
NEUTRALISING THE PRACTICE OF DIGITAL PIRACY – A CASE OF POLAND

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KEYWORDS

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ABSTRACT

Digital piracy, file-sharing, and generally unauthorised copying of digital information goods is a significant problem for the film, music and publishing industries. In the internet age, it has gained a massive and global character. The scale of this problem is surprising, mainly because digital piracy is commonly considered negative or illegal. That raises the question, how is it possible that although some unauthorised copying practices are illegal, the phenomenon is widespread, especially in the context of personal preferences and rationalization? This article attempts to answer this question in the case of Poland, based on the theory of neutralisation, which explains how people justify their actions to free themselves from the feeling of shame related to violating the law or immoral activity. In order to be able to answer the above-formulated research question, it was decided to conduct a survey on a sample of 1,000 adult Poles. The research material was collected in August 2020 using a Computer-Assisted Web Interview. Exploratory Factor Analysis has shown that people claiming to use unauthorised (“pirate”) sources of access to information goods such as movies, music, or books

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justify it by claiming that it is not very harmful and nobody gets hurt. As a result, it is plausible to argue that the neutralisation theory explains some practices involving unauthorised copying in Poland, including pirating.

I. INTRODUCTION

Digital piracy and file-sharing constitute a set of phenomena based on the unauthorised copying of digital information goods, defined as “the exact reproduction of original works, not authorised by their author”¹. In principle, the industries involved in producing and distributing information goods of various types have had to deal with unauthorised copying practices since the beginning of cinematography². This phenomenon gained momentum with the development of copying technology in the 1980s, which allowed for the relative dissemination of so-called private copying³. At that time, it was believed that copying technology was so developed and available that an average person could copy information goods independently without any or negligible loss in quality. However, the copying devices of those years were only the prelude to the digital revolution and the spread of the internet. Currently, the copies of digital information goods (which can be referred to as originals) made by an average Internet user are close substitutes, not to say that they are perfect substitutes⁴. It should be remembered that the characteristic feature of digital information goods is that each copy is essentially identical to the original, which results directly from digital technology⁵. Therefore, the era of the internet has brought, apart from obvious benefits, a serious threat in the form of unrestrained development of various unauthorised copying practices.

¹ S Czetwertyński, ‘Institutional Incongruence and Unauthorized Copying in Poland’ (2021) *The Journal of World Intellectual Property* (forthcoming) <https://doi.org/10.1111/jwip.12203> accessed 18 November 2024.

² M Solomon (ed), *Fantastic Voyages: Theories and Practices in the Cinema, from Early Cinema to Digital Media* (University of California Press 2017).

³ SM Besen, ‘Private Copying, Reproduction Costs, and the Supply of Intellectual Property’ (1986) 2(1) *Information Economics and Policy* 5 [https://doi.org/10.1016/0167-6245\(86\)90012-0](https://doi.org/10.1016/0167-6245(86)90012-0); S. M. Besen and S. N. Kirby, *Private Copying, Reproduction Costs, and the Supply of Intellectual Property* (The Rand Corporation 1987).

⁴ P Belleflamme and P. M. Picard, ‘Piracy and Competition’ (2007) 16(2) *Journal of Economics & Management Strategy* 351; M Peitz and P Waelbroeck, ‘Piracy of Digital Products: A Critical Review of the Theoretical Literature’ (2006) 18(4) *Information Economics and Policy* 449.

⁵ C Shapiro and HR Varian, *Information Rules: A Strategic Guide to the Network Economy* (Harvard Business School Press 1999); O. Shy, *The Economics of Network Industries* (Cambridge University Press 2001).

Unauthorised copying, from a relatively niche private copying (although in the 1980s, it was already considered a dangerous phenomenon⁶) has grown into a phenomenon which is peculiar *signum temporis* of the internet age. The phenomenon's scale is not fully understood, mainly due to the difficulties in identifying all forms of unauthorised copying. Another severe problem is that not every form of unauthorised copying is synonymous with digital piracy. Nevertheless, based on research, for example, conducted in 2012 by Price⁷, it can be stated that in three regions of the world (North America, Europe and the Asia-Pacific region), the share of unauthorised information goods on the internet amounted to 23.8%. Thus, nearly a quarter of internet traffic had the hallmarks of unauthorised copying. In the scope analysed by Price, the main source of unauthorised copies was the Peer-to-Peer network, meaning that the phenomenon took the form of social file-sharing; however, it was associated with copyright infringement⁸.

A large-scale study⁹ estimated that the percentages of the population consuming information goods from illegal sources ranged between 23% (Japan) and 84% (Indonesia) in 2017. The survey underlying these estimates included nearly 35,000 respondents aged 14 and older from 13 countries (France, Germany, the Netherlands, Poland, Spain, Sweden, the United Kingdom, Brazil, Canada, Hong Kong, Indonesia, Japan, and Thailand). The results were published in a report by the Institute for Information Law (the University of Amsterdam). The average value of the estimated percentages of the population consuming information goods from illegal sources for the surveyed countries was 50%, with a standard deviation of 17%. The study focused on selected information goods: music, films and TV series, books and video games. The results presented in the Institute for Information Law report indicate that unauthorised copying (including digital piracy and file-sharing) is important to the production and distribution industry of various information goods¹⁰.

Unauthorised copying is also rampant in Poland. According to the Institute for Information Law report cited, the estimated percentage of Poles consuming

⁶ SM Besen, 'Private Copying, Reproduction Costs, and the Supply of Intellectual Property' (1986); S. M. Besen and S. N. Kirby, *Private Copying, Reproduction Costs, and the Supply of Intellectual Property* (The Rand Corporation 1987); W. R. Johnson, 'The Economics of Copying' (1985) 93(1) *Journal of Political Economy* 158; S. J. Liebowitz, 'Copying and Indirect Appropriability: Photocopying of Journals' (1985) 93(5) *Journal of Political Economy* 945.

⁷ D Price, *Sizing the Piracy Universe* (NetNames (Envisional) 2013) 100.

⁸ S Czetwertyński, 'Peer Production in the Internet and Unauthorized Copying of an Intellectual Property in the Bit-Torrent Network' (2016) 7(3) *Oeconomia Copernicana* 501.

⁹ J. Poort et al, *Global Online Piracy Study* (Institute for Information Law Research Paper No. 2018-03, Amsterdam Law School Research Paper No. 2018-21, 2018).

¹⁰ Ibid.

information goods from illegal sources was 52% in 2017 and even 69% in 2014. A 2011 study by Polish authors Filiciak, Hofmokl, and Tarkowski¹¹ estimated that 33% of Poles (aged 15+) participate in some form of unauthorised digital content trading. This percentage was obtained by conducting two nationwide surveys: the first in the form of CAPI on a sample of 1004 people over the age of 15 and the second in the form of CAWI on a sample of 1283 people aged 16 to 50. In turn, Deloitte Advisory's¹² research found that 51% of Polish internet users over 15 use portals that offer illegal access to various information goods. Deloitte Advisory's estimates were based on a survey of 1,500 internet users aged 15 to 75.

This paper addresses the following research question: how is it possible that although some unauthorised copying practices are illegal, the phenomenon is widespread, especially in the context of personal preferences and rationalisation? This narrowing of the research area stems from the diverse reasons for digital piracy, including the low effectiveness of copyright systems and practical limitations in law enforcement. Even if Polish law imposes criminal liability on the uploader, as the dissemination is punishable, there is no doubt that particularly digital piracy is associated with blatant copyright infringement¹³. Similarly, file-sharing is associated with copyright infringement, as the Peer-to-Peer network also requires file-sharing when downloading, which is tantamount to a violation of the copyright in the Polish legal system. Even though digital piracy in Poland is considered a negative phenomenon, its share is significant. Brown's statement¹⁴ was initially adopted to answer the above research question. He noted that digital pirates might fall victim to a cognitive bias that piracy is a victimless crime. This phenomenon is associated with neutralisation techniques¹⁵, reducing the shame of violating some norm¹⁶. The study aims to determine whether people in Poland who engage in unauthorised copying, including the use of pirated sources, are convinced that their acts do not harm anyone, i.e. that some rationalisation occurs through implementing one of the techniques of neutralisation to justify practices of a pirated nature (or bearing such traits).

¹¹ *Obiegi kultury. Społeczna cyrkulacja treści* (2012).

¹² *Piractwo w Internecie – straty dla kultury i gospodarki* (2017).

¹³ *The Act of February 4, 1994, on Copyright and Related Rights* (2021) Dz.U. z 2021 poz. 1062; J. Barta and R. Markiewicz, *Prawo autorskie i prawa pokrewne: Przepisy z wprowadzeniem* (Wolters Kluwer 2017) 104-109.

¹⁴ 'Approaches to Digital Piracy Research: A Call for Innovation' (2014) 20(2) *Convergence: The International Journal of Research into New Media Technologies* 129.

¹⁵ S Hinduja, 'Trends and Patterns among Online Software Pirates' (2003) 5 49–61.

¹⁶ GM Sykes and D. Matza, 'Techniques of Neutralization: A Theory of Delinquency' (1957) 22(6) *American Sociological Review* 664.

II. THE THEORY OF NEUTRALISATION AND THE PROBLEM OF DIGITAL PIRACY

The review of digital piracy and file-sharing approaches should begin with the general issue of unauthorised copying. Unauthorised copying does not yet constitute a practice that results in copyright infringement. Unauthorised copying is, in simple terms, “an exact reproduction of the original creations [understood here as the creatins produced in a human mind (article authors)] not authorised by the author”¹⁷. A lack of permission does not exclude the possibility of legal copying of the author’s work. In legal systems, including the Polish one, there are cases in which obtaining the author’s permission to reproduce their works is unnecessary. It is an institution of fair use (private and public), which prevents the creation of a copyright monopoly and protects the public interest¹⁸. Consequently, not every instance of unauthorised copying leads to copyright infringement (however, one should always consider the particularities of a given legal system within which the copying is done). Thus, this raises serious problems in defining the practice of digital piracy and which forms of file-sharing should be considered its manifestation¹⁹. Kariithi²⁰, in his systematic literature review on piracy (in the nomenclature of this article, it would be digital piracy), noted that there is essentially no universally accepted definition thereof. He claims that many researchers assume that: “piracy involves the unauthorised replication of copyrighted intellectual assets” or that piracy consists of “violations of copyrighted material in general and software”²¹. In the first case, it is only indicated that unauthorised copying may be digital piracy, while in the second, its qualification will depend on legal solutions. Thus, the first form of defining piracy essentially does not isolate the designations of unauthorised copying to be referred to as digital piracy. The second form is not universal because copyright infringement may occur under different conditions in different jurisdictions. In Polish law, the responsibility for using pirated sources of information does not rest with the downloading person (except for software and databases). In principle, the Polish

¹⁷ S Czetwertyński, *Morfologia nieautoryzowanego kopiowania* (Wydawnictwo Uniwersytetu Ekonomicznego we Wrocławiu 2019) 144.

¹⁸ J Barta and R Markiewicz, *Prawo autorskie i prawa pokrewne: Przepisy z wprowadzeniem* (Wolters Kluwer 2017).

¹⁹ L S Strickland, ‘Copyright’s Digital Dilemma Today: Fair Use or Unfair Constraints? Part I: The Battle over File Sharing’ (2005) 30(1) *Bulletin of the American Society for Information Science and Technology* 7–11 <https://doi.org/10.1002/bult.297>.

²⁰ ‘Is the Devil in the Data? A Literature Review of Piracy Around the World: Literature Review of Piracy Around the World’ (2011) 14(2) *The Journal of World Intellectual Property* 133–154 <https://doi.org/10.1111/j.1747-1796.2010.00412.x>.

²¹ Ibid, 133.

copyright act²², in contrast, for example, to German copyright law, does not differentiate between the legality of the source of the works. It is a result of the direct interpretation of the Article 23 of the Polish copyright act which does not require the legality of the source as a prerequisite for fair use. Therefore, personal fair use in Poland applies when a piece (e.g., a film, music, or a book) is obtained from illegal or pirated sources²³. Regardless of the European Union directive's interpretation of harmonising certain aspects of copyright and related law in the information society²⁴, it should be noted that from the perspective of Polish law, using illegal sources to download copies of information goods is not tantamount to digital piracy as defined above. Such a situation raises legal and moral issues because the actual user of illegal channels of distribution of information goods may feel somehow exempted from responsibility. Furthermore, users do not have to wonder if a website is legitimate or if the content has been posted in an authorised manner. These factors, specific to the problem of digital piracy in Poland, may cause different techniques of neutralising acts of unauthorised copying to be used than those identified in the world literature. Nonetheless, some existing uncertainties in understanding fair use should be addressed. Some suggest that fair personal use is limited to pieces only from legal sources²⁵. Thus, pieces of work from illegal sources should be excluded from the scope of fair personal use, especially when the user is aware of the illegal nature of the source²⁶. On the other hand, some authors suggest modifying existing national regulations because the EU interpretation of the law might not be sufficient²⁷. Nonetheless, the question of the legal assessment of fair use remains open.

²² *The Act of February 4, 1994, on Copyright and Related Rights* (Dz.U. z 2021 poz. 1062).

²³ J Barta and R Markiewicz, *Prawo autorskie i prawa pokrewne: Przepisy z wprowadzeniem* (Wolters Kluwer 2017); E Laskowska, 'Kiedy użytek prywatny jest dozwolony? – Wprowadzenie i wyrok TS z 10.04.2014 r., C-435/12, ACI Adam BV i inni przeciwko Stichting de Thuiskopie, Stichting Onderhandeligen Thuiskopie vergoeding' (2017) 7(142) 58–64.

²⁴ cf. *ACI Adam BV and Others v. Stichting de Thuiskopie, Stichting Onderhandeligen Thuiskopie vergoeding*, 2014; *The Harmonisation of Certain Aspects of Copyright and Related Rights in the Information Society* (Directive 2001/29/EC, 2001) <http://data.europa.eu/eli/dir/2001/29/2019-06-06>.

²⁵ *ACI Adam BV and Others v. Stichting de Thuiskopie, Stichting Onderhandeligen Thuiskopie vergoeding*, 2014.

²⁶ O Tułodziecki, 'Prywatne kopiowanie utworów' (2014) <https://www.rp.pl/opinie-prawne/art4984831-prywatne-kopiowanie-utworow>.

²⁷ R Markiewicz, 'Prawo autorskie: Ściąganie z plików z internetu na własny użytek – nielegalne' (2014) <https://www.rp.pl/opinie-prawne/art5081511-prawo-autorskie-sciaganie-z-plikow-z-internetu-na-wlasny-uzytek-nielegalne>; K Sobczak, 'Prawo autorskie trzeba dostosować do współczesnego świata' (2015) <https://www.prawo.pl/prawnicy-sady/prawo-autorskie-trzeba-dostosowac-do-wspolczesnego-swiata,60402.html>.

Differences in the choice of neutralisation techniques result from the theoretical superstructure. Sykes and Matza²⁸ laid the foundations for neutralisation techniques based on the achievements of Sutherland²⁹ in rationalising crimes committed by white-collar employees. Sykes and Matza assumed that the person committing the crime feels guilt and shame. Copes³⁰ empirically showed that the tendency to neutralise is more powerful in people who are more deeply attached to society than in those who are less attached. Sykes and Matza considered specifically the issues of juvenile offenders challenging arguments about the existence of a deviant sub-culture to which they would be subjected. The arguments of Sykes and Matz are based on the claim that even criminals (in this case, adolescents), contrary to appearances, are influenced by the norms of the dominant culture, which include, among other things, the values of the rule of law and conformism. As a result, the criminal act they commit creates a sense of guilt and shame that must be neutralised through one of five techniques: (1) the denial of responsibility, (2) the denial of injury, (3) the denial of the victim, (4) the condemnation of the condemners and (5) the appeal to higher loyalties. Sykes and Matz's considerations found fertile ground in the theory of delinquency and are widely used to explain various types of crimes or even deviations from generally accepted standards³¹. Neutralisation techniques have also been adapted to illegal, unauthorised copying, primarily digital piracy and file-sharing, which bear the hallmarks of copyright infringement.

As mentioned earlier, Brown³² pointed out that the primary technique for neutralising digital piracy practices is "the denial of injury." He also reviewed the literature on the subject³³ to consider the moral aspects of digital piracy, concluding that individuals who engage in piracy practices are not fundamentally immoral. This is a significant statement, but one must be cautious about generalising here, as it is one thing to use pirated sources to watch a movie, for example, and file-share on Peer-to-Peer networks, yet another one to share movies for financial

²⁸ 'Techniques of Neutralization: A Theory of Delinquency' (1957) 22(6) *American Sociological Review* 664–670.

²⁹ 'Crime and Business' (1941) 217 *Annals of the American Academy of Political and Social Science* 112–118.

³⁰ 'Societal Attachments, Offending Frequency, and Techniques of Neutralization' (2003) 24(2) *Deviant Behavior* 101–127 <https://doi.org/10.1080/01639620390117200>.

³¹ 'What Have We Learned from Five Decades of Neutralization Research?' (2005) 3 *Crime and Justice* 221–320.

³² 'Approaches to Digital Piracy Research: A Call for Innovation' (2014) 20(2) *Convergence: The International Journal of Research into New Media Technologies* 129–139 <https://doi.org/10.1177/1354856513517470>.

³³ 'Digital Piracy and the Moral Compass' (2013) 538–539.

gain intentionally. Holt and Copes³⁴ conducted an in-depth interview with 34 people described as “hardened digital pirates”. These interviews show that the main neutralisation technique is to deny that their actions have implicitly caused real or significant harm to authors or copyright holders. In practice, neutralisation techniques have taken various forms of rationalisation, such as claims that a particular work is only “borrowed” and will surely be bought later or that illegal downloads increase the artist’s fame, which benefits the artist. There have also been claims about the excessive cost of information goods and the generally high profits in the industries involved in their production. Moore and McMullan³⁵ used a similar research method to interview 44 university students. They showed that the students most often neutralised the feeling of guilt using the “the denial of injury” technique; secondly, they used - “the denial of the victim” and thirdly - “everyone else is doing it”³⁶. A study by Holt and Copes³⁷ and Moore and McMullan looked at digital piracy practices in general. At the same time, Hinduja³⁸ pointed out that software neutralisation techniques are based on blaming producers for too expensive software. In contrast, a later Hinduja study³⁹ found that neutralisation techniques are weakly associated with digital software piracy. Thus, neutralisation may not be the only possible explanation for piracy. In turn, Siponen, Vance and Willison⁴⁰, in a survey of 183 graduate students in a large European business school, found that two neutralisation techniques are relevant to digital software piracy. These are “the condemnation of the condemners” and “the appeal to higher loyalties”, while the other techniques have not reached statistical significance. Yu⁴¹, addressing the importance of neutralisation techniques in justifying digital piracy among students, hypothesised that: “Digital piracy would become more justifiable when the techniques of

³⁴ ‘Transferring Subcultural Knowledge Online: Practices and Beliefs of Persistent Digital Pirates’ (2010) 31(7) *Deviant Behavior* 625–654 <https://doi.org/10.1080/01639620903231548>.

³⁵ ‘Neutralizations and Rationalizations of Digital Piracy: A Qualitative Analysis of University Students’ (2009) 3(1) 11.

³⁶ The latter technique does not belong to five major Sykes and Matza (1957) and was proposed by Heath (2008).

³⁷ ‘Transferring Subcultural Knowledge Online: Practices and Beliefs of Persistent Digital Pirates’ (2010) 31(7) *Deviant Behavior* 625–654 <https://doi.org/10.1080/01639620903231548>.

³⁸ ‘Trends and Patterns Among Online Software Pirates’ (2003) 5 49–61.

³⁹ ‘Neutralization Theory and Online Software Piracy: An Empirical Analysis’ (2007) 9(3) *Ethics and Information Technology* 187–204 <https://doi.org/10.1007/s10676-007-9143-5>.

⁴⁰ ‘New Insights into the Problem of Software Piracy: The Effects of Neutralization, Shame, and Moral Beliefs’ (2012) 49(7–8) *Information & Management* 334–341 <https://doi.org/10.1016/j.im.2012.06.004>.

⁴¹ ‘College Students’ Justification for Digital Piracy: A Mixed Methods Study’ (2012) 6(4) *Journal of Mixed Methods Research* 364–378 <https://doi.org/10.1177/1558689812451790>.

neutralisation are applied”⁴². With the use of factor analysis, this finding could not be challenged, thus allowing researchers to assume that those who engage in piracy practices can morally justify these practices to themselves through neutralisation techniques. Higgins, Wolfe and Marcum⁴³ confirmed that in the case of digital music piracy, there is a relationship between the intensity of neutralisation in the respondents and the level of piracy abuse. Similarly, Ingram and Hinduja’s research study⁴⁴ of over 2,000 students showed that moderate levels of digital piracy (in this case involving music) could be predicted by determining the strength of acceptance of neutralisation techniques. Morris and Higgins⁴⁵, addressing social learning theory rather than neutralisation techniques, highlighted that neutralisation could play a role in some digital crime offences. A study by Lee, Jeong and Paek⁴⁶ found that neutralisation techniques have a moderate effect on music-related digital piracy, contrasting with previous studies’ results. However, these studies were conducted in different cultural settings as the research sample consisted of students from South Korea, which may be relevant when interpreting the results.

In the conclusion of the above literature review, it is essential to emphasise that neutralisation techniques have proven to be an interesting theoretical basis for explaining the phenomenon of unauthorised copying that is inherently illegal. Lee, Jeong and Paek’s study⁴⁷ This article added an interesting aspect to the discussion of the difference in the heuristic ability of neutralisation techniques in a cultural context. The research results can further show whether neutralisation is relevant or insignificant in Poland.

III. MATERIAL AND METHOD

The research material was obtained through a survey using the CAWI technique on the extent of unauthorised copying and copyright knowledge. The survey was conducted in Poland in August 2020 on a random sample of 1000

⁴² Ibid, 130.

⁴³ ‘Music Piracy and Neutralization: A Preliminary Trajectory Analysis from Short-Term Longitudinal Data’ (2008) 2(2) 13.

⁴⁴ ‘Neutralizing Music Piracy: An Empirical Examination’ (2008) 29(4) *Deviant Behavior* 334–366 <https://doi.org/10.1080/01639620701588131>.

⁴⁵ ‘Criminological Theory in the Digital Age: The Case of Social Learning Theory and Digital Piracy’ (2010) 38(4) *Journal of Criminal Justice* 470–480 <https://doi.org/10.1016/j.jcrimjus.2010.04.016>.

⁴⁶ ‘Determinants of Digital Piracy Using Deterrence, Social Learning and Neutralization Perspectives’ (2019) 43(4) *International Journal of Comparative and Applied Criminal Justice* 295–308 <https://doi.org/10.1080/01924036.2019.1625793>.

⁴⁷ Ibid.

Table 1: Distribution of the research sample

Feature	Variant	n
Sex		
	female	493
	male	507
Age		
	18 to 24 years	139
	25 to 34 years	260
	35 to 44 years	241
	45 to 54 years	152
	55 to 64 years	129
	65 and more	79
Education		
	primary and lower secondary	143
	basic vocational	190
	secondary education	404
	higher education	263

respondents. Table 1 shows the distribution of the research sample, broken down by gender, age and education.

The obtained research material required appropriate preparation. Some of the items in multiple responses have been recoded for dummy variables. Finally, the transformation of the research material produced 143 variables. The research material prepared this way became the basis for implementing Exploratory Factor Analysis (EFA). It enables the identification of the latent factors and minimizes the number of variables for further analysis.

This study used the EFA method to determine the relationship between unauthorised (including illegal) copying activities and knowledge of copyright law. The Kaiser criterion (eigenvalue not smaller than 1) and the Varimax rotation were used as part of the EFA method⁴⁸. The factor loadings can be interpreted as correlations between individual variables and factors. We can identify variables creating consecutive factors and interpret the actual meaning of factors.

⁴⁸ HF Kaiser, 'The Varimax Criterion for Analytic Rotation in Factor Analysis' (1958) 23(3) *Psychometrika* 187–200 <https://doi.org/10.1007/BF02289233>.

IV. RESULTS

The applied method (EFA) allowed distinguishing as many as 45 factors. However, it must be considered that the research material was extensive, and the individual items were not strongly correlated. It seems that the analysis has nonetheless produced the intended results. Among other things, the first five factors have been reasonably interpreted. The first factor (explained 7.84% of the total variance), the second one (6.30%), the third one (3.28%), the fourth one (2.73%) and the fifth one (2.43%), respectively. Due to the wide range of variables, it was decided to include only an extract from the EFA results table, presented in Table 2.

The interpretation of the first factor is crucial to the research question posed. Using EFA, the following relationship structure was established, for which the variables (V) and correlations are presented in Table 2 (when interpreting the factors, the number of the variable and the value of the correlation coefficient from Table 2 are given in parentheses). The first variable of this factor describes access to unauthorised sources (V8.1/0.92), with the survey explicitly asking about sources colloquially referred to as “pirated” sources. Thus, the first factor identifies people who use pirated sources. Next, the structure of the first factor determines why these people use such sources (V9.2 / 0.62, V9.3 / 0.69, V9.4 / 0.60, V9.6 / 0.60). Respondents respectively explain that they do so because (1) they do not have to pay for them, (2) it is the only way to obtain the goods they are interested in, (3) because they can do it immediately, and (4) because they can do it with impunity. Then, it was determined from which unauthorized sources the respondents obtained information goods (V10.1 / 0.86, V10.2 / 0.82, V10.4 / 0.67, V10.5 / 0.63). In this respect, they mainly indicate the streaming platforms YouTube, CDA.pl and Zalukaj.cc and the hosting platform Chomikuj.pl. The most important thing is how they justify their actions (V11.3 / 0.63), stating that the action is not very harmful and nobody gets hurt.

Apart from the first factor, interesting results were also obtained for the relationships within the second, third, fourth and fifth factors. Due to their cognitive value, it is worth recalling them. The second factor indicates the relationship between the general knowledge of copyright law and specific cases that the respondent can describe as permitted or forbidden. The interpretation of the results is as follows. Respondents declaring some general knowledge of copyright law (V1 / -0.58⁴⁹) also report that they can tell in which case: (1)

⁴⁹ The value of the correlation coefficient has a negative sign because during the recoding into dummy variables in variable V1, the order was applied, according to which the lowest value determines the declaration of high copyright knowledge, and the highest value corresponds to the declaration of low copyright awareness. In turn, the V2-V6 variables used scales from 1 to 10, where 1 is a low assessment of familiarity, and 10 is a high.

Table 2: Factor loadings

Variable symbols	Variables	Factors 5 of 45				
		First Factor	Second Factor	Third Factor	Fourth Factor	Fifth Factor
V1:	How would you rate your level of knowledge of copyright law?	-0.055	-0.581	-0.096	0.104	0.008
V2:	I can tell when the copyright is infringed, but it does not lead to criminal consequences.	0.027	0.818	0.038	0.031	-0.019
V3:	I know when copying copyrighted works is illegal.	0.000	0.761	0.071	0.072	-0.104
V4:	I can tell which content on the internet should be considered “pirated” (i.e. violating the copyright law in some way).	0.069	0.739	0.079	-0.015	-0.070
V5:	I know when I can allow other people to copy works from me.	-0.041	0.791	0.066	0.059	-0.015
V6:	I can tell when I can copy works legally, even though they are copyrighted.	-0.029	0.798	-0.012	0.034	-0.030
V7:	Would you let a friend copy from you?					
V7.1:	Music files you own: Certainly yes	0.118	-0.058	-0.061	-0.006	0.844
V7.2:	Movie files you own: Certainly yes	0.098	-0.051	-0.041	-0.016	0.857
V7.3:	Books (also electronic and audiobooks) you have purchased: Certainly yes	0.099	-0.036	-0.055	0.039	0.796
V7.4:	Books you have borrowed: Certainly yes	0.064	-0.102	-0.028	-0.117	0.712
V8:	Do you happen to obtain virtual products from unauthorised (colloquially “pirated”) sources?					
V8.1:	Yes	0.919	-0.001	0.053	0.050	0.068
V8.2:	No; I don’t know	-0.596	0.096	0.637	0.086	-0.111
V9:	Why do you obtain virtual products from unauthorised (colloquially “pirated”) sources?					
V9.1:	Because everyone is doing it.	0.478	0.004	0.040	-0.059	0.018
V9.2:	Because I don’t have to pay for virtual products.	0.623	0.025	0.018	0.023	0.045
V9.3:	Because this is the only way to get the virtual product that I am interested in.	0.690	0.070	0.040	0.035	0.042
V9.4:	Because I can obtain the virtual product immediately from unauthorised sources.	0.604	0.007	0.029	0.008	0.028
V9.5:	Because I can do it with impunity.	0.271	0.007	0.007	0.001	0.010

Continued Table 2: Factor loadings

Variable symbols	Variables	Factors 5 of 45				
		First Factor	Second Factor	Third Factor	Fourth Factor	Fifth Factor
V9.6:	Because it is simply convenient.	0.598	-0.027	0.052	0.014	0.057
V9.7:	Other:	0.065	-0.039	-0.012	0.028	0.053
V10:	Which platform do you use to access unauthorised virtual products (movies, music, e-books, or audiobooks)?					
V10.1:	YouTube	0.863	0.007	0.062	0.041	0.051
V10.2:	Cda.pl	0.820	0.013	0.076	0.014	0.068
V10.3:	Cda-hd.cc	0.280	0.021	-0.029	0.033	-0.034
V10.4:	Chomikuj.pl	0.670	0.019	-0.023	0.094	0.045
V10.5:	Zalukaj.cc	0.631	0.092	0.042	-0.029	0.015
V10.6:	Seriale.co	0.336	0.036	0.009	-0.012	-0.006
V10.7:	Serialeonline.pl	0.315	0.017	0.029	0.008	0.035
V10.8:	Vider.info	0.335	-0.004	0.018	0.020	0.011
V10.9:	Fileone.tv	0.208	0.033	-0.004	0.007	0.052
V10.10:	Other:	0.173	-0.050	0.030	-0.029	0.020
V11:	How do you feel about obtaining virtual products, such as films, music, e-books, and audiobooks, from unauthorised sources?					
V11.1:	I feel bad about that.	0.421	0.063	0.037	-0.017	-0.035
V11.2:	I think I committed a criminal act because I broke copyright in some way.	0.376	0.099	0.014	0.001	0.032
V11.3:	I think it's not very harmful and nobody gets hurt.	0.631	0.009	0.018	0.002	0.065
V11.4:	I believe I have done nothing wrong because copyright is not very important.	0.167	-0.042	-0.002	0.020	0.028
V11.5:	I believe I have done nothing wrong because copyright is not a property right over a material thing.	0.244	0.031	0.022	-0.040	0.006
V11.6:	I don't think about it.	0.466	-0.087	0.043	0.068	0.060
V11.7:	Other:	0.044	0.080	-0.001	0.013	-0.032
V12:	Identify the platforms you happen to use to access virtual products (movies, music, e-books, or audiobooks).					
V12.1:	YouTube	-0.252	-0.114	-0.807	-0.164	0.068
V12.2:	Cda.pl	-0.210	-0.070	-0.674	-0.296	0.068

Continued Table 2: Factor loadings

Variable symbols	Variables	Factors 5 of 45				
		First Factor	Second Factor	Third Factor	Fourth Factor	Fifth Factor
V12.3:	Cda-hd.cc	-0.021	0.110	-0.172	-0.196	-0.001
V12.4:	Chomikuj.pl	-0.144	-0.071	-0.733	-0.001	0.000
V12.5:	Zalukaj.cc	-0.124	-0.028	-0.482	-0.392	0.024
V12.6:	Seriale.co	-0.058	-0.032	-0.186	-0.731	0.040
V12.7:	Serialeonline.pl	-0.071	-0.059	-0.237	-0.707	0.042
V12.8:	Vider.info	-0.095	-0.113	-0.295	-0.231	0.042
V12.9:	Fileone.tv	-0.012	0.064	-0.008	-0.212	-0.012
V12.10	Other:	0.000	-0.029	-0.139	-0.034	-0.069

copyright may be infringed but not lead to criminal consequences (V2 / 0.81), (2) copying is legal, even if the work is copyrighted (V6 / 0.80), (3) copying works from them may be allowed (V5 / 0.79), (4) copying is illegal (variable in V3 / 0.76), and (5) materials posted on the internet are “pirated” (V4 / 0.74). The relationship structure is such that there is a stronger correlation when the specified variables relate to the sense of what is allowed (V2, V6, V5) and a weaker correlation when it relates to what is not allowed (V3 and V4).

The third factor allows for the identification of respondents who do not declare using unauthorised (also pirated) sources (V8.2 / 0.64) and, more precisely, avoid specific websites. These respondents declare that they do not use websites such as (1) YouTube (V12.1 / -0.81), (2) Cda.pl (V12.2 / -0.67) and (3) Chomikuj.pl (V12.4 / -0.73).

The fourth factor allows the identification of passionate respondents about TV series. The respondents’ statements show a strong willingness to use websites providing TV series (V12.6 / -0.81 and V12.7 / -0.71). However, it should be noted that the respondents who were willing to use the website mentioned above declared that they do not know whether they use pirated sources. Nevertheless, the websites they indicated are unauthorised sources.

The last factor interpreted indicates the existence of respondents who share the pieces they own with their friends. These respondents, insofar they state that they are willing to share works with friends, are eager to share all types of information goods: (1) movies (V7.2 / 0.86), (2) music (V7.1 / 0.84), (3) books (including electronic and audiobooks) owned by them (V7.3 / 0.80) and (4) books they borrowed (V7.2 / 0.71).

V. DISCUSSION

The conclusions resulting from the interpretation of the first factor are more extensive than those relating to the techniques of justifying the use of unauthorised sources of access to information goods. First, it should be noted that YouTube was one of the access sources. It was the most frequently selected, considering the question about access to unauthorised content rather than content in general. Despite its restrictive policies, it is important to remember that YouTube is a distribution channel for unauthorised content. Videos can be reported as posted without the author's permission or violating copyright law. However, through several YouTube channels, specific users make videos available that are not explicitly authorised, even if the copyright owner does not claim ownership. Video materials are usually associated with movies, and in fact, the site can be used to find unauthorised copies, primarily of older film productions, TV series or documentaries. However, the problem of unauthorised content also applies to posting music or audiobooks. Similarly, as the source of unauthorised content, respondents indicated cda.pl, essentially the Polish equivalent of YouTube. Likewise, users have also used it as a channel for unauthorised distribution, although, like YouTube, there is a way to claim unauthorised material posted.

It should be noted that YouTube and cda.pl do not provide unauthorised content *per se*; instead, individual users submit content through them. Additionally, it should be noted that according to the Polish law on the provision of services by electronic means, the provider of hosting services is exempt from liability if such provider is not aware that such data is illegally posted on their resources (in this case, violating copyrights). Insofar as the hosting provider removes such data because of receiving an official notification or having credible knowledge of its unlawful nature, the provider shall not be liable under the provisions of law for the material posted⁵⁰. The purpose of this mechanism is to protect the hosting provider against the actions of users who are directly responsible. When one considers that 500 hours of video were uploaded to YouTube every minute in 2020⁵¹, there are serious objections to the ability to control the origin of content on an ongoing basis. With such many uploaded materials, interpreting the authorisation in each case is at least problematic and, in principle, could lead to complete system paralysis. The liability of hosting providers has gained significance across the European Union due to the EU Digital Services Act⁵²,

⁵⁰ *The Act of July 18, 2002, on the Provision of Services by Electronic Means* (Dz.U. 2002 nr 144 poz. 1204).

⁵¹ Statista, 'Hours of Video Uploaded to YouTube Every Minute as of February 2020' (2021) <https://www.statista.com/statistics/259477/hours-of-video-uploaded-to-youtube-every-minute/>.

⁵² *Regulation EU 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and Amending Directive 2000/31/EC (Digital Services Act)*.

which, as of 17 February 2024, becomes fully applicable and applies to all online platforms in the EU. The regulation stipulates that the service provider is not liable for the information transmitted or accessed (Article 4), and the storage of that information (Articles 5 and 6). However, it includes several conditions, such as non-initiation of the transmission, non-selection of the receiver, and non-modification of the information.

The possibility of using YouTube and cda.pl as sources for obtaining unauthorised copies is significant. These websites belong to companies operating legally and essentially dealing with the distribution of authorised films. However, through them, individual users can find and post unauthorised content, not website owners. Nevertheless, it can be inferred that it will affect the attitude of those who admit that they happen to use pirated sources. Since the films are available on well-known and legally operating websites, it may give the impression that the copyright holders are not interested in limiting their availability (which, in some circumstances, may be true)⁵³. This impression is intensified because the websites emphasise that the content will be removed in the event of a claim, and such a claim may be submitted, for example, by an authorised distributor. It may lead to a misleading conclusion that the same would be true of content posted on portals whose main purpose is to profit from digital piracy and with no mechanisms for eliminating copyright-infringing content. The fact that the above portals are used is linked to variables describing the reasons for using unauthorised sources, especially with variables describing the ease and speed of access to unauthorised inferential goods. In addition, people who admit to using unauthorised sources know that it is free and that, in principle, they will not be penalised for doing so. As a result, it is logical that the rationalisation of using unauthorised sources is based on the techniques of the denial of injury and the denial of the victim. Please note that factor 1 refers to people who admit that they occasionally use unauthorised or outright “pirated” sources. It is important as these persons openly declare that they do so.

The survey, which is the basis for the EFA analysis carried out here, revealed that there are 26.2% of such individuals (V8.1). These people chose “yes” to the question: “Do you happen to obtain virtual products from unauthorised (colloquially “pirated”) sources?”. This percentage does not correspond to the amount of unauthorised copying diagnosed by Poort, Quintais, van der Ende, Yagafarova, and Hageraats cited in the introduction⁵⁴. They estimated, for the record, that in 2017, 52% of Poles obtained or had access to information goods illegally (sic!). The percentage of individuals admitting to using pirated sources also does not

⁵³ S Czetwertyński, *Morfologia nieautoryzowanego kopiowania* (Wydawnictwo Uniwersytetu Ekonomicznego we Wrocławiu 2019).

⁵⁴ *Global Online Piracy Study* (Institute for Information Law Research Paper No. 2018-03; Amsterdam Law School Research Paper No. 2018-21, 2018) 84.

correspond to the responses to one of the survey results, which was the basis of the EFA analysis - the question “which sentences about copyright compliance on the internet applies to you?” 50.3% of the respondents admitted that the phrase “I usually respect copyright, but some virtual products are only available from unauthorised sources, so I use them” applies to them. However, this question did not say that these sources are colloquially referred to as “pirated” so that the respondent would not feel stigmatised. Nevertheless, it should not be forgotten that about 50% of adult Poles use unauthorised sources, including those described as pirated ones. This would mean that a large portion of the public hides, does not know, or suppresses the fact that their actions involve unauthorised copying.

The analysis of the second factor indicating the level of declared knowledge of copyright law, both in general form and in detail, provides some guidance here. There is a significant correlation between how respondents judge their general understanding of copyright law and the extent to which they can identify which situations are related to digital piracy. The relation is that the respondents admit they use copyright intuitively (know what is allowed and what is not - V1), but in specific situations, they feel more confident (V2-V6). However, it must be emphasised that previous research has shown that, in general, the knowledge of copyright in Poland is unsatisfactory⁵⁵. By contrasting the results obtained from the EFA and previous research, one can conclude that respondents simply believe that they know copyright law and interpret their behaviour correctly when, in fact, this is not the case.

This finding can be supported by the results on factors three and four, which indicate links between respondents who did not report using unauthorised sources and were fans of the TV series. Those not declaring to use unauthorised sources avoided such websites as YouTube, cda.pl and Chomikuj.pl. In this case, using YouTube is crucial but is mainly the source of authorised content. This result implies that for respondents, avoiding piracy means abandoning specific websites rather than content. Thus, one may be tempted to say they do not know which authorised content (third factor). On the other hand, people who like TV series are ready to use websites that certainly provide unauthorised content. However, they have declared that they do not obtain information goods from unauthorised sources. This may also indicate the ignorance of whether the source is authorised (factor four). In both cases, one can also consider the possibility of a cognitive bias based on the cognitive miser model⁵⁶. In this approach, cognitive misery

⁵⁵ M Krawczyk, J Tyrowicz, A Kukla-Gryz and W Hardy, ““Piracy Is Not Theft!” Is It Just Students Who Think So?” (2015) 54 *Journal of Behavioral and Experimental Economics* 32–39 <https://doi.org/10.1016/j.socec.2014.11.003>; K Potyrała and Ł Tomczyk, ‘Teachers in the Lifelong Learning Process: Examples of Digital Literacy’ (2021) 47(2) *Journal of Education for Teaching* 255–273 <https://doi.org/10.1080/02607476.2021.1876499>.

⁵⁶ S T Fiske and S E Taylor, *Social Cognition: From Brains to Culture* (3rd edn, SAGE 2017).

would be a failure to reflect on or try to reflect on whether a given material is authorised.

The fifth factor identifies people who, in turn, do not hesitate to share information goods with their friends. Here, it is important to remember that the Polish copyright law allows such activities under the institution of fair personal use⁵⁷ - excluding software and databases. This group accounts for about 30% of the population, and these respondents do not see anything wrong with sharing information goods they have with their friends. They require no justification for such an action. It can be presumed that these respondents correctly interpret copyright, even if they do it intuitively. This also implies that the rest of the population has problems with it.

VI. CONCLUSION

Finally, in conclusion to the considerations in this article, it should be stated that the EFA analysis conducted in the case of Poland essentially confirms Brown's general assumption⁵⁸. He claims that unauthorised copying, including digital piracy, may be associated with a cognitive bias of not recognising the victim of such practices. A closer examination of the results indicates that those who admit to using unauthorised sources (which the survey referred to colloquially as "pirated") justify this fact because it is not very harmful, and nobody gets hurt. Considering these results, it seems reasonable to believe that the neutralisation theory and the techniques described therein apply to explaining the practices of justifying unauthorised copying, which must be conducive to the growth of digital piracy in large-scale and widespread form. However, certain research limitations revealed by the EFA need to be considered here. Firstly, only some of the respondents admitted openly to unauthorised copying, and they were the ones who were able to use a neutralisation technique. It indicates that the respondents were willing to disclose their actions because some neutralisation techniques relieved them of their shame. For the remaining individuals who did not admit to unauthorised copying but indicated it by their answers to the indirect questions, it must be presumed that there is additionally a problem of insufficient knowledge

⁵⁷ J Barta and R Markiewicz, *Prawo autorskie i prawa pokrewne: Przepisy z wprowadzeniem* (Wolters Kluwer 2017); K Gienas, *Systemy Digital Rights Management w świetle prawa autorskiego* (Wolters Kluwer Polska 2008); M Krawczyk, J Tyrowicz, A Kukla-Gryz and W Hardy, "'Piracy Is Not Theft!' Is It Just Students Who Think So?" (2015) 54 *Journal of Behavioral and Experimental Economics* 32–39 <https://doi.org/10.1016/j.socec.2014.11.003>.

⁵⁸ 'Approaches to Digital Piracy Research: A Call for Innovation' (2014) 20(2) *Convergence: The International Journal of Research into New Media Technologies* 129–139 <https://doi.org/10.1177/1354856513517470>.

of copyright law. At the same time, ignorance of the copyright law works in two directions because there is a lack of knowledge of whether given activities lead to copyright infringement and whether they are *de facto* permitted by law.

The paper uses the material to diagnose the phenomenon of unauthorised copying in Poland. The survey results were analysed using the EFA method. The results indicate that further research needs to be directed towards applying the neutralisation theory. In practical terms, research on the knowledge of copyright is also necessary on a representative sample of Poles.

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