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THE THEORETICAL-PRACTICAL FOUNDATION OF INTEGRITY IN THE NATIONAL LEGAL SYSTEM

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CONCEPTUAL LANDMARKS OF THE RESEARCH

Actuality and importance of the theme proposed for research. As a legal institution and social phenomenon, integrity represents an essential element in strengthening the rule of law and society's trust in public authorities. In the Republic of Moldova, this notion has recently found its manifestation in the context of European integration aspirations. However, it has always existed as a criterion of morality and justice. The interaction between legal and social integrity highlights the need for a multidimensional analysis that addresses both normative and practical aspects. The phenomenon of integrity needs to be studied from the perspective of the fields of legal regulation and through the lens of the defining elements of the status of the civil servant, the risks of violation, and the prevention and sanctioning mechanisms to improve legal regulations and strengthen both general and special legal awareness.

The novelty of the research theme consists in the fact that, at present, public power faces serious credibility problems, and the social understanding of integrity is uneven, which requires a theoretical as well as practical substantiation of this social phenomenon. This fact determines a direct influence on the way society's trust in public authorities is manifested. The research on integrity is of increased interest, including from the consideration that it represents a multidimensional phenomenon, being in close connection not only with the legal field but also with other fields, such as the social and psychological, given the fact that integrity represents first of all, a value and tendency of the society, being not only a standard of appreciation of the person who is involved in the functionality of public institutions.

The relevance and theoretical-practical value of this research are determined by contemporary requirements and the politico-legal impact of integrity on political, administrative, and professional-legal careers. The legal conceptualization of the term "integrity" provides a foundation to prevent abuses in public service, enhance the fight against corruption, and strengthen the legal competencies necessary for a democratic and transparent governance framework. Both on a personal and organizational level, integrity contributes to developing a more equitable society and establishing relationships based on mutual trust. This reasoning is applicable to all fields, both social and legal. A theoretical evaluation of the concept of integrity will facilitate the identification of necessary legal regulations through *lege ferenda* proposals aimed at strengthening trust in the judiciary and other public authorities and improving the efficiency of state institutions.

The importance of the scientific problem addressed resides in its political-legal impact on the public, administrative, and legal career, being an essential tool in preventing abuses, fighting corruption, and consolidating a contemporary, democratic, and transparent regime. Anchored in moral and ethical principles, integrity acquires practical value through honest and responsible

behavior, contributing to trust in justice and public authorities. The theoretical analysis of integrity allows the systematization of relevant concepts and the identification of effective regulations and legislative proposals that strengthen society's trust and make the functioning of state institutions more efficient.

Identification of the scientific problem. The scientific problem proposed for examination in this thesis resides in the demonstration of the significance of integrity as a phenomenon and legal institution in the national legal system. This necessitated an analysis of the impact of the level of legal regulation of integrity on the trust of citizens in public institutions, as well as the identification and analysis of the deficiencies of legal regulations and integrity mechanisms to improve the overall level of integrity.

Research hypothesis. Following the formulation of the scientific problem proposed for examination, we launch the following research hypothesis for verification: *there is a significant correlation between the level of legal regulation of integrity and society's trust in public authorities and identifying and correcting problems in the national integrity system contributes to strengthening the level of integrity. Integrity has a significant impact on the legal professional status of public institutions/authorities/the state and the identification and improvement of legal control procedures, as well as the deep analysis of mechanisms to prevent abuses in the integrity verification process, contribute to reducing situations of lack of integrity and as a consequence to increasing the level of trust of society in public authorities/institutions.*

The purpose of this thesis is the deep research of the solid theoretical-practical foundations of integrity as a phenomenon and legal institution to appreciate and understand the nature of integrity, as manifested in the activity of public agents, by determining the components and conditions of expression of this phenomenon. Their identification will boost the efficiency of mechanisms for ensuring integrity and will increase confidence in the authorities and state institutions. Therefore, a precise determination of the concept of integrity for public agents is necessary. Depending on the essence of integrity, the authorities' objectives and methods of operation are to be established through the lens of compliance with the integrity criterion to strengthen their functional efficiency through modernization interventions, optimization, and normative-legal adjustment.

The achievement of the proposed goal presupposes the achievement of the following **objectives:** *Evaluation of the doctrine and the legal normative framework in order to establish the meanings of the notion of integrity and the impact on the legal professional status of the public agent; Analysis of the duality of the notional content of integrity; Establishing, analyzing and classifying the principles related to the field of integrity; Definition/clarification of individuals*

subject to integrity control/verification in cases regulated by the normative framework related to the research field; Determining the specifics of integrity control and defined legal procedures, in terms of identifying situations of lack of integrity; Determining and analyzing the consequences of violating the integrity clause.

Presentation of the research methodology. The study of integrity in the national legal system, given its interdisciplinary nature, combines theoretical, philosophical-legal, and comparative approaches to assess its role in public officials' activities and its impact on citizens' professional and political careers. The research utilized historical, comparative, logical-systemic, sociological, and quantitative methods to analyze legal norms, societal impact, and statistical data, aiming to enhance legal regulations, strengthen social trust, and improve practical applications of integrity as a legal and social phenomenon.

Description of the situation in the field of research. During the research, it was found that currently, legal science identifies insufficient doctrinal study and that it is not possible to integrate into a complex system capable of providing solutions to the reference subjects that would clarify the legal nature of the institution of integrity, its theoretical manifestation practical, in order to realize it in the contemporary social-legal life, the delimitation of all problems, the elucidation of the causes and conditions of manifestation of the current situation of the institution of integrity and its theoretical-practical foundation in the national legal system. The researched subject is topical, considering the tendency of the Republic of Moldova to join international standards and the European Union, which imposes radical changes and requirements to ensure integrity in all areas.

Scientific novelty and originality. During the research, it was found that legal science has insufficient doctrinal research to effectively integrate into a complex system capable of clarifying the legal nature of the institution of integrity, its theoretical-practical manifestations, and its application in contemporary social-legal contexts. Also, it is necessary to define the problems and the theoretical-practical substantiation of the integrity institution in the national legal system. The subject of the research is particularly significant in the context of aligning to international standards and advancing towards the European Union, where the Republic of Moldova must implement radical changes, prioritizing the requirements of integrity across all sectors.

Thus, in the investigation process, the following results were obtained: *the doctrinal and legislative analysis of the notion and essence of the phenomenon of integrity was carried out; the analysis of the dual nature of integrity was presented; principles of integrity were determined, analyzed and classified; the circle of individuals subject to integrity control/verification was defined; the specific character of the liability for the violation of the integrity clause was*

established, as well as the consequences of its violation; the particularities of integrity control and defined legal procedures were determined, under the conditions of identifying situations of lack of integrity, perfecting the material and procedural legal regulations of the integrity phenomenon; proposals were developed to improve the material and procedural legal regulations of the whistleblower status; highlighting the problematic aspects found as a whole of the national integrity system and developing recommendations for its improvement.

The work's theoretical importance and applied value are determined by its actuality and scientific novelty and derive from the scientific results obtained, the syntheses and analyses carried out during the research, as well as the conclusions and recommendations formulated at the end of the work. The results of the researched topic identify a double impact. The nature of integrity, its different impact on the legal status of subjects involved in the governance, administration and justice process is clearly determined, in order to identify and perfect effective legal mechanisms aimed at assessing, ascertaining and verifying integrity.

Approval of results. The main scientific results submitted for support are presented in a succinct, systematized form through general conclusions and recommendations. These results are substantiated by rigorous arguments within the content of the thesis and are further supported by scientific publications, including articles in scientific journals and materials from national and international conferences. The thesis was developed and discussed within the Doctoral School of Legal and Economic Sciences of the Moldova State University. The Guidance Committee and the Public Law Department of the Law Faculty of the State University of Moldova approved the research results.

The volume and structure of the work. Structurally, the thesis consists of an annotation, introduction, four chapters, general conclusions and recommendations, and a bibliography. The total volume of the work is 216 pages (193 pages of basic text), and the list of bibliographic sources sums up to 188.

Keywords: integrity, National Integrity Authority, declaration of wealth and personal interests, conflict of interest, assessment of financial and ethical integrity.

CONTENT OF THE THESIS

The introduction encompasses the conceptual milestones of the thesis regarding the relevance and significance of the researched topic, the degree of research on the subject, the aim and objectives of the work, the identification of the scientific problem proposed for resolution, the research hypothesis put forward for verification, the scientific novelty of the study, a synthesis of the research methodology and the justification of the chosen research methods, the theoretical importance and practical value of the thesis, as well as the scientific foundation for the approval of the research results.

Chapter I is called ***"The phenomenon of integrity in the doctrinal analysis and in normative-legal regulations"*** and represents a double analysis of the phenomenon of integrity and the definitions attributed to "integrity". The first paragraph - *Doctrinal achievements in the matter of integrity characteristic of the national legal system*, is dedicated to the systematization of doctrinal achievements regarding integrity in the legal system. The national and international legal doctrine analysis provided a retrospective on the phenomenon of integrity, outlining its legal concept and the principles that characterize the legal institution of integrity.

Although the number of works dedicated to integrity is small, the majority of authors from the Republic of Moldova, Romania, as well as other countries: Novac, T., Pârțac, O., Boguș, A., Mostovei T., Ciobanu R., Cobîneanu, S., Avornic G., Aramă E., Postu I., Hlipca, A., Negru, A., Vocila A., Alistar, V., Iuga, M., Petcu RI, Lachi C., Danileț C., etc.) define it as a set of personal values. However, the literature lacks a clear and concise definition of integrity as a legal phenomenon or institution and a concrete formulation of its elements.

The theoretical assessment of the nature of integrity will allow the identification of legal and regulatory perspectives, capitalizing on by-law proposals aimed at strengthening trust in justice, in public authorities, and their organizational and functional efficiency. Integrity is a complex notion located at the limit of interference between moral and legal aspects, a fact that creates an increased interest in studying this phenomenon.

Integrity, anchored in moral and ethical principles, is realized through the normative adoption of honest, responsible, and transparent behavior rules, contributing to forming a fair society and building relationships based on mutual trust. Legal culture cannot be established by law nor imposed by the state through administrative instruments; rather, it springs from ordinary human experiences related to the functioning of the state through its institutions, which elaborate and apply legal norms.[1] The theoretical evaluation of the nature of integrity is the basis for

[1]AVORNIC, Gh, VACULOVSCHI, Gh. Excesul de reglementare juridică. In: *Revista Națională de Drept*, 2019, nr. 10-12(228-230), pp. 119-123. ISSN 1811-0770. DOI: https://doi.org/10.5281/zenodo.3742929

identifying legal and regulatory perspectives and generating proposals for binding law to strengthen trust in the judiciary and public authorities and make them more efficient from an organizational and functional point of view. The theoretical analysis of integrity facilitates the systematization of essential notions and classifications, contributing to the formulation of clear and explicit definitions. The theoretical foundation influences the practical application of integrity, orienting legal norms towards a correct application and a critical evaluation of legal situations involving integrity.

Although the term integrity is present in the legal system of the Republic of Moldova, there is a need for an extensive analysis of a theoretical-practical nature to ensure correct and efficient management of the terminology, as well as of the institutional manifestation (both organizational and functional) of the competent authorities. At the same time, a complex definition of integrity, as a multifaceted notion, would facilitate the creation of a consolidated benchmark for its observance and for ensuring adequate compliance control.

The importance of the discussed issue is supported by the need for a scientific study, which presents integrity as a significant result of legality and professionalism in social perception. It thus becomes a foundation for legal appreciation and validation. The promotion of integrity is essential for its substantiation as a moral value of society as a whole and legal institution, as well as for consolidating the status of the public agent, manifesting itself as a fundamental criterion for their selection to positions within public institutions.

The second paragraph - *Normative-legal reflection and analysis of the practical situation of integrity in the national legal system* – focuses on the normative representation and practical analysis of integrity within the national legal system. This section examines the legal regulations governing the phenomenon of integrity.

It should be noted that the first step to strengthen the national integrity system was the strengthening of the mechanism for declaring and verifying assets, personal interests, conflicts of interest, incompatibilities, and gifts by adopting on 17.06.2016 a new package of laws on integrity, namely the Law on the National Integrity Authority[2], the Law on the declaration of wealth and personal interests[3], as well as the Law of Integrity no. 82 of 25.05.2017[4], being preceded by Law no. 90-XVI of 25.04.2008 on preventing and combating corruption (repealed)[5].

[2]Law on the National Integrity Authority: no. 132 of 17.06.2016. In: Official Monitor of the Republic of Moldova, 2016, no. 245-246 art. 511.
[3]Law on the declaration of wealth and personal interests: no. 133 of 17.06.2016. In: Official Monitor of the Republic of Moldova, 2016, no. 245-246 art. 513.
[4]Law of Integrity: no. 82 of 25.05.2017. In: Official Monitor of the Republic of Moldova, 2017, no. 229-243, art. 360.
[5]Law on preventing and combating corruption: no. 90 of 25.04.2008. In: Official Monitor of the Republic of Moldova, 2008, 103-105 art. 391

The normative acts in force provide a general overview of the integrity concept. While the Constitution of the Republic of Moldova does not explicitly mention integrity, it is indirectly addressed through its provisions. Additionally, the Law on Integrity.[6]regulates several categories of integrity, distinguishing between integrity in the public and private sectors, as well as political and professional integrity. Another normative act, namely the Law on evaluating institutional integrity no. 325 of 23.12.2013[7], establishes the purpose, principles, means, methods, procedures, and legal effects of assessing institutional integrity within public entities.

Referring to the Whistleblower Law[8], we find that it does not explicitly define integrity. However, analyzing the notion of integrity warning provided in Article 3, we note that it represents "the disclosure of information obtained in a professional context, concerning violations of the law that threaten or harm the rights of a person or interests protected by law, recorded in the Registry of Disclosures of Law Violations." With reference to the related regulatory framework, and in particular the Law on the declaration of wealth and personal interests[9] and the Law on the National Integrity Authority[10]it is evident that these laws do not define integrity in any form. According to the National Standards of Internal Control in the Public Sector (SNCI), "Integrity involves the behavior, performance of professional duties and decision-making by the managers and employees of the public entity in an ethical manner, respecting the public interest and the legislation in force"[11]. While this definition offers clarity, it remains incomplete. Based on the logical interpretation and the general analysis of the notions presented in the normative acts, we can conclude that, although the concept of integrity is addressed in several legislative acts, no normative act in force in the Republic of Moldova provides a clear and specific definition of integrity as a distinct phenomenon.

Chapter II is dedicated to analyzing the ***Value and essence of integrity in the contemporary rule of law***. The first paragraph - *Integrity as an essential element of good governance*, focuses on examining integrity as a defining characteristic of contemporary justice.

[6]Law of Integrity: no. 82 of 25.05.2017. In: Official Monitor of the Republic of Moldova, 2017, no. 229-243, art. 360.
[7]Law on the assessment of institutional integrity: no. 325 of 23.12.2013. In: Official Monitor of the Republic of Moldova, 2016, no. 277-287, art. 586.
[8]Law on whistleblowers: no. 165 of 22.06.2023. In: Official Monitor of the Republic of Moldova, 2023 No. 267-270 art. 451
[9]Law on the declaration of wealth and personal interests: no. 133 of 17.06.2016. In: Official Monitor of the Republic of Moldova, 2016, no. 245-246 art. 513
[10]Law on the National Integrity Authority: no. 132 of 17.06.2016. In: Official Monitor of the Republic of Moldova, 2016, no. 245-246 art. 511.
[11]Order of the Ministry of Finance regarding the approval of the National Internal Control Standards in the public sector: no. 189 of 05.11.2015. In: Official Monitor of the Republic of Moldova, 2015, no. 332-339, art. 2391

For good governance, integrity is an objective to be achieved[12]. An effective governance contributes significantly to the maintenance of public order and a well-maintained public order facilitates the configuration of an environment conducive to the implementation of quality governance.

Through Law No. 229/2010 on internal public financial control, the concept of "good governance" expanded its scope of applicability, summing up both the Government's and public entities' activities. In this regard, good governance under the Government's responsibility will be primarily based on a National Integrity System (NIS). NIS is a holistic picture of a state's governance that reflects its compliance with the rigors of transparency, integrity, and accountability[13].

In the national legislation, good governance is defined in the Law on internal public financial control No. 229 of 23.09.2010. According to this Law, "good governance is the way of governing that ensures the achievement of objectives in compliance with the principles of transparency and accountability, economy, efficiency and effectiveness, legality and equity, ethics and integrity"[14].

At the normative level, the Republic of Moldova has aligned with international trends in the regulation of good governance. In conclusion, we mention that integrity, in the context of the relationship with good governance, is an essential component of it, contributing significantly to ensuring and respecting the principles of effective governance. In a democratic society, integrity represents the moral and ethical foundation of actions carried out by authorities and civil servants, directly impacting the quality of governance.

The second paragraph focuses on the *Duality analysis of the notional content of integrity*. The analysis of this subject allowed us to establish that integrity as a social phenomenon and a legal institution has a long development history. Society often does not differentiate between morality and law, these being mutually complementary elements, the priority aspects of which are regulated by legislation. The internal morality of law makes possible the very existence of law as law and demands the moral obligation of citizens to respect it[15]. In the analysis of the phenomenon

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[12] CIOBANU, R. Cultura juridică [ne] ajunsă la maturitate. O necesitate de revalorizare? In: 100 de ani de la adoptarea constitutiei Romaniei de la 1923. Evolutii context si perspective europe in Romania si Republica Moldova, 24 martie 2023, Chişinău. Chişinău: Centrul Editorial-Poligrafic al USM, 2023, pp. 41-52. ISBN 978-9975-62-577-7 (PDF). DOI: https://doi.org/10.5281/zenodo.8412697

[13]Report: National Integrity System Moldova 2014, [online]. ©2018 [cited 10.07.2024]. Available: https://www.cna.md/public/files/sna_activitati/raportul_ti-moldova_sistemul_national_de_integritate-2014.pdf

[14]Law on internal public financial control: no. 229 of 23.09.2010. In: Official Monitor of the Republic of Moldova, 2010, no. 231-234 art. 730

[15]ARAMĂ, E., COPTILEȚ, V.. Interpretarea dreptului: act de cunoaștere sau de voință? In: Studia Universitatis Moldaviae (Seria Ştiinţe Sociale), 2024, nr. 3(173), pp. 22-27. ISSN 1814-3199. DOI: https://doi.org/10.59295/sum3(173)2024_03

of integrity, it becomes evident and essential to appreciate the value of law in relation to morality, exploring the interconnection between law and morality in the context of integrity. This approach challenges the idea that integrity cannot be achieved without a solid moral foundation. Social value belongs to the emotional sphere of the human spirit, it can only be contained in acts of knowledge inadequately, incompletely[16].

Therefore, we can conclude that integrity, in the light of the analyses carried out, can be characterized by a double aspect, standing out both as a moral state of the subject, represented by a set of moral qualities specific to the individual, and as a principle-element of law, an essential legal institution for the performance of public duties.

From the legislator's perspective, the failure to provide a rigid definition for ethical-moral notions such as integrity may reflect confidence in society's ability to evolve and adapt its ethical standards. In a legal context, integrity can be understood as more than strict adherence to laws and regulations; it also involves a commitment to high moral principles and respect for the fundamental values that define a society. Therefore, this thesis proposes the supplementation of art. 3 of the Law on Integrity no. 82 of 25.05.2017, to include the notion of "integrity", which will contain its fundamental elements, being a general notion for all categories of this phenomenon, such as: "integrity - the ability of the public agent to carry out his/her professional activity in compliance with the public interest, the supremacy of the Constitution of the Republic of Moldova, the law and the norms of ethics and deontology, ensuring compliance in his/her activity with professionalism, the regime of zero tolerance to corruption and the legal regime of declaring wealth and personal interests." We are convinced that the notion of integrity cannot be reduced to a strictly legal framework but must be understood and appreciated in the context of the ethical and moral dimension, with the recognition that the dynamics and changes influence its evolution and application in the ethical perceptions of society.

The third paragraph - *The particularities of the principles characteristic of the phenomenon of integrity* analyzes the principles of integrity. "In the current conception of law, an important place is occupied by the paradigm of the legal system structured based on the general principles of law, [...] the principles are meta norms, principles of knowledge, of law to interpret the law [...] sources of law"[17]. Referring to integrity as a separate phenomenon of law, it is based on ideas, concepts, and rules, which are beginnings that express the essential particularities of integrity.

[16]POSTU, I., ICHIM, R. G. Câteva reflecții pe marginea conceptului de valoare socială. In: Studii Juridice Universitare, 2016, nr. 3-4(35-36), pp. 143-148. ISSN 1857-4122.
[17]ARAMĂ E. Repere metodologice ale jurisprudenței europene. În: De la aderare la integrarea României în Uniunea Europeană. Simpozion (I; 2008, Brașov.) Psihomedia: 2008, Integrare și reformă în administrație și justiției, ISBN : 978-973-1753-69-0

Professor Negru A. in his work "Assessments of the essence of the principle of strengthening justice" pronounces on integrity, attributing it, along with independence and impartiality, to the fundamental principles of justice that identify quality standards, characteristic of justice. The judiciary must promote and demonstrate integrity[18]

Analyzing the principles of integrity, we concluded that, based on their specifics, they can be classified into 2 categories. The first category consists of *the general principles of integrity*, which include: legality; respecting human rights and fundamental freedoms, human and professional dignity; the principle of equality; impartial, fair and non-discriminatory treatment; respect for private life and protection of personal data, honesty and fairness, openness and transparency. The second category encompasses *special integrity principles*, such as: good administration, equal treatment of citizens, respect for their rights, supremacy of public interest, and responsibility.

Also, the principles of integrity can be divided into *the principles of institutional integrity* (legality; the presumption of good faith of the subjects of the institutional integrity assessment; the presumption of the institutional integrity of public entities; the transparency of the results of the institutional integrity assessment) and *the principles of professional integrity* (legality, respect for fundamental rights and freedoms, human and professional dignity; fair balance between the fundamental rights and freedoms of citizens and of public officials; impartial, fair and non-discriminatory treatment of public officials subject to assessment).

Additionally, the principles of integrity can be classified based on the criterion of their application—specifically, the addressees of integrity. Thus, the principles of integrity can be divided into *the principles of integrity addressed to the persons who carry out the control of compliance with the integrity clause*, as well as *those addressed to the individuals subject to control*. The first category includes principles such as: cultivating and strengthening a climate of institutional integrity, as well as sanctioning the lack of professional integrity; ensuring a fair balance between the human rights of persons exponents of the public interest; the presumption of the professional integrity of public agents and the institutional integrity of public entities, etc.

Regarding individuals subject to integrity control, the following principles apply: impartial, fair, and non-discriminatory treatment of public agents subject to testing; the presumption of good faith of the subjects of the institutional integrity assessment; the presumption of the institutional integrity of public entities; the transparency of the results of the evaluation of institutional integrity, the respect for private life and the protection of personal data, etc.

[18]NEGRU, A. Aprecieri de esenţă a principiului consolidării justiţiei. În Legea și viața, nr.11, Chișinău, 2012 [online], p.20, ISSN 1810-309X [cited 20.02.2022]. Available: http://www.legeasiviata.in.ua/archive/2012/11-md/11-md.pdf

Chapter III – Manifestation of integrity in the internal law of the Republic of Moldova is structured in three research compartments. The first paragraph, entitled *Ensuring integrity by controlling it*, is oriented toward researching the architecture and effectiveness of integrity control. Legislation in the integrity field (such as the Law on integrity, the Law on the evaluation of institutional integrity, the Law on the declaration of assets and personal interests, etc.) does not define integrity control through a single formulated notion. The integrity law provides that the control of institutional integrity is carried out by two methods: internal control and external control. In the Integrity Law, measures to ensure\cultivate integrity, integrity enhancement measures, and integrity control measures are regulated. Also, legislation in the field of integrity and anti-corruption provides for the control of institutional and professional integrity (testing of professional integrity, control of wealth and interests, incompatibility, etc.). But the notion of control is missing.

However, the Methodology for verifying and controlling wealth and personal interests and regarding compliance with the legal regime of conflicts of interest, incompatibilities, restrictions, and limitations.[19] provides the explanation of the purpose of integrity control, namely "... the effective implementation of integrity standards, discouraging corrupt behavior in the public service, stimulating the responsibility of the subject of the declaration of wealth and personal interests in the decision-making process, increasing the prestige of public organizations and catalyzing the process of implementing the principles of good governance."[20]

Following the analysis of the provisions of this Methodology, we conclude that there are 2 categories of grounds for carrying out the control. The first is the existence of a notification in order to report violations, and the second is the verification procedure of declarations of assets and personal interests (DAIP). It is worth noting that the use of the notions of "control" and "verification" in the Methodology is inconsistent. The Methodology for carrying out checks and controls by integrity inspectors[21] also operates with both notions, the notion of "verification" being assigned to DAIP and that of "control" to integrity control. These notions in the legal framework related to the integrity field demonstrate the ambiguity or imprecision of these terms, which can

[19]The order regarding the approval of the Methodology for verifying and controlling wealth and personal interests and compliance with the legal regime of conflicts of interest, incompatibilities, restrictions, and limitations: no. 9 of 14.02.2022. National Integrity Authority, [online]. [cited 01.03.2022]. Available:https://ani.md/sites/default/files/Ord.9%20din%2014.02.2022%20Metodologia%20controale.pdf

[20]The order regarding the approval of the Methodology for verifying and controlling wealth and personal interests and compliance with the legal regime of conflicts of interest, incompatibilities, restrictions, and limitations: no. 9 of 14.02.2022. National Integrity Authority, [online]. [cited 01.03.2022]. Available:https://ani.md/sites/default/files/Ord.9%20din%2014.02.2022%20Metodologia%20controale.pdf

[21]The Methodology for carrying out checks and controls by integrity inspectors, approved by ANI Order no. 8 of 24.01.2024, [online]. [cited 20.02.2024]. Available:https://ani.md/sites/default/files/Metodologia.PDF

be interpreted differently, leaving room for divergences regarding the situations when control is carried out and when verification.

Second paragraph - Individuals subject to integrity control. It is important to note that the subjects of integrity are not only the persons subject to control or evaluation of the activity; the range of individuals involved in relations concerning integrity is quite broad.

Article 3 of the Law on the declaration of wealth and personal interests provides for the category of subjects of the declaration of wealth and personal interests[22]. The normative framework provides that all the subjects mentioned in the law are to be entered in the Electronic Register of the subjects of the declaration of wealth and interests by responsible personnel from the human resources service of the entities where the subjects of the declaration are active. Apart from the obvious categories of integrity subjects, we consider it necessary to mention that wealth and personal interests are also declared by the following categories of persons[23]: family members; concubine; parents/in-laws or adult children; close person; the donor and co-donor and other persons, considering the provisions of the Methodology for carrying out checks and controls by integrity inspectors from 2024[24]. The persons mentioned above are the subjects of the declaration only indirectly, being included in the declarations of the subjects, the latter being more involved in the aspects aimed at personal interests.

With reference to political integrity, we mention that the legislation of the Republic of Moldova on political integrity provides for a series of restrictions regarding the possibility of running for elections for persons who have been involved in illegal activities or who have been members of a political party declared unconstitutional. By introducing appropriate criteria and effective individual assessments, it is guaranteed that only those who have directly threatened the Constitution and the integrity of the democratic state will be restricted. In addition, providing full procedural guarantees ensures transparency and fairness in the process, allowing those affected to defend their rights and challenge decisions. These measures contribute to strengthening democracy and maintaining public confidence in the electoral system and state institutions.

The thesis also analyzes the evaluation of *institutional integrity.* In the case of institutional integrity, the legislator explicitly established that "the subjects of the institutional integrity assessment are public entities, self-administration bodies, public agencies, the National Anti-corruption Center and the Security and Intelligence Service. The evaluation of institutional

[22]Law on the declaration of wealth and personal interests: no. 133 of 17.06.2016. In: Official Monitor of the Republic of Moldova, 2016, no. 245-246 art. 513.
[23]Ibidem
[24]The Methodology for carrying out checks and controls by integrity inspectors, approved by ANI Order no. 8 of 24.01.2024,[online].[cited 20.02.2024]. Available:https://ani.md/sites/default/files/Metodologia.PDF

integrity is carried out concerning public entities and provides the possibility of applying professional integrity tests to public agents.[25]" Assessing institutional integrity is an important tool for preventing and fighting corruption. By identifying the risks of corruption and issuing recommendations to improve the climate of institutional integrity, the evaluation can contribute to the creation of a more transparent and accountable society.

Third paragraph - Integrity - mandatory condition for activity in a public office. Legislation in the field of integrity requires the presentation of the record of integrity or the certificate of integrity. According to the Integrity Law, at the request of the heads of public entities, in the case of competitive employment procedures, or of natural persons who intend to apply for eligible public positions, the National Integrity Authority issues certificates of integrity[26]. It includes details of final findings over the last 3 years relating to unjustified assets, conflicts of interest, and restrictions breached. The law on the assessment of institutional integrity stipulates that "the record on the professional integrity of public agents is kept by the National Anti-corruption Center and the Intelligence and Security Service, which releases information upon request"[27]. It is also stated that the purpose of the integrity record is to keep track of the results of professional integrity testing.

The legislator, in order to strengthen the integrity of the future members of the Superior Council of the Magistracy, the Superior Council of Prosecutors and the specialized bodies within them, adopted the Law on some measures related to the selection of candidates for the position of member in the self-administration bodies of judges and prosecutors[28], which provides for additional integrity verification and evaluation measures. This law, containing innovative rules for the legislation of the Republic of Moldova, establishes that "the evaluation of the integrity of the candidates consists in the verification of ethical integrity and financial integrity[29]"of the future members of the Superior Council of the Magistracy, the Superior Council of Prosecutors and their specialized bodies.

In the given case, we are in the presence of a new model certificate/record of integrity in the form of a reasoned decision of the Evaluation Commission. However, the provisions of the

[25]Law on the assessment of institutional integrity: no. 325 of 23.12.2013. In: Official Monitor of the Republic of Moldova, 2016, no. 277-287, art. 586.
[26]Law on integrity: no. 82 of 25.05.2017. In: Official Monitor of the Republic of Moldova, 2017, no. 229-243, art. 360.
[27]Law on the assessment of institutional integrity: no. 325 of 23.12.2013. In: Official Monitor of the Republic of Moldova, 2016, no. 277-287, art. 586.
[28]The law regarding some measures related to the selection of candidates for the position of member in the self-administration bodies of judges and prosecutors: no. 26 of 10.03.2022. In: Official Monitor of the Republic of Moldova, 2022, no. 72 art. 103.
[29]Ibidem

law mentioned in the part aimed at checking the integrity of the candidates are rather ambiguous and general. By way of example, referring to "reasonable suspicions" in the context of another relevant and new normative act, the Law on the external evaluation of judges and prosecutors and the amendment of some normative acts[30], still in 2022, in the Joint Opinion of the Venice Commission and the General Directorate for Human Rights and the Rule of Law (dgi) of the Council of Europe adopted by the Venice Commission at the 134th plenary session (Venice, 10 - March 11, 2023)[31] qualified this as "a problematic part". This rule assumes that the EC's findings do not establish the guilt of the person concerned, nor do they directly attract criminal liability, which would most likely require a different (higher) standard of proof."[32] The thesis presents an extensive analysis regarding the stated problematic aspects. The analysis of all the provisions presented in the thesis shows the complexity of the candidate selection process for any public office. At the same time, taking into account the multiple recent changes in the normative framework, we deduce that determining the candidate's integrity, regardless of position, is a complicated procedure in the sense of both assessing the level of his/her integrity and respecting the candidate's rights.

Chapter IV - Countering attempts to breach the integrity clause includes four paragraphs and conclusions. The first paragraph is entitled *Activities and areas of risk that discredit integrity*. Integrity in a state of law is one of the main phenomena, and assessing and reducing the risks of negative influence that can affect integrity is one of the priorities of public administration. The Law on Integrity[33] operates with two definitions: "risk factor" and "corruption risk". The law also classifies risks into "future" and "existing" risks.

An essential element in the analysis of corruption risks is the identification of their origin. Methodology[34] explains that corruption risks can arise due to legislation containing risk factors, which can be generated either by faulty language of the regulatory text or by the absence or insufficiency of mechanisms to prevent corruption. These risk factors may include how

[30]The law regarding the external evaluation of judges and prosecutors and the modification of some normative acts: no. 252 of 17.08.2023. In: Official Monitor of the Republic of Moldova, 2023, no. 325-327 art. 581

[31]CDL-AD(2023)005-e Republic of Moldova - Joint opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the draft Law on the external assessment of Judges and Prosecutors, adopted by the Venice Commission at its 134th Plenary Session (Venice, 10-11 March 2023)),[online].Council of Europe ©2014 [cited 2023-12-10]. Available: https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2023)005-e

[32]In its December 2022 Opinion, CDL-AD(2022)049, the Venice Commission insisted that the word "serious" (and not "reasonable") doubts should be used - see para. 32.

[33]Law on integrity: no. 82 of 25.05.2017. In: Official Monitor of the Republic of Moldova, 2017, no. 229-243, art. 360.

[34]Methodology for carrying out the anti-corruption expertise of draft legislative and normative acts. Moldova National Anticorruption Center,[online].© 2023 [cited 14.12.2022]. Available:https://www.cna.md/public/files/Metod_de_efect_a_expertizei_anticoruptie_1.pdf

procedures, powers, duties, and rights are established. Thus, unclear or ambiguous wording in legislation can create opportunities for acts of corruption, underscoring the importance of precise drafting and appropriate preventive measures in drafting normative acts. The Methodology also presents a typology of risk factors.

Also, the Integrity Law stipulates that it is necessary to keep track of corruption risks, which contains "...description of the vulnerable activity [...]; the risk of corruption […]; the reaction to risk and the action of the public entity; the person in charge of the action; the deadline for implementing the action"[35]. According to the National Standards of Internal Control in the Public Sector (SNCI) 9, public entities must analyze vulnerable activities that involve increased corruption risks.[36]At the same time, the legislator also provides for the performance of an external control of corruption risks. This process involves describing the factors that contribute to the occurrence of the identified risks and analyzing the associated consequences. In addition, the evaluation has the role of providing concrete recommendations for reducing the risks of corruption, thus promoting a more integrated and responsible environment within public institutions[37].

The continuous evaluation procedure with "the description of the corruption risks identified and, as the case may be, confirmed within the professional integrity testing and the analysis of the risk factors that increase the probability of these risks materializing are done taking into account the external, internal, operational and individual risk factors.[38]"Regarding operational and individual risks, the previous law does not explain these terms. These are explained in the Law on the evaluation of institutional integrity. The Methodology for identifying corruption risks within public entities, identifying public agents exposed to these risks, and analyzing the risk factors that generate them provides that CNA (NAC) "...will select the public entity, according to at least two of the following criteria: vulnerable activities; statistics; contact with the population; not ensuring the climate of institutional integrity[39]".

The description of the risks of corruption and the analysis of the risk factors are essential stages in the fight against corruption. Regarding the description of the identified corruption risks,

[35]Law on integrity: no. 82 of 25.05.2017. In: Official Monitor of the Republic of Moldova, 2017, no. 229-243, art. 360.
[36]Order of the Ministry of Finance regarding the approval of the National Internal Control Standards in the public sector: no. 189 of 05.11.2015. In: Official Monitor of the Republic of Moldova, 2015, no. 332-339, art. 2391
[37] Law on integrity: no. 82 of 25.05.2017. In: Official Monitor of the Republic of Moldova, 2017, no. 229-243, art. 360.
[38]Law on integrity: no. 82 of 25.05.2017. In: Official Monitor of the Republic of Moldova, 2017, no. 229-243, art. 360.
[39]The order regarding the approval of the Methodology for identifying corruption risks within public entities, identifying public agents exposed to these risks and analyzing the risk factors that generate them. No. 50 of 20.03.2018,[online]. National Anti-corruption Center Moldova, © 2023, [cited 14.12.2022]. Available:https://cna.md/public/files/Metodologia_de_evaluare_a_riscurilor.pdf

the law provides several types of risk factors[40]: "external factors, internal factors, operational factors, and individual factors". The description of corruption risks will be presented in the "probability and impact matrix", by applying the "qualitative scale" method. Depending on the impact, the risk can be: high (severe), medium and low (minor).

Another classification of risks is grouped according to the probability of occurrence[41]: of high probability of occurrence (almost certain), of medium probability of occurrence (possible), of low probability of occurrence (rare). The level of exposure to corruption risks is determined by the probability of these risks occurring and the severity of the impact they could have. Depending on the placement of the risks in the assessment matrix, appropriate intervention measures are developed.

In the context of the assessment of corruption risks, it is essential that every public entity has an internal integrity plan. The Law on Integrity[42] states that the purpose of this plan is to develop and strengthen the climate of institutional integrity throughout the implementation process, thus ensuring a more transparent and accountable environment that minimizes the risks of corruption and promotes good governance. By identifying and managing these risk activities and areas, public entities can take steps to reduce the likelihood of them occurring. These measures may include: improving legislation and administrative practices; implementing integrity systems; educating and sensitizing public agents and citizens regarding the importance of integrity, etc. By implementing a risk management system, public entities can contribute to the creation of a more transparent and responsible society.

The second paragraph is called - *Consequences of violating the integrity clause*. According to the legislation in force, compliance with the integrity regime for integrity subjects is mandatory in the process of carrying out their activity. Thus, in order to establish the essence of the "integrity clause", the provisions of the Law no. 325 of 23.12.2013 on the assessment of institutional integrity[43] are to be studied. This Law regulates the purpose, principles, means, methods, procedures, and legal effects of the evaluation of institutional integrity within public entities. We emphasize that the notion of "integrity clause" in the legislation is not formulated"[44]. We allow

[40]Ibidem
[41]Ibidem
[42]The order regarding the approval of the Methodology for identifying corruption risks within public entities, identifying public agents exposed to these risks and analyzing the risk factors that generate them. No. 50 of 20.03.2018,[online]. National Anti-corruption Center Moldova, © 2023, [cited 14.12.2022]. Available:https://cna.md/public/files/Metodologia_de_evaluare_a_riscurilor.pdf
[43] Law on the assessment of institutional integrity: no. 325 of 23.12.2013. In: Official Monitor of the Republic of Moldova, 2016, no. 277-287, art. 586.
[44]BACIU (CEBAN), O. The consequences of violating the integrity clause. In: Review of the National Institute of Justice, 2022, no. 2(61), pp. 53-60. ISSN 1857-2405. DOI: 10.52277/1857-2405.2022.2(61).09

ourselves to operate with such a notion in order to simplify the use and explanation of a series of "cumulative legal provisions relating to obligations related to integrity"[45]. More specifically, it refers to "the set of measures or prohibitions intended to ensure all categories of integrity as outlined in the legislation. In broader legal terms, the integrity clause represents the manifestation of integrity[46]". The integrity clause includes in itself all the conditions that would confirm integrity.

The Law on Integrity[47] in art. 3 operates with several notions that allow us to analyze the "integrity clause." One such notion is "integrity incident"[48]. The given notion allows us to outline the conditions of violation of the integrity clause, these being limited by the time/period of manifestation through "real circumstances" or "within a professional integrity test"[49]. Additionally, attention is drawn to the concept of "political integrity." In this case, the legislator provides a more specific definition, stating that it "represents the capacity of the electoral contestants, […] of persons who hold an elective position or an exclusively political position to carry out their activities in an ethical manner, free from manifestations of corruption, respecting the public interest, the supremacy of the Constitution of the Republic of Moldova and the law".[50]

The law on the assessment of institutional integrity[51] operates with notions such as institutional integrity and professional integrity. Thus, improper compliance, or in general, failure to comply with the measures that ensure one of the forms of integrity, provided by the legislation in force, represents a violation of the integrity clause. Therefore, the consequences of the breach of these measures represent a matter of increased interest for analysis. Studying the provisions of the normative acts, we can conclude that the consequences of non-compliance with the integrity clause can be divided into 2 categories: the occurrence of a form of liability, such as disciplinary, contraventional, criminal, or civil liability, another being a specific consequence of the violation of a concrete measure and represents a consequence negative applicable in relation to the person who did not comply with the specified measures[52].

[45]BACIU (CEBAN), O. The consequences of violating the integrity clause. In: Review of the National Institute of Justice, 2022, no. 2(61), pp. 53-60. ISSN 1857-2405. DOI: 10.52277/1857-2405.2022.2(61).09
[46]Ibid
[47]Law on integrity: no. 82 of 25.05.2017. In: Official Monitor of the Republic of Moldova, 2017, no. 229-243, art. 360.
[48]Law on integrity: no. 82 of 25.05.2017. In: Official Monitor of the Republic of Moldova, 2017, no. 229-243, art. 360
[49]Ibid
[50]Ibid
[51]Law on the assessment of institutional integrity: no. 325 of 23.12.2013. In: Official Monitor of the Republic of Moldova, 2016, no. 277-287, art. 586.
[52]BACIU (CEBAN), O. Consecințele încălcării clauzei de integritate. In: Revista Institutului Național al Justiției, 2022, nr. 2(61), pp. 53-60. ISSN 1857-2405. DOI: 10.52277/1857-2405.2022.2(61).09

In the synthesis of the content of the analysis presented in the thesis, we can emphasize that the integrity clause as a concept is not regulated in national legislation, it only can be deduced from the measures that all subjects of integrity are obliged to respect. The consequences of a violation of the integrity clause are complex in nature, outlined by a particular form of liability towards those who violate this clause or the documents issued by them.

The third paragraph is dedicated to analyzing the Specific Character of the liability for violating the integrity clause. According to the legislation in force, civil servants must respect the laws and all other relevant legal acts that regulate the social relations in which they are involved. Therefore, compliance with these regulations contributes to the prevention of abuses and the promotion of a climate of ethics and integrity in public administration[53].

Disciplinary liability of civil servants for violating the integrity clause. The disciplinary liability of civil servants is enshrined in the Law on public office and civil servant status. Until 2008, the disciplinary liability of civil servants was regulated by the Labor Code, just like that of any employee (employee). We believe that the civil servant, as a representative (bearer) of public power, should be held to much stricter disciplinary responsibility than simple employees[54]. Unlike the Labor Code, Law no. 158/2008 in art. 57 establishes several disciplinary violations, which affect the administration process and violate the integrity clause.[55] Also, according to the Integrity Law, disciplinary offenses include corrupt acts related to all other types of violations of obligations established for public officials, heads of public entities, former public officials, commercial organizations, registrars of legal entities, and anti-corruption authorities.

The contraventional liability of public officials for violating the integrity clause. The legislation in force provides for the criminal liability of public officials for acts of corruption, acts related to acts of corruption, and corruptible acts.

Criminal liability of civil servants for breaching the integrity clause. The legislation in force provides those public officials can be held criminally liable for committing corruption crimes and acts related to these crimes. Thus, any act of corruption committed by a public official and corruptible acts that are directly related to these acts are subject to criminal sanctions.

Although the legislator's intentions are not completely clear, it can be interpreted that the civil liability of the civil servant for illegal acts committed during the exercise of his/her duties refers to those situations in which the employee signed an additional material liability agreement,

[53]Law of the Republic of Moldova regarding the public office and the status of civil servants. No. 158-XVI of 04.07.2008. In: Official Monitor of the Republic of Moldova, 23.12.2008, no. 230-232
[54]Orlov M., Belecciu Ş. Administrative law. Chisinau: Elena-VI, 2005. 270 p.
[55]Law of the Republic of Moldova regarding the public office and the status of civil servants. No. 158-XVI of 04.07.2008. In: Official Monitor of the Republic of Moldova, 23.12.2008, no. 230-232

according to the provisions of the Labor Code. This applies if the official has caused damage to material assets entrusted to him/her for use for official purposes. It is essential that the official's guilt is proven for civil liability to apply[56]. In the event of the commission of acts of corruption and related acts, the Law on Integrity provides that the goods acquired illegally or returned to the injured person are confiscated, and if they are not found, the convicted person is obliged to pay the compensation[57].

Liability and compensation for damage. The person who suffered damage resulting from an act provided for in art. 256, 324–3351 of the Criminal Code has the right, during the process, to reparation of material and/or moral damage in accordance with the provisions of the Criminal Procedure Code. Also, if the person suffered damage from an act provided for in art. 312-3301 of the Criminal Code, the competent authority has the right, at the request of the victim, to order the repair of the damage caused. After reparation of the damage from the account of the respective budget, the obligation to submit the recourse action against the guilty person arises in the amount of the compensation paid.

Liability for breach of the integrity clause can arise for a variety of breaches encompassing all forms of liability. They aim to ensure an integrated environment from all points of view. This fact also proves that integrity as a phenomenon is multilateral and includes a variety of elements.

The last paragraph is dedicated *to the problematic aspects and characteristics of the national integrity system*. The integrity law provides that the integrity plan is drawn up following the institutional assessment, the law strictly requiring that "...the public entity, within one month, adopts the integrity plan and implements it within two months from the moment of adoption[58]". As a requirement submitted to the integrity plan, the legislator provides that it "... must ensure, at least, the fulfillment of the recommendations and minimum requirements formulated in the mentioned report[59]".

Among the first aspects, we would like to mention that the system of control, ascertainment, and liability in the field of integrity is largely disconnected from the existing system

[56]SAITARLÎ ,N., Răspunderea juridică a funcţinarilor publici în Republica Moldova, Buletinul Ştiinţific al Universităţii de Stat „Bogdan Petriceicu Hasdeu" din Cahul №. 2 (6), 2017, p.29

[57]Law on integrity: no. 82 of 25.05.2017. In: Official Monitor of the Republic of Moldova, 2017, no. 229-243, art. 360.

[58]The order regarding the approval of the Methodology for identifying corruption risks within public entities, identifying public agents exposed to these risks and analyzing the risk factors that generate them. No. 50 of 20.03.2018,[online]. National Anti-corruption Center Moldova, © 2023, [cited 14.12.2022]. Available:https://cna.md/public/files/Metodologia_de_evaluare_a_riscurilor.pdf

[59]The order regarding the approval of the Methodology for identifying corruption risks within public entities, identifying public agents exposed to these risks and analyzing the risk factors that generate them. No. 50 of 20.03.2018,[online]. National Anti-corruption Center Moldova, © 2023, [cited 14.12.2022]. Available:https://cna.md/public/files/Metodologia_de_evaluare_a_riscurilor.pdf

of law in the field of legal liability[60]. This fact generates an ambiguity in the application of legal liability when the same penalty of terminating the mandate and deprivation of public office for a certain period is applied for formal acts that are not essential for the public interest.

We also express the opinion that, at the moment, a considerable additional burden is placed on the subjects of the declaration, which is essentially not balanced with certain social benefits or salaries, creating in society the opinion that all the subjects of the declaration, by virtue of the position they hold, are "obliged' to be absolutely transparent about all aspects of personal wealth and interests. We propose optimizing this process and excluding the compartment with the declarations of the subjects of the declaration published on the ANI website. Thus, the statements should be presented at an unmotivated request of the citizens, including, as provided, for example, in the text of the Law on access to information of public interest no. 148 of 09.06.2023. In such a situation, ANI will keep track of the citizens who requested the statements to ensure that the person was presented with the information in the requested form.

At the same time, the legislation in the integrity field does not consider the local specifics (especially the rural sector), which lacks specialists but also suffers a serious depopulation process. In rural localities, on the one hand, there is a crisis of qualified specialists, the population is small, and on the other hand, it is difficult to change the field of activity or find another suitable job. In such a case, we propose the establishment of a new assignment of ANI in order to ad hoc resolve these conflicts of interest, having analyzed and contrasted the risks of violating the integrity regime, as well as the social impact and negative consequences that could arise in this category of cases. In some situations, the subtleties of complicated legislation in the integrity field are unknown, including due to the lack of legal services in rural areas.

Another problematic aspect concerns the provisions of paragraph (12) art. 24 of Law no. 133/2016 regarding the declaration of wealth and personal interests, which states that "situations of conflicts of interest unresolved until the entry into force of this law, as well as those arising after its entry into force, are declared and resolved according to the provisions of this law"[61]. Law 133/2016 entered into force on 01.08.2016; the previous Law no. 16/2008 was repealed on the date of entry into force of the new Law no. 133/2016. Art. 24 para. (12) of Law no. 133/2016 makes it possible for those violations committed until 01.08.2016 to be resolved not according to Law no. 16/2008 but according to the new Law no.133/2016. Law no. 133/2016 establishes a much

[60]RUSU, V. Regimul de integritate în serviciul public în condițiile noii legislații. Realități și provocări. In: *State, security and human rights: in digital era*, 8-9 decembrie 2021, Chișinău. Chișinău: Centrul Editorial-Poligrafic al USM, 2022, pp. 379-385. ISBN 978-9975-159-32-6. 10.5281/zenodo.6393014

[61]Law on the declaration of wealth and personal interests: no. 133 of 17.06.2016. In: Official Monitor of the Republic of Moldova, 2016, no. 245-246 art. 513.

harsher punishment than Law no. 16/2008. Thus, the violations that occurred until 01.08.2016 are punished according to Law no. 133/2016. Therefore, the law applies retroactively[62].

An important aspect concerns the suspensive actions of the finding issued by the integrity inspector. It is obvious that the person in respect of whom a finding has been issued will contest it. However, its status during the period of ascertainment is not clear. Being on the borderline between the violation of the presumption of innocence and the probability of carrying out the activity by a person the court will later confirm as a non-integral one, a mechanism should be identified to ensure a balance. The most obvious problem arises in situations when the sanctioning act targets a person who is at the end of the mandate, or the appeal procedure, being long, may reach its end already after the expiration of the subject's mandate, the sanction being already irrelevant. We are examining the probability of introducing a measure to ensure the suspensive effect of the finding of sanctions, which will allow the non-fulfillment of the duties of a subject found to lack integrity. At the same time, taking into account the fact that if the finding is annulled, the subject will request the payment of moral and material damages related to the dismissal from work, this will motivate the integrity inspectors to apply maximum diligence in examining the cases, as well as will encourage the courts to examine these cases in the shortest possible terms.

All these problematic aspects can be solved by making the necessary changes in the normative acts. The integrity field should be in permanent correlation not only with the procedural aspects of the DAIP submission or other legal aspects but also with the fact that, compared to many other institutions, it is at the limit of the law and private life. Regulations in the field of permanent integrity require increased attention in order to ensure the balance between the general aspect of social necessity to ensure an intact state and the life of the subject of integrity.

[62]Constitution of the Republic of Moldova: no. 01 of 29.07.1994. In: Official Monitor of the Republic of Moldova, 1994, no. 1, art. 05.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

As a result of the complex examination of the phenomenon of integrity, the research hypothesis was verified and, as a result, the important research problem for the field of law was solved, which consists of demonstrating the value of integrity as a phenomenon in the national legal system, a fact that generated the impact analysis at the level of legal regulation of integrity on citizens' trust in public institutions, as well as the identification and analysis of deficiencies in legal regulations and integrity mechanisms to improve the general level of integrity. Therefore, the general conclusions, reflecting the scientific results that contributed to the solution of the scientific problem addressed in the thesis, can be formulated as follows:

1. ***Evaluation of the legal doctrine and normative framework.*** In the Republic of Moldova, scientific investigations regarding integrity as a legal phenomenon did not constitute an object of detailed research in the general theory of law, being approached only tangentially within the branch of legal disciplines without a multi-aspect analysis. Doctrinaires consider it either a social phenomenon or a legal institution, but the analysis of the normative-legal basis and doctrinal works reveals the absence of a clear definition of integrity as an institution of public law (conclusions developed in: Baciu O., "Professionalism and integrity: phenomena, principles, co-reports");

2. ***The duality of the notional content of integrity.*** The analysis of normative acts related to the field of integrity allows us to conclude that integrity, as a phenomenon, is composed of elements of both a legal and moral nature, a fact that led us to find that the elements of the notion of integrity are to be systematized and understood in two ways, being composed of the strictly legal ones, which result from the professional legal status and those related to the moral conscience of the person (public agent) which, in their entirety, form these legal provisions which determines the legal status of the integrity of the civil servant, etc. (conclusions developed in: Baciu O., "Professionalism and integrity: phenomena, principles, co-reports.", Baciu O. "Integrity as an element of the magistrate's legal capacity.");

3. ***The principles related to the field of integrity.*** The interpretation of national and international legal regulations, as a result, allows us to conclude that integrity can be presented as a separate principle and as a key principle related to the aspects aimed at the way of exercising the duties of the subjects of integrity. This interpretation allowed us to establish that the principle of "integrity" can be understood both directly as a principle or it can also be inferred without being specified autonomously.

4. ***Subjects of integrity.*** With reference to the research objective aimed at the subjects of integrity, we conclude that the circle of subjects is wide, specified in a vast number of normative

acts. Multi-aspect analysis of the subjects of integrity, including, outlining some aspects related to the over-regulation by the ANI Methodologies of the circle of subjects, demonstrates that it is wider than that provided by the laws related to the field of integrity. Also, the innovative legislation in the field of integrity assessment, regulates new categories of subjects, namely the Law on some measures related to the selection of candidates for the position of member in the self-administration bodies of judges and prosecutors, as well as the Law on the external evaluation of judges and prosecutors and the modification of some normative acts, which are to be analyzed through the lens of some problematic aspects of regulation, also highlighted by the Venice Commission.

5. ***Integrity control.*** We conclude that terminologically, it is not formulated with a single definition, which could be found in normative acts in the field of integrity. In this sense, we note that the Methodology for carrying out the verification and control of wealth and personal interests and regarding compliance with the legal regime of conflicts of interest, incompatibilities, restrictions, and limitations comes with an ambiguous notion without providing clarity regarding who is subject to control, by whom and what aspects/areas are checked. The Methodology for carrying out checks and controls by integrity inspectors, in turn, does not come with any notion of integrity control. The difference between the definitions of "control" and "verification", which, in our opinion, are different, is also noted;

6. ***Consequences of breach of integrity clause.*** Some inconsistencies in the application of different forms of liability were also analyzed, when for formal and non-essential acts of public interest, the same penalty of termination of the mandate and deprivation of holding public positions for a certain period is applied, that is, we can infer the lack of individualization of legal liability in the field, which can lead to the formation of the incorrect perception by the subject of the integrity of the seriousness of the violation committed (conclusions developed in: Baciu O., "The consequences of violating the integrity clause.", Baciu O. "The specific nature of the civil servant's liability for the violation of the integrity clause");

In the context of what was investigated and argued in the thesis, we propose the following recommendations:

1. ***The notion of integrity.*** We recommend that the provisions of art. 3 of the Integrity Law no. 82 of 25.05.2017 be supplemented with the notion of "integrity", which will contain its fundamental elements, being a general notion for all categories of this phenomenon, such as: " integrity - the ability of the public agent to carry out his/her professional activity in compliance with the public interest, the supremacy of the Constitution of the Republic of Moldova, the law and the norms of ethics and deontology, ensuring compliance in his/her activity with professionalism, the regime of zero tolerance to corruption and the legal regime of declaring wealth

and personal interests." Thus, integrity acquires its core notion, which can be (and in fact is) deployed and supplemented, as in the cases of institutional integrity, political integrity, etc.

2. ***Classification of principles.*** In doctrinal terms, with a view to an in-depth investigation of the field of integrity and the theoretical foundation of this phenomenon, we propose the classification of the principles of integrity based on several criteria:

- *general integrity principles and (special) institutional integrity principles;*

- *the principles of institutional integrity and the principles of professional integrity;*

- *the principles of integrity addressed to the persons who carry out the control of compliance with the integrity clause*, as well as those addressed to individuals subject to control.

3. ***Publication of normative acts.*** We recommend to ANI the publication of the Methodology for carrying out the verification and control of wealth and personal interests and regarding compliance with the legal regime of conflicts of interest, incompatibilities, restrictions, and limitations, with a view to its entry into force and the production of legal effects, considering that at the moment the publication procedure is not respected, which leads to the nullity of the findings issued based on the Methodology in question. A similar recommendation is also applicable to the Methodology for carrying out checks and controls by integrity inspectors, approved by ANI Order no. 8 of 01.24.2024, as well as documents issued subsequently.

4. ***Integrity alerts.*** As a recommendation, we propose the establishment and detailed regulation in the Whistleblower Law no. 165 of 22.06.2023 of the procedure for selecting and registering a notification (whistleblower) from media representatives or other persons to whom the information has become known about the possible violations of the subjects of the declaration in order to exclude the manipulation of the activity of the control body with the existence of unproven and published information (especially by the mass media) (conclusions and recommendations developed in: Baciu O., "Integrity alarms - the evolutionary retrospective of the institution in national legal regulations").

5. ***Declaration of procured services.*** Delving deeper into the aspects of submitting the declaration of wealth and personal interests, especially in part related to the services or the type of services procured by the subject of the declaration and family members, cohabitant/concubine, whose cumulative value over the course of a year exceeds 10 average monthly salaries in the economy, we recommend the regulation, by which the given information is to be co-reported not only in the part related to the control of the expenses of the subjects of the declaration but also to ensure the control of the execution of fiscal requirements submitted to service providers, in order to avoid fiscal evasion, non-issuance of receipts, etc. (conclusions and recommendations

developed in: Baciu O. "The role of submitting the declaration of wealth and personal interests for integrity control.").

6. ***Control and verification.*** Regarding the control and verification procedures in the integrity field, we propose introducing into the Law no. 132 of 17.06.2016 on the National Integrity Authority the notions of "control" and "verification". At the same time, we propose to supplement the provisions of paragraph (2) art. 4 of the Law regarding the declaration of wealth and personal interests with the following sentence "The control of wealth and personal interests is mandatorily extended if there is the appearance that the assets of the person subject to control were registered in the name of other persons on these goods and persons; and if the subject of the declaration has indicated income and assets obtained from donations or holds assets in trust/on behalf of the donor and the trustor."

7. ***Consequences of breach of integrity clause.*** With reference to the consequences of the violation of the integrity clause, as well as the attribution of the "non-integrity" status to the public agent, we are firmly convinced that it is necessary to introduce the institution of "integrity precedents", a fact that allows, after the expiry of the stipulated term (different, depending on the circumstances), restoring the "integrity" state of the person to individualize the consequences for each individual violation (conclusions and recommendations developed in: Baciu O., "The Consequences the violation of the integrity clause.", Baciu O. "The specific nature of the civil servant's liability for the violation of the integrity clause");

8. ***Publication of declarations.*** We propose the optimization and exclusion of the section with the declarations of the declarants on the website of the National Integrity Authority. The declarations are to be presented upon an unmotivated request of the citizens, including, as provided, for example, in the text of the Law on access to information of public interest no.148 of 09.06.2023. In such a situation, ANI will keep track of the citizens who requested the statements to ensure that the person was presented with the information in the requested form.

9. ***The suspensive effect of the finding.*** We are examining the possibility of introducing, as an assurance measure, the suspensive effect of the sanction finding act, which will allow the non-fulfillment of the duties of a subject found to lack integrity. At the same time, taking into account the fact that if the finding is annulled, the subject will request the payment of moral and material damages related to the dismissal from work, this will motivate the integrity inspectors to apply maximum diligence in examining the cases, as well as will encourage the courts to examine these cases in the shortest possible terms.

Finally, as a conclusion and general recommendation, in the aspects of compliance with the integral regime by public agents, it is necessary to promote (together with the existing

obligations and those proposed in the present study) the high standard of living, financial and social security, and the creation of decent working conditions for public agents.

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1.1. **BACIU (CEBAN), Olga.** Avertizorii de integritate – retrospectiva evolutivă a instituției în reglementările juridice naționale. In: *Supremația Dreptului*, 2023, nr. 1, pp. 29-39. ISSN 2345-1971. DOI: https://doi.org/10.52388/2345-1971.2023.1.03, categoria B

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ANNOTATION

BACIU, Olga. "Theoretical-practical foundation of integrity in the national legal system". PhD thesis in law in the specialty: 551.01 - General theory of law". Chisinau, 2024

Structure of the thesis: introduction, four chapters, general conclusions and recommendations, bibliography from 188 sources, basic text 193 pages. The obtained results are reflected in 9 scientific articles.

Keywords: integrity, National Integrity Authority, declaration of wealth and personal interests, conflict of interest, assessment of financial and ethical integrity, public servant, judge.

The purpose of the paper is to conduct profound research of the solid theoretical-practical foundations of integrity in order to appreciate and understand the nature of integrity that can be manifested in the area of legal professions and in public activity by determining the components and conditions of expression of this phenomenon, the identification of which will boost the efficiency of the mechanisms ensuring integrity and determining trust in state authorities.

Research objectives: evaluation of the doctrine and the legal normative framework in order to establish the meanings of the notion of integrity and the impact on the legal professional status of the civil servant; analysis of the duality of the notional content of integrity, establishing, analyzing and classifying the principles related to the field of integrity; defining/clarifying the subjects subject to integrity control/verification in cases regulated by the normative framework related to the research field; determining the specifics of the integrity control and some defined legal procedures, under the conditions of identifying situations of lack of integrity, as well as determining and analyzing the consequences of violating the integrity clause.

Novelty and scientific originality of the present work consists in the contribution made to the study of the concept of integrity, highlighting the place and its role for contemporary social life and the multi-aspect analysis of the structural elements of integrity, being conditioned both by the nature of the research and by the purpose and the multifaceted objectives of the thesis, based on the appreciation and theoretical-practical analysis of the nature of integrity.

The achieved results that contributes to solving an important scientific problem are summarized in the fact that the doctrinal and legislative analysis of the notion and essence of the integrity phenomenon was carried out and the classification of the principles of integrity was presented. Also, the legal impact of integrity on the legal professional status of public agents was evaluated, and the analysis of the specific character of the liability for the violation of the integrity clause and the consequences of its violation was presented. At the same time, the particularities of integrity control and defined legal procedures were determined under the conditions of identifying situations of lack of integrity, the improvement of the material and procedural legal regulations of the integrity phenomenon, and the specifics of preventing possible abuses by the subjects involved in the verification process were highlighted of integrity, etc.

Theoretical significance of the work resides in the outline of a coherent theoretical-scientific framework in correlation with the existing normative framework regarding integrity. The conceptualization of integrity, its multi-aspect analysis, the definition of problematic aspects and the proposal of ways to solve them were succeeded.

The applicative value of the work: the content of the thesis is centered on the applicability of the conclusions and recommendations regarding the field of integrity. The opinions released are argued through the lens of the legal provisions and the doctrine related to the integrity field. They can be taken into account in the process of integrity control/application of the normative framework related to the integrity field to streamline and strengthen national justice.

Implementation of scientific results: The results reflected in this thesis were also reflected in the scientific articles published in field magazines, collections of communications at various conferences. The ideas and conclusions from the present paper may also be useful to students/masters students in higher education institutions.

ADNOTARE

BACIU, Olga. „Fundamentarea teoretico-practică a integrității în sistemul juridic național". Teză de doctor în drept la specialitatea: 551.01 – Teoria generală a dreptului". Chișinău, 2024

Structura tezei: introducere, patru capitole, concluzii generale și recomandări, bibliografia din 188 de surse, text de bază 193 de pagini. Rezultatele obținute sunt reflectate în 9 articole științifice.

Cuvinte-cheie: integritate, Autoritatea Națională de Integritate, declararea averii și intereselor personale, conflict de interese, evaluarea integrității financiare și etice, funcționar public, judecător.

Scopul lucrării îl constituie cercetarea profundă a fundamentelor teoretico-practice solide a integrității în vederea aprecierii și înțelegerii naturii integrității ce se poate manifesta în arealul profesiilor juridice și în activitatea publică prin determinarea componentelor și condițiilor de exprimare a acestui fenomen, identificarea căruia va impulsiona eficiența mecanismelor de asigurare a integrității și determina încrederea în autoritățile statului.

Obiectivele cercetării: evaluarea doctrinei și cadrului normativ juridic în vederea stabilirii semnificațiilor noțiunii de integritate și a impactului asupra statutului profesional juridic al funcționarului public; analiza dualității conținutului noțional al integrității, stabilirea, analiza și clasificarea principiilor aferente domeniului integrității; definirea/clarificarea cu privire la subiecții supuși controlului/verificării integrității în cazurile reglementate de cadrul normativ aferent domeniului de cercetare; determinarea particularităților controlului integrității și a unor proceduri juridice definite, în condițiile identificării situațiilor de lipsă de integritate, cât și determinarea și analiza consecințelor încălcării clauzei de integritate.

Noutatea și originalitatea științifică a prezentei lucrări constă în contribuția adusă la studierea conceptului de integritate, de evidențierea locului și rolului acestuia pentru viața socială contemporană și analiza multiaspectuală a elementelor de structură a integrității, fiind condiționată atât de natura cercetării, cât și de scopul și obiectivele multiaspectuale ale tezei, bazată pe aprecierea și analiza teoretico-practică a naturii integrității.

Rezultatele obținute sunt rezumate la faptul că a fost efectuată analiza doctrinară și legislativă a noțiunii și esenței a fenomenului integrității; prezentată analiza caracterului dual al integrității și analiza și clasificarea principiilor integrității; a fost prezentată analiza subiecților supuși controlului/verificării integrității și studiat caracterului specific al răspunderii pentru încălcarea clauzei de integritate cât și consecințele încălcării acesteia; au fost determinate particularitățile

controlului integrității și a unor proceduri juridice definite, în condițiile identificării situațiilor de lipsă de integritate, perfecționarea reglementărilor juridice materiale și procedurale ale fenomenului integrității; au fost elaborate propuneri de perfecționare a reglementărilor juridice materiale și procedurale ale statutului avertizorului de integritate; și evidențiate aspectelor problematice constatate per ansamblu ale sistemului național de integritate și elaborarea recomandărilor de îmbunătățire a acestuia

Semnificația teoretică a lucrării rezidă în conturarea unui cadru teoretico-științific coerent în corelație cu cadrul normativ existent privind integritatea. S-a reușit conceptualizarea integrității, analiza multiaspectuală a acesteia, definirea aspectelor problematice și propunerea modalităților de soluționarea lor.

Valoarea aplicativă a lucrării constă în ceea că conținutul tezei este centrat pe aplicabilitatea concluziilor și recomandărilor cu privire la domeniul integrității. Opiniile lansate sunt argumentate prin prisma prevederilor legale și doctrinei aferente domeniului de integritate și pot fi luate în considerație în procesul controlului integrității/aplicării cadrului normativ aferent domeniului integrității, în scopul eficientizării și consolidării justiției naționale

Implementarea rezultatelor științifice: Rezultatele reflectate în prezenta teza au fost reflectate inclusiv și în articolele științifice publicate în reviste de domeniu, culegeri de comunicate la diverse conferințe. Ideile și conluziile din prezenta lucrare pot fi utile și studenților/masteranzilor din instituțiile de învățământ superior.

АННОТАЦИЯ

БАЧУ, Ольга. «Теоретико-практические основы неподкупности в национальной правовой системе». Диссертация доктора юридических наук по специальности: 551.01 – Общая теория права. Кишинёв, 2024 г.

Структура диссертации: введение, четыре главы, общие выводы и рекомендации, библиография из 188 источников, основной текст 193 страницы. Полученные результаты отражены в 9 научных статьях.

Ключевые слова: неподкупность, Национальный орган по неподкупности, декларация о доходах и личных интересах, конфликт интересов, оценка финансовой и этической неподкупности, государственный служащий, судья.

Цель работы это полное исследование теоретико-практических основ неподкупности с целью оценить и понять её природу д, которая может проявляться в сфере юридических профессий и в общественной деятельности, путем определения ее компонентов и условий, проявления этого явления, выявление которого повысит эффективность механизмов обеспечения неподкупности и установления доверия к государственной власти.

Научно-исследовательские цели: изучение и анализ доктрины и соответствующей нормативной базы с целью установления понятия неподкупности и оценки правового воздействия неподкупности на правовой и профессиональный статус субъектов неподкупности; анализ двойственности понятийного содержания неподкупности, установление, анализ и классификация принципов, относящихся к сфере неподкупности; определение/уточнение субъектов контроля/проверки неподкупности в случаях, предусмотренных нормативной базой, относящейся к области научных исследований; определение особенностей контроля неподкупности и некоторых определенных юридических процедур в условиях выявления ситуаций отсутствия неподкупности, а также определение и анализ последствий нарушения пункта о неподкупности;

Новизна и научная оригинальность данной работы состоит во вкладе в изучение понятия неподкупности, выделении ее места и роли в современной общественной жизни и многоаспектном анализе структурных элементов неподкупности, обусловленном как характером исследования, так и по цели и многоаспектным задачам докторской диссертации, основанным на понимании и анализе природы неподкупности.

Полученные результаты состоят в том, что был проведен доктринальный и законодательный анализ понятия и сущности феномена неподкупности, а также был представлен анализ двойственного характера неподкупности, а также анализ и классификацию принципов неподкупности; представлен анализ субъектов контроля/проверки неподкупности и изучена специфика ответственности за нарушение пункта о неподкупности и последствия ее нарушения; определены особенности контроля неподкупности и некоторые определенные правовые процедуры в условиях выявления ситуаций отсутствия неподкупности, совершенствования материального и процессуально-правового регулирования явления неподкупности; разработаны предложения по совершенствованию материального и процессуально-правового регулирования статуса неподкупности информатора; и выделил проблемные аспекты, обнаруженные в целом в национальной системе неподкупности и разработке рекомендаций по ее совершенствованию.

Теоретическая значимость работы заключается в построении последовательной теоретико-научной структуры в соответствии с существующей нормативной базой, касающейся неподкупности. Удалось концептуализировать целостность, ее многосторонний анализ, определить проблемные аспекты и предложить пути их решения.

Прикладная ценность работ. Содержание диссертации сосредоточено на применимости выводов и рекомендации в области неподкупности. Опубликованные мнения аргументируются через призму правовых положений и доктрины, относящейся к сфере неподкупности, и могут быть приняты во внимание в процессе контроля неподкупности /применения нормативной базы, относящейся к сфере неподкупности, в целях оптимизации и укрепления системы национального правосудия.

Внедрение научных результатов: Результаты, отраженные в данной диссертации, нашли отражение и в научных статьях, опубликованных в отраслевых журналах, сборниках сообщений на различных конференциях. Идеи и выводы настоящей статьи могут быть также полезны студентам/магистрантам высших учебных заведений.

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