SHOULD THE JUDICIAL INSPECTION BODY CARE ABOUT JUDICIAL CORRUPTION? THE CASES OF MOLDOVA AND ROMANIA

Andrei Negru,[*]

negruan@list.ru

Natalia Creciun[**]

natalia.creciun@gmail.com

Abstract: *The present paper contains arguments referring to the fact that the Judicial Inspection, as a body with attributions of analysis, verification and control in particular areas of manifestation of Justice and exponent of the judicial self-government, should acquire the status of authority with express competencies in the fight against judicial corruption. Such an approach reflects the essence of good judicial self-government and of the Rule of Law, where Human Rights and Freedoms are Fundamental Values. In order to achieve this purpose, the necessity to strengthen the functional status of the judicial inspection body is argued and the ways of enhancing the capacities of the judicial self-government in preventing judicial corruption are generalized.*

Keywords*: Judicial Inspection, judicial corruption, interinstitutional collaboration, human rights.*

Introduction

Judicial corruption undermines the independence, the impartiality and the integrity of the Judiciary and the Rule of Law itself. As an impact, Human Rights and Freedoms are the most affected; the Human Being is disregarded and humiliated. For these reasons, the intolerance for all kind of corruption and for judicial corruption, in particular, must be encouraged at all the levels of social life, through legal, institutional, social and educational measures.

The rationale of the research. There are many studies regarding the phenomenon of judicial corruption, focusing on mechanisms of

[*] **Doctor Habilitated in Law, University Professor, Law Faculty, Moldova State University, Chisinau.**

[**] **PhD. Student, Law Faculty, Moldova State University, Chisinau.**

prevention, control and sanction, on perceived corruption, causality, risk factors etc. The rationale of this research is to detect the degree of alignment of judicial self-governing bodies to the anticorruption policies in the field of Justice and, especially, the degree of involvement of the judicial inspection body in the fight against judicial corruption. The possibility to increase the capacity of the judicial self-government as a whole in the mentioned field is also examined.

The purpose of the research. The purpose of the research is to argue the indispensability of involving the judicial inspection body in preventing and combating judicial corruption, this being a mission of the judicial self-government, a premise of the independence and the impartiality of the Judiciary and a precondition of the Rule of Law, where Human Rights and Freedoms are protected and guaranteed.

The objectives of the research. In order to achieve the purpose of the research, we shall try to achieve the following objectives: a) to analyze the legal provisions in the field of preventing and combating judicial corruption; b) to identify the institutions with particular competencies in preventing and combating judicial corruption; c) to synthesize the role of the judicial self-governing bodies in the mentioned field; d) to demonstrate the indispensability of the judicial self-governing bodies in the mentioned field; e) to justify the need to strengthen the functional status of the judicial inspection body in the context of preventing judicial corruption; f) to generalize the modalities of increasing the judicial self-governance capacities in the fight against judicial corruption.

Achievement of objectives. ***The analysis of legal provisions in the field of preventing and combating judicial corruption. International regulations***. *The United Nations Convention against Corruption*[1] is the main legal act in the field of preventing and combating corruption, ratified by 187 states[2], including Republic of Moldova[3] and Romania[4]. It regulates the area of prevention and fight against judicial

[1] United Nations Convention against Corruption, General Assembly Resolution 58/4 of 31 October 2003, New York.

https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf (visited 24.04.2020)

[2] https://www.unodc.org/unodc/en/corruption/ratification-status.html (visited 24.04.2020)

[3] Law on the ratification of the United Nations Convention against Corruption, no.158 of 06.07.2007. In: *Official Gazette of the Republic of Moldova*, 20.07.2007, no.103-107. https://www.legis.md/cautare/getResults?doc_id=12294&lang=ro (visited 24.04.2020)

[4] Law on the ratification of the United Nations Convention against Corruption, adopted at New York at 31 October 2003, no.365 of 15.09.2004. In: *Official Gazette of Romania*, 05.10.2004, no.903.

corruption, too. Nevertheless, bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary[5].

The Criminal Law Convention on Corruption[6] (ratified by the Republic of Moldova[7] and Romania[8]) is another legal act on preventing and combating corruption among public officials, including judges.

The Resolution of the Committee of Ministers of the Council of Europe on the Twenty Guiding Principles For the Fight Against Corruption[9] refers to several recommendations for the member states of the Council of Europe in respect of combating this negative phenomenon, that are also valid for the organization and functioning of the Justice sector.

The Opinion of the Consultative Council of European Judges -Preventing Corruption among Judges[10] is directly applicable to the dimension of judicial corruption and is focused on examining the factors leading possibly to corruption among judges and the general safeguards against corruption.

National legal regulations. Most legal systems adopt, at their nation level, legal acts on preventing and combating corruption. For

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http://legislatie.just.ro/Public/DetaliiDocumentAfis/55622 (visited 24.04.2020)

[5] Art. 11 of the United Nations Convention against Corruption, General Assembly Resolution 58/4 of 31 October 2003, New York.

https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf (visited 24.04.2020)

[6] Criminal Law Convention on Corruption, Strasbourg, 27.01.1999.

https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007f3f5 (visited 24.04.2020)

[7] Law on the ratification of Criminal Law Convention on Corruption, no.428 of 30.10.2003. In: *Official Gazette of the Republic of Moldova*, 21.11.2003, no.229. https://www.legis.md/cautare/getResults?doc_id=2529&lang=ro (visited 24.04.2020)

[8] Law on the ratification of Criminal Law Convention on Corruption, adopted at Strasbourg at 27 January 1999, no.27 of 16.01.2002. In: *Official Gazette of Romania*, 30.01.2002, no.65. http://legislatie.just.ro/Public/DetaliiDocumentAfis/33701 (visited 24.04.2020)

[9] Resolution 97(24) on the Twenty Guiding Principles for the Fight against Corruption. Adopted by the Committee of Ministers, 06.11.1997.

https://rm.coe.int/16806cc17c (visited 24.04.2020)

[10] Opinion of the Consultative Council of European Judges (CCJE) *Preventing corruption among judges*, no.21 of. 09.11.2018, Zagreb.

https://www.coe.int/en/web/ccje/ccje-opinions-and-magna-carta (visited 24.04.2020)

example, related to the Republic of Moldova, we identify the following acts: *Law on integrity*[11], *Law on whistleblowers*[12], *Law on institutional integrity assessment*[13], *Law on declaration of income and personal interests*[14], *Law on the Code of Conduct of the public servant*[15], *National Strategy on Integrity and Anti-corruption for 2017-2020*[16] etc.

Related to the legal system of Romania we can mention: *Law on preventing, discovering and sanctioning of corruption acts*[17], *Law regarding measures on ensuring the transparency in exercising public dignities, the civil services and in the business environment, preventing and sanctioning corruption*[18], *Law regarding the integrity in pursuing public service and public dignities, for amending and completing Law 144/2007 regarding the establishment, organization and functioning of*

[11] Law on integrity, no.82 of 25.05.2017. In: *Official Gazette of the Republic of Moldova*, 07.07.2017, no.229-243.
https://www.legis.md/cautare/getResults?doc_id=105688&lang=ro(visited 24.04.2020)

[12] Law on integrity whistleblowers, no. 122 of 12.07.2018. In: *Official Gazette of the Republic of Moldova*, 17.08.2018, no. 309-320.
https://www.legis.md/cautare/getResults?doc_id=105486&lang=ro(visited 24.04.2020)

[13] Law on institutional integrity assessment, no.325 of 23.12.2013. In: *Official Gazette of the Republic of Moldova*, 14.02.2014, no.35-41.
https://www.legis.md/cautare/getResults?doc_id=106168&lang=ro(visited 24.04.2020)

[14] Law on declaration of the income and of personal interests, no.133 of 17.06.2016. In: *Official Gazette of the Republic of Moldova*, 30.07.2016, no. 245-246.
https://www.legis.md/cautare/getResults?doc_id=105905&lang=ro(visited 24.04.2020)

[15] Law on the Code of conduct of the public servant, no.25 of 22.02.2008. In: *Official Gazette of the Republic of Moldova*, 11.04.2008, no.74-75.
https://www.legis.md/cautare/getResults?doc_id=94526&lang=ro(visited 24.04.2020)

[16] Decision of the Parliament on the approval of the national integrity and anti-corruption strategy for 2017-2020, no.56 of 30.03.2017. In: *Official Gazette of the Republic of Moldova*, 30.06.2017, no.216-228.
http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=370789 (visited 24.04.2020)

[17] Law on preventing, detecting and sanctioning of corruption acts, no.78 of 08.05.2000. In: *Official Gazette of Romania*, 18.05.2000, no.219.
http://legislatie.just.ro/Public/DetaliiDocument/22361 (visited 24.04.2020)

[18] Law regarding measures on ensuring the transparency in exercising public dignities, the civil services and in the business environment, preventing and sanctioning corruption, no.161 of 19.04.2003. In: *Official Gazette of Romania*, 21.04.2003, no. 279. http://legislatie.just.ro/Public/DetaliiDocument/43323 (visited 24.04.2020)

the National Agency for Integrity, and also to amend and complete other legislative acts[19], *National Anti-corruption Strategy for 2016-2020*[20] etc.

The role of the mentioned legal acts (the list is not exhaustive) is to prevent and combat the phenomenon of corruption in the public sector (and in the private sector tangentially). They are applicable to the field of preventing and combating judicial corruption, in so far as they do not affect the independence and the impartiality of judges as individuals and of the Judiciary in general.

Identification of the institutions with particular competencies in preventing and combating judicial corruption. Republic of Moldova. The Law on integrity of the Republic of Moldova expressly lists the anti-corruption authorities in the field of public service (the leaders of public entities and the civil society have a special role in the named field)[21]. Specific competencies in the fight against judicial corruption are assigned to the National Anti-corruption Center, to the Anti-corruption Prosecutor`s Office and to the National Integrity Authority.

The National Anti-corruption Center exercises the competency of assessment of institutional integrity of courts. The assessment of the institutional integrity is a process of identification of risks of corruption in the public entity through analytical and practical methods (professional integrity testing), of description of factors leading to the identified risks and their consequences, as well as proposing recommendations for diminishing these consequences. The interference of the National Anticorruption Center and of the testers in the process of exercising justice

[19] Law regarding the integrity in pursuing public service and public dignities, for amending and completing Law 144/2007 regarding the establishment, organization and functioning of the National Agency for Integrity, and also to amend and complete other legislative acts, no.176 of 01.09.2010. In: *Official Gazette of Romania*, 02.09.2010, no.621. http://legislatie.just.ro/Public/DetaliiDocument/121924 (visited 24.04.2020)

[20] Decision on the approval of the national anti-corruption Strategy for 2016-2020, of the sets of performance indicators, of the risks associated to the objectives and of the measures of the strategy and of the sources of verification, of the inventory of measures of institutional transparency and prevention of corruption, of the assessment indicators, as well as of the standards of publication of the information of public interest, no. 583 of 10.08.2016. In: *Official Gazette of Romania*, Part I, 23.08.2016, of. 644. http://legislatie.just.ro/Public/DetaliiDocument/181123 (visited 24.04.2020)

[21] Art.3, 25, 34, 43 para (2) of the Law on integrity, no.82 of 25.05.2017. In: *Official Gazette of the Republic of Moldova*, 07.07.2017, no.229-243.

https://www.legis.md/cautare/getResults?doc_id=105688&lang=ro (visited 24.04.2020)

in cases pending in courts during the process of testing the professional integrity of judges is forbidden[22].

*The Anti-corruption Prosecutor`s Office* has particular competencies in the fight against corruption, including judicial corruption. In general, the Prosecutor`s Office is an autonomous public institution within the Judicial Authority which contributes to the respect of public order, to the exercise of Justice, the protection of human rights and legitimate interests of the individuals and of the society – in criminal procedures and other procedures provided by law. The Anti-corruption Prosecutor`s Office is a subdivision specialized in combating criminal cases of corruption; it exercises the criminal investigation in cases assigned by criminal procedural law[23], conducts criminal prosecution in cases investigated by the National Anti-corruption Center and represents the prosecution in courts[24]. The Anti-corruption Prosecutor`s Office also investigates cases of reasonable suspicion of committing of criminal acts of corruption by judges.

The *Security and Intelligence Service* is another national body with competencies in the field of preventing and combating corruption in the public sector. It had exercised verifications regarding judges and candidates for the position of judge by the prism of the Law on verification of office-holders and candidates for public office[25] until December 2017. On the 5th of December 2017 the Constitutional Court of the Republic of Moldova adopted the Judgement no. 32[26], by which the legal provisions in the part of verification of the mentioned subjects by the Security and

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[22] Art.4, art. 12 para (4) of the Law on institutional integrity assessment, no.325 of 23.12.2013. In: *Official Gazette of the Republic of Moldova*, 14.02.2014, no.35-41. https://www.legis.md/cautare/getResults?doc_id=106168&lang=ro (visited 24.04.2020)

[23] Art. 270[1] of the Criminal Procedural Code of the Republic of Moldova, no.122 of 14.03.2003. In: *Official Gazette of the Republic of Moldova*, 05.11.2013, no. 248-251. https://www.legis.md/cautare/getResults?doc_id=120596&lang=ro#(visited 24.04.2020)

[24] Art.1, 9 para (1), (4) of the Law on the prosecutor`s office, no. 3 of 25.02.2016. In: *Official Gazette of the Republic of Moldova*, 25.03.2016, no. 69-77.

https://www.legis.md/cautare/getResults?doc_id=120703&lang=ro# (visited 24.04.2020)

[25] Law on verification of office-holders and of the candidates for public office, no. 271 of 18.12.2008. In: *Official Gazette of the Republic of Moldova*, 24.02.2009. https://www.legis.md/cautare/getResults?doc_id=94533&lang=ro (visited 24.04.2020)

[26] Judgement of the Constitutional Court of the Republic of Moldova on exception of unconstitutionality of certain provisions of the Law no. 271-XVI of 18 December 2008 on verification of office-holders and candidates for public office (verification of judges by the Security and Intelligence Service) (Complaint no. 115g/2017), no.32 of 15.12.2017. In: *Official Gazette of the Republic of Moldova*, 09.02.2018, no. 40-47. In force from 05.12.2017.

http://www.constcourt.md/public/ccdoc/hotariri/ro-h322017115gro0d8cd.pdf (visited 24.04.2020)

Intelligence Service were declared unconstitutional. The named Judgement of the Constitutional Court was a crucial step in guaranteeing judicial independence, by excluding the external control exercised on the judicial power by an executive militarized authority, activating on the principle of conspiracy[27].

As a result, the Security and Intelligence Service has not the competency of verification and control of judges at their appointment or promotion. Such a situation corresponds to international standards that state that in no circumstances should the fight against corruption of judges lead to the interference by secret services in the administration of justice. Corruption of judges is an offence and should therefore be tackled within the framework of established legislation[28], the interference of the Security and Intelligence Service being indispensable only when exist reasonable suspicion about committing by a representative of the Judiciary of an act of corruption that can affect the public order and the state security.

The National Integrity Authority, another anti-corruption institution, has a special mission: to ensure integrity in exercising the public office and public dignities and in prevention of corruption, through the control of the income and personal interests, the respect of the legal regime of conflicts of interests, incompatibilities and restrictions[29].

Judges exercise a function of public dignity[30] and, for these reasons, they are verified by the National Integrity Authority (according to the law, at least 40% of the controls of the declarations of income and personal interests carried out during one year refer to persons that exercise public dignities[31]). Any disciplinary procedure initiated against judges on the bases of the findings of the National Integrity Authority should be carried out in compliance with all the exigencies of such a procedure at the level of judicial self-governing bodies and at the level of courts, if necessary.

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[27] Art. 3 of the Law on Security and Intelligence Service of the Republic of Moldova, no. 753 of 23.12.1999. In: *Official Gazette of the Republic Moldova*, 31.12.1999, no. 156. https://www.legis.md/cautare/getResults?doc_id=108511&lang=ro (visited 24.04.2020)

[28] Para 27 of the of the Opinion of the Consultative Council of European Judges (CCJE) Preventing corruption among judges, no.21 of. 09.11.2018, Zagreb. https://www.coe.int/en/web/ccje/ccje-opinions-and-magna-carta (visited 07.04.2020)

[29] Art. 5 of the Law on National Integrity Authority, no. 132 of 17.06.2016. In: *Official Journal of the Republic of Moldova*, 30.07.2016, no. 245-246. https://www.legis.md/cautare/getResults?doc_id=94148&lang=ro (visited 24.04.2020)

[30] Annex of the Law on the status of persons with dignity functions, no. 199 of 16.07.2010. In: *Official Gazette of the Republic of Moldova*, 05.10.2010, no. 194-196. https://www.legis.md/cautare/getResults?doc_id=60944&lang=ro (visited 24.04.2020)

[31] Art. 27 para (3) of the Law on National Integrity Authority, no. 132 of 17.06.2016. In: *Official Journal of the Republic of Moldova*, 30.07.2016, no. 245-246. https://www.legis.md/cautare/getResults?doc_id=94148&lang=ro (visited 24.04.2020)

Romania. There are public anti-corruption institutions in the legal system of Romania with similar competencies of those functioning in the Republic of Moldova. These are: National Anti-corruption Direction, National Integrity Agency and Romanian Intelligence Service.

The National Anti-corruption Direction is a structure with legal personality within the Prosecutor`s Office attached to the High court of Cassation and Justice, independent in relation to courts, Prosecutor`s Offices attached to them and in relation to other public authorities, with specific competencies in preventing and combating corruption in general and judicial corruption in particular (including the exercise of criminal investigations, notifying courts for taking measures provided by law and for examining cases of criminal corruption, participation in judging sessions, creation and updating the database of corruption acts etc.)[32]

The National Integrity Agency is an autonomous administrative authority with legal personality that activates al the national level on the principle of operational independence[33]. The purpose of the National Integrity Agency is to ensure the integrity in exercising public dignities and public offices and the prevention of institutional corruption, by exercising responsibilities in the assessment of declarations of the income, of data and information about wealth, as well as about patrimonial changes, incompatibilities and possible conflicts of interest in which may be the subjects detaining the mentioned functions[34].

The Romanian Intelligence Service is a state organized service, specialized in the field of information about the national security of Romania, a component part of the national defense system, without particular competencies in preventing and combating corruption. The Romanian Intelligence bodies cannot exercise criminal investigations, take measures of retention or arrest, nor have own spaces for arrest. However, if data and information about the preparation or committing criminal acts are found as a result of their specific activities or verifications, the mentioned data and

[32] Art. 1 para (1), art.2, art.3 para (1) of the Emergency Ordinance on the National Anti-corruption Direction, no.43 of 04.04.2002.

https://www.pna.ro/legislatie.xhtml?sectiune=2&id=13 (visited 24.04.2020)

[33] Art.13 para (1), art. 15 para (1) of the Law regarding the foundation, the organization and the functioning of the National Integrity Agency, no.144, 21.05.2007. In: *Official Gazette of Romania*, 03.08.2009, no.535.

http://legislatie.just.ro/Public/DetaliiDocument/82317 (visited 24.04.2020)

[34] Art. 8 of the Law on integrity in the exercise of public and dignity functions, of the amendment and completion of the Law no. 144/2007 regarding the foundation, the organization and the functioning of the National Integrity Agency, as well as for the amendment and completion of other normative acts, no.176, of 01.09.2010. In: *Official Gazette of Romania*, 02.09.2010, no.621.

http://legislatie.just.ro/Public/DetaliiDocument/121924 (visited 24.04.2020)

information are transmitted to the criminal investigative bodies, in the conditions of art. 61 of the Criminal Procedural Code[35], after drawing up a protocol about the found circumstances[36]. So, the activity of the Romanian Intelligence Service may have correlations with the phenomenon of preventing and combating corruption in the public sphere, especially with that of preventing and combating judicial corruption, only by the prism of ascertaining criminal acts (of corruption), with the exercise of the following investigative actions by competent bodies.

It is worth nothing that at the request of the manager of the public institution, of trading companies, the Romanian Intelligence Service verifies and offers data about persons that are to occupy a function in these units, which involve access to information and secret activities or which cannot be disclosed, according to the law, judges (and prosecutors, that are magistrates in the legal system of Romania)[37]) being excepted from this rule[38].

Synthetization of the role of judicial self-governing bodies in the field of preventing and combating judicial corruption. The bodies with competencies in preventing and combating corruption in general and judicial corruption in particular listed above are exponents of the executive power (National Integrity Authority in Moldova and National Integrity Agency in Romania), some of them genuine criminal investigative bodies (National Anti-corruption Center and Anti-corruption Prosecutor`s Office in Moldova[39] and National Anti-corruption Direction in Romania[40])

[35] Art.1, 11, 13 of the Law on the organization and the functioning of Romanian Intelligence Service, no.14 of 14.02.1992. In: *Official Gazette of Romania*, 03.03.1992, no. 33. http://legislatie.just.ro/Public/DetaliiDocument/2144 (visited 24.04.2020)

[36] Art.61 of the Criminal Procedural Code, no.135, of 01.07.2010. In: *Official Gazette of Romania,* 15.07.2010, no.486.
http://legislatie.just.ro/Public/DetaliiDocument/185907 (visited 24.04.2020)

[37] Art. 1 para (1) of the Law on the status of judges and prosecutors. Republished, no.303 of 28.06.2004. In: *Official Gazette of Romania*, 13.09.2005, no. 826. http://legislatie.just.ro/Public/DetaliiDocument/64928 (visited 24.04.2020)

[38] Art.4 of the Law on the organization and functioning of Romanian Intelligence Service, no.14 of 14.02.1992. In: *Official Gazette of Romania,* 03.03.1992, no. 33. http://legislatie.just.ro/Public/DetaliiDocument/2144 (visited 24.04.2020)

[39] Art. 253 para (1) p. 3), art. 270[1] of the Criminal Procedural Code, no.122 of 14.03.2003. In: *Official Gazette of the Republic of Moldova*, 05.11.2013, no. 248-251. https://www.legis.md/cautare/getResults?doc_id=120596&lang=ro# (visited 24.04.2020)

[40] Art.3 para (1) of the Emergency Ordinance regarding National Anti-corruption Direction, no.43 of 04.04.2002. https://www.pna.ro/legislatie.xhtml?sectiune=2&id=13 (visited 24.04.2020)

or finding bodies in the meaning of criminal procedural law (Security and Intelligence Service in Moldova[41] and Romanian Intelligence Service[42]).

One the objectives of the present research is to synthetize the role of judicial self-governance in combating the phenomenon of judicial corruption, independently or in collaboration with the institutions examined above. ―The independence of the courts in their institutional form assumes that courts are self-governing, i.e. that the courts carry out the tasks of court management largely on their own, with their own resources, and separately from the central administration‖[43]. At the same time, ‖court administration should secure the judicial values, especially independence and impartiality of courts and judges. Failure to ensure these values means failure of the effective court performance because without upholding these values the society cannot have a confidence in the judiciary and in a legal state. The mission of court administration is to ensure the systematical functioning of independent and impartial court acting on a very high professional level‖[44]. ―At the broadest level, the judiciary as an institution should be accountable to the society it serves. However, in a democratic society ruled by law the obligation that the judiciary owes to society is limited to applying the law in an independent and impartial way, with integrity and free of corruption‖[45]. In such conditions, the involvement of the judicial self-governing bodies in increasing judicial integrity and, implicitly, in preventing and combating judicial corruption is indispensable.

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[41] Art.273 para (1) letter d) of the Criminal Procedural Code, no.122 of 14.03.2003. In: *Official Gazette of the Republic of Moldova*, 05.11.2013, no. 248-251. https://www.legis.md/cautare/getResults?doc_id=120596&lang=ro#(visited 24.04.2020)

[42] Art.11 al of the Law on the organization and functioning of Romanian Intelligence Service, no.14 of 14.02.1992. In: *Official Gazette of Romania,* 03.03.1992, no. 33. http://legislatie.just.ro/Public/DetaliiDocument/2144 (visited 24.04.2020)

[43] Lienhard A., Kettiger D. (2017). Between Management and the Rule of Law: on the move towards a management model for the judiciary - Results from the project „Basic research into Court Management in Switzerland‖. *International Journal for Court Administration*. p. 9. https://www.iacajournal.org/articles/abstract/10.18352/ijca.219/ (visited 24.04.2020)

[44] Simonis, M., 2019. Effective Court Administration and Professionalism of Judges as Necessary Factors Safeguarding the Mother of Justice – The Right to a Fair Trial. *International Journal for Court Administration*, 10(1), pp.47–58, p.55. DOI: http://doi.org/10.18352/ijca.294 (visited 24.04.2020)

[45] Judicial Accountability. International standards on accountability mechanisms for judicial corruption and judicial involvement in human rights violations. Practitioners Guide No. 13, International Commission of Jurists, June 2016, p. 14.

https://www.icj.org/wp-content/uploads/2016/06/Universal-PG-13-Judicial-Accountability-Publications-Reports-Practitioners-Guide-2016-ENG.pdf (visited 24.04.2020)

It is unanimously accepted that judicial self-governance is preponderant exercised by Judicial Councils. There are analogical institutions in the legal systems of the Republic of Moldova and of Romania – The Superior Council of Magistracy. In the context of the present research, it is essential to interpret its role or the role of the bodies functioning within the Superior Council of Magistracy in the fight against judicial corruption.

The Superior Council of Magistracy is not an anti-corruption authority under the Law on integrity of the Republic of Moldova and, expressly, does not have competencies in the named field. However, we consider that such a competency results from the spirit of legal regulations on the organization and the functioning of Justice and reflects the essence of judicial self-governance. The Superior Council of Magistracy is the guarantor of the independence of Judicial Authority[46] and an independent Judicial Authority is (or must be) free of corruption. Thus, its interference in preventing and combating corruption among judges is indispensable.

The Superior Council of Magistracy of the Republic of Moldova is not isolated from the national anti-corruption policies. It is responsible of concrete actions in this sphere, by the prism of the National Anti-corruption and Integrity Strategy for 2017-2020[47] (for example: creating specialized courts to examine cases of corruption). The Superior Council of Magistracy is assimilated to the employer in relation to the judges and has to examine disclosures of illegal practices and to protect integrity whistleblowers[48] when somebody communicates about possible risks of corruption or about committing acts of corruption in courts. The Superior Council of Magistracy has such an obligation under the Regulation on integrity whistleblowers inside the Superior Council of Magistracy and in the courts[49]. Another way of involvement in the fight against judicial

[46] Art. 1 para (1) of the Law on the Superior Council of Magistracy, no. 947-XIII of 19.07.1996. In: *Official Gazette of the Republic of Moldova*, 22.01.2013, no. 15-17. http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=346406(visited 24.04.2020)

[47] Annex II of the Decision of the Parliament on the approval of the national integrity and anti-corruption Strategy for 2017-2020, no. 56 of 30.03.2017. In: *Official Gazette of the Republic of Moldova*, 30.06.2017, no.216-228.

http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=370789 (visited 24.04.2020)

[48] Art. 3, 10 para (1), art 16 para (2) of the Law on integrity whistleblowers, no. 122 of 12.07.2018. In: *Official Gazette of the Republic of Moldova*, 17.08.2018, no. 309-320. https://www.legis.md/cautare/getResults?doc_id=105486&lang=ro(visitedt 24.04.2020)

[49] Decision of the Superior Council of Magistracy regarding the approval of the Regulation on integrity whistleblowers inside the Superior Council of Magistracy and in courts, no. 663/21 of 05.08.2014. In: *Official Gazette of the Republic of Moldova*, no.

corruption is the management of cases of undue influence within the courts and the Superior Council of Magistracy[50], in order to strengthen the institutional integrity climate in the mentioned institutions.

The legislation of the Republic of Moldova establishes an active role of the Judiciary in the fight against corruption: the type of involvement of the Superior Council of Magistracy has been described above; simultaneously, the Superior Council of Magistracy and court presidents are responsible for the cultivation of institutional integrity[51]; judges, in their turn, are required to declare acts of corruption they have found in the exercise of their functions.[52]

The Superior Council of Magistracy is not expressly recognized as anti-corruption authority in the legal system of Romania, the same as in the legal system of the Republic of Moldova. Also, taking in consideration the competencies of the Superior Council of Magistracy in Romania (the protection of the independence of judges and prosecutors; the adoption of decisions about the fulfillment of the condition of good reputation; the adoption of the deontological Code of judges and prosecutors; exercising the role of disciplinary court in the context of disciplinary liability of judges and prosecutors etc.) [53], its mission in preventing judicial corruption – by the prism of guaranteeing and strengthening the independence, the impartiality and the integrity of judges and of Justice in general – is evident.

Despite this fact, we consider that the capacities of the judicial self-government in the fight against judicial corruption might be enhanced by strengthening the functional status of the judicial inspection body.

297-309. http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=355004 (visited 24.04.2020)

[50] Decision of the Superior Council of Magistracy regarding the approval of the Regulation on the evidence of cases of improper influence in the Superior Council of Magistracy and in courts, no.964/31 of 02.12.2014. In: *Official Gazette of the Republic of Moldova*, 31.12.2014, no. 397-399.

http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=356214 (visited 24.04.2020)

[51] Art. 10 para (2) of the Law integrity, no.82 of 25.05.2017. In: *Official Gazette of the Republic of Moldova*, 07.07.2017, no.229-243.

https://www.legis.md/cautare/getResults?doc_id=105688&lang=ro(visited 24.04.2020)

[52] Art. 15 para (1) letter f[1]) of the Law on the status of judge, no.544 of 20.07.1995 In: *Official Gazette of the Republic of Moldova*, 22.01.2013, no. 15-17.

https://www.legis.md/cautare/getResults?doc_id=94177&lang=ro(visited 24.04.2020)

[53] Art. 35 letter a), c), art. 38 para (1), art. 44 of the Law on the Superior Council of Magistracy, Republished, no.317 of 01.07.2004. *In: Official Gazette of Romania*, 01.09.2012, no.628. http://legislatie.just.ro/Public/DetaliiDocument/64942 (visited 24.04.2020)

The Judicial Inspection in the legal system of the Republic of Moldova is an independent specialized body, attached to the Superior Council of Magistracy, which verifies the organizational activity of the courts in the exercise of justice (competencies of analysis, verification and control in particular activity fields). The Judicial Inspection activates under the principle of operational independence[54].

The Judicial Inspection in the legal system of Romania is a structure with legal personality within the Superior Council of Magistracy which acts under the principle of operational independence[55] in relation to the Superior Council of Magistracy, to courts, prosecutor`s offices attached to them and to other public authorities. It exercises competencies of analysis, verification and control in particular fields of activity, under the law[56].

Demonstration of the indispensability of the judicial inspection body involvement in preventing and combating judicial corruption. *The competencies of the judicial inspection body*. The Judicial Inspection of the Republic of Moldova verifies the organizational activity of courts in exercising justice, examines petitions on issues referring to judicial ethics, verifies and examines plaints on acts that may represent disciplinary offences committed by judges[57] etc.

The competencies of the Judicial Inspection of Romania are divided into two categories: a) attributions regarding the activity and the conduct of judges and prosecutors, including those that are members of the Superior Council of Magistracy or judicial inspectors and the assistant-magistrates of the High Court of Cassation and Justice; b) attributions of control regarding the activity of courts and prosecutor`s offices. The attributions of the judicial inspectors regarding the activity and the

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[54] P.1.1 of the Decision of the Superior Council of Magistracy regarding the approval of the Regulation on the organization, the competency and the functioning of the Judicial Inspection, no.506/24 of 13.11.2018. In: *Official Gazette of the Republic of Moldova*, 18.01.2019, no.13-21. https://www.csm.md/files/Hotaririle/2018/24/506-24.pdf (visited 24.04.2020)

[55] Art. 1 of the Regulation on the organization and the functioning of the Judicial Inspection. Approved by the Order no.134 of 10.12.2018. In*: Official Gazette of Romania*, 11.12.2018, no.1049, Part I. http://legislatie.just.ro/Public/DetaliiDocument/208780 (visited 24.04.2020)

[56] Art. 65 para (3) of the Law on the Superior Council of Magistracy, Republished, no. 317 of 01.07.2004. In: *Official Gazette of Romania*, 01.09.2012, no.628. http://legislatie.just.ro/Public/DetaliiDocument/64942 (visited 24.04.2020)

[57] P. 5.1 letters a), c), d), h) of the Decision of the Superior Council of Magistracy regarding the approval of the Regulation on the organization, the competency and the functioning of the Judicial Inspection, no.506/24 of 13.11.2018. In: *Official Gazette of the Republic of Moldova*, 18.01.2019, no.13-21.

https://www.csm.md/files/Hotaririle/2018/24/506-24.pdf (visited 24.04.2020)

conduct of magistrates are the following: the verification of complaints regarding the improper activity or conduct of judges and prosecutors; in disciplinary matters, the initiation and the exercise of disciplinary proceedings with respect to judges and prosecutors; the verification of the violations of the norms of conduct regulated by the deontological Code of judges and prosecutors; the verification regarding the fulfillment of the condition of good reputation for serving judges and prosecutors; the exercise of verifications for the examination of the requests regarding the protection of professional reputation and of the independence of judges and prosecutors etc.[58]

Neither the Judicial Inspection in the Republic of Moldova, nor the Judicial Inspection of Romania do not expressly have competencies in preventing and combating judicial corruption, their activity relating rather to the institution of disciplinary liability of magistrates and to the dimension of judicial ethics and deontology. But, taking in consideration that one of the purposes of the judicial inspection activity is to identify and remove vulnerabilities within the judicial system and to prevent risks in the activity of courts[59] and prosecutor`s offices (valid for the legal system of Romania[60]) and the disciplinary proceedings are an important regulatory mechanism to fight corruption[61], we consider that the mentioned institution cannot have a passive role in the fight against this negative phenomenon.

The position of the authors. Based on the incursions made above, we synthetize the indispensability of the involvement of the judicial inspection body in preventing and combating judicial corruption. This position corresponds to the spirit of the pertinent legal regulations, represents the quintessence of judicial self-governance and a precondition of the right to

[58] Art. 3 of the Regulation regarding the norms of exercising works of judicial inspection by the Judicial Inspection. Approved by the Decision of the Superior Council of Magistracy, no.1027 of 15.11.2012.In: *Official Gazette of Romania*, 29.11.2012, no.802, Part I. https://www.csm1909.ro/274/Legislatie (visited 24.04.2020)

[59] P. 1.3 letter d) of the Decision of the Superior Council of Magistracy regarding the approval of the Regulation on the organization, the competency and the functioning of the Judicial Inspection, no.506/24 of 13.11.2018. In: *Official Gazette of the Republic of Moldova*, 18.01.2019, no.13-21. https://www.csm.md/files/Hotaririle/2018/24/506-24.pdf (visited 24.04.2020)

[60] Art.4 letter d) of the Regulation regarding the norms of exercising works of judicial inspection by the Judicial Inspection. Approved by the Decision of the Superior Council of Magistracy, no.1027 of 15.11.2012.In: *Official Gazette of Romania*, 29.11.2012, no.802, Part I. https://www.csm1909.ro/274/Legislatie (visited 24.04.2020)

[61] Para 30 of the Opinion of the Consultative Council of European Judges (CCJE) Preventing corruption among judges, no.21 of. 09.11.2018, Zagreb.

https://www.coe.int/en/web/ccje/ccje-opinions-and-magna-carta(visited 24.04.2020)

a fair trial (which also presumes the examination of the case by an independent, impartial and free of corruption court).

Arguments. Exercising its functional competencies, the judicial inspection body is able to detect factors and risks of corruption among judges from: 1) inside the judicial system; 2) outside the judicial system; 3) the social media.

When we investigate the possibility to detect factors and risks of corruption from inside the Judiciary, we refer to the verifications exercised by the judicial inspection body regarding the organizational activity of courts, which comprises the managerial activity of court presidents, the activity of judges, registrars, archives etc. Under the legal framework of the Republic of Moldova, the purpose of the mentioned control is to ensure the efficiency of the activity of courts, judges and the court staff, to report and to verify the cases of violation of the independence and the impartiality of judges. Prevention is an important component of the activity of the Judicial Inspection in order to remove the risks and the malfunctions from the system.[62]

The control exercised by the Judicial Inspection of Romania has many similarities with the control exercised in the legal system of the Republic of Moldova. One difference refers to the fact that the control is exercised in order to ensure the good functioning of the courts and of the prosecutor`s offices[63].

The judicial inspection body can detect minor malfunctions during the process of control, these being possible to remediate through the prism of the responsibility of the magistrates and of the court staff, by enhancing the communication inside the courts (and prosecutor`s offices), intensifying the managerial activity, ensuring the harmonious working climate, organizing round tables, conferences etc. But it can also detect vulnerabilities that are able to affect seriously the independence and the impartiality of the judicial system (in case of detecting elements of possible corruption acts).

The judicial inspection body can detect information about risks of corruption from outside the judicial system, by examining the notifications

[62] P. 3 of the Decision of the Superior Council of Magistracy regarding the approval of the Regulation on the volume, the methods, the grounds and the procedure of verification of the organizational activity of courts in exercising justice, no. 239/9 of 12.03.2013. In: *Official Gazette of the Republic of Moldova*, 31.05.2013, no. 119-121. http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=348101(visited 24.04.2020)

[63] Art. 3 para (3) of the Regulation regarding the norms of exercising works of judicial inspection by the Judicial Inspection. Approved by the Decision of the Superior Council of Magistracy, no.1027 of 15.11.2012. In: *Official Gazette of Romania*, 29.11.2012, no.802, Part I. https://www.csm1909.ro/274/Legislatie (visited 24.04.2020)

(petitions and the complaints) regarding violations of ethical and/or disciplinary norms. Risk factors may be found in the activity of a certain court (or prosecutor`s office) or in the activity of a certain judge (or prosecutor).

Another source of information may be the social media whereas the Judicial Inspection has the right to initiate ex-officio a disciplinary case with respect to a judge[64] or a prosecutor[65]. An additional verification of the information does not exclude the possibility to detect elements of possible acts of criminal corruption.

Hypothetical dilemmas. The question of interest in the described context is how will react the judicial inspection body if it finds hint of corruption in the activity of a judge (or a prosecutor) or of a court staff representative during the usual exercise of functional competencies. The legal framework referring to the organization and the functioning of the Judicial Inspection in the legal system of the Republic of Moldova and Romania does not expressly oblige the judicial inspector to notify the competent investigative bodies, the single possible sanction for the magistrate or the clerk concerned being a disciplinary one. In our opinion, in this way the fight against corruption is ruined and judicial independence, impartiality and integrity are seriously affected.

The corollary of the powers and the trust conferred by society upon judges is that there should be some means of holding judges responsible, and even removing them from office, in cases of misbehaviour so gross as to justify such a course. The need for caution in the recognition of any such liability arises from the need to maintain judicial independence and freedom from undue pressure[66], the disciplinary or the criminal responsibility of judges being part pf their punitive accountability[67].

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[64] Art. 19 para (2) of the Law on disciplinary liability of judges, no. 178 of 25.07.2014. In: Official Gazette of the Republic of Moldova, 15.08.2014, no. 238-246. https://www.legis.md/cautare/getResults?doc_id=106150&lang=ro (visited 24.04.2020)

[65] Art. 38 para (1) of the Regulation regarding the norms of exercising works of judicial inspection by the Judicial Inspection. Approved by the Decision of the Superior Council of Magistracy, no.1027 of 15.11.2012.In: *Official Gazette of Romania*, 29.11.2012, no.802, Part I. https://www.csm1909.ro/274/Legislatie (visited 24.04.2020)

[66] Para 51 of the Opinion 3(2002) of the Consultative Council of European Judges (CCJE) to the attention of the Committee of Ministers of the Council of Europe on the principles and rules governing judges' professional conduct, in particular ethics, incompatible behaviour and impartiality, no.3 of 19.11.2002, Strasbourg. https://rm.coe.int/16807475bb (visited 24.04.2020)

[67] Para 26 of the Opinion 18(2015) of the Consultative Council of European Judges (CCJE) The Position of the Judiciary and its relation with the other powers of state in a modern democracy, no.18, 16.10.2015, London. https://rm.coe.int/16807481a1 (visited 24.04.2020)

Solution. In our opinion, considering the above, the appropriate solution is to establish expressly, at the normative level, the obligation of the judicial inspectors to notify the criminal investigative bodies about elements of possible judicial corruption acts found with the occasion of exercising the day-to-day activities. The obligation should be part of the normative act regulating the organization and the functioning of the judicial inspection body (and should not only be presumed by the prism of the spirit of the law regulating the functioning of the public sector). The notification of the criminal investigative bodies might be done through the chief judicial inspector, through the Superior Council of Magistracy or by the judicial inspector himself (or herself). Such a state of affairs corresponds to the recommendations of Freedom House for the institutions of the Justice sector of the Republic of Moldova regarding the need to strengthen the role of Judicial Inspection, to offer appropriate and prompt reactions to the reports referring to issues of integrity of the representatives of the mentioned sector, to ensure the irreversibility of the accountability and of the recovery from the inside, to adjust the normative and institutional framework and to promote the real application of the anti-corruption instruments[68].

The proposed solution is in the spirit of the law, in the context of the functionality of the judicial inspection body. According to a *Report regarding the functional analysis of Justice in Romania*, for instance, the Judicial Inspection of Romania is recognized as an institution involved directly in combating the phenomenon of corruption, underlining that, from all the plaints, it will examine only those referring to judicial ethics and discipline. The Judicial Inspection does not investigate corruption cases but if, during the investigations, it finds evidence in this sense, it has the obligation to transmit the cases and the findings to the National Anti-corruption Direction or to common prosecutor`s offices[69].

The Judicial Inspection should be a key institution within the judicial self-government involved in the fight against judicial corruption in the legal system of the Republic of Moldova too, especially thanks to its functional features, its organizational subordination to the Superior Council of Magistracy (guarantor of the independence of the Judiciary) and its recognized operational independence. In the context, we refer to preventive anti-corruption activity, the investigation of possible acts of

[68] Integritatea în justiție: realizări, provocări, perspective. (Integrity in Justice: achievements and challenges). Chisinau, 2018, Freedom House. 23 p., p.23. https://freedomhouse.org/sites/default/files/Shadow%20Report%20v2%20-%20Web%20-%20RO.pdf (visited 24.04.2020)

[69] The Functional Analysis of Justice Sector in Romania, March 2013, p.87-88, 182. http://www.just.ro/wp-content/uploads/2015/09/Analiza-functionala-a-sectorului-Justitiei-RO.pdf(visited 24.04.2020)

corruption and the sanctioning of the responsible subjects being particular competencies of the criminal investigative bodies and of the courts.

Justification of the need to strengthen the functional status of the judicial inspection body in the context of judicial corruption prevention. To promote the active role of the judicial inspection body in the fight against corruption among judges (and court staff, or prosecutors in the legal system of Romania) it is necessary not only to oblige the judicial inspectors to notify the criminal investigative bodies in particular conditions, but also to strengthen their functional status. One modality is to sustain its radical reformation, from the point of view of its substantial componence. We refer to the reconsideration of the control function of the judicial inspection body through establishing a specific category of personnel – of investigative judicial inspectors who will exercise operative activity. The essence of the reorganization in such a manner of the judicial inspection body is to enhance its functional capacities and to facilitate the process of detecting at initial stages the existent malfunctions in the organization of courts (and prosecutor`s offices), as well as of undue conduct admitted by judges (and prosecutors) or by the court staff. The activity of investigative judicial inspectors may be determinant in this sense. In the context, it is crucial that the mentioned investigative judicial inspectors should not have decisional capacity in initiating and/or exercising operative activity; decisional capacity should have only the chief judicial inspector and/or the President of the Superior Council of Magistracy[70]. Such a reconceptualization of the control function of the judicial inspection body should inevitably strengthen its position within the judicial self-government and should contribute to the improvement of the system of self-control of the quality, of the efficiency and of the incorruptibility of justice in all its aspects[71].

It is necessary to strengthen the functional status of the judicial inspection body in order to enhance its real capacity to exercise activity of prevention and combat of judicial corruption, together with other anti-corruption institutions part of the executive power. Even if judges in the legal system of the Republic of Moldova are obliged to notify about

[70] Negru A., Creciun N., *Reconceptualizarea funcției de control a Inspecției Judiciare. (The reconceptualization of the control function of the Judicial Inspection)* In: *Studia Universitatis Moldaviae*, no. 3(113), 2018, p.47-56, p.49, 51.

https://ibn.idsi.md/sites/default/files/imag_file/47-56_0.pdf (visited 24.04.2020)

[71] Negru A., *Aprecieri de esență a principiului consolidării justiției. (Appreciations of essence of the principle of consolidation of justice)*. In: *Legea și Viața*, Chisinau, 2012, no.11, p.23. http://www.legeasiviata.in.ua/archive/2012/11-md/11-md.pdf (visited 24.04.2020)

possible acts of corruption and the representatives of the courts staff have the right to be whistleblowers in possible cases of corruption[72], such a scenario is unlikely in the national social reality (by the way, it is unlikely in other legal systems too, where the culture of judicial integrity and of human rights is not cultivated and improved). The anti-culture of the integrity has forced the extension of the demagoguery: is considered guilty whoever speaks about irregularities and not whoever has committed the irregularities. This is how is explained, for instance, the lack of denouncements from magistrates regarding acts of corruption committed inside the Judiciary.[73]. Or a judge might be the victim of undue pressure, be it by peers or by influential groups within the court system. It seems to be a rather widespread perception that judges cannot sufficiently defend themselves against these kinds of pressure due to the very specific nature of the role and position they hold[74]. —In many cases, undue influence on judicial rulings comes not from politicians directly, but via the judicial hierarchy [...]. Such influence may be the result of direct pressure from superiors; more subtle incentives based on judges' anticipation that a „wrong' decision in an important case could have career consequences"[75]. The organizational silence can be based on multiple factors: participants` doubt regarding their legitimacy, the fear that the opposition may be perceived as a factor of aggressivity, the desire not to affect the cohesion of the group or not to be disregarded by the hierarchical superiors[76], the lack of judicial democracy, the lack of a deontological culture, the general

[72] P. 5 of the Decision of the Superior Council of Magistracy regarding the approval of the Regulation on the integrity whistleblowers inside the Superior Council of Magistracy and in courts, no. 663/21 of 05.08.2014. In: Official Gazette of the Republic of Moldova, 10.10.2014, no. 297-309.
https://www.csm.md/files/Acte_normative/Regulamentul_privind_avertizorii_de_integritate.pdf (visited 24.04.2020)

[73] Danileț C. Corupția și anticorupția în sistemul juridic. (Corruption and anti-corruption in the legal system). C.H. Beck Pulishing House, 2009, 209 p. p.146. https://www.kas.de/c/document_library/get_file?uuid=3aa82403-8d21-bd2f-132c-181792196d98&groupId=252038 (visited 24.04.2020)

[74] Para 16 of the Opinion of the Consultative Council of European Judges (CCJE), Preventing corruption among judges, no.21, 09.11.2018.
https://www.coe.int/en/web/ccje/ccje-opinions-and-magna-carta (visited 24.04.2020)

[75] Gloppen S., (2014), Courts, Corruption and Judicial Independence. In: *Corruption, Grabbing and Development: Real World Challenges (Book Chapter)*. p. 72. https://www.cmi.no/publications/5091-courts-corruption-and-judicial-independence#author-details (visited 24.04.2020)

[76] Alt E., *Calitatea hotărârilor judecătorești. (The quality of judicial decisions)* În: *Revista Forumul Judecătorilor*, no. 2/2009, p. 53
http://www.forumuljudecatorilor.ro/wp-content/uploads/Art-7-Forumul-judecatorilor-nr-2-2009.pdf (visited 24.04.2020)

accepted opinion that chiefs cannot be criticized, cases of incompetency must be covered, acts of corruption are not publicly disclosed[77].

The judicial inspectors, in their turn, are part of the Judicial Authority but not part of the collective where the potential suspect subject of corruption activates; so, the probability that they would notify the criminal investigative bodies is higher. For these reasons, the Justice reform – both in the legal systems of the Republic of Moldova and of Romania – should be refocused on the enhancing of functional capacities of the judicial inspection body. In the context, it is timely to examine the possibility of reconsidering in a radical manner its control function through establishing the operative activity. Each State shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption. Each State shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption and care about increasing and disseminating knowledge about the prevention of corruption. Each State shall grant the anti-corruption body or bodies the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence[78].

To fit the concept of good judicial self-governance, the judicial inspection body should be focused on the permanent self-purification and self-improvement of the judicial system, on enhancing the intern strategies of prevention of the violations of law, deontology and ethics, on promoting the responsibility among judges and among other actors of the Justice sector, the conceptual differences *between legal responsibility* and *legal accountability* being determinant. *The legal responsibility* is a conscious and legal activity of the subject in the process of realization of permissive legal norms, oriented towards a voluntary acceptance and execution of certain legal obligations that is a part of the content of a certain legal relation. The realization of the responsibility does not presume the inevitable intervention of legal accountability and of the legal sanction[79].

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[77] Danileț C., *Corupția și anticorupția în sistemul juridic. (Corruption and anti-corruption in the legal system).* C.H. Beck Publishing House, 2009, 209 p. p.42-43. https://www.kas.de/c/document_library/get_file?uuid=3aa82403-8d21-bd2f-132c-181792196d98&groupId=252038 (visited 24.04.2020)

[78] Art.5 para (3), art. 6 para (1) letter b), para (2) of the United Nations Convention against Corruption, General Assembly Resolution 58/4 of 31 October 2003, New York. https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf (visited 24.04.2020)

[79] Negru A., Chicu O., *Interacțiuni doctrinare dintre răspunderea juridică și responsabilitatea juridică. (Doctrinal interactions between legal accountability and*

An external constraint for determining the magistrate to adopt an appropriate conduct is not sufficient. The desideratum of the fight against corruption may be obtained only when it springs from an urgent internal need of the magistrate who has understood his or her fundamental role in the society: that of imposing the correctness and of respecting the rules by all the citizens, the judge himself or herself becoming a moral pillar of the democratic society[80].

Generalization of the modalities of enhancing the capacities of the judicial self-government in the fight against judicial corruption. As a generalization, we will mention several ways of enhancing the capacities of the judicial self-government in the fight against judicial corruption: the normative, the institutional and the educational ones.

Referring to the normative level, it is absolutely necessary to limit the discretionary right of all the actors of the Justice sector in the process of realizing of legal norms, especially regarding the subjects with competencies of verification and control in particular areas for the manifestation of Justice, as is the case of the judicial inspection body. The establishment of parameters for judicial discretion in the interpretation of law is a measure that helps to increase the integrity of the Judiciary. Such parameters could be used as guidelines that would help identify possible acts of corrupt behaviour in unusual court decisions.[81] The forums, the authorities and the organisms that deal with cases of disciplinary liability have to interpret the exact meaning of the legal texts defining facts that represent disciplinary offences in a manner that excludes any suspicion or arbitrariness.[82] The qualitative realization of legal regulations in the field

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legal responsibility). In: *Studia Universitatis Moldaviae*, 2018, no. 8(118), p.42. http://studiamsu.eu/wp-content/uploads/05.p.35-44_118.pdf (visited 24.04.2019).

[80] Danileț C., *Corupţia şi anticorupţia în sistemul juridic. (Corruption and anti-corruption in the legal system).* C.H. Beck Publishing House, 2009, 209 p. p.182. https://www.kas.de/c/document_library/get_file?uuid=3aa82403-8d21-bd2f-132c-181792196d98&groupId=252038 (visited 24.04.2020)

[81] Para 80 of the Report of the Special Rapporteur on the independence of judges and lawyers. A/67/305, UN DOC, 13.08.2012.

https://undocs.org/pdf?symbol=en/A/67/305 (visited 24.04.2020)

[82] Bozeşan V., Călin D., Militaru I., Judge of the Supreme Court removed from judicial office Judecător al Curţii Supreme exclus din corpul magistraţilor printr-o procedură disciplinară nelegală. Lipsa de independenţă şi imparţialitate al Consiliului Superior de Justiţie şi a instanţei de control judiciar – încălcarea art. 6 şi 8 din Convenţie – cauza Oleksandr Volkov c. Ucrainei. (Judge of the Supreme Court removed from judicial office through an illegal disciplinary procedure. Lack of independence and impartiality of the Superior Council of Justice and of the instance of judicial control – violation of the art. 6 and 8 of the Convention – case Oleksandr Volkov v. Ucraine). În:

of Justice and the removal from the legal regulations of any possibilities of subjectivism in the area of legal accountability of magistrates is an objective of the value expression of a consolidated Justice[83].

In our opinion, the judicial inspectors should be obliged under the regulations on the organization and the functioning of the judicial inspection body to report to criminal investigative bodies about findings of possible acts of corruption committed by judges (or prosecutors) and other court staff (just like in the case of integrity inspectors of the National Integrity Authority of Moldova who have the obligation to notify the criminal investigative body or the fiscal body if they find the existence of reasonable suspicion of committing of a crime or a violation of fiscal law[84]). This would be an important step in recognizing the active role of the judicial inspection body in the fight against judicial corruption. The judicial inspection body would acquire the status of anti-corruption authority, with express competencies in this area.

At the institutional level should be provided permanent and constructive communication among all the actors of the judicial system, especially among representatives of the judicial self-government, judges (prosecutors), other court staff (in a broader approach the professional communication should be encouraged not only within the judicial system, but throughout the legal system; the legal system refers not only to magistrates, but also to all the institutions and professionals involved in resolving a dispute: bodies of finding crimes and contraventions, judicial police, prosecutors and judges, courts` auxiliary specialized personnel, lawyers, mediators, experts, insolvency practitioners, judicial executors, public notaries, integrity inspectors[85]).

A constructive communication also includes the organization of seminaries, round tables, initial and continuous training, encouraging creative, research and didactic activity – all of which inevitably contribute

Juris Clasor CEDO. Universitara Publishing House, Bucarest, 2013, p. 39-56, p.47. http://www.hotararicedo.ro/files/files/Jurisclasor%202013%20final.pdf(visited 24.04.2020)

[83] Negru A., Obiective ale procesului de consolidare a justiţiei contemporane. (Objectives of the process of consolidation of contemporary justice). In: *Revista Institutului Naţional al Justiţiei*, no. 4(51)2019, p.39-45, p.40.

https://www.inj.md/sites/default/files/39-45_3.pdf (visited 24.04.2020)

[84] Art. 34 para (2) of the Law on the National Integrity Authority, no.132 of 17.06.2016. In: Official Gazette of the Republic of Moldova, 30.07.2016, no.245-246. https://www.legis.md/cautare/getResults?doc_id=94148&lang=ro (visited 24.04.2020)

[85] Danileţ C. Corupţia şi anticorupţia în sistemul juridic. (Corruption and anti-corruption in the legal system). C.H. Beck Publishing House, 2009, 209 p. p.20-21. https://www.kas.de/c/document_library/get_file?uuid=3aa82403-8d21-bd2f-132c-181792196d98&groupId=252038 (visited 24.04.2020)

to the propagation of good practices and to the spread of knowledge exchange. The mentioned communication should refer to the area of judicial corruption too, encouraging research on corruption being one of the Twenty Guiding Principles for the Fight against Corruption[86]. A lack of regulations concerning a judge's ethical conduct, a lack of general awareness of the dangers of corruption, and a lack of guidance from court management can lead to judges becoming indifferent to the requirements of objective and impartial justice[87]. Joint efforts are needed in order to cultivate the culture of the independence, of the impartiality, integrity and of the incorruptibility of individual judges and of Justice in general.

From an educational point of view, it is appropriate to promote and to encourage the ethical thinking and the ethical behavior among magistrates (and not only among them). The judicial inspection body is able to contribute to the realization of this mission, especially through the primary verification of petitions regarding the violations of ethical rules, the examination of plaints regarding the violations of the discipline, the verification of the organizational activity of courts (and prosecutor`s offices).

The interinstitutional collaboration is just as important in preventing and combating judicial corruption. Usually, corruption does not affect a single area; it is a complex phenomenon, able to harm a variety of aspects of social life. Human Rights are the most vulnerable. Endangering the authority of the law[88], corruption is a threat to democracy, to the pre-eminence of law and Human Rights, it undermines the principles of good administration, equity and social justice, endangers the stability of democratic institutions and the moral basis of the society[89]. For these reasons, the eradication of corruption needs joint efforts. Combating corruption within the judicial system is important in order to strengthen judicial credibility and independence. Thus, the establishment of internal

[86] Para 18 of the Resolution 97(24) on the Twenty Guiding Principles for the Fight against Corruption. Adopted by the Committee of Ministers, 06.11.1997. https://rm.coe.int/16806cc17c (visited 24.04.2020)

[87] Para 15 of the Opinion of the Consultative Council of European Judges (CCJE) Preventing corruption among judges, no. 21 of 09.11.2018, Zagreb. https://www.coe.int/en/web/ccje/ccje-opinions-and-magna-carta (visited 24.04.2020)

[88] Гравина А.А. Реализация международных принципов противодействия коррупции при осуществлении правосудия. Журнал российского права, (Gravina A.A. The realization of international principles of counteracting corruption in the exercise of justice), no. 11, 2017, p.120-132, p.123. https://cyberleninka.ru/article/n/realizatsiya-mezhdunarodnyh-printsipov-protivodeystviya-korruptsii-pri-osuschestvlenii-pravosudiya/viewer (visited 24.04.2020)

[89] Danileț C., *Corupția și anticorupția în sistemul juridic. (Corruption and anti-corruption in the legal system)*. C.H. Beck Publishing House, 2009, 209 p. p.52-54, 116. https://www.kas.de/c/document_library/get_file?uuid=3aa82403-8d21-bd2f-132c-181792196d98&groupId=252038 (visited 24.04.2020)

and external mechanisms of accountability for judges, prosecutors and the court staff is imperative. An important element in the investigation, prosecution and punishment of corruption is the cooperation and competence of the investigatory services. Measures to prevent and combat corruption should involve cross-institutional efforts and include the participation of all sectors of society.[90]

So, the judicial self-governing bodies (especially the Superior Council of Magistracy and the Judicial Inspection) should collaborate with national integrity authorities, with national anti-corruption authorities and with intelligence services, under specific conditions, in order to ensure the prevention and the combat of judicial corruption. It is significant each institution to be limited strictly to the exercise of its functional competencies, without mutual interference in their activity. Such a cooperation would represent an efficient materialization of the principle of separation and of collaboration of state powers.

The fight against judicial corruption can fail in case of severe isolation of the state powers. The three powers function in a relationship of interdependence. In that sense there can never be a complete -separation of powers‖. However, in order to achieve a proper balance of the three powers of state, each power must exercise proper restraint in its relations with the other powers. In a state governed by the principle of separation of powers, interferences between the action of one branch of the State and other branches must be maintained within the bounds of the law and internationally accepted standards. The Consultative Council of European Judges (CCJE) considers that, when an unwarranted interference does occur, the powers of the state should loyally cooperate to restore the balance and so the confidence of society in a smooth functioning of public institutions[91].

In general, the states shall adopt such measures as may be necessary to ensure that public authorities, as well as any public official, co-operate, in accordance with national law, with those of its authorities responsible for investigating and prosecuting criminal offences by informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that any of the criminal offences of corruption has been committed

[90] Para 85, 102, 110 of the Report of the Special Rapporteur on the independence of judges and lawyers. A/67/305, UN DOC, 13.08.2012.
https://undocs.org/pdf?symbol=en/A/67/305 (visited 24.04.2020)

[91] Para 39, 43 of the Opinion of the Consultative Council of European Judges (CCJE) *The position of the judiciary and its relation with the other powers of state in a modern democracy*, no.18 of 16.11.2015, London. https://rm.coe.int/16807481a1 (visited 24.04.2020)

or by providing, upon request, to the latter authorities all necessary information[92].

At the same time, any form of collaboration between control bodies of the judicial self-government system (as is the case with the judicial inspection body) and investigative bodies or control bodies part of the executive power must be transparent. The clarity and the transparency of the verification and/or control procedures – in the area of ethical responsibility and, in particular, in the area of disciplinary or criminal accountability – is required either in relation to the verified or controlled subjects or in relation to the society. This exigency is one of the premises of the credibility of the judicial system, in the context of its tendency to ensure the self-purification and the self-improvement of the system, to adapt to social realities – all of which are specific manifestations of the complex process of reformation and consolidation of Justice.

The remark is made in the context of the suspicions – in our opinion, reasonable suspicions – regarding the independence of the Judicial Inspection of Romania, after signing, in 2016, in absolutely secret conditions, of the Protocol regarding the organization of the cooperation between The Romanian Intelligence Service and The Judicial Inspection within the Superior Council of Magistracy in order to carry out their tasks, according to the law[93]. The procedures of disclosing of the named Protocol began on the 28th of March 2017. In a press release, the Judicial Inspection of Romania mentioned that none of the duties of the Judicial Inspections was an object of any protocol containing or not classified information with any public institution. No resolution, report or any other document adopted by the Judicial Inspection was communicated to any entity on the basis of any protocol. The verifications of the Judicial Inspection were exercised exclusively in cases and under procedures provided by law, by the judicial inspectors and never by or with the support of other persons from outside the institution; no other persons have had access to any of the exercised verifications[94].

As a matter of fact, the cooperation Protocol was based on the principles of the Rule of Law, guaranteeing judicial independence, respect

[92] Art.21 of the Criminal Law Convention on Corruption, Strasbourg, 27.01.1999. https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007f3f5 (visited 24.04.2020)

[93] Protocol regarding the organization of the cooperation between The Romanian Intelligence Service and the Judicial Inspection within the Superior Council of Magistracy in order to carry out their tasks, according to the law, 2016.
http://www.inspectiajudiciara.ro/ (visited 24.04.2020)

[94] What the Protocol signed by the Judicial Inspection does not contain. (Ce nu conține Protocolul încheiat de Inspecția Judiciară) http://www.inspectiajudiciara.ro/ (visited 24.04.2020)

of the obligations and responsibilities of the parties, *need to know/need to share* (the transmission of the relevant information for carrying out the duties by the parties, according to the law, only to the persons that need to work with that kind of information or to have access to them). The declared purpose of the cooperation Protocol was to ensure the independence and the exercise of justice, to prevent and combat disciplinary offences among magistrates, to know, prevent and counteract the vulnerabilities and the risk factors that may affect the state of legality, to mention the legal order, as well as the climate of exercising the Fundamental Human Rights, Freedoms and Obligations, as values of national security, in accordance with the democratic norms and principles established by the Constitution[95].

Despite the statements of the Judicial Inspection of Romania and the content of the Protocol itself, its secret character has seriously undermined the image and the credibility of the judicial Inspection body.

However, the interinstitutional communication should be improved, including the communication regarding the fight against judicial corruption. The cooperation and the coherence are principles promoted at the level of the National Anti-corruption Strategy for 2016-2020 (Romania). According to the Strategy, the institutions involved in preventing and combating corruption must closely cooperate, ensuring a unitary conception of the objectives that have to be achieved and of the measures that have to be taken. The Superior Council of Magistracy and the Judicial Inspection must have an active role in addressing the integrity of the magistrates, in order to enhance the integrity, to reduce the vulnerabilities and the risks of corruption in the judicial system[96]. For this purpose, the judicial self-governance should cooperate with certain entities with attributions of investigation or control, including the intelligence services. In the context, may be relevant the statement of the members of the Superior Council of Magistracy – representatives of the civil society – referring to the provisions of the named secret Protocol. They have mentioned that their approach is not to stigmatize the Romanian

[95] Art.1, 2 of the Protocol regarding the organization of the cooperation between The Romanian Intelligence Service and the Judicial Inspection within the Superior Council of Magistracy in order to carry out their tasks, according to the law, 2016. http://www.inspectiajudiciara.ro/ (visited 24.04.2020)

[96] Decision on the approval of the national anti-corruption Strategy for 2016-2020, of the sets of performance indicators, of the risks associated to the objectives and of the measures of the strategy and of the sources of verification, of the inventory of measures of institutional transparency and prevention of corruption, of the assessment indicators, as well as of the standards of publication of the information of public interest, no. 583 of 10.08.2016. In: *Official Gazette of Romania*, Part I, 23.08.2016, of. 644. http://legislatie.just.ro/Public/DetaliiDocument/181123 (visited 24.04.2020)

Intelligence Service, whose current leadership has decided openly and transparent to disclose and denounce the protocols with structures from inside the Judicial Authority, but to clarify all the aspects for establishing the facts and, especially, the mechanisms and the norms that will guarantee that the judicial duties are exercised by judges and prosecutors exclusively in accordance with the law, free of pressures in the administration of a fair trial specific for the Rule of Law and for the constitutional democracy, in a European Romania.[97]

Thus, any form of interinstitutional collaboration in exercising verification and/or control procedures, including in the fight against judicial corruption, should be transparent, every institution being responsible of exercising its own particular competencies. The degree of collaboration should be limited through pertinent legal provisions.

Conclusions

Based on the reported above, we consider that, in order to intensify the fight against judicial corruption, the capacities of the judicial self-governing bodies in the mentioned area should be enhanced in a multidimensional way. This desideratum might be obtained through the fortification of the functional status of the judicial inspection body, by reconsidering its control function, in the sense of establishing the position of investigative judicial inspector who will exercise operative activity. Another way of intensifying the fight of the judicial self-governance against judicial corruption is to oblige the judicial inspectors to notify the criminal investigative bodies about a potential committing by a magistrate or a courts staff representative of an act of corruption, liable of criminal investigation and sanction. Such an obligation must be part of the normative act regulating the organization and the functioning of the judicial inspection body (and should not only be presumed by the prism of the spirit of the law regulating the functioning of the public sector).

A coherent and performant communication among all the actors of the judicial system (and even of the legal system), the interinstitutional cooperation, in accordance with the law, the promotion of the culture of the independence, of the impartiality, integrity and of the incorruptibility of the Judiciary, encouraging the ethical thinking and the ethical behavior in the judicial sector, the propagation of the scientific research in the anti-

[97] Statement. Members of the Superior Council of Magistracy, representatives of the civil society, take note with concern of the provisions of the secret Protocol signed between the Romanian Intelligence Service and the Judicial Inspection. (Comunicat. Membrii CSM, reprezentanţi ai societăţii civile iau act cu îngrijorare despre prevederile protocolului secret între SRI şi Inspecţia Judiciară). Bucarest, 10.10.2018. https://www.csm1909.ro/PageDetails.aspx?Type=Title&FolderId=6132(visited 24.04.2020)

corruption area – all of these measures might contribute to the enhancing of functional capacities of the judicial self-government in preventing and combating judicial corruption.

In the end, the question -*Should the Judicial Inspection, as a control body inside the judicial self-governance system, care about the prevention of judicial corruption?*- is a rhetorical one. The active role of the judicial inspection body in the fight against judicial corruption is related to the essence of the judicial self-governance, to the essence of the intern control over the Judiciary and to the essence of the complex phenomenon of the consolidation of Justice. The mission of the judicial inspection body is to contribute, through the activity of analysis, verification and control in particular areas of manifestation of Justice, to the promotion, guaranteeing and the safeguarding of the independence and the incorruptibility of the judicial system both for the benefit of good judicial administration and, as a priority, for the benefit of the Rule of Law, where the Human Rights and Freedoms are Fundamental Values. The independence of judges is not a prerogative or privilege granted in their own interest, but in the interest of the Rule of Law and of all those who seek and expect justice. Judicial independence is the means by which judges' impartiality is ensured. Only an independent Judiciary can implement effectively the rights of all members of society. Thus, independence is the fundamental requirement that enables the Judiciary to safeguard democracy and Human Rights.[98]

References

Alt, E., (2009), Calitatea hotărârilor judecătoreşti. (The quality of judicial decisions) in: *Revista Forumul Judecătorilor*, (Judges Forum Magazine), no. 2/2009. http://www.forumuljudecatorilor.ro/wp-content/uploads/Art-7-Forumul-judecatorilor-nr-2-2009.pdf,

Criminal Law Convention on Corruption, (1999), Strasbourg: https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007f3f5

Criminal Procedural Code, no.135, of 01.07.2010. In: *Official Gazette of Romania,* 15.07.2010, no.486.

http://legislatie.just.ro/Public/DetaliiDocument/185907

[98] Para 10 of the Opinion of the Consultative Council of European Judges (CCJE) *The position of the judiciary and its relation with the other powers of state in a modern democracy*, no.18 of 16.11.2015, London. https://rm.coe.int/16807481a1 (visited 24.04.2020)

Criminal Procedural Code of the Republic of Moldova, no.122 of 14.03.2003. In: *Official Gazette of the Republic of Moldova*, 05.11.2013, no. 248-251.

https://www.legis.md/cautare/getResults?doc_id=120596&lang=ro#

Danileţ, C., (2009), Corupţia şi anticorupţia în sistemul juridic. (Corruption and anti-corruption in the legal system). Ed. C.H. Beck, 2009, 209 p.

https://www.kas.de/c/document_library/get_file?uuid=3aa82403-8d21-bd2f-132c-181792196d98&groupId=252038

http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=355004

https://www.csm.md/files/Hotaririle/2018/24/506-24.pdf

http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=348101

Decision of the Parliament on the approval of the national integrity and anti-corruption strategy for 2017-2020, no.56 of 30.03.2017. In: *Official Gazette of the Republic of Moldova*, 30.06.2017, no.216-228. http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=370789

Gloppen, S., (2014), Courts, Corruption and Judicial Independence. In: *Corruption, Grabbing and Development: Real World Challenges (Book Chapter)*. https://www.cmi.no/publications/5091-courts-corruption-and-judicial-independence#author-details

Gravina A.A., (2017), Implementation of the international Anti-corruption Principles during Administration of Justice. (Гравина А.А. Реализация международных принципов противодействия коррупции при осуществлении правосудия). In: *Журнал российского права*, no. 11, 2017, p.120-132. https://cyberleninka.ru/article/n/realizatsiya-mezhdunarodnyh-printsipov-protivodeystviya-korruptsii-pri-osuschestvlenii-pravosudiya/viewer

Emergency Ordinance on the National Anti-corruption Direction, no.43 of 04.04.2002.

https://www.pna.ro/legislatie.xhtml?sectiune=2&id=13

https://www.unodc.org/unodc/en/corruption/ratification-status.html

Judgement of the Constitutional Court of the Republic of Moldova on exception of unconstitutionality of certain provisions of the Law no. 271-XVI of 18 December 2008 on verification of office-holders and candidates for public office (verification of judges by the Security and Intelligence Service) (Complaint no. 115g/2017), no.32 of 15.12.2017. In: *Official Gazette of the Republic of Moldova*, 09.02.2018, no. 40-47. In force from 05.12.2017.

http://www.constcourt.md/public/ccdoc/hotariri/ro-h322017115gro0d8cd.pdf

Judicial Accountability. International standards on accountability mechanisms for judicial corruption and judicial involvement in human rights violations. Practitioners Guide No. 13, International Commission of Jurists, June 2016.

https://www.icj.org/wp-content/uploads/2016/06/Universal-PG-13-Judicial-Accountability-Publications-Reports-Practitioners-Guide-2016-ENG.pdf

Integritatea în justiţie: realizări, provocări, perspective. (Integrity in Justice: achievements and challenges). Chisinau, 2018, Freedom House. p. 23.

https://freedomhouse.org/sites/default/files/Shadow%20Report%20v2%20-%20Web%20-%20RO.pdf

Law on declaration of the income and of personal interests, no.133 of 17.06.2016. In: *Official Gazette of the Republic of Moldova*, 30.07.2016, no. 245-246.

https://www.legis.md/cautare/getResults?doc_id=105905&lang=ro

Law on disciplinary liability of judges, no. 178 of 25.07.2014. In: Official Gazette of the Republic of Moldova, 15.08.2014, no. 238-246. https://www.legis.md/cautare/getResults?doc_id=106150&lang=ro

Law on institutional integrity assessment, no.325 of 23.12.2013. In: *Official Gazette of the Republic of Moldova*, 14.02.2014, no.35-41. https://www.legis.md/cautare/getResults?doc_id=106168&lang=ro

Law on integrity, no.82 of 25.05.2017. In: *Official Gazette of the Republic of Moldova*, 07.07.2017, no.229-243.

https://www.legis.md/cautare/getResults?doc_id=105688&lang=ro

Law on integrity in the exercise of public and dignity functions, of the amendment and completion of the Law no. 144/2007 regarding the foundation, the organization and the functioning of the National Integrity Agency, as well as for the amendment and completion of other normative acts, no.176, of 01.09.2010. In: *Official Gazette of Romania*, 02.09.2010, no.621. http://legislatie.just.ro/Public/DetaliiDocument/121924

Law on integrity whistleblowers, no. 122 of 12.07.2018. In: *Official Gazette of the Republic of Moldova*, 17.08.2018, no. 309-320. https://www.legis.md/cautare/getResults?doc_id=105486&lang=ro

Law on the Code of conduct of the public servant, no.25 of 22.02.2008. In: *Official Gazette of the Republic of Moldova*, 11.04.2008, no.74-75.

https://www.legis.md/cautare/getResults?doc_id=94526&lang=ro

Law on National Integrity Authority, no. 132 of 17.06.2016. In: *Official Journal of the Republic of Moldova*, 30.07.2016, no. 245-246. https://www.legis.md/cautare/getResults?doc_id=94148&lang=ro

Law on preventing, detecting and sanctioning of corruption acts, no.78 of 08.05.2000. In: *Official Gazette of Romania*, 18.05.2000, no.219. http://legislatie.just.ro/Public/DetaliiDocument/22361

Law on the prosecutor`s office, no. 3 of 25.02.2016. In: *Official Gazette of the Republic of Moldova*, 25.03.2016, no. 69-77. https://www.legis.md/cautare/getResults?doc_id=120703&lang=ro#

Law on Security and Intelligence Service of the Republic of Moldova, no. 753 of 23.12.1999. In: *Official Gazette of the Republic Moldova*, 31.12.1999, no. 156.

https://www.legis.md/cautare/getResults?doc_id=108511&lang=ro

Law on the organization and the functioning of Romanian Intelligence Service, no.14 of 14.02.1992. In: *Official Gazette of Romania*, 03.03.1992, no. 33. http://legislatie.just.ro/Public/DetaliiDocument/2144

Law on the ratification of Criminal Law Convention on Corruption, no.428 of 30.10.2003. In: *Official Gazette of the Republic of Moldova*, 21.11.2003, no.229.

https://www.legis.md/cautare/getResults?doc_id=2529&lang=ro

Law on the ratification of Criminal Law Convention on Corruption, adopted at Strasbourg at 27 January 1999, no.27 of 16.01.2002. In: *Official Gazette of Romania*, 30.01.2002, no.65.

http://legislatie.just.ro/Public/DetaliiDocumentAfis/33701

Law on the ratification of the United Nations Convention against Corruption, no.158 of 06.07.2007. In: *Official Gazette of the Republic of Moldova*, 20.07.2007, no.103-107.

https://www.legis.md/cautare/getResults?doc_id=12294&lang=ro

Law on the ratification of the United Nations Convention against Corruption, adopted at New York at 31 October 2003, no.365 of 15.09.2004. In: *Official Gazette of Romania*, 05.10.2004, no.903. http://legislatie.just.ro/Public/DetaliiDocumentAfis/55622

Law on the status of judge, no.544 of 20.07.1995 In: *Official Gazette of the Republic of Moldova*, 22.01.2013, no. 15-17.

https://www.legis.md/cautare/getResults?doc_id=94177&lang=ro

Law on the status of judges and prosecutors. Republished, no.303 of 28.06.2004. In: *Official Gazette of Romania*, 13.09.2005, no. 826. http://legislatie.just.ro/Public/DetaliiDocument/64928

Law on the status of persons with dignity functions (Annex), no. 199 of 16.07.2010. In: *Official Gazette of the Republic of Moldova*, 05.10.2010, no. 194-196.

https://www.legis.md/cautare/getResults?doc_id=60944&lang=ro

Law on the Superior Council of Magistracy, no. 947-XIII of 19.07.1996. In: *Official Gazette of the Republic of Moldova*, 22.01.2013, no. 15-17.

http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=346406

Law on the Superior Council of Magistracy, Republished, no.317 of 01.07.2004. *In: Official Gazette of Romania*, 01.09.2012, no.628. http://legislatie.just.ro/Public/DetaliiDocument/64942

Law on verification of office-holders and of the candidates for public office, no. 271 of 18.12.2008. In: *Official Gazette of the Republic of Moldova*, 24.02.2009. https://www.legis.md/cautare/getResults?doc_id=94533&lang=ro

http://legislatie.just.ro/Public/DetaliiDocument/43323

Law regarding the foundation, the organization and the functioning of the National Integrity Agency, no.144, 21.05.2007. In: *Official Gazette of Romania*, 03.08.2009, no.535.

http://legislatie.just.ro/Public/DetaliiDocument/82317

Law regarding the integrity in pursuing public service and public dignities, for amending and completing Law 144/2007 regarding the establishment, organization and functioning of the National Agency for Integrity, and also to amend and complete other legislative acts, no.176 of 01.09.2010. In: *Official Gazette of Romania*, 02.09.2010, no.621. http://legislatie.just.ro/Public/DetaliiDocument/121924

Lienhard A., Kettiger D. (2017). Between Management and the Rule of Law: on the move towards a management model for the judiciary - Results from the project „Basic research into Court Management in Switzerland‖. *International Journal for Court Administration*.

https://www.iacajournal.org/articles/abstract/10.18352/ijca.219/

Negru A., (2012), Aprecieri de esenţă a principiului consolidării justiţiei. (Appreciations of essence of the principle of consolidation of justice). In: *Legea şi Viaţa*, (Law and Life), Chisinau, 2012, no.11.

http://www.legeasiviata.in.ua/archive/2012/11-md/11-md.pdf

Negru A., (2019), Obiective ale procesului de consolidare a justiţiei contemporane. (Objectives of the process of consolidation of contemporary justice). In: *Revista Institutului Naţional al Justiţiei*, no. 4(51)2019, p.39-45. https://www.inj.md/sites/default/files/39-45_3.pdf

Negru A., Chicu O., (2018), Interacţiuni doctrinare dintre răspunderea juridică şi responsabilitatea juridică. (Doctrinal interactions between legal accountability and legal responsibility). In: *Studia Universitatis Moldaviae*, 2018, no. 8(118).

http://studiamsu.eu/wp-content/uploads/05.p.35-44_118.pdf

Negru, A.; Creciun, N., (2018), Reconceptualizarea funcţiei de control a Inspecţiei Judiciare. (The reconceptualization of the control function of the Judicial Inspection) In: *Studia Universitatis Moldaviae*, no. 3(113), 2018, p.47-56.

https://ibn.idsi.md/sites/default/files/imag_file/47-56_0.pdf
http://legislatie.just.ro/Public/DetaliiDocument/208780
Regulation regarding the norms of exercising works of judicial inspection by the Judicial Inspection. Approved by the Decision of the Superior Council of Magistracy, no.1027 of 15.11.2012.In: *Official Gazette of Romania*, 29.11.2012, no.802, Part I.
https://www.csm1909.ro/274/Legislatie
Report of the Special Rapporteur on the independence of judges and lawyers. A/67/305, UN DOC, 13.08.2012.
https://undocs.org/pdf?symbol=en/A/67/305
Resolution 97(24) on the Twenty Guiding Principles for the Fight against Corruption. Adopted by the Committee of Ministers, 06.11.1997. https://rm.coe.int/16806cc17c
Simonis, M., (2019), Effective Court Administration and Professionalism of Judges as Necessary Factors Safeguarding the Motherof Justice – The Right to a Fair Trial. *International Journal for Court Administration*, 10(1), pp.47–58. DOI: http://doi.org/10.18352/ijca.294
The Functional Analysis of Justice Sector in Romania, March 2013, p.87-88, 182. http://www.just.ro/wp-content/uploads/2015/09/Analiza- functionala-a-sectorului-Justitiei-RO.pdf