in different niches. In Montenegro, however, the growth and development of higher education institutions went hand in hand with the growing perception and experience with corruption in higher education. Public opinion research conducted by the Centre for Civic Education (CCE) at the end of 2015⁴ thus showed that the citizens believe corruption to be especially widespread at the private higher education institutions. As many as 52% maintain this opinion, an 8% increase compared to 2011. Meantime, a little less than half (47%) of respondents said that corruption is present at the public University of Montenegro, a significant increase compared to 2011 when only 29% of respondents thought so.⁵

The latest opinion poll conducted by the CCE also contained a special subset of questions about plagiarism. As many as 35% of citizens said that plagiarism is relatively common in Montenegro, and 14% of them reported knowing someone who has plagiarized a study, master or doctoral thesis. The citizens generally have few ideas as to who should be in charge of combating this problem, which is unsurprising given that all institutions that should be in charge of preventing or sanctioning

1 Response of the UoM to CCE's request for free access to information, Decision no. 01-2895/2 from 8/12/2016 www.ucg.ac.me

2 Response of the University Mediteran to CCE's request to free access to information from 29/11/2016

3 Response of University of Donja Gorica to CCE's request to free access to information from 8/12/2016

4 The research was conducted within the project "Only knowledge should get the title", while professional and field work was done by Ipsos Strategic Marketing agency. More info on: <http://cgo-cce.org/en/2016/01/19/korupcija-u-obrazovanju-sve-prisutnija/#.WNigLhJ950s>

5 Research «Corruption in Education in Montenegro» was conducted by CCE and CEMI, 2011



plagiarism had denounced their responsibility for it, even when the plagiarism charges were well and publicly substantiated.

The very concept of plagiarism is not yet adequately defined in the existing legal framework in Montenegro. Linguistically, the root of the term is in the Latin word *plagium*, meaning *stealing personhood* or *soul-sale*. As defined in the *Lexicon of foreign words and phrases: Plagiarism is literary theft, copying other people's work, illegal appropriation of someone else's spiritual property.*⁶ The Oxford English Dictionary defines plagiarism as the *practice of taking someone else's work or ideas and passing them off as one's own*.

Generally speaking, the phenomenon of plagiarism is not a Montenegrin specialty. However, the failure to prosecute it any way, the law of "omerta" within the academic community when it comes to this problem, the complete unwillingness of institutions to identify and sanction plagiarism, and the evident lack of academic honour and integrity of members of the academic community who face serious allegations of having committed plagiarism, together create a vicious circle of impunity and further undermine the already questionable quality of higher education institutions in Montenegro.

⁶ Milan Vujaklija, *Lexicon of foreign words and phrases*, Prosveta, Belgrade, 1980, page 708.

Legal framework with many (un)intended loopholes

The legal framework in Montenegro that potentially applies to the issue of plagiarism includes the following laws and regulations:

- **Criminal Code of Montenegro**⁷
- **Law on Copyright and Related Rights**⁸
- **Law on Higher Education of Montenegro**⁹
- **Statute of the University of Montenegro**¹⁰
- **Statute of the Mediteran University**¹¹
- **Code of Ethics of UoM**¹²
- **Code of Academic Ethics of Mediteran University**¹³
- **Code of Ethics of University Donja Gorica**¹⁴
- **Rules on depositing and keeping records of copyright works and objects under related rights**¹⁵
- **Rules of procedure of the granting of academic and scientific titles**¹⁶
- **Integrity Plan of the University of Montenegro**¹⁷

The **Criminal Code of Montenegro**, Chapter 21, Section *Crimes against intellectual property*, stipulates in its Article 233, paragraph 1 that "Anyone who in his own name or in the name of another person publicizes, in whole or in part, releases into circulation copies of someone else's copyrighted work or performance or otherwise publicly discloses someone else's copyrighted work or performance shall be punished by a fine or a prison term up to three years ". This article lays grounds for prosecution of persons who violate another's copyright. The procedure is initiated by criminal charges, as the possible penalties include a fine or up to 3 years imprisonment.

Law on Copyright and Related Rights lays foundation for understanding the concept of copyright and the individual concepts related to copyright, and prescribes mechanisms for the realisation and protection of copyright. Article 4, paragraph 2 of the law includes among the items protected by this law the *written works (novels, poetry, articles, manuals, studies, monographs, computer programs, and the like)*. Article 9 defines author as „*the natural person who created the copyright work*. This is further elaborated by Article 10: „A person whose name, pseudonym or mark appears in the usual manner on the work or is so indicated at the time of disclosure of the work, shall be presumed to be the author, until proven otherwise”.

The author acquires the copyright the moment the work is created. The rights subsumed under copyright include the right to have the work published under his or her name and the ensuing rights of authorship (*Article 13: moral rights, property rights and other rights of the author*). The author must be indicated on the copyrighted

7 "Official Gazette of RMNE", no. 070/03, 013/04, 047/06, Official Gazette of Montenegro", No. 040/08, 025/10, 073/10, 032/11, 064/11, 040/13, 056/13, 014/15, 042/15, 058/15

8 "Official Gazette of MNE", 37/11, 53/16,

9 " Official Gazette of MNE " 44/14, 52/14, 47/15 and 40/16

10 " Official Gazette of MNE " 44/14, <http://www.ucg.ac.me/fajlovi/Statut%20Univerziteta%20Crne%20Gore%20.pdf>

11 Statute of Mediteran University, 22/08/2011; amendments 06/11/2012 and 11/07/2014, <http://unimediteran.net/index.php/mne/pravni-propisi/statut>

12 Code of Ethics of UoM, Newsletter of the UoM, no. 343/15, <http://www.ucg.ac.me/fajlovi/ETICKI%20KODEKS.pdf>

13 Code of Academic Ethics of University of Montenegro, 2013, <http://unimediteran.net/fajlovi/odluke/KODEKS%20AKADEMSKE%20ETIKE.pdf>

14 Code of Ethics of UDG, 2016

15 " Official Gazette of MNE " 37/11

16 Senate of the UoM, no. 08-1784 from 04/09/2014

<http://www.ucg.ac.me/fajlovi/PRAVILA%20POSTUPKA%20IZBORA%20U%20AKADEMSKA%20I%20NAUCNA%20ZVANJA.pdf>

17 Integrity plan of UoM, 2016, <http://www.ucg.ac.me/fajlovi/PLAN%20INTEGRITETA%20UCG.pdf>



work in order to be considered the author, but can choose how the authorship is to be indicated.

Article 17 defines the protective aspects of copyright: *the author enjoys the exclusive right to object to any distortion, mutilation of his or her work, or other derogatory action in relation to his or her work, if these acts are or may be prejudicial to his or her honour or reputation.* Moreover, Article 19 sets the basis for deriving economic benefits from copyright: Economic rights protect the economic interests of the author. The author enjoys the exclusive right to authorize or prohibit exploitation of his work or copies thereof. The exploitation of a copyrighted work is permitted only if the author, under the conditions set by him or her, transfers the said economic rights, unless otherwise stipulated by this law or by the contract. Any exploitation of a copyrighted work by another person shall entail a royalty (hereinafter: royalty) or an adequate compensation (hereinafter: compensation) to the author, unless otherwise stipulated by this Act or by contract.

The law limits the duration of this right to 70 years from the death of author. Article 96 stresses that even persons with the status of foreigners enjoy equal rights under this Law, same as the citizens of Montenegro.¹⁸ According to the current legislation in the area of intellectual property rights, any disputes regarding the legal protection of industrial property, copyright and related rights should be dealt with by the administrative procedure before the Intellectual Property Office of Montenegro. Annual reports of the Intellectual Property Office of Montenegro reveal that in practice most of their activity is focused on pursuing collective copyright, via organisations representing the rights of musicians and film producers on the territory of Montenegro. In the previous year, 20 works were evidenced and registered by the Office. Foreign legal and natural persons in the proceedings before the Office may be represented by a person registered in the Register of Representatives of the Office, or by a Montenegrin lawyer. Recognized right from the area of copyright and related rights shall be published in the official gazette of the Office.¹⁹

The 2014 **Law on Higher Education** for the first time regulated the issue of plagiarism, at least insofar as it recognises and institutes plagiarism as a legal category. According to the article 78 of the law: *Authorised work (professional, scientific or artistic) which the responsible body identifies as plagiarised will be considered null and void, alongside all the achievements, awards and titles of the person that has attained them on the basis of such work. The institution is obliged to declare null and void all achievements, awards, and titles of the person referred to in the paragraph 1 of this article that have been attained at this institution on grounds of such work. The procedure for determining plagiarism is established by the statute of the institution in accordance with a special law.* Unfortunately, the law does not give a precise definition that could be taken as a basis for further elaboration, or benchmarks on the basis of which it would be possible to determine whether or not something should be considered plagiarism. The article also provides further guidelines on the process by which plagiarism should be determined and sanctioned, but these are to be regulated by secondary legislation and by the statutes of the institutions themselves. The previous Law on Higher Education of 2003 did not recognise Code of Ethics as a category, but the new Law on Higher Education states in Article 5²⁰: The Code of Ethics sets the basic and general principles and values grounded in the moral rights and responsibilities in higher education and protects the highest values of higher education

¹⁸ Article 96, Law on Copyright and Related Rights: *Other foreign natural or legal persons are entitled to the same protection as persons referred to in paragraph 1 of this Article in accordance with ratified international agreements or if there is a factual reciprocity. This law applies to foreign natural and legal persons even when requirements of paragraphs 1 and 2 of this article are not satisfied, in terms of: 1) moral rights - in any case; 2) droit de suite rights and the right to remuneration for reproduction for private and other internal purposes if there is a factual reciprocity.*

¹⁹ Report of the Intellectual Property Office of Montenegro 2015; page 2, <http://www.ziscg.me/content/ior2015.pdf>, <http://www.ziscg.me/e-usluge/crnogorski-glasnik-intelektualne-svojine>

²⁰ Law on Higher Education "Official Gazette of MNE" 44/14, 52/14, 47/15 and 40/16

via implementation of appropriate standards that govern the relations within the academic community.

The **Statute of the University of Montenegro** provides more detailed guidelines for the regulation of plagiarism. Article 32 of the Statute of the UoM, paragraph 25, stipulates that the Senate regulates the procedure for the investigation of plagiarism in accordance with the law. The Statute also refers to the standards of conduct of the members of academic community as described in the Code of Ethics, which strictly prohibit plagiarism. The whole procedure takes place before an ad hoc Commission appointed by the Senate of the UoM, which collects the information necessary for concluding the case. All information is to be kept secret until the end of the procedure, and once all the evidence is in the Senate will use it to pass the final decision, as stipulated by articles 101 and 102 of the Statute. Much like the law itself, this document too is equally short on clear benchmarks for identifying a piece as plagiarism. This failure to provide guidelines for determining what constitutes plagiarism unnecessarily leaves a broad margin for manipulation and arbitrary interpretations the laws and regulations.

The **Statute of Mediteran University** says in the Article 81: *A person who has acquired a certain level of qualification and a degree can, by decision of the Governing Board of the University upon the proposal of the Senate, have his or her qualification or degree revoked in case of fraud or deception, including plagiarism or appropriation of another's authorship, violation of copyright or other unethical practices in the preparation of master thesis, PhD dissertation or other written work.* At this university too the issue of plagiarism is left to the Senate, but instead of dealing with it within an ad hoc commission, the final decision rests with the University's Governing Board.

The **Code of Ethics of the UoM** sets guidelines for the members of the academic staff who according to this Code must respect the moral principles, principles of scientific truth, and must not violate basic human rights and dignity of their colleagues or other citizens. The Code of Ethics contains fundamental moral and ethical principles, as well as a section on the "Responsibility for infringement of intellectual property", which stipulates that: *Members of the university community are obliged to respect moral rights, property rights and other rights of the owners of intellectual property.* It also states that: *Members of the university community must vouch for authenticity (originality) of their published scientific works and works of art, as well as for accuracy and honesty in the presentation and referencing of information on the origin of ideas and quotes that they use in their work.*²¹ It also prescribes a procedure before the Court of Honour, a body that is supposed to decide on complaints of the injured parties.

Code of Academic Ethics of Mediteran University states in Article 6 that *academic and professional staff must not use another's work or ideas without citing the source*, a rare instance of directly identifying what the members of the academic community must not do.

Article 7 of the **Code of Ethics of University of Donja Gorica** regulates the issue of academic integrity, which is *based on autonomy in academic and scientific work and creation of original scientific research, presenting one's own results and strict respect for the copyright of others.* This Code of Ethics does not directly explain what plagiarism is, nor does it say how it should be determined. However, it explicitly forbids „plagiarism, false authorship, invention and counterfeiting of results and auto plagiarism“²², in the work of both students and the teaching and research staff. As part of the international project *Developing a framework for quality assurance at the University Donja*

21 Code of Ethics of UoM, Article 6, paragraphs 4 and 6

22 Code of Ethics, UDG, 2016, Article 10, paragraph 1, page 8



Gorica, this higher education institution is in the process of drafting a new Code of Ethics, as well as the new Rules of Procedure of the Committee for ethical relations of the UDG and the Anti-Corruption Court.

Rules on depositing and keeping records of copyrighted works and objects of related rights, passed by the Ministry of Economy on the basis of the Law on Copyright and Related Rights, contain measures that specify the ways to deposit a record, the conditions that must be met by certain copies of copyrighted work and works under related rights in order to deposit them in the database of the “public body responsible for intellectual property”²³, i.e. with the *Intellectual Property Office of Montenegro*.

Once it is established that the work of a member of academic staff is plagiarism, the follow-up procedure is further elaborated in the **Rules of procedure on the award of academic and scientific titles**, which was passed by the Senate of the UoM. More specifically, these Rules prescribe: *If, after awarding an academic or scientific title, it is proven that the scientific papers on the basis of which the award was made represent plagiarism, or if the bearer of these titles otherwise violates the Code of Academic Ethics, the procedure for the revocation of the title is to be initiated*²⁴. Article 9, paragraph 2, states that the procedure itself is initiated by the Senate of the UoM, *on its own initiative or upon recommendation of the Council of a University unit, before a five-member commission appointed by the Senate*. These members *cannot have lower title than the title of the person against whom the procedure has been initiated*²⁵. The process continues through examination of the facts by the Commission, which submits a report to the Senate *alongside an assessment of whether or not the procedure for the revocation of titles is justified*²⁶. The Senate rules on the matter on the basis of the report of the Commission and the opinion of the Council of the unit in question and its decision is final.

The **Integrity Plan of the University of Montenegro** specifies the strategy for fighting corruption measures at all levels of study. As for plagiarism, in the section *Special Areas of Risk at UoM*, plagiarism is mentioned in the context of student papers and the bachelor, master and doctoral theses. The first point focuses on students at all levels of studies who apply the rules of citation and source quotation inadequately. It also notes the lack of software for identifying plagiarism, and states that: *For the time being plagiarism is addressed in disciplinary procedure within the Faculty and the Senate*.²⁷ The Plan recommends purchase of software as well as another measure that had been suggested by the CCE long ago, namely the publication of electronic versions of master theses and dissertations. Plagiarism of scientific articles is a subject of another section, which again notes the lack of software for analysis of plagiarism, as well as the lack of clear procedures for verifying the papers! The plan envisages that the Court of Honour should *determine blame and imposes sanctions for against violation of moral and professional principles laid down in the Code of Ethics of UoM*.

As regards the institutional framework, the highest level of protection is judicial, and is available to both those

23 Rules of depositing and keeping records of copyright works and objects of related rights, Article 2, Ministry of Economy
<http://www.wipo.int/edocs/lexdocs/laws/sr/me/me036sr.pdf>

24 The rules of procedure of election to academic and scientific titles, No. 08-1784 of 04/09/2014, Article 9, paragraph 1

25 Ibid, Article 9, paragraph 3

26 Ibid, Article 9, paragraph 4

27 Integrity plan of UoM, 2016, page 17

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authors who consider themselves wronged, and to all other citizens. This type of protection is provided by the general **courts**. To initiate a lawsuit, a party must be actively identified and agree to participate in the litigation as the wronged party. In such cases, the general rules of court proceedings are applied.

The **State Prosecution** is another important instance of institutional protecting, and the procedure before the relevant prosecutor may be initiated by any damaged party or third parties who have reasonable indications that the offense of plagiarism has been committed, by submitting a criminal complaint to the prosecutor's office. The criminal complaint is an informal document that can contain just the basic information in the possession of an individual or organization, or be supplemented by all the information available to them and thus facilitate the work of the prosecution. The practice so far has shown that the State Prosecution is unwilling to engage actively and pursue the prosecution of such crimes. Recently, however, the prosecutor Vukas Radonjić informed the public through the media that "in all larger prosecutors' offices, including the State Prosecutor's Office in Podgorica, where I work, a state prosecutor has been appointed to attend special trainings for investigation of crimes against intellectual property. I attended these trainings on behalf of the Prosecutor's Office in Podgorica and I continue to learn. A special form of this learning relates to such crimes. This is just one indicator of what the prosecution is doing in order to put an end to these crimes, but we need greater cooperation between prosecution and other public authorities, primarily the police, relevant inspections, customs authorities, higher education institutions and possibly the Intellectual Property Office to investigate these crimes and to prosecute them effectively".²⁸ However, it appears that this information is not entirely accurate. The Supreme Public Prosecutor's Office does not have a centralized record²⁹, and after contacting all 13 general prosecutor's offices the CCE got answers from 11 of them - Plav, Berane, Cetinje, Bar, Herceg Novi, Pljevlja, Rožaje, Nikšić, Kolašin, Kotor and Ulcinj – all of them stating that none of their prosecutors had been specifically appointed to deal with crimes related to violation of the moral rights of authors and performers (Art. 233 of the Criminal Code of Montenegro), or the related criminal offenses that are popularly known as plagiarism.³⁰ The exception is basic state prosecution in Podgorica, which informed the CCE that this issue has been assigned to the prosecutors Vukas Radonjić and Miroslav Turković.

Universities can also raise charges, and here we focus on the University of Montenegro (UoM) and the procedures that exist within it. In the past 6 years, the executive bodies of UoM had not filed any criminal complaints on grounds of copyright violation, and the Rectorate of the UoM had no information as to whether different units or individuals from within the University had raised such charges independently.³¹

Article 102 of the Statute of UoM lays ground for dealing with plagiarism before the **Senate**: *The procedure to determine plagiarism is carried out by a special commission appointed by the Senate*³², which will consider each individual case *with due respect for the rights of all participants*³³. After completing the procedure before the Commission, whose task is to establish the facts of the case,

28 TV show «Reflektor», TV Vijesti, 22/11/2016

29 Response of Supreme State Prosecution no. 136/16 to the request of CCE for free access to information of 1/12/2016 that CCE sent to specific basic state prosecutions

30 Response of basic state prosecutions from Bar, Plav, Cetinje, Herceg Novi, Berane, Pljevlja, Rožaje, Nikšić, Kolašin, Kotor, Ulcinj and Podgorica to request of CCE for free access to information from 1/12/2016

31 Response of Rector Radmila Vojvodić, to request of the CCE on free access to information, no. 01-1,10 /1, of 5/9/2016

32 Statute of the UoM, 2015, Article 102, paragraph 3

33 Ibid.



the Senate will make the final decision.

Furthermore, the normative framework of the UoM singles out the **Court of Honour** as the authority to which an interested party may address the proposal for the initiation of plagiarism-related proceedings. The functioning, composition, and decision-making process of the Court of Honour are outlined by the Code of Ethics of the UoM, which also enumerates the circumstances in which this body has the duty to act.

The Court of Honour consists of eight university professors and one student representative, who as members of this body take decisions on the proposals submitted by other parties. The mandate of the Court is three years for ordinary members of the Court, while the student representative is elected for a one year term. Members of the Court of Honour elect the President of the Court from among the academic members. President's responsibilities are outlined in the Code of Ethics and include *convening the Court's session, chairing the sessions and performing other tasks set forth in the Code of Ethics. For each case, the President of the Court selects three members to form the first instance council and five members for the second instance council.*³⁴ In case of his or her absence, the role of the President is fulfilled by a deputy.

The new Code of Ethics³⁵, adopted in 2015, regulates the work of the Court of Honour in greater detail³⁶. Procedural issues that have been neglected by the Rules are now dealt with in the section regulating procedures in case of violation of moral and professional principles. The Code also stipulates that the Court should be independent and its work³⁷, however hardly any information on the work of this body has actually been made available to the public³⁸. The Court may *issue opinions on matters of common interest that fall under the purview of the Code of Ethics, on its own initiative or upon recommendation of the members of the academic community*, and these opinions are then submitted to the Senate of the UoM. This means that the Court of Honour can voice its opinions on issues that affect the academic community as a whole and that could have far-reaching consequences for students and the staff. Unfortunately, despite having plenty of reason to raise such concerns, no such case has yet been recorded.

Proceedings before the Court begin with a *proposal*, the content of which is defined by Article 20 of the Code of Ethics - *A proposal should contain the following: name of the Court, name and address of the defendant, the time, place and manner of violation of the Code of Ethics, information that supports the charges, name, address, and signature of the person raising the charges. Unsigned proposals will not be considered.* Furthermore, the proposal is to be submitted by persons who are considered actively legitimized to initiate and participate in this process, which includes all persons who believe that a member of the academic staff or students of the University has *violated moral and professional principles laid down in the Code of Ethics of the University of Montenegro*³⁹. The Code of Ethics further defines the potential proponents as *any natural person of legal age or a legal entity and its constituent bodies.*⁴⁰

34 Code of Ethics of University of Montenegro, Newsletter of UoM, no. 343/15, Article 16

35 Newsletter of UoM, no. 343/15

36 With the entry into force of the new Code of Ethics of UoM, *the Code of Academic Ethics from 2004, Rules of the Court of Honour from 2004, and Rules on amendments to the Rules of the Court of Honour from 2005* were placed out of the force.

37 Code of Ethics of University of Montenegro, Newsletter of UoM, no. 343/15, Article 13: *Work of the Court is public, unless the Court decides there are reasons for exclusion of the public.*

38 <http://www.ucg.ac.me/me/o-univerzitetu/tijela/sud-casti>

39 Ibid, Article 8

40 Ibid, Article 19

The proceedings comprise two instances. In the preliminary stage the President of the Court of Honour reviews the proposals and assesses whether the proposal meets the conditions for initiating proceedings. In the event that he or she fails to identify the moral aspects of the offense or the situation regarding which the proposal has been submitted⁴¹ the President terminates the proceedings. In the first instance, 3 members of the Court of Honour, i.e. the President and another two members, decide on the proposal. If they conclude that the proposal is incomplete or incomprehensible it is returned to the applicant to be amended within the legal deadline; if not resubmitted in this timeframe, the charges will no longer be considered. If the charges are found to be properly filed and appropriate, they are forwarded to the defendant who has to answer them within a set deadline. The next step is discussion that, as a rule, implies a single hearing which the parties are not required to attend. The discussion is led by the President of the Court, who must ensure that all facts and evidence as well as any relevant circumstances have been duly considered throughout the entirety of the proceedings. The President has the right to ask questions first, followed by questions from the council members. Upon the completion of examination, the president gives the final word to both parties, after which the members of the Council retreat to take a decision. The defendant may be acquitted or found guilty, in which case he or she will become subject to the sanctions envisaged by the Code of Ethics. Decisions are made by simple majority vote of the members of the Court or the Council.⁴²

Sanctions provided in the Code of Ethics are quite lenient, but even these have almost never been applied by the Court of Honour, especially the part that invites public judgement, both as a mechanism of prevention, as well as a form of sanction through public condemnation.

The measures envisaged by the Code of Ethics are as follows:

- a) public reprimand;
- b) public condemnation, to be published at the session of the Senate of the University;
- c) public condemnation, to be published in the „Newsletter of the University of Montenegro“⁴³

If any of the parties is not satisfied with the first instance decision, he or she has the right to complain within eight days from the date of the verdict. Five members decide on the complaint in the second instance, usually without discussion. These cannot be the same members who decided in the first instance. The cases in which a discussion is envisaged are listed in a separate section of the Code, and occur when it is deemed that for the sake of proper clarification or understanding of the facts it is necessary to put forward all or some of the evidence already presented to the first instance council.⁴⁴ If the second instance council accepts the complaint, two options are left, either **to void the contested decision** or **to alter it**, and if there is a possibility that another infringement was committed it **may forward the initiative to the responsible authority**. One of the obligations of the Court of Honour is also to keep accurate records of the measures imposed against persons who have violated the Code of Ethics.

41 Ibid, Article 21

42 Ibid, Article 17

43 Ibid, Article 11

44 Ibid, Article 33.



The current composition of the Court of Honour is regulated by Decision of the Senate of the University of Montenegro from 2015, and it consists of:

1. Prof. Dr Dražen Cerović, Law Faculty
2. Prof. Dr Filip Vukmirović, Faculty of Medicine
3. Prof. Dr Miroslav Kezunović, Faculty for Sport and Physical Education
4. Doc. Dr Srđan Kadić, Faculty of Natural Sciences and Mathematics
5. Prof. Žana Lekić, Music Academy
6. Prof. Dr Aleksandra Banjević, Faculty of Philosophy
7. Doc. Dr Milovan Radulović, Faculty of Electrical Engineering
8. Prof. Dr Marina Rakočević, Faculty of Civil Engineering
Member of the Court of Honor elected by the Student Parliament
9. Milan Tomić, student at the Law Faculty⁴⁵

In order to make the system effective, there should of course be more emphasis on the academic and scientific integrity, which is the most effective barrier between those who plagiarize others' works and those who use their knowledge and capacities to produce scientific research. However, this concept in Montenegro has not yet come to life, and the awareness of it is even lacking among the members of the Court of Honour. A glimpse into the annual report of the Court of Honour for the period 4 May 2015 to 1 September 2016 illustrates this well: In this period, the Court of Honour held nine sessions, one constituent and four regular in 2015, and four sessions in 2016. The proceedings conducted before it are time-consuming and ineffective in terms of dispute resolution, and often controversial. In this way, the very members of the Court appear to be undermining the Court of Honour as an institution. Finally, the website of the University of Montenegro contains no information about the sessions of the Court of Honour, or its decisions, and thus its work remains hidden from the public, despite the provisions to the contrary of the Code of Ethics. As the Court is an organ of the University of Montenegro, this only contributes to the overall lack of transparency of the UoM.

⁴⁵ Decision on establishing the Court of Honour of the UoM from 14/05/2015

Montenegrin practice – « higher » interests before the sanctioning of plagiarism

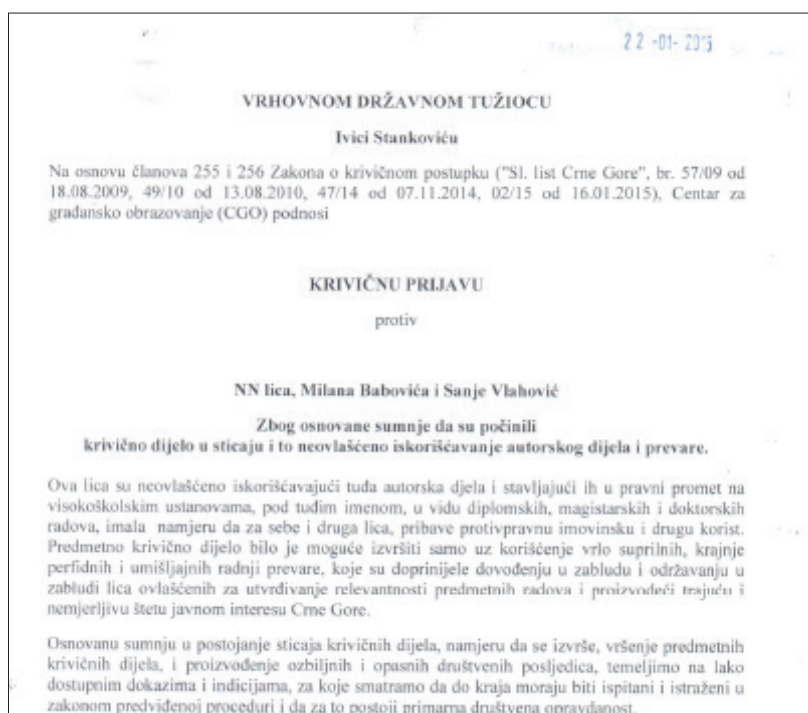
The case against Sanja Vlahović

Violation of the principles of academic ethics is bad enough when it comes from a member of the academic community, but when this member of the academic community is also a high-ranking public official, the problem takes on much larger proportions. One such example is Sanja Vlahović, the former Minister of Science in the Government of Montenegro, and currently the MP in the Parliament of Montenegro and professor at University Mediteran.⁴⁶

In September 2014, the media ran a series of articles⁴⁷ accusing Vlahović of plagiarising her scientific work, with substantial evidence. Although it has the ability to act proactively, the Prosecution choose to do nothing, and the academic community remained silent.

Following the analysis of Sanja Vlahović's work, the Centre for Civic Education (CCE) concluded that there was enough material to raise charges, and in January 2015 it filed a *Criminal complaint against NNs, Milan Babović⁴⁸ and Sanja Vlahović* to the Supreme State Prosecutor and the Basic State Prosecutor (BST) on reasonable suspicion that the accused had committed unauthorized use of copyrighted works and fraud.

The criminal complaint, among other things, notes: We suspect the existence of a concurrence of criminal acts, intention to carry them out, criminal conduct, and the creation of serious and dangerous social consequences. Our suspicions are grounded in easily accessible evidence and leads that we believe ought to be investigated via the set legal procedure, and we believe it to be of primary social importance to do so.



Excerpt from the criminal report filed by the CCE on 22/01/2015

46 Sanja Vlahović was Minister of Science in the Government of Montenegro 2012 - 2016, i.e. up to the parliamentary elections of 11/28/2016, when a new Government was appointed. She is MP of the ruling Democratic Party of Socialists (DPS) and member of the General Board of DPS.

47 <http://www.vijesti.me/vijesti/vlahovic-obmanula-naucnu-zajednicu-naucni-rad-nije-objavljen-795516>,
<http://www.vijesti.me/vijesti/vlahovic-prepisala-23-rada-od-stranih-autora-795672>

48 The cases of Milan Babovic and NN persons were elaborated in the following subheadings



In this case, Professor Dimitrios Buhalis of the Westminster University in the UK, has publicly confirmed that Vlahović plagiarized⁴⁹ his 2000 thesis “Marketing the Competitive Destination of the Future Destinations Integrated Experience for Tourists”, in her own article “Destination’s Competitiveness and Modern Tourism”.

“

You would expect from the Minister of Science to be ethical and qualified especially when her academic credentials are an integral part of her position and also when she is the Minister of Science! Intellectual theft of ideas and theories is unacceptable in modern society and inappropriate to do as most ideas are freely shared in the international community. The offenders only damage themselves by demonstrating that they are not capable of developing their ideas and have to steal from others, said prof. Dimitrios Buhalis

”

We also have reason to believe that Vlahović plagiarised three Romanian authors - Ramona Gruescu, Roxana Nanu and Georghe Pirvu, by presenting their 2009 article “Destination competitiveness: a framework for future research” at a scientific conference in May 2010 in Opatija, Croatia⁵⁰. The same article was the basis of her appointment as associate professor at Mediteran University.⁵¹

The following two paragraphs illustrate well the extent of plagiarism, which was also ascertained by the Mediteran University, according to the public statement of prof. Milenko Popović, a former member of the Senate, who resigned on his membership in the Senate due to this case. «...Then, at that session, we formed a Commission and ordered, so to speak, the IT specialists from our University to investigate the matter. They have investigated. It turned out that 63% was copied. And copied page after page, not here and there and not just some ideas, but the whole text was copy-pasted. We also ran it through a paid plagiarism website, and it also showed 63% not quoting, not summarizing, but copy-pasting, in the most brutal and insolent manner possible... Our IT experts who discovered it, were invited for a talk with the executive director of our University, and they were literally told that it did not happen, that they did not find anything.» When asked who the executive director was at the time, Popović said: «It was Manolina Bašović, but she is no longer there as far as I know...because since that happened, I only have contact with other teachers and I have absolutely nothing to do with the management. They boycott me and I boycott them. I'm there literally as a private entrepreneur, a professor who comes to the classroom, leaves the classroom and goes home. This situation is rather compromising for the University. I do not know what the situation is now, whether and to what extent the people from the Management Board have been involved in it, but I know that the executive director did the dirty part of the job, so to speak... »

49 Blog of prof. Buhalis - <http://retractionwatch.com/2014/09/15/montenegros-science-minister-accused-of-plagiarism/>

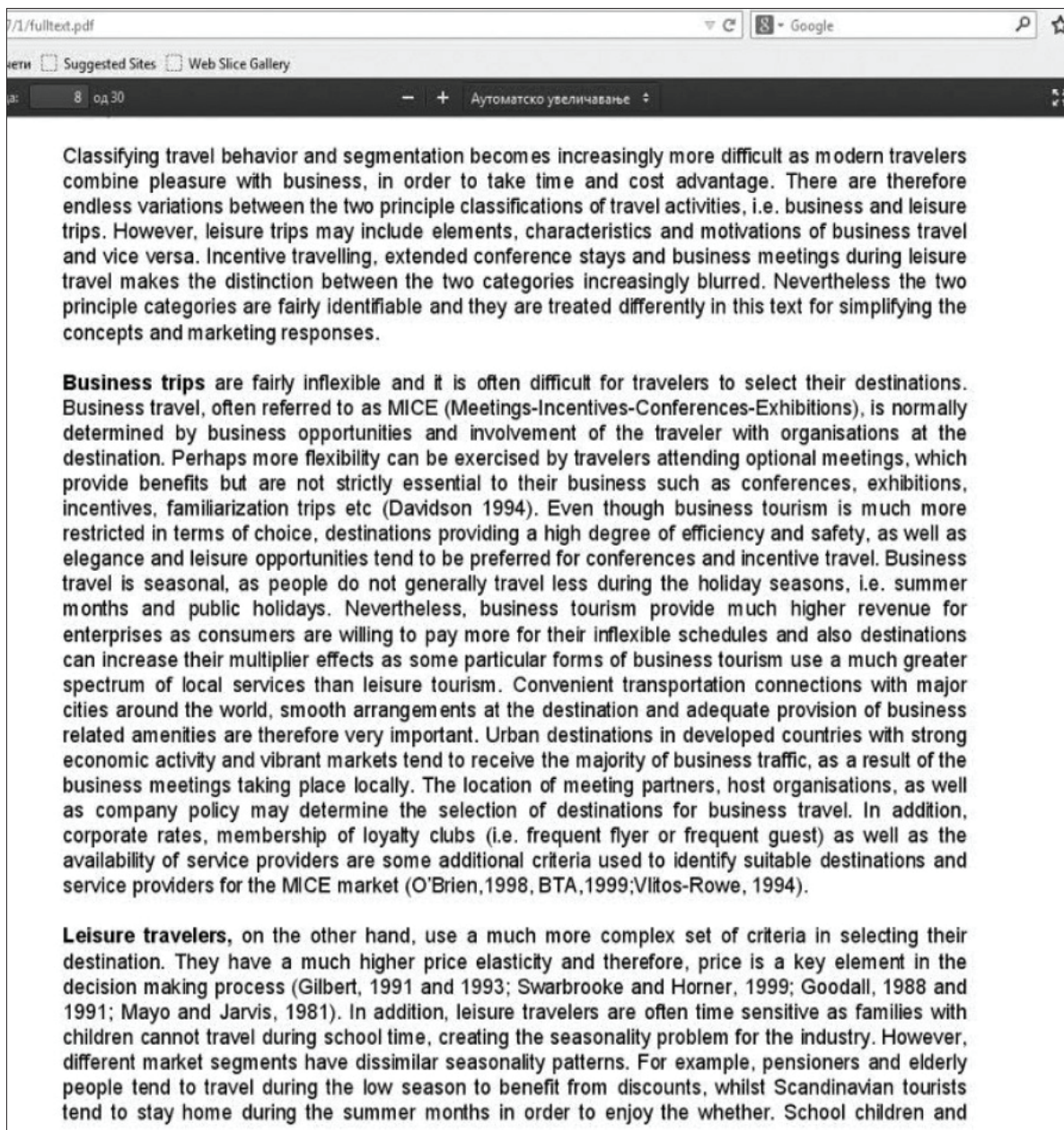
50 <http://connection.ebscohost.com/c/articles/53067183/destinations-competitiveness-modern-tourism>

51 Newsletter of Mediterranean University, no. 24 from May 2011, <http://unimediterranean.net/fajlovi/bilteni/24.pdf>

“

I do not know what could be a greater crime in this area when you have 63% of the text copy-pasted, without any intervention, without any attempt to rework the text or remove the traces.
Prof. Milenko Popović

”



The text of Dimitrios Buhalis, "Marketing the Competitive Destination of the Future Destinations integrated Experience for Tourists"⁵²

⁵² Taken from ND Vijesti, ND Vijesti, 13/9/2014, <http://www.vijesti.me/vijesti/vlahovic-prepisala-23-rada-od-stranih-autora-795672>



Classifying travel behavior and segmentation becomes increasingly more difficult as modern travelers combine pleasure with business, in order to take time and cost advantage. There are therefore endless variations between the two principle classifications of travel activities, i.e. business and leisure trips. However, leisure trips may include elements, characteristics and motivations of business travel and vice versa, Incentive traveling, extended conference stays and a business meeting during leisure

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Tourism & Hospitality Management 2010, Conference Proceedings
S. Vlahović: DESTINATIONS' COMPETITIVENESS IN MODERN TOURISM, pp. 1332-1348

travel makes the distinction between the two categories increasingly blurred. Nevertheless the two principle categories are fairly identifiable and they are treated differently in this text for simplifying the concepts and marketing responses.

Business trips are fairly inflexible and it is often difficult for travelers to select their destinations. Business travel, often referred to as MICE (Meetings-Incentives-Conferences-Exhibitions), is normally determined by business opportunities and involvement of the traveler with organizations at the destination. Perhaps more flexibility can be exercised by travelers attending optional meetings, which provide benefits but are not strictly essential to their business such as conferences, exhibitions, incentives, familiarization trips etc. Even though business tourism is much more restricted in terms of choice, destinations providing a high degree of efficiency and safety, as well as elegance and leisure opportunities tend to be preferred for conferences and incentive travel.

Business travel is seasonal, as people do not generally travel less during the holiday seasons, i.e. summer months and public holidays. Business tourism provide much higher revenue for enterprises as consumers are willing to pay more for their inflexible schedules and also destinations can increase their multiplier effects as some particular forms of business tourism use a much greater spectrum of local services than leisure tourism. Convenient transportation connections with major cities around the world, smooth arrangements at the destination and adequate provision of business related amenities are therefore very important. Urban destinations in developed countries with strong economic activity and vibrant markets tend to receive the majority of business traffic, as a result of the business meetings taking place locally. The location of meeting partners, host organizations, as well as company policy may determine the selection of destinations for business travel.¹

Leisure travelers, on the other hand, use a much more complex set of criteria in selecting their destination. They have a much higher price elasticity and therefore, price is a key element in the decision making process. In addition, leisure travelers are often time sensitive as families with children cannot travel during school time, creating the seasonality problem for the industry. However, different market segments have dissimilar seasonality patterns. For example, pensioners and elderly people tend to travel during the low season to benefit from discounts, whilst Scandinavian tourists tend to stay home during the summer months in order to enjoy the weather. School children and University students go on field research trips or excursions during the low season. Therefore, destinations have to identify the seasonality patterns of their various markets and attract compatible segments, which will enable them to maximize their total yield. It is also important to understand other factors that influence the decision of consumers to purchase. The social status and peer groups of consumers often influence what is acceptable and desirable as a destination. Travel intermediaries also play a significant role in determining the destination decision of consumers by using a wide range of promotional techniques and often channeling travelers to destinations and principals who offer higher remuneration for them. This will also enable destinations to manage their resources according and attract the right market segments in order to optimize their impacts.

¹ Philip Scranton and Janet F. Davidson, eds. *The Business of Tourism: Place, Faith, and History*. Hagley Perspectives on Business and Culture. Philadelphia, PA: University of Pennsylvania Press, 2007.

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Excerpt from the text of Sanja Vlahović's "Destinations and competitiveness in modern tourism"⁵³

In late 2014, the former rector of the Mediteran University, prof. Dr Slobodan Backović, initiated proceedings for investigation of plagiarism before the Senate of the Mediteran University. In the meantime, a new leadership was elected, and a Commission was established to verify the authenticity of the work. The Commission, led by Dr. Srđa Božović, concluded that there was no legal basis for the University to identify the work as plagiarism⁵⁴, despite the fact that the Law on Higher Education is very explicit about leaving the universities the autonomy to deal on their with the issues of determining plagiarism⁵⁵. The process was accompanied by a series of controversies, and it was obvious that the management was eager to sweep this case under a rug as soon as possible, without convicting the Minister – all of which seriously undermined the credibility of this institution.⁵⁶

CCE's criminal complaint of CCE was under review by the BSP for almost eight months, and the prosecutor in charge Vukas Radonjić contacted CCE on several occasions with request for supplementary documents, all of which the CCE duly submitted. The complaint was eventually rejected because, according to the prosecutor, «the statute of limitations had expired»⁵⁷ of which the Prosecutor informed the CCE in late August 2015. Following the appeal procedures of the Code of Criminal Procedure, the CCE submitted to the High Prosecutor's Office an *Appeal for review of the decision on dismissal of criminal charges*, stressing that there is no question of obsolescence of criminal prosecution and therefore there cannot be legal rejection of criminal charges, because, as maintained by the CCE's legal team this is either a case of *protracted criminal offense*, or of a *new criminal offense*, as the work in question continues to be sued for award of scientific titles as well as for other purposes.⁵⁸ After two months, in October 2015, the Senior Deputy Prosecutor Olivera Ražnatović returned the case to BSP for further consideration, with the assessment that «the previous decision had been based on incomplete information about the length of the statute of limitations».

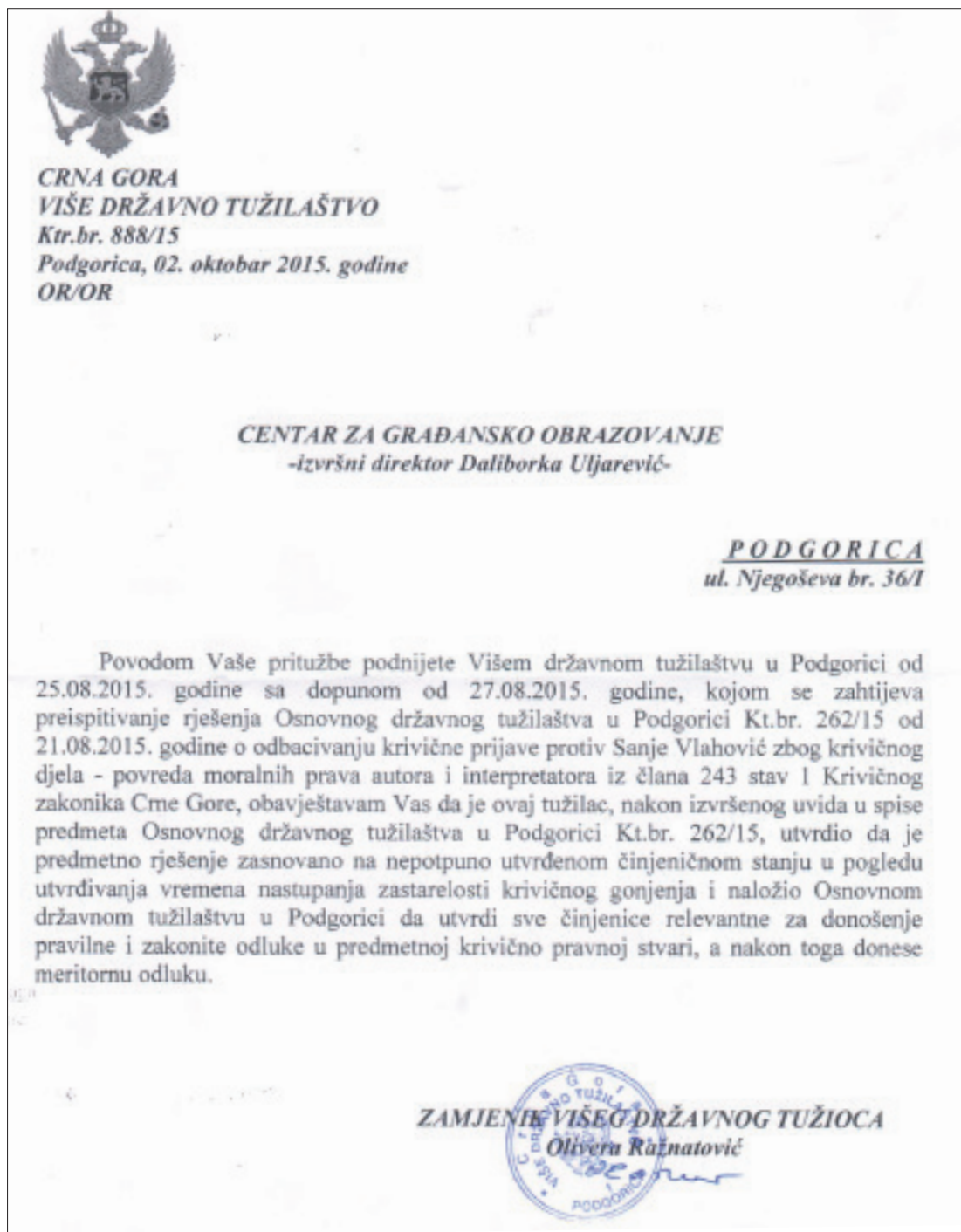
54 <http://www.vijesti.me/vijesti/univerzitet-mediteran-nema-pravnog-osnova-za-provjeru-plagijata-vlahovic-i-babovic-811703>

55 Head of Commission was Dr Srđa Božović, while members were Dr Savo Marković, Dr Jelena Žugić, Dr Dragoljub Janković and Dr Silvana Đurašević.

56 Weekly *Monitor*, http://www.monitor.co.me/index.php?option=com_content&view=article&id=6096:posuivanje-tue-pameti-plagiraj-bie-ministar&Itemid=5494, 19/06/2015

57 Act of the Basic State Prosecution, kt. No. 262/15, from 21/08/2016

58 Decision of BSP is illegal and unprofessional - <http://cgo-cce.org/2015/08/26/odluka-odt-nezakonita-i-neprofesionalna/#.WFPqTiMrLfY>, Is Montenegrin Prosecution allowed to prosecute high state officials? - <http://cgo-cce.org/2015/08/27/da-li-crnogorsko-tuzilastvo-smije-da-procesuiravise-visoke-drzavne-funkcionere/#.WFPqcyMrLfY>



Decision of the Higher State Prosecution from 2/10/2015 on the CCE's appeal

After nearly four months, the basic state prosecutor once again dismissed our charges on grounds of expiry of the statute of limitation.



CRNA GORA
OSNOVNO DRŽAVNO TUŽILAŠTVO
U PODGORICI
Kt br.262/15
Podgorica, 12. januar 2016.godine
VR/VR

NEVLADINA ORGANIZACIJA „CENTAR ZA GRAĐANSKO OBRAZOVANJE“
izvršni direktor Daliborka Uljarević

PODGORICA
Njegoševa 36/I

Osnovom čl.271 st.2 Zakonika o krivičnom postupku, obavještavate se da je rješenjem ovog tužilaštva Kt br.262/15, od 12.01.2016.godine, odbačena krivična prijava koju ste, dana 23.01.2015.godine, podnijeli protiv Sanje Vlahović iz Bara, zbog krivičnog djela povreda moralnih prava autora i interpretatora iz čl.233 st.1 Krivičnog zakonika, jer je nastupila zastarjelost krivičnog gonjenja.

Upoznajem i da, kao podnosilac krivične prijave, jer su oštećeni nepoznati, imate pravo da, u roku od osam dana od dana prijema ovog obavještenja, Višem državnom tužilaštvu u Podgorici podnesete pritužbu za preispitivanje rješenja o odbacivanju krivične prijave, u skladu sa čl.271a st.1 u vezi čl.271 st.2 Zakonika o krivičnom postupku.

ZAMJENIK DRŽAVNOG TUŽIOCA
Vukas Radonjić

Decision of the Basic State Prosecution from 12/11/2016

The CCE filed another *Appeal to the Higher State Prosecution* in which it again argued that this is a criminal offense of prolonged duration, which means that the accused is still drawing benefits of the plagiarized work, as demonstrated by the evidence provided, and that the offence can therefore not be considered obsolete. This time, the same higher prosecutor, Olivera Ražnatović overruled the decision she herself had made and signed five months previously, and concurred with the view of BSP.



CRNA GORA
VIŠE DRŽAVNO TUŽILAŠTVO
Kt.br. 888/15
Podgorica, 15. februar 2016. godine
OR

CENTAR ZA GRABANSKO OBRAZOVANJE
-izvršni direktor Dušanka Ujarević-

PODGORICA
ul. Njegoševa br. 36/1

Povodom Vaše pritužbe podnijete Višem državnom tužilaštvu u Podgorici dana 21.01.2016. godine, kojom se zahtijeva preispitivanje rješenja Osnovnog državnog tužilaštva u Podgorici Kt.br. 262/15 od 12.01.2016. godine o odbacivanju krivične prijave protiv Sanje Vlahović zbog krivičnog djela - povreda moralnih prava autora i interpretatora iz člana 233 stav 1 Krivičnog zakonika Crne Gore, obavještavam Vas da je ovaj tužilac postupajući po navedenoj pritužbi ocijenio da je odluka Osnovnog državnog tužilaštva u Podgorici da je nastupila zastarjelost krivičnog gonjenja donijeta u skladu sa zakonom.

Iz spisa predmeta proizilazi da je Osnovno državno tužilaštvo u Podgorici utvrdilo da je prijavljena Vlahović, naučni rad „Destinations competitiveness in modern tourism“, za koji se u prijavi navodi da je plagijat, objavila u periodu od 6. do 8.05.2010. godine na naučnom kongresu održanom u Opatiji, u Republici Hrvatskoj. Ova radnja, u formalno pravnom smislu, predstavlja radnju izvršenja krivičnog djela – povreda moralnih prava autora i interpretatora iz člana 233 stav 1 Krivičnog zakonika Crne Gore, za koje djelo se ima smatrati da je tada i nastupila štetna posljedica, od kada, shodno članu 125 stav 1 Krivičnog zakonika Crne Gore, zastarijevanje krivičnog gonjenja počinje da teče.

Takođe je Osnovno državno tužilaštvo u Podgorici, u skladu sa uputstvom Višeg državnog tužilaštva u Podgorici, datog u postupku preispitivanja ranijeg rješenja o odbacivanju krivične prijave, utvrdilo da je druga radnja, koja u formalno – pravnom smislu predstavlja radnju izvršenja predmetnog krivičnog djela, preduzeta dana 22. i 25.04.2011.godine, kada je od strane komisije Senata Univerziteta „Mediterran“ vršeno ocjenjivanje i bodovanje navedenog naučnog rada prijavljene u postupku njenog izbora u

akademsko zvanje vanredni profesor, za koje djelo se ima smatrati da je preduzimanjem te radnje nastupila štetna posljedica, od kada, shodno članu 125 stav 1 Krivičnog zakonika Crne Gore, zastarijevanje krivičnog gonjenja počinje da teče, pa je Osnovno državno tužilaštvo u Podgorici ocijenilo da je protekom roka od tri godine, shodno članu 124 stav 1 tačka 6 Krivičnog zakonika Crne Gore, nastupila zastarjelost krivičnog gonjenja.

U podnijetoj pritužbi citirane su odredbe člana 125 stav 5 Krivičnog zakonika Crne Gore kojom je propisano „zastarijevanje se prekida i kad učinilac u vrijeme dok teče rok zastarjelosti učini isto tako teško ili teže krivično djelo“ i odredba člana 125 stav 6 Krivičnog zakonika Crne Gore kojom je propisano „svakim prekidom zastarijevanje počinje ponovo da teče.“

Primjenom citiranih odredbi Krivičnog zakonika u odnosu na prvu radnju izvršenja preduzeta 06. do 08.05.2010.godine, zastarijevanje počinje da teče od dana preduzete radnje izvršenja, odnosno nastupanja posljedice, a prekida se 25.04.2011.godine, kada je preduzeta druga radnja izvršenja, kada je vršeno ocjenjivanje i bodovanje prijavljene prilikom izbora za zvanje vanredni profesor, kada zastarijevanje ponovo počinje da teče i protekom roka od tri godine, tj. dana 25.04.2014. godine u svakom slučaju je nastupila relativna zastarjelost krivičnog gonjenja.

U pogledu odredbe člana 125 stav 4 Krivičnog zakonika Crne Gore, kojom je propisano „zastarijevanje se prekida svakom procesnom radnjom koja se preduzima radi otkrivanja i gonjenja učinioaca zbog učinjenog krivičnog djela“ ukazujem da je krivična prijava podnijeta dana 23.01.2015.godine, dakle, nakon što je nastupila relativna zastarjelost krivičnog gonjenja, sa kojih razloga se preduzimanjem procesnih radnji od strane nadležnog organa, nakon podnošenja krivične prijave, odnosno nastupanja relativne zastarjelosti krivičnog gonjenja, ne može prekinuti zastarijevanje, niti je prema zakonskim rješenjima bila moguća primjena citirane odredbe Krivičnog zakonika Crne Gore, jer se zastarjelost može prekinuti samo u slučaju da su procesne radnje preduzete prije nastupanja relativne zastarjelosti krivičnog gonjenja.



The second decision of the same Higher State Prosecutor from 15/02/2016

By this the Prosecution closed all legal possibility to prosecute this case. More importantly, its misleading and socially detrimental interpretation of this case signalled to all those who plagiarize that, even though they continue to benefit from their past crimes, as long as three years have passed since they initially committed the offence, they will be safe from the hand of the law. Meanwhile, the case has spent over a year in the prosecution, but it never got further than being assigned deadlines for discussion, something that should not take more than a few hours. It is noteworthy that the Prosecution never, in any of its correspondence, negated the existence of the offence, but it made plenty of contradictory statements about its own jurisdiction over the case. The last rejection by prosecutor Radonjić stated, inter alia, that «the persons suffering the damage are unknown», while in a TV appearance where he was invited to talk about this case, he maintained that the prosecution did not go into assessing anything but the its real and territorial jurisdiction and deadlines. It is unclear why it took the whole of eight months to establish these basic facts, especially as they have already been clearly spelled out in the complaint itself. Finally, all of this confirms that the Montenegrin Prosecution lacks the will, professionalism, and integrity to pursue these cases adequately and to demonstrate that nobody is privileged under the law, regardless of which party her or she may belong to.

The case against Milan Babović

The case against Milan Babović, an official of the ruling Democratic Party of Socialists (DPS) was processed in parallel with the case against Vlahović. The case was broached in the media in August 2014⁵⁹, first on the basis of reasonable suspicion that Babović plagiarized columns that he published in the media, and then that he also plagiarized his master's thesis. At that time, in addition to his position in the political party, Babović also held an academic position as a teaching assistant at the Mediteran University.

In this case too the institutions failed to pursue the case proactively, as is their legal obligation especially given the public attention that this case attracted. The CCE thus took the initiative to file a combined criminal complaint against Vlahović, Babović and NN persons.

Dalje, dostavljamo izvode iz dnevne novine "Dan" od 30. avgusta 2014. godine, gdje se u tekstu na strani 3, pod naslovom "Funkcioner DPS-a plagirao tekst kolege iz Srbije", iskazuje sumnja u nezakonito iskorišćavanje tuđeg autorskog djela, u konkretnom slučaju teksta autora Mikija Vidakovića, državljanina Republike Srbije, pod naslovom "Pismo izbornom kandidatu", od strane Milana Babovića, državljanina Crne Gore. Dostavljamo i izvod iz dnevne novine "Dan" od 4. septembra 2014. godine, gdje se u tekstu "Plagirao i magistarski rad" mogu naći osnovi sumnje da je Milan Babović, titulu magistra ostvario prepisujući, bitan dio rada, od Petra Martinovića.

Excerpt from the criminal charges filed by CCE on 22/1/2015

Babović had plagiarized the work of Petar Martinović, who got his master's degree at the University of Ljubljana in 2003, with a thesis titled "*Touristic product of Montenegro and the strategic directions of its development*". Babović defended his own thesis, "*The impact of capital investments on development of the tourism industry in Montenegro*" at the Mediteran University in 2011, before committee that consisted of Babović's mentor, prof. Miro Blečić, prof. Dr Darko Lacmanović and Silvana Đurašević⁶⁰. According to the media reports, 60 out of 120 pages of Babović's thesis had been directly copied from the work of Martinović, without any reference to his work.⁶¹

Thereafter, Babović confirmed the rule that an author who had stolen ideas from another once is likely to do it again: on 2/3/2013 he published a column in daily Dnevne Novine⁶², titled "*Letter to an election candidate*", which turned out to have been written by his fellow politician from Serbia, Miki Vidaković. The only changes he made were to switch the text from the ekavian to ijekavian dialect, and amend some figures that were different in the two countries. It was later found that Babović plagiarized two more columns: an article titled *Montenegro should join NATO*, published on the website of the DPS was taken from a Montenegrin citizen Ivana Gardašević⁶³, and another one from Miomir Brkić from Serbia.⁶⁴

Unfortunately, in this case too both academic institutions and the prosecution failed the test.

59 Daily Dan, 30/8/2014 «Official of DPS plagiarized text of a fellow colleague from Serbia»

60 Daily Dan, 4/9/2014, «He plagiarized a master's work too»

61 Daily Dan, 4/9/2014, «He plagiarized a master's work too»

62 Dnevne novine, 2 and 3 April 2013, Topical, Stance, <https://issuu.com/dnevne-novine/docs/479>

63 PCNEN, Ivana Gardašević, *My view of relations between Montenegro and NATO*, 13/9/2009 <http://www.pcnen.com/portal/2009/04/13/moje-videnje-odnosa-crne-gore-i-nato-a/>, <http://www.vijesti.me/vijesti/magistar-i-asistent-novi-plagijat-uzdanice-dps-a-793822>

64 <http://www.vijesti.me/vijesti/funkcioner-dps-a-plagirao-i-magistarski-rad-794413>



According to the Rector of the University Mediteran Slobodan Backović⁶⁵, the University had formed an Expert Commission for verification of plagiarism in the master's thesis of Milan Babović. The Commission was composed of *Dr Ana Stranjančević, Andrea Kavarić and Mladen Bukilić*⁶⁶. From the information available, it can be concluded that the Commission of the Mediteran University did not really examine the originality of the master's thesis of Milan Babović, which the Commercial Court subsequently found to be plagiarism. The question, indeed, is what the Commission did at all. "As the commission only met once or twice, I have no comment about the case," the Commission member Andrea Kavarić told Vijesti. Other members did not respond to reporters' questions.⁶⁷

The first response from the Prosecution to the CCE's complaint came eight months later. It noted that the case was separated from that of Vlahović, namely, that a separate criminal case No.85/15 was created and that information is being collected. After another five months, the Basic State Prosecution passed a decision virtually identical to that in the case against Vlahović citing expiry of the statute of limitations.

Decision of Basic State Prosecution from 14/1/2016



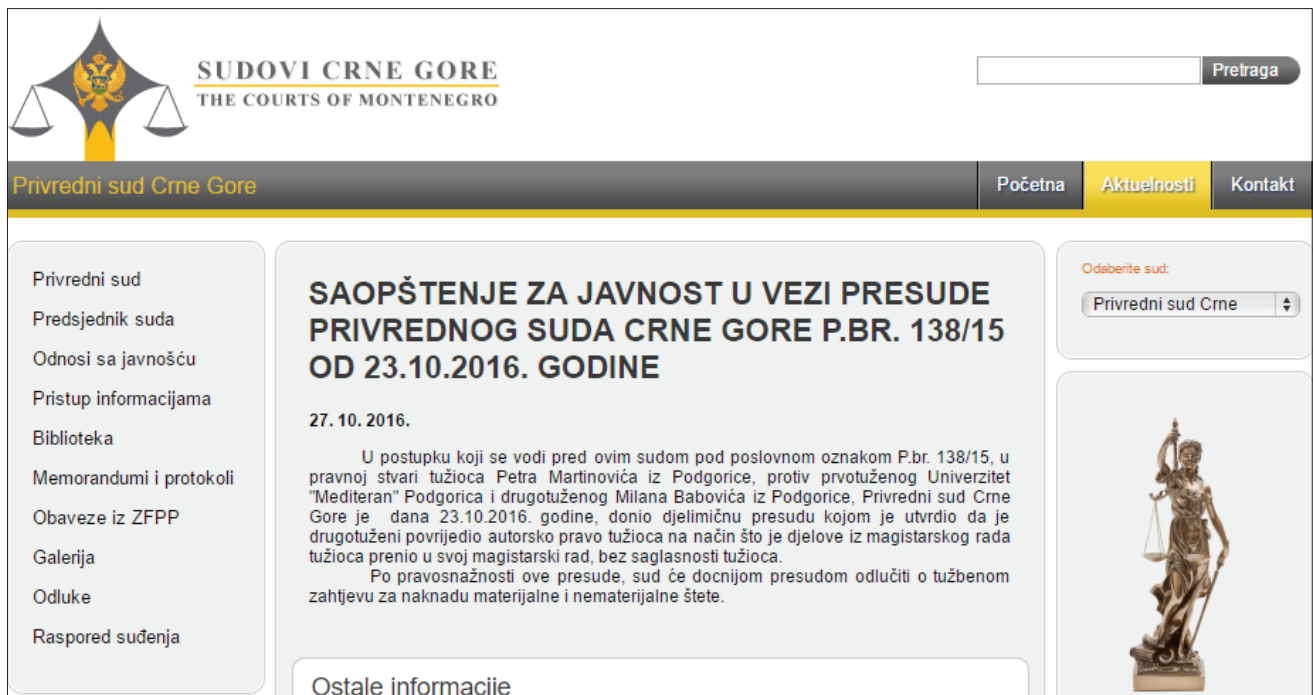
65 <http://www.vijesti.me/vijesti/babovicu-ponistavaju-magistraturu-794568>

66 <http://www.vijesti.me/vijesti/univerzitet-mediteran-nema-pravnog-osnova-za-provjeru-plagijata-vlahovic-i-babovic-811703>

67 <http://www.vijesti.me/vijesti/babovicev-rad-nije-ni-kontrolisan-909534>

This time, however, the author of work which Babović had plagiarized in his master thesis, Petar Martinović, raised private charges against the University Mediteran and Milan Babović in order to protect his work in court.

The partial judgement of the Commercial Court of Montenegro concludes that plagiarism had occurred. Having obtained this interim ruling, Martinović said that his lawyer will continue the process in order to obtain compensation for material and immaterial damage. He also noted that a part of his charges concern the University Mediteran, in respect of their responsibility to evaluate the originality of the master thesis itself and subsequent further use of plagiarized work for Babović's promotion.⁶⁸



SUD OVI CRNE GORE
THE COURTS OF MONTENEGRO

Pretraga

Privredni sud Crne Gore Početna Aktuelnosti Kontakt

Privredni sud
Predsjednik suda
Odnosi sa javnošću
Pristup informacijama
Biblioteka
Memorandumi i protokoli
Obaveze iz ZFPP
Galerija
Odluke
Raspored suđenja

**SAOPŠTENJE ZA JAVNOST U VEZI PRESUDE
PRIVREDNOG SUDA CRNE GORE P.BR. 138/15
OD 23.10.2016. GODINE**

27. 10. 2016.

U postupku koji se vodi pred ovim sudom pod poslovnom oznakom P.br. 138/15, u pravnoj stvari tužioca Petra Martinovića iz Podgorice, protiv prvotuzenog Univerziteta "Mediteran" Podgorica i drugotuzenog Milana Babovića iz Podgorice, Privredni sud Crne Gore je dana 23.10.2016. godine, donio djelimičnu presudu kojom je utvrdio da je drugotuzeni povrijedio autorsko pravo tužioca na način što je djelove iz magistarskog rada tužioca prenio u svoj magistarski rad, bez saglasnosti tužioca.

Po pravosnažnosti ove presude, sud će docnijom presudom odlučiti o tužbenom zahtjevu za naknadu materijalne i nematerijalne štete.

Odaberite sud:
Privredni sud Crne

Ostale informacije

Press release regarding the judgement of the Commercial Court in the case of Petar Martinović against University Mediteran and Milan Babović⁶⁹

68 DN Dan, 28/10/2016, <http://www.dan.co.me/index.php?nivo=3&rubrika=Povodi&clanak=570528&najdatum=2016-10-28&datum=2016-11-01&naslov=O%E8ekujem%20naknadu%20%B9tete%20zbog%20plagijata>

69 <http://sudovi.me/pscg/aktuelnosti/b-saopstenje-za-javnost-u-vezi-presude-privrednog-suda-crne-gore-p-br-138-15-od-23-10-2016-godine-b-4211>



Just as in Vlahović's case, however, none of this led the ruling DPS to publicly distance itself from its compromised members, and Babović continued to be close to the decision makers from DPS.



From the session of the General Board of DPS held on 28/10/2016, Babović is in the second row, second from the right⁷⁰

⁷⁰ Facebook page of Milan Babović - <https://www.facebook.com/milanbabovic.dps.me/>

The case against Velimir Rakočević

A particularly stunning case is that of Velimir Rakočević professor of criminology and now the dean of the Faculty of Law of the UoM. Some public revelations of this case have taken on the elements of a thriller, and the case itself is probably the most significant example of the failure of the University of Montenegro and its management, as well as the Court of Honour of the UoM and the Law Faculty to uphold the principles of academic honour.

At the moment of Rakočević's appointment to the office of Dean of the Faculty of Law of UoM in February 2016, the CCE had in its possession documents that indicated serious though yet insufficiently investigated allegations of misuse of copyrighted work. The allegations concerned a textbook Rakočević published, and - even more gravely - his doctoral thesis. Specifically, prof. Dr Đorđe Ignjatović, professor at the Law Faculty of Belgrade University, had in 2009 published an article in the journal «Annals», titled «*Illegal appropriation of others' work in science - a case study*»⁷¹ in which he accused Rakočević of having plagiarized his books «Criminology» (VII edition, Dosiје, Belgrade), «Criminological inheritance» (revised edition III, Official Gazette, Belgrade 2006), as well as «Criminological lexicon» by Milo Bošković (Matica Srpska, Novi Sad, 1999), «Criminology» by Vesna Nikolić and Slobodanka Konstantinović (Centre for publications, Law Faculty in Niš), and «Criminology» by Mladen Singer, Irma Kovčo and Irena Cajner (Globus, Zagreb, 2002) in the writing of his own textbook «Criminology» (first edition, BD Graf, Podgorica, 2007, pg. 441, COBISS.CG 11895312). Ignjatović's text is a comparative analysis of Rakočević's textbook and those textbooks from which, according to Ignjatović, Rakočević took entire sections, without permission and usually without even referencing their authors, with only minimal adjustments to convert the ekavian to ljekavian dialect.

Плагијат је, да подсетимо, „преписивање из туђих дела, недопуштено присвајање туђе духовне својине“,¹ а та појава се у науци манифестује пре свега у коришћењу туђе систематике рада, идеја или, чак, директном преписивању и преузимању туђег рада. Дело др Ракочевића у великом обиму задовољава све наведене критеријуме, јер је од *Предговора до Библиографије* на крају књиге, компилација више радова писца овог текста и још неколико аутора. Овде се првенствено ради о уџбенику Ђ. Игњатовић, *Криминологија*, седмо издање, Досије, Београд 2006 (у даљем тексту: КЛ) и књизи Ђ. Игњатовић, *Криминолошко наслеђе*, треће измењено издање, Службени гласник, Београд 2006 (у тексту: КН), али и другим радовима на које ћемо указати.

Excerpt from text of prof. Dr Ignjatović «Illegal appropriation of others' work in science - a case study»

“

The text under this title should be in the future printed and distributed to students at all levels of study as an example of what they should never even think of doing in their professional work, prof. Dr Đorđe Ignjatović

”

⁷¹ <http://anali.ius.bg.ac.rs/A2009-2/Anali%202009-2%20str.%20289-309.pdf>



Ignjatović's article thoroughly analysed each chapter of Rakočević's textbook, identifying his failures to acknowledge others' work.

Почнимо са *Предговором* уџбеника. У најновијем уџбенику писца овог текста² напомиње се:

„Осмо издање уџбеника *Криминологије* задржало је основну систематику досадашњих, али су у њему извршене бројне измене изазване двоструким разлозима. С једне стране, постојала је потреба да се његов обим прилагоди захтевима тзв. болоњског процеса о обиму уџбеника. ... из рада су изостављени и бројни графички прикази који су помагали да се на лак и једноставан начин разумеју многе сложене појаве и односе“.

Ракочевић у свом *Предговору* напомиње да се „као носилац наставе из области криминологије, криминалистике, пенологије и социјалне патологије на Правном факултету и Факултету политичких наука у Подгорици“ суочио са потребом да изда уџбеник криминологије и затим да:

„У циљу прилагођавања уџбеника потребама болоњског процеса у погледу обима, изостављени су дјелови текста и бројни графички прикази, који би помогли да се боље разумију комплексне појаве из области науке о злочину“.

¹ М. Вујаклија, *Лексикон страних речи и израза*, Београд 1961, 727.

² У овом случају ради се о осмом измењеном и допуњеном издању, Ђ. Игњатовић, *Криминологија*, Досије, Београд 2007.

Excerpt from text of prof. PhD Ignjatović «Illegal reaching out to others' work in science - a case study»

Али, код основних појмова, Ракочевић је – ваљда да мало прошара оне од којих зајми – узео *Криминолошки лексикон* М. Бошковића, Матица српска, Нови Сад 1999. На скоро *девет страна* (13–21), Ракочевић је преузео велики број одредница из наведеног Лексикона,⁴ а да није поменуо извор – књигу која, потом, није поменута ни у *Библиографији* на крају уџбеника! На овом примеру се лепо открива технологија „научног рада“ овог аутора. Наиме, он најчешће не преписује буквално, већ препричава туђ текст и ствара утисак да је његов. Али тако, наравно, преузима и туђе грешке. Навешћемо

Excerpt from text of prof. Dr Ignjatović «Illegal appropriation of others' work in science - a case study»

At the end of his article, Ignjatović also raised questions about the authenticity of Rakočević's doctorate.

Када смо већ код доктората на Правном факултету Универзитета у Београду, после овог искуства погледао сам његову тезу под насловом *Откривање и сузбијање злоупотребе дрога* одбраћену 2003. године. Већ на први поглед, један део дисертације учинио ми се познатим. Ради се о почетку Главе II – *Међународна заједница и сузбијање злоупотребе опојних дрога*. Као приређивачу избора текстова Обрада Перића (*Зборник радова, Досије и Криминолошка секција СУКРПРТП, Београд 2007*) познат ми је чланак овог уваженог доајена наше Криминологије под насловом „Међународноправни аспекти сузбијања злоупотребе опојних дрога“, који је изворно објављен у часопису *Правни живот* 10/1981, стр. 71–91.

На моје изненађење, констатовао сам да је Ракочевић и овде, на *девет страница* великог формата (стр. 61–70 дисертације) скоро дословно преписао проф. Перића (стр. 71–86), заједно са свим фуснотама на француском, руском, енглеском и нашем језику. Наравно, нигде не помињући правог аутора текста! Чак се није много ни трудио да „завара траг“ осим понегде, нешто другачијим почетком реченице, убацивањем појединих делова текста, нешто другачијим избором речи, „стилским дотеривањем“, итд.

Excerpt from text of prof. Dr Ignjatović «Illegal appropriation of others' work in science - a case study»

In light of all this, in anticipation of the meeting of the Management Board of the University of Montenegro, the CEE submitted to Rector Radmila Vojvodić a letter with a request to weigh in the authority of her office to prevent the Management Board from confirming the appointment of Velimir Rakočević as Dean of the Law Faculty.⁷²

The letter was accompanied by supporting documentation, and in addition to the request that the procedure of further appointment of Rakočević is suspended, the CCE asked the Rector to take all measures to ensure that this case is adequately investigated by independent experts of impeccable academic integrity and, if necessary, legally prosecuted. Instead of stopping the procedure and mobilising the available legal mechanisms to remove every shred of doubt in the validity of this process and above all to convince the public that people elected to leadership positions within the University of Montenegro are devoted to the principles of academic honour, the Rector stood in defence of Rakočević a priori, and the UoM released an unsigned statement severely attacking the CCE.⁷³ It is not unusual in the Montenegrin circumstances to attack whistleblowers instead of attacking the problem, but when it comes from the world of academia and from the highest position therein, it suggests a worrying degree of closure in an institution that should spearhead openness, especially towards dissidents. Without addressing any of the CCE's well-documented points, the UoM instead tried to “teach the law” to the CCE in a manipulative statement. The public knows that the CCE has on many occasions demonstrated better knowledge of laws and procedures than the UoM, as confirmed by a number of court verdicts. The CCE's request was in line with all applicable

72 <http://cgo-cce.org/2016/02/21/temeljno-provjeriti-navode-o-plagijatu-prije-potvrde-imenovanja-dekana-pravnog-fakulteta/#.WFZQYiMrLFY>

73 <http://www.ucg.ac.me/me/media/press/vijesti/cgo-ne-poznaje-dovoljno-nacin-funkcionisanja-univerziteta-i-njegovih-organa>



regulations, as the Rector, by the Statute of UoM, issues opinion on the appointment of a Dean⁷⁴. The CCE's intervention in the interest of the public at large as well as in the interest of the UoM: a responsible approach of a party attempting to draw the attention of those in charge to evidence that questions the legality and legitimacy of Rakočević's appointment.

The irony is that Rakočević was also heading the Court of Honour from 2007 to 2010, i.e. precisely in the period in which his application for allocation of subsidised housing by the UoM was rejected by the Commission for addressing the housing needs of staff and employees at UoM. In its Decision on Rakočević's request for allocation of an apartment the Commission concluded: "*The applicants... and Velimir Rakočević, ARE EXCLUDED from the process of solving the housing needs due to delivery of inaccurate information (item 8 Call for allocation of apartments to personnel of the University of Montenegro under favourable conditions), in accordance with Article 19, paragraph 4 of the Rules on addressing the housing needs of personnel at UoM (Newsletter of UoM no. 245/09)*"⁷⁵.

This in itself is hardly a proof of honour of the, at the time, still unconfirmed candidate for the Dean, and here a useful digression should be made to review the criteria that guided the Rector's opinion on the appointment of Dean. Despite serious allegations threatening the academic credibility of Rakočević, Rector Vojvodić quickly issued a positive opinion on his appointment as Dean of the Law Faculty to the Management Board. Just a few months later, the same Rector Vojvodić issued an opinion on the appointment of prof. Dr Stevan Šćepanović as Dean of the Faculty of Natural Sciences and Mathematics that was decidedly less supportive. The decision of the Management Board of the University of Montenegro, states, in reference to the Rector's opinion: "*The opinion also states that cooperation with prof. Stevan Šćepanović as deputy Dean, during the team-work in the course of the reforms at the UoM, was unconstructive and not in line with the requisite academic spirit. This is moreover at odds with the principles of conduct during realization of strategic developments at the University that have been adopted by the Senate, the Management Board of the UoM and the Government as the founder. Pursuant to the above, in view of the duty of the rector to issue opinion on the proposed candidate for dean, the rector does not give a positive opinion, i.e. abstains from opining on this appointment*"⁷⁶. In short, the Rector and the management of the UoM are unwilling to forgive criticism of superiors, a characteristic that everywhere else in the world is prized as one of the key values of the academic community, but they are willing to overlook any violation of academic ethics, if the candidate is on good terms with the management...

The CCE did not submit a complaint against Rakočević to the Prosecution, as the previous two cases⁷⁷ made it clear that this course of action would be meaningless unless the Prosecution undertakes a serious revision of the way it interprets the relevant laws. Besides, the case has also received much public attention, which should have brought the case also to the attention of the Prosecutors' office, and yet the prosecution took no steps to make use this opportunity and fulfil its duty of proactively initiating proceedings.

The CCE did use all other legally available mechanisms, such as approaching directly the Law Faculty

74 Statute of UoM, "Official gazette of MNE" 44/14, <http://www.ucg.ac.me/fajlovi/Statut%20Univerziteta%20Crne%20Gore%20.pdf>

75 Newsletter of UoM 262 from 1/12/2010, <http://www.ucg.ac.me/fajlovi/Bilten%20262%20.pdf>

76 Decision of the Governing Board of the UoM from 1 December 2016

77 Cases of Babović and Vlahović

of the UoM, the Rector, and other decision-making bodies of the University, especially the Court of Honour of the UoM. The CCE also approached the Law Faculty of the University of Belgrade and the Rectorate of the University of Belgrade where Rakočević obtained his doctoral title. Finally, the Ministry of Education, Ministry of Justice and the Deputy Prime Minister for Political System were promptly informed about the entire case. The objective of these activities was twofold: to test the extent to which these mechanisms are functional in practice as well as to draw the public attention to the “defence” of academic ethics by the academic community and the relevant academic bodies, as well as by the Government as the founder of the UoM.

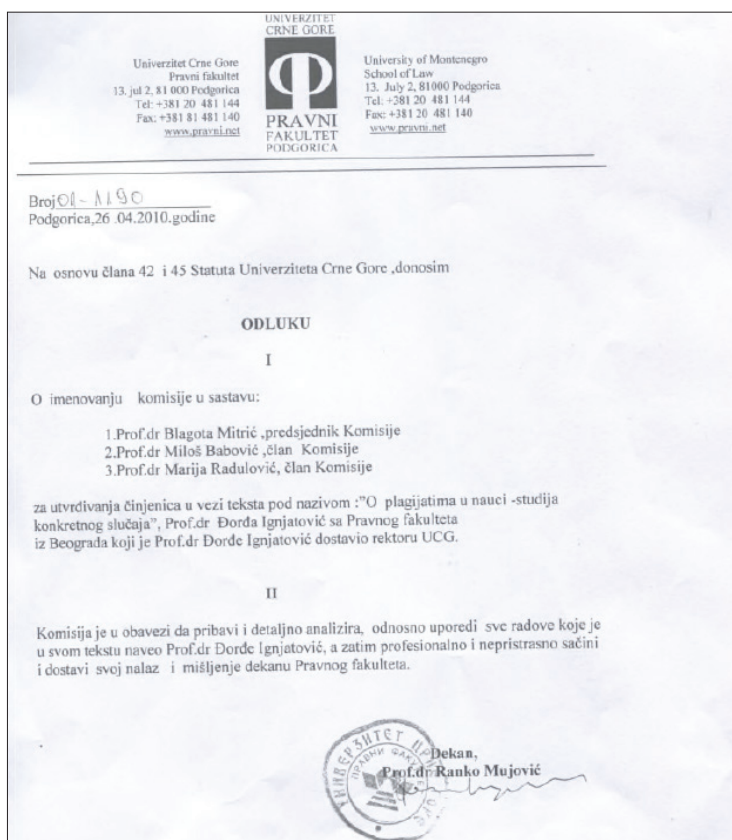
It is worth noting that when opening the case against Rakočević, i.e. when the CCE first started investigating the suspicions of plagiarism, the CCE had no idea how far it will go, and in that sense the later cooperation with the daily Vijesti was invaluable to this investigation. The daily newspaper and portal Vijesti investigated and covered the story from the journalistic point of view, while the CCE communicated the research and findings officially to the authorities. These efforts resulted in numerous findings on the initial allegations, but have also opened new venues of investigation in Podgorica and Belgrade, where the researchers of the CCE and the journalists of Vijesti travelled to directly collect some of the evidence). Data collection was slow and faced a lot of obstruction, including a number of threats addressed to the CCE researchers and the journalists of Vijesti, and other forms of pressure to suspend investigation.

The entire process was accompanied by unbelievable turns that are summarized below in chronological order in order to provide a clearer picture on two key issues: the textbook «Criminology» and the doctoral thesis titled «Detecting and combating drug abuse» by Velimir Rakočević.

«Criminology» textbook

The article by Đorđe Ignjatović also promised to notify the former Rector of the UoM, Dean of the Law Faculty of UoM and the Head of the Department of Criminal Law at the Law Faculty about Rakočević’s alleged misconduct so that they can initiate the necessary actions in accordance with the law and regulations of UoM. After a long silence, Rakočević answered Ignjatović in an article titled «Let’s now hear the other side»⁷⁸. The article essentially amounts to accusing Ignjatović of libel and threatening to sue him. Rakočević’s main line of defence is that Ignjatović referred to his course reader and not to his actual textbook. He did not explain how it came about that his course reader had a COBISS (library reference number), and failed to answer many other allegations. Moreover, the students of the early years of Criminology, who were taught by Rakočević still remember the original textbook, and a few copies were made available to the researchers of the CCE and Vijesti. In the course of verifying the threat of raising criminal charges for libel against Ignjatović, CCE was told by Ignjatović that he never received a court notice about any charges filed against him on this account. Other sources show that the complaint Cat. No. 18359/10, referenced by Rakočević in his article, had been rejected in 2010 and the case archived. The CCE also requested the following information from the Law Faculty: a copy of the Decision of the Law Faculty to form a Commission with a task of investigating charges by prof. Dr Đorđe Ignjatović who accused Velimir Rakočević, professor at the Law Faculty, of plagiarising his textbook Criminology (edition I, BD Graf, Podgorica, 2007, p. 441, edition 500 copies, COBISS. CG 11895312), and a list of all members of this Commission, alongside their professional references and affidavits that they have no conflict of interest in this matter.

78 <http://anali.ius.bg.ac.rs/A2010-1/Anali%202010-1%20str.%20340-360.pdf>



From the Law Faculty's response

The Law Faculty of UoM answered our request partially, providing us with the Decision to form the Commission, but not with the professional references of the members of the Commission or affidavits that they had no conflict of interest in the matter at hand. The Commission, according to this document, consisted of: *prof. Dr Blagota Mitrić*, then professor of Private International Law; *prof. Dr Miloš Babović*, then emeritus professor of Criminology with Penology at the Faculty of Law and *prof. Dr Marija Radulović*, then emeritus professor of Commercial Law at the Faculty of Maritime Affairs.

The Council of the Law Faculty furthermore ruled, at the session held on 16/12/2009, that a reviewer "*prof. Dr Drago Radulović should provide a written review of the allegations brought forth in the article "On plagiarism in science – a case study"*"⁷⁹, by *prof. Dr Đorđe Ignjatović*. The CCE requested this review and received response from the Law Faculty that the document did not exist in the archives of the faculty⁸⁰.

Furthermore, the CCE received no evidence that the Commission ever met (no date of meetings, no minutes of their possible content, etc.) or that members of the Commission issued individual opinions (such documentation is not provided to CCE with explanation that Law Faculty has no such documents in its possession⁸¹). There is only one, final, report of the Commission, from which it is clear that the Commission never analysed either *Rakočević's* book that has been the subject of *Ignjatović's* allegations, or *Ignjatović's* own text book that he referred to in pointing out the plagiarized parts. In short, the Commission's report very nearly suggests that *Rakočević*, former student of *Ignjatović*, was plagiarized by professor *Ignjatović*,

79 Minutes of the session of the Council of the Faculty of Law UoM held on 16/12/2009

80 Response of the Law Faculty of UoM to CCE's request for free access to information from 8/4/2016

81 Response of the Law Faculty of UoM to CCE's request for free access to information from 26/2/2016

Mr. Velimir Rakočević

OTKRIVANJE I SUZBIJANJE ZLOUPOTREBE DROGA
(Doktorska disertacija)



Beograd.2003.g

GLAVA I - POJAM I KLASIFIKACIJA OPOJNIH DROGA

I Uvodna razmatranja

Riječ droga je vjerovatno arapskog porijekla, dova-lijekovito sredstvo. Prvi put je zapisana u XIV vijeku u engleskom godišnjaku "Novem balas de drogues de spicerie". Prije više hiljada godina čovjek je otpočeo sa korišćenjem nekih vrsta biljaka sa narkotičkim svojstvima kao lijek ili ih je upotrebljavao tokom religioznih obreda. Sa velikim stepenom sigurnosti možemo konstatovati da je upotreba psihoaktivnih supstanci vjekovima ostala ograničena na svoje izvorne geografske prostore. Poznato je da je opijum bio zastupljen u Aziji, kokain u Južnoj Americi a halucinogene gljive u centralnoj Americi. Droge su se tada koristile i u medicinske svrhe, kod ublažavanja bolova prilikom povreda zadobijenih u ratu i sl. Najveći umovi antičke Grčke Herodot, Aristotel i dr. u svojim djelima veoma pozitivno govore o opijumu. Kriška civilizacija je poznata između ostalog i po tome što su njeni narodi imali boginju maka kojoj su pravili kipove, na koje su stavljali cvjetne vijence od čaura maka, kao znak poštovanja i slave.

Ono što je mak i opijum dobijen iz njegovih čaura simbolizovao za stare Helene a kasnije i za Rimljane, to isto je bila marihuana i njena smola, odnosno hašiš dobijen iz nje, za arapski narod sa Bliskog i Srednjeg Istoka. Kanabis je arapski narod proglasio za svetu biljku. Hašiš je prema pisanim dokumentima bio poznat u Kini još 2737. godine prije nove ere, a u Indiji 1500. godina prije nove ere i korišćen je kao sredstvo protiv bola. Istorija razvoja psihoaktivnih supstanci, kako sa gledišta njihovog geografskog širenja tako i sa gledišta širenja masovnosti njihove upotrebe i zloupotrebe, veoma je bogata. Ističemo da sve do kraja XIX vijeka, a posebno početkom XX vijeka, čovjek je pretežno koristio: opijum, kanabis, hašiš, lišće koke i sokove spravljene od lišća, što znači da takve vrste prirodnih droga nijesu bile izražene jačine prilikom upotrebe, što implicira odsustvo zavisnosti, način upotrebe koji se ogledao uglavnom u pušenju, kao i rijetka upotreba, stvarali su toleranciju organizma na opojne droge, što se i genetski prenosilo na potomstvo. Dugo vremena zloupotreba korišćenja opojnih droga bila je samo stvar ličnog opredjeljenja i slobode, bez bilo kakve osude društva.²

Zahvaljujući sve savršenijim savremenim sredstvima saobraćaja i komunikacije, nestalo je prirodne izolovanosti pojedinih regiona, a stvarne razdaljine između pojedinih zemalja i kontinenta nijesu više nikakva prepreka. Tako su biljke narkotičkih svojstava postale prisutne gotovo u čitavom svijetu. Sa razvojem civilizacije došlo je do ekspanzije nekontrolisane upotrebe opojnih droga, koje u svom finalnom ishodu razaraju ličnost čovjeka psihički i fizički. Stoga je prihvaćeno stanovište da se proizvodnja, promet i upotreba opojnih droga moraju podvrgnuti kontroli nadležnih organa.

Više vjekova unazad krijumčarenje drogom postalo je visokoprofitabilan posao. Kolonizacijom Indije od strane Engleza došlo je do masovne upotrebe marihuane i opijuma. Preko istočnoindijske kompanije kompletna proizvodnja opijuma iz Bengala prodavala se na kineskom tržištu. Usled katastrofalnih posledica po zdravlje

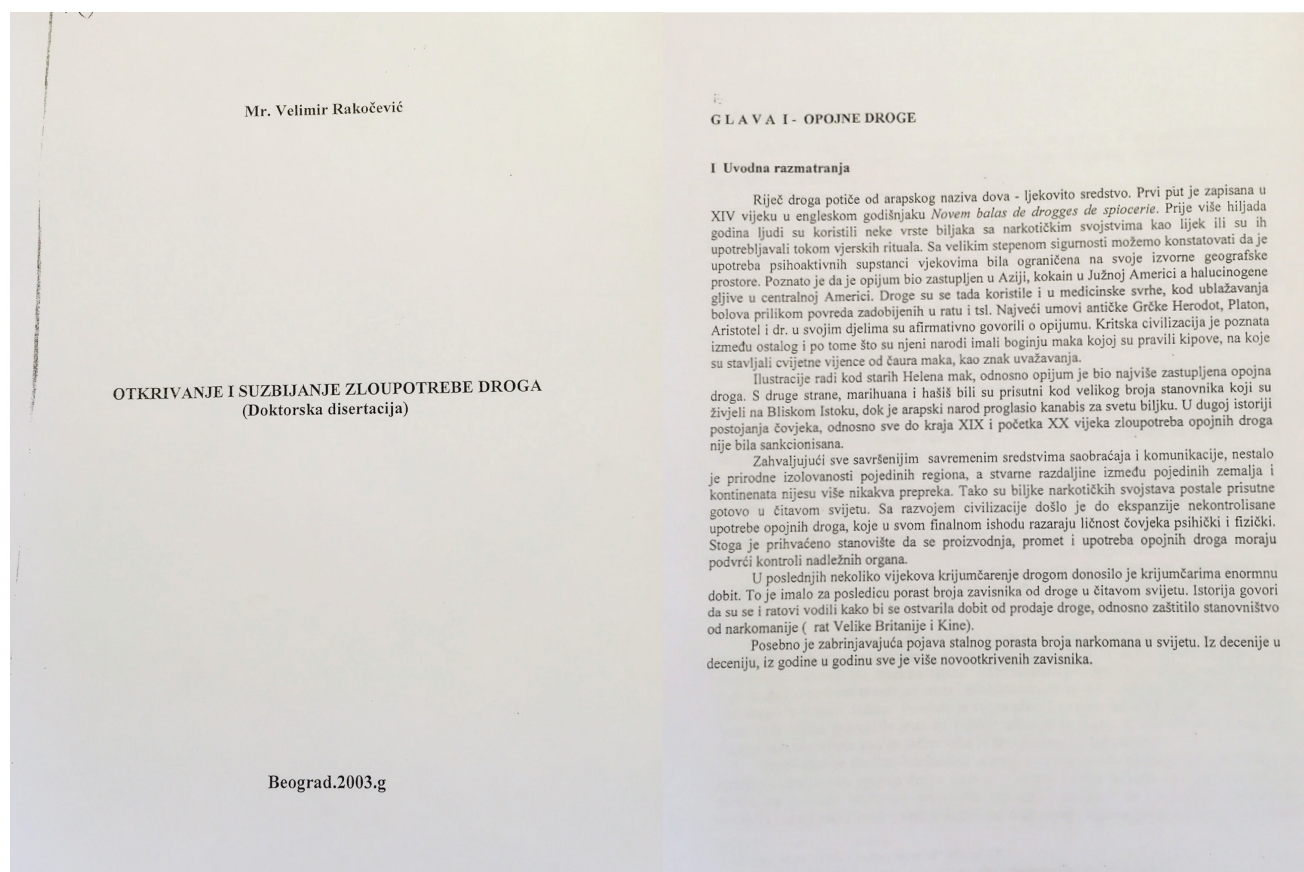
¹ 1805. god. iz opijuma Serturmer je izolovao morfin, 1832. Robiquet je izolovao iz opijuma kodein, a

² 1848. godine Marek iz opijuma izoluje paparevin. Otkriće injekcione igle dogodilo se 1853. godine.

³ D. Nikolić, Narkomanija zločin ili kazna, Srpsko udruženje za krivično pravo, Beograd 2001.god.



The search for the doctoral dissertation of Velimir Rakočević led the researchers of the CCE and «Vijesti» to two versions, one in the library of the Law Faculty, University of Belgrade, the other in the University Library. The rule is that the first copy should be deposited in the library of the home faculty (in this case the Law Faculty) and the second copy sent to the University Library. Daily «Vijesti» has thoroughly analysed this case, as well as the differences between the two versions.⁸⁴



Excerpt from the Rakočević's doctorate registered at the University Library, University of Belgrade

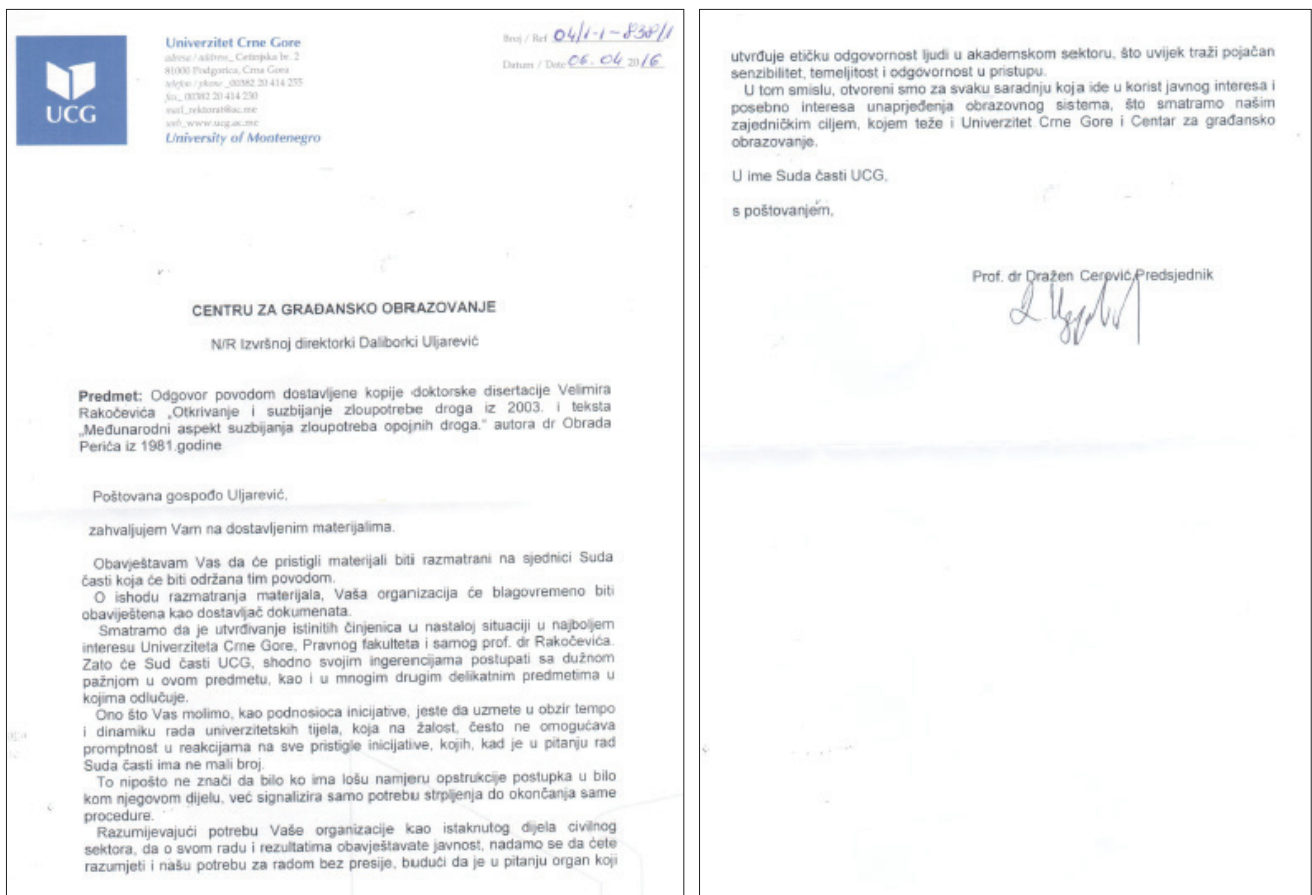
The CCE responsibly informed the relevant authorities at the University of Belgrade and the University of Montenegro of the existence of two versions, which is illegal, with request that the situation should be clarified. Meanwhile, its subsequent investigations focused on the version deposited with the Law Faculty⁸⁵. They included duly submitting all documentation for further verification to the Rectorate of the UoM and the Court of Honour, and informing the Ministry of Education, Ministry of Justice and Deputy President of the Government for Political System about the case.

For months, everyone kept silent, and one of the first written responses came from the Court of Honour, two weeks after they have been approached by the CCE. The response, signed by the

⁸⁴ <http://www.vijesti.me/vijesti/neko-riskao-i-po-rakocevicevom-doktoratu-884069> ; <http://www.vijesti.me/vijesti/rakocevicaponovo-sumnjice-zaplagijat-883191>

⁸⁵ CCE possesses in its archives copies of both versions of this doctorate that show also seals of listed libraries while research team of CCE and Vijesti have directly inspected the stored copies of doctorates in these libraries

President of the Court of Honour, prof. Dr Dražen Cerović⁸⁶, gives the impression that the CCE's documentation was properly received by the Court and taken into the procedure, and the Court is pleading for patience due to the high workload of the Court of Honour.⁸⁷ Nowhere does it note any shortcomings in the submitted documentation or requests additional information. The answer came before Rakočević had official taken up office at the Law Faculty, and the President and members of the Court of Honour obviously preferred to wait for others' reactions instead of promptly dealing with this case.



The first response of the Court of Honour to the CCE's initiative

CCE promptly replied to this letter, stating, among other, that: *We believe this should be emphasised, as the CCE, together with the interested public, has the impression that the relevant authorities at the UoM (both the Rectorate and the Law Faculty itself) are unwilling to deal with this issue urgently and responsibly, as the seriousness of allegations and the supporting material requires. We therefore believe that there is currently no higher priority issue for the Court of Honour of the UoM, and are surprised that this Court has not yet been able to discuss it, and we cannot accept that any tardiness in taking a clear stance on this matter and proposing the accompanying measures is justified merely by the*

86 Prof. Dr Dražen Cerović is also from the Law Faculty of the University of Montenegro, the same as Velimir Rakočević. He is a member of the project team of office of the Institute for Public Policy in Podgorica, whose founder is Vladimir Beba Popović, <http://www.publicpolicyinstitute.eu/kancelarije/>, and as of recently also the president of the Council for Civil Control of the Police, <http://www.kontrolapolicije.me/%C4%8Dlanovi-2015-2020>

87 Notification of the Court of Honour no. 04/1-1-838/1, from 6/04/2016, signed by prof. Dr Dražen Cerović



“pace and dynamics of the work of university authorities”. We are unfortunately unfamiliar, as is the general public, with the work of the Court of Honour and are unable to appreciate the size of its workload as the website of the University of Montenegro (<http://www.ucg.ac.me/me/ouniverzitetu/tijela/sud-casti>) offers only scant information about the Court, and the only available document is the Code of Ethics. The contact information was added only upon the CCE’s insistence, and the only other information is the list of members without their biographies (except for the President’s), and without possibility of direct contacts.⁸⁸ In the same letter the CCE requested information on the next session of the Court of Honour, including the proposed date and agenda, and, in case the materials on Rakočević were not included in this agenda, information on when they will be considered. The answers to these basic questions never came. Finally, and perhaps most importantly, the CCE also asked for **precise information on the date and time when a session will be held about this issue**. As the work of the Court of Honour is supposed to be public, but there is no publicly available information on its work on the official website of the University of Montenegro, the CCE thought that the best way to obtain information was to, **as an interested party, directly attend the session**. Should there be any reason for the public is excluded from the work of this session, the CCE asked to be informed about them. President of the Court of Honour prof. Dr Dražen Cerović never forwarded us this information, by which he clearly demonstrated his personal “contribution” to the transparency of work of the Court of Honour.

Nearly three months after the submission of documentation by the CCE to the Court of Honour, Cerović finally notified the CCE, in a letter not bearing the UoM stationary, that the Court discussed this issue at the meeting held on 5 July 2016, and noted that the CCE had not “*filed a formal Proposal to initiate proceedings against prof. Dr Velimir Rakočević, pursuant to the provisions of Article 19 of the Code of Ethics of the UoM, which is the basis for the Court of Honour to act upon such requests*”, by which the case was dismissed!?

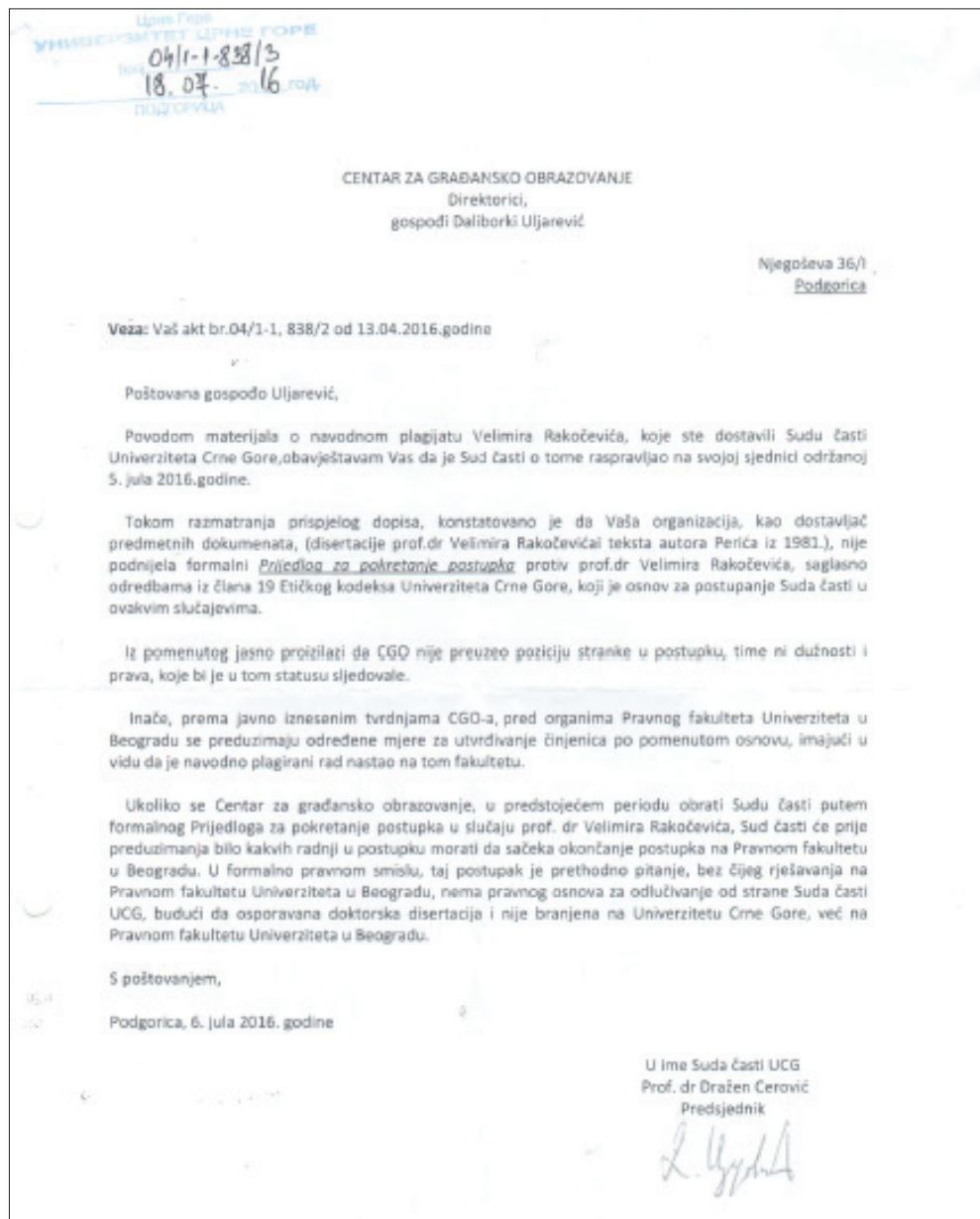
As a reminder, Article 19 of the Code of Ethics of the UoM states: *The court proceedings are initiated by a proposal. Proposals may be submitted by any adult physical person or authority of the legal entity or unit within it (hereinafter referred to as the proponent). The proposal may be filed against members of the academic and other staff and students of the University (hereinafter referred to as the defendant).* In addition, Article 20 clarifies: *The proposal should contain the name of the Court, the name and address of the defendant, time, place and manner of violations of the Code of Ethics, the facts by which the proponent substantiates his/her allegations, name, address and signature of the applicant. Unsigned proposals shall not be taken into consideration.*⁸⁹

The Court of Honour did not provide us with any special form, and the letter and documentation submitted by the CCE clearly contained all the information required for a proposal, including a proper signature (which could have been grounds for dismissal should the signature not have been there). The only information the CCE did not have was the home address of Velimir Rakočević, but had he wished to do so his colleague at the Law Faculty, President of the Court of Honour, could have delivered himself the call to a hearing in person. Besides, Velimir Rakočević personally was never the focus of the CCE – it was the conviction that a head of the Law Faculty with sullied reputation cannot be a role model for the future advocates and fighters for justice that this faculty

88 Letter of the CCE to Court of Honour from 12/4/2016

89 Code of Ethics of UoM, Newsletter of UoM, no. 343/15, Articles 19 and 20

is educating. The CCE was therefore never interested in the personality or privacy of Rakočević, which includes such personal information which the Court of Honour found to be so crucial as to use it as a handy excuse to wiggle out of a situation that it should have been working to resolve.



The second response of the Court of Honour to the CCE's initiative

It is indicative that the President of the Court of Honour is already distancing himself from future requests to take action, by stressing that the same material was already sent for processing to the Law Faculty at the University of Belgrade, even though Rakočević is employed by the UoM and therefore subject to the Code of Ethics of the University of Montenegro. This also means that the jurisdiction belongs to the Court of Honour of the UoM independently of any actions taken outside of Montenegro. This letter is essentially an attempt by the President of the Court of Honour to completely discourage the CCE, or any other interested party, from bringing this or similar issues to this Court against persons who are favoured by the Court. Because prof. Dr Dražen Cerović,



president of the Court of Honour, who is also a member of the Council of the Law Faculty, must have known that just as he was signing that reply to the CCE the Council of his home Faculty under the leadership of Velimir Rakočević in the early days of his tenure as dean, i.e. on 30/05/2016, «formed an international expert Commission consisting of professors of Criminal Law, Criminal Procedure Law and Criminalistics to verify originality, independency and scientific contribution of the doctoral dissertation «Detecting and combating drug abuse» by Velimir Rakočević, defended in 2003 at the Law Faculty in Belgrade». The CCE received information about the creation of this Commission via the Law Faculty in Belgrade, which subsequently terminated the procedure for forming its own Commission⁹⁰.

<p>УНИВЕРЗИТЕТ У БЕОГРАДУ - ПРАВНИ ФАКУЛТЕТ UNIVERSITY OF BELGRADE - FACULTY OF LAW</p> <p>01-број: <u>740/6</u> <u>29.6.2016</u> Београд</p> <p>ЦЕНТАР ЗА ГРАЂАНСКО ОБРАЗОВАЊЕ -г-ђа Далиборка Уљаревић-</p> <p>81000 Подгорица Његошева 36/1</p> <p>Беза: Ваш захтев за приступ информацији од јавног значаја</p> <p>У вези са Вашим захтевом за приступ информацији од јавног значаја и доставу података око формирања комисије за испитивање извода о платијату докторске дисертације Велимира Ракочевића, обавештавамо Вас да Правни факултет Универзитета у Београду није формирао комисију, јер смо од Правног факултета Универзитета Црне Горе добили допис у коме нас обавештавају да су формирали експертску међународну комисију за проверу оригиналности, самосталности и научног доприноса докторске дисертације г-дина Велимира Ракочевића.</p> <p>Прилог: Писмо Правног факултета Универзитета Црне Горе</p> <p>ДЕКАН ПРАВНОГ ФАКУЛТЕТА проф. др Сима Аврамовић</p>	<p>UNIVERZITET CRNE GORE PRAVNI FAKULTET</p> <p>181000 Podgorica Б. п. бр. 7 тел. 020 881-144 е-пошта: 020 881-146 брзак. 020 881-146 брзак. 2. з. 510-140-08 PIB 02016702 www.pravni.ucg.ac.me pravni@ukolofg.com.me</p> <p>Број: <u>01-694</u></p> <p>Podgorica, 30.05.2016. godine</p> <p>UNIVERZITET U BEOGRADU PRAVNI FAKULTET DEKANU PROF. DR SIMI AVRAMOVIĆU</p> <p>PREDMET: OBAVJEŠTENJE O FORMIRANJU KOMISIJE ZA PROVJERU ORIGINALNOSTI, SAMOSTALNOSTI I NAUČNOG DOPRINOSA DOKTORSKE DISERTACIJE „OTKRIVANJE I SUZBIJANJE ZLOUPOTREBE DRUGA“ VELIMIRA RAKOČEVIĆA</p> <p>Poštovani dekanе, obavještavam Vas da je Vijeće Pravnog fakulteta Univerziteta Crne Gore, na sjednici održanoj dana 30.05.2016. godine formiralo međunarodnu ekspertsku Komisiju sastavljenu od profesora Krivičnog prava, Krivičnog procesnog prava i Kriminalistike za provjeru originalnosti, samostalnosti i naučnog doprinosa doktorske disertacije „Otkrivanje i suzbijanje zloupotrebe droga“, <u>Velimira Rakočevića</u>, odbranjene 2003. godine na Pravnom fakultetu u Beogradu.</p> <p>Izveštaj Komisije blagovremeno ćemo Vam dostaviti.</p> <p>U Podgorici, 30.05.2016. godine</p> <p>DEKAN prof. dr Velimir Rakočević <u>Velimir Rakočević</u></p>
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Response of the Law Faculty, University of Belgrade to the CCE's letter

Dean of the Law Faculty of the University of Montenegro, Velimir Rakočević, knowingly violated the Law on Free Access to Information by withholding from the CCE details on the composition of this Commission; explanation of procedure by which the members of the Commission have been appointed; copies of professional references of the members of the Commission; copies of affidavits of members of the Commission that they have no conflicts of interest in this matter; copies of individually written opinions by members of the aforementioned Commission; copies of minutes from the meetings of the Commission; copies of contracts with members of the Commission. The question remains as to what was so “dangerous” in the required documentation that the Dean of the Law Faculty found it more beneficial to violate the Law on Free Access to Information than to give us the information.

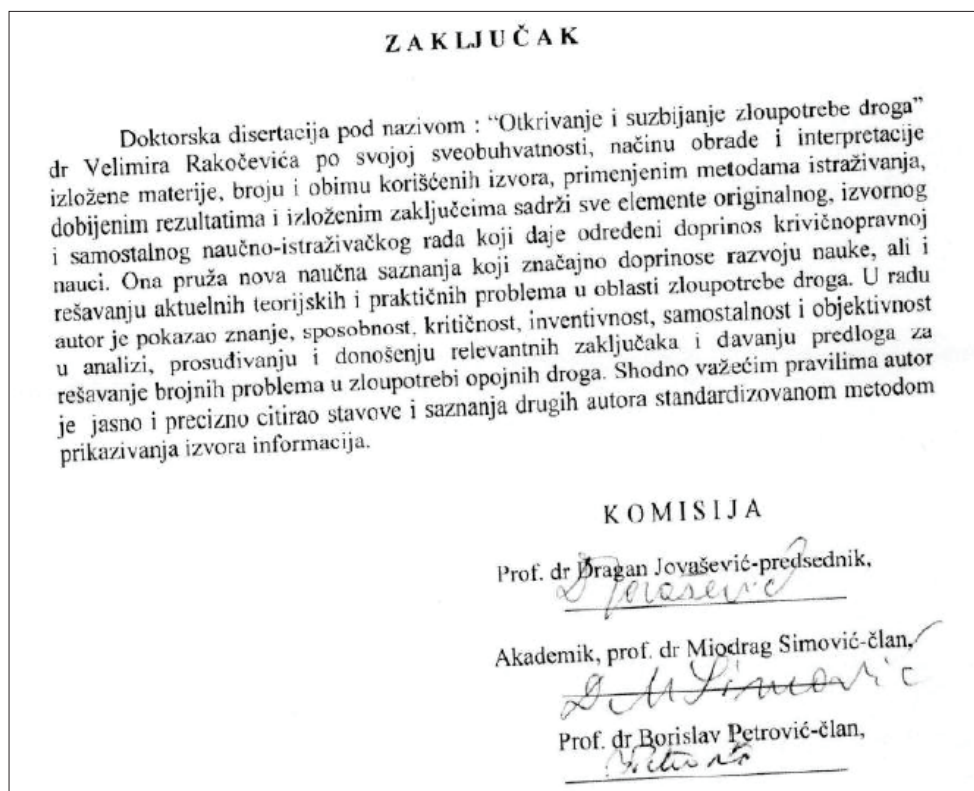
Finally, the Rector of the University of Montenegro, Radmila Vojvodić announced in late July 2016 at a press conference on the occasion of presenting the reforms implemented at the UoM, that the Commission established by the Law Faculty under Rakočević's leadership to examine whether

⁹⁰ Decision of the Law Faculty, University of Belgrade no. 740/6 of 29/6/2016

Rakočević's dissertation was plagiarised has completed its work: "This Commission has, to my knowledge, completed investigation and presented the findings at one of the recent session of the Council of the Law Faculty. I expect them to be transparent to the public. They are negative, of course"⁹¹

The international expert commission consisted of: *prof. Dr Dragan Jovašević* (Law Faculty in Niš, Serbia), *prof. Dr Miodrag Simović* (Law Faculty in Bihać, Bosnia and Herzegovina) and *prof. Dr Borislav Petrović* (Law Faculty in Sarajevo). In less than a month since the establishment of the Commission, of whose work there is no available record, they analysed both copies of the doctoral dissertation – one from the library of the Law Faculty of the University of Belgrade and the other from the University Library, as stated in the heading of Report⁹². It is unfortunately unclear from the report to which version their findings refer, as the two versions are quite different, as demonstrated before.⁹³

This Commission concluded that the above mentioned doctoral dissertation "...contains all elements of original, authentic and independent scientific research work that provides contribution to the science of criminal law... The author has, in his work, demonstrated knowledge, ability, critical thinking, inventiveness, independence and objectivity in analysis, judgment and in drawing relevant conclusions... In accordance with the current rules, the author has clearly and precisely referenced views and findings of other authors by the usual method of displaying information sources".



Excerpt from the Commission's report

91 ND Vijesti, <http://www.vijesti.me/vijesti/vojvodic-rakocevic-nije-plagirao-doktorski-disertaciju-897278>

92 The report, received in the archives of the Law Faculty, University of Montenegro on 27/06/2016.godine no.01-876, signed by all three members of the Commission

93 <http://www.vijesti.me/vijesti/neko-riskao-i-po-rakocevicevom-doktoratu-884069> ; <http://www.vijesti.me/vijesti/rakocevic-ponovosumnjice-za-plagijat-883191>



This finding of the Commission is, to say the least, odd. For example, when it comes to the method of quoting and presenting information sources, **pages 61 to 70 of Rakočević's doctorate⁹⁴ contain numerous passages that are clearly, even to a layman, identical to the text published by Dr Obrad Perić 22 previously, although Rakočević does not make a single reference to Perić in any of his footnotes.** There are also **plenty of references to sources in languages that Rakočević does not appear to know**, but in which Dr Perić had been fluent.⁹⁵

S druge strane, značajna je i odredba koju su potpisnice prihvatile da će, »ukoliko je to moguće«, osposobljavati osoblje za prethodni zadatak, a isto tako da će pomagati ovim licima da steknu znanja iz te oblasti. Ovakva formulacija prve, a naročito druge odredbe bila je neophodna budući da je konvencija pošla od određenog stupnja razvoja društva kod rešavanja ovih pitanja. Mali je, naime, broj zemalja koje bi bile u stanju da obezbede sve uslove u pogledu lečenja, osposobljavanja, tehničke opremljenosti odgovarajućih ustanova, osoblja i sl. Zbog toga jedna široka formulacija, prihvaćena kao obaveza, omogućava razne prelaze u nacionalnim zakonodavstvima: od prihvatanja minimuma obaveza pa do mera koje daleko prevazilaze odredbe konvencije.

Izvod: „Međunarodni aspekt suzbijanja zloupotreba opojnih droga“ – Dr Obrad Perić, strana 85

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Izvod iz doktorskog rada „Otkrivanje i suzbijanje zloupotrebe opojnih droga“ prof. Velimira Rakočevića – Glava II, Međunarodna zajednica i suzbijanje opojnih droga – strana 69

Comparative review of works by Perić and Rakočević

94 A copy from the library of the Law Faculty in Belgrade, which is a copy that CCE possesses

95 <http://cgo-cce.org/2016/07/23/o-autenticnosti-rakocevicevog-doktorata-da-sudi-javnost/#.WFec4iMrlfY>

Ipak, uprkos velikom broju značajnih međunarodnih ugovora, problem zakonite upotrebe, odnosno sprečavanja zloupotrebe opojnih droga nije bio u potpunosti rešen. Zato se nastojalo da se u jednom dokumentu objedine obaveze i uvedu po potrebi nove, imajući u vidu dostignuti nivo međunarodnih odnosa.⁷⁵ To je učinjeno tek Jedinstvenom konvencijom o opojnim drogama od 30. marta 1961, pa i tada delimično, jer njome nisu bile obuhvaćene psihotropne supstance, te je tako morala biti doneta nova konvencija kojom bi i ovo bilo regulisano. To je Konvencija o psihotropnim supstancama od 1971. godine.

Izvod: „Međunarodni aspekt suzbijanja zloupotreba opojnih droga“ – Dr Obrad Perić, strana 73 i 74

I pored velikog broja značajnih međunarodnih ugovora, problem zakonite upotrebe, odnosno sprečavanja zloupotrebe opojnih droga nije bio riješen u cjelini. Zato se nastojalo da se u jednom dokumentu objedine obaveze i uvedu po potrebi nove, imajući u vidu dostignuti nivo međunarodnih odnosa.⁷⁶ To je učinjeno tek Jedinstvenom konvencijom o opojnim drogama od 30. marta 1961, pa i tada djelimično, jer ovom konvencijom nijesu bile obuhvaćene psihotropne supstance, pa je morala biti donijeta nova konvencija kojom bi i ovo bilo regulisano. To je Konvencija o psihotropnim supstancama od 1971. godine.

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Comparative review of works of Perić and Rakočević

According to the Code of Ethics of the UoM, Article 1, paragraph 7 of the section *Professional Responsibility* and Article 3, paragraph 9 of the section *Responsibility towards colleagues*, Article 5, paragraphs 3 and 4 of the section *Social mission*, and Article 6, paragraphs 1-18 of the section *Responsibility for infringement of intellectual property*, all recipients of the material sent by the CCE in relation to the case against Rakočević had the duty to initiate proceedings before the Court of Honour, including the president and members of the Court, as well as the management of the Law Faculty and management of the UoM, since they all received accurate information and supporting documentation.

Their attitude in this case is the best illustration of the direction to which the reform of the UoM is going, and of the qualities that are appreciated at this institution. Time will tell what it is that they all “owe” Rakočević to be so willing to cast such a dark shadow on some potentially positive steps of the reform, and to jeopardize the credibility of not only the Law Faculty, but of the entire UoM.



The case against NN persons

The problem of plagiarism should be viewed in a broader context, bearing in mind that individual cases are sometimes expressions of individual intention to stealing someone else's work and make it theirs, but often the situation is far more complex.

Namely, in Montenegro there is a widespread marketplace for ordering and selling of academic papers, which is also an offence under the law, and can further expand the circle of persons suspected of plagiarism. There are many ads accessible to all in the print media, as well as on the social networks, which offer services of writing course papers, bachelor theses, master theses and doctoral dissertations for a certain fee.

The screenshot displays two columns of Facebook search results. The left column contains five entries for 'Izrada Seminarских Radova', all associated with the University of Montenegro and Podgorica. The right column contains five entries for 'Seminarski Radovi', associated with various faculties in Podgorica, including the Faculty of Economics and the Faculty of Electrical Engineering. Each entry includes a profile picture, name, location, education details, and 'Add Friend' and 'More' buttons.

The screenshot displays four Facebook search results for 'Seminarski Radovi Podgorica'. The entries include profile pictures of books, open books, and a building, along with names and locations in Podgorica. Each entry includes 'Add Friend' and 'More' buttons.

Examples of advertising of finished course papers for students via Facebook

The lack of effective mechanisms of quality control within the university faculties and the widespread social acceptability of such “sales” ensures that those with too much money and too little academic honour can get grades, and subsequently receive diplomas behind which stands no real knowledge.

In order to bring this problem to the attention of authorities, in January 2015 the CCE filed a criminal complaint against NN persons.

Naime u kontinuitetu, a mi u prilogu dostavljamo konkretan dokaz od 14. januara 2015.godine, u štampanom izdanju “Tender oglasa” na stranama 106 i 107, nalazi se 15 oglasa koje smo markirali i koji eksplicite govore u prilog predmetne prijave. Primjera radi, jedan od oglasa glasi: “Izrada maturskih, diplomskih i magistarskih radova. Kvalitetno i povoljno. 069 211 899.”

Takođe, dostavljamo Vam u prilogu listu Facebook stranica kreiranih za potrebe prodaje seminarskih, diplomskih, magistarskih i doktorskih radova, čijom provjerom se može utvrditi kreator strane i potencijalni učinalac predmetnih krivičnih djela.

Excerpt from criminal complaint submitted by CCE on 22/1/2015

The complaint was accompanied by numerous examples of printed ads, as well as those from social networks. The CCE never received any response from the Basic State Prosecution to this part of its complaint, despite repeated inquiries with the BSP.

Nearly two years later, in the TV show «Reflektor», the basic state prosecutor in charge Vukas Radonjić gave an extremely interesting answer about this issue to a direct question: *These are actions that from the standpoint of the criminal law represent preparatory actions, and which according to the criminal legislation are not punishable since they do not imply that the offence will be committed. The fact that someone offers publicly, in print media or as it usually happens at the faculties, or in the vicinity of faculties, i.e. pins up on the notice board at the entrance, that they write master theses, does not mean that they are committing a criminal offence against intellectual property, or any other offence. In order the crime to happen, there must be an action, with a visible consequence in the outside world. This, therefore, is a preparatory action, the perpetrator perhaps creates the possibility of committing an offence, but only in case when somebody contacts them and offers them money to write a master thesis... In short, preparatory actions that are not held to be punishable either by the by criminal law theory, or by the practice of courts and public prosecution.*⁹⁶

Contrary to this interpretation of the Prosecution, one of the leading experts in the field of plagiarism, Professor Thomas Lancaster, who held a workshop on plagiarism in higher education at the University of Montenegro on 8/11/2016, organized by the Centre for Doctoral Studies of the UoM as part of research project SEEPAL - Project of development of policies for the promotion of academic integrity in Southeast Europe⁹⁷, explicitly stressed on that occasion: *measures to combat plagiarism are strict control of exams, coming up with new tasks for the new generations of students as thanks to social networks and technology, these become easily tradable and available to students. Taking someone else’s words and ideas without knowledge is my definition of plagiarism. **One example of plagiarism is buying papers, essays and presentations, for which there are ads in the print media***

⁹⁶ TV show «Reflektor» TV Vijesti, 22/11/2016

⁹⁷ <http://www.ucg.ac.me/me/media/press/vijesti/plagijarizam-je-globalni-problem>



and on the Internet. Then there are other people's articles, translated from another language, or works based on someone else's research, theses taken without reference to the source"⁹⁸

Here we then have yet another attitude of the Prosecution that is extremely socially harmful and which, instead of preventing or sanctioning potential crimes, mainly encourages them to keep flourishing through this approach. The fact that the authorities in charge choose to ignore the fact that scientific papers are being bought and sold on a daily basis is nothing less than support for this type of illegal activity, and it is all the more worrisome when it comes from the prosecution. It is yet another question what far-reaching consequences all this will have for the overall development of the society and what it will mean for the capacity of the cadre with bought works and diplomas to fulfil the requirements of their future professions.

⁹⁸ Daily «Dan», Occasions, 9/11/2016 <http://www.dan.co.me/?nivo=3&rubrika=Povodi&clanak=572300&datum=2016-11-09&naslov=Univerzitet%20da%20ka%BEEnjava%20plagiranje>

Plagiarisms in Europe – what are the good practices?

Plagiarisms are becoming a widespread problem in the academic world. A number of European studies have shown that thousands of students are being charged with and found guilty of plagiarism per year, and that many are consequently being suspended from higher education programmes.⁹⁹

In 2013, a European-level study was conducted on the *Impact of policies on plagiarism in higher education* (IPPHEAE Project)¹⁰⁰, which provides a comparative cross-section of policies related to academic integrity in higher education across the European Union. The aim of the project was to examine the difficulties faced by higher education institutions with regard to the growing problem of plagiarism. This chapter draws on the findings of this study and focuses on countries that are ranked high on the index of the Academic model of integrity and maturity (AIMM). Out of the 27 countries surveyed, the United Kingdom is ranked first, followed by Austria and Sweden in the second and third places. The assessment of “maturity” of the national-level policies is based on data collected via different aspects of the EU-level research, including an assessment of the institutions and national agencies according to nine criteria: research, training, level of knowledge, communication, prevention strategies, use of software tools, consistency of policies and sanctions, and transparency of the process.

The aim of this subsection is to draw on these examples of good practices to point to the strengths and weaknesses of policies for fighting plagiarism. Generally speaking, the UK, Austria and Sweden have sophisticated systems and effective legal provisions against plagiarism, though there is always room for improvement of the mechanisms related to identifying and combating plagiarism and dishonourable academic behaviour. They are well ahead of Montenegro on all these accounts, and Montenegro would do well to learn from their experiences.

United Kingdom

The United Kingdom (UK) currently has 127 universities and other higher education institutions with degree awarding powers.

The culture of oversight in the UK, implemented through the national-level quality control and external examination systems, contributed to greater transparency of the assessment process, and thereby to increased accountability in the decisions about dishonourable academic behaviour and plagiarism. All institutions of higher education in the UK routinely use software to detect plagiarism. Many institutions have policies that are designed to ensure quick, consistent, and fair responses to any accusations of academic misconduct, since the phenomenon of “taking credit” for another’s work represents a continuous threat to academic standards and is often difficult to prove.

The UK legal framework on copyright and recognition of copyright have been shaped through the common or case law. The 1709 Statute of Anne is actually the first Copyright Law. The entire system is further strengthened by the 1911 Copyright Act, and currently in force is the 1988 Copyright, Designs and Patents Act. Depending on the severity of violations and the type of plagiarism, the

⁹⁹ Irene Glendinning, „European Responses to Student Plagiarism in Higher Education“ (2012), <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.259.5950&rep=rep1&type=pdf>

¹⁰⁰ Coventry University „Impact of Policies for Plagiarism in Higher Education across Europe“ (2013), <http://www.eco.u-szeged.hu/download.php?docID=13661> and <http://ippheae.eu/>



perpetrator can be punished under this Act by up to 6 months in prison, up to 50 000 pounds in fines, and suspension of up to ten years.

Copyright arises whenever an individual or company creates a work. The work itself is subject to copyright if it is considered original, and must exhibit a degree of work, skill or judgement. This interpretation refers to the independent creation, rather than to the idea behind the creation. For example, your idea for a book would not in itself be protected, but the actual content of the book you write would be.

The authors, whether individuals or companies, are the exclusive owners of the work and are referred to as the 'first owners of copyright' under the 1988 Copyright, Designs and Patents Act. However, if a work is produced as part of employment then the first owner will normally be the company that employs the individual who created it. Freelance or commissioned work usually belongs to the author of the work, unless there is an agreement to the contrary, (i.e. in a service contract). Just like any other asset, copyright may be transferred or sold by the copyright owner to another party. Copyright does apply to any aspect of the work which represents a copy of a previous work. For example, in a piece of music featuring samples from an existing piece, the copyright to the samples would still remain with the original author. Only the owner, or a person authorised by him or her, can initiate copyright proceedings in the court.

Usually, the university themselves prescribe detailed penalties for plagiarism in their internal rules and regulations. There are several categories of severity in plagiarism, ranging from harmless poor academic practice to severe breach of rules of collaboration and citation. In the most severe cases of plagiarism, the case will be taken from the departments to be processed at by the disciplinary or ethics committee of the institution, which usually has the power to impose penalties, including expulsion from the university.

The UK has invested heavily in research on plagiarism, and there is now a great number of publications and expertise to inform the measures that higher education institutions can adopt, and the benefits of this are evidenced by their successful implementation. By better understanding plagiarism, institutions can formulate a more effective response.

The ubiquity of information and the fact that plagiarism and "cheating" have been recognised as the foremost challenge both in the higher education sector and in the society at large, has helped academic staff to respond better to the potential plagiarism cases. Both systemic and partial adoptions of digital tools have helped to create a deterrent to misconduct in many UK institutions, but with some unintended consequences. One side-effect is that plagiarism cases may increase before these begin fully functional. Another worry is that giving students access to software tools without adequate supervision or understanding can encourage bad writing and study practice.

Encouraging and "*creating a culture of intellectual curiosity and honesty - leading by example*" on the basis of inspirational teaching and innovative pedagogical initiatives has been adopted in some areas of higher education in the UK. The results have been remarkable, not only in terms of reduction of plagiarism but also in improving students' employability. This holistic approach ensures that there is a culture of prevention and consistency in dealing with accusations across the institution, while providing a fair, local and swift response and resolution to individual cases. The

“Oxford Brookes Model” is based on appointment and training of a team of departmentally based staff, typically called Academic Conduct Officers (ACO), who act as the local champions for good practice and also deal with disciplinary cases. Local and central coordination and communication systems ensure that the ACOs remain up to date with new developments and ideas and that their decisions remain fair and institutionally consistent.

Many institutions have adopted and adapted this system for their own use. In a relatively short time since its foundation, the ombudsman for Higher Education in England and Wales, the Office of the Independent Adjudicator (OIA), has become a powerful force for positive change that appears to have no parallel elsewhere in the world. Although compliance with OIA decisions is not obligatory for universities, the recent policy of the OIA to publicly name universities where they uncovered poor practices ensures that the institutions almost always follow the advice provided to avoid the risk to their reputation. Moreover, it is becoming common for institutions to monitor the OIA website for new guidance arising from cases at other institutions and judicial reviews, and adjust their policies accordingly.

Even so, of course, plagiarism may sometimes still occur. Throughout the United Kingdom, tens of thousands of students have been caught plagiarizing and cheating. Some 16,000 cases were recorded in the past year alone. The public is familiar with the case of British journalist who, in 2011, was accused of plagiarism, i.e. for using unattributed quotations in interviews, where he substituted published quotes in place of interviewee’s answers. The Orwell Prize that he had won in 2008 (as the youngest-ever recipient) was withdrawn. The Council of the Orwell Prize declared that substantial use of unattributed and unacknowledged material did not meet the standards expected of Orwell prize-winning journalism. He was also criticized by *The Guardian* and *The Independent* for plagiarizing various interviews and special reports, for which he has been suspended by *The Independent*.

Austria

Austria has 22 public and 12 private universities. They enjoy a high degree of autonomy and offer a wide range of degree programmes for about 300,000 students, of which almost 20% are foreigners. Austria ranks third in the EU (after Luxembourg and Cyprus) by the share of international student in the total student population.

When it comes to the prevention of plagiarism, Austria’s system has many advantageous features. Firstly, Austria collects national-level annual statistics on dishonourable academic behaviour in higher education institutions. Based on this, the Austrian Agency for Research Integrity (OeAWI) devises nationally coordinated responses and requirements for academic integrity rules. Many higher education institutions use software to detect plagiarism, although the awareness and understanding of plagiarism and academic writing are well developed. There are numerous trainings and other programmes for students, and there are also several working groups at the national level that in charge of policy research on plagiarism.

Naturally, there is always room for improvement. For example, there are no standardized policies and systems in higher education institutions that would govern academic conduct and sanction of violations of academic ethics.



When it comes to the legal framework, the main piece of legislation in this area is the Austrian Statute of Copyright Law (“Urheberrechtsgesetz”). The constitutional base is laid down in the Article 10, p.6 of the Austrian Constitution, which vests the regulatory and executive power in the federal authorities. Copyright protection is granted to original intellectual creations in literature, music, visual arts and film. There are several other rights that provide similar protection, including the rights to photographs, sound recordings, broadcasts, letters and portraits. Original intellectual creations are the responsibility of the courts, and they must meet certain standards of quality and originality.

The copyright consists of the right to use a creation and of protection of intellectual interests. More specifically, these rights consist of the right to give out the first information about the contents of the work, the rights to translation and adaptation, the rights to copy, distribute, publish, broadcast and translate the work. They also include protection of authorization, the right to be named and acknowledged as author and protection of creation. Copyright exists from the date of the creation of the work, and no special registration is required. The “Urheberrechtsgesetz” defines author as the person who created the work. Copyright can be transferred to another person after the death of the original author, by his/her bequest. If two or more persons create a work which is indivisible, they are co-authors. If they link their different works, they are partial authors. There is no co-authorship if the creation of one of the authors can be used independently of others. A partial author can realize his or her creation separately from the others, but the co-authors only have the joint copyrights.

The 2002 University Law from prescribes that all academic work must be in line with study regulations on autonomy and individuality in order to be graded positively. Plagiarism is defined as submitting a work written for the student by a third person or appropriating existing work of a third person as one’s own, and generally appropriating other people’s ideas as one’s own without giving the originators due credit. The law does not in itself stipulate penalties, but it leaves it to the individual universities to impose sanctions on students as they see fit, including suspension from the university for up to 2 semesters.

New provisions defining the protection mechanisms for technical copies, computer programmes and information management rights have been included in the catalogue of copyright infringements punishable by up to six months in prison or by a fine of up to 360 daily wages. To date, such punishments had been limited to offences of illicit use of artwork of literature. The new provision also extends the potential application of prison sentences and very high financial fines to people who did not even financially profit from their actions, i.e. who merely produced copies for their own use.

There were some attempts to make the legal framework even more stringent. In March 2011, the Austrian Parliament received a proposal from the MPs Mag. Rainer Widmann and Mag. Ewald Stadler (from the BZÖ – Alliance for the Future of Austria (right-wing party)), in which they sought to make plagiarism legally equivalent to attempted fraud. At this time, academic plagiarism in Austria carried no legal consequences. In their request, the two MPs pointed out that plagiarism is usually seen as a trivial offense, and they proposed that such cases should instead be classified as fraud, and prosecuted accordingly. Their proposal ultimately failed to garner support of the Parliament.

Austria's Agency for Research Integrity (OeAWI) is responsible for monitoring and control of the quality and integrity of research, and for providing the institutions with guidelines for development. Nearly all universities have guidelines and use software to detect plagiarism master and PhD theses.

Austria also set up several working groups to investigate the range of policy options to ensure academic integrity in higher education. The objective was to improve existing legislation and introduce clearer procedures at the national level, based on a common strategic response to plagiarism. There are also numerous trainings in research skills, academic writing and plagiarism and dishonest academic behaviour for students.

On average, the University of Vienna receives around 5000 research papers per year that have been flagged by software as containing more than eight words from the same source. On grounds of these findings, in late 2012 the University opened plagiarism investigations in 31 of these cases. In 16 cases severe plagiarism was identified and the offenders' degrees revoked. In most cases, however, the questionable papers were returned to their authors with the opportunity to "start anew" without sanction or punishment.

Sweden

Sweden has 34 public higher education institutions, including 14 universities, 20 faculties, and several independent institutions. In 2010 there were 468,458 registered students of which 320,925 full-time.

Sweden has a national system for annual data collection on the cases of dishonourable academic behaviour. The data is supplied by the university and used to compile a report that is published every four or five years. Swedish universities organize trainings on proper academic conduct and integrity in many Bachelors and Masters Programmes. Furthermore, Sweden has a nationally prescribed policy for processing complaints against dishonourable academic behaviour, which include a panel within each higher education institution that is chaired by the respective institution's vice-chancellor. Also, many Swedish universities use software to detect and discourage plagiarism by students.

Nonetheless, the extent of identified and recorded cases of dishonourable behaviour is uneven across institutions. The system of institutional panels is overly bureaucratic and cumbersome, and leads some individuals to try and bypass the process. The range of penalties available to the panel is limited and is not always effective in discouraging dishonourable academic behaviour. An additional complication is the requirement that the panel must establish the "intention" to commit dishonourable behaviour before a penalty can be pronounced.

Plagiarism as a phenomenon is defined in the provisions on cheating in the Higher Education Act.

A higher education institution that suspects that cheating has occurred must investigate these suspicions. If requested by the initiator or by the defendant, the higher education institution must obtain an opinion on the matter from the expert group based at the Central Ethical Review Board, an entity charged with providing expert opinion on suspected academic fraud upon request of a university or other higher education institution.



According to the Higher Education Ordinance (Svensk författningssamling), disciplinary actions may be taken *against students who use inadmissible resources or in any other way attempt to cheat at exams or in other proceedings in which their work is being evaluated*. Referencing other studies in a scientific text is necessary, in order to place the new contribution in the broader context and relate it to other research studies. References can also be used to define methods and concepts. However, the author must make clear which parts constitute his or her original work and which are taken from others.

In Sweden, unlike the United Kingdom and Australia, all universities must adhere to nationally set rules, instituted in the Disciplinary Ordinance of 1958 and amended in 1993 under the Higher Education Ordinance. The Ordinance governs all aspects of Swedish university management, including assessment.

Penalties for all forms of cheating, including plagiarism, are prescribed nationally, but enforced locally. If a case is so severe that it must be taken to the formal Disciplinary Board, there are only two possible outcomes left: the student either receives a written warning or is ordered to leave the university for a period of up to six months, depending on the severity of the case. In practice, students mostly get a two week suspension, during which they are denied assessment and library access, and are thereafter allowed to resume their work.

The nation-wide collection and reporting of institutional figures at the national level is to be commended. However, as it was not apparent whether all institutional systems had the same degree of rigor in detecting and recording these cases, the implications of these statistics are not clear. At least one institution identified the need to provide support for teaching staff. Some teachers were found not to be “100% confident with language: international students are writing in English, Swedish students in Swedish” (national interview), which made it more difficult for them to detect plagiarism than would be the case for a native speaker. In order to educate the teachers “additional classes were provided, the first course lasting 3 weeks up to the total of 10 weeks. The course taught teachers how to read a text, how to write, how to write, how to put it through “Urkund” (...) “Urkund” will find [copied text] immediately – if plagiarism comes up then it must go to the disciplinary board and follow the procedure there. All higher education departments underwent this training” (national interview).

One advantage of Sweden is that *people follow the rules, leading to high levels of integrity and high standards*” (national interview).

In Sweden, there are no reported cases of public figures, political actors or persons of similar stature who had been involved in cases of plagiarism. Nevertheless, in 2012 over 800 students were suspended or received a formal warning because of cheating at Swedish universities. According to the Swedish National Agency for Higher Education, plagiarism has grown dramatically over the last decade.

Conclusions and recommendations

Plagiarisms are not a Montenegrin specialty. What is, however, peculiar to the Montenegrin context is the ignorance or creatively disingenuous interpretations of regulations on plagiarism – or their outright violation – by both institutions and the academic community, in order to protect those who have been accused, sometimes with unwavering evidence, of committing plagiarism. In the long run, this is bound to undermine the already poor quality and corruption-ridden educational system.

“

Plagiarism represents violation of moral rights of authors to have their authorship recognised and their name mentioned, regardless of whether the breach relates to the whole work or only parts of it, because the law protects both equally.

Novak Adžić, Director of the Intellectual Property Office¹⁰¹

”

University Mediteran thus permanently discredited itself by the way it handled the cases of Babović and Vlahović, and the year 2016 will be remembered by the general public more by the UoM's efforts to sweep Rakočević's case under the rug than by the achievements of its reform. In fact, the case has only managed to cast further shadows on the already controversial reforms.

The Prosecution has no desire to deal with this issue. Their interpretation of the law is a kind of encouragement to everyone to plagiarize if they can hide their «work» for three years, and a complete absolution to those who continue to derive privileges from their plagiarized papers. In several specific cases, the Prosecution nearly put itself forward as the protector of those accused of plagiarism, definitely not as a prosecuting authority that should work to protect the public interest.

The courts remain the only, albeit limited, mechanism for protection of the rights of those whose copyrights have been violated. However, CCE's findings indicate that these processes are not always brought to conclusion in a timely manner, and some of them can last for over a decade, without any logical justification, which is hardly an encouragement to those who want to protect their rights through this channel.¹⁰²

In the Montenegrin higher education, the highest academic offices are occupied by persons suspected of having plagiarised their work – persons, therefore, badly equipped to advance the quality of education and research in the country. Such a system cannot hope to produce graduates who would be able to compete, not only in Montenegro, but also in the broader regional or EU market. The problem is further complicated by practices in which kinship, political party connections or other ties are more valuable for employment than professional competences. Even the ruling circles have long been aware of this problem¹⁰³, but an articulated political will to enforce accountability

¹⁰¹ http://www.monitor.co.me/index.php?option=com_content&view=article&id=7236:zatita-intelektualne-svojine-kradu-izareze&catid=5032:broj-1359&Itemid=6400

¹⁰² Miomir Bošković from Podgorica, a journalist of Radio Montenegro and publicist, has a legal dispute with Montenegrin businessman Ljubo Nikić since 2005, whom Bošković sued for copyright infringement i.e. for publishing the book "Secret of a frozen treasure", written by Bošković, and signed Ljubo Nikić as an author.

¹⁰³ In October 2015, in response to questions received at the Prime Minister's Hour in the parliament, the former Prime Minister Đukanović admitted that the Montenegrin graduates are not sought after in any field, thereby showing that he is quite familiar with the poor situation with regard to the quality of higher education in Montenegro, <http://www.vijesti.me/vijesti/dukanovic-nase-znanje-se-u-evropi-ne-trazi-858290>. However, this political assessment was not accompanied by actions that would lead to substantial improvements in this area.



among institutions is still lacking when it comes to effective prosecution of plagiarism.

Finally, this study presented three cases in which there is reasonable doubt, and in some cases even court verdicts, that the persons in question have committed plagiarism. Of these there, two were teaching at higher education institutions when the question of the authenticity of their work was broached. There are other publicly known cases outside of the academic community, such as case of former director of the Police Department and current advisor to the President of Montenegro Veselin Veljović¹⁰⁴, etc. However, **the focus of this study was the system and institutions** that refuse to regulate the environment in a way that would conclusively brand plagiarism as socially unacceptable behaviour that can be effectively identified and prosecuted. The academic community in Montenegro is a story in itself: it has remained silent about this and many other phenomena on which it was honour-bound to take a firm position. In so doing, it has relinquished its role as the critical and professional core that was supposed to be one of the pillars of development of the Montenegrin society, but this is a topic that requires a separate study. This is precisely why this analysis focused so sharply on those who, by the virtue of their position, should have been the first to address the problem of plagiarism conscientiously, in order to identify hard facts about these cases and punish the perpetrators accordingly, and thus contribute to the strengthening of the preventative function of both their offices and of the institutions at large. Characters like Vlahović, Babović or Rakočević only play the supporting roles, because they are only illustrative examples of escalating systemic shortcomings. Some of them have publicly accused CCE of leading a smear campaign against them, for political or other nefarious motives. We have none, as we have no personal relationship to them or bad intentions towards them. We do, however, have the responsibility to pursue the truth, and to bring the existing evidence and accusations to the responsible institutions in order to ensure that all potential misconduct is investigated and sanctioned, and thus to improve the overall quality of the alarmingly substandard system of higher education in Montenegro. The problem of plagiarism is an inevitable stop on this road.

Media and the non-governmental organizations have done the lion's share of work in positioning of plagiarism as a socially relevant topic in Montenegro, by drawing the public's attention to individual examples, and by directly testing the effectiveness of the institutions. Finally, and perhaps most importantly, also by proposing a series of measures directed at improving the regulation in this area.

In the same vein, this study offers the following recommendation for urgent action:

1. The *Criminal Code* should clearly define plagiarism as a criminal offense. Due to the pronounced social danger and the importance of the protection of public interest the statute of limitations should be set to 20 years. Moreover, there is no doubt that plagiarism is a criminal offense of extended duration. Defining it as such would set the preconditions to «purify» the already «contaminated» academic scene, but also limit the room for the Prosecution to advance alternative interpretations of law, which to date at least have been all in favour of the plagiarists;
2. Committing and hiding plagiarism requires cooperation of several persons acting in an organized manner and in mutual agreement to implement these illegal actions and achieve certain benefits. Consequently, plagiarism should be put under the jurisdiction of the *Special Prosecution*.

¹⁰⁴ The defence committee that accepted the master thesis by Veselin Veljović which has accepted defence of his master's thesis, which according to well documented public charges includes almost 40 pages copied from the textbooks of his mentors consisted of: prof. Dr Ranko Mujović (Chairman), prof. Dr Milenko Kreća (mentor) and prof. Dr Dražen Cerović (Member of the committee, currently President of the Court of Honor of the UoM).

3. Amend the *Law on Higher Education* to introduce a precise definition of academic integrity and plagiarism;
4. Introduce *obligation to publish master and doctoral theses* of the academic staff employed by higher education institutions, as well as of high state officials, on the websites of higher education institutions, as well as on the website of the Ministry of Education for the public officials. The CCE has already tested public support for this proposal and found an overwhelmingly positive response: 84% of the respondents agreed that theses should be publicly available online, and 59% believed that this would contribute to solving the problem of plagiarism in Montenegro at least to some extent. Another 25% said it would contribute, albeit in a minor way, whereas 16% said they couldn't tell what the effect would be.



5. Ensure that all universities have adopted a *Rulebook on the criteria, conditions and clear guidelines for the writing of scientific papers*, in accordance with Article 78 of the Law on Higher Education, and that these Rulebooks include precise criteria for authenticity of the work;
6. Provide *more rigorous selection criteria for members of the Court of Honour of the UoM*, to ensure that this body has the integrity to decide in full capacity on matters within its jurisdiction;
7. Ensure that the work of the Court of Honour of the UoM, as well as all similar bodies at private universities is *functionally public*, in the sense that all information about their work is available to the public on the websites of their home university;



8. When forming *commissions to investigate plagiarism ensure that members of these commissions are appointed in accordance with clear and transparent criteria*. The member should also sign a statement, liable for prosecution under criminal law, that they have no conflicts of interest in the matter on which they are deciding;
9. *Minutes of the meetings of these commissions and individual opinions of their members should be easily accessible*, as well as all final reports;
10. Introduce a *software-based plagiarism control in all units of higher education*. The software should be able to perform plagiarism checks not only in English, but also in the official language of Montenegro, in order to adequately monitor the writing of master and doctoral theses and research papers;
11. Create a unified *database of master and doctoral theses and scientific papers from all higher education institutions in Montenegro* and make them publicly available;
12. *Provide citizens with a possibility to report plagiarism cases on the website of the UoM, as well as on those of private universities and departments*, and ensure that their complaints are duly processed and the public informed about the results of the investigation;
13. *Institute rigorous and public rules for prosecution of all forms of plagiarism at universities to discourage dishonourable conduct by students and other members of the academic and scientific community, but also to better educate them and prevent such behaviour in the future*. Many cases of plagiarism are committed due to the lack of knowledge about the consequences of such behaviour.
14. *Strengthen cooperation between relevant and interested parties - institutions, media, NGO sector, etc. for the fight against plagiarism in order to ensure effective prosecution of all cases of plagiarism, without exception, and adequately sanction the perpetrators*.

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