

Regulation for the Application of Anti-Plagiarism Mechanisms

ISTEC | INSTITUTO SUPERIOR
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Chapter I **Objetives**

This Regulation aims to establish the appropriate strategies to encourage the quality of scientific and academic production of the educational community of the Instituto Superior de Tecnologias Avançadas (ISTEC) and to prevent the risk of plagiarism in Master's dissertations, specialized monographs, final degree course work, continuous assessment work, continuous assessment work in the Superior Technical Professional Courses, and other intellectual production carried out by members of this academic community, through mandatory verification of the level of originality of these writings and the detection of plagiarism through the analysis of similarity degrees.

This document establishes the specific procedures oriented towards determining the originality of scientific and academic works, establishing what the degrees of similarity with other previously published works are, and which are the acceptable and non-acceptable degrees, as well as the procedures in case certain degrees of similarity with other works are detected.

Finally, through this Regulation it is intended to strengthen the use of an anti-plagiarism system currently implemented in ISTEC and to establish the responsibilities of users regarding its use and generalization of the final results.

All of the above is intended to make ISTEC's scientific and technological production known, to facilitate its dissemination, and to offer free access to it through an institutional repository and specialized journals, as well as other means, seeking to ensure that said scientific and technological production is original and free of plagiarism.

Chapter II

Plagiarism: a brief overview of Portuguese law

Article 1

- 1.** The term plagiarism, although widely used in everyday language, is not an expression that Portuguese law uses, namely in terms of copyright.

In fact, without mentioning the referred term, the Copyright and Neighbouring Rights Code (CDADC) provides in Title IV (On the violation and protection of copyright and related rights) for two types of crimes - the crime of usurpation (Article 195) and the crime of counterfeiting (Article 196) - which it is important to distinguish from now on, in order to delimit the scope of what must be understood as plagiarism per se.

1.1. The crime of usurpation

According to art. 195, no. 1 CDADC, the crime of usurpation is committed by whoever, without the authorization of the author or the artist, the phonogram and videogram producer or the broadcasting organization, uses a work or performance in any of the ways provided for in this Code.

Article 195, no. 2 adds that he also commits the crime of usurpation:

- a. Whoever abusively disseminates or publishes a work not yet disseminated or published by its author or not intended for dissemination or publication, even if he presents it as the work of its author, whether or not he intends to obtain any economic advantage;
- b. Whoever collects or compiles published or unpublished works without the author's authorization;
- c. Whoever, being authorized to use a work, artist's performance, phonogram, videogram or broadcast, exceeds the limits of the authorization granted, except in the cases expressly provided for in this Code.

1.2. The crime of counterfeiting

Article 196, no. 1 of the CDADC, in turn, expressly states that anyone who uses, as his own creation or performance, a work, artist's performance, phonogram, videogram or broadcast that is a mere total or partial reproduction of another's work or performance, disclosed or not disclosed, or is similar in such a way that it has no individuality of its own, commits the crime of counterfeiting.

This means, therefore, that counterfeiting appears to be a special type of crime in relation to usurpation, insofar as it translates into usurpation that is especially qualified by the fact that the agent uses, as his own creation or performance, a work or performance that is merely a total or partial reproduction of another's work or performance, or is similar in such a way that it has no individuality of its own.

In the following paragraphs, Article 196 deals with a set of factual situations that are likely to raise well-founded doubts as to whether or not they are subsumed under the provisions of paragraph 1 of the precept.

Thus, one may read in art. 196, paragraph 2, that if the reproduction referred to in paragraph 1 represents only part or fraction of the work or performance, only that part or fraction shall be considered a counterfeit. Then, paragraph 3 clarifies that for there to be counterfeiting it is not essential that the reproduction be made by the same process as the original, with the same dimensions or in the same format. Finally, paragraph 4 of the aforementioned article expressly states that neither counterfeiting nor:

- a. semelhança entre traduções, devidamente autorizadas, da mesma obra ou entre fotografias, desenhos, gravuras ou outra forma de representação do mesmo objeto, se, apesar das semelhanças decorrentes da identidade do objeto, cada uma das obras tiver individualidade própria; nem tão-pouco;
- b. A reprodução pela fotografia ou pela gravura efetuada só para o efeito de documentação da crítica artística.

1.2.1. In view of the wording of Article 196, no. 1, counterfeiting can therefore be carried out in one of two ways: slavish reproduction and plagiarism.

1.2.1.1. Slavish reproduction occurs when the perpetrator merely decals or translates another person's work or performance in an attempt to pass them off as his own creation. The ingenious process that the agent uses for this purpose, however, makes it more or less easy to quickly detect the deception. In summary, the servile reproduction is nothing more than a simple copy that is easy to detect.

1.2.1.2. In plagiarism, on the other hand, the agent is not limited to a simple imitation of another's work or service. Plagiarism exists when the agent, in a cunning and disguised manner, successfully tries to appropriate what is really essential, creative and original in another person's work or service, with the aim of presenting these achievements to third parties as if they were his own works or services, often using subtle and cunning means to do so, a configuration that may be unquestionably his own, but is also merely formal, in that, strictly speaking, it does not really contain any creative, autonomous and individual content that could add anything of his own mind to the creation previously made by someone else.

2. The sanctions

The legal order imposes particularly harsh consequences for violation of the provisions contained in Articles 195 and 196 of the CDADC, insofar as it triggers, by virtue of the provisions of Article 197 of the CDADC, the use of mechanisms specific to repressive coercive protection which translate into the application of material sanctions, specifically of the reparation type, in the form of a custodial sentence and/or fine, depending on the circumstances which will be established at trial.

In effect, the crimes of usurpation and counterfeiting are punishable, under the terms of Article 197(1) of the CDADC, by a term of imprisonment of up to three years and a fine of 150 to 250 days, depending on the gravity of the offence, both of which are doubled in the event of a repeat offence, if the fact constituting the offence does not typify a crime punishable with a more serious penalty. The wording of numbers 2 and 3 of Article 197 adds, incidentally, that in the crimes of usurpation and counterfeiting negligence is punishable by a fine of 50 to 150 days, and that in the event of a repeat offence, there is no suspension of the penalty.

3. The counterfeiting of academia

The acuteness of the problem of academic fraud in general - e.g. the various forms that can take, specifically, so-called academic misconduct - and plagiarism in particular - namely, copying someone else's work, in whole or in part, without citing it, with the aim of making others believe, precisely by means of that omission, that it is their own work - has recently been the object of increased concern among us, especially within Higher Education Institutions.

In this regard, one of the aims has been to identify the multiplicity of forms that one or the other may take, namely to be able to better equate them within a special legal framework in relation to that outlined in Articles 196 and 197 of the CDADC.

In fact, it could even be said in support of the aforementioned solution that once the generality of situations detected and qualified as counterfeiting in academic circles is compared with the reality of things, it is easy to conclude that the overwhelming majority of cases of slavish reproduction and plagiarism that occur in higher education end up being resolved internally within each institution.

Thus, we can consider as forms of academic fraud in general, v. g., cheating in exams (including, using correction grids, class notes or book notes in an exam without consultation; talking to the other student during the exam; using a calculator to solve a problem supposed to be solved on paper; looking at the exam of the other student; stealing the exam from the academic office) and academic misconduct (changing the attendance list in class; asking a classmate to sign the attendance sheet for the person; submitting someone else's work as one's own; knowing the exam questions before the exam occurs; using private connections to pass the subject; paying the examiner to pass the exam). Plagiarism, on the other hand, will include activities such as copying directly from the web, sharing one's work with another student, appropriating someone else's work without referencing it, copying from the coursebook or website, subtracting from someone else's work.

Now, comparing the generality of these facts with the reality of things, it seems possible to state, with no appreciable margin of error, that the overwhelming majority of cases of usurpation and counterfeiting that occur in academic circles end up being resolved internally within each institution, with only seven complaints having been communicated to the General Inspection of Education in four years.

As regards the Courts in particular, there is the fact that a residual number of counterfeiting issues are examined (cf. art. 196 CDADC), and the circumstance that case law deals, in limited cases, with usurpation practices (cf. art. 195 CDADC) that have not even taken place in academic fields. Cfr. TRE Ac. of 15-10-2013, TRC Ac. of 30-03-2011; TRC Ac. of 22-02-2017, TRC Ac. of 28-06-2017 and STJ Ac. no. 15/2013, of 16-12-2013.

4. The internal regulations

In view of the above, it is understandable that Higher Education Institutions, within the scope of their attributions, as well as their statutes and internal regulations, seek to regulate the so-called academic fraud in general and plagiarism in particular, namely for the purposes of effective preventive coercive protection and repression of a strictly academic nature, in the scope of their own internal articulations, presupposing, as could not be otherwise, the respective articulation with Law 62/2007, of September 10th (Legal Regime of Higher Education Institutions) and with the other documents of a normative nature that are in force therein.

In fact, this is what results in a more or less comprehensive way, respectively from the provisions of the Academic Code of Conduct, ISCTE - University Institute of Lisbon (cf. Regulation No. 25/2017, Diário da República No. 6/2017, Series II of 2017-01-09), and the Regulation on Academic Fraud in the Master's and Doctoral study cycles of the Faculty of Law of the University of Lisbon - Public Consultation (cf. Order No. 5395/2019, Diário da República No. 106/2019, Series II of 2019-06-03), to mention two examples that illustrate the orientation that is being implemented in Portugal regarding these matters.

Chapter III **Scope of Application**

Article 2

The documents to be analyzed by the anti-plagiarism software URKUND, used by ISTEC are as follows:

- a. Master's Dissertations;
- b. Specialized Monographs;
- c. Articles for Kriativ-tech Magazine;
- d. End of course work;
- e. Continuous assessment written assignments;
- f. General publications;
- g. Articles for ISTEC's general repository;
- h. Other types of work submitted to the institution for evaluation, editing or publication.

Chapter IV **Definitions**

Article 3

The following terms have the following meaning:

1. **Plagiarism:** is understood as the reproduction of ideas without mentioning their authors, presenting them as one's own, or not properly referencing the sources consulted, ignorance of referencing rules cannot be a justification for the absence of such references, being configured as negligence. This is an illegal process that implies copyright violation, which can occur in one of the following cases:
 - a. Copying and presenting the transcription of information from a source, that is, including thoughts or ideas in one's own work that are copied but not referenced properly;
 - b. Some information is paraphrased without citing the source, that is, some words are changed from the original statement of a consulted source, but the source is not referenced;
 - c. A false reference is placed, that is, a reference is placed that does not correspond to what is being referenced and does not correspond to the original source;
 - d. Data is invented, i.e., false results of an investigation are fabricated or manipulated to look like an investigation that did not take place.
2. **Self-Plagiarism:** self-plagiarism occurs when one presents one's own previously published work as if it were new. It is the reuse of one's own material, presented as something new to be published.
3. **Similarity:** the similarity of an academic, scientific or technological production consists of the similarity or common characteristics that said production has with other similar intellectual works.
4. **Similarity report:** it is the result of a comparison between the text under evaluation with other similar works through a selected search that includes the pages of magazines and other publications, the active information archived on the Internet, repositories and other databases where scientific or technical documents may be located. This comparison will be made through the use of specialized software, in this case URKUND.
5. **Anti-Plagiarism Policy:** the policy that guides this Regulation is to ensure the production of knowledge that is original and complies with quality standards suitable for dissemination and disclosure through the established institutional channels, such as the repository, scientific journals, conferences, academic papers, etc.
6. **Originality:** academic, scientific or technological originality is understood as that work or intellectual production that offers new or existing information, but improved, and is not limited to copies of the ideas or intellectual productions of other authors.
7. **Anti-Plagiarism Software:** is anti-plagiarism software used by ISTECA a computer program that allows the analysis of documents and issues a report with the levels of similarity between the analyzed text, its sources and other intellectual works. In ISTECA's case, this software is URKUND.
8. **Scientific or technological research work:** is research work within the academic scope written by teachers or students that encompasses the following modalities:
 - a. Studies comprising empirical field investigations such as academic degree dissertations, or post-graduate work, original scientific articles, monographs, end-of-graduation papers, global projects, internship or project work, or others;
 - b. Writings that recompile and analyze existing research: such as degree dissertations or post-graduate works of a bibliographical nature, review articles, meta-analyses, and compilation monographs;
 - c. Monographs of analyses of experiences and information from scientific, academic or professional activities;
 - d. Technological investigations in the form of end-of-career papers with the publication of an article;
 - e. Papers for presentation in public examinations for obtaining the title of Specialist.

This work can be group or individual, but in all cases it is public, subject to review and debate. Research work requires methodological rigor and objectivity. They must have clearly defined purposes, be supported by existing knowledge, apply a given methodology, and present verifiable evidence in relation to their conclusions.

9. **Academic Work:** this is a piece of writing done by teachers or students in an academic context, but not necessarily with the formal methodological rigor required in research work. They are not used for obtaining any title or degree, but only for evaluation within the curricular unit or study cycle. They do not imply the presentation of new knowledge, but must rely on the application of at least one methodological tool for their elaboration. Examples are: the work for continuous assessment of students and the work for career advancement of teachers.
10. **Scientific or Technological Research Project:** this type of work usually has to describe the objectives, structure, methodology and other aspects to be taken into consideration for the implementation and organization of a future research report. It includes the outline of the procedures to be used for data collection, analysis and interpretation of results. In addition, it provides the background and reasons why the research is being carried out.

Chapter V

Responsibilities in the use of the anti-plagiarism system

Article 4

The Scientific-Technical Council promotes the originality of scientific research and technology work at the Institute for Advanced Technology (ISTEC). The verification of originality of high-level research or peer-reviewed publications with indexation is also ensured by this body.

Article 5

The Course Coordinators promote and organize the use of the anti-plagiarism systems available in the institution, with the objective of ensuring the originality of the work developed by teachers and students in the respective courses they coordinate.

Article 6

The Editors of ISTEC Scientific Journals are responsible for verifying the originality of all papers submitted for publication. They have the authority to exclude papers that do not comply with this imperative of originality, among others.

Article 7

The direction of the Advanced Computing Research Unit works in articulation with the Scientific-Technical Council in order to obtain the guarantees of originality and quality of the scientific or technological production works in the scope of this Research Unit.

Chapter VI

Presentation of the jobs to be checked

Article 8

Papers whose originality must be submitted for evaluation by URKUND can be sent directly to the addresses generated by that software or can be submitted manually via upload, by teachers or anyone with credentials to work with that platform. The original work and the report generated by Urkund must always be archived.

Chapter VII
Responsibility for verifying the originality of the submitted work

Article 9

The work presented by the students will be checked for originality by the respective teachers of the curricular units to which the work is assigned. It is up to the teachers of all courses to apply the anti-plagiarism software Urkund to all works that are foreseen in this regulation.

Article 10

High level research works or projects will have the Scientific-Technical Council responsible for verifying their originality, through a commission to be appointed by this body for this purpose.

Article 11

Guided Research Papers the verification of originality is the responsibility of the Advanced Computing Research Unit.

Article 12

Papers for publication in Kriativ-tech Magazine, the Editorial team is responsible for checking originality.

Article 13

Other works not included in the previous articles must be verified in terms of originality, by the commission to be appointed by the Technical and Scientific Council, for this purpose.

Chapter VIII
Criteria for considering the originality of the work presented for evaluation

Article 14

The following criteria are used to determine the originality of the submitted work:

- a. For scientifically oriented or high-level research work with publication, Master's Dissertations, end-of-course works such as reports, monographs or projects, articles to be published in the institution's scientific journals:

1 to 9% similarity	It is considered that the levels of coincidence are acceptable.
10 to 25% similarity	It is considered that the levels of coincidence are relevant, however should be requested to be reviewed by the author of the paper.
26 to 100% similarity	If levels of coincidence are considered unacceptable and severe, the work has to be discarded.

- b. All work not covered in point a.:

1 to 18% similarity	It is considered that the levels of coincidence are acceptable.
19 to 39% similarity	It is considered that the levels of coincidence are relevant, however should be requested to be reviewed by the author of the paper.
40 to 100% similarity	If levels of coincidence are considered unacceptable and severe, the work has to be discarded.

Chapter IX

Procedures in case of plagiarism and levels of similarity not allowed in submitted papers

Article 15

If plagiarism or high levels of similarity are not detected, the work must be accepted for its intended purpose. In the similarity levels presented in Article 14, in which it is possible to correct the work, it should be sent to the author.

Article 16

In the case where plagiarism is found or when the levels of similarity exceed 40%, the Technical-Scientific Council must be informed in writing, with a copy of the work presented and a copy of the Urkund's report. If the work in question is authored by a Student, the President of the Scientific-Technical Council sends a copy to the President of the Pedagogical Council.

Article 17

When the recurrence of similarity or plagiarism exceeds 40%, it may lead to suspension of enrollment in the academic year in which the facts are verified, after hearing the Scientific-Technical Council, the Pedagogical Council and the ISTEK Board of Directors.

Article 18

When a similarity level of more than 80% is detected and the crime of counterfeiting (plagiarism) is confirmed, the authorities must be informed through the official means used for this purpose.

Chapter X

Procedures in case of jobs with legal deposit

Article 19

In the case of papers that require a Legal Deposit, such as Master's Theses, students must sign a statement that they have submitted an original paper under oath before the defense of that paper.

Chapter XI

Final Provisions

Article 20

Interpretations and omissions

Doubts and omissions that may exist in the application of the present Regulation will be solved by an order of the ISTEK Lisbon Director, after hearing the Secretary-General and the President of the Scientific-Technical Council.

Article 21

Coming into force

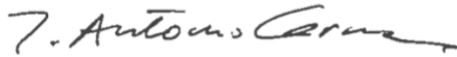
This Regulation on the Application of Anti-Plagiarism Mechanisms comes into force the day after its publication on the ISTEK Lisbon website (www.istec.pt) and in the other usual places.

Approved by the President of the Scientific-Technical Council on April 16th, 2021



(STC President: Pedro Ramos Brandão)

Homologated by the Director of the Instituto Superior de Tecnologias Avançadas de Lisboa on April 16th, 2021



(ISTEC Lisbon Director: José António da Silva Carriço)