

PARTICULAR FORMS OF EVALUATION AND ASSESSMENT OF JUDGES: BETWEEN EXIGENCY OF A CONSOLIDATED JUSTICE AND VIOLATION OF JUSTICE INDEPENDENCE



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SUMMARY

The issue analyzed in the present paper refers to the fact if judges must be verified and/or assessed in their activity. In case of affirmative answer, we have to establish exigencies demanded for these verifications and/or assessments, to ensure the balance between the protection of public interest and judges' private life. We emphasize the necessity to respect both the principle of separation and collaboration of powers and the independence of judges as individuals and of the Judiciary as a whole. We propose to develop within the Judicial Authority efficient mechanisms of intervention in the field of verification of office-holders (referring to judges and candidates for the position of judge) and in the field of assessment the professional integrity of judges. Simultaneously, we argue the indispensability of collaboration, in particular conditions, between the representatives of the Judiciary (The Superior Council of Magistracy, The Judicial Inspection) and the representatives of the executive power (The National Anticorruption Center, The Security and Intelligence Service, The National Integrity Authority), in order to exercise complex and qualitative verifications and/or assessments, avoiding threats to independence and the impartiality of magistrates.

Key-words: *The Superior Council of Magistracy, The Judicial Inspection, verification, assessment, professional integrity, judicial inspector of investigation, the independence of the Judiciary*

Introduction. The judge, as a representative of Justice, has a great contribution in creating and maintaining the image of the Judicial Authority. That is why the procedure of appointment and promoting professional and correct persons in the function of judge presents a great interest for the society. The issue proposed for discussion refers both to the manner of appreciation the necessity of monitoring if judges correspond to their positions and to the admissible and necessary methods of such a monitoring. The importance of selecting and application in prac-

TIPURI SPECIFICE DE VERIFICARE ȘI EVALUARE A JUDECĂTORILOR: ÎNTRE EXIGENȚA UNEI JUSTIȚII CONSOLIDATE ȘI VIOLAREA INDEPENDENȚEI JUSTIȚIEI

SUMAR

Chestiunea analizată în prezenta lucrare se referă la faptul dacă judecătorii ar trebui, în activitatea lor, să fie supuși unor verificări și/sau evaluări. În cazul unui răspuns afirmativ, urmează de stabilit căror cerințe ar trebui să corespundă aceste verificări și/sau evaluări, astfel încât să fie asigurat echilibrul dintre protecția interesului public și viața privată a judecătorului. Punem accent pe necesitatea respectării principiului separării și colaborării puterilor în stat, deopotrivă cu respectarea principiului independenței judecătorilor în parte și a justiției în general. Propunem dezvoltarea în interiorul Autorității Judecătorești a unor mecanisme de intervenție în domeniul verificării titularilor la funcții publice (cu referire la judecători și candidați la funcția de judecător) și în cel al evaluării integrității profesionale a judecătorilor. Totodată, argumentăm indispensabilitatea colaborării, în anumite condiții, a structurilor reprezentative ale judiciarului (CSM, Inspekția Judiciară) cu structuri reprezentative ale executivului (CNA, SIS, ANI), în vederea exercitării unor verificări și/sau evaluări complexe și calitative. Fiecare dintre instituții ar urma să intervină strict în limitele competențelor funcționale, fără a amenința independența și imparțialitatea magistraților.

Cuvinte-cheie: *Consiliul Superior al Magistraturii, Inspekție Judiciară, verificare, evaluare, integritate profesională, inspector judiciar de investigație, independența Justiției.*

tice correct and transparent mechanisms to verify judges is the stake of *an effective control* exercised on *an independent Authority*. In this order of ideas, we have to decide if the verification procedure of judges' correspondence with their functions represent an abuse from those who do verifications or, on the contrary, is a requirement of a consolidated Justice, in the conditions of the Rule of Law.

Context. This topic is proposed to be analyzed in the context of adoption by the Constitutional Court of the Republic of Moldova of the *Judgement 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) [10], that declared the articles 5 letter a) and article 15 paragraphs (2), (4) and (5) of the Law no. 271-XVI of 18 December 2008 on verification of office-holders and candidates for public office [22] unconstitutional, in the part referring to the proceedings of verification both the judges and the candidates for the position of judge.

Some aspects of the *Judgement of the Constitutional Court of the Republic of Moldova on constitutional review of certain provisions of the Law no. 325/2013 on professional integrity testing (Application no. 43a/2014)* [9] are also analyzed.

Purpose of the research. The purpose of the research is to identify a solution to verify the holders of public positions, referring to judges and candidates for the position of judge, as well as to evaluate the professional integrity of judges, in a manner that corresponds to such requirements as objectivity and exigency and to guarantee the principle of the independence of Justice, contributing to its consolidation.

Research objectives. The research objectives are: to illustrate the current situation in the field of verification of the holders of public positions, referring to judges and candidates for the position of judge; to generalize the pertinent normative framework about the assessment of professional integrity of judges; to deduce the issues and potential risks of the involvement of the National Anticorruption Center or the Security and Intelligence Service of the Republic of Moldova in proceedings of verification and/or assessment judges; to propose solutions to exercise balanced and qualitative verifications and assessments on judges and candidates for the position of judge; to argue the necessity to verify and assess the judges and the candidates for the position of judge by a specific body – part of the Judicial Authority - through the principle of good self-administration of Justice, this competence being possible to recognize to the Judicial Inspection; to justify the indispensability of exercising verifications on judicial conduct and activity both by the Judicial Inspection, as part of the Judiciary and other bodies, as part of the executive power (The National Anticorruption Center, The Security and Intelligence Service, The National Integrity Authority), in limits of their competencies and with respect of the principles of separation of powers and of the independence of Justice.

The factual situation until the adoption of the Judgement no. 32 of 05 December 2017 by the Constitutional Court of the Republic of Moldova. Before the adoption by the Constitutional Court of the Republic of Moldova of the Judgement no. 32 of 05 December 2017 the procedure of appointment of judges and their promotion in managerial positions or in hierarchical superior courts were preceded by a compulsory verification of judges and candidates for the position of judge by the Security and Intelligence Service of the Republic of Moldova, through their correspondence with the wanted positions. The legal ground of a such state of things were the provisions of the article 9 paragraph 7) of the **Law on the status of judge** (in the redaction of the Law no.326 of 23 December 2013) [17], according to whom,

when submitting the set of documents, the applicant for the vacancies of judge, court deputy chair and chair was informed about the verification under the Law no. 271-XVI of 18 December 2008 on verification of office-holders and candidates for public office, being obligated to sign a declaration of verification [20, art. 9 par. (7)].

In the practice of examination by the Superior Council of Magistracy of the applications of some judges to be promoted in career have been situations when they were rejected, the decision being taken on the base of data presented by the Security and Intelligence Service.

The practice of examination of the applications by the Superior Council of Magistracy. Taking in consideration the mentioned regulations and analyzing the practice of examination by the Superior Council of Magistracy of the applications of some judges to be promoted in career, we can observe that there have been at least 2 cases in 2017 rejected under the data contained in the notifications presented by the Security and Intelligence Service: by the Decision no. 291/15 of 01 May 2017 [4] and the Decision no. 789/35 of 05 December 2017, the information being exposed inclusively in the Report of activity of the Judicial Inspection for 2017 [28, p.26, 36]. In a case of two judges that required to be transferred in another office, as a result of reorganization of national courts, the Superior Court of Magistracy decided to submit the documents to the Security and Intelligence Service for additional verification, through the Decision no. 116/6 of 14 February 2017 [3]. We do not know the real number of rejected cases of appointment and/or promotion in career of the applicants under the negative opinions presented by the Security and Intelligence Service to the President of the Republic of Moldova due to the confidentiality specific to such decisions of the Superior Council of Magistracy (for example: Decision of SCM no. 22/1 of 10 January 2017 [7], Decision SCM no. 270/13 of 11 April 2017 [6], Decision SCM no. 781/34 of 28.11.2017 [8] etc.).

The factual situation after the adoption of the Judgement no. 32 of 05 December 2017 by the Constitutional Court of the Republic of Moldova. In our opinion, the adoption of the Judgement no. 32 of 05 December 2017 by the Constitutional Court of the Republic of Moldova represents a crucial moment for judges' career and also for the independence of judges and the Judiciary as a whole. After the provisions on verification of office-holders and candidates for public office, referring to judges and candidates for the position of judge, were declared unconstitutional, has been excluded an inadmissible form of verification of judges – as part of the Judiciary – by representatives of the executive power. At the same time, some modifications have been made to the Law on office-holders and candidates for public office, referring to judges and candidates for the position of judge.

Regarding the current modalities of examining by the Superior Council of Magistracy of judges' applications of promotion in career, we find that the proceedings of verification of judges through the opinions of the Security and Intelligence Service are stopped [5].

Underlining the issues. The Constitutional Court of the Republic of Moldova has explained in its Judgement no. 32 of 05 December 2017 the subject on verification of judges and candidates for the position of judge through

the Law on office-holders and candidates for public office. We will emphasize some of the Constitutional Court's findings:

- taking in consideration that the Security and Intelligence Service is a military and intelligence body, exercising an activity of conspiracy, it is very clear that it is not able to guarantee the respect of fundamental rights referring to the private and family life and the secrecy of correspondence;
- the impossibility to challenge separately in court the opinion of the Security and Intelligence Service;
- the impossibility for the interested persons to appreciate the evidence in an efficient manner due to confidentiality inherent to the activity of the Security and Intelligence Service, this circumstance being susceptible to violate the right to an effective remedy;
- removal from office was compulsory whenever the Security and Intelligence Service identified risk factors; in that situation, the Superior Council of Magistracy examined formally the presented opinion, without verifying and appreciating if the conditions of incompatibility of judges with their position were real. So, the constitutional role of the Superior Council of Magistracy as a guarantor of the independence of the Judicial Authority was suppressed, becoming ineffective and illusive [10, p.93, 98, 100, 103, 104].

As a conclusion, the Constitutional Court established that the challenged provisions violated the constitutional provisions on the Rule of Law and legality, on the right of private and family life, the respect of the secrecy of correspondence, the separation of powers and the independence of Justice, due to the lack of guarantees of these rights [10, p.116].

Of course, someone could allege that the opinion of The Security and Intelligence Service, as an administrative body exercising the verification, was advisory and not compulsory [22, art.13, par.(1)], this being emphasized by the President of the Republic of Moldova, the representatives of the Parliament and the Government of the Republic of Moldova and by the representatives of the Security and Intelligence Service when examining the exception of unconstitutionality of some provisions of the Law on office-holders and candidates for public office [10, p.46]. Nevertheless, the arguments presented by the representatives of the Superior Council of Magistracy and of the Supreme Court of Justice (the highest hierarchical court) of the Republic of Moldova, according to whom the decision referring to the compliance or the unsuitability of the person had to be adopted in the limits of the opinion of the Security and Intelligence Service. So, if the opinion established risk factors, the office-holder or the candidate for public office (referring to judges and candidates for the position of judge) was automatically declared improper. In such conditions, the mentioned opinion was named advisory, but in reality it was compulsory by its nature for the Superior Council of Magistracy in adopting the decision on the compliance or the unsuitability of the judge or of the candidate for the position of judge [10, p.47].

In the current legal situation, when The Security and Intelligence Service has no competence to exercise verifications of the conduct of judges and candidates for the position of judge, is of great interest if the Security and

Intelligence Service can be involved in verifications of the mentioned subjects and, in case of affirmative answer, what should be the limits of this interference.

Possible solutions. Preliminaries. We should try to find solutions under the current legal reality, continuing to realize the initial purpose and the objectives of the research and to solve the issue about the fact of exercising verifications of judges and candidates for the position of judge by the Security and Intelligence Service. In our opinion, judges, as public servants with high responsibilities [1], should be subjects of qualitative verifications both at the appointment and promotion phases. The question is to identify the subject with competencies in exercising verifications on judges, taking in consideration their particular status and guaranteeing that verifications should not be potential intimidations.

In the current legal situation, the Security and Intelligence Service does not have competencies to verify judges and candidates for the position of judge under the Law no. 271-XVI of 18 December 2008 on office-holders and candidates for public office. However, the National Anticorruption Center maintains some competencies in the mentioned field, being entitled to verify the professional integrity of judges under the Law on assessment of institutional integrity [12]; only some of its provisions have been declared unconstitutional by the Constitutional Court of the Republic of Moldova in its Judgment on constitutional review of certain provisions of the Law no. 325/2013 on professional integrity testing (Application no. 43a/2014) [9] (the current title, in the redaction of the Law no. 102 of 21 July 2016 [18, Art.XXX], is the *Law on assessment of institutional integrity*). It is currently necessary to harmonize decisional and functional capacity specific to the Judiciary as a hole (including also the capacity of good self-administration of the Superior Council of Magistracy) with functional capacities of the National Anticorruption Center and the Security and Intelligence Service. The institutional superiority of the last mentioned bodies, as autonomous authorities of application the law on the one hand and a helpless judge on the other hand was evident, under the Law no. 325 of 23 December 2013 on professional integrity testing until the adoption of the Judgement no. 7 of 16 April 2015 on constitutional review of certain provisions of the Law no. 325/2013 on professional integrity testing (Application no. 43a/2014) by the Constitutional Court of the Republic of Moldova [24, p.43].

Proposal. Taking in consideration the above, we propose to entitle the Judicial Inspection functioning within the Superior Court of Magistracy to assess the professional integrity of judges and to reduce the involvement of the National Anticorruption Center, alike the Security and Intelligence Service in this procedures. In our opinion, the mentioned institutions have to collaborate in the field of assessment of professional integrity of judges, everyone being entitled to action within their functional competencies.

Rationale. The fact of declaring the provisions on verification of office-holders and candidates of public office by the Security and Intelligence Service (referring to judges and candidates for the position of judge) unconstitutional was based on the argument that the subject entitled with competencies of control was a representative of the executive power and a military structure. The verification of of-



office-holders, referring to mentioned subjects, was appreciated as a field exceeding the area of state security, inherent to Security and Intelligence Service [10, p.90].

Analogical, we consider that the National Anticorruption Center should not be the sole institution that exercises assessments of professional integrity of judges; the activity of National Anticorruption Center is particular and limited to prevention and fight against corruption, acts related to corruption and acts of corruptive behavior [19, art.1 par.(1)]. Examining the criminal procedural law, the National Anticorruption Center is a genuine criminal prosecution organ, activating under the leadership and supervision of Anticorruption Prosecutor's Office [2, art.253 par.(1) p.3], art. 270¹].

Instead, we consider that every form of assessment or verification of judges and candidates for the position of judge must be exercised by the Superior Council of Magistracy – directly or through the specialized bodies created within it, coming out of the principle of good administration of Justice specific to the organization and especially to the functionality of the Superior Council of Magistracy. The solution deduced in this research and which we propose for discussion is to entitle the Judicial Inspection created within the Superior Council of Magistracy to assess judges and candidates for the position of judge both at appointment and promotion phase and also in the process of their professional integrity testing through their correspondence with the wanted positions. In this line can be excluded potential risks to intimidate judges by the representatives of the National Anticorruption Center, the last one investigating directly criminal cases, inclusively cases against judges. The intervention of National Anticorruption Center should be compulsory only when a judge is suspected of corruption.

Advantages. We shall mention some of the advantages of entitling the Judicial Inspection with the competence of verification of judges and candidates for the position of judge through correspondence with their position: being created and functioning within the Superior Council of Magistracy, the Judicial Inspection will promote and apply programs and politics of good administration approved by the Council; the Judicial Inspection is an institution specialized in analysis and control activities in such areas as judiciary ethics and discipline, good organization of courts, protection of judges' reputation, prevention of risks in courts' activity etc.; the Judicial Inspection is part of the Judiciary and it will respect strictly such important principles as the independence, impartiality and integrity of judges, the independence of Justice as a whole and its separation of other two state powers; the Judicial Inspection in its current organic composition cannot be accused of corporatism or protectionism of magistrates because the judicial inspectors are not selected only from persons who have served as judges (for the position of judicial inspection can be selected the person who holds the degree in law or its equivalent, has a seniority in legal activity of at least 7 years, a irreproachable reputation and hasn't served as a judge for the last 3 years) [21, art.7¹ par.(3); 28, p.3.3]. At the same time the current legal situation expressly recognize the functional autonomy of the Judicial Inspection [21, art. 7¹ par.(1)]; the last one is a specialized body created by the Superior Council of Magistracy [27, p.1.1].

As a conclusion, we consider it is justified to entitle the Judicial Inspection with the right of verification of holders of the position of judge through correspondence with the wanted position and with the right to assess judges through their professional integrity, this situation guaranteeing the respect of the principles of separation of powers and of the independence and the consolidation of national Justice – these ones being genuine Rule of Law pillars. At the same time, the involvement of the Judicial Inspection in the mentioned verifications corresponds to the principles of disciplinary liability of judges, in case it should intervene, due to the fact that the Judicial Inspection is the primary institution that verifies the complaints on acts that may constitute disciplinary offences committed by judges and exercises the disciplinary investigation itself [16, art.23].

The reorganization of the Judicial Inspection with the occasion of recognition of new competencies. If we admit to broaden the spectrum of competencies of the Judicial Inspection, we opt for an internal reorganization of this institution of control. First of all, it is necessary to *increase the number of judicial inspectors*, its composition of 5 members under old provisions [26, p.3.1] and of 7 member under the current provisions [21, art.7¹ par.(1)] being insufficient for exercising their powers in an qualitative and efficient manner (taking in consideration that the new Regulations entitle the Judicial Inspection with more competencies).

Secondly, we recommend *to create a new position by that of the judicial inspector – the position of a judicial inspector of investigation*, in order to strengthen the functional capacity of the Judicial Inspection. The identity of these persons should be confidential and they should activate in the Judicial Inspection under a coded form. Their role should be reflected in detecting the improper conduct of certain judges or the court staff, evident malfunction in organizational activity of courts, risk corruption factors in real (and not simulated) circumstances.

Setting up the position of the judicial inspector of investigation corresponds to European standards in the field of prevention of illegal behavior that represents threat or harm to the public interest. To be a whistleblower and to report or disclose information on acts and omissions that represent a threat or harm to the public interest corresponds to the letter and the spirit of law, if the right of private life, freedom of expression and personal data are respected. Whistleblowers must have particular legal protection and guarantees and should be entitled to have the confidentiality of their identity maintained. The State should ensure conditions to stimulate disclosing information on acts and omissions that represent a threat or harm to the public interest, inclusively to create, where necessary, appropriate structures to achieve the final purpose [25, p.18, 21, 28].

In this order of ideas, establishing the position of judicial inspector of investigation is a necessity in the reality of the Republic of Moldova.

We emphasize that the activity of the judicial inspectors of investigation should be regulated by law, very strictly, to be sure that their status, the methods of activity, the limits of intervention through monitoring, their responsibilities are clearly established. The judicial inspec-

tors of investigation should execute only the dispositions of the chief judicial inspector – the one who should know their identity and have decisional abilities in the mentioned field, in this manner avoiding any suspicions of activities arbitrarily exercised. The first mentioned should not have the right to initiate verifications, decisional capacity being recognized only to the chief of the Judicial Inspection and/or to the President of the Superior Council of Magistracy [23, p.51].

The judicial inspectors of investigation should report to the chief of the Judicial Inspection about the observed or established circumstances. The last one should decide on the actions, methods and terms compulsory for the judicial inspectors (not for the judicial inspectors of investigation) to continue the additional verification of presented information. It is important to mention that the dates observed or established by the judicial inspector of investigation should not have probative value. The value of accumulated data should have an operative character: they should not be able to prove the accountability of judges in the absence of evidence administrated under the normative framework that would confirm the veracity of the information [23, p.51].

The information should become evidence only as a result of additional verification, planned, ordered and coordinated by the chief of the Judicial Inspection. However, if the judicial inspectors of investigation find out elements of a crime component, inclusively elements of corruption acts in the conduct of a certain judge or in the conduct of a representative of the court's staff – this information being additionally verified and confirmed – the Judicial Inspection (through the chief judicial inspector or through the President of Superior Council of Magistracy) should be obligated by law to notify the competent authorities that should continue the investigation specific to criminal procedure. In such cases, the involvement of criminal investigation bodies, inclusively of the National Anticorruption Center, should be inevitable, necessary and useful.

Areas of intervention. Taking in consideration the above, we will enumerate the areas where the Judicial Inspection can intervene, performing verification activities, additional to the competencies established in p. 5.1 of the Regulation on the organization, the competence and the functioning of the Judicial Inspection [27, p.5.1]. We are talking, in perspective, about an interpretation in a different manner of *the competence of examination by the Judicial Inspection of the notification of rejection of the candidates proposed by the Superior Council of Magistracy for the position of judge, court deputy chair or chair, issued by the President of the Republic of Moldova or by the Parliament of the Republic of Moldova*. In the current legal situation these notifications are communicated to the concerned judge, who must present explanations on circumstances indicated in the notice. The notifications are transmitted to the chief judicial inspector that will appoint the judicial inspector to execute it. The judicial inspector verifies the circumstances indicated in the notice within 15 days from the day of receipt to execution and makes the informative note to present to the Superior Court of Magistracy for examination [27, p.8.1-8.3]. Since the adoption by the Constitutional Court of the Republic of Moldova of the Judgment no. 32 of 05 December 2017, the Judicial Inspection

had to expose, in a great measure, on the dates presented by the Security and Intelligence Service, on the existence or the absence of risk factors in the judges' conduct. The concerned judge had the right to give explanations on the indicated circumstances and didn't have the possibility to examine all the documents or the evidence about the existence of any alleged risk factors, due to the rules of strict confidentiality specific to the activity of Security and Intelligence Service as a control body. So, the judge could not prepare a qualitative defense and the Judicial Inspection, as the primary institution involved in the process of analysis and control within the Judiciary, could not exercise objective and complex verifications.

So, we consider it would be correct to entitle the Judicial Inspection with the competence of verification of the correspondence of the office-holders with the public function – referring to judges and candidates for the position of judge – in the same measure these verifications were exercised by the Security and Intelligence Service. The basic difference should be the fact that the first named is part of the Judiciary and not part of other two state powers, in respect of the principles of separation of powers and the independence of Justice. In such a manner, the Judicial Inspection may be able to gather sufficient evidence to prove the existence or the absence of risk factors in the conduct of a certain judge – inclusively by the help of the judicial inspectors of investigation - and present motivated informative notes to the Superior Council of Magistracy. The concerned judge may also have access to all the accumulated information and prepare a good defense.

There is one more area in which the Judicial Inspection could intervene, through normative recognition – that of *professional integrity assessment of judges*. The involvement of the National Anticorruption Center can be reduced or maintained only in cases of reasonable suspicions of committing acts of corruption by a certain judge. We justify these proposals through similar reasons raised when writing about the unconstitutionality of the provisions on verification of office-holders, referring to judges and candidates for the position of judge. The National Anticorruption Center is a representative of the executive power and a criminal investigative body, so that its intervention in acts of verification of judges – as part of the Judiciary – must be limited to its functional competencies, in the area of prevention and fight against corruption and with the respect of the principles of separation of powers and the independence of Justice.

Rules and exigencies. If we admit the application in practice of the proposals mentioned above, we consider important to underline the necessity to set up special rules and exigencies for the Judicial Inspection in exercising verifications of judges. The Judicial Inspection should have access to different State Registries, archives and data base held by public and private figures if the information refers to the concerned judge or the candidate for the position of judge. Of course, the request for information should be *motivated* and the dates should refer only to the circumstances exposed in the motivation part. The information should be used and processed under the Law on personal data protection [15].

Also, the involvement of judicial inspectors of investigation in provocation activity should be prohibited; oth-



erwise, there is the risk that they become agent provocateur (inciting agent). These are involved in criminal proceedings, their activity being equivalent to encouraging a crime. Also, it is inadmissible to use judicial inspectors of investigation in encouraging acts that may constitute disciplinary offence committed by a judge (all the more in encouraging criminal acts).

Explanatory notes. As we mentioned above, we reiterate the possibility to entitle the Judicial Inspection with specific competencies – to verify office-holders, referring to judges and candidates for the position of judge and to assess professional integrity of judges – diminishing the role of the Security and Intelligence Service and of the National Anticorruption Center in these proceedings. The two named institutions, both of them representing the executive power, should intervene only within their functional competencies (The Security and Intelligence Service – in cases of any elements of attempt to state security in a certain judge's conduct, and the National Anticorruption Center - in cases of reasonable suspicions of committing acts of corruption by a certain judge), in this manner contributing to an efficient realization of the principle of separation and collaboration of powers.

Another explanatory note refers to the degree of collaboration between the Judicial Inspection and the National Integrity Authority of the Republic of Moldova in the area of corresponding of judges to integrity exigencies, under the Law of integrity [11]. The National Integrity Authority is a public authority, independent of other public organizations, legal entities, public or private figures, that activates as a single structure at the national level and ensures the integrity in the process of exercising the public function or the function with high responsibilities and in prevention of corruption, through the control of the income and personal interests and the respect of the legal regime of conflicts of interests, the incompatibilities, restrictions and limitations [14, art.2 par.(1), art.5]. Judges are required to submit to the National Integrity Authority declarations of income and personal interests every year, these ones being transparent [13, art.5 par.(3), art.6 par.(1)].

Simultaneously, if there are nonconformities in judges' declarations of income and personal interests or in the legal regime of conflicts of interests, incompatibilities, restrictions and limitations, should be initiated additional investigations by the Superior Council of Magistracy (directly or by the Judicial Inspection or the Disciplinary Board), by the National Anticorruption Center or the Security and Intelligence Service, the last ones intervening only in cases of serious violations of law, containing elements of possible crimes. Consequently, we observe the necessity to strengthen efficient mechanisms of collaboration between more institutions, with an eye to promote professional integrity of judges and institutional integrity of courts. The indispensability of the named form of collaboration is determined by law, the Law of integrity establishing that the efficiency of the process of cultivating the climate of the institutional and professional integrity is verified by the chiefs of public entities, anticorruption authorities (National Anticorruption Center, Security and Intelligence Service, National Integrity Authority), by the civil society and mass-media [11, art.25 par.(1)]. The cooperation of the Superior Council of Magistracy and of

the Judicial Inspection with the mentioned institution is absolutely useful and necessary, in order to promote a climate of institutional and professional integrity among the judges, through joint and consolidated effort.

Conclusions. Examining the issue on the necessity to verify the public-office holders, referring to judges and candidates for the position of judge and to assess the mentioned subjects through professional integrity, we consider that we argued, at least in a theoretical perspective, the opportunity of direct involvement of the Judicial Inspection created by the Superior Council of Magistracy in these forms of verification. Such a situation would guarantee the fact that the named verifications and assessments won't attempt to the independence of the Judiciary, being a requirement of a consolidated Justice. This solution is explained through the position and the role of the Judicial Inspection within the Judicial Authority. Being a part of the Judiciary and a specialized body within the Superior Council of the Magistracy, the Judicial Inspection is the most appropriate institution to verify the mentioned subjects, in this way contributing to exercising a good self-administration of Justice and, consequently, to the consolidation of Justice. Also, we do not promote a total exclusion of the National Anticorruption Center and the Security and Intelligence Service from the proceedings of assessment of professional integrity of judges and of verification the public-office holders (referring to judges and candidates for the position of judge). A professional collaboration between the Judicial Inspection and the named above institutions is advisable, everyone exercising verifications in areas specific to their competencies: National Anticorruption Center – in the field of prevention and fight against corruption among judges, the Security and Intelligence Service – in the field of state security and the Judicial Inspection – in the field of acceptance, exercising and promotion of judges and candidates for the position of judge.

It is advisable to promote the cooperation between the Judicial Inspection and the National Integrity Authority, in order to strengthen professional integrity of judges and institutional integrity of courts.

In our opinion, reconsidering the functionality of the Judicial Inspection in the described way and the principle of its collaboration with the National Anticorruption Center, the Security and Intelligence Service and the National Integrity Authority would contribute to guarantee the independence of judges, the independence of the Judiciary as a whole and to consolidate the ability of self-administration of the Superior Council of Magistracy of the Republic of Moldova.

Bibliography:

1. Annex to the Law on the status of persons with high public responsibilities, no. 199 of 16.07.2010. In: *Official Gazette of the Republic of Moldova*, 05.10.2010, no. 194-196. In force from 05.10.2010.
2. Criminal Procedural Code of the Republic of Moldova, no. 122 of 14.03.2003. In: *Official Gazette of the Republic of Moldova*, 07.06.2003, no. 248-251. In force from 12.06.2003.
3. Decision on the application of transfer of judges from the Economic District Court and Military Court under the Law on the reorganization of courts,

- no.116/6 of 14 February 2017. <http://csm.md/files/Hotaririle/2017/06/116-6.pdf> (visited 06.06.2019).
4. Decision on the information of the President of the Republic of Moldova and the Informative Note of the Judicial Inspection referring to the rejection of the application of the judge Oleg Melniciuc of appointment as deputy chief of Chisinau Court and the application of the magistrate for the repeated proposal of appointment on the required position, no. 291/15 of 02 Mai 2017. <http://csm.md/files/Hotaririle/2017/15/291-15.pdf> (visited 06.06.2019).
 5. Decision on the Informative Notes of the Judicial Inspection subordinated to the Superior Council of Magistracy on the examination of advisory notices of the Security and Intelligence Service referring to certain judges and to a candidate for the position of judge, no. 81/5 of 13 February 2018. <http://csm.md/files/Hotaririle/2018/05/81-5.pdf> (visited 06.06.2019).
 6. Decision on the proposal of the President of the Plenary session of the Superior Court of Magistracy, Victor Micu, on the examination in a closed session of the advisory notices of verification certain candidates for the position of judge, no. 270/13 of 11 April 2017. <http://csm.md/files/Hotaririle/2017/13/270-13.pdf> (visited 06.06.2019).
 7. Decision on the proposal of the President of the Plenary session of the Superior Court of Magistracy, Victor Micu, on the examination in a closed session of the advisory notice of verification a certain candidate for the position of judge, no.22/1 of 10 January 2017; <http://csm.md/files/Hotaririle/2017/01/22-1.pdf> (visited 06.06.2019).
 8. Decision on the proposal of the President of the Plenary session of the Superior Court of Magistracy, Victor Micu, on the examination in a closed session of the advisory notices of verification certain candidates for the position of judge, no. 781/34 of 28 November 2017. <http://csm.md/files/Hotaririle/2017/34/781-34.pdf> (visited 06.06.2019).
 9. Judgement of the Constitutional Court of the Republic of Moldova on constitutional review of certain provisions of the Law no. 325/2013 on professional integrity testing (Application no. 43a/2014), no.7 of 16 April 2015. In: *Official Gazette of the Republic of Moldova*, 15.05.2015, no. 115-123.
 10. 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.
 11. Law of integrity, no. 82 of 25.05.2017. In: *Official Gazette of the Republic of Moldova*, 07.07.2017, no. 229-243. In force from 07.07.2017.
 12. Law on assessment of institutional integrity, no. 325 of 23.12.2013. In: *Official Gazette of the Republic of Moldova*, 26.08.2016, no. 277-287. In force from 14.02.2014.
 13. Law on declaration of the income and personal interests, no. 133 of 17.06.2016. In: *Official Gazette of the Republic of Moldova*, 30.07.2016. In force from 01.08.2016.
 14. Law on National Integrity Authority, no.132 of 17.06.2016. In: *Official Gazette of the Republic of Moldova*, 30.07.2016, no. 245-246. In force from 01.08.2016, except art. 9-13, 18 and art. 44 par. (2), in force from 30.07.2016.
 15. Law on personal data protection, no. 133 din 08.07.2011. In: *Official Gazette of the Republic of Moldova*, 14.10.2011, no. 170-175. In force from 14.04.2012.
 16. 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. In force from 01.01.2015.
 17. Law on the amendment and completion of certain legislative acts, no. 326 of 23.12.2013. In: *Official Gazette of the Republic of Moldova*, 25.02.2014, no. 47-48. In force from 25.02.2014.
 18. Law on the amendment and completion of certain legislative acts, no. 102 of 21.07.2016. In: *Official Gazette of the Republic of Moldova*, 12.08.2016, no. 256-264. In force from 12.11.2016.
 19. Law on the national Anticorruption Center, no.1104 of 06.06.2002. In: *Official Gazette of the Republic of Moldova*, 05.10.2012, no.209-211. In force from 05.10.2012.
 20. Law on the status of judge, no.544-XIII of 20 July 1995. In: *Official Gazette of the Republic of Moldova*, 22.01.2013, no. 15-17. In force from 22.01.2013.
 21. Law on the Superior Council of Magistracy, no. 947 of 19.07.1996. In: *Official Gazette of the Republic of Moldova*, 22.01.2013, no. 15-17. In force from 22.01.2013.
 22. Law on verification of office-holders and candidates for public office, no.271-XVI of 18.12.2008. In: *Official Gazette of the Republic of Moldova*, 24.02.2009, no. 41-44. In force from 24.05.2009.
 23. Negru A., Creciun N. Reconsidering the control function of the Judicial Inspection. In: *Studia Universitatis Moldaviae*, no.3(113), 2018, CEP USM, Chisinau. http://studiamsu.eu/wp-content/uploads/05.p.47-56_113.pdf (visited 06.06.2019).
 24. Opinion no. 789/2014 of 15 December 2014. Amicus Curiae for the Constitutional Court of the Republic of Moldova on certain provisions of the Law on professional integrity testing, adopted by Venice Commission at its 101st plenary session (Venice 12-13 December 2014). <http://www.constcourt.md/ccdocview.php?!=ro&tip=sesizari&docid=294> (visited 06.06.2019).
 25. Recommendation CM/Rec(2014)7 of the Committee of Ministers to member States on the protection of whistleblowers (Adopted by the Committee of Ministers on 30 April 2014, at the 1198th meeting of the Ministers' Deputies. https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805c5ea5 (visited 06.06.2019).
 26. Regulation on the organization, competence and functioning of the Judicial Inspection, approved by the Decision of the Superior Council of Magistracy no. 89/4 of 29 January 2013. In: *Official Gazette of the Republic of Moldova*, 31.05.2013, no. 119-121. In force from 31.05.2013. Abrogated at 18.02.2019.
 27. Regulation about the organization, competence and functioning of the Judicial Inspection, approved by the Decision of the Superior Council of Magistracy, no. 506/24 of 13.11.2018. In: *Official Gazette of the Republic of Moldova*, 18.01.2019, no. 13-21. In force from 18.01.2019.
 28. Report of activity of the Judicial Inspection for 2017; http://csm.md/files/RAPOARTE/2017/Raport_Inspectia_2017.pdf (visited 06.06.2019).

