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Directive concerning the handling of plagiarism in academic papers at TU Wien – clarification regarding postgraduate programs

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Preamble

Within the framework of its official mandate, Technische Universität Wien is responsible for scientific/academic research and teaching and for supporting young researchers. The aim is to support the efforts of all students to complete their studies with the best possible results through independent performances. For this reason, Technische Universität Wien again obliged itself to ensure good scientific practice, especially in the form of the directives of the Rectorate ("Code of Conduct – Regulations to ensure good scientific practice") (University Gazette 2007, 26th issue, No. 257 as applicable), which is binding for all members of Technische Universität Wien. It corresponds to the scientific ethos of observing the agreed rules and treating the knowledge of others with respect. This directive shall on the one hand raise the awareness for plagiarism and on the other hand serve as an aid in case of suspected plagiarism with regard to courses or theses.

1. What is plagiarism?

The term "plagiarism" is neither defined in the Copyright Act (UrhG) nor in the Universities Act 2002 (UG). It is in fact the antonym of a correct quotation. The definition of a correct quotation can be found in § 46 UrhG and the definition of a source citation can be found in § 57 UrhG.

On this basis and due to the requirement that a thesis should represent an independent performance, plagiarism in the university sector exists in particular if texts, contents or ideas are taken over and offered as one's own. This especially comprises the appropriation and use of exact, paraphrased or translated text passages, thoughts, hypotheses, findings or data without indicating and quoting the source and the author.

The following actions in particular constitute plagiarism:

- **Full plagiarism** The student submits the work of another person without stating the actual author, claiming it as their own work.
- **Self-plagiarism** The student submits the same work in different courses or uses their own, existing texts or text parts of theses without indicating this fact in the paper.
- **Translated plagiarism** The student translates texts in a foreign language or text parts of another person's work without stating the source, claiming it as their own.
- **Quotation without proof** The student uses parts of another person's work without indicating the source by making a corresponding quotation. This also includes the use of text parts from the Internet without stating the source.
- **Paraphrasing** The student uses text parts of another person's work, slightly paraphrases these text parts and changes the word order without indicating the source by making a corresponding quotation.
- **"Ghostwriting"** The student submits the work of another person written on their behalf and with the permission of the actual author, claiming it to be their own.

2. How much help from others is allowed?

§ 51 para. 2 subpara. 7, 8 and 12 UG stipulates that bachelor's, master's, diploma and doctoral theses shall be written independently by the students. This means that the students must prove that they are able to independently develop approaches with regard to a given

specialist topic or a specialist topic chosen by themselves using scientific methods. The legally standardised independence shall still be considered to exist if the students ask their supervisors or teachers, tutors or experienced students for help or if the thesis is proofread by friends or an editorial office in order to avoid typing or spelling mistakes.

The assistance of others in the completion of written theses shall have its limits if the proofreading (by friends, an editorial office, fellow students) exceeds formal criteria such as spelling and the content is changed or the work is revised by a person other than the student. Help from the student's teacher or supervisor shall also be restricted to support with scientific/academic work or the application of scientific/academic methodology, interventions and instructions in connection with guiding the student to new approaches. The student shall then independently process this information and correct their paper accordingly.

3. Recognising and preventing plagiarism

3.1. Raising awareness and imparting competence

The most important means to prevent plagiarism is raising the students' awareness and imparting the appropriate competences regarding the writing of theses and the implementation of scientific and academic techniques. This can, for example, be implemented by:

- appropriate references to good scientific practice ("Code of Conduct") and information about the consequences of plagiarism in courses.
- The students being required to sign a declaration that they completed the thesis independently, did not use any other sources and resources than the ones stated and that this work has not yet been submitted to another educational institution for assessment.
- Provision of directives about the correct writing of scientific, academic, and non-scientific and non-academic papers and the correct quotation by the respective faculties.

3.2. Recognising plagiarism

Plagiarism in texts can in particular be recognised by the following characteristics:

- stylistic change or breaks in style;
- the use of unusual vocabulary, phrases or foreign words;
- inconsistent chapter headings or subheadings;
- noticeable and repeated spelling, grammar or typing errors;
- format changes within the text;
- the examination performance differs conspicuously from the other performances of the student;

Of course, these signs require a more detailed examination by the teacher or the supervisor. However, the teachers are required to look into suspicious facts as soon as they become aware of them.

According to settled case law of the Administrative Court (VwGH), supervisors of master's theses are not obliged to regard a paper as potential plagiarism from the start. The expert can first rely upon the statements of the student (with regard to authorship, independence and scientific and methodological work methods) as they depend on these statements. The expert cannot be expected to compare the thesis with other papers on a word-for-word basis. They can, on the other hand, generally trust the honesty of the student. Only where there is a reasonable suspicion must they review the thesis carefully and are they obliged to investigate the matter closely (VwGH 26 June 1996, 93/12/0241; 11 December 2009, 2008/10/0088).

3.3. Using plagiarism detection software

Since 1 September 2013, theses must be submitted in electronic form (directive of the Vice Rector for Academic Affairs concerning the electronic submission requirement for theses [doctoral theses, diploma theses, master's theses] at TU Wien, University Gazette 2013, 14th issue, No. 136). However, this does not currently result in a central plagiarism check at Technische Universität Wien. For the time being, plagiarism detection software is used at the discretion of the individual faculties. At the Continuing Education Center of TU Wien all submitted master's theses will be checked by a plagiarism detection software.

If an examination is carried out using plagiarism detection software, it is recommended – also as a means of raising awareness – to inform the students again about the plagiarism check by signing an independent passage upon submission of the thesis.

The following passage can be used:

"I acknowledge that the submitted thesis will be electronically and technically checked by suitable means (plagiarism detection software) that reflect the current state of the art. This guarantees on the one hand that the high quality requirements within the framework of the published regulations to ensure good scientific practice – "Code of Conduct" (University Gazette 2007, 26th issue, No. 257 as applicable) valid at TU Wien were observed at TU Wien when writing the submitted paper. On the other hand, by comparing the thesis with final theses of other students, infringements of my personal copyright are prevented."

4. Legal consequences of plagiarism

4.1. Consequences under the law regulating university studies

There can be consequences under the law regulating university studies connected with the plagiarism of papers if a positive assessment is fraudulently obtained, especially by using illegitimate resources (§ 74 UG). "Fraudulent obtainment" is a deliberate act consisting of objectively false statements in connection with the intention to mislead being made or important circumstances being deliberately concealed in order to obtain a more favourable result (§ 69 AVG). A more favourable result can be assumed if the assessment would have been worse without the fraudulent obtainment. "Partial" fraudulent obtainment is also relevant if it affects the assessment. The non-disclosure of sources by students constitutes a fraudulent obtainment as defined above. As "fraudulent obtainment" requires a deliberate act, it is not fulfilled if an insufficient quotation is made through negligence. However, if it turns out that the number of missing source citations is conspicuously high, fraudulent obtainment can be assumed.

If an assessment is fraudulently obtained by plagiarism, the assessment

- of the thesis is declared void and the void assessment shall be taken into account when determining the total number of repetitions (§ 74 para. 2 UG) and
- the university degree may be revoked (§ 89 UG)

by the Dean of Studies.

The revocation of the university degree has especially serious consequences under the law regulating university studies if it was required for the admission to other degree programmes. If, for example, the assessment of a bachelor's thesis within the framework of a bachelor's programme was fraudulently obtained by plagiarism and if the assessment was therefore declared void and the bachelor's degree was revoked, it follows that the admission to the advanced master's or doctoral programme was fraudulently obtained. This means that all assessments of the examinations taken and papers written in connection with the advanced programmes shall be declared void (as the registration according to § 74 para. 1 UG was fraudulently obtained) and the university degrees shall be revoked according to § 89 UG. If the university degree is revoked, the notice of award shall be confiscated and the student will no longer be allowed to hold the university degree. If the student continues to use the

university degree without authorisation, this constitutes a violation of an administrative regulation which must be reported to the regional administrative authorities and is punishable with a fine of up to 15,000 euros (§ 116 para. 1 subpara. 2 UG).

4.2. Consequences under copyright law

Apart from academic misconduct, plagiarism in the university sector usually also constitutes an infringement of §§ 46 and 47 UrhG (quotation) and of § 57 para. 2 UrhG (source citation). For non-academic/non-scientific papers, the requirement to observe the provisions of the UrhG is stated in § 80 para. 2 UG and concerning academic/scientific papers, it is stated in § 81 para. 4 UG. In §§ 22 and 23 of the provisions of the Chapter Study Law of the TU Wien Statute, it is also stated that the students must observe the provisions of the UrhG. According to the UrhG, plagiarism is an illegitimate infringement of the exploitation rights of the author. In the case of plagiarism, the author can take measures under civil law, including but not limited to:

- Injunctive relief (§ 81 UrhG) The author is entitled to apply for an action for injunction. This can be combined with the obtainment of a provisional disposition (§ 381 Austrian Enforcement Regulations).
- Right to removal (§ 82 UrhG) This right generally comprises destroying and making the illegitimate copies unusable.
- Publication of judgement (§ 85 UrhG) In the case of a copyright infringement determined by a court, the author can request the publication of the judgement if there is legitimate interest.
- Claim for payment (§ 86 UrhG) An appropriate payment must be made in order to be able to use the work.
- Compensation and disgorgement of profits (§ 87 UrhG) In the case of a copyright infringement, the author has the possibility to claim compensation and the disgorgement of the obtained profits.

Furthermore, § 91 UrhG provides for a penalty for the infringement of the exploitation rights according to §§ 14 to 18 UrhG. Accordingly, deliberate actions shall be punished with a fine of up to 360 daily rates or a prison sentence of up to six months.

5. Procedure in the case of the detection of plagiarism:

If plagiarism is detected, the procedure is based on the study-law provisions according to §§ 74 and 89 UG and §§ 22 and 23 of the provisions of the Chapter Study Law of the TU Wien Statute.

5.1. Theses:

Theses at universities exclusively comprise diploma, master's and doctoral theses (§ 51 para. 2 subpara. 8 and 13 UG). All other written papers completed by students within the framework of courses do not constitute theses according to UG.

5.1.1. Suspicion of plagiarism before the assessment:

In this case, the procedure should be as follows: after the examination of the case by the Dean of Studies for Continuing Education, the Dean of Studies for Continuing Education asks the supervisor that he/she requests the student to correct the master's thesis and rewrite the plagiarised parts before the work is assessed. The student shall especially be informed about the academic misconduct, the copyright infringement and the possible

injunctive relief and removal claims as well as the claims for compensation of the author connected therewith.

If the student corrects the work, the complete thesis shall be assessed according to the procedure stated in the provisions of the Statute (§§ 22 and 23 Chapter Study Law).

If the student refuses to correct the work, an independent expert opinion concerning the extent of the plagiarism is to be prepared and the assessment shall be based on this opinion. The plagiarised part of the work shall be negatively assessed within the framework of this opinion. Concerning the preparation of the expert opinion, the Dean of Studies shall appoint an expert.

5.1.2. Suspicion of plagiarism after the assessment:

If the thesis including the plagiarised part has already been assessed, the procedure shall be according to § 74 para. 2 UG. According to this provision, the assessment of a thesis shall be declared void by official notification if this assessment was fraudulently obtained, especially through the use of illegitimate resources. § 74 para. 2 states the fraudulent obtainment through the use of illegitimate resources only as an example. Therefore, this does not constitute a limitation. As a consequence, this also includes plagiarism because another person's performance is offered as one's own performance. According to the jurisdiction of the VwGH, the conditions for fraudulent obtainment are met if major parts of the work were written with the intention to mislead and the assessment of the work would have been worse (i.e. negative or with a less favourable positive grade) if these circumstances had been known (e.g. VwGH 11 December 2009, 2008/10/0088). The Dean of Studies is the body responsible for the annulment. In such a case, the Dean of Studies shall submit all documents to the head of the department of administration of studies and records so that the negative official notification can be prepared.

5.1.3. Suspicion of plagiarism after the university degree has been awarded:

In this case too, an (independent) expert opinion on the extent of the plagiarism shall be prepared. If, on the basis of this expert opinion, the conclusion is reached that major parts of the work were written with the intention to mislead and the assessment of the thesis would have been worse (i.e. negative or with a less favourable positive grade) if these circumstances had been known, the assessment of the thesis shall be declared void by official notification according to § 74 para. 2 UG and the university degree shall be revoked by official notification according to § 89 UG, the notice of award shall be confiscated and the student shall be prohibited from holding the university degree. This means that the study programme is not completed. However, it can be completed if the thesis is revised.

5.2. Non-academic/non-scientific papers:

Based on the definition of theses stated in 5.1., all independent written papers of students submitted by students in the context of courses shall be considered as non-academic/non-scientific papers. These include bachelor's theses (§ 51 para. 2 subpara. 7 in connection with § 80 UG) on the one hand and seminar or project work or the like on the other hand.

If the positive assessment of a bachelor's thesis is fraudulently obtained, the assessment of the complete course (not only of the written paper itself) shall be declared void according to § 74 para. 2 UG and taken into account when determining the total number of examinations taken according to § 74 para. 3 UG

For courses (e.g. seminars, projects) where the written part of the performance constitutes the major part of the assessment, not only the partial performance, but also the assessment of the course shall be declared void according to § 74 para. 2 UG and shall be taken into account when determining the total number of examinations taken according to § 74 para. 3 UG.

For courses where the written part of the performance is equivalent or subordinated to the other partial performances with regard to the comprehensive assessment, the plagiarism shall be considered accordingly when assessing the work. This means: if the non-academic/non-scientific paper includes plagiarism as part of the paper to be assessed, but the other examinations of the courses were lawfully performed, the head of the course shall lower the assessment accordingly.

The head of the course shall document the suspicion of plagiarism as well as the determination of the plagiarism and its extent accordingly.

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