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**THE AXIOLOGY OF THE JUDICIAL INSPECTION  
IN STREAMLINING THE ACTIVITY OF THE JUDICIAL  
AUTHORITY**

**551.01 - GENERAL THEORY OF LAW**

Summary of the PhD thesis in law

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## CONCEPTUAL LANDMARKS OF THE RESEARCH

### **Actuality of the topic**

Human rights and freedoms are inherent values for the vitality of the rule of law in conditions of a democratic governing regime. Ensuring good governance is an exigency to the public service, centered on satisfying human needs. Justice as a state power and a public service must fit the quality and efficiency criteria, so that the person feel protected from the viewpoint of legal guarantees regarding his/her rights and interests.

Currently, the national justice is facing serious credibility issues, public perception of judicial corruption and of the inefficiency of judicial procedures being quite accentuated. This state of facts requires the adoption of certain measures, in order to reform the justice sector. The reform, in its turn, must focus on the governance and on the self-governance of the judiciary, considering the organization and the functioning of the judicial system as a whole (judges, courts, bodies of self-administration). The decisive role in ensuring good judicial governance belongs to judicial self-administration bodies, which must promote, through their activity, the culture of human rights, the culture of independence, integrity and incorruptibility of the judicial authority. The national judicial inspection – a specialized body of the Superior Council of Magistracy, is an exponent of judicial self-governance. Having competences of analysis, verification and control in particular areas of manifestation of justice (judicial ethics and discipline, organizational activity of courts, other segments of judges` career) and enjoying operational autonomy, it has a substantial role in ensuring good judicial self-governance.

The actuality of the approach on the axiology of the judicial inspection in the context of streamlining the activity of the judicial authority activity is explained through the prism of direct relationship of the judicial inspection body with fundamental values of the judiciary (independence, impartiality, integrity, incorruptibility, legal culture, legal consciousness, culture of human rights, fairness, judicial ethics, judicial deontology, judicial discipline), as well as with negative phenomena, liable to undermine these values (manifestations that do not correspond to judicial ethics, deontology and discipline, intimidation and pressure on judges, public attacks on justice, judicial corruption, lack of judicial integrity). The judicial inspection is able to contribute, through its activity, to minimize the effects of negative phenomena that may affect the judiciary and its values, with noticeable impact on the efficiency of the national justice.

Enhancing the efficiency of the judicial authority activity is a constant objective on the agenda of national public authorities responsible for the reformation of the justice sector. The decisive role in this process belongs to judicial self-governance.

The subject on streamlining the activity of justice is of interest not only in relation with the legal system of the Republic of Moldova. International entities with vast experience in administering justice are looking for various and complex methodologies of measuring judicial quality, efficiency and performance. It is a segment of increased interest for the *European Commission on the Efficiency of Justice (CEPEJ)*, which has published relevant documents as: Checklist for promoting the quality of justice and the courts<sup>1</sup>, intended for the evaluation of the quality of national judicial systems; Measuring the Quality of Justice<sup>2</sup>, the quality of justice including key-aspects of the delivery of judicial services. CEPEJ expressly reminds the involvement of judicial inspections in measuring the quality of justice, based on `data collected periodically through the systems for statistical measurement`<sup>3</sup>.

We specify that not all legal systems have judicial inspections. At the same time, in the legal systems where such entities exist, they have different names and different competences. For these reasons, in a generic approach: 1) by judicial inspection shall be meant the `disciplinary commission`, part of the judicial self-governing system, but `different from the members of the Council for the Judiciary`, entrusted with the right to deal with `disciplinary procedures` (Consultative Council of European Judges, CCJE)<sup>4</sup>; 2) judicial inspections may intervene in the process of `[m]easuring the quality of justice [...] through the systems for statistical measurement`, through identification and analysis of `areas of quality within the «production process»` in judicial institutions (European Commission for the Efficiency of Justice, CEPEJ)<sup>5</sup>.

In the light of these conceptual approaches, the judicial inspection activity circumscribes the purposes and the methodologies enunciated by the European Commission for the Efficiency of Justice (CEPEJ) and by the *International Consortium for Court Excellence* too (in International

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<sup>1</sup> Checklist for promoting the quality of justice and the courts [online]. European Commission for Efficiency of Justice (CEPEJ), Strasbourg, 2008. [cited 20.12.2020]. Available: <https://rm.coe.int/european-commission-for-efficiencyof-justice-cepej-checklist-for-promo/16807475cf>

<sup>2</sup> Measuring the Quality of Justice [online]. European Commission for Efficiency of Justice (CEPEJ), Strasbourg, 2016, pp. 14, 15 [cited 20.12.2020]. Available: <https://rm.coe.int/european-commission-for-the-efficiency-of-justice-cepej-measuring-the-/1680747548>

<sup>3</sup> Measuring the Quality of Justice [online]. European Commission for Efficiency of Justice (CEPEJ), Strasbourg, 2016, pp. 20 [cited 20.12.2020]. Available: <https://rm.coe.int/european-commission-for-the-efficiency-of-justice-cepej-measuring-the-/1680747548>

<sup>4</sup> Opinion no. 10 (2007) of the Consultative Council of European Judges (CCJE) to the attention of the Committee of Ministers of the Council of Europe on the Council for the Judiciary at the service of the society [online]. Strasbourg, 23.11.2007, pp. 64. [cited 20.12.2020]. Available: <https://wcd.coe.int/ViewDoc.jsp?p=&id=1254135&Site=COE&direct=true>

<sup>5</sup> Measuring the Quality of Justice [online]. European Commission for Efficiency of Justice (CEPEJ), Strasbourg, 2016, pp. 20 [cited 20.12.2020]. Available: <https://rm.coe.int/european-commission-for-the-efficiency-of-justice-cepej-measuring-the-/1680747548>

Framework for Court Excellence, second edition<sup>6</sup>; International Framework for Court Excellence, third edition<sup>7</sup>; Global Measures of Court Performance<sup>8</sup>).

Although there are recommendations, extensive and reasoned researches in the field of detection of the most efficient methods to enhance judicial quality and efficiency, so far universal methodologies that operate unequivocally and miraculously in all legal systems have not been invented. So, the actuality of the topic resides in the necessity to identify certain directions to streamline the activity of the judiciary in the national reality, through involving the judicial inspection in this process.

### **Importance of the approached issue**

The investigation of the topic on the contribution and the axiology of the judicial inspection in the context of streamlining the activity of the judicial authority is a necessity in conditions of the national legal system. Independence of justice is a value expression of the rule of law. Responsibility of justice is a value expression of the rule of law too. The judicial inspection body is an exponent of judicial self-governance – independent from a functional viewpoint – that ensures the balance between judicial independence and judicial responsibility, through activity of analysis, verification and control in specific areas of manifestation of justice. The importance of the elucidated issue consists in the fact that independence, impartiality, responsibility, integrity, quality and efficiency of justice are not privileges of the judicial power; these are landmarks of the rule of law, where the person, his/her rights and freedoms are fundamental values. Justice is a public service and must meet the criteria of accessibility, transparency, quality, fairness, so that individuals may effectively benefit from the right of access to justice and the right to a fair trial.

### **Description of the situation in the field of research**

Examining the scientific papers of the recent period at national and international level, we notice a great number of valuable studies approaching the justice phenomenon in extensive and various manifestations, as well as a lack of complex investigations focused directly on the judicial inspection institution and its relationship with the judiciary. In the Republic of Moldova certain aspects regarding the organization and the functioning of the judicial inspection have been

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<sup>6</sup> International Framework for Court Excellence [online]. International Consortium on Court Excellence. National Center for State Courts. 2<sup>nd</sup> Edition, March 2013, pp. 3.1 [cited 20.12.2020]. Available:

[http://www.courtexcellence.com/\\_data/assets/pdf\\_file/0013/7312/the-international-framework-2e-2014-v3.pdf](http://www.courtexcellence.com/_data/assets/pdf_file/0013/7312/the-international-framework-2e-2014-v3.pdf)

<sup>7</sup> International Framework for Court Excellence [online]. International Consortium on Court Excellence, 3<sup>rd</sup> Edition, May 2020, 48 p. [cited 20.12.2020]. Available:

[http://www.courtexcellence.com/\\_data/assets/pdf\\_file/0015/53124/The-International-Framework-3E-2020-V2.pdf](http://www.courtexcellence.com/_data/assets/pdf_file/0015/53124/The-International-Framework-3E-2020-V2.pdf)

<sup>8</sup> Global Measures of Court Performance [online]. International Consortium for Court Excellence, Melbourne, 2<sup>nd</sup> Edition, 2018, pp. 6 [cited 20.12.2020] Available:

[http://www.courtexcellence.com/\\_data/assets/pdf\\_file/0021/7617/global-measures-pre-publication-sep-2018.pdf](http://www.courtexcellence.com/_data/assets/pdf_file/0021/7617/global-measures-pre-publication-sep-2018.pdf)

analyzed by Alexandru Cocirta<sup>9</sup>. Certain authors – in the Republic of Moldova and Romania – mention about the judicial inspection but their studies are focused on other research directions (for instance: Alexandru Arseni and Constantin Rosca<sup>10</sup>; Violeta Cojocaru<sup>11</sup>; Cristi Danilet<sup>12</sup>). For the comparative investigation of the subject are relevant the works of: Ioan Garbulet<sup>13</sup>, Stefaan Voet and Marcel Storme<sup>14</sup>; Ronald D. Rotunda<sup>15</sup>. Other scientific papers on the topic of the organization and the functioning of the judicial inspection body and its value for the judicial system have not been found out neither at national level, nor in the context of other legal systems. In such circumstances, the axiology of the judicial inspection in streamlining the activity of the judicial authority is examined and appreciated as a novation for the national doctrine, the research being focused on the analysis of the organization and functioning of the judicial inspection, as well as on the argumentation of its value in enhancing quality and efficiency of justice.

### **Identification of the scientific issue**

*The scientific issue proposed for examination in the present work resides in the demonstration of the strategic value of the judicial inspection body, as an indispensable element of the judiciary, fact that has generated the clarification of the place, the role, the composition and of organizational and operational principles specific for the named institution, in order to direct*

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<sup>9</sup> COCÎRȚĂ, Alexandru. *Reformarea justiției în contextul implementării Planului de Acțiuni UE-Moldova [Reformation of justice in the context of implementation of the EU-Moldova Action Plan]* [online]: Chișinău, Arc, 2009, 128 p. [cited 20.12.2020]. ISBN 978-9975-61-526-6. Available: <http://www.e-democracy.md/files/alexandru-cocirta-reforma-justitiei.pdf>

<sup>10</sup> ARSENI, Alexandru, ROȘCA, Constantin. Consiliul Superior al Magistraturii veritabil garant al independenței puterii judecătorești: reglementări legale și abordări doctrinare [Superior Council of Magistracy genuine guarantor of the independence of the judicial power: legal provisions and doctrinal approaches]. In: *Revista Națională de Drept*. 2014, nr. 1(159), pp. 13-19. ISSN 1811-0770.

<sup>11</sup> COJOCARU, Violeta. Corelația dintre răspunderea disciplinară și morală a magistratului [Correlation between the disciplinary liability and morality of judges]. In: *Revista Institutului Național al Justiției* [online]. 2016, no.1(36), pp. 29-32 [cited 20.12.2020]. ISSN 1857-2405. Available: [https://www.inj.md/sites/default/files/17/29\\_32\\_Corelatia%20dintre%20raspunderea%20disciplinara%20si%20moral%20a%20magistratului\\_0.pdf](https://www.inj.md/sites/default/files/17/29_32_Corelatia%20dintre%20raspunderea%20disciplinara%20si%20moral%20a%20magistratului_0.pdf)

<sup>12</sup> DANILET, Cristi. Consiliul Superior al Magistraturii – competențe nelegale în domeniul deontologiei magistraților [Superior Council of Magistracy – illegal competences in the area of magistrates' deontology]. In: *Revista Forumul Judecătorilor* [online]. 2009, no.1, pp. 41-50 [cited 20.12.2020]. ISSN 2065-8745. Available: <http://www.forumuljudecatorilor.ro/wp-content/uploads/Art-7-forumul-judecatorilor-nr-1-2009.pdf>

<sup>13</sup> GARBULEȚ, Ioan. Procedura sancționării disciplinare a magistraților. I. Etapa verificărilor prealabile [Procedure of disciplinary sanctioning of magistrates. I. The stage of preliminary verifications]. In: *Revista Universul Juridic* [online]. 2017, no. 2, pp. 5-33 [cited 20.12.2020]. ISSN 2393-3445 Available: [https://www.universuljuridic.ro/wp-content/uploads/2017/03/01\\_Revista\\_Universul\\_Juridic\\_nr\\_02-2017\\_PAGINAT\\_BT\\_I\\_Garbulet.pdf](https://www.universuljuridic.ro/wp-content/uploads/2017/03/01_Revista_Universul_Juridic_nr_02-2017_PAGINAT_BT_I_Garbulet.pdf)

<sup>14</sup> VOET, Stefaan, STORME, Marcel. Experiența reformei judiciare instituționale în Belgia: noile organe care administrează sistemul judiciar [Experience of the judicial institutional reform in Belgium: new bodies that administer the judicial system]. In: *Revista Forumul Judecătorilor* [online]. 2016, no. 1, pp. 25-41 [cited 20.12.2020]. ISSN 2065-8745. Available: <http://www.forumuljudecatorilor.ro/wp-content/uploads/art-3.pdf>

<sup>15</sup> ROTUNDA, Ronald D. Judicial Transparency, Judicial Ethics and a Judicial Solution: An Inspector General for the Courts. In: *Revista Forumul Judecătorilor* [online]. 2011, nr.2, pp. 16-34 [cited 20.12.2020]. ISSN 2065-8745. Available: <http://www.forumuljudecatorilor.ro/wp-content/uploads/Art-2-Forumul-judecatorilor-nr-2-2011-2.pdf>

*the particular activity of analysis, verification and control to streamlining the activity of the judicial authority, in the context of an independent and consolidated justice.*

### **Research hypothesis**

As a result of formulating the scientific problem proposed for examination, we launch for verification the following research hypothesis: the activity of analysis, verification and control exercised by the judicial inspection body in particular areas of manifestation of justice may be capitalized, in the sense of directing it towards streamlining the activity of the judicial authority, in the context of an independent and consolidated justice, through the clarification of the place, the role, the composition and of organizational and operational principles of the named body.

### **Purpose and objectives of the thesis**

*The purpose of the paper* consists in the realization of a complex research of the judicial inspection institution and of reasoning its value in the process of streamlining the activity of the judicial authority, in the dynamic of a consolidated justice, specific for a democratic governing regime.

#### ***The objectives of the paper are:***

- to clarify the place of the judicial inspection body in the judicial system;
- to interpret the role of the judicial inspection body in streamlining the activity of the judicial authority;
- to demonstrate the substantial composition of the judicial inspection body;
- to distinguish the status of judicial inspectors in the process of carrying out their attributions;
- to synthesize the peculiarities of the competences of the judicial inspection body;
- to standardize principles of activity specific for the judicial inspection body;
- to justify the value of the judicial inspection body in streamlining the activity of the judicial authority.

### **Synthesis of the research methodology and justification of the chosen research methods**

For the most part, the research is focused on the *analysis* of the doctrine and of pertinent legal normative regulations, in order to realize a qualitative *synthesis* regarding the organization and the functioning of the judicial inspection and in the possibility to direct operations of analysis, verification and control to streamlining the activity of the judicial authority. Certain general findings – referring to the phenomenon of judicial corruption perception, judicial integrity, the degree of communication between different actors of the judicial system etc. – have been noticed as a result of direct *observations*, in the context of daily professional activity. We have used *the*



*comparative method* in the process of examination of the concept and the essence of the judicial inspection institution in distinct legal systems. The same method has demonstrated its validity in the analysis of national legal normative regulations, by comparison of the phenomenon in evolution. *The logical method* (by capitalizing induction and deduction) and *the hermeneutic method* have proved their usefulness in the process of interpretation of national positive law, especially in the event of the need to address legal gaps. The *heuristic method* (analogy, generalization, particularization, questioning, reconsidering issues, demonstrative reasoning) has been prudently used, in attempts to launch reasoned proposals on reconsidering the control function of the judicial inspection and on changing accents in the process of reformation of the national justice sector (highlighting the fundamental role of professional and ethical training of future lawyers, of judicial integrity, professional legal culture and legal consciousness, assumed legal responsibility, in contrast with strategies of enhancing legal accountability and legal sanction in relation with representatives of the judiciary). The *scenario*, as a proceeding of verification of the hypothesis and substantiating the conclusions, has proved its efficiency in the attempt to design a so-called model of judicial inspection body.

#### **Scientific novelty and originality of the paper**

Given the low degree of doctrinal research of the topic on the organization and the functioning of the judicial inspection body and its interaction with the judiciary, we notice there are enough areas that need advanced investigation, through manifestation of creativity and originality. As a novation, in the content of the thesis a so-called model of the judicial inspection body has been designed, through elucidation of organizational and operational peculiarities inherent for such a body of judicial control. On the same note, a proposal to reconsider the control function of the judicial inspection has been launched, by establishing the function of investigative judicial inspector for carrying out operative activity. Arguments may be useful in the process of reformation of the judicial system, in order to streamline the activity of national justice and to realize the final objective of the reform – building and maintaining a consolidated and self-sufficient justice.

#### **Theoretical significance and applicative value of the paper**

The solution of the scientific issue launched at the elaboration of the thesis was possible to find due to the examination of a large volume of information, contained in scientific papers of distinguished authors from the Republic of Moldova and other states. As a result, we succeeded in: the conceptualization of the degree of relationship between the judicial inspection body and the magistracy and its values; the reasoning of the substantial composition of the judicial inspection body; the evaluation of the level of functional independence the judicial inspection should enjoy;

the detection of the areas that need legal-normative completion or improvement; the reconsideration of the control function of the judicial inspection etc.

### **Applicative value of the thesis**

The content of the thesis is centered on the applicability of conclusions and recommendations, the organization and the functioning of the judicial inspection body – sometimes through redefining the capacities of the named control body. The launched opinions are argued through the prism of international standards in specific areas of manifestation of justice and may be considered in the process of reformation of the national justice sector, reformation that cannot bypass the segment of judicial self-government, of which the judicial inspection is part. The overall research is aimed at strengthening the responsibility mechanisms of the national judiciary, simultaneously respecting and guaranteeing judicial independence at the highest level.

### **Main scientific results submitted to support the thesis**

Main scientific results submitted to support the thesis are presented briefly, systematized, in conclusions and recommendations. Relevant arguments have been developed in the content of the thesis and, consistently, in scientific publications.

Certain scientific results have been presented for publication in the collections of national and international conferences, as: `Integration through research and innovation`, Moldova State University, 2016, 2017, 2018, 2019, 2020 editions; `Resizing democratic values in conditions of informational society`, Moldova State University, 2017; `Realities and perspectives of the national legal education`, Moldova State University, 2019; `State, Security and Human Rights in Conditions of Information Society`, Moldova State University, 2019, 2020 editions; `Prospects and Problems of Research and Education Integration into the European Area`, 2016, 2018, 2020 editions.

### **Implementation of scientific results**

In order to ensure an applicative character to scientific results obtained in the research process have been published several scientific papers on the topic of the thesis (in order of appearance): 1) `Modul de apreciere a categoriilor de adresări examinate de inspecția judiciară` [The way of appreciation of the types of complaints examined by the judicial inspection] – in Romanian (Creciun N., 2018); 2) `Reconceptualizarea funcției de control a inspecției judiciare` [Reconsidering the control function of the judicial inspection] – in Romanian (Negru A., Creciun N., 2018); 3) `Particular forms of evaluation and assessment of judges: between exigency of a consolidated justice and violation of justice independence` – in English (Creciun N., 2019); 4) `La protection juridique des juges poursuivis pénalement par des mécanismes d'autogouvernement judiciaire` [The legal protection of criminally prosecuted judges through mechanisms of judicial

self-administration`] – in French (Creciun N., 2020); 5) `Should the Judicial Inspection Body Care about Judicial Corruption? The Cases of Moldova and Romania` – in English (Negru A., Creciun N., 2020); 6) `Criterii de evaluare a calității și eficienței activității inspecției judiciare` [`Evaluation criteria of the quality and efficiency of the judicial inspection activity`], in Romanian (Creciun N., compartment in a collective monograph); 7) `The role of Court Presidents and of the judicial inspection body in strengthening the performance of the Judiciary. Functional interactions for achieving a common goal` - in English (Țurcanu R., Creciun N., 2021). The papers may be of interest for theorists and practitioners in the field of law, including from the perspective of usefulness of the arguments invoked in relation with the process of reformation of the justice sector of the Republic of Moldova. Additionally, they may be a relevant support for students, masters and doctoral students at Law Faculties who are interested in the subject approached.

### **Approval of results**

The thesis was elaborated and discussed within the Doctoral School of Legal Sciences, Moldova State University. The research results have been approved by the guiding commission from within the Doctoral School and the Public Law Department, Moldova State University.

**Publications on the topic of the thesis**– 18 (1 compartment in a collective monograph, 6 scientific papers, 6 communications in collections of scientific conferences, 5 summaries of communications in collections of scientific conferences).

### **Volume and structure of the thesis**

Structurally, the thesis consists of: annotation, introduction, four chapters, general conclusions and recommendations, bibliography. The total volume of the paper is of 241 pages (212 pages of basic text) and the bibliographical references lists 319 titles.

**Keywords:** judicial inspection, judicial authority, Council for the Judiciary, quality and efficiency of justice, judicial ethics and discipline, specialized control, consolidation of justice.

## CONTENT OF THE THESIS

*Introduction* consists of conceptual landmarks of the thesis regarding: the actuality and the importance of the investigated topic, the degree of research of the subject, purpose and objectives of the paper, the identification of the scientific problem proposed for solution, the research hypothesis launched for verification, the scientific novelty of the work, the synthesis of the research methodology and justification of the chosen research methods, the theoretical importance and the applicative value of the thesis, as well as the scientific support on the approval of results of the research.

*Chapter 1, Analysis of the situation regarding the value of the judicial inspection body in enhancing quality and efficiency of justice*, consists of two paragraphs and conclusions.

*The first paragraph – Research of scientific studies on quality and efficiency of justice and the role of the judicial inspection body in obtaining and strengthening these indicators* – is focused on the research of doctrinal approaches on quality, efficiency and performance of justice. The relevant doctrine has been a benchmark for direct investigation of the value of the judicial inspection body in streamlining the overall activity of justice. Legal doctrine does not offer unique definitions or interpretations on the significance of the quality, efficiency and performance of justice, the approaches varying by author, context, approached topic. Generally, they comprise aspects as: quality of judicial decisions, fair and independent judicial procedures, public judicial hearings, timeliness, quality of judicial systems, respect of the fair trial exigencies etc.

International structures, with extensive expertise activity in administration of justice, realize complex studies in order to elaborate certain methodologies, benchmarks for evaluating quality, efficiency and performance of justice, applicable in different legal systems, in relation with the activity of judges and the courts. For instance, *the European Commission for the Efficiency of Justice (CEPEJ)* recommends the evaluation of judicial quality and efficiency from the perspective of justice as a public service<sup>16</sup>. Similarly, *the International Consortium on Court Excellence* emphasizes the necessity to focus the courts` activity on the users of the judicial system, in the sense of guaranteeing fair judicial procedures and promoting the fundamental values of Justice: `equality before the law, fairness, impartiality, independence of decision-making,

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<sup>16</sup> Checklist for promoting the quality of justice and the courts [online]. European Commission for Efficiency of Justice (CEPEJ), Strasbourg, 2008, pp. 4-5 [cited 20.12.2020]. Available: <https://rm.coe.int/european-commission-for-efficiencyof-justice-cepej-checklist-for-promo/16807475cf>

competence, integrity, transparency, accessibility, timeliness, certainty<sup>17</sup>. Another international tool dedicated to strengthen the efficiency of justice – *therapeutic jurisprudence*, which tends to integrate into the «ordinary» legal arena, especially into criminal and juvenile justice<sup>18</sup>, requires from judges active involvement in judging cases, including by reconsidering the issues summarized in the essence of the case and even by showing empathy, in certain situations, so that the applicable law demonstrates its role of therapeutic agent and the judge – the role of active participant, capitalizer and coordinator of changes, from the perspective of the treatment of the litigants.

In order to achieve the purpose proposed at the elaboration of the thesis, that consists in the complex research of the judicial inspection institution and reasoning its value in the process of streamlining the activity of the judicial authority, in the dynamic of a consolidated justice, specific for a democratic governing regime, it is necessary to assess the extent to which judicial inspection works may contribute to enhancing quality and efficiency of justice, from the perspective of doctrinal approaches and pertinent international tools.

Given the above, we notice that universal definitions and concepts on quality, efficiency and performance of justice or universal methods of measuring them have not been invented, due to organizational and functional specifics of magistracy in different legal systems. Nevertheless, certain criteria of quality and efficiency of justice may be synthesized, both in relation with judges and the courts.

The judicial inspection body – in view of the attributions with which it is invested according to the legislation of the Republic of Moldova – is able to intervene on certain segments of streamlining the activity of the overall activity of the judicial authority (starting from the belief that judges' performance and the performance of courts cannot be analyzed and evaluated in dissociation). Thus, the dimensions on which the judicial inspection body could intervene are: verification of managerial activity exercised by the court's leadership; control of the activity of organizational compartments of courts; analysis of statistical data regarding the activity of judges and the activity of courts; monitoring and analysis of the quality of public services delivered to court users; estimation of the working climate in the court team, through the prism of communication between judges and the court staff; verification of compliance with the

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<sup>17</sup> International Framework for Court Excellence [online]. International Consortium on Court Excellence. National Center for State Courts. 2<sup>nd</sup> Edition, March 2013, pp. 2, 3.1.5 [cited 20.12.2020]. Available:

[http://www.courtexcellence.com/\\_data/assets/pdf\\_file/0013/7312/the-international-framework-2e-2014-v3.pdf](http://www.courtexcellence.com/_data/assets/pdf_file/0013/7312/the-international-framework-2e-2014-v3.pdf)

<sup>18</sup> WEXLER, David B., Getting Started with the Mainstreaming of Therapeutic Jurisprudence in Criminal Cases: Tips on How and Where to Begin [online]. In: *Revista Española de Investigación Criminológica*. 2016, vol.14, Arizona Legal Studies Discussion Paper, pp. 16-39. [cited 20.12.2020]. ISSN: 1696-9219. Available: <https://ssrn.com/abstract=2858589>

requirements of a fair trial; appreciation of judges` conduct through the prism of ethical, deontological and disciplinary norms etc.

In this connection, the value of judicial inspections may be demonstrated: in the area of the responsibility of judges and of the court staff – through the verification of petitions on judicial ethics, the verification and examination of complaints on judicial discipline; in the area of improving the organizational and the operational environment of judges – through the verification of organizational activity of courts; in the area of ensuring an increased legal protection for judges, in order to guarantee judicial independence – through the primary verification of the requests of the Prosecutor General on the initiation of criminal proceedings against judges.

In this way, the judicial inspection has an active and extremely important role in the complex process of consolidation of justice – concept established and developed in the national doctrine by the university professor, doctor habilitated in law, Andrei Negru<sup>19</sup>.

*The second paragraph – Legal-normative approaches on the place and the role of the judicial inspection body in the judicial system* – is dedicated to the examination of international, foreign and national legal normative provisions (the meaning of *national* is the legal system of the Republic of Moldova), that establish the place of the judicial inspection body within the judicial power and consecrate its role in streamlining the activity of justice.

Among international documents that refer to organizational and functional aspects specific to the judicial inspection body, with impact on the segment of enhancing judicial quality and efficiency, we mention: the European Charter on the statute for judges<sup>20</sup>, Opinion of the Consultative Council of European Judges (CCJE) no. 3 (2002) on the principles and rules governing judges` professional conduct, in particular ethics, incompatible behaviour and impartiality<sup>21</sup>, Opinion of the CCJE no.10 (2007) on the Council for the Judiciary at the service of society<sup>22</sup> etc. The approach of international recommendations on the judicial inspection institution is based on guiding principles, being elaborated the concept of the judicial inspection body and established general recommendations on its organic composition. There is also an increased

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<sup>19</sup> NEGRU, Andrei. *Consolidarea justiției în statul contemporan democratic [Consolidation of justice in democratic contemporary state]*. Chisinau: Sirius, 2012. 240 p. ISBN 978-9975-57-039-8

<sup>20</sup> European Charter on the Statute for Judges [online]. Council of Europe, Strasbourg, 1998 [cited 20.12.2020]. Available: <http://legislatie.just.ro/Public/DetaliiDocument/106139>

<sup>21</sup> Opinion no. 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 behavior and impartiality [online]. Strasbourg, 19.11.2002 [cited 20.12.2020]. Available: <https://wcd.coe.int/ViewDoc.jsp?p=&id=1212265&direct=true>

<sup>22</sup> Opinion no. 10 (2007) of the Consultative Council of European Judges (CCJE) to the attention of the Committee of Ministers of the Council of Europe on the Council for the Judiciary at the service of the society [online]. Strasbourg, 23.11.2007 [cited 20.12.2020]. Available: <https://wcd.coe.int/ViewDoc.jsp?p=&id=1254135&Site=COE&direct=true>

emphasis on the rules, principles and values that the judicial self-governance must respect – and the judicial inspection too, as part of judicial self-governance – in disciplinary procedures initiated against judges.

For the investigation of the thesis topic the national legal-normative framework was examined, especially: the Law on Superior Council of Magistracy<sup>23</sup> (the basic law on the organization and the functioning of the Superior Council of Magistracy), the Law on disciplinary liability of judges<sup>24</sup> (establishes the way of exercising by the judicial inspection of the competence of verification and examination of complaints on acts that may constitute disciplinary offences committed by judges), the Regulation on the organization, the competence and the functioning of the judicial inspection<sup>25</sup> (basic regulations on the organization and the functioning of the judicial inspection), the Regulation on the volume, methods, grounds and procedure of verification of the organizational activity of courts in realizing justice<sup>26</sup> (establishes the way of exercising by the judicial inspection of the competence of verification of organizational activity of courts) etc.

The judicial inspection institution is also examined through the prism of comparative organizational and functional aspects, in the context of other legal systems.

***Chapter 2 – The way of organization of the judicial inspection body and the status of judicial inspectors*** comprises three paragraphs and conclusions.

*In the first paragraph – The place and the role of the judicial inspection body in the judicial system* – the research is based on the realization of the objectives of clarification of the place of the judicial inspection body in the judicial system and of interpretation of its role in streamlining the activity of the judicial authority.

In the legal system of the Republic of Moldova the judicial inspection is an element of judicial self-governance, functioning as a specialized body of the Superior Council of Magistracy and enjoying operational autonomy. At the regulatory level the organizational subordination to the Superior Council of Magistracy does not affect the capacity of the judicial inspection to exercise its competences independently. Conceptually, detaching ourselves from the specific of a certain legal system, it is essential to guarantee the functional independence to the judicial inspectors, in the direct exercise of their attributions, by excluding or limiting, as appropriate, the involvement

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<sup>23</sup> Law on the Superior Council of Magistracy: no. 947-XIII of 19 July 1996. In: *Official Gazette of the Republic of Moldova*, 22.01.2013, no. 15-17

<sup>24</sup> Law on disciplinary liability of judges: no. 178 of 25 July 2014. In: *Official Gazette of the Republic of Moldova*, 15.08.2014, no. 238-246

<sup>25</sup> Regulation on the organization, competence and functioning of the judicial inspection. Approved by the Decision of SCM: no. 506/24 of 13.11.2018. In: *Official Gazette of the Republic of Moldova*, 18.01.2019, no.13-21

<sup>26</sup> Regulation on the volume, the methods, the grounds and the procedure of verification of organizational activity of courts in the realization of justice. Approved by the Decision of SCM: no. 239/9 of 12.03.2013. In: *Official Gazette of the Republic of Moldova*, 31.05.2013, no. 119-121

of judicial self-government representatives in this process (especially referring to the members of the Superior Council of Magistracy) and of the representatives of the executive power (especially referring to the head of state and the Minister of Justice). In this context, it is recommended to avoid the involvement of the Minister of Justice in the decision-making process on disciplinary measures regarding judges, as well as in carrying out inspections in courts.

Generally, the role of the judicial inspection body in a certain legal system is deduced from its directions of activity and from the competences offered by the law. At the national level, the purpose of the activity of the national judicial inspection consists in: improving organizational performance of the courts; ensuring the responsibility of judges; removal of malfunctions and prevention of risks in the activity of courts etc<sup>27</sup>.

In a general approach, the mission of the judicial inspection body manifests itself strongly on the dimension of magistrates` responsibility. The establishment of an internal control over the judiciary, exercised by the judicial inspection body – part of the judiciary, corresponds to the tendency of self-purification and self-improvement of the judicial system through mechanisms of judicial self-governance. The role of the judicial inspection resides also in its contribution in strengthening the image of justice, through: the improvement of the organizational framework of courts, prompt interventions in cases of defense of honor, dignity, professional reputation and independence of judges. At the same time, the judicial inspection body must not be transformed in a structure of pressure and of unjustified control against judges, such an approach essentially diminishing the value of the mentioned body. On the contrary, the efforts must be directed to guarantee judicial independence to the highest level and to strengthen the overall image of magistracy.

*The second paragraph – Composition of the judicial inspection body* – is focused on the realization of the objective to demonstrate the composition of the judicial inspection body: numerically (referring to the numbers of its members) and substantially (referring to categories of professionals who should be appointed as members of the judicial inspection). Regarding the first aspect, it is imperative the judicial inspection body be composed of a sufficient number of members to ensure the good functioning of the institution – efficiently and qualitatively. From the perspective of its substantial composition, the body with specific competences in disciplinary proceedings regarding judges (as is the case of the judicial inspection) must be predominantly

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<sup>27</sup> Regulation on the organization, competence and functioning of the judicial inspection. Approved by the Decision of SCM: no. 506/24 of 13.11.2018. In: *Official Gazette of the Republic of Moldova*, 18.01.2019, no.13-21, pp.1.3



composed of judges<sup>28</sup> - recommendation that is not reflected in the organization of the national judicial inspection. In the light of modifications made in 2018 in the Law on the Superior Council of Magistracy (art.7<sup>1</sup> par. (3) letter d)), persons who have exercised the function of judge during the last 3 years cannot candidate for the function of judicial inspector<sup>29</sup>, this aspect being thoroughly examined in the present paper and in certain scientific publications.

At the same time as members of the judicial inspection persons from among representatives of the civil society (university professors in law, lawyers) may be appointed, this fact contributing to strengthening the credibility of the judicial inspection body: the society is willing to have more confidence in a control body in which composition professionals in other fields than the Judiciary are also admitted. It is important, at the level of judicial self-governance, to have an apolitical, minority representation of the civil society in relation with judges<sup>30</sup> and a professionalism based selection.

In this paragraph we also intervene with a proposal of a substantial reorganization of the judicial inspection body, by including in its composition of a specific category of personnel – of investigative judicial inspectors to carry out operative activity. The purpose consists in ensuring the responsibility of judges and of the court staff, as well as in strengthening the role and the axiology of the judicial inspection in the process of streamlining the activity of the judicial authority. The essence and the necessity of such a reorganization is explained, the concept of the operative activity of investigative judicial inspectors is interpreted, the limits of the status of investigative judicial inspectors are reasoned, the indispensability of the respect of confidentiality of the operative activity and of the data obtained by this way is justified. Establishing strict rules regarding the potential operative activity carried out by the judicial inspection body is imperative.

*The third paragraph – The status of judicial inspectors – component of the functional independence of the judicial inspection* – is intended to achieve the objective to distinguish the status of judicial inspector in the process of exercising their attributions. The necessity to use an appropriate terminology is noticed, in the sense of replacing the term of *inspector-judge* with *judicial inspector*, the last one accurately reflecting the essence of the considered function. The status of judicial inspectors is examined in the context of the pertinent legal normative framework

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<sup>28</sup> Opinion no. 10 (2007) of the Consultative Council of European Judges (CCJE) to the attention of the Committee of Ministers of the Council of Europe on the Council for the Judiciary at the service of the society [online]. Strasbourg, 23.11.2007, pp.63,64. [cited 20.12.2020]. Available:

<https://wcd.coe.int/ViewDoc.jsp?p=&id=1254135&Site=COE&direct=true>

<sup>29</sup> Law on the Superior Council of Magistracy: no. 947-XIII of 19 July 1996. In: *Official Gazette of the Republic of Moldova*, 22.01.2013, no. 15-17

<sup>30</sup> Report of the Special Rapporteur on the independence of judges and lawyers [online]. A/67/305, UN DOC, 13.08.2012, pp.88 [cited 20.12.2020]. Available: <https://undocs.org/pdf?symbol=en/A/67/305>

of the Republic of Moldova, through the prism of clarification of rights, obligations, restrictions, interdictions, incompatibilities and cases of legal accountability.

The necessity to guarantee the functional immunity of judicial inspectors in the same manner it is guaranteed for judges is argued. Since the institution of immunity of judicial inspectors is not separately investigated in the legal doctrine, the incident reflections are argued through the institution of immunity of judges. There are different opinions regarding the judicial immunity institution: certain theorists and practitioners consider that immunity is invoked by certain magistrates to cover illegalities, including acts of corruption, being predominantly appreciated as a privilege than a necessity; others, however, point out that the fight against corruption is an essential axiological tool, but other ways to prevent this phenomenon may be identified too, avoiding an imminent political control over justice, the axiological manifestation of the institution of judge`s immunity being much more important<sup>31</sup>. In the paper the necessity to maintain the immunity is developed, both in relation with judges and, implicitly, in relation with judicial inspectors, starting from the idea that judicial immunity is an inherent determinant of judicial independence and an imperative in the context of national legal system. Functional immunity also represents the foundation of a certain degree of comfort, of psychological peace for the concerned professionals, determined by the confidence that, despite all limitations imposed by the law (restrictions, incompatibilities, standards of conduct during and outside the working hours, duty of restraint, reserve and discretion etc.), they can benefit of an increased legal protection, that is both legitimate and based on the law.

Broadly speaking, national legal normative provisions on the status of judicial inspectors grant to the subjects concerned sufficient rights and guarantees to exercise their functions in good faith and in the spirit of a high level of performance. And imposed duties and responsibilities may encourage the realization by the judicial inspectors of the positive discretionary right, in terms of choosing the best option of conduct from those granted by the law.

***Chapter 3 – Realization of the attributions of analysis, verification and control in the process of functioning of the judicial inspection*** – includes a comprehensive analysis of the functionality of the national judicial inspection and consists of three paragraphs and conclusions, the objective pursued being to synthesize the particularities of the competences of the judicial inspection body.

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<sup>31</sup> POALELUNGI, Mihai, NEGRU, Andrei. Argumentarea imunității judecătorului în realitatea juridică națională [Argumentation of judge`s immunity in the national legal reality]. In: *Revista Nationala de Drept*. 2012, no.11(146), pp. 19, 21. ISSN 1811-0770.

*In the first paragraph – General characteristic of the functioning of the national judicial inspection through the prism of its competences* – the overall functionality of the national judicial inspection is analyzed, through the prism of its competences. The obligation to respect as a matter of priority and without exceptions the principle of independence of justice and the authority of *res judicata* is emphasized.

*Examination of petitions.* Petitions that are submitted to the Superior Council of Magistracy and contain data on judicial ethics are examined by the judicial inspection, as a control body of judicial self-administration. Issues on the functionality of the judicial inspection reside in the delimitation of petitions on judicial ethics and complaints on judicial discipline. Although very close categories, judicial ethics and judicial discipline are essentially different.

Distinct and even opposed to disciplinary action in both spirit and implementation, these new standards seek to positively influence judges' behaviour by placing them at the heart of the production and application of standards<sup>32</sup>. Conceptual distinction between judicial ethics and judicial discipline is all the more important as the impact of these procedures on the judicial career is significantly different. If the addresses are aimed at violating ethical rules, they are examined in the light of administrative litigation; if, however, the addresses aim at a serious breach of the rules of professional conduct, they may justify the initiation of disciplinary proceedings with much more stronger impact over the judicial career.

The research of functionality of the national judicial inspection through the prism of examination of petitions on judicial ethics is based on the following subjects: pertinent legal normative framework, form and content of petitions, examination of petitions, duration of examination, guarantees for the concerned judge, motivation of inspection acts, results of the examination of petitions and modality of contestation.

The tangency of the functionality of the judicial inspection with the functionality of the other entity, part of judicial self-governance – the Commission on Ethics and Professional Conduct of Judges – is also examined. The activity of the Commission is oriented to prevent violations of professional ethics among judges, through consulting and counseling on issues of professional conduct.

*Examination of requests on the initiation of criminal proceedings or on carrying out certain acts of criminal prosecution regarding judges* is a competence of the judicial inspection

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<sup>32</sup> Breaking up judges' isolation - Guidelines to improve the judge's skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation [online]. CEPEJ(2019)15/6 December 2019, pp. 140 [cited 20.12.2020]. Available: <https://rm.coe.int/cepej-2019-15-en-knowledge-sharing/16809939e4>

that has a strong relation with the protection of judge`s inviolability, the respect of judicial immunity being a guarantee of his/her independence.

The investigation is structured on several landmarks as: national legal framework, examination of the requests, the right to defense guaranteed to the judge concerned, the confidential character of the procedure, duration of the examination. It is also studied the role of the Superior Council of Magistracy in examining the requests submitted by the Prosecutor General, in the light of the Judgement of the Constitutional Court of the Republic of Moldova no. 23 of 27.06.2017<sup>33</sup>, which has somehow consolidated the value of judicial self-government in guaranteeing an increased legal protection to judges in cases of initiation of criminal proceedings or exercising certain prosecution acts regarding them.

Simultaneously, is emphasized that neither the judicial inspection at the primary verification of the requests of the Prosecutor General, nor the Superior Council of Magistracy at the adoption of the decision on the agreement or disagreement with those requested, cannot assume attributions of court.

*Studying the grounds of rejecting by the President of the Republic of Moldova or by the Parliament of the candidature proposed by the Superior Council of Magistracy for appointment in the function of judge, vice-president or President of court* is an operational aspect that entrusts the judicial inspection to exercise preliminary verifications in the context of the appointment or promotion of judges (without interfering with the activity of the College of selection and career of judges). A crucial moment in capitalizing the role of the judicial inspection in exercising this competence represented the adoption by the Constitutional Court of the Republic of Moldova of the Judgement no.32 of 05 December 2017<sup>34</sup>, by which the legal provisions on the verification by the Security and Intelligence Service of the candidates for the function of judge and of judges, at their appointment or promotion in career have been declared unconstitutional. The value of the Judgement of the Constitutional Court no.32 of 05 December 2017 may be estimated from the perspective of strengthening the functional capacities of judicial self-administrative bodies, as well as from the perspective of guaranteeing the independence of judges and the overall independence of justice, the limitation of the right of the Security and Intelligence Service to exercise

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<sup>33</sup> Judgement of the Constitutional Court of the Republic of Moldova on exception of unconstitutionality of the art. 23 par. (2) of the Law no.947-XIII of 19 July 1996 on the Superior Council of Magistracy (lifting judge`s immunity). (Complaints no.31g/2017 and no.55g/2017): no. 23 of 27.06.2017. In: *Official Gazette of the Republic of Moldova*, 22.09.2017, no.340-351

<sup>34</sup> 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

verifications restoring, somehow, the balance between the executive power and the judicial power, granting to the judicial inspection space of manifestation in this area.

The way in which the judicial inspection exercises the named competence is investigated based on the following landmarks: factual situation until the adoption of the Judgement of the Constitutional Court no.32 of 05 December 2017; factual situation after the adoption of the Judgement of the Constitutional Court no.32 of 05 December 2017; the verification procedure at the level of the judicial inspection.

*The competence of verification of the correctness of the random distribution of cases for examination in courts* is expressly assigned to the national judicial inspection in 2018, although, in our opinion, the judicial inspection has exercised such verifications in the context of the verification of the overall organizational activity of courts. Realizing these attributions, the judicial inspectors must take into account the legal normative provisions in the area of judicial organization, of the random distribution of cases for examination in courts and in the area of the verification of the organizational activity of courts.

The importance of another operational aspect of the judicial inspection – *the verification of the execution of the decisions of the Superior Council of Magistracy* – resides in the fact that the execution of the decisions is an inherent indicator of the judicial self-government effectiveness.

*Organizing the citizens` audience*, in its turn, contributes to ensuring transparency of the judicial inspection activity, to strengthening the image of the judicial inspection and to enhancing quality of the act of justice through: remedying the deficiencies claimed by citizens during the audiences; explaining the specific of the functioning of justice as a whole and the possibilities to capitalize procedural remedies specific to the examination of civil, criminal, administrative cases, as appropriate (for instance, to use the ordinary contestation procedure and not to submit addresses to the judicial inspection). This one could be a way to relieve the judicial inspection of an impressive number of unfounded addresses.

In the same paragraph we intervene with a proposal of *lex ferenda*: to expressly assign the Superior Council of Magistracy with the competence to examine the requests to defend the independence, the impartiality and professional reputation of judges and the requests to defend the independence and the image of justice and, accordingly, the judicial inspection - with the competence to verify, at the demand of the Superior Council of Magistracy, the circumstances invoked in these requests (at present, the Superior Council of Magistracy examines such kind of requests through the prism of the obligation to ensure the protection of the magistrates` rights and freedoms, magistrates` honor and dignity, in the conditions of the law and not based on an express norm of competence). The mission of judicial self-governing bodies is to protect the judges` corps

against public attacks, in a visible and persuasive for the society manner. Exercising the act of justice, the judge is at the service of the society, his/her activity being in direct relationship with human rights and freedoms, with values, expectations and perceptions of the society. Judge`s good reputation is very close to people`s confidence in the judicial system, this one justifying once more the necessity to defend this reputation, the independence and the image of justice, through mechanisms of judicial self-government.

The way of implementation of such a proposal of completion of the national normative framework is examined in the light of several aspects: the rationale, certain procedural aspects, the rights and the duties of the judicial inspectors, judges` rights and guarantees, duration of the examination.

*The second paragraph* is intended for the investigation of the *Specific of the examination of complaints on judicial discipline*. The purpose of regulating by law the procedure of examination of complaints on judicial discipline is to ensure the responsibility of judges in the process of exercising the act of justice, in order to streamline and consolidate the national justice. The topic is investigated based on certain guiding dimensions as: subjects who have the right to submit complaints, the form and the content of the complaint, the procedure of verification and of examination of complaints by the judicial inspection, the examination of the complaints, the rights, the obligations and the guarantees of the judge concerned in the disciplinary procedure at the level of the judicial inspection, the report of the judicial inspection, the role of the judicial inspection after the transmission of the case to the Disciplinary Board and to the Superior Council of Magistracy.

Following the research of these dimensions, we have pointed out that, by examining the complaints on judicial discipline, in an objective and qualitative manner, the judicial inspection has a substantial contribution in the process of ensuring the magistrates` responsibility, as well as the balance between judicial responsibility, judicial independence and judicial integrity – all these dimensions being elements of the broad concept of efficient activity of the judicial authority. This operational aspect of the judicial inspection – in the area of judicial discipline – is of increased interest for the society (not only in the national legal system). The explanation could reside in the fact that, due to the specific of the detained function and of its significance in realizing the act of justice – act of public power – sometimes with a direct impact on human rights and freedoms, the judge is always in the eyes of society. As a result, the judge must appear before an independent observer not only as a professional, with education and appropriate qualifications, but also as a person with a high level of morality, decency, modesty, moderation, dignity, discipline and even

common sense<sup>35</sup> – features that must be manifested not only in working hours, but also outside them. At the same time, in absolutely every case of appreciation of the judge`s conduct as being in the area of violation of judicial discipline, increased attention must be paid to: judge`s independence, the confidentiality of the initial phase of the disciplinary procedure, the guarantee of the right to a fair trial to the judge concerned, the appropriate motivation of the acts adopted by judicial self-governing bodies in the disciplinary proceedings, the guarantee of the right to contest in court the decision adopted at the level of authorities with competences in disciplinary proceedings.

In the third paragraph, *Particularities of the competence of verification of the organizational activity of courts* have been examined. In search of excellence, courts must meet certain quality and efficiency criteria; at the same time, excellent courts have to measure systematically quality and efficiency of the delivered services<sup>36</sup>. The modality to organize the activity of courts is an important benchmark in the manifestation of justice, being necessary to create a balanced and qualitative system of control. Such a kind of control is carried out, at the national level, by the judicial inspection. The analyzed benchmarks refer to the investigation of: forms of control, areas of intervention (verification of the managerial activity, of the activity of courts, registrars, chancelleries, archives, the way of distribution of cases), carrying out the control itself, the content of the act of control.

Overall, the purpose of establishing the control over the organizational activity of courts consists in: ensuring transparency in the activity of realizing justice; streamlining the activity of courts, the judge`s and the court staff activity; verification of the respect of the provisions of the Code of ethics of the judge; verification of operational activity of courts; launching appropriate proposals to identify aspects of disciplinary liability of judges; reporting and verifying cases of violation of judges` independence and impartiality and launching proposals etc.<sup>37</sup> The final objective is to ensure the court with sufficient human and material resources, to promote policies of openness of the court staff and of the services delivered to the society, so that justice, as a public service, meet the requirements of quality and efficiency.

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<sup>35</sup> ARAMĂ, Elena. Interpretarea juridică: de la elemente juridice și politice la bun simț [Legal interpretation: from legal and political elements to common sense]. In: *State, security and human rights in conditions of information society: intern. sc. conf., 13-14 December 2018*, Chisinau: Artpoligraf, 2019, pp. 41-47. ISBN 978-9975-108-88-1

<sup>36</sup> International Framework for Court Excellence [online]. International Consortium on Court Excellence, 3rd Edition, May 2020, pp. 35 [cited 20.12.2020]. Available: [http://www.courtextcellence.com/\\_data/assets/pdf\\_file/0015/53124/The-International-Framework-3E-2020-V2.pdf](http://www.courtextcellence.com/_data/assets/pdf_file/0015/53124/The-International-Framework-3E-2020-V2.pdf)

<sup>37</sup> Regulation on the volume, the methods, the grounds and the procedure of verification of organizational activity of courts in the realization of justice. Approved by the Decision of SCM: no. 239/9 of 12.03.2013. In: *Official Gazette of the Republic of Moldova*, 31.05.2013, no. 119-121, pp. 3

By exercising the competence of verification of the organizational activity of courts, the judicial inspection directly contributes to detecting the vulnerabilities – specific to certain courts or to justice as a whole – estimating their severity and proposing solutions. In this way, it contributes to streamlining the activity of all the court compartments. The significance of the controls is especially explained through their preventive role, in the context of ensuring the responsibility of judges and of the court staff. And the value of these controls is incontestable: being carried by the judicial inspection – exponent of the judiciary – they are real mechanisms of self-improvement of the judicial system, through self-administrative resources.

The importance of measuring the performance of judicial services, including the statistics (duration of procedures, backlogs etc.) – component of the judicial inspection activity at the national level – is explained by the European Commission for the Efficiency of Justice (CEPEJ) in the light of certain elements: `they are a source of information for the various aspects of judicial services [...]; they are of high social and economic use [...]; they are one of the instruments used by international bodies to assess systemic efficiency of a country [...]; they constitute a fundamental instrument for judicial organization [...], for the preparation, justification, and presentation of the budget. [...] The Ministry of Justice and the judiciary, each for its own competence and responsibility, must be able to defend its own budget and its independence showing their level of performance`<sup>38</sup>. In this sense, the role of the controls carried out by the judicial inspection body for the organizational activity of courts is inestimable.

***Chapter 4 - Perspectives of manifestation of the judicial inspection in the process of streamlining the activity of the judicial authority*** – represents a corollary of the overall research, ensuring the unitary, consistent and integral character of the paper.

*The first paragraph* – is oriented towards the *Syntheticization of the ways of streamlining the activity of the judicial authority*, as a result of the intervention of the judicial inspection body, these being: ensuring the responsibility of judges; ensuring the responsibility of presidents and vice-presidents of courts; ensuring the responsibility of other officials within the judiciary; improving the organizational activity of courts; legal protection of judges and of the justice system against false and denigrating public information; legal protection of judges against intimidations, pressures from the representatives of the prosecutor`s office; appointment and promotion of judges with irreproachable reputation (pointing out that the judicial inspection does not exercise competences

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<sup>38</sup> Measuring the Quality of Justice [online]. European Commission for Efficiency of Justice (CEPEJ), Strasbourg, 2016, pp. 30, 31 [cited 20.12.2020]. Available: <https://rm.coe.int/european-commission-for-the-efficiency-of-justice-cepej-measuring-the-/1680747548>



in procedures of appointment and promotion, playing a subsidiary role in these procedures); informing the society on the organization and functioning of the national justice.

The preventive role of judicial inspections is emphasized, as well as the necessity to strengthen general perception, including in the judicial environment, that judicial inspections are not a means of persecuting magistrates, but a means of enhancing judicial performance, through detection of local and/or systemic vulnerabilities, assessment of risks and difficulties in realizing the attributions by judges and the court staff, through improvement, within the limits of competences, of those contours of the activity of courts that are able to affect quality and efficiency of the act of justice. Judicial inspections are not a goal in itself, they are a natural and inherent segment of any process of reformation in the field of justice. In context, it is essential to point out that the exercise in a qualitative and efficient manner of the judicial inspections depend on the degree and the level of professional communication within the judicial system: it is necessary to encourage proactive attitude, leadership, intervision and eliminate, by this way, of organizational silence, that may stimulate corruption<sup>39</sup> and undermine judges` independence<sup>40</sup>.

Pertinent legal normative provisions, that position the national judicial inspection within the judicial self-governing system, is the fundamental premise of a (presumptive) high quality level of the verifications exercised by the named body. The value of these verifications can be enhanced through continuous cultivation of professional legal culture and consciousness of judges, of judicial inspectors and of other actors of the justice sector, through promotion of the culture of human rights, the culture of judicial independence and integrity, as well as through promotion of active communication within the judicial system.

*The second paragraph* is dedicated to *Designing the efficient model of organization and functioning of the judicial inspection body in the context of an independent justice*, by achieving the objectives to standardize the principles of activity specific to the judicial inspection body and to justify the value of the judicial inspection body in streamlining the activity of the judicial authority.

Starting from the peculiarities of the judicial inspection body and of the activity of verification and control carried out by this body, some new, perspective principles are highlighted, concerning the judicial inspection activity. They refer to the necessity: to promote a prudent

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<sup>39</sup> DANILET, Cristi. *Corupția și anticorupția în sistemul juridic [Corruption and anticorruption in the legal system]* [online]. C.H. Beck, 2009, pp. 146 [cited 20.12.2020]. ISBN 978-973-115-639-2. Available:

[https://www.kas.de/c/document\\_library/get\\_file?uuid=3aa82403-8d21-bd2f-132c-181792196d98&groupId=252038](https://www.kas.de/c/document_library/get_file?uuid=3aa82403-8d21-bd2f-132c-181792196d98&groupId=252038)

<sup>40</sup> GLOPPEN, Siri. Courts, Corruption and Judicial Independence. In: SOREIDE, Tina, WILLIAMS, Aled., eds. *Corruption, Grabbing and Development: Real World Challenges* [online]. Bergen, Norway: Edward Elgar Publishing, 2014, pp. 72 [cited 20.12.2020]. ISBN: 978 1 78254 440 1. Available: <https://www.cmi.no/publications/5091-courts-corruption-and-judicial-independence#author-details>

collaboration between the judicial inspection and entities exponents of the executive (concerning the Security and Intelligence Service, the National Anticorruption Center, the National Integrity Authority); to ensure continuity of strategies and principles in operational activity of all judicial self-administrative bodies; to uniform practices of interpretation and application of the law at the level of judicial self-government; to ensure the balance between transparency and confidentiality in the functionality of the judicial inspection.

In summary, the design of a so-called model of the judicial inspection institution is proposed, highlighting the fundamental benchmarks on its place and the role in the judicial system, its organization (in terms of organic composition and the professions that should be found in it), functioning (in the light of the areas where the intervention of the judicial inspection is indispensable) and principles that should guide the judicial inspectors in exercising competences, as exponents of judicial self-government. We reiterate that *a so-called model* of judicial inspection body is standardized, a perfect, unique, immutable model being impossible to draft. Emphasis is placed on the need to improve the normative framework in this field, to promote legal professional culture and consciousness among all the actors of the judicial system and to create premises for an independent functioning of the judicial inspection body, regardless of the political situation of the reference period, all these being able to contribute to the capitalization of the capacities of the judicial inspection body, in the direction of strengthening its axiology in streamlining the activity of the judicial authority.

Integrity of judicial inspectors is a fundamental premise in the context of carrying out qualitative and efficient judicial inspection works. Integrity, in its turn, requires not only the possession of intellectual capacities and of a high professional training, but also a high level of legal culture and consciousness. `A judiciary of undisputed integrity is an essential institution for ensuring compliance with democracy and the rule of law`<sup>41</sup>. In the absence of an adequate legal normative framework and/or of a conduct of integrity on the part of judicial inspectors, the rationale itself of the existence and of the efficient functioning of the judicial inspection body disappears, regardless the efforts of other nature made by the authorities in the process of reformation of justice. Changing the organization is useless if the value system is drifting<sup>42</sup>.

Finally, we conclude that magistracy is an indispensable element of the state power. Its role in maintaining statehood, order and social cohesion is irreplaceable. For these reasons,

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<sup>41</sup> Report of the Special Rapporteur on the independence of judges and lawyers [online]. A/67/305, UN DOC, 13.08.2012, pp. 14 [cited 20.12.2020]. Available: <https://undocs.org/pdf?symbol=en/A/67/305>

<sup>42</sup> ALT, Eric. Calitatea hotărârilor judecătorești [The quality of judicial decisions]. In: *Revista Forumul Judecatorilor* [online]. 2009, no. 2, pp. 54 [cited 20.12.2020]. ISSN 2065-8745. Available: <http://www.forumuljudecatorilor.ro/wp-content/uploads/Art-7-Forumul-judecatorilor-nr-2-2009.pdf>

appointment and promotion in judicial functions (referring to judges, members of judicial self-governing bodies, registrars, assistants) must be done in accordance with strict criteria of professional training and integrity of candidates. The culture of independence and impartiality of justice, the culture of professional legal communication must be constantly cultivated in the process of (continuous) training of representatives of judicial functions. These dimensions form the axiological foundation of the contribution of judicial self-governing bodies – and, implicitly, of the judicial inspection – in the process of streamlining the activity of the judicial system. An adequate legal normative framework, which should create preconditions for a good functioning of the overall judicial system, consolidated efforts of the three state powers and of the civil society made with the occasion of reformation of the judiciary should catalyze the process of streamlining and consolidating the national justice.

## GENERAL CONCLUSIONS AND RECOMMENDATIONS

As a result of a complex examination of the judicial inspection institution, the research hypothesis has been verified and, as a consequence, the important problem for the field of law has been solved, it consisting in the demonstration of the strategic value of the judicial inspection body, as an indispensable element of the judiciary, fact that has generated the clarification of the place, the role, the composition, the organization and functioning of this institution, in order to direct the specific activity of analysis, verification and control towards streamlining the activity of the judicial authority, in the context of an independent and consolidated justice. The general conclusions reflecting the scientific results that have contributed to the solution of the scientific problem are:

1. ***The place of the judicial inspection in the judicial system.*** The comparative analysis of legal normative provisions on the creation and the functioning of the judicial inspection body in different legal systems, corroborated with European recommendations in the named field, have allowed *the clarification of the place of this body in the judicial system* and the validation of the indispensability of its creation and functioning within the judiciary. Indubitable, the judicial inspection body must be part of the judiciary, detaining specific mechanisms of internal verification and control. Guaranteeing by law of its operational independence is imperative (conclusions developed in: Creciun N., `Privire generala asupra institutiei inspectiei judiciare. Aspecte comparative` [`Overview on the judicial inspection institution. Comparative aspects`], in Romanian; Negru A., Creciun N., `Reconceptualizarea functiei de control a inspectiei judiciare` [`Reconsidering the control function of the judicial inspection`], in Romanian).
2. ***The role of the judicial inspection.*** *Interpreting the role of the judicial inspection in streamlining the activity of the judicial authority*, we conclude that its mission is to contribute to: the detection and the remediation of existent vulnerabilities in the organizational activity of courts; finding and improving good practices of internal organization of court; ensuring the responsibility of judges (with managerial functions or without them) and of the court staff; the defense of the reputation, impartiality and independence of judges, of the image and independence of justice. The judicial inspection body has to manifest activism in preventing and fighting judicial corruption as well (conclusions developed in: Negru A., Creciun N., `Should the Judicial Inspection Body Care about Judicial Corruption? The Cases of Moldova and Romania`, in English; Creciun N., `Rolul inspectiei Jdiciare în apararea reputatiei profesionale a judecatorilor si a

imaginii justitiei` [‘The role of the judicial inspection in defending professional reputation of judges and the image of justice`], in Romanian; Creciun N., ‘Rolul inspectiei judiciare in responsabilizarea presedintilor instantelor de judecata` [‘The role of the judicial inspection in ensuring responsibility of court Presidents`], in Romanian).

3. **Composition of the judicial inspection.** Starting from international standards in this area, we succeeded in *the demonstration of the substantial composition of the judicial inspection body*. A mixed composition is recommended, in order to add value to its public credibility. It is advisable judicial inspectors to be elected from among judges (university professors, lawyers), judges prevailing numerically. The appointment of judicial inspectors from among prosecutors should be avoided (conclusions developed in: Creciun N., ‘Excluderea dreptului judecatorilor in functie de a accede in inspectia judiciara – mijloc de solutionare a conflictelor de interese sau subminarea esentei autoadministrarii judecatesti` [‘Excluding the right of serving judges to access in the judicial inspection – modality to solve conflicts of interest or way of undermining the essence of judicial self-governance`], in Romanian); Creciun N., ‘Professional legal culture and legal consciousness – premises of the efficiency and credibility of the judicial inspection body`, in English).
4. **Status of judicial inspectors.** The examination of the national legal normative framework makes possible *to distinguish the status of judicial inspectors*, who – in terms of rights, legal guarantees and obligations – is similar (not analogical) to the status of judges, with an appropriate adjustment to the specific of the occupational profile. The duty to respect the Code of ethics of judges, to exercise the attributions impartially and to respect unconditionally the independence of judges and courts, as well as the authority of *res judicata*, limits the negative discretionary right of judicial inspectors in exercising attributions. However, statutory rights and guarantees (including inviolability) have the role to strengthen their decisional capacity and encourage the value of positive discretionary right in the process of realizing the attributions.
5. **Competences of the judicial inspection body.** In the paper *the peculiarities of each competence of the judicial inspection body in the national legal system are synthesized*. As a rule, the functionality of the judicial inspection body is associated to the institution of disciplinary liability of magistrates, as well as to the exercise of verifications and controls over the organizational activity of courts. Though, certain legal systems, including the legal system of the Republic of Moldova, assign to the judicial inspection other important prerogatives, in this manner being discovered the specific role of the mentioned institution in the context of other aspects of professional career of judges (conclusions developed in:

Creciun N., `Modul de apreciere a categoriilor de adresari examinate de inspectia judiciara` [`The way of appreciation of types of complaints examined by the judicial inspection`], in Romanian; Creciun N. `La protection juridique des juges poursuivis pénalement par des mécanismes d'autogouvernement judiciaire` [`The legal protection of criminally prosecuted judges through mechanisms of judicial self-administration`], in French).

6. ***Perspective principles in the judicial inspection activity.*** As a result of the analysis of the functionality of the national judicial inspection, *certain perspective principles, specific for the institution concerned, have been standardized*, as: promotion of a prudent collaboration between the judicial inspection and entities exponents of the executive (referring to the Security and Intelligence Service, the National Anticorruption Center, the National Integrity Authority); ensuring continuity of strategies and principles of activity in the functioning of all self-administrative bodies; unification of the practice of interpretation and application of the law at the level of judicial self-government; ensuring the balance between transparency and confidentiality in the functionality of the judicial inspection. These should be able to contribute to enhancing quality and efficiency of the act of judicial inspection (conclusions developed in: Creciun N., `Particular forms of evaluation and assessment of judges: between exigency of a consolidated justice and violation of justice independence`, in English; Creciun N., `Confidentiality and Transparency in the Judicial Inspection Works. The Case of the Republic of Moldova`, in English).
7. ***Axiology of the judicial inspection body in streamlining the activity of the judicial authority.*** *The value of the judicial inspection body in streamlining the activity of the judicial authority is reasoned* through the prism of concrete ways of intervention in this process, namely: ensuring the responsibility of judges; ensuring the responsibility of vice-presidents and Presidents of courts; ensuring the responsibility of other officials of the justice sector; improving the organizational activity of courts; legal protection of judges and of the justice system against false, denigrating public information; ensuring a certain level of legal protection of judges against intimidations, pressures from representatives of the prosecutor`s office; exercising primary verifications in the process of appointment and promotion of judges with integrity; informing the society on the way of organization and functioning of the national justice. As a novation, the possibility to strengthen the functional capacities of the judicial inspection in the process of consolidation of justice has been argued: by reconsidering its control function, in the sense of establishing the position of investigative judicial inspector, to carry out operative activity (conclusions developed in: Negru A., Creciun N., `Reconceptualizarea functiei de control a inspectiei judiciare`

[`Reconsidering the control function of the judicial inspection`], in Romanian; Creciun N., `Particular forms of evaluation and assessment of judges: between exigency of a consolidated justice and violation of justice independence`, in English; Turcanu R., Creciun N., `The role of Court Presidents and of the judicial inspection body in strengthening the performance of the judiciary. Functional interactions for achieving a common goal` - in English).

As **recommendations**, we mention the following:

1. ***Terminology in legal normative acts***. In order to ensure a consistent and accurate language in legal normative provisions pertinent to the judicial inspection institution, we recommend to replace the term of `inspector-judge` with the term of `judicial inspector` in: art.7<sup>1</sup> par.(1)-(5) of the Law on the Superior Council of Magistracy, no.947-XIII of 03.10.1996; in art.4 par.(1) letter n), art. 9 par. (2), art. 21 par. (1), (2), art.22, art.23, art. 25 par. (2), art.26, art.31 par.(4), art.34 par. (3) of the Law on disciplinary liability of judges, no. 178 of 25.07.2014; in the name of the Chapters III, IV, in the p.2.3, 3.1-4.1, 4.3, 4.4, 6.1-6.6, 7.1, 7.2, 8.2, 8.3, 10.3, 10.6, 10.7, 10.9, 10.10, 10.14, 10.19, 10.21-10.25, 10.27-10.32, 10.34, 11.2, 12.1 of the Regulation on the organization, the competence and the functioning of the judicial inspection, approved by the Decision of the SCM no.506/24 of 13.11.2018; in p.10.1 of the Regulation on the organization and the functioning of the Superior Council of Magistracy, approved by the Decision of the SCM no.668/26 of 15.09.2015; in p5.5 letter b), p.9.6 letter k), p.14.3 of the Regulation on the organization and the functioning of the Secretariat of the Superior Council of Magistracy, approved by the Decision of the SCM no.112/5 of 05.02.2013; in p.10, 38 and the Annex no.1 of the Regulation on the volume, the methods, the grounds and the procedure of verification of the organizational activity of courts in realizing justice, approved by the Decision of the SCM no.239/9 of 12.03.2013.
2. ***Substantial composition of the judicial inspection***. As *lex ferenda*, we propose the modification of the art. 7<sup>1</sup> par. (3) of the *Law on the Superior Council of Magistracy* no. 947-XIII din 03.10.1996, by replacing the term of `inspector judge` with `judicial inspector` and by exclusion of the expression `and who has not exercised the function of judge during the last 3 years`. The content of the art. 7<sup>1</sup> par. (3) should be as follows:  
`Can be elected in the function of judicial inspector the person who holds the bachelor`s degree in law or its equivalent, with experience in legal specialty of at least 7 years and an irreproachable reputation under the terms of the art. 6 par.(4) of the Law no.544-XIII of 20

July 1995 on the status of judge. The candidate who accumulated more than a half of the votes of the members of the Superior Council of Magistracy should be declared elected`. To complete the Law on the Superior Council of Magistracy no. 947-XIII of 03.10.1996 with an additional paragraph – art.7<sup>1</sup> par.(3<sup>1</sup>), with the following content: `Judicial inspectors can be elected from among judges. The number of judicial inspectors elected from among judges should not be less than half of the total numbers of the members of the judicial inspection`.

Accordingly, analogical modification and completion should be done in the Regulation on the organization, the competence and the functioning of the judicial inspection, approved by the Decision of the SCM no.506/24 of 13.11.2018 by exposing the content of the p.3.3 in two distinct structural elements: letter a) and letter b). To replace in the p.3.3 letter a) the term of `inspector-judge` with the term of `judicial inspector` and to exclude the expression `and who has not exercised the function of judge during the last 3 years`. To introduce p.3.3 letter b) with the following content: `Judicial inspectors can be elected from among judges. The number of judicial inspectors elected from among judges should not be less than half of the total numbers of the members of the judicial inspection` (conclusions and recommendations developed in: Creciun N., `Criterii de evaluare a calitatii si eficientei activitatii inspectiei judiciare` [`Evaluation criteria of the quality and efficiency of the judicial inspection activity`], in Romanian).

3. **Competences.** We consider it appropriate and necessary to complete art. 7<sup>1</sup> par. (6) of the Law on the Superior Council of Magistracy no. 947-XIII of 03.10.1996 with letter e), having the following content: [The judicial inspection has the following competences:] verifies the requests on defense of judges` reputation and independence, of the image and independence of justice. Accordingly, to complete p.5.1 of the Regulation on the organization, the competence and the functioning of the judicial inspection, approved by the Decision of the SCM no.506/24 of 13.11.2018, with letter j), having the following content: [The Judicial Inspection has the following competences:] verifies the requests on defense of judges` reputation and independence, of the image and independence of justice (conclusions and recommendations developed in: Creciun N., `Rolul inspectiei judiciare in apararea reputatiei profesionale a judecatorilor si a imaginii justitiei` [`The role of the judicial inspection in defending professional reputation of judges and the image of justice`], in Romanian)).
4. **Disciplinary procedure regarding judges:** the phases of the disciplinary procedure regarding judges (referring to the verification of the complaint and the disciplinary



investigation) established by the Law on disciplinary liability of judges no. 178 of 25.07.2014 and the Regulation on the organization, the competence and the functioning of the judicial inspection, approved by the Decision of the SCM no.506/24 of 13.11.2018, should be clarified, by specifying the essence of each phase and the status of judicial inspectors at each phase (conclusions and recommendations developed in: Creciun N., `Verificarea sesizarii si cercetarea disciplinara in contextul raspunderii disciplinare a judecatorilor` [`Verification of the complaint and disciplinary investigation in the context of disciplinary liability of judges`], in Romanian).

5. ***Judicial anticorruption policies.*** In order to recognize the active role of judicial self-government in preventing and fighting judicial corruption, to complete art. 7<sup>1</sup> of the Law on the Superior Council of Magistracy, no.947-XIII of 03.10.1996, with par.(6<sup>1</sup>), with the following content: *`If the judicial inspector finds in the process of exercising his/her functional competences possible elements of a crime in the conduct of a judge or of another subject of the judicial system, the judicial inspector, directly or through the Chief judicial inspector or the President of the Superior Council of Magistracy, is obliged to notify the competent criminal investigation body`* (conclusions and recommendations developed in: Negru A., Creciun N., `Should the Judicial Inspection Body Care about Judicial Corruption? The Cases of Moldova and Romania`, in English).
6. ***Remediation of the gaps in the legal normative acts, by bringing the Decisions of the Superior Council of Magistracy in accordance with the Law on the Superior Council of Magistracy no.947-XIII of 03.10.1996.*** In this sense, is recommended the modification and the completion of p.7.2 of the Regulation on the organization, the competence and the functioning of the judicial inspection, approved by the Decision of the SCM no.506/24 of 13.11.2018, which refers to the examination of the requests on the agreement or disagreement of the Superior Council of Magistracy for the initiation of criminal proceedings against a judge, by: replacing the expression `within 15 days` with `immediately, but not later than 5 working days`. So, p.7.2 would have the following content: *`The judicial inspector, immediately, but not later than 5 working days from the day of the receipt for execution, verifies the circumstances indicated in the request, asks for explanations from the judge concerned and completes the informative note, which is presented to the Superior Council of Magistracy for examination`*.

In the same context, to repeal p.11.15 of the *Regulation on the organization and the functioning of the Superior Council of Magistracy*, approved by the Decision of the SCM no.668/26 of 15.09.2015 and to replace it as follows: p.11.15 - *`The decisions of the*

*Superior Council of Magistracy through which it exposes the agreement or disagreement to initiate criminal proceedings in terms of art.19 par.(4) of the Law no.544/1995 on the status of judge is published on the official web page of the Superior Council of Magistracy, with the anonymization of data on the judge`s identity`.*

We consider that the proposed recommendations could contribute to the effective use of the judicial inspection in increasing quality and efficiency of the national justice, the consistency and the correctness of pertinent legal normative acts being an indispensable precondition for the realization of law, along with other categories with substantial impact both on the performance and on the credibility of the overall judicial authority, as are: judicial independence, impartiality, integrity and incorruptibility, judicial ethics and discipline, the culture of professional legal communication and a high level of professional legal culture and consciousness.

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## LIST OF PUBLICATIONS ON THE TOPIC OF THE THESIS

### 1. *Publication in a specialized book (collective monograph):*

- 1.1 CRECIUN, Natalia. Criterii de evaluare a calității și eficienței activității inspecției judiciare [Evaluation criteria of the quality and efficiency of the judicial inspection activity]. In: *Contextul multidimensional actual al guvernării și drepturilor omului în Republica Moldova* [The current multidimensional context of governance and human rights in the Republic of Moldova]. Chisinau, Artpoligraf, 2021, pp.126-157. ISBN 978-9975-3498-3-3

### 2. *Articles in scientific journals:*

- 2.1 NEGRU, Andrei, CRECIUN, Natalia. Should the Judicial Inspection Body Care about Judicial Corruption? The Cases of Moldova and Romania. In: *Cogito. Multidisciplinary Research Journal* [online]. 2020, vol.XII, no.3, pp.120-152. [cited 20.12.2020]. ISSN 2068-6706. Available: <https://cogito.ucdc.ro/COGITO%20septembrie%202020.pdf#page=120> (The journal is included in: SCOPUS, EBSCO, CEEOL, PROQUEST and Index Copernicus, Heinonline, Ulrich's Periodicals Directory, Doaj)
- 2.2 CRECIUN, Natalia. Modul de apreciere a categoriilor de adresări examinate de inspectia judiciară [The way of appreciation of the types of complaints examined by the judicial inspection]. In: *Revista Institutului Național al Justiției* [online]. 2018, no. 1(44), pp.17-24 [cited 20.12.2020]. ISSN 1857-2405. Available: <https://www.inj.md/sites/default/files/18/Modul%20de%20apreciere%20a%20categoriilor%20de%20adresari%20examine%20de%20inspectia%20judiciara.pdf> (Journal accredited in category `B`, indexed and archived in the National Bibliometric Instrument, included in international databases: HeinOnline, DOAJ and Copernicus)
- 2.3 NEGRU, Andrei, CRECIUN, Natalia. Reconceptualizarea funcției de control a inspecției judiciare. In: *Studia Universitatis Moldaviae* [Reconsidering the control function of the judicial inspection] [online]. 2018, no. 3(113), pp.47-56 [cited 20.12.2020]. ISSN 1814-3199 (Print). ISSN 2345-1017 (Online). Available: [http://studiamsu.eu/wp-content/uploads/05.p.47-56\\_113.pdf](http://studiamsu.eu/wp-content/uploads/05.p.47-56_113.pdf) (Journal accredited in category `B`, indexed and archived in the National Bibliometric Instrument, included in international databases: OAJI.net, CiteFactor, DOAJ, Google Scholar etc.)
- 2.4 CRECIUN, Natalia. Particular forms of evaluation and assessment of judges: between exigency of a consolidated justice and violation of justice independence. In: *Revista Institutului Național al Justiției* [online]. 2019, no. 2(49), pp. 54-60 [cited 20.12.2020]. ISSN 1857-2405. Available: DOI: 10.4337/9781786430793 [https://www.inj.md/sites/default/files/19/54-60\\_3.pdf](https://www.inj.md/sites/default/files/19/54-60_3.pdf) (Journal accredited in category `B`, indexed and archived in the National Bibliometric Instrument, included in international databases: HeinOnline, DOAJ and Copernicus)

- 2.5 CRECIUN, Natalia. La protection juridique des juges poursuivis pénalement par des mécanismes d'autogouvernement judiciaire [The legal protection of criminally prosecuted judges through mechanisms of judicial self-administration]. In: *Revista Institutului National al Justitiei* [online]. 2020, no. 1(52), pp. 52-60. [cited 20.12.2020]. ISSN 1857-2405. Available: [https://www.inj.md/sites/default/files/1.%20RINJ\\_1\\_52\\_2020%20SITE2.pdf](https://www.inj.md/sites/default/files/1.%20RINJ_1_52_2020%20SITE2.pdf) (Journal accredited in category `B`, indexed and archived in the National Bibliometric Instrument, included in international databases: HeinOnline, DOAJ and Copernicus)
- 2.6 TURCANU, Radu, CRECIUN, Natalia. The role of Court Presidents and of the judicial inspection body in strengthening the performance of the judiciary. Functional interactions for achieving a common goal. In: *Studia Universitatis Moldaviae* [online]. 2021, no. 3(143), pp. 82-93 [cited 05.03.2021]. ISSN 1814-3199 (Print), 2345-1017 (Online). Available: <http://studiamsu.eu/wp-content/uploads/8.-p.-82-932.pdf> (Journal accredited in category `B`, indexed and archived in the National Bibliometric Instrument, included in international databases: OAJI.net, CiteFactor, DOAJ, Google Scholar etc.)

**3. Communications and summaries of communications in collections of scientific conferences:**

***Communications in collections of international scientific conferences (held in the Republic of Moldova):***

- 3.1 CRECIUN, Natalia. Privire generală asupra institutiei inspectiei judiciare. Aspecte comparative [Overview on the iudicial inspection institution. Comparative aspects]. In: *Prospects and problems of research and education integration into the European area: intern. sc. conf., 7 June 2016* [online]. State University B.P.Hasdeu, Cahul, June 2016, vol.III, part I, pp. 104-109. [cited 20.12.2020]. ISBN: 978-9975-88-041-1. Available: [https://www.usch.md/wp-content/uploads/2020/05/Conferinta-USC-2016\\_Atelierul-1-4-cu-CIP.pdf](https://www.usch.md/wp-content/uploads/2020/05/Conferinta-USC-2016_Atelierul-1-4-cu-CIP.pdf)
- 3.2 CRECIUN, Natalia. Rolul inspectiei judiciare în responsabilizarea presedintilor instantelor de judecata [The role of the judicial inspection in ensuring the responsibility of court Presidents]. In: *Prospects and problems of research and education integration into the European area: intern. sc. conf., 7 June 2018* [online]. State University B.P.Hasdeu, Cahul, June 2018, vol. V, part I, pp. 106-110. [cited 20.12.2020]. ISBN: 978-9975-88-041-1. Available: [https://ibn.idsi.md/ro/vizualizare\\_articol/66756](https://ibn.idsi.md/ro/vizualizare_articol/66756)
- 3.3 CRECIUN, Natalia. Confidentiality and Transparency in the Judicial Inspection Works. The Case of the Republic of Moldova. In: *Prospects and problems of research and education integration into the European area: intern. sc. conf., 5 June 2020* [online]. State University B.P.Hasdeu, Cahul, 2020, vol.VII, part I, pp.121-127. [cited 20.12.2020]. ISBN: 978-9975-88-060-2. Available: <https://conference-prospects.usch.md/20201.pdf>
- 3.4 CRECIUN, Natalia. Professional legal culture and legal consiousness – premises of the efficiency and credibility of the Judicial Inspection body. In: *State, security and human rights in conditions of information society: intern. sc. conf., 12-13 December 2019*. Chisinau, Artpoligraf, 2020, pp.420-437. ISBN 978-9975-3462-2-1

***Communications in collections of national scientific conferences with international participation:***

- 3.5 CRECIUN, Natalia. Excluderea dreptului judecatorilor in functie de a accede in inspectia judiciara – mijloc de solutionare a conflictelor de interese sau subminarea esentei autoadministrarii judecatoresti [Excluding the right of serving judges to access in the judicial inspection – modality to solve conflicts of interest or way of undermining the essence of judicial self-governance]. In: *Realities and prospects of the national legal education: nat. sc. conf. with intern. part., 01-02 October 2019*. Chisinau, CEP USM, 2020 vol. I, pp. 212-220. ISBN 978-9975-149-79-2

***Communications in collections of national scientific conferences:***

- 3.6 CRECIUN, Natalia. Rolul inspectiei judiciare in apararea reputatiei profesionale a judecatorilor si a imaginii Justitiei [The role of the judicial inspection in defending professional reputation of judges and the image of justice]. In: *Resizing democratic values in conditions of information society: nat. sc. conf., 7-8 December 2017* [online]. Chisinau, USM, pp. 411-418. [cited 20.12.2020]. ISBN 978-9975-3178-4-9. Available: [https://ibn.idsi.md/sites/default/files/imag\\_file/401-418.pdf](https://ibn.idsi.md/sites/default/files/imag_file/401-418.pdf)

***Summaries of communications in collections of national scientific conferences with international participation:***

- 3.7 CRECIUN, Natalia. Abordari normativ-juridice privind institutia inspectiei judiciare [Legal normative approaches on the judicial inspection institution]. In: *Integration through research and innovation: nat.sc. conf. with intern. part., 28-29 September 2016*. Summaries of communications. Chisinau, CEP USM, 2016, pp. 229-233 ISBN: 978-9975-71-816-5
- 3.8 CRECIUN, Natalia. Examinarea de catre inspectia judiciara a petitiilor si sesizarilor (Aspecte comune si distinctive) [Examining by the judicial inspection of petitions and complaints (Common and distinctive aspects)]. In: *Integration through research and innovation: nat.sc. conf. with intern. part., 9-10 November 2017*. Summaries of communications. Chisinau, CEP USM, pp.229-233. ISBN 978-9975-71-812-7
- 3.9 CRECIUN, Natalia. Opinii asupra modului de reorganizare a inspectiei judiciare expus în actualele proiecte de acte normative [Opinions on the organization of the judicial inspection exposed in current drafts of normative acts]. In: *Integration through research and innovation: nat.sc. conf. with intern. part., 8-9 November 2018*. Summaries of communications. [online]. Chisinau, CEP USM, pp. 84-88. [cited 20.12.2020]. ISBN: 978-9975-142-50-2. Available: [https://ibn.idsi.md/ro/vizualizare\\_articol/78676](https://ibn.idsi.md/ro/vizualizare_articol/78676)
- 3.10 CRECIUN, Natalia. Verificarea sesizarii si cercetarea disciplinara in contextul raspunderii disciplinare a judecatorilor [Verification of the complaint and disciplinary investigation in the context of disciplinary liability of judges]. In: *Integration through research and innovation: nat.sc. conf. with intern. part., 7-8 November 2019*. Summaries of communications. Chisinau, CEP USM, Chisinau, 2019, pp.69-73. ISBN: 978-9975-149-46-4



- 3.11 CRECIUN, Natalia. Criteria for evaluating quality and efficiency of the judicial inspection activity. In: *Integration through research and innovation: nat.sc. conf. with intern. part., 7-8 November 2020* [online]. Chisinau, CEP USM, pp. 208-213. [cited 20.12.2020]. ISBN: 978-9975-152-48-8. Available: [https://ibn.idsi.md/ro/vizualizare\\_articol/114041](https://ibn.idsi.md/ro/vizualizare_articol/114041)

## ANNOTATION

**Creciu Natalia, „The axiology of the judicial inspection in streamlining the activity of the judicial authority”, PhD thesis in law, Chisinau, 2021**

**Structure of the thesis:** introduction, four chapters, general conclusions and recommendations, bibliography of 319 titles, 212 pages of basic text. The results are published in 18 papers (1 compartment in a collective monograph, 6 scientific papers, 6 communications in collections of scientific conferences, 5 summaries of communications in collections of scientific conferences).

**Keywords:** judicial inspection, judicial authority, Council for the Judiciary, quality and efficiency of justice, judicial ethics and discipline, specialized control, consolidation of justice.

**Purpose of the paper:** realization of a complex research of the judicial inspection institution and of reasoning its value in the process of streamlining the activity of the judicial authority, in the dynamic of a consolidated justice, specific for a democratic governing regime.

**Objectives of the paper:** to clarify the place of the judicial inspection body in the judicial system; to interpret the role of the judicial inspection body in streamlining the activity of the judicial authority; to demonstrate the substantial composition of the judicial inspection body; to distinguish the status of judicial inspectors in the process of carrying out their attributions; to synthesize the peculiarities of the competences of the judicial inspection body; to justify the value of the judicial inspection body in streamlining the activity of the judicial authority.

**Scientific novelty and originality:** as a novation, a so-called model of the judicial inspection body has been designed, through elucidation of inherent organizational and functional peculiarities of such a body of judicial control. On the same note, a proposal of reconsidering the control function of the judicial inspection has been launched in a unique way, through establishing of the function of investigative judicial inspector, to carry out operative activity.

**Achieved result which contributes to solving an important scientific problem:** resides in the demonstration of the strategic value of the judicial inspection body, as an indispensable element of the judiciary, fact that has generated the clarification of the place, the role, the composition, organizational and operational principles specific for the named institution, in order to direct the particular activity of analysis, verification and control to streamlining the activity of the judicial authority, in the context of an independent and consolidated justice.

**Theoretical significance:** we succeeded in the conceptualization of the degree of relationship between the judicial inspection body, the judiciary and its values, the argumentation of the substantial composition of the judicial inspection body, the evaluation of the level of functional independence that the judicial inspection must enjoy, the detection of areas that need normative and legal completion and improvement, the reconsideration of the control function of the judicial inspection etc.

**Applicative value:** the content of the thesis is centered on the applicability of conclusions and recommendations on the organization and functioning of the judicial inspection body. The launched opinions are argued through the prism of international standards in particular fields of manifestation of justice and can be considered in the process of reformation of the judicial system, in order to streamline and consolidate the national justice.

**Implementation of scientific results:** the basic scientific results have been argued and developed in scientific publications that may be of interest for the subjects directly involved in the reformation of the justice sector, as well as for theorists and practitioners in law, for students, masters and doctoral students at law.

## ADNOTARE

### Creciun Natalia, „Axiologia inspecției judiciare în eficientizarea activității autorității judecătorești”, teză de doctor în drept, Chișinău, 2021

**Structura tezei:** introducere, patru capitole, concluzii generale și recomandări, bibliografie din 319 titluri, 212 pagini de text de bază. Rezultatele obținute sunt publicate în 18 lucrări (1 compartiment într-o monografie colectivă, 6 articole științifice, 6 comunicări în materialele conferințelor științifice, 5 rezumate ale comunicărilor în materialele conferințelor științifice).

**Cuvinte cheie:** inspecție judiciară, autoritate judecătorească, Consiliul Justiției, calitatea și eficiența justiției, etica și disciplina judiciară, control specializat, consolidarea justiției.

**Scopul lucrării:** cercetarea complexă a instituției inspecției judiciare și argumentarea valorii ei în procesul eficientizării activității autorității judecătorești, în dinamica unei justiții consolidate, specifice unui regim democratic de guvernare.

**Obiectivele propuse spre realizare:** a clarifica locul organului de inspecție judiciară în sistemul judiciar; a interpreta rolul organului de inspecție judiciară în eficientizarea activității autorității judecătorești; a demonstra componența substanțială a organului de inspecție judiciară; a distinge statutul inspectorilor judiciari în procesul exercitării atribuțiilor; a sintetiza particularitățile competențelor organului de inspecție judiciară; a standardiza principiile de activitate specifice organului de inspecție judiciară; a justifica valoarea organului de inspecție judiciară în eficientizarea activității autorității judecătorești.

**Noutatea și originalitatea științifică:** cu titlu de novație, a fost proiectat un așa-numit model al organului de inspecție judiciară, prin elucidarea particularităților organizaționale și funcționale inerente unui atare organ de control judiciar. În aceeași ordine de idei, într-o manieră inedită, a fost lansată propunerea reconsiderării funcției de control a inspecției judiciare, prin instituirea în cadrul său a funcției de inspector judiciar de investigație, care să desfășoare activitate operativă.

**Rezultatul obținut care contribuie la soluționarea unei probleme științifice importante** rezidă în demonstrarea valorii strategice a organului de inspecție judiciară, ca element indispensabil al magistraturii, fapt care a generat clarificarea locului, rolului, componenței, a principiilor de organizare și de funcționare a acestei instituții, în vederea direcționării activității specifice de analiză, verificare și control spre eficientizarea activității autorității judecătorești, în contextul unei justiții independente și consolidate.

**Semnificația teoretică:** s-a reușit conceptualizarea gradului de relaționare a organului de inspecție judiciară cu magistratura și valorile ei, argumentarea componenței substanțiale a organului de inspecție judiciară, evaluarea nivelului de independență funcțională de care trebuie să se bucure inspecția judiciară, detectarea domeniilor care necesită completare sau perfecționare pe cale normativ-juridică, reconsiderarea funcției de control a inspecției judiciare etc.

**Valoarea aplicativă:** conținutul tezei este centrat pe aplicabilitatea concluziilor și recomandărilor cu privire la modul de organizare și de funcționare a organului de inspecție judiciară. Opiniile lansate sunt argumentate prin prisma standardelor internaționale în domenii specifice de manifestare a justiției și pot fi luate în considerație în procesul de reformare a sistemului judiciar, în scopul eficientizării și consolidării justiției naționale.

**Implementarea rezultatelor științifice:** principalele rezultate științifice au fost argumentate în publicații științifice, care pot prezenta interes pentru subiecții implicați nemijlocit în reformarea sectorului justiției, dar și pentru teoreticieni și practicieni în drept, pentru studenți, masteranzi și doctoranzi la drept.

## АННОТАЦИЯ

**Кречун Наталья, «Аксиология судебной инспекции в повышении эффективности деятельности судебной власти», диссертация на соискание учёной степени кандидата юридических наук, Кишинэу, 2021 год**

**Структура диссертации:** введение, четыре главы, общие выводы и рекомендации, библиография из 319 наименований, 212 страниц основного текста. Результаты опубликованы в 18 статьях (1 раздел в коллективной монографии, 6 научных статей, 6 докладов конференции, 5 тезисов докладов конференции).

**Ключевые слова:** судебная инспекция, судебная власть, совет юстиции, качество и эффективность правосудия, судебная этика и дисциплина, специализированный контроль, консолидация юстиции.

**Цель работы:** комплексное исследование института судебной инспекции и аргументация ценностей, а также процесса повышения эффективности деятельности судебной власти в динамике консолидированного правосудия.

**Задачи работы:** определить место органа судебной инспекции в судебной системе; интерпретировать роль судебной инспекции в повышении эффективности деятельности судебной власти; продемонстрировать органический состав судебной инспекции; уточнить статус судебных инспекторов в процессе исполнения своих полномочий; обобщить компетенции судебной инспекции и их особенности; стандартизировать принципы деятельности судебной инспекции; обосновать значение судебной инспекции в повышении эффективности деятельности судебной власти.

**Научная новизна и оригинальность:** в качестве новации, была разработана модель судебной инспекции, в которой разъясняются организационные и функциональные особенности, присущие данному органу судебного контроля. Автором выдвинуто предложение о пересмотре контрольных функций судебной инспекции путем добавления функции оперативной деятельности.

**Достигнутый результат, способствующий решению важной научной проблемы:** заключается в демонстрации стратегической значимости судебной инспекции как незаменимого элемента судебной системы, что способствовало прояснению места, роли, состава, организационных и функциональных принципов, характерных для данного органа, с тем чтобы направить деятельность по анализу, проверке и контролю на повышение эффективности деятельности судебной власти в контексте независимого и консолидированного правосудия.

**Теоретическая значимость:** удалось определить степень взаимосвязи между судебной инспекцией, судебной властью и принципами, которыми они руководствуются; определить уровень функциональной независимости судебной инспекции; выявить области, нуждающиеся в качественной нормативно-правовой доработке; пересмотреть концепцию контрольной функции судебной инспекции и т. д.

**Практическая ценность работы:** содержание диссертации разработано с учетом возможности применения выводов и рекомендаций по организации и функционированию судебной инспекции. Мнения автора основаны на международных стандартах в определенных областях проявления юстиции и могут быть учтены при реформировании судебной системы с целью повышения эффективности и консолидации национальной юстиции.

**Применение научных результатов:** основные научные результаты нашли свое отражение в научных публикациях автора, которые могут представлять интерес для субъектов, непосредственно участвующих в реформировании юстиции, а также для теоретиков и практиков права, студентов, магистров и аспирантов.

**CRECIUN NATALIA**

**THE AXIOLOGY OF THE JUDICIAL INSPECTION  
IN STREAMLINING THE ACTIVITY  
OF THE JUDICIAL AUTHORITY**

**551.01 - General Theory of Law**

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