

## CRITERIA FOR EVALUATING QUALITY AND EFFICIENCY OF THE JUDICIAL INSPECTION ACTIVITY

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**Introduction.** The value of the judicial inspection in carrying out the complex process of consolidating Justice is essential. Inasmuch as judicial inspection works are oriented, especially, towards improving the responsibility of judges and the efficiency of courts' activity, compliance of the activity of the judicial inspection with certain quality and efficiency criteria is required. The rationale is explained by the necessity to fit the mechanisms of good judicial self-governance, focused on the protection of judicial independence, as well as on guaranteeing of Human Rights, the members of the society being users of judicial public services.

**Criteria for evaluating quality and efficiency of the judicial inspection activity.** There are no universal, pre-established criteria for evaluating the performance of the judicial inspection, but they can be synthesized from a doctrinal perspective, considering the place and the role of the judicial inspection in the judicial system. So, we identify: *professional, operational and institutional* criteria.

**The professional criterion** refers to individual judicial inspectors and covers such aspects as: theoretical knowledge; practical experience; (self-)training; involving in didactic, scientific and research activities; integrity.

Candidates for the function of judicial inspector should be assessed through the prism of their *theoretical knowledge* and *practical experience*; they should demonstrate their professional interest in achieving the function.

*Continuous (self-)training* has an essential role in maintaining and improving the professionalism of judicial inspectors, as well as the professionalism of all the actors of Justice sector. The Consultative Council of European Judges (CCJE) stresses the desirability of arranging continuous judicial training in a way which embraces all

levels of the judiciary. Whenever feasible, the different levels should all be represented at the same sessions, giving the opportunity for exchange of views between them. It therefore recommends that the programs should take place in and encourage an environment, in which members of different branches and levels of the judiciary may meet and exchange their experiences and achieve common insights [1, para 37].

*The involvement of judicial inspectors in didactic, scientific and/or research activities* should be a matter-of-course tendency, in the context of knowledge management; the distribution of knowledge should become a culture of the organization (the concept of knowledge management is developed in an interesting manner by S. Taal, M. van der Velde, Mandy and P. Langbroek [2]).

*Professional integrity* is an inherent attribute for judicial inspectors. It is reflected in the peculiar tension between the professional character of every public servant and the external responsibility of his/her profession. Integrity, virtuosity in itself – at a professional level [3, p.77, 78], is not only a proof of a solid theoretical and practical background, but also of a high level of legal culture and consciousness.

*The operational criterion* refers to the overall activity carried out when exercising judicial inspection works and comprises such aspects as: recognition of the functional independence of the judicial inspection; exercising judicial inspection works in an independent and impartial manner; respect of judicial independence and of the *res judicata* authority; motivation of judicial inspection acts.

*The operational autonomy* is indispensable for the efficient functioning of the judicial inspection body. In the context, establishing at the legal normative level of the independence of the national Judicial Inspection (of the Republic of Moldova) [4, art.7<sup>1</sup> para (1)] has been a crucial moment in enhancing its capacities, as a body with competencies of analysis, verification and control in particular areas of manifestation of Justice.

*Carrying out the inspection works in an independent and impartial manner* results from the fact that impartiality itself is an invariable element of the quality of Justice [5, p.132].

*The respect of judicial independence and of the res judicata authority* are fundamental principles of the judicial inspection activity. Measuring the quality of Justice through judicial inspections does not intend to enter into the merits of decisions and does not claim to invent strange algorithms that are able to measure the intrinsic quality of the decisions taken by a magistrate [6, para 20, 21], independence being the fundamental requirement that enables the judiciary to safeguard democracy and human rights [7, para 10].

The approach on judicial inspection performance involves the adoption of *motivated inspection acts*, which may have a substantial contribution in improving the image and the credibility of the judicial inspection especially and of judicial self-governance in general. And, „on the whole, a high degree of quality of the judiciary is reflected by a high degree of public trust in the judiciary” [8, p.5].

***The institutional criterion*** refers, particularly, to the activity of the judicial inspection body and includes such aspects as: composition; transparency; communication policies and strategies.

Regarding *the organic composition of the judicial inspection*, a mixed composition is recommended: judges and representatives of the civil society should be members; judges should have a substantial representation [9, para 63]. Such a composition fits the concept of the system of self-control of quality, efficiency and incorruptibility specific to the activity of Justice [10, p.23] and contributes to emphasizing interdisciplinary scientific research, which ascending role characterizes the conditions of the global society [11, p.37].

*Transparency* is an indispensable criterion of the quality and efficiency of the judicial inspection activity and its connection with public trust in the Judiciary is very strong. Though a great part of the inspection activity is and must be confidential, in order to ensure increased legal protection of judges (for instance, at initial stages of disciplinary proceedings [12, para 17]), certain aspects should be presented to the public. The publication of acts of control, of plans and reports of activity, the organization of the audience for members of the society are important elements of the transparency.

In the same order of ideas, special attention should be paid to the reinforcement of public trust in the Judiciary. There is a great variety of means of communication (press release, press conference, interview, written responses to written questions, websites, social media, conferences, debates etc.). An appropriate communication also helps reinforcing – or restoring – citizens' trust in judicial institutions, showing that the institutions and their members defend the general interest and ensure that decisions are taken within the limits of the law and within reasonable time-frames [13, para 2, 4.2-4.10].

**As a conclusion**, we consider that compliance with the enounced criteria (professional, operational, institutional) – without pretending this being an exhaustive list – may contribute to the streamlining of the judicial inspection activity and to the improvement of the image and the credibility of the judicial inspection body in the context of sustainable development of Justice as a public service.

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