



AUTHORITIES' REACTION

TO INVESTIGATIVE MEDIA REPORTS
on Integrity and Corruption Issues

CONCLUSIONS AND
RECOMMENDATIONS
FROM THE STUDY



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CHAPTER 1. DOCUMENTING AND ANALYSING REACTIONS OF PUBLIC INSTITUTIONS TO FACTS DESCRIBED IN INVESTIGATIVE MEDIA REPORTS

Conclusions

- The fact that in more than half of the cases examined (22 out of 38) there was a reaction by state institutions, expressed in controls, investigations or internal inquiries shows that state institutions are nevertheless attentive to what the investigative media documents and see it as a source of information for criminal or other investigations.
- The investigative reports (7), for which 'other impact' was set also show that the media has acted as a driver of change in some situations – addressing the problem in the media has generated change towards a possible solution.
- However, the final results of controls show a very low effectiveness of the law enforcement agencies' investigations and a low rate of sanctions applied. More than half of the controls initiated (13 out of 22) resulted in refusals or suspension of examination. This is a result that can send discouraging messages to society: that there is no real will to investigate the facts described by journalists and to cleanse the state administration systems of corrupt elements; that there are untouchable people; that there is a degree of tolerance in the state for unworthy or even corrupt behavior.
- While working on this study, it was found that many institutions did not have automated databases which would integrate information on people targeted in criminal proceedings or cases. For this reason, but also with deviations from the Access to Information Law, some institutions provided inaccurate or incomplete information. Some institutions (Anticorruption Prosecutor's Office (APO), National Anticorruption Center (NAC) and General Prosecutor's Office (GPO)) provided answers to some

questions only after repeated requests for information. For example, in an initial response, APO noted, "We are unable to provide you with a complete answer, as the Prosecution's database does not mention the basis for prosecution, which makes it impossible to determine the action taken by APO after the publication of the said stories by the three media outlets." The institution provided answers only after a second request, which said that we had received answers to similar questions for previous studies. The Prosecutor's Office for Combating Organized Crime and Special Cases (PCCOCS) also limited itself to replying, "We have posted press releases with regard to the issues addressed in your request, which are under PCCOCS management." This institution had not replied (by 6 October) to our repeated request sent in August.

- Although 38 investigative media reports, published by several media outlets between January 2021 and June 2023, were selected, the authors of the study analyzed a total of about 100 investigative reports published. Many of them, although they had an impact on the public, were not selected for monitoring because they originated from leaks of information from criminal cases already in the hands of law enforcement agencies.

Recommendations

For state institutions

- Institutions empowered to investigate and prevent corruption should maintain and strengthen their vigilance and interest in investigative media reports on conflicts of interest, procurement tenders with participants from the entourage of officials, wealth exceeding declared income, in order to investigate them effectively and apply sanctions.
- When they investigate themselves and initiate controls following media reports, state institutions should publicly announce this fact, as well as the results of such controls, in order not to allow the perception of impunity that exists in society to deepen.

- The state should develop mechanisms – or streamline existing ones – to hold accountable those who are responsible for mismanagement and waste of public assets and money.
- When promoting or reappointing employees, organizing recruitment competitions, competition committees and heads of institutions should take into account the information documented by journalists and which contained in control documents drawn up following publication of well-documented investigative media reports.
- The State should create and develop digital databases containing integrated information on individuals and legal entities concerned in criminal cases, as well as the basis for prosecution.
- The authorities should standardize the databases of law enforcement and anti-corruption institutions in order to better monitor criminal cases and the persons concerned in such cases.
- The authorities should attach greater importance to communicating with journalists and respect their right of access to information.

For non-governmental organizations and journalists

- Journalists should focus on documenting and disclosing facts independently, without resorting to leaks of information from criminal case files or information already known to law enforcement agencies, and therefore without the possibility for them to investigate and verify the facts.
- Journalists, not just investigative journalists, should strengthen their capacities to investigate the incomes and interests of public officials and the activities of companies providing services to state institutions.
- Journalists should further improve their abilities to investigate people in public office when documenting and publishing investigative reports,

while not neglecting the relevance of publishing investigations of former public office holders suspected of corruption.

- Following the publication of investigations, journalists should follow the reactions of the authorities to the facts described through requests for information and the publication of follow-up stories.
- Media, integrity and anti-corruption NGOs are recommended to regularly monitor how state institutions react to disclosures in investigative media reports by sending complaints to law enforcement bodies requesting criminal investigations after publication of investigations of public interest.

CHAPTER 2. ASSESSMENT OF LEVEL OF ASSURANCE OF FINALITY OF CONFLICT-OF-INTEREST FINDING ACTS ISSUED BY NATIONAL INTEGRITY AGENCY (NIA)

Conclusion and recommendations

As general conclusions, the following should be noted: the special provisions on control of compliance with the conflict of interest regime became applicable with the establishment of National Integrity Committee (NIC), later reorganized into NIA. Although the institutional reform aimed at making the control mechanisms more efficient, the goal is far from being achieved. In this respect, the statistical data are still modest, especially as regards the purposes of inspection procedures.

In order to improve the situation, it is recommended:

- Reconsider several provisions of Law No 132/2016 and Law No 133/2016. This exercise could be carried out by NIA as part of a broader exercise to monitor the implementation of the provisions, but also to review such

legal acts, an exercise required by Articles 75 to 76 of Law no. 100/2017 on Legal Acts. In this chapter, we have referred to several regulatory shortcomings, the key being the collisions between special laws and the Administrative Code. In our view, conflicts of law should be resolved in favour of special law provisions, by virtue of Article 5 para. (3) of Law no. 100/2017. According to the provisions cited, the special legal rules are applicable exclusively to certain categories of social relationships or strictly determining subjects. In the event of a discrepancy between a general rule and a special rule, which are contained in legal acts of the same level, the special rule applies;

- in the light of the above, practices for dealing with requests for recusal of integrity inspectors should be reconsidered. Requests for abstention and recusal of an integrity inspector should be dealt with from the perspective of preventing a conflict of interest and should, as long as specific provisions exist, be examined by the Integrity Council (IC);
- The IC should set performance indicators for NIA. Statistics on performance indicators should be tracked accurately in the control activity and be shown in the entity's annual activity reports. This would allow effective (internal and external) monitoring of NIA's work. This chapter contains a list of performance indicators that relate to the control of compliance with the conflict of interest regime;
- increase qualification and independence of integrity inspectors by reverting to the provisions imposing work experience requirements; appoint NIA vice-president by competition; remove tasks that implicitly concern control procedures from the competence of NIA president and vice-president; reconsider the place and role of IC in the national integrity system (if this body is maintained – review the way of setting up and appointing members); avoid assigning control procedures to persons other than integrity inspectors employed in the Integrity Inspectorate. In the same context, the jurisdictional control of the acts issued by integrity inspectors should be strengthened by increasing the capacity of judges in examination of cases related to NIA's competence – additional

training in the framework of professional training courses (initial and continuous) organized by the National Institute of Justice;

- Fundamental analysis of statistics relating to the refusal rate in initiating controls. This trend could be due to lack of public understanding of the conflict of interest provisions, which could be remedied by a massive public information campaign on the public service conflict of interest regime;
- Enhance the capacity of journalists to investigate/clear cases related to conflicts of interest. The relatively low number of proceedings initiated on the basis of media reports could also be due to lack of understanding of conflict of interest rules by journalists;
- As a result of the review of judicial practices, but also of further training, standardize practices for the application of conflict of interest provisions by integrity inspectors, but also by the IC;
- strengthen the efforts of integrity inspectors in pursuing finality of control procedures, including through additional training;
- encourage integrity inspectors to take a pro-active role in control procedures (multi-spectral examination of allegations, requesting additional information, including from the petitioner, etc.);
- organize and conduct massive pro-integrity campaigns – integrity is not a genuine general value as long as there is re-offending and the persons concerned in control procedures hold important positions.

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