ISSN 1648-2603 (print)
ISSN 2029-2872 (online)

VIEŠOJI POLITIKA IR ADMINISTRAVIMAS
PUBLIC POLICY AND ADMINISTRATION
2021, T. 20, Nr. 2 / 2021, Vol. 20, No 2, p. 299–311.

PROFESSIONAL INTEGRITY TESTING AND HUMAN RIGHTS

Alvydas Šakočius

General Jonas Žemaitis Military Academy of Lithuania
Šilo St 5A, LT-10322 Vilnius, Lithuania

DOI: 10.13165/VPA-21-20-2-12

Abstract. *The aim of the study is to carry out comparative analysis of laws and regulations, covering countries, in particular Central and Eastern European countries, which use specific testing procedures to assess institutional and professional integrity. The study has shown that the integrity testing as an administrative procedure poses less risk of violating the rights and freedoms of a person when it is applied in the internal management of the organisation; it's also helpful for ensuring the quality of staff and discipline. External, especially targeted, professional integrity tests usually have autonomous means and methods similar to covert law enforcement operations. They have to be regulated and supervised in the same manner as the criminal intelligence and prosecution procedures in order to guarantee the rights and freedoms of the persecuted under specific laws.*

Keywords: *public integrity, professional integrity testing, crime intelligence, human rights.*

Reikšminiai žodžiai: *visuomeninis principingumas (sąžiningumas), profesinio sąžiningumo testavimas, kriminalinė žvalgyba, žmogaus teisės.*

Introduction

The Organisation for Economic Co-operation and Development (OECD) strongly recommends promoting ethical behaviour in the civil service by through well-functioning institutions and governance systems. Parties are invited to develop and regularly review ethical policies and internal administrative systems, to integrate an ethical dimension in their governance systems and to combine idea-based ethical management systems with those based on compliance with the rules (OECD 1998). Naturally, the improved structure of the governance relationship must be defined by a new and improved term. As a

result of the move towards a new public governance, research and scientific publications have preferred the term 'integrity' (OECD 2005) and the OECD has therefore supported this concept as a more relevant approach to modern public integrity management styles that are compatible with rules and values-based approaches (OECD 2009).

The integrity testing, both institutional and professional, is recognised as a successful mean of disclosing misbehaviour of a civil servant and preventing corruption at its early stage. In some countries, especially in countries with high levels of corruption, it is used as a separate and complementary control tool, along with traditional forms of criminal justice, such as crime intelligence or non-secret pre-trial investigative actions. This poses the risk that parallel procedures and rules that impact human rights may overlap or interfere with each other.

By observing the wide variety and scope of legal regulation of integrity testing, we need to assess the risk of violating the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). The case-law of the European Court of Human Rights (ECtHR) confirms the annual petitions against countries that are either unwilling or unable to properly enforce the rights of civil servants in accordance with national law and justice practice. While it is up to the national authorities to choose the methods and means of monitoring fairness, they must also comply with international standards and agreements. Therefore, the purpose of this research is to study whether integrity testing is being properly employed in the structure of public integrity control, paying particular attention to its coexistence and consistency with the usual standards and procedures of disciplinary and crime investigations and at the same time not violating the rights and freedoms of civil servants. The subject matter of the study is the 'reliability' of the integrity testing in the context of respect of Human Rights. The study seeks to find answers to the following questions: a) how proportionate is integrity testing in comparison to the actual threats and risks that may affect respect for and status of human rights; b) how should integrity testing be carried out so it would fall in line with international human rights standards and principles of sustainable development.

Playfulness and enjoyment when employing the professional integrity tests (PITs)

Integrity testing acts as a mean of establishing the reliability and resilience of a person or institutions to corruption or misbehaviour and an instrument for public integrity control. Such a testing, sometimes mandatory, are used by private and public organisations in the human resources management process, especially during (pre-) employment or periodic performance appraisal, to test, for example, whether the applicant is resilient to the temptation to steal from the employer (Barrett 2001, Martini 2012). It also promotes good and fair cooperation between public agencies or sub-divisions and better public and administrative services (Pope 2000). Its performance techniques are usually intellectual products, as are the services offered for profiling and carrying out such testing in both private and public organisations (Mayer Brown Practices 2015).

Tests that are used in internal management usually are established by internal regulations, with which the persons inspected are familiar and with which they agree to be tested. They also are aware of additional existing, and, possibly classified, measures encouraged for search, selection and evaluation of personal information. However, in public management based on the principles of public integrity, ethical standards should be reflected in the national legal framework (OECD 2005). The legal framework (including written codes of ethics) is the main source informing customer and civil servant about the minimum standards and principles of conduct. It protects values of the public service by establishing guidelines for their maintenance. Legal framework determines service evaluation procedures, disciplinary measures and prosecution. Civil servants must know what their rights are, that non-compliance with their duty lead to actual or suspected misconduct and what protection will be available to them in case the violation will be disclosed. They need to know who will investigate each case or type of offence, how it will be dealt with, how administrative offences will be distinguished from criminal offences and how the offences will be punished (Gilman and Stout 2005).

Integrity testing, often encountered in human resources management structures, is not an ordinary means of identifying the corruption probability in general public administration. It is used in a small number of countries around the world in a variety of compositions and is designed primarily to assess the integrity of professional corporations with the higher corruption risks, such as lawyers and police (Huberman 1997, Klockars et al 2000). In some countries, especially new democracies, it is typically recognised as successful estimator of the supplementation of individual behaviour deviation or even replacing of the usual administrative or criminal procedures aimed at detection and investigation of the misconduct. In addition, in cases like that of Moldova, integrity testing differs from existing models, because it is broader and covers both professional corporations and an essential part of public administrators and public services (Hope 2014). Hence, due to the high rate of corruption, in case of low public integrity testing should by employed and centralised at national level, either by extending the powers of anti-corruption agencies or by establishing new ones. The requirement of compatibility of their legal status with existing constitutional and legal regulation sometimes poses challenges for legislators.

Scope of comparison

The analysis covers states whose national law complies with international human rights standards established by universal (United Nations International Rights Bill, UN Convention against Corruption) and regional (Council of Europe Criminal Law Convention against Corruption, European Convention on Human Rights) conventions. Some of the countries are members of the OECD, but a more detailed analysis is required from countries seeking to become members of the OECD in the medium or long term perspective. In this case, grouping of countries into three groups is based on the assumption that the old OECD members have a great potential for public integrity and experience in applying different methods of integrity control; the new OECD members have a historical memory of good and bad integrity control mechanisms in line with international

standards; new democracies that seek membership of the OECD and other organisations and blocs in the Western world, whose progress in ensuring public integrity plays an important role in the speed of integration.

One of the new democracies, the Republic of Moldova, consistently declares the course of West-oriented integration, but it is still (geo) politically balancing between Russia and Europe (Vardanean 2018). It receives significant intellectual and financial support to build a state's modern public integration system, but is periodically shaken by widespread political and structural corruption scandals (Popsoi 2017). Projects supported by international communities supported the instalment of well-functioning anti-corruption measures in Moldova, but implementation processes of such measures were not effective. The progress assessments show that the introduction of integrity testing of public sector bodies and officials, taking over the fragments of experience and regulation of the OECD and EU Member States, faces serious implementation difficulties in the context of Moldova (Rahman 2017). Such a situation is largely due to hasty legal regulation, sometimes imposed by political juncture, and the spontaneously changing reaction to the failed results (Hope 2014, Rahman 2017). Legislation must be critically assessed in the context of real changes in public integrity, their effectiveness and sustainability. Therefore, when analysing Moldova's legal regulation situation, changes in legal regulation should be assessed after the adoption of the law on professional integrity testing (later renamed the law on the assessment of institutional integrity), as well as criticism and revision of this Law (Hope 2014).

For the design of research methodology, it is also important to note that the Moldovan Professional Integration Testing Law has, for several years, stimulated legal discussions on its compliance with human rights standards. The possible non-compliance was assessed by national constitutional jurisprudence and even by the Venice Commission (Council of Europe). The case-law of the European Court of Human Rights and the experience of foreign countries were also used to evaluate individual elements of this Law. Therefore, the analysis of Moldova's legal regulation makes it possible to better understand and prevent threats to the rights and freedoms of civil servants and to apply analogous regulations in other countries.

However, the conditions under which legislation is implemented must also be considered. As it was mentioned by Jeremy Pop, 'the question of the refinement of laws to fight corruption through effective prosecutions, is a real one for countries who have a functioning judicial system, and investigators sufficiently independent or sufficiently bold to investigate cases of corruption which involve senior figures' (Pope 2000, p. 272).

Dual output of integrity testing

Integrity testing helps achieve at least two goals: it allows to explore the professional competence of (civil) servants and to assess degree of public integrity. The purpose of the professional integrity testing is to assess the reliability and integrity of a member of a professional corporation. It may also indicate systemic corruption risk factors influencing general public integrity. Risks that should be detected during PIT are obviously identi-

fied and recognised as collection or demand of a bribe of an official, servant or employee; abuse of power or position for personal gain; misuse of public funds in the interests of private interests; pressure using illegal or unethical external effects on the servant, official, employee; conflict of interest (Selinsek 2015). Emerging risks disclosed during the PIT might be managed in an appropriate manner, depending on the state of public integrity. Taking into consideration the possible worst situations, for instance, United Nations Convention against Corruption recommend for the states to develop risk-based anti-corruption strategies. The guidelines do not indicate how such a risk assessment should be carried out. It is proposed to rely on statistical information, audit reports and specific studies that would determine the causes, tendencies and vulnerable areas of corruption. It should increase knowledge about which sectors and procedures are more vulnerable, their degree of vulnerability and contribute to the development of better prevention and detection of corruption (UNODC 2009).

The OECD public sector integrity assessment system is designed not only for the creation of anti-corruption environment for public sector entities, but also provides information to legislators on the mechanisms and support systems used by the public sector in this field (OECD 2005). OECD approach based on the assumption that at present, states should verify whether integrity policies are pursuing their objectives to promote the improvement of the economic, political and social environment and public confidence.

Practical aspect of the PITs

Countries with specific integrity verification procedures (Czech Republic, Romania, and Moldova) differ in the specific methodologies used for the investigation of integrity as compared to those using conventional crime investigation documents. For example, the Lithuanian national legislation does not include the risk assessment of behaviour of civil servants; however, the procedures and mechanisms provided for in the legal acts provide an opportunity to assess the behaviours of civil servants through other (alternative) means: psychological research, polygraph research and other investigations used by law enforcement agencies. This is the case in countries with internal professional integrity oversight bodies using a set of national legislative measures for criminal intelligence and criminal investigations, which are employed by revealing similar crimes, such as the National Police Immunity Board in Lithuania or Department of Internal Security of the Police Supreme Command in Poland (Swiantek 2020).

Professional integrity testing in Romania is applied only to police officers. Therefore, the Ministry of the Interior (MoI) of Romania adopted *The Order on the Procedure of Professional Integrity Testing on the Ministry's Staff, No. 256/2011*, which is carried out by a specialised unit of the Ministry – Anti-Corruption General Directorate. These include PIT of various subordinate structures such as various police forces, Passport DG, Driving and Vehicle Registration Directorates or the Immigration General Inspectorate. The verifiers must in each case verify whether the professional integrity testing is absolutely necessary to achieve the objective pursued, to combat corruption and to protect the integrity of MoI employees. Romanian legal provisions define the verification of good

faith as an independent administrative procedure not governed by the Code of Criminal Procedure. The results of an investigation may not be used as evidence in disciplinary or criminal proceedings. The law does not allow testers to commit criminal acts, but allows them to commit a violation and communicate with MoI employees (Popesku 2020).

In Georgia, only traffic police officers are tested. In 2011, the Czech Republic adopted the Law on Creation of Inspectorate for Law Enforcement Institutions No. 341, which also contains provisions on professional integrity testing. This law applies only to structures with special status - police, penitentiary services and customs. In some USA states, organisations establish internal security/immunity units using both public and secret performance techniques. For example, professional testing is part of police integrity strategies in New York Police (USA). There are approximately 40 secret officers in the home office of the NYPD, who carry out integrity tests for members of the service. These tests may be either random or targeted (Klockars et al 2000).

Random and targeted tests using specific investigative methods and techniques: core challenges

Random and targeted tests are usually carried out by specialised agencies or law enforcement units. The Criminal Law Convention of the European Council on Corruption (CETS-173(a) 1999) sets out that each participating country must adopt the necessary legislation and implement other measures to facilitate the collection of evidence provided for in the Convention relating to criminal offences. Other means also include measures allowing the use of specific testing methods in accordance with national law. The Explanatory Note to the Convention also states that 'special investigative techniques' may include the use of secret agents, wired connection, charging, telecommunications interception and access to computer systems, etc. Most of these methods are very obtrusive and may give rise to constitutional difficulties with respect to their compatibility with fundamental rights and freedoms, and therefore may require these specific investigative methods to apply safeguards and guarantees that would protect human rights and people's fundamental freedoms (CETS-173(b) 1999).

As stated in the jurisprudence of the ECtHR, any provocative action by police investigators is prohibited in every way, and the verification of the integrity of staff must not include a procedure or action which could be regarded as provocative. Disobedience to ECtHR rulings is a sufficient reason to deny the entire operation.

Articles 2 and 13 of the Law of the Republic of Lithuania on Criminal Intelligence identifies the collection of *criminal intelligence* as *imitation of criminal activities*, and it is applied with the purpose of protecting the State and the public from criminal threats. In addition, Article 19(3) of this Law states that criminal intelligence about a criminal act of corruptive nature may be declassified and used for investigation of disciplinary and/or professional misconduct (LCI, 2012). Articles 9 and 9a of the Law on Prevention of Corruption (LPC, 2002) and Article 3a of the Law of the Republic of Lithuania on Civil Service (LCS, 1999) allow the collection of all information and disclosure of the risk of personal conduct.

Therefore, the Law on Criminal Intelligence of Lithuania and the Code of Criminal Procedure provide a possibility to carry out imitation of a criminal act, i.e. to perform actions formally corresponding to the characteristics of criminal activities upon obtaining an authorisation from a court prosecutor, as provided for under normal circumstances. In view of this, it is difficult to find an answer as to whether the actions of public officials are considered legitimate or should be described as provocations. The main source of answers to this question must be forwarded to the ECtHR jurisprudence. The principle of fair procedure laid down in Article 6(1) of the ECHR has been found to be followed by a person who has been prosecuted for the commission of a criminal act.

The ECtHR examined whether this principle was violated in such cases as *Ramanauskas v. Lithuania* (ECtHR-74420/01 2008), *Milinienė v. Lithuania* (ECHR-74355/01, 2008) and *Malininas v. Lithuania* (ECtHR-1007/04 2008). According to the jurisprudence of the ECtHR, the action, called *imitation of criminal* acts in the legal system of Lithuania, falls within the concept of special (secret) methods, and situations in which a certain person imitates criminal activities from the *secret agent* are analysed. The ECtHR has repeatedly stressed that the use of 'methods of concealment' in initiated cases does not jeopardise the collection of evidence of the most dangerous crimes. The activities of covert agents are be justified where classified investigation does not become a provocation to commit a criminal act, i.e. a secret agent himself does not become a provocation.

A similar approach can be achieved in constitutional jurisprudence. In its decision of 8 May 2000, the Constitutional Court of the Republic of Lithuania stated that the mode of imitation of criminal acts is a form of specific operational (criminal intelligence) measure, which foresees the use of covert agents in investigating and resolving serious and organised crimes. It also pointed out that the use of the means of secret investigation is compatible with the ECHR and the Constitution, provided that the internal legislation containing such measures is clear, the consequences of its application were foreseen and those measures were proportionate to the objectives pursued. Based on the ECtHR case-law, the Lithuanian Constitutional Court stated that the model of conduct of criminal activity modelling cannot be used to instigate or instigate a new crime.

Case study: Legal frame-building for PIT in Moldova[1]

According to national regulation of Moldova, the professional integrity testing is a stage of the Institutional integrity assessment (IIA) procedure (a practical method to determine corruption risks) during which testers design and apply imaginary and simulated situations similar to those that arise in real activities of a public agent when performing official functions, and which is implemented during undercover operations with regard to activity and behaviour of the tested individual with the purpose of passively monitoring and determining the response and behaviour of the tested public agent in

1 This section includes data and information shared between international assessment team members involved into 2017–2019 EU Twining Project 'Support to the Strengthening of the Operational Capacities of the Law Enforcement Agencies of the Republic of Moldova in the Field of Prevention and Investigation of Criminal Acts of Corruption'.

order to evaluate the degree of institutional integrity environment degradation and possible corruption risks.

The first version of the Law on Professional Integrity was adopted by the Parliament of the Republic of Moldova in 2013. According to said law, group of persons who could be subject to the procedure of PIT was extended to all public agents, including judges of the Constitutional Court and courts of other instances. PIT was defined as creation of imaginary situations similar to those occurring in the real professional activity in order to monitor actions and response of a person being tested and to determine his professional integrity. The law permitted justified professional risk to be posed by the actions of the tested person in order to draw attention of the tested person. The testers allowed simulating misconduct or violations of rules, transfer assets and other items, etc., if there was no other possibility to perform the test, in order to draw attention of the person being tested. A coordinator of tests (one managing either the National Anticorruption Centre (NAC) or Information and Security Service (ISS)) was authorised to make a decision on testing that would provide necessary authorisation to a respective tester and approve tasks, plan and results of the testing. A specific institution was not informed in advance about the planned testing and the decision itself, as well as the procedural documents were of confidential nature. It was an independent procedure which did not require authorisation or permission from a judicial institution. Results of the test could have been used only for deciding upon professional responsibility of the tested person and dismissed if the results were negative. Employees of the NAC were authorised to perform the professional testing and the ISS tested them. Until adoption of the law, this procedure could have been applied only to police officer with reference to provisions of the Law on Police Activity and its Status (2012). The first version of The Law on Professional Integrity Testing entered into force on the 14th of February 2014 and the procedure of PIT started to be applied in practice on the 14th of September 2014. As representatives of NAC claim, more than 80 public agents, mostly employees of transport service, traffic police and municipality, were tested during that period. Generally, most PIT were recognised as negative, i.e. tested persons did not pass integrity tests. On the 20th of June 2014 a group of deputies from the Parliament of the Republic of Moldova addressed the Constitutional Court requesting to clarify whether some provisions of The Law on Professional Testing related to testing of representatives of judicial authorities do not contradict checks and balances and other principles enforced in the Constitution of the Republic of Moldova, whether they do not violate provisions of the European Convention on Human Rights that was ratified by Moldovan Parliament in 1997. During the Constitutional Court proceedings, a government representative acknowledged that such mechanisms of professional testing does not exist in any other European country and the mechanism anticipated in The Law on Professional Integrity is new, unique and exist only in Moldova.

In addition, the Court stated that provisions of the law on fundamentals of testing procedure initiation do not comply with criteria of reasonableness and objectiveness and do not ensure implementation presumption of innocence. According to the Court, the first interaction between the tester and the tested person in an artificially created (simulated) situation may be justified only in presence of preliminary objective and reasonable

data, which are a sufficient reason to believe that a public agent will carry out corruptive actions. Otherwise, if impeccable behaviour of such person does not give rise to any doubts and there is no reason for the society to cast a shadow of suspicion, such interaction is possible only if the public agent of his colleagues has engaged in an analogous work and shows tendency to corruption in the workplace.

The Court also claimed that provisions of the law lead to the tester, pretending to be another person and simulating a situation, interacting with a person holding public position during undercover operation according to confidential plan prepared in advance in the first stage of testing. The aim of these actions, in the Court's opinion, is obvious, i.e. the tester, pretending to be a briber, provokes the public agent to perform corruptive actions designed in advance, i.e. the initiative comes from the tester.

Speaking of these and other provisions of the law, the Constitutional Court of the Republic of Moldova concluded that a part of law provisions contradict the Constitution. With regard to this decision of the Court, an inter-departmental work group was formed which prepared a new version of the law where the procedure of PIT was incorporated into the overall process of institutional assessment, i.e. anticipated as optional secondary stage of IIA procedure which has to be authorised by a judge. It was concluded that results of testing also have to be approved by a judge. In practice, this procedure is not yet applicable since not all judges have received permits to work with classified information. In addition, the methodology of institutional assessment and description of PIT are currently being prepared.

Therefore, the new version of the law determines that IIA is to be performed pursuing a higher responsibility of heads of state and municipality institutions, creating and supporting the atmosphere of professional integrity in institutions, public agencies, ensuring professional integrity of agents and officers and corruption control and prevention, and as a way of disclosing corruption manifestations in activities of public agents.

Findings and conclusions.

From a holistic point of view, integrity testing itself as an operational control measure and the delineation of its scope is linked to and depends on other management control tools used at the same time by the same stakeholders and/or authority. Moreover, it usually does not play a key role in the fight against corruption for a long term, while other approaches are more sustainable. It is also connected with the excess supervision of civil servants, which makes internal relations somewhat more stressful and less trustworthy. As a result, many developed and democratic countries do not use institutional integrity testing and professional integrity testing and substitute them with other components of the democratic integrity control and more effective law enforcement, which have evolved over the years. Alternatively, internal controls are subject to separate fragments that ensure them only through internal disciplinary regulations.

The inclusion of integrity testing in the multilateral anti-corruption package is appropriate when public confidence in state authorities is low. This should not be ignored by other countries, especially those with high levels of corruption. On the other hand, scrutiny of professional integrity has an impact on the legal status of civil servants and

poses a risk of violating their personal rights. Some representatives of the public sector, who are subject to external examination of professional integrity, enjoy legal immunity from the normal application of the law, especially in administrative jurisdiction.

The Constitutional jurisprudence in many countries limits the number of public actors that can be tested under a specific law. Most of them are officials, for example judges, who have been granted legal immunity because of their specific constitutional status, but the immunity of such persons in a state with a high corruption rating provides grounds for doubting the entire public integrity system. It has already been mentioned that one of the necessary conditions for ensuring public integrity in new democracies is justice, which is implemented by courts independent of the will of politicians.

In the case of Moldova, the doubt arises when evaluating the opinion of the Venice Commission of the Council of Europe, as formulated by the Commission in the Communication *'Amicus curiae'* adopted by the Commission on 12 –13 December 2014 to the Constitutional Court of Moldova. As it was stated by the Venice Commission, the European Court of Human Rights deals with the use of secret agents, in particular when they are used as provocative agents, not only in relation to a possible infringement of the principle of fair trial under Article 6(1) of the ECHR, but also as regards possible infringement of the right to privacy under Article 8 of the ECHR. This is due to potentially serious violations of human rights, which could lead to the use of covert agents and the exploitation of people to whom their actions are directed. The Venice Commission also found that Law on Professional Integrity Testing does not respect the fundamental principles that may be established in the case-law of the European Court of Human Rights regarding a request for prior reasonable grounds to suspect that the requested person is involved in a similar criminal activity or has previously committed a similar offence, the authorisation to act as a secret agent must be formally lawful, etc. The Venice Commission criticised the artificial 'reasonable risk' argument aimed at creating legal fiction in order to ensure that the professional integrity tester is not considered to be a criminal offence, but does not alter the fact that the Tester is a provocative agent who does not comply with European standards and should therefore be treated with great caution.

The following conclusions should be considered:

1. From a public governance perspective, the IIA and, in particular, the PIT are recognised as management tools that encourage public agencies and its staff to improve the quality of services. In addition, they are to be carried out separately or independently and in parallel with similar law enforcement and criminal justice measures. In all cases, the rights of civil servants should be ensured and respected in parallel to the protection of the customer rights. In the absence of practically effective internal quality management tools in public agencies (i.e. ISO standards, anti-corruption self-regulations), both forms of integrity verification can significantly strengthen mistrust in public agencies.
2. As international practice shows, the professional integrity testing takes place mainly within the internal management structure ensuring immunity/internal safety of a separate public agency. Internal usage of the specific testing methods, especially in pre-employment stage, requests for prior agreement with the testing procedures

by the tested person. Even if he/she is agreeing on specific testing procedure, that doesn't automatically give their approval to the undercover examination similar to crime investigation procedure. The extent to which professional integrity is tested covering an essential part of public sector agencies, and in particular its centralisation, , depends on a slightly more transparent and generally acceptable alternative internal management tools using own internal control resources.

3. Weak internal control usually requires stronger external and/or centralised supervision, but only temporarily. Later on, in order to develop internal anti-corruption capacities, higher government agencies, i.e. ministries, should transfer the performance of professional integrity testing to the autonomous agencies. Institutional integrity testing should be performed by central authority.

References

1. Recommendation of the Council on Improving Ethical Conduct in the Public Service Including Principles for Managing Ethics in the Public Service, OECD/LEGAL/0298. 1998.
2. Public Sector Integrity: A Framework for Assessment. OECD, Paris. 2005.
3. Towards a Sound Integrity Framework: Instruments, Processes, Structures and Conditions for Implementation. OECD Global Forum on Public Governance. 2009.
4. Barrett, P. Pre-Employment Integrity Testing: Current Methods, Problems, and Solutions. Paper presented at BCS-ISSG Conference, March 29th-30th, 2001, Oxford. Retrieved from: https://www.pbarrett.net/presentations/integrity_doc.pdf (2021-04-30)
5. Martini M. Overview of Integrity Assessment Tools. U4 Anti-corruption Resources Centre. 2012.
6. Pope J. Confronting Corruption: The Elements of a National Integrity. Transparency International, Berlin. 2000.
7. A Global Guide to Background Checks. The Mayer Brown Practices. 2015. Retrieved from: https://www.mayerbrown.com/files/uploads/Documents/PDFs/2016/April/A-Global-Guide-Background-Checks.pdf.
8. Gilman S. C., Stout, J. Assessment Strategies and Practices for Integrity and Anticorruptive Measures: A Comparative Overview. In: Public Sector Integrity - A Framework for Assessment. OECD. Paris. 2005. P. 75-122.
9. Huberman M.J., Integrity Testing for Lawyers: It's It Time. The Canadian Bar Review.Vol.76. 1997. P. 47-64.
10. Klockars K. B., Ivkovich S. K, Harver W. E., Haberfeld M.R. The Measurement of Police Integrity U.S. Department of Justice. Office of Justice Programs National Institute of Justice. 2000.
11. Hoppe T. Integrity Testing: Aspects of Implementation. Strasbourg: Council of Europe. 2014. Retrieved from: https://rm.coe.int/16806db5e6 (2021-04-20).
12. Vardanean E. Moldova between Russia and the West: Internal Division behind the Commitment to European Integration. IFRI: Visions, No 110. 2018.

13. Popsoi M., Anti-Corruption Policy Failure: The Case of Moldova's Billion Dollar Scandal. IPPA Conference: Singapore, 28-30 June 2017. Retrieved from: https://www.ippapublicpolicy.org/file/paper/591f141a9193d.pdf (2021-03-04).
14. Rahman K. Moldova: Overview of Corruption and anti-corruption with the focus on the healthcare and procurements sectors. Transparency International. 2017. Retrieved from: https://knowledgehub.transparency.org/assets/uploads/helpdesk/Country-profile-Moldova-2017.pdf
15. Law of the Republic of Moldova No. 325, of 23 December 2013, On professional integrity testing. http://lex.justice.md/md/351535/ (Romanian and Russian) (2021-04-15).
16. Six, F., Lawton, A. Towards a Theory of Integrity Systems: A Configurational Approach. International Review of Administrative Sciences. Vol. 79. 2013. P. 639-658.
17. Silinsek L. Corruption Risk Assessment in Public Institutions in South East Europe. Comparative Research and Methodology. Regional Cooperation Council, Sarajevo. 2015.
18. Popesku M. E. Romania. Experience of the Anti-Corruption General Directorate in the Area of Integrity Testing. In: The Anti-Corruption Bulletin. Integrity Testing. Warsaw, Central Anti-Corruption Bureau. 2020, Vol. 1(12). P. 25-34.
19. Aijala K. Values to be part of the Daily Job: The Finnish Experience. In *Public Sector Integrity- A Framework for Assessment.* OECD. Paris. 2005. P. 297-341.
20. Ocieczek G. Integrity Testing. Empirical-Comparative Studies. In: The Anti- Corruption Bulletin. Integrity Testing. Warsaw, Central Anti-Corruption Bureau. 2020, Vol. 1(12). P. 63-71.
21. Stephenson M., S. Shutte S. (2016) Specialized anti-corruption courts. A comparative mapping. Anti-Corruption Resource Center. No 7. December 2016.
22. Swiantek J. Integrity Testing. Poland. In: The Anti- Corruption Bulletin. Integrity Testing. Warsaw, Central Anti-Corruption Bureau. 2020, Vol. 1(12). P. 50-62.
23. Criminal Law Convention on Corruption of the Council of Europe. Council of Europe. 1999. https://rm.coe.int/168007f3f5
24. Explanatory Report to the Criminal Law Convention ETS-173. Council of Europe.1999. https://rm.coe.int/16800cce441999
25. Lietuvos Respublikos kriminalinės žvalgybos įstatymas. Valstybės žinios, 2012-10-20, Nr. 122-6093. Galiojanti suvestinė redakcija nuo 2020-11-19. XI-2234 Lietuvos Respublikos kriminalinės žvalgybos įstatymas (lrs.lt)
26. Lietuvos Respublikos korupcijos prevencijos įstatymas. Valstybės žinios, 2002-06-12 Nr. 57-2297. Galiojanti suvestinė redakcija nuo 2021-01-01 https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.168154/asr
27. Lietuvos Respublikos valstybės tarnybos įstatymas. TAR, 2018-07-16, Nr. 12037, galiojanti suvestinės redakcija nuo 2020-11-21 https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/cad5a783834211e89188e16a6495e98c/asr
28. The European Convention for the Protection of Human Rights and Fundamental Freedoms. Council of Europe. 1950.https://www.echr.coe.int/documents/convention_eng.pdf

29. ECtHR-74420/01.2008. European Court of Human Rights. *Ramanauskas v. Lithuania*. Application No.74420/01, Judgment on 5th of February 2008. http://hudoc.echr.coe.int/fre?i=001-84935
30. ECtHR-74355/01, 2008 European Court of Human Rights. *Miliniene v. Lithuania*. Application No.74355/01, Judgment on 24th of June 2008. http://hudoc.echr.coe.int/fre?i=001-87142
31. ECtHR-10071/04, 2008 European Court of Human Rights. *Malininas v. Lithuania*. Application No.10071/04, Judgment on 1st of July 2008. http://hudoc.echr.coe.int/fre?i=001-87223
32. UNODC. Technical Guidelines of United Nations Convention against Corruption. 2009. https://www.unodc.org/documents/corruption/Technical_Guide_UNCAC.pdf

Alvydas Šakočius

Profesinio sąžiningumo testavimas ir žmogaus teisės

Anotacija

Tyrimo tikslas – atlikti lyginamąją įstatymų ir kitų teisės aktų analizę, apimant šalis, ypač Vidurio ir Rytų Europos šalis, kurios naudoja specialias testavimo procedūras, siekdamos įvertinti institucinį ir profesinį sąžiningumą. Tyrimas parodė, kad sąžiningumo tikrinimas, kaip administracinė procedūra, yra mažiau rizikinga pažeisti asmens teises ir laisves tais atvejais, kai ji taikoma vidiniame organizacijos valdyme; ji taip pat naudinga užtikrinti personalo kokybę ir drausmę. Išoriniai, ypač tiksliniai, profesinio sąžiningumo testai paprastai turi autonomines priemones ir metodus, panašias į slaptas teisėsaugos operacijas. Jie turi būti reguliuojami ir prižiūrimi taip pat griežtai, kaip ir kriminalinės žvalgybos bei ikiteisminio tyrimo persekiojimo procedūros, užtikrinant persekiojamų teises ir laisves pagal specialius įstatymus.

Alvydas Šakočius – Doctor Habilitatus of Social Sciences, a professor of the Security Institutions Management Research Group of General Jonas Žemaitis Military Academy of Lithuania.
E-mail: alvydas.sakocius@lka.lt

Alvydas Šakočius – Generolo Jono Žemaičio Lietuvos karo akademijos Saugumo institucijų valdymo mokslo grupės profesorius, socialinių mokslų daktaras (HP).
E-paštas: alvydas.sakocius@lka.lt