

REGIONAL CONFERENCE **“THE DISCIPLINARY LIABILITY OF JUDGES** **- GROUNDS AND PROCEDURE”**

CHISINAU, 16TH NOVEMBER 2015

On behalf of the Rule of Law Program South East Europe of the Konrad Adenauer Foundation I would like to welcome you to our conference.

I welcome the President of the Supreme Court of Justice of the Republic of Moldova, Mr. Mihai Poalelungi.

I also welcome the President of the Judges' Association of the Republic of Moldova, Mr. Ion Druta.

I am delighted to have Dr. Ingo Werner and Dr. Frank Czaja here with us. Dr. Werner is a judge and Head of the Disciplinary Section, as well as Head of International Affairs at the Court of Appeal Cologne. Dr. Czaja has been presiding judge at the District Court of Cologne since 2006, Head of the Disciplinary Section and a member of the court administration, an instructor for young judges and probation officers. Both our guests have an outstanding experience and expertise in the field of disciplinary liability for judges. Thank you both for your participation.

My sincere thanks for his participation at this conference go also to Dr. Thomas Weithöner, Deputy Head of Mission of the

German Embassy to the Republic of Moldova.

Our invitation was accepted by presidents and members of Judges' Associations from five south-east European countries – Republic of Moldova, Romania, Bulgaria, Croatia and Montenegro – as well as from Germany, and we are very grateful for that.

This is actually the third regional conference of South East European Judges' associations in cooperation with Deutscher Richterbund coorganized by the Konrad Adenauer Foundation. We started in Bucharest in 2011 with the topics of “Managerial Development, Participation of Judges' organizations in Decision Making and Cooperation” and last year we met in Chisinau focusing on the topic of “Contributions of Judges Associations to an efficient Judicial System”.

[...]

Last year, together with the Moldavian Ministry of Justice we published a leaflet for Moldavian judges, prosecutors, lawyers, mediators, judicial bailiffs, notaries and others involved in the justice system, called “Rethinking Ethics in Justice: Integrity. Trust. Professionalism.”, where we reiterated several principles of conduct in legal pro-

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fessions. Judges and prosecutors are subject to the principles of legality, professionalism, impartiality respect for human rights, independence from external interests, professional integrity, observance of the regime of incompatibilities and avoiding conflict of interest, respectful and dignified conduct with colleagues, amicable resolution of personal or professional conflicts, and avoiding improper conduct.

The overall objective is to guarantee an independent, impartial and professional judiciary.

This goal can only be achieved if it is seen as a common goal by all. However, in many countries this goal has not yet been achieved. According to the Rule of Law Index of the World Bank's World Justice Project the judiciary of many countries is under the pressure of politicians and other stakeholders. There are other studies that come to the same conclusion. It cannot surprise that in these countries the peoples' trust in their judiciary is very limited.

In other countries the mere attempt of a politician to put pressure on a judge or prosecutor leads to his almost automatic resignation if it becomes public. This should be the standard that all countries should follow.

During this conference we will focus on the consequences of breaching professional ethics as a judge. Our experts today will exchange information on the legal provisions for disciplinary liability, the procedure in disciplinary cases, the examination procedure for cases concerning disciplinary liability of judges, as well as remedies against decisions on disciplinary cases.

Clearly, laws on disciplinary liability of judges and prosecutors and their implementation must never be used as instruments to exercise undue influence on them.

On the other hand also judges and prosecutors are not above the law. If they do not exercise their duties in compliance with the law, disciplinary action or even prosecution must follow. Investigations must be fair, independent and professional, and sanctions must be adequate. Under no circumstances must the public have the impression that the proverbs "Birds of a feather stick together" or "Hawks will not pick out hawks' eyes" are the guiding principles of such investigations. On the other hand of course also judges and prosecutors can demand that the principle of presumption of innocence is respected when they are suspected of improper personal or professional conduct.

This principle must also be respected by the media. While we need courageous journalists who investigate potential malfunctions of the political or judicial system or of legal professionals and who inform the public about their findings free of fear of negative consequences for themselves or their families, it is also true that journalists or media owners must not put undue pressure on the judiciary themselves.

Once again I would like to thank all those present today for their participation and interest in the subjects that we are going to discuss. I am confident that this conference will bring added value to all participants. The Rule of Law Program South East Europe of the Konrad Adenauer Foundation looks forward to cooperating with you also in the future.