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The use of artificial intelligence in academic research: between risks and innovation

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Abstract [En]: This paper examines the legal implications of using Artificial Intelligence (AI) in academic research. While AI can support the writing and editing of scientific texts, it also raises concerns regarding plagiarism, authorship, copyright, and freedom of expression. These issues may raise doubts about the quality of research, undermine academic integrity and negatively affect the right to information.

Titolo: L'uso dell'intelligenza artificiale nella ricerca accademica: tra rischi e innovazione

Abstract [It]: Il contributo esamina le implicazioni legali dell'utilizzo dell'Intelligenza Artificiale (IA) nella ricerca accademica. Se da un lato l'IA può supportare la stesura e la revisione di testi scientifici, dall'altro lato solleva preoccupazioni con riferimento al plagio, alla paternità del testo, al diritto d'autore e alla libertà di espressione. Tali questioni possono mettere in dubbio la qualità della ricerca, minare l'integrità accademica e incidere negativamente sul diritto all'informazione.

Keywords: Artificial intelligence, Academic research, Copyright, Plagiarism, Disinformation

Parole chiave: Intelligenza Artificiale, Ricerca accademica, Diritto d'autore, Plagio, Disinformazione

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1. Introduction

In recent decades, Artificial Intelligence (AI) has rapidly permeated our daily lives, becoming an integral part of numerous fields¹. From medicine to finance, from marketing to agriculture, from security to education, AI is now present in almost every area of human activity. As S.J. Russell and P. Norving observe, «AI is relevant to any intellectual task; it is truly a universal field»².

The launch of ChatGPT, an AI system developed by OpenAI and made publicly available at the end of 2022, marked the beginning of a new way of approaching Artificial Intelligence, making it easily accessible to a broad audience. From that moment on, an internet connection has been sufficient to experience direct interaction with an AI. As will be discussed, ChatGPT is a form of generative AI capable not only of understanding requests expressed in natural language, but also of providing (ideally) accurate and

^{*} Articolo sottoposto a referaggio. This article is a reworked, revised, and updated version of the previous contribution M. IEMMA, *Intelligenza artificiale e ricerca accademica: uno sguardo critico tra rischi e innovazione*, in *MediaLaws*, numero speciale I-2024.

¹ L. PORTINALE, *Intelligenza Artificiale: storia, progressi e sviluppi tra speranze e timori*, in *MediaLaws*, n. 3, 2021, p. 14.

² S. J. RUSSELL and P. NORVIG, *Artificial Intelligence. A Modern Approach*, Pearson, Londra, 2021, p. 1.

comprehensive responses, engaging in a meaningful dialogue across a wide range of topics, and producing detailed and well-structured texts comparable to those written by humans.

AI has also begun to be applied even in the academic sphere, with the aim of streamlining research and writing, two of the most central daily activities for scholars. While such use should not be discouraged and may offer significant advantages, it is essential to raise fundamental questions regarding its appropriateness, the limitations that should be imposed, and, not least, the risks associated with the use of these technologies.

It is precisely to address these questions that this paper is conceived. On the one hand, it aims to highlight the potential benefits that academics may derive from Artificial Intelligence, and more specifically from generative AI³; on the other hand, it seeks to examine some of the key legal issues that may arise from its use in drafting articles intended for publication in academic journals. In particular, regarding AI systems capable of generating outputs comparable to those produced by human intellect, this paper will focus on the attribution of authorship of an AI-generated texts, the risk of plagiarism and the risk of dissemination of disinformation⁴.

As a preliminary observation, it is worth noting that the rapid expansion of Artificial Intelligence has prompted debate over the desirability of specific regulatory frameworks governing this field. Although comprehensive national regulations are still lacking, at the supranational level Regulation (EU) 2024/1689 (the so-called AI Act) was published in the Official Journal of the European Union on 12 July 2024. This represents the first regulatory instrument on the use of Artificial Intelligence, aimed at promoting the development and adoption of safe and reliable AI systems within the EU single market, while ensuring fundamental rights⁵. The regulation seeks to provide a harmonized legal framework for AI across the European Union. It is part of the broader European regulatory landscape and, with specific regard to copyrighted materials used for training AI systems, reference must also be made to the 2019 Directive on Copyright in the Digital Single Market⁶, which aims to harmonize copyright law in the context of digital technologies and online environment.

³ As highlighted by C. COLAPIETRO and A. MORETTI, *L'Intelligenza Artificiale nel dettato costituzionale: opportunità, incertezze e tutela dei dati personali*, in *BioLaw Journal*, n. 3, 2020, p. 369, Artificial Intelligence can significantly advance research by both creating new avenues of inquiry and serving as a tool through which scientific investigations are conducted.

⁴ F. POSTERARO, *Il copyright al tempo dell'IA generativa*, in *Medialaws*, n. 2, 2023, p. 11.

⁵ Regulation (UE) 2024/1689 of the European Parliament and of the Council, 13 June 2024, published in the Official Journal of the European Union on 12 July 2024. The AI Act is regulation proposed by the European Commission on 21 April 2021, with the aim of establishing a harmonised regulatory framework for Artificial Intelligence within the European Union; it was approved by the European Parliament on 13 March 2024 and subsequently definitively adopted by the Council of the European Union on 21 May 2024; it was published in the Official Journal of the European Union on 12 July 2024 and entered into force on 2 August 2024.

⁶ Directive (UE) 2019/790 of the European Parliament and of the Council of 17 April 2019, on copyright and related rights in the Digital Single Market, and amending Directives 96/9/EC and 2001/29/EC.

Furthermore, on 14 November 2024, the European Commission published the first draft of the General-Purpose AI Code of Practice⁷, as required by Article 56 of the AI Act⁸. This constitutes the first Code of Conduct for General-Purpose AI (AI general-purpose, GPAI⁹), drafted by independent experts serving as chairs and vice-chairs of four thematic working groups. These groups focus respectively on transparency and copyright rules; risk identification and assessment for systemic risk; mitigation of technical risk for systemic risk; and mitigation of governance risk for systemic risk.

Following a process of internal discussion within these working groups and further consultation with external stakeholders, the document is expected to guide the development and implementation of safe and reliable general-purpose AI models, while providing detailed standards on transparency and copyright obligations for AI providers.

Focusing more specifically on the academic context, and in the absence of specific legal provisions, several scientific journals and publishing houses have begun to adopt guidelines governing the use of AI in the preparation of scholarly articles. While such measures may help prevent, or at least reduce, the risk of infringing third-party rights – such as through plagiarism or copyright violations – it remains uncertain whether formal regulation at the national or European level would be more effective.

Having outlined this still-fragmentary regulatory landscape, one may reasonably question whether formal AI regulation is indeed desirable, and whether alternative instruments (such as self-regulation through publishing guidelines or soft law mechanisms like codes of conduct) are sufficient to address the legal challenges arising from the increasingly widespread use of AI systems.

Although these broader questions will remain in the background, this paper seeks, through an analysis of AI applications in academic publishing and the related legal issues, to offer some tentative conclusions. Finally, it should be noted that this paper addresses issues within the humanities, as the use of AI in scientific research raises partly distinct challenges that fall outside the scope of this analysis. Moreover, the focus is predominantly on legal considerations, while ethical issues are left for future discussion.

⁷ [First Draft General-Purpose AI Code of Practice](#), 14 November 2024.

⁸ Article 56 of AI Act states that «The AI Office shall encourage and facilitate the drawing up of codes of practice at Union level in order to contribute to the proper application of this Regulation, taking into account international approaches».

⁹ Article 3(63) of the AI Act defines general-purpose Artificial Intelligence as «an AI model, including where such an AI model is trained with a large amount of data using self-supervision at scale, that displays significant generality and is capable of competently performing a wide range of distinct tasks regardless of the way the model is placed on the market and that can be integrated into a variety of downstream systems or applications, except AI models that are used for research, development or prototyping activities before they are placed on the market».

2. The problem of defining AI in the legal context

To delimit the scope of the analysis, and considering its legal relevance, it is necessary to briefly address the meaning of Artificial Intelligence.

Given that AI is a constantly evolving and transformative field, a variety of definitions have been proposed over time¹⁰, perhaps contributing to further uncertainty as to what should actually be subject to regulation¹¹. However, despite the absence of a univocal definition, Massimo Luciani¹², in addressing the issue of liability for damages, observed that the legislator already possesses all the necessary tools to determine whether liability should rest with the hardware manufacturer, the software developer, the user, or other actors. Accordingly, the legislator could introduce «at least some general principles, although the extreme variety of the phenomenon might abstractly suggest the adoption of specific regulations for the various fields of application of artificial intelligence»¹³; indeed, «the presence of general principles would facilitate the regulation of future innovations, expected to be profound and in rapid succession, which an analytical regulation would be forced (always late) to pursue»¹⁴.

One of the earliest institutional definitions, albeit within the framework of soft law, can be found in the European Commission's 2018 Communication "Artificial Intelligence for Europe", which defines AI as «systems that display intelligent behaviour by analysing their environment and taking actions – with some degree of autonomy – to achieve specific goals»¹⁵. A legally binding definition, however, is provided by AI Act: Article 3 defines an "AI system" as «an automated system designed to operate with varying levels of autonomy and that may exhibit adaptability after deployment, and that, for explicit or implicit purposes, infers from inputs it receives how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments»¹⁶.

¹⁰ On this point, see S. J. RUSSELL, P. NORVIG, *Artificial Intelligence. A Modern Approach*, cit.; G. SARTOR, *L'intelligenza artificiale e il diritto*, Torino, 2022, p. 3, who highlights that, on the one hand, there is a contrast between intelligence understood as thought and the idea of intelligence as interaction with the environment; on the other hand, a contrast emerges between the aim of faithfully reproducing human intellectual abilities and the goal of developing systems capable of rationality (i.e. processing information or acting optimally) independently of the limits of human rationality. One of the pioneers in the field, John McCarthy, instead defined it as «the science and engineering of making intelligent machines, especially intelligent computer programs. It is related to the similar task of using computers to understand human intelligence, but AI does not have to confine itself to methods that are biologically observable» in J. MCCARTHY, *What Is Artificial Intelligence*, Stanford, 2007, p. 2.

¹¹ M. LUCIANI, *La sfida dell'intelligenza artificiale*, in *Lettera AIC*, 12, 2023, p. 7.

¹² In a paper relating to the presentation delivered during the event entitled "Introduzione all'intelligenza artificiale: tecnologia e diritto", held on 16 November 2023 at the Conference of the *Circolo dei Magistrati della Corte dei conti*.

¹³ M. LUCIANI, *Può il diritto disciplinare l'intelligenza artificiale? Una conversazione preliminare*, in *Diritto & Conti Bilancio Comunità Persona*, n. 2, 2023, p. 16.

¹⁴ M. LUCIANI, *Può il diritto disciplinare l'intelligenza artificiale? Una conversazione preliminare*, op. cit., p. 16.

¹⁵ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, *Artificial Intelligence for Europe*, Brussels, 25.4.2018 COM/2018/237 final.

¹⁶ Regulation (UE) 2024/1689 of the European Parliament and the Council, cit., art. 3.

For a clearer understanding of the issues discussed in the following paragraphs, it is useful to outline certain technical aspects. Artificial Intelligence can be based on two approaches: Modeling (Model-Based AI) and Machine Learning (Machine Learning AI). In the former, a model is explicitly designed and implemented so that a computer can perform tasks such as calculation, analysis, and response generation¹⁷. In the latter, the model is derived from data obtained from external sources – often datasets available online – which are used to train the system prior to its development, telling the machine exactly what result it should provide and how¹⁸.

Machine Learning techniques are also employed in a specific subfield of Artificial Intelligence, known as “generative”. Generative AI models are trained on a vast quantity of data and are capable of autonomously producing new and complex content with great accuracy, mimicking human creativity. The capabilities of such system depend significantly on both the quantity and nature of the training data. As a result, these systems can generate text, simulate conversations, produce codes, create images, music and other forms of content.

3. Generative AI in academic research: potential benefits

The ability of generative AI systems to analyse and reinterpret large amounts of data, as well as to generate highly accurate texts, holds significant potential for enhancing academic research.¹⁹ Of particular interest to scholars is the capacity of such systems to understand and process natural language – commonly referred to as Natural Language Processing – in a manner comparable to human linguistic expression²⁰. The best-known example is ChatGPT, a system developed by OpenAI, which is capable not only of understanding queries formulated in natural language, but also of generating detailed and coherent responses and engaging in conversations across a wide range of topics²¹.

Tools like ChatGPT may contribute to making research activities more efficient by automating tasks such as drafting analytical texts, summarising articles, and producing reports or other documents, which researchers can subsequently refine and incorporate in their own work. Furthermore, one of the most innovative aspects of features systems is the ability to process highly specific queries and return relevant results within extremely short timeframes. These tools can also be employed for translating texts into

¹⁷ P. TRAVERSO, *Breve introduzione tecnica all'Intelligenza Artificiale*, in C. CASONATO, M. FASAN, S. PENASA (eds.), *Diritto e intelligenza artificiale*, sezione monografica – DPCE Online, n. 1, 2022, p. 158.

¹⁸ P. TRAVERSO, *Breve introduzione tecnica all'Intelligenza Artificiale*, *op. cit.*, 160.

¹⁹ M.M. ALSHATER, *Exploring the Role of Artificial Intelligence in Enhancing Academic Performance: A Case Study of ChatGPT*, 26 Dicembre 2022, available on SSRN; M. HOSSEINI, L.M. RASMUSSEN e D.B. RESNIK, *Using AI to write scholarly publications*, in *Accountability in Research*, vol. 31, n. 3, 2023.

²⁰ M.M. ALSHATER, *Exploring the Role of Artificial Intelligence in Enhancing Academic Performance: A Case Study of ChatGPT*, *op. cit.*, p. 2.

²¹ *Ibid.*

multiple languages, thereby facilitating access to and comprehension of international research materials – especially those written in less widely known languages – ultimately reducing language barriers and enabling broader data collection.

Generative AI therefore emerges as a potentially valuable resource for academics, allowing them to delegate repetitive and time-consuming tasks and to concentrate on the more creative and analytical dimensions of their work.²²

However, it is essential for researchers to remain fully aware of the risks associated with the use of such technologies. Academic work must be conducted in a responsible and transparent manner, providing truthful and unbiased data²³, and avoiding any form of abuse in the use of these technologies²⁴. As will be discussed, this entails a careful verification of the reliability and accuracy of the information and data generated by AI systems.

4. Potential critical issues: the authorship of AI-generated text

Most academic journals adopt authorship policies that often include, among the criteria for recognition as an author, a substantial contribution to the writing process²⁵. This raises the question of whether the use of Artificial Intelligence in drafting a text entails, or should entail, its recognition as an author or co-author²⁶.

To address this issue, some scholars have outlined different scenarios regarding the attribution of authorship to texts generated with generative AI, depending on the nature of the interaction between the user and the system. Where the user provides detailed and specific input that meaningfully guides the generation of the text, it appears reasonable to attribute authorship to the user. Conversely, where the input is minimal (for instance, a simple request to produce a text on a given topic), it becomes more difficult to determine whether authorship should be ascribed to the user or, more problematically, to the system itself²⁷. The central issue, therefore, shifts to identifying who takes responsibility for the information contained in the text.

This problem is further complicated by the distinction between “fully” and “partially” generative AI systems: the former «are programmed to produce outputs that are almost or completely independent of

²² B.D. LUND, T. WANG, *Chatting about ChatGPT: how may AI and GPT impact academia and libraries?*, in *Library hi tech news*, vol. 40, n. 3, 2023, p. 27.

²³ M. HOSSEINI, L.M. RASMUSSEN, D.B. RESNIK, *Using AI to write scholarly publications*, cit., 1.

²⁴ B.D. LUND, T. WANG, *Chatting about ChatGPT*, cit., 28.

²⁵ As shown in the study conducted by D. B. RESNIK, A. M. TYLER et. al, *Authorship policies of scientific journals*, in *Journal of Medical Ethics*, 2016, vol. 42, n. 3, pp. 199-202; the authors carried out an analysis of the authorship policies of a random sample of 600 journals included in the Journal Citation Reports database.

²⁶ M. HOSSEINI, L.M. RASMUSSEN, D.B. RESNIK, *Using AI to write scholarly publications*, cit., 5.

²⁷ B.D. LUND et al., *ChatGPT and a new academic reality: Artificial Intelligence-written research papers and the ethics of the large language models in scholarly publishing*, in *Journal of the Association for Information Science and Technology*, vol. 74, n. 5, 2023, p. 575.

user input»²⁸; whereas the latter «use both the information provided by the programmer and that entered by the user to generate output»²⁹. It has therefore been argued that the output of fully generative AI represents «the indirect result of its creative design poured into the software and that the copyright on the resulting works therefore belongs to the developer»³⁰.

In the case of ChatGPT – an example of a system that can operate in both fully and partially generative modes – if the input consists merely of a general instruction «OpenAI will have indirectly generated the text»³¹. By contrast, in cases involving partially generative AI systems, the key issue becomes identifying «when user inputs have an influence on the developer's program and in which cases this is characterized by creativity»³². In such situations, authorship may be attributed to the user, the developer, both (as co-authors), or, in some cases, to neither³³.

Although this remains a complex and evolving topic, some scholars have attempted to provide structured solutions. Notably, J.C. Ginsburg and L.A. Budiarjo have proposed a framework for allocating copyright in AI-generated texts³⁴. They have identified four possible scenarios: a) where the programmer had not provided precise instructions to the AI system and the output depends entirely on the user's decisions, copyright would belong to the user, as the AI functions merely as a tool; b) where a fully generative AI system had been programmed to produce content autonomously, without contribution from the user, copyright would belong solely to the programmer, as the output would reflect the creative work embedded in the system; c) where a partially generative AI system had produced a work resulting from the combined creative contributions of the programmer and the user, the two may be regarded as co-authors; d) where, in the case of partially generative AI, the programmer and user had not collaborated in the creation of the work, the work would be considered authorless³⁵.

According to the two authors, the key criterion for determining authorship in a Ai-generated text is the identification of the relevant human creative contribution embodied in the final output.

²⁸ P. GITTO, *New York Times vs. OPENAI, Microsoft et al.: conflitti attuali fra intelligenza artificiale e diritto d'autore*, in *giustiziacivile.com*, n. 2, 2024, p. 9; as an example of fully generative AI, the author refers to AARON, an AI originating in the Anglo-American context and designed by the British artist Harold Cohen to autonomously produce paintings based on instructions initially provided by Cohen himself.

²⁹ *Ibid.*; see also J.C. GINSBURG and L.A. BUDIARJO, *Authors and Machines*, in *Bekeley Technology Law Journal*, vol. 34, n. 2, 2019, p. 407 ss.

³⁰ P. GITTO, *New York Times vs. OPENAI, Microsoft et al., cit.*, p. 10.

³¹ P. GITTO, *New York Times vs. OPENAI, Microsoft et al., op. cit.*, p. 10.

³² *Ibid.*, p. 11.

³³ *Ibid.*

³⁴ J.C. GINSBURG and L.A. BUDIARJO, *Authors and Machines, cit.*, p. 428 ss.

³⁵ P. GITTO, *New York Times vs. OPENAI, Microsoft et al., cit.*, 10.

Several scientific journals have also begun to address this issue by adopting specific policies. In some early cases, certain Elsevier journals included ChatGPT as a co-author³⁶: for example, in January 2023 the journal *Nurse Education in Practice* explicitly acknowledged ChatGPT as co-author³⁷, thereby triggering significant debate among editors and researchers about the validity of such recognition³⁸. Shortly thereafter, however, the same journal published a corrigendum removing ChatGPT from the list of authors and reaffirming exclusive human authorship³⁹.

Major publishers, such as Taylor & Francis or Springer-Nature, have declared that they do not yet accept ChatGPT as a co-author, while highlighting the importance of transparency in disclosing their use, for instance in a dedicated section of the manuscript describing the methods employed⁴⁰.

The International Committee of Medical Journal Editors (ICMJE) has also addressed the issue, stating the criteria for attributing authorship of a text, which include four concepts: substantial contribution to the work, participation in drafting, final approval of the version to be published, and accountability for all aspects of the work⁴¹. It is precisely this last requirement that AI systems cannot satisfy: lacking legal

³⁶ See, for example, L. BENICHO, CHATGPT, *The role of using ChatGPT AI in writing medical scientific articles*, in *Journal of Stomatology, Oral and Maxillofacial Surgery*, vol. 124, n. 5, October 2023.

³⁷ S. O'CONNOR and CHATGPT, *Open artificial intelligence platforms in nursing education: Tools for academic progress or abuse?*, in *Nurse Education in Practice*, vol. 66, January 2023.

³⁸ See, for example: C. STOKEL-WALKER, *ChatGPT listed as author on research papers*, in *Nature*, vol. 613, p. 26, January 2023; J.A. TEIXEIRA DA SILVA, *Is ChatGPT a valid author?*, in *Nurse Education in Practice*, vol. 68, March 2023.

³⁹ *Corrigendum* to S. O'CONNOR, *Open artificial intelligence platforms in nursing education: Tools for academic progress or abuse?*, in *Nurse Education in Practice*, vol. 66, January 2023.

⁴⁰ See, for example: *Taylor & Francis Clarifies the Responsible use of AI Tools in Academic Content Creation*, on the website of the journal *Taylor & Francis*, which states that «AI tools must not be listed as an author. Authors must, however, acknowledge all sources and contributors included in their work. Where AI tools are used, such use must be acknowledged and documented appropriately». In its [Expanded guidance on AI application for authors, editors and reviewers](#), Taylor & Francis considered that Generative Artificial Intelligence (AI) tools, such as large language models (LLMs) or multimodal models, continue to evolve, identifying the new opportunities they offer in supporting authors. At the same time, it also recognised certain risks associated with the current generation of Generative AI tools, namely: Inaccuracy and bias; Lack of attribution; Confidentiality and Intellectual Property Risks; Unintended uses. The journal stated that «Generative AI tools must not be listed as an author, because such tools are unable to assume responsibility for the submitted content or manage copyright and licensing agreements. Authorship requires taking accountability for content, consenting to publication via a publishing agreement, and giving contractual assurances about the integrity of the work, among other principles. These are uniquely human responsibilities that cannot be undertaken by Generative AI tools» and that «Authors must clearly acknowledge within the article or book any use of Generative AI tools through a statement which includes: the full name of the tool used (with version number), how it was used, and the reason for use». *Artificial Intelligence (AI)*, in the editorial policies of the journal *Nature*, which states that «Large Language Models (LLMs), such as ChatGPT, do not currently satisfy our authorship criteria. Notably an attribution of authorship carries with it accountability for the work, which cannot be effectively applied to LLMs. Use of an LLM should be properly documented in the Methods section (and if a Methods section is not available, in a suitable alternative part) of the manuscript»; for an updated list of journals that have issued statements or updated their guidelines regarding the use of Artificial Intelligence tools by authors, see *Generative AI at UVA*, on the University of Virginia website.

⁴¹ International Committee of Medical Journal Editors (ICMJE), *Defining the role of authors and contributors*.

personality, they cannot assume moral, legal or ethical responsibility, nor can they hold or transfer copyright⁴².

Accordingly, the ICMJE has excluded the possibility of recognising ChatGPT as an author, while requiring authors to describe, both in their cover letter and in a dedicated section of the submitted work, how they employed such tools (for example, indicating whether the AI was used as a writing aid or as a tool for data collection, analysis, or figure generation).

Therefore, it currently does not seem possible to classify Artificial Intelligence tools as authors or co-authors of a text, nor as copyright holders, since they lack recognized legal capacity and are not natural persons⁴³.

However, as the case of Nurse Education in Practice also demonstrates, some argue that future legal frameworks may need to extend legal capacity to Artificial Intelligences as well⁴⁴. In this regard, in August 2023 the District Court for the District of Columbia decided *Thaler v. Perlmutter*⁴⁵, a case challenging the requirement of human authorship for copyright protection in relation to a work autonomously generated by a generative AI system. In that case, Dr. Stephen Thaler, despite arguing that the AI algorithm was the true author of the work, had applied for copyright registration for a work produced by an AI system that he himself had created; however, the Copyright Office had rejected the request, as the work in question had not been produced by human creativity⁴⁶. Subsequently, Thaler sued the Copyright Office, asking the Court to determine whether a work autonomously generated by an AI could be eligible for copyright protection. However, the Court upheld the Copyright Office's decision, affirming that the author of a copyrighted work must be human⁴⁷.

⁴² C. DUNNE, *Can ChatGPT be your coauthor?*, in *BC Medical Journal*, vol. 65, n. 6, July/August 2023, p. 193. At present, indeed, Artificial Intelligence systems are not recognised as having legal personality. On the issue of the possible recognition of legal personality for Artificial Intelligence, see for example: S. ACETO DI CAPRIGLIA, *Intelligenza artificiale: una sfida globale tra rischi, prospettive e responsabilità. Le soluzioni assunte dai governi unionale, statunitense e sinico. Uno studio comparato*, in *Federalismi*, n. 9, 2024; D. DE MINICO, *Giustizia e intelligenza artificiale: un equilibrio mutevole*, in *Rivista AIC*, n. 2, 2024; A. AZARA, *Intelligenza artificiale e personalità giuridica*, in R. GIORDANO and A. PANZAROLA et al. (eds.), *Il diritto nell'era digitale. Persona, Mercato, Amministrazione, Giustizia*, Milano, 2022; R. CELOTTO, *I robot possono avere diritti?*, in A. D'ALOIA (eds.), *Intelligenza artificiale e diritto*, Milano, 2020; U. RUFFOLO, *Il problema della "personalità elettronica"*, in *Journal of Ethics and Legal Technologies*, n. 2, 2020. However, some Baltic countries have already developed proposals for granting legal personality to machines; on this point, see A. PAJNO, M. BASSINI, G. DE GREGORIO et al., *AI: profili giuridici. Intelligenza Artificiale: criticità emergenti e sfide per il giurista*, in *BioLaw Journal*, n. 3, 2019, p. 211.

⁴³ P. GITTO, *New York Times vs. OPENAI, Microsoft et al.*, cit., p. 6.

⁴⁴ See, for example: L. ARNAUD and R. PARDOLESI, *Ecce robot. Sulla responsabilità dei sistemi adulti di intelligenza artificiale*, in *Danno e responsabilità*, n. 4, 2023; M.A. LEMLEY and B. CASEY, *Remedies for Robots*, in *The University of Chicago Law Review*, vol. 86, n. 5, 2019.

⁴⁵ United States District Court for the District of Columbia, *Stephen Thaler v. Shira Perlmutter*, *Register of Copyrights and Direction of the United States Copyright Office, et al.*, Civil Action No. 22-1564 (BAH).

⁴⁶ See the act of the Copyright Office: *Second Request for Reconsideration for Refusal to Register A Recent Entrance to Paradise (Correspondence ID 1-3ZPC6C3; SR # 1-7100387071)*.

⁴⁷ United States District Court for the District of Columbia, *Stephen Thaler v. Shira Perlmutter*, cit.

The examples discussed show how the issue of Artificial Intelligence and copyright is becoming increasingly relevant and urgent worldwide, while, at the same time, regulation remains fragmented (for instance, as seen above, often limited to guidelines issued by academic journals). This also makes it difficult, even for authors themselves, to understand how to proceed.

At the same time, it is still unclear whether self-regulation is more effective than specific national or supranational legislation. In this regard, an attempt at national regulation has been made in France: on 12 September 2023, a bill was presented specifically to make Artificial Intelligence compatible with copyright law⁴⁸. It opens by expressly stating that «[i]l existe un défi économique, culturel et juridique majeur lié au développement effréné de l'intelligence artificielle (IA) qu'il convient de régler urgemment»⁴⁹ and underlines that the exponential evolution of generative AI requires us to seek solutions to what could represent a threat to many sectors, including that of scientific publishing. The proposal complements the French Intellectual Property Code by providing that, when a work is created by Artificial Intelligence, the only rights holders are the authors or the rights holders of the works that made the design of such artificial possible⁵⁰.

Through this bill, therefore, the proponents therefore aim to encourage AI systems to respect copyright law and to ensure that rights holders are adequately protected, by requiring prior authorisation from the author or intellectual property rights holder before using copyrighted material for the training or development of an AI system.

Recently, there have been further developments in French legislation, with a bill on Artificial Intelligence and copyright, submitted to Parliament on 12 December 2025, and approved with amendments on 8 April 2026 by the Senate. This bill establishes in the Intellectual Property Code a presumption of use of work or object protected by copyright or related rights by providers of AI models or systems in civil matters, thus reversing the burden of proof (which currently falls on rights holders). The AI provider, therefore, will be held liable whenever there are indications relating to the development or implementation of this system or the result generated by it that make such use plausible⁵¹.

⁴⁸ [Proposition de loi visant à encadrer l'intelligence artificielle par le droit d'auteur, n° 1630, déposée le mardi 12 septembre 2023.](#)

⁴⁹ *Proposition de loi visant à encadrer l'intelligence artificielle par le droit d'auteur, n° 1630, op. cit.*, p. 2.

⁵⁰ *Ibid.*, art. 2, par. 2.

⁵¹ See [Proposition de loi relative à l'instauration d'une présomption d'utilisation des contenus culturels par les fournisseurs d'intelligence artificielle](#), adopted by the Senate at first reading, with amendments, on 8 April 2026, which modifies the Intellectual Property Code, adding that «Sauf preuve contraire, dans toute contestation en matière civile, l'œuvre ou l'objet protégé par un droit d'auteur ou par un droit voisin, au sens du présent code, est présumé avoir été utilisé par le fournisseur du modèle ou du système d'intelligence artificielle, dès lors qu'un indice afférent au développement ou au déploiement de ce système ou au résultat généré par celui-ci rend vraisemblable cette utilisation».

4.1. The risk of plagiarism

The use of generative AI in the academic field raises further concerns, particularly regarding research transparency⁵². Part of the scholarly literature has emphasised the importance of ensuring that, in the context of research and scientific publications, these technologies are used in a responsible and ethical manner: researchers, publishers and developers of generative AI models should collaborate to establish guidelines aimed at ensuring the ethical, transparent, and responsible use of such technologies⁵³. Therefore, if the AI-generated manuscript includes third-party data or content, proper attribution should be provided in order to comply with copyright law⁵⁴.

As already noted, generative AI is trained on a huge amount of data that is made available to users; therefore, when using an AI-generated text, whose content draws on works by multiple authors, it would be appropriate to disclose this⁵⁵. This is because AI-generated outputs may not indicate – or may be unable to indicate – the exact sources from which the content originates, making it difficult, or even impossible, for those using such material in scientific writing to provide proper citations⁵⁶.

What may therefore occur is a copyright infringement originating from the Artificial Intelligence models themselves, which may then be transferred to the author who reproduces such content in their own work without adequately citing the source⁵⁷. Indeed, plagiarism does not occur only in cases of “copy and paste”, but also in the paraphrasing of other people’s texts or ideas without proper attribution⁵⁸.

Generative AI systems are also raising significant intellectual property issues. Some publishers argue that AI developers do not always obtain their content through permission but nevertheless use it to train their models⁵⁹. To mitigate authors’ concerns, some publishers are even considering removing scientific texts from open access, precisely to prevent AI systems such as ChatGPT from accessing articles and potentially misusing them⁶⁰.

In this regard, the relationship between Artificial Intelligence and copyright law is well illustrated by a well-known case that is still pending: on 27 December 2023, the New York Times Corporation filed a

⁵² B.D. LUND et al., *ChatGPT and a new academic reality*, cit., p. 570.

⁵³ B.D. LUND et al., *ChatGPT and a new academic reality*, op. cit., p. 570.

⁵⁴ For a general discussion on the topic, see J. L. GILLOTTE, *Copyright Infringement in AI-Generated Artworks*, in *UC Davis Law Review*, vol. 53, n. 5, 2020, which addresses the issue of the interaction between Artificial Intelligence and copyright law in the United States.

⁵⁵ M. HOSSEINI, L.M. RASMUSSEN, D.B. RESNIK, *Using AI to write scholarly publications*, cit., p. 5.

⁵⁶ B.D. LUND et al., *ChatGPT and a new academic reality*, cit., p. 575.

⁵⁷ B.D. LUND et al., *ChatGPT and a new academic reality*, op. cit., p. 575.

⁵⁸ On the topic, see A. Y. GASPARYAN, B. NURMASHEV et al., *Plagiarism in the Context of Education and Evolving Detection Strategies*, in *Journal of Korean Medical Science*, vol. 32, n. 8, 2017.

⁵⁹ See News/Media Alliance, C. S. ARATO et al., *White Paper: How the pervasive copying of expressive works to train and fuel generative artificial intelligence systems is copyright infringement and not a fair use*, 2023.

⁶⁰ B.D. LUND et al., *ChatGPT and a new academic reality*, cit., p. 575; N. ANDERSON, D. L. BELAVY et al., *AI did not write this manuscript, or did it? Can we trick the AI text detector into generated texts? The potential future of ChatGPT and AI in sports & exercise medicine manuscript generation*, in *BMJ Open Sport & Exercise Medicine*, vol. 9, n. 1, 2023.

lawsuit against OenAI Inc., Microsoft Corporation and others⁶¹, seeking a declaration of copyright infringement concerning the newspaper's content, as well as damages and the destruction of ChatGPT and similar AI systems that incorporated Times material⁶².

What the New York Times aims to demonstrate is that the Artificial Intelligence developed by OpenAI, and used by Microsoft, was trained on millions of New York Times articles, which would have been acquired and used without authorisation and without compensation⁶³. According to the New York Times, the use of such articles to train ChatGPT constitutes copyright infringement, as the defendants repeatedly reproduced protected content without holding any license or providing any remuneration. In training the GPT models, Microsoft and OpenAI collaborated in developing a complex system capable of storing and reproducing copies of training dataset, including millions of New York Times contents, which were allegedly copied and ingested multiple times for training purposes⁶⁴. This would have enabled AI systems to reproduce New York Times articles directly within chat outputs⁶⁵. Similarly, Bing Chat (the application of ChatGPT within Microsoft's Bing search engine), although providing source citations in footnotes, according to the New York Times, allegedly discouraged users from visiting the newspapers' websites directly, as it reproduced the entire text in the "chat" rather than, for example, displaying only the article title⁶⁶.

Among the arguments raised by OpenAI and Microsoft in denying damage to the Times is the so-called "fair use"⁶⁷ – which consists in the «possibility of freely and gratuitously using copyrighted works for the purposes of criticism, commentary, journalism, teaching and research»⁶⁸ – in its transformative use form⁶⁹, understood as the «transformation of previously created works of others which results in the attribution to them of a new expressive form, meaning or message»⁷⁰.

⁶¹ United States District Court for the Southern District of New York, Case 1:23-cv-11195, 27 December 2023.

⁶² United States District Court for the Southern District of New York, *cit.*; P. GITTO, *New York Times vs. OPENAI, Microsoft et al.*, *cit.*, p. 3.

⁶³ P. GITTO, *New York Times vs. OPENAI, Microsoft et al.*, *op. cit.*

⁶⁴ United States District Court for the Southern District of New York, Case 1:23-cv-11195, *cit.*, par. 92.

⁶⁵ United States District Court for the Southern District of New York, *cit.*, par. 83 ss.

⁶⁶ P. GITTO, *New York Times vs. OPENAI, Microsoft et al.*, *cit.*, 3; see United States District Court for the Southern District of New York, Case 1:23-cv-11195, *cit.*, par. 118-123.

⁶⁷ Established by Title 17, par. 107 of the United States Code.

⁶⁸ P. GITTO, *New York Times vs. OPENAI, Microsoft et al.*, *cit.*, 3.

⁶⁹ In 1994, the U.S. Supreme Court expanded the scope of the doctrine's subjective application, holding that transformative use also constitutes fair use, namely the transformation of previously created works by others, which consists in assigning them a new expressive form, meaning or message; see J.C. GINSBURG, *Fair use in the United States: transformed, deformed, reformed?*, in *Singapore Journal of Legal Studies*, March 2020, pp. 265-294.

⁷⁰ *Ibid.*

4.2. The spread of disinformation

The use of Artificial Intelligence in the drafting of scientific texts and articles raises not only questions related to authorship and the risk of plagiarism, but also significant concerns regarding the right to information⁷¹.

Indeed, after an initial phase of interest and enthusiasm surrounding the capabilities of AI systems to generate and understand text, scholars have begun to examine more closely the problem of disinformation that may be disseminated through these tools. Among the most recent studies, one of the most comprehensive has investigated the ability of Large Language Models (LLMs) – AI technologies focussed on the understanding and generation of texts – to produce disinformation, evaluating ten LLMs using twenty disinformation narratives⁷². The study started from the idea that the automated generation of disinformation by LLMs represents a significant societal risk, having «the theoretical ability to flood the information space with consequences for societies around the world»⁷³. It assessed the ability of LLMs to generate new articles, their tendency to agree or disagree with misleading narratives, and how often they produce safety warning.

The study concluded that LLMs are capable of generating convincing articles, that nonetheless align with harmful disinformation, as they are unable, in their generative processes, to distinguish between true and false information⁷⁴.

The use of vast amounts of data to train generative AI systems entails the risk of including inaccurate information, thereby potentially contributing to the spread of disinformation, even through texts – such as scholarly articles published in scientific journals – that are expected to carry a certain authority.

In addition, generative AI systems may also provide entirely fabricated information, while presenting it as truthful. A notable example emerges from the U.S. case *Mata v. Avianca*⁷⁵, which originated precisely from the use in court of fictitious legal precedents generated by AI. The plaintiff's lawyers submitted, in support of their claims, a brief containing citations and excerpts from non-existent judicial decisions. During the hearing, it became clear that the document had been prepared using ChatGPT, and the lawyers, unaware of its ability to generate fabricated information, had failed to verify the existence of the cited cases. The case concluded with a sanctions order against the lawyers in question, who were fined

⁷¹ Regarding Information law, see M. BASSINI, M. CUNIBERTI, C. MELZI D'ERIL, O. POLLICINO, G.E. VIGEVANI, *Diritto dell'informazione e dei media*, Giappichelli, Turin, 2022.

⁷² I. VYKOPAL and M. PIKULIAK et al., *Disinformation Capabilities of Large Language Models*, 2023; the study aims to provide a comprehensive assessment of the ability of LLMs to generate “disinformation articles” in English, and it was conducted by observing the behaviour of different LLMs when prompted to produce texts on harmful “disinformation narratives”. The study evaluated 1200 texts generated by LLMs in order to determine the extent to which they agreed or disagreed with the suggested information and the number of new arguments they introduced.

⁷³ I. VYKOPAL and M. PIKULIAK et al., *Disinformation Capabilities of Large Language Models*, *op. cit.*, p. 1.

⁷⁴ *Ibid.*, p. 2.

⁷⁵ United States District Court Southern District of New York, *Mata v. Avianca, Inc.*, No. 1:2022cv01461, 2023.

\$5,000 for effectively misleading the Court⁷⁶. Although this case does not fall within the primary scope of this research, it is nonetheless particularly relevant, as it demonstrates the use of AI-generated data in a professional (and particularly prestigious) context such as the legal profession.

These concerns are further confirmed by a study analysing the ability of AI chatbots to produce disinformation in the specific context of elections, for example by providing inaccurate data or fake news about candidates⁷⁷. As highlighted in a collaborative work involving AI4TRUST, ver.ai, AI4media and TITAN, «this has profound negative consequences for the people's right to form informed opinions so crucial for freedom of expression and the participation in a democratic process. These examples show the importance of data quality in the datasets used to train these LLMs as it will influence all further use of the technology and its further developments»⁷⁸.

The right to be informed and to develop well-founded opinions is closely linked to one of the fundamental pillars of contemporary democracies: freedom of expression. The latter constantly adapts to changes in the information landscape and, consequently, AI systems may also interfere with it⁷⁹. Where such technologies contribute to the dissemination of false information, they may foster the formation of incorrect beliefs and convictions, thereby affecting not only the right to information but also the related freedom of expression

Therefore, while AI technologies may improve access to information, they may also negatively impact it. A researcher who relies exclusively on a generative AI system – trained on vast amounts of data collected from the web – risks acquiring inaccurate, distorted or imprecise information⁸⁰, which may in turn lead, even unintentionally, to the production of false or misleading academic texts. The risk of generating incorrect or erroneous outputs, possibly based on outdated or incorrect data, may contribute to the spread of disinformation and negatively affect public opinion⁸¹, undermining research activity and fostering general distrust in academia.

Therefore, not only can AI be used to deliberately spread fake news, i.e., «distorted, misleading, and/or false content [...] distributed online with the aim of influencing the opinions of individuals and groups»⁸² - a scenario that should ideally have no place in scientific research and academic publishing – but its use

⁷⁶ United States District Court Southern District of New York, *cit.*

⁷⁷ AI FORENSICS and ALGORITHMWATCH, *Generative AI and elections: Are chatbots a reliable source of information for voters?*, 2023.

⁷⁸ K. BONTICHEVA et al., *Generative AI and Disinformation: Recent Advances, Challenges, and Opportunities*, European Digital Media Observatory, 2024.

⁷⁹ C.M. REALE and M. TOMASI, *Libertà di espressione, nuovi media e intelligenza artificiale: la ricerca di un nuovo equilibrio nell'ecosistema costituzionale*, in *DPCE online*, n. 1, 2022, p. 326.

⁸⁰ J. DEMPERE, K. MODUGU, A. HESHAM, L.K. RAMASAMY, *The impact of ChatGPT on higher education*, in *Frontiers in Education*, vol. 8, 2023, p. 6; B.D. LUND et al., *ChatGPT and a new academic reality*, *cit.*, 574.

⁸¹ G. SARTOR, *L'intelligenza artificiale e il diritto*, *cit.*, p. 67.

⁸² G. SARTOR, *L'intelligenza artificiale e il diritto*, *op. cit.*, p. 78.

may also contribute to the unintentional dissemination of incorrect data and information, upon which academic research may be based.

In the specific academic context, for instance, a researcher who publishes a text generated – entirely or partially – by AI, without verifying the accuracy and truthfulness of all the data it contains, risks disseminating incorrect information. Although generative AI systems may appear highly accurate, they remain relatively recent technologies lacking human capacities for understanding and critical analysis. Being trained on vast datasets, they may interpret certain information differently from humans; consequently, a text based solely on such outputs may contribute to the circulation of disinformation. The role of academic research, by contrast, is to examine, understand, and critically analyse sources and information, and to re-elaborate them through independent reasoning capable of offering innovative contributions. Publishing scientific texts created entirely or partially with AI – especially where such use is not disclosed – may therefore lead to the spread of inaccuracies and trigger a chain reaction, particularly since research, at least in the humanities, largely builds upon prior writings.

The risk should, in theory, be mitigated at least in part by the rigorous review and control system to which many scientific publications are subject, which are intended to reduce the publication of clearly erroneous or false content. Moreover, software tools are increasingly available to detect whether a text has been generated entirely or partially by AI⁸³. However, these control systems still involve a certain margin of error and discretion that must be considered, and their ability to fully address the challenges posed by AI remains to be demonstrated.

A recent study⁸⁴ compared eight different publicly available detectors of LLM-generated text, measuring their “accuracy”, “false positives”, and “resilience”⁸⁵. It noted that «due to the recent improvements and wide availability of Large Language Models (LLMs), they have posed a serious threat to academic integrity in education»⁸⁶ and the new «LLM-generated text detectors attempt to combat the problem by offering educators with services to assess whether some text is LLM-generated»⁸⁷. While the study identified the most accurate detectors, it also highlighted, in general, these tools are less accurate when dealing with code, texts in languages other than English, and content that has been paraphrased.

⁸³ Consider, for example, CopyLeaks, GPTKit and GLTR.

⁸⁴ M. S. ORENSTRAKH and O. KARNALIM et al., *Detecting LLM-Generated Text in Computing Education: A Comparative Study for ChatGPT Cases*, 2023.

⁸⁵ M. S. ORENSTRAKH and O. KARNALIM et al., *Detecting LLM-Generated Text in Computing Education: A Comparative Study for ChatGPT Cases*, *op. cit.*, p. 8: according to the study, “accuracy” is defined as «how effective the detectors are in identifying LLM-generated texts»; “false positives” are «original submissions that are suspected by LLM-generated text detectors»; “resilience” refers to «how good LLM-generated text detectors are in removing disguises».

⁸⁶ *Ibid.*, p. 1.

⁸⁷ *Ibid.*

In summary, although such detectors can achieve a certain level of accuracy, they cannot yet be considered fully reliable for identifying the dissemination of disinformation. Moreover, false positives remain a significant issue, particularly when these tools are used to detect plagiarism in educational institutions⁸⁸.

Therefore, despite the growing availability of increasingly sophisticated control system, it is not yet possible to fully eliminate the risk of disinformation being spread through the use of Artificial Intelligence in the generation of texts intended for scientific publication.

5. Conclusions

The use of generative AI in academic activities, particularly in the drafting of scientific texts and articles, undoubtedly offers new opportunities, while at the same time raising significant legal and ethical questions. Although these technologies can enhance the efficiency and productivity of research, they also pose important challenges relating to authorship attribution and the accuracy and reliability of information generated.

This raises the question of whether regulatory intervention, at either the national or supranational level, could at least partially address the issues outlined above, which currently remain without comprehensive solution. The problem appears to be twofold: on the one hand, the rapid evolution of these technologies would require a prompt and continuous response from the legislator, whereas legislative processes are, by their nature, relatively slow; on the other hand, these new technologies generate entirely new and constantly evolving challenges. Even if we assume that the law should adapt as quickly as possible to the challenges posed by Artificial Intelligence, the speed which AI develops makes it difficult to determine how legal systems can respond effectively.

Nonetheless, some responses are beginning to emerge, both from European legislator and from publishers and editors of academic journals.

Some answers, however, are gradually emerging, partly from European legislators and partly from publishing houses and the editors of academic journals. Scholarly literature is also increasingly engaging with these issues. However, such efforts may not be sufficient.

The ethical dimension, although not explored here, may also play a role in addressing legal concerns through the responsible use of available AI tools. In this regard, some universities have already begun to regulate the use of AI within their Codes of Ethics⁸⁹. For instance, the University of Bologna's Code of

⁸⁸ *Ibid*, p. 16.

⁸⁹ Italian Universities are required to adopt a Code of Ethics pursuant to Article 2(4) of Law no. 240/2010: it sets out the core values of the university community, fosters the recognition and respect of individual rights, and encourages the acceptance of duties and responsibilities towards the institution to which one belongs. It also establishes rules of conduct

Ethics and Conduct explicitly refers to the use of AI-based technologies, requiring its community to observe and promote «the ethical use of AI-based technologies for social and environmental well-being, in compliance with European principles and values, fundamental human rights, non-discrimination, and privacy and copyright legislation»⁹⁰.

Similarly, the University of Sassari has incorporated into its Code of Ethics and Conduct a provision stating that, «in fulfilling their respective duties and in relation to the roles and responsibilities assumed, both individually and collectively»⁹¹, University members are required to «respect, protect, and promote the core values of university institutions, including the principle of responsibility in fulfilling duties to the community; intellectual honesty; and the ethical use of artificial intelligence technologies in compliance with European principles and values»⁹².

The University of Siena, for its part, is the first Italian university to have adopted real guidelines for governing the use of ChatGPT and other LLMs in academia, approved by the Academic Senate on 11 July 2023⁹³. They address training for scholars and students on the use of chatbots based on ChatGPT or other LLMs and regulate their application in academic writing. They emphasise that members of academic community remain responsible for verifying the reliability and objectivity of sources, as well as for assessing the effectiveness of the research tools employed. Notably, the guidelines expressly require authors of «publications, degree and doctoral theses, dissertations, or other writings that require the determination of each author's contribution»⁹⁴ to indicate «clearly and specifically whether and to what extent they have used artificial intelligence technologies such as ChatGPT (or other LLM programs) in the preparation of their manuscripts and analyses»⁹⁵.

In conclusion, in the absence of a uniform regulatory framework, it would be advisable for researchers to adopt a conscious and responsible approach to the use of Artificial Intelligence. This includes carefully verifying the origin and accuracy of the information generated by such systems and ensuring full transparency regarding their use in the drafting of academic texts, in order to preserve the integrity and credibility of scientific research. Only through open dialogue and a clear awareness of both the risks and the potential of AI can the academic community foster responsible and reliable scientific progress. At the same time, it is important to emphasize, however, that future legislative interventions should not necessarily take a restrictive or prohibitive approach. Rather, they should aim to identify and address the

within the academic community. These provisions are designed to prevent any form of discrimination and abuse, as well as to govern situations involving conflicts of interest or intellectual property.

⁹⁰ Article 3, par. d) of the Code of Ethics and Conduct of the University of Bologna.

⁹¹ Art. 4 of the Code of Ethics and Conduct of the University of Sassari.

⁹² *Ibid.*

⁹³ Available on the website of the [University of Siena](#).

⁹⁴ *Ibid.*, point 7.

⁹⁵ *Ibid.*



issues highlighted, while also promoting the responsible use of AI in academia. From this perspective, it will be crucial to determine the appropriate scope of regulatory action and to consider whether excessive regulation might risk conflicting with the principle of freedom of research, which is constitutionally protected in many legal systems.