

6TH INTERNATIONAL STUDENT CONFERENCE ON LOCAL SAFETY AND SECURITY



UNIVERZITET CRNE GORE
PRAVNI FAKULTET



University of Maribor

Faculty of
Criminal Justice and Security



ARRS

SLOVENIAN RESEARCH AGENCY

PREVENTIVE MECHANISMS AGAINST CORRUPTION IN COURTS

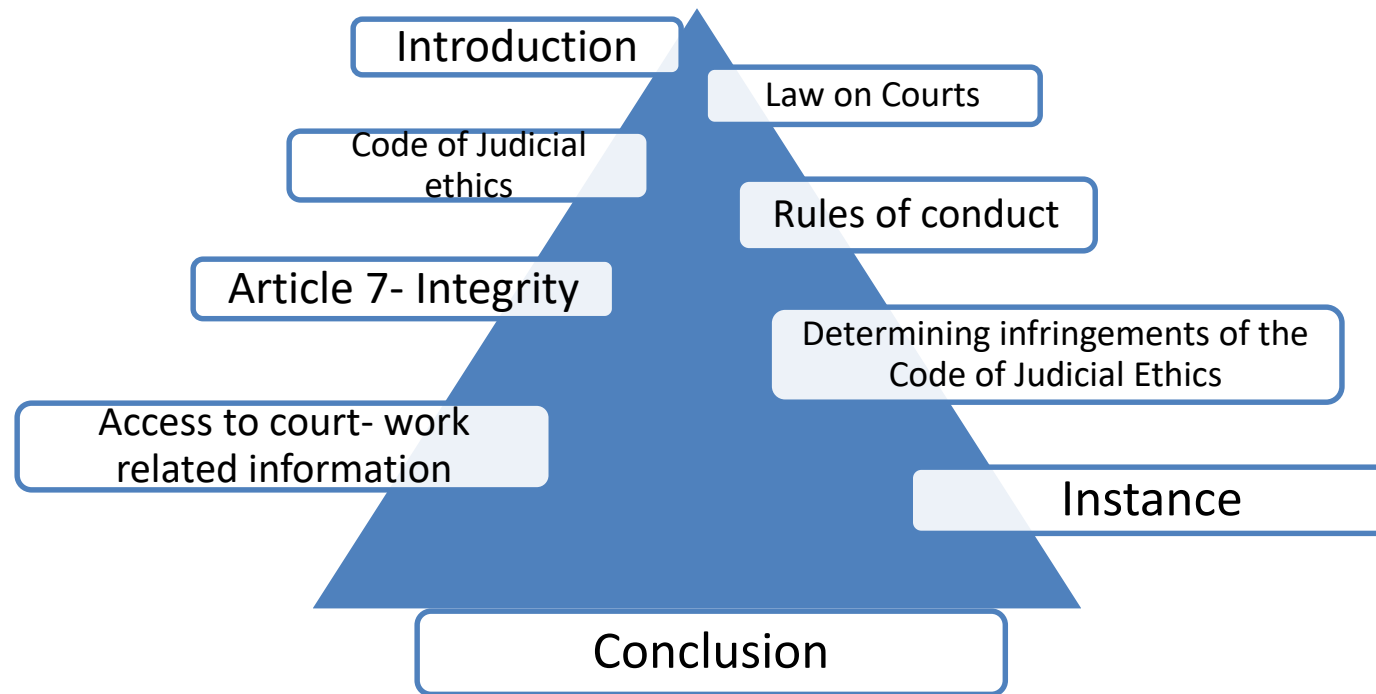
Irma Bralić

Ljiljana Damjanović

Šučo Šahović

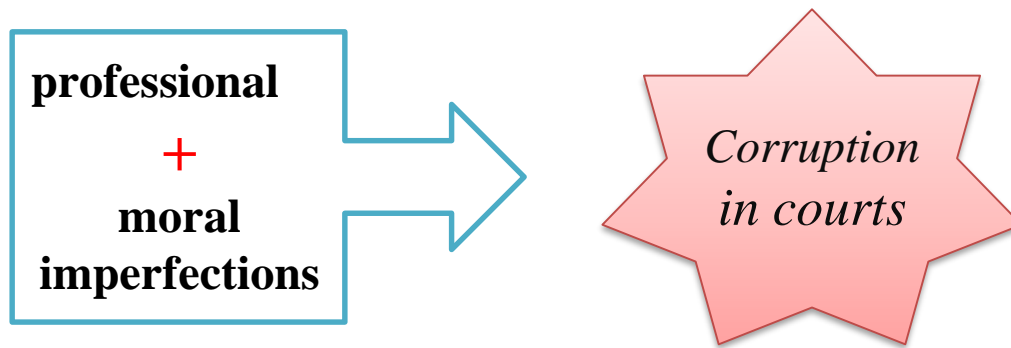
Vuk Simonović

CONTENT



Introduction

- Corruption in courts is often equated with bribery and bribes accepted by judges and other court servants.



Law on Courts

article 2

legally,
objectively
and timely

article 5

impartial
trial

article 25

Supreme
Court
Bench- the
Parliament

article 35

method of random
allocation of cases

Code of Judicial ethics



- One of the goals striving to be achieved by using preventive mechanisms against corruption in courts is strengthening the usage of the Code of Judicial ethics.
- The Code of Judicial ethics prescribes ethical principles and rules of conduct which the judges need to abide by for the sake of preservation, affirmation and enhancement of the dignity and reputation of judges and the entire judiciary system alike.



RULES OF CONDUCT

- The judicial independence is a prerequisite for the rule of law and a fundamental guarantee of a fair trial. The judge is obligated to respect and help develop the judicial independence both on a personal and institutional level.
- Judges shall not engage in any activity which might interfere with their judicial functions or affect confidence in their apoliticism and independence.
- According to article 4, during the proceedings, both inside or outside the court, the judge shall not contact attorneys and parties on which cases he is obliged to proceed, as with one of the parties' relatives, friends and acquaintances, and other persons which would question the judges bias.

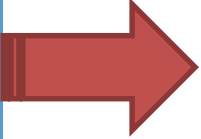


Article 7 - Integrity




- Dignity, honesty and incorruptibility
- Gift, advantage, privilege or reward
- A judge shall not use his position and prestige for the sake of his own or somebody else's material gain or improvement of their private interests, interests of their families or interests of anybody else.

CRIMINAL CODE (ARTICLE 422)



(1) Anyone who accepts a reward or any other benefit for interceding that an official act be or not be performed by taking advantage of his official or social position or influence, shall be punished by imprisonment for a term of three months to three years.



(2) Anyone who offers or promises to a person acting in an official capacity or another person a reward or any other benefit for interceding that an official act be or not be performed by taking advantage of his official or social position or influence, shall be punished by imprisonment for a term of up to three years.

Determining infringements of the Code of Judicial Ethics



Who can initiate proceedings and who decides?

Manner of the committee's decision making

Work of the committee

Manner of work and the committee's decision making

If during the proceedings, the committee finds that the judge's behaviour dishonours the judicial function, they will stop the proceedings of determining the infringements and submit a proposition of determining the judge's disciplinary responsibility.

Right of objection

The accused judge has the right to object against the decision made by the committee (which confirms the infringement) during the eight day period, starting from the day the decision has been declared



ACCESS TO COURT – WORK RELATED INFORMATION

- Courts refuse to disclose many of their work related information from the public and so fails to enable oversight and public inspection of the legality and legitimacy of their proceedings.
- The reason why these information are not disclosed to the public is because it is considered that they present the judge's personal data.
- They avoid sharing these information to the public eye so that it can't come to their misuse.



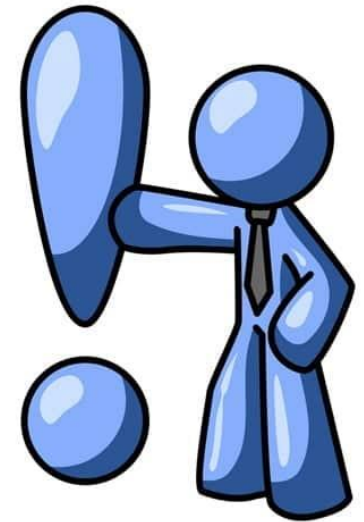
INSTANCE



- ❑ In 2015, The Specialized State Prosecutor's Office has suspected the Commercial Court president for creating a criminal organization aiming to use his function and the judicial status, to create profits for himself and his organization through the unlawful increase of monetary compensations during bankruptcy proceedings. In several cases he took over bankruptcy proceedings that were assigned to his colleagues, after which he would, along with his accomplices conduct unlawful actions.
- ❑ 10 companies
- ❑ 661.496 EUR.

CONCLUSION

- Most anti-corruption vulnerabilities and responses are institutional, and are, indeed, essential to eradicating corruption within the judiciary. But the ultimate response, without which corruption will never be eradicated, is societal.



LITERATURE



- Law on Courts ("Official Gazette of Montenegro", no. 11/2015 i 76/2020.)
- Code of judicial ethics (2014), On the basis of Article 8, paragraph 3 of the Law on the Judicial Council ("Official Gazette of the Republic of Montenegro", no. 39/2011, 31/2012, 46/2013 i 51/2013)
- The Criminal Code of Montenegro ("Official Gazette of the Republic of Montenegro", no. 70/2003, 13/2004 - corrected and 47/2006 and "Official Gazette of Montenegro", no. 40/2008, 25/2010, 32/2011, 64/2011 – other laws, 40/2013, 56/2013 - amended, 14/2015, 42/2015, 58/2015 - other laws, 44/2017, 49/2018 and 3/2020)
- Law on Prevention of Corruption (The law was published in the "Official Gazette of Montenegro", no. 53/2014 and 42/2017 - Decision of the US Montenegro.)

THANK YOU FOR YOUR ATTENTION!

