THE „ȘTEFAN CEL MARE" ACADEMY OF THE MINISTRY OF INTERNAL AFFAIRS OF THE REPUBLIC OF MOLDOVA
DOCTORAL SCHOOL „CRIMINAL SCIENCES AND PUBLIC LAW"

Manuscript title
CZU: 343.12/.13(043.2)=111

COSTIȘANU Vitalie

THE COMPETENCE OF THE CRIMINAL INVESTIGATION AUTHORITY ANALYSIS OF THE NORMATIVE FRAMEWORK AND CASE LAW

SUMMARY OF THE PHD THESIS IN LAW

Specialty: 554.03 – Criminal procedural law

Author: **COSTIȘANU Vitalie**

PhD supervisor: **OSOIANU Tudor**
PhD in Law, University professor

PhD doctoral committee: **OSTAVCIUC Dinu,**
PhD hab in Law, University professor

ODAGIU Iurie,
PhD in Law, Associate professor

RUSNAC Constantin,
PhD in Law, Associate professor

CHIȘINĂU, 2025

The thesis was developed within the Doctoral School "Criminal Sciences and Public Law" of the "Ștefan cel Mare" Academy of the Ministry of Internal Affairs of the Republic of Moldova.

Author:
COSTIȘANU Vitalie

PhD Supervisor:
OSOIANU Tudor PhD, university professor, „Ștefan cel Mare" Academy of the Ministry of Internal Affairs

Doctoral Committee:
1. GLAVAN Boris, the President of the Committee, PhD hab, associate professor, "Ștefan cel Mare" Academy of the Ministry of Internal Affairs;
2. OSOIANU Tudor, PhD Supervisor, PhD, university professor, "Ștefan cel Mare" Academy of the Ministry of Internal Affairs;
3. DOLEA Igor, official referent, PhD hab, university professor, Moldova State University;
4. OSTAVCIUC Dinu, official referent, PhD hab, university professor, "Ștefan cel Mare" Academy of the Ministry of Internal Affairs;
5. VÎZDOAGĂ Tatiana, official referent, PhD, associate professor, Moldova State University.

Secretary of the Doctoral Committee:
RUSNAC Constantin, PhD, associate professor, "Ștefan cel Mare" Academy of the Ministry of Internal Affairs.

The thesis defense will take place on 11.12.2025, at 14:30, within the "Ștefan cel Mare" Academy of the Ministry of Internal Affairs (address: 21, Gh. Asachi Street, administrative building, 2nd floor, Chisinau municipality).

The abstract and the doctoral thesis can be consulted at the "Tudor Roșca" General Library of the "Ștefan cel Mare" Academy of the Ministry of Internal Affairs, the National Library of the Republic of Moldova, on the website of the Doctoral School of Criminal Sciences and Public Law (https:// www.academy.police. md/scoala-doctorala/sustinere-teze-de-doctorat/ teze-de-doctorat) and on the website of the National Agency for Quality Assurance in Education and Research (www.anacec.md).

Author: _____ COSTIȘANU Vitalie

Secretary
of the Doctoral Committee: _____ RUSNAC Constantin, PhD, associate professor

CONTENTS
ABSTRACT OF THE THESIS

CONCEPTUAL REFERENCES OF RESEARCH

Actuality and importance of the topic addressed. In the context of consolidating the Republic of Moldova as a *state governed by the rule of law*, an increasingly important role is assumed by the criminal investigation authorities, whose function is essential in safeguarding legality, fundamental rights, and the proper administration of criminal justice. These authorities bear a significant responsibility in the application of criminal law, and their activity must strictly adhere to the principles of the rule of law, such as the separation of powers, the control of legality, and the protection of human rights. The observance of these principles can be ensured only through the engagement of the competent criminal investigation authority.

The competence of the criminal investigation body represents a fundamental element of the criminal justice system. A thorough understanding of this concept may contribute to clarifying the role and responsibilities of the criminal investigation authorities within criminal proceedings, which is essential for ensuring an effective and fair system of justice. The Republic of Moldova has undergone a series of legislative reforms in the field of justice, including those concerning criminal investigation. An examination of the competence of the criminal investigation authorities may highlight the gaps or deficiencies within the legislation and propose suitable measures for their improvement.

Following the Criminal Procedure Code[1], and particularly in the context of the post-2012 reforms aimed at combating corruption, strengthening judicial independence, and enhancing the efficiency of criminal proceedings, the issue of the competence of the criminal investigation authorities has become a key topic. The amendments regarding the competence of the Anti-Corruption Prosecutor's Office, the National Anti-Corruption Centre, and the authorities under the Ministry of Internal Affairs reflect a dynamic process of institutional re-thinking. Judicial practice and reports by various institutions (such as the Prosecutor General's Office, the People's Advocate, and the Superior Council of Prosecutors) indicate delays and conflicts of competence among criminal investigation authorities. Thus, the subject is not merely theoretical, but directly linked to the efficiency and legality of criminal proceedings.

The topicality of the institution of competence subordination is determined primarily by the fact that it constitutes an important link between substantive (criminal) law and procedural law, within the complex and responsible activity of law enforcement authorities in countering crime. Secondly, this institution is closely connected with managerial aspects, since it serves as a basis for the clear allocation of functional duties and the coordination among all criminal investigation authorities in the process of examining complaints and reports of offences, detecting and investigating them, as well as preparing and submitting criminal cases to court.

The correct determination of competence at the initial stage of the criminal process, prior to the commencement of the criminal investigation, allows for the prompt establishment of the circumstances of the offence through the appointment of the authority competent to carry out the inquiry. During the investigative stage, this ensures a complete and objective examination of the case, culminating in a lawful and well-founded decision.

[1] Criminal Procedure Code of the Republic of Moldova, adopted on 14 March 2003. Published in the Official Monitor No. 248-251, Art. 699.

The rules governing this institution define the competences of the criminal investigation authorities in investigating specific categories of criminal cases, the conditions, grounds, and procedure for transferring cases from one authority to another, the procedure for resolving jurisdictional conflicts between criminal investigation bodies, as well as the legal consequences arising from the non-observance of competence rules.

Compliance with the rules on competence contributes to improving the quality of criminal investigations, allowing the avoidance of overlapping activities among authorities investigating the same offences. Breach of these rules may result in delays, inadmissibility of evidence, and other procedural complications that undermine the legality of the criminal process in general, and of the criminal investigation in particular.

Indeed, throughout the development of this institution, the legislator has continuously sought the most appropriate solution — whether through concentrating investigative competence within a single authority, or conversely, through dividing competence among new subjects, or by extending the competence of one authority at the expense of others. At present, various proposals are being advanced for the reform and rationalisation of the competence of criminal investigation authorities[2].

An analysis of the existing normative framework reveals imperfections and numerous deficiencies in the legislative regulation of the institution of competence (which the author has also encountered in practical activity), generating difficulties in the interpretation and application of its provisions and, consequently, in correctly determining the competence of the investigative authority and avoiding jurisdictional conflicts.

Although the Criminal Procedure Code dedicates a chapter to the competence of criminal investigation authorities[3], and the Supreme Court of Justice[4] has issued interpretative explanations of jurisprudential value, an examination of these provisions shows that numerous inconsistencies and unresolved issues persist both in legal regulation and in practice. Despite the importance and topicality of the subject, the domestic academic environment has not treated it comprehensively at a monographic level. Most authors have addressed it only tangentially within specialised textbooks on criminal procedure law, similar to researchers in Romania. Certain representatives of the academic community in the Russian Federation have examined some aspects of the topic in greater depth.

The insufficient scientific treatment of the concept of competence in criminal proceedings negatively affects the activity of criminal investigation authorities and, consequently, the comprehensive and qualitative examination of individual criminal cases. Therefore, the scientific study of this subject presents not merely theoretical but primarily practical significance, since the correct resolution of these issues constitutes

---

[2] Draft Law on the Anti-Corruption and Organised Crime Prosecutor's Office. Available: https://www.parlament.md/preview?id=a9d8d65c-e5db-422f-a9c8-6616aaa3a278&url=https://ep-sp.parlament.md/materials/63874994421550467 7/Documents/20250213164256.pdf&method=GetDocumentContent

[3] Criminal Procedure Code of the Republic of Moldova, adopted on 14 March 2003. Published in the Official Monitor No. 248-251, Art. 699.

[4] Decision of the Supreme Court of Justice of 07.05.2013 in case nr.4-1ril-1/2013[online]. Jurisprudence of the Supreme Court of Justice [reffered 01.11.2024]. Available: https://jurisprudenta.csj.md/search_interes_lege.php?id=1

one of the essential prerequisites for improving the quality and efficiency of the activity of criminal investigation authorities.

Description of the situation in the research field and identification of research problems. The research undertaken within the framework of the present thesis is grounded in the analysis of legal doctrine, national and international criminal procedure legislation, as well as the relevant jurisprudence of the European Court of Human Rights, the Supreme Court of Justice, and the Constitutional Court of the Republic of Moldova. The aim has been to provide a comprehensive overview of the manner in which the competence of the criminal investigation body is regulated and applied.

The study revealed that, although the institution of the competence of the criminal investigation body plays a crucial role in ensuring the legality and efficiency of the criminal process, the national legal doctrine has not devoted sufficient monographic attention to this subject. Most authors have addressed the issue only tangentially within works dedicated to criminal procedure law. The existing literature largely limits itself to the classification of forms of competence, without providing an in-depth examination of the relationship between material, functional, territorial, and personal competence, or of the practical implications resulting from the incorrect application of these norms.

At the normative level, the research has identified numerous deficiencies and inconsistencies in the regulation of competence, stemming from the absence of a unified and coherent conceptual framework for this institution. Despite successive amendments to the Criminal Procedure Code, the provisions concerning the competence of criminal investigation authorities remain fragmented and insufficiently harmonised with institutional realities and relevant case-law. This situation has led to jurisdictional conflicts among investigative authorities, delays in the conduct of criminal investigations, and, in some cases, the invalidation of evidence.

Furthermore, comparative analysis has shown that, unlike the legal systems of Romania and the Russian Federation—where a consolidated doctrine and well-defined conceptual clarifications regarding the competence of criminal investigation bodies have been developed—the Republic of Moldova lacks a robust theoretical foundation and a uniform practice of application. This shortcoming affects not only the clarity of the division of competences among specialised authorities (such as the Ministry of Internal Affairs, the National Anti-Corruption Centre, the State Tax Service, and the Intelligence and Security Service) but also the effectiveness of inter-institutional coordination.

In this context, the major scientific problem addressed and resolved by the present research consists in the elaboration of a unified and operational concept of the competence of the criminal investigation body, based on the principles of legality, efficiency, and institutional cooperation. The thesis also formulates a theoretical and practical model for determining, interpreting, and applying competence rules, designed to eliminate institutional conflicts and optimise procedural activity.

Accordingly, this thesis contributes to the development of a solid scientific foundation concerning the competence of criminal investigation authorities, to the identification of existing legislative and jurisprudential shortcomings, and to the proposal of concrete solutions for reform and the harmonisation of practice in this field. These contributions have a direct impact on the efficiency and legality of the entire criminal justice process.

The purpose of the thesis. The purpose of this thesis is to conduct a comprehensive examination of the legislation, legal doctrine, and jurisprudence concerning the competence of the criminal investigation body, with the ultimate objective of assessing the appropriateness of improving the applicable regulations and establishing good practices within judicial case-law.

The objectives of the research. In order to achieve the stated purpose, the following objectives have been set:

- to identify and define the concept of competence, to establish its correlation with the competence of the criminal investigation body, to delineate the features and characteristics of this concept, and to examine it both as an institution of criminal procedural law and as a general condition for the conduct of criminal proceedings;
- to identify and elucidate the elements and forms of competence, both from the perspective of existing theoretical approaches and from that of the current legal provisions;
- to clarify the relationship between the elements and forms of competence, the distinction between them, their significance, and the manner of their interpretation;
- to clarify the legal criteria for determining the competence of the criminal investigation body in relation to the investigation of a particular criminal case;
- to interpret the rules of competence and the procedure for determining the competence of the criminal investigation body, both from the perspective of the existing legal framework and of the practices established at the current stage of development of criminal procedural law;
- to examine the practical issues arising in the application of the rules of competence when determining the competence of the criminal investigation body, by elucidating the existing challenges, including in cases of joinder or separation of criminal cases, as well as in situations involving a plurality of offences or participants;
- to assess the opportunity of putting forward proposals for improving the existing normative framework, as well as for establishing good practices in the field of the competence of the criminal investigation body.

Methodology of scientific research. For the purpose of ensuring an objective, comprehensive, and detailed examination of the subject of the present study, a range of research methods have been employed, as follows:

The logical method – in both its inductive and deductive forms, was applied in formulating logical reasoning and in developing conclusions and recommendations concerning the analysed subject. This contributed to clarifying the concept and certain fundamental notions, establishing the guiding principles for approaching the topic, as well as identifying the basic principles, based on the current legal regulations and established practice.

The systemic analysis method – involved the examination of the institution of competence within the context of the criminal procedural regulations currently in force, which made it possible to reveal the coexistence and interaction between the various forms of competence (functional, material, territorial, personal, etc.), thereby providing a structured view of the procedural architecture.

The comparative method – was applied to analyse the existing regulations in comparison with the established practice in the Republic of Moldova, as well as with those of other countries such as Romania and other post-Soviet states, in order to identify and highlight alternative legislative solutions and to formulate de lege ferenda

proposals aimed at improving both the normative framework and the established practice in this area.

The historical method – was used to trace the evolution of the concept of competence up to the present day and to identify the stages of transformation that have accompanied this development. This facilitated a deeper understanding of the concept, as well as the rationale behind certain recent regulations and the necessity of rationalising and further developing this field in the future.

The documentary analysis method – involved the systematic evaluation of normative, doctrinal, and jurisprudential sources, including institutional reports, the case-law of the European Court of Human Rights, the Constitutional Court's jurisprudence, and the decisions of the Supreme Court of Justice of the Republic of Moldova.

The formal-legal method – was employed in the process of interpreting substantive and procedural criminal law norms, allowing the assessment of the coherence, clarity, and effectiveness of the regulations governing the competence of criminal investigation bodies.

The logical-legal analysis method – was used in formulating proposals for improving the normative framework by identifying and highlighting inconsistencies at the legislative level and proposing solutions for rationalising the field.

By applying these methods in a complementary manner, the research successfully ensured a solid scientific foundation, achieved the stated objectives, and ultimately systematised a set of relevant conclusions and recommendations of both theoretical and practical value.

Scientific novelty and originality. The scientific novelty and originality of the present study consist in the theoretical and practical approach to the competence of the criminal investigation body, bringing to the forefront both the existing practices and the case-law of the European Court of Human Rights, the Supreme Court of Justice of the Republic of Moldova, and the Constitutional Court of the Republic of Moldova.

This research has revealed numerous deficiencies at the legislative level, as well as the existence of flawed practices related to the application of competence rules. Within the framework of this study, not only were proposals formulated for the rationalisation of the normative framework, but, more importantly, recommendations were developed for improving and harmonising the practice concerning the interpretation and application of competence rules and the resolution of potential competence conflicts that may arise between criminal investigation bodies.

Theoretical significance of the thesis. The theoretical significance of the thesis lies in identifying and highlighting the particularities and essence of competence both as an institution of criminal procedural law and as a general condition for the conduct of the criminal investigation, as well as in outlining the algorithm and procedure for determining the competence of the criminal investigation body, from both a theoretical and practical perspective. This has been pursued with the aim of improving and enhancing the efficiency of the existing normative framework, as well as establishing a qualitative and consistent practice in this field.

Applied value of the thesis. The practical value of the thesis lies, on the one hand, in the identification of legislative and practical deficiencies related both to the determination of the essence, scope, and particularities of the concept of competence and

to the procedure for applying these rules and establishing the competence of the criminal investigation body in each specific case. On the other hand, the study formulates solutions, proposals, and recommendations aimed at rationalising the field through qualitative legislative amendments and the establishment of a positive and consistent practice.

The materials resulting from this theoretical investigation may be used in the training of students within higher education institutions specialising in law, as well as in the practical activity of representatives of criminal investigation bodies.

The results obtained within the present thesis are materialised in the main scientific statements advanced for defence, which reflect the theoretical and practical substantiation of the institution of the competence of the criminal investigation body and the rationalisation of the mechanisms for applying procedural rules. These statements highlight the interdependence between the normative framework, national and European jurisprudence, as well as the practical realities of the activity carried out by criminal investigation bodies.

The important scientific problem solved consists in the elaboration of a unified, coherent, and applicable concept of the competence of the criminal investigation body, which ensures the correct interpretation and application of the rules on competence, the clear delimitation of responsibilities among various criminal investigation authorities, and the avoidance of institutional conflicts. Through this approach, a theoretical and practical model has been substantiated for the establishment and exercise of competence, based on the principles of legality, efficiency, specialisation, and interinstitutional cooperation.

The paper proposes a logical and procedural algorithm for determining competence in criminal cases, grounded on objective criteria (material, functional, personal, and territorial), as well as on the analysis of relevant jurisprudence of the Supreme Court of Justice, the Constitutional Court, and the European Court of Human Rights. At the same time, legislative inconsistencies and existing gaps in the regulation of competence have been identified and addressed, with de lege ferenda proposals formulated to improve the normative framework and to ensure uniform judicial practice.

The research results contribute to increasing the efficiency of criminal investigation bodies by establishing a clear delimitation of material and functional competences, reducing institutional overlaps, and creating a coherent mechanism for resolving competence conflicts. Overall, the thesis provides a valuable scientific and practical contribution to optimising the criminal investigation system and strengthening the rule of law in the Republic of Moldova.

Implementation of scientific results: The conclusions and recommendations formulated within the present doctoral thesis may serve as a valuable theoretical and methodological foundation for the revision, improvement, and harmonisation of the regulations governing the competence of criminal investigation bodies. The research results can be used in the development of draft laws, public policies, and criminal justice reform strategies, contributing to the strengthening of the normative and institutional framework regarding the delimitation and exercise of competence by criminal investigation authorities.

The implementation of the scientific results holds significant importance both from a theoretical perspective—through the clarification of the notion, elements, and

forms of competence—and from a practical one, by providing concrete tools for the coherent application of the rules on competence, the avoidance of conflicts between criminal investigation bodies, and the assurance of an efficient and lawful investigation process.

The results obtained can be integrated into initial and continuous professional training programmes for students, master's and doctoral candidates, as well as for officials from criminal investigation bodies, the prosecution service, and the judiciary. They offer a systemic and up-to-date perspective on the institution of competence, contributing to the development of practitioners' professional capacities in correctly establishing and applying the rules on competence and resolving institutional conflicts.

At the same time, the research findings can be applied in the training of criminal investigation officers and prosecutors within the specialised training institutions of the Ministry of Internal Affairs, the Prosecutor General's Office, and the National Institute of Justice, with a view to standardising practices for determining and respecting competence.

Another dimension of implementation lies in the use of the scientific results in the regulatory and interinstitutional coordination activities among different criminal investigation authorities (the Ministry of Internal Affairs, the National Anticorruption Centre, the State Fiscal Service, and the Security and Intelligence Service), aimed at eliminating overlaps and conflicts of competence. The application of the conclusions formulated in this thesis may contribute to streamlining procedural processes, reducing the duration of criminal investigations, and increasing the efficiency of investigative activities.

The results of this research are reflected in scientific articles published in specialised journals, as well as in papers presented at national and international conferences, ensuring the dissemination of ideas and de lege ferenda proposals among professionals in the field of criminal procedural law.

The implementation of these results in the practice of criminal investigation bodies, prosecutors, and courts will contribute to improving the quality of justice by ensuring a clear delimitation of competences and effective cooperation among the institutions involved. Thus, the thesis may serve as a doctrinal and practical reference point for the continuous development of the criminal procedural system and for strengthening the rule of law in the Republic of Moldova.

Approval of results. The results obtained during the elaboration of the thesis have been presented and subjected to detailed analysis within prestigious national and international scientific forums, where they have generated constructive discussions and exchanges of views. Furthermore, these results have been published in accredited specialised journals, contributing to the enrichment of the relevant body of literature and providing valuable theoretical and practical solutions for the researched field.

Publications on the thesis theme. There were published in 11 scientific papers on the topic of the doctoral thesis.

Key words: competence, criminal investigation body, elements of competence, forms of competence, subject-matter competence, personal competence, territorial competence, alternative competence, derogated competence, conflict of competence, rules of competence.

THE CONTENT OF THE THESIS

The thesis has the following structure: annotations in Romanian, English, and Russian; a list of abbreviations; an introduction; four chapters divided into sections; general conclusions and recommendations; followed by a bibliography comprising 284 titles; a statement of responsibility; and the author's CV.

Chapter I, entitled **"Analysis of the Situation Concerning the Competence of the Criminal Investigation Body"**, is devoted to examining the theoretical, normative, and practical framework relating to the competence of the criminal investigation body, forming the conceptual foundation of the research. The author begins by highlighting the importance of this procedural institution within the justice system, noting that the clear delineation of competences constitutes an essential guarantee of the legality of criminal investigations and an indispensable premise for the protection of the procedural rights of the persons involved. At the same time, it is emphasized that national doctrine has only fragmentarily addressed this issue, with most authors treating the competence of the criminal investigation body incidentally, in the context of other institutions, without providing it with a thorough monographic analysis.

In the first part of the chapter, the main doctrinal works from the Republic of Moldova that have touched upon aspects related to the institution of competence are examined. The author refers to the contributions of scholars such as Igor Dolea, Vitalie Stati, Viorel Berliba, Ion Neagu, Vladimir Grosu, and others, noting that, although they have analysed issues such as procedural powers, the legality of the criminal investigation, or the role of the prosecutor, there is no systemic approach to competence as a distinct institution. This observation confirms the existing doctrinal gap and the need for research dedicated exclusively to the delimitation and proper application of competence.

From a comparative perspective, the author analyses doctrinal contributions from other legal systems, particularly those of Romania, the Russian Federation, Ukraine, and certain Western European states. The influence of the Romano-Germanic legal tradition on the concept of competence of criminal investigation bodies is highlighted, alongside the recent developments arising from judicial reforms in Central and Eastern Europe. Romanian legal scholarship, represented by authors such as Volonciu, Dongoroz, Neagu, Udroiu, and Basarab, provides well-established models for classifying competence and for correlating material, functional, and territorial criteria. In contrast, Russian and Ukrainian doctrine focuses more on the organizational aspect of competence, linked to the institutional subordination of the criminal investigation bodies. The comparative analysis reveals that most developed legal systems treat competence not only as a procedural condition but also as a fundamental principle structuring judicial activity.

The chapter pays particular attention to the historical evolution of the regulations governing the competence of the criminal investigation body in the Republic of Moldova, from the period of the Soviet codes to the adoption of the 2003 Code of Criminal Procedure. The author explains how political and institutional transformations have influenced the distribution of competences between criminal investigation bodies and the prosecution service. It is underlined that, although the current Code of Criminal Procedure has established a modern system of competence in line with the principle of the separation of procedural functions, numerous

ambiguities remain regarding the delimitation of competence between specialized bodies such as the Ministry of Internal Affairs (MAI), the National Anticorruption Centre (CNA), the Customs Service, and the State Fiscal Service.

A significant contribution of this chapter lies in the critical analysis of the current normative framework. The author finds that the legal provisions governing competence are dispersed, partly contradictory, and insufficiently correlated with the existing institutional structure. It is noted that, in certain cases, subordinate acts (such as internal regulations of institutions) extend the competences of criminal investigation bodies beyond the limits established by the Code of Criminal Procedure, thereby generating legal uncertainty. Moreover, the absence of clear procedural rules governing the resolution of competence conflicts and the lack of uniform judicial practice in this matter are also highlighted.

The chapter further examines the practical effects of these deficiencies on criminal proceedings. The author shows that the erroneous application of the rules on competence often leads to the nullity of procedural acts, to delays in criminal cases, and to violations of the principle of procedural celerity. Likewise, the lack of a clear delimitation of competences results in institutional overlaps, undermining the efficiency of criminal investigations. Examples drawn from the case law of the Supreme Court of Justice and the territorial prosecutor's offices illustrate cases of incorrectly determined competence that required the reopening of investigations or the exclusion of evidence.

The chapter concludes with a synthesis of the main findings: in the Republic of Moldova, the institution of the competence of the criminal investigation body has not benefited from adequate doctrinal development, the normative framework remains inconsistent and incomplete, and judicial practice fails to ensure the consistent and coherent application of existing rules. Under these circumstances, the author argues for a systematic scientific approach to competence as a complex procedural-legal institution, proposing the development of a unified theoretical and practical model to underpin the correct application of the rules of competence. Thus, **Chapter I** lays the conceptual foundations of the entire research, justifying the topic, its relevance, and the subsequent directions of analysis.

Chapter II, entitled **"The Notion and Essence of Competence",** presents a comprehensive analysis of the concept of competence and its semantic content, examined from two perspectives: as an institution of criminal procedural law and as a general condition for the conduct of criminal proceedings, taking into account the diversity of approaches found in the doctrine.

Some researchers describe competence from the standpoint of the functional duties of the criminal investigation bodies, while others view it through the lens of the characteristics of the prejudicial acts under investigation or the nature of the criminal case.

A proper understanding of the concept of competence is closely connected to its forms, which should not be perceived as distinct varieties, but rather as manifestations of one and the same fundamental concept. In the views of various scholars, several forms of competence of the criminal investigation body are identified and analysed, each with its own particular features and implications.

In the specialized literature, alongside the notion of the forms of competence, the term signs of competence is also employed. These two notions are not entirely

identical; rather, they are related as part to whole, since the signs of competence represent the objective circumstances that actually determine its forms.

In the present chapter, a two-dimensional approach to competence is proposed: on the one hand, as an institution of criminal procedural law, and on the other hand, as a general condition for the conduct of criminal proceedings. This dual perspective allows for a comprehensive understanding of the full semantic and conceptual scope of the term.

In this context, Chapter II is devoted to the analysis of the legal framework governing the competence of the criminal investigation body, emphasizing the interdependence between legal norms and judicial practice. The author provides a detailed assessment of the provisions of the Criminal Procedure Code of the Republic of Moldova, the Law on the Organization and Functioning of the Prosecution Service, the Law on the National Anticorruption Center, the Customs Service, the State Tax Service, and the Security and Intelligence Service, outlining the specific features of each institution's competence depending on the nature of the offences investigated.

The current structure of the criminal investigation bodies is examined, and it is observed that despite the institutional diversity, the existing legal framework does not provide a sufficiently clear demarcation of material and functional competences, which frequently leads to conflicts between investigative bodies. This issue is illustrated through case examples drawn from the practice of the Supreme Court of Justice and territorial prosecutor's offices, which demonstrate divergent interpretations of the rules on competence.

Furthermore, the author analyses the decisions of the Constitutional Court concerning the legality of competence and the separation of procedural functions, which have contributed to the development of a stable body of jurisprudence defining the limits of the powers of criminal investigation bodies and prosecutors. The chapter also highlights the significance of the case law of the European Court of Human Rights, particularly regarding the principle of legality and the right to a fair trial, which serve as essential reference points for the interpretation of domestic legal norms.

On a comparative level, similar regulations from the legislation of Romania, the Russian Federation, and other European states are discussed, demonstrating how these jurisdictions have managed to avoid overlapping competences through clear mechanisms of interinstitutional cooperation. The chapter concludes by emphasizing the need for a systemic revision of the national legislative framework in the Republic of Moldova, so that competence may be defined in a clear, predictable, and coherent manner.

The most significant contribution of this chapter lies in the author's formulation and proposal of a definition of competence that encompasses all its essential characteristics and particularities, thus fully capturing the conceptual and practical meaning of this fundamental notion in criminal procedural law.

Chapter III of the thesis, entitled **"The Competence of Criminal Investigation Bodies"**, was devoted to an in-depth analysis of the competence of criminal investigation bodies, viewed through the prism of the different forms of competence and taking into account the number of such bodies currently operating in the Republic of Moldova: the criminal investigation body of the Ministry of Internal Affairs; the criminal investigation body of the Customs Service; the criminal investigation body of the National Anticorruption Centre; and the criminal investigation body of the State Tax Service.

Within this study, it was clearly established that the prosecutor does not constitute a criminal investigation body in the classical sense, but rather an institution which, under certain circumstances, may exercise powers specific to a genuine criminal investigation body.

The research examined the key moments at which the criminal investigation body must determine its competence — the initiation of criminal prosecution, the joinder of cases, the separation of cases, and the reclassification of the legal qualification of the act — as well as the legal consequences arising from a potential failure to observe competence.

Particular attention was devoted to the role and position of each criminal investigation body currently established and functioning, to their efficiency and contribution in combating all forms of criminality. It was determined that the criminal investigation body of the State Tax Service is relatively inefficient, that the creation of three criminal investigation bodies within the Ministry of Internal Affairs is unjustified, and that the distribution of competence in investigating economic offences among the criminal investigation bodies of the Ministry of Internal Affairs, the National Anticorruption Centre, the State Tax Service, and the prosecutor is inappropriate, given that each of them should possess distinct material competence.

The author described the practical difficulties encountered in determining competence in complex cases, particularly those concerning organised crime, corruption, economic and fiscal offences. It was shown that the absence of clear procedural rules governing coordination among different criminal investigation bodies leads to delays, duplication of efforts, and, in some instances, the exclusion of evidence owing to lack of competence.

Special attention was paid to the criminal investigation body of the State Tax Service, given its recent establishment and the specific nature of the offences it investigates. It was established that the creation of such a body is unjustified and inconsistent with the Romano-Germanic legal system, as it is subordinated to the same institution responsible for managing the respective field of activity.

The author proposed a unified procedural algorithm for determining competence, based on objective criteria and on a logical sequencing of procedural actions. At the same time, concrete proposals were advanced for amending the Criminal Procedure Code, with a view to ensuring the uniform application of the law and eliminating institutional parallelism.

Finally, the chapter underlines that the correct determination and exercise of competence represent not merely an issue of administrative organisation, but an essential condition for ensuring the legality of criminal proceedings and for safeguarding the rights of the participants therein.

Chapter IV of the thesis, entitled **"The Procedure for Determining the Competence of the Criminal Investigation Body",** focuses on the procedure for applying the rules of competence of criminal investigation bodies, presenting both the algorithm of application, the interpretation of the elements of competence, as well as the role of the authorised subjects and the possible consequences arising from the breach of these rules. It was emphasised that the current legislation does not provide clear rules regarding the interpretation and application of the indicators of competence,

which leads to non-uniform practices and highlights the need for an explicit regulation of the algorithm of application within the criminal procedure law.

An important stage in assessing competence is the moment of notification of the criminal investigation body, when the latter must verify whether it is competent to take over the case and, if necessary, must decline its competence within three days. This approach aims to prevent incomplete or biased preliminary investigations by incompetent bodies, thus reducing the risk of adopting unlawful decisions during the criminal prosecution.

The provision of Article 271 paragraph (2^1) of the Criminal Procedure Code clearly establishes that the declination of competence must be carried out immediately upon receipt of the notification, not after the initiation of the criminal process. In practice, however, there are uncertainties regarding the registration of notifications and their transmission to the competent body, which justifies the proposal to clarify both the procedure and the register for recording criminal proceedings.

The stage of initiating criminal prosecution is considered the most important for assessing competence, as it involves verifying the existence of objective circumstances confirming the reasonable suspicion and evaluating the indicators of competence of the criminal investigation body. Where the objective data are insufficient, the prosecutor may return the materials for completion, thereby ensuring the correct establishment of competence.

The evaluation of competence is not limited to the initial stages but continues throughout the criminal prosecution, since new objective circumstances or modifications of existing ones may arise, requiring a reinterpretation of competence in favour of another body. At the same time, the moment of establishing the necessity to decline competence may be difficult to determine, as it represents a cognitive process rather than an automatic procedural act.

The subjects authorised to assess competence include criminal investigation officers, the heads of criminal investigation bodies, prosecutors, and hierarchically superior prosecutors. The central role belongs to the prosecutor, who intervenes both in directing and supervising the activity of criminal investigation bodies and in resolving conflicts of competence between them. This calls for legislative clarification of the specific powers attributed to each subject.

The procedure for assessing competence involves establishing and analysing factual circumstances, which are administered by the same evidentiary means used for determining the act and the guilt. The evaluation is performed through logical analysis and assessment according to the inner conviction, taking into account each indicator of competence both individually and as a whole, in order to avoid erroneous or contradictory conclusions.

Finally, the breach of the rules of competence is sanctioned only by relative nullity, which is considered insufficient, since the violation of material or personal competence affects the legal foundation of the criminal prosecution. Although certain acts remain valid, stronger legislative measures are recommended to prevent situations in which incompetent bodies conduct criminal prosecution, thus ensuring compliance with the principles of a fair trial and the protection of the parties' rights.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

The scientific results obtained as a consequence of the conducted research consist of the following: 1) the definition of the concept of competence, its correlation with the competence of the criminal investigation body, the delimitation of its features and characteristics, and the examination of this concept both as an institution of criminal procedural law and as a general condition for the conduct of criminal proceedings; 2) the identification and elucidation of the indicators and forms of competence, both from the perspective of existing theoretical approaches and in light of the applicable legal provisions; the clarification of the relationship between the indicators and the forms of competence, the distinction between them, their respective significance, and the manner of interpretation; 3) the determination of the grounds and stages (phases) for establishing the competence of the criminal investigation body; 4) the elucidation of the existing issues regarding the interpretation and practical application of the rules of competence; 5) the clarification of the procedure for interpreting and applying the rules of competence by the subjects empowered with this right, in order to determine the competence of the criminal investigation body in each specific case; the substantiation of the forensic investigation algorithms applicable to typical situations encountered during criminal prosecution; 6) the formulation of recommendations for improving the existing normative framework, as well as for developing good practices in the field of the competence of the criminal investigation body.

As a result of the research carried out, the following general conclusions were formulated:

1. Despite the significance of the subject addressed in this study, it remains insufficiently explored both by researchers from the Republic of Moldova and by those abroad. The existing studies are not sufficient to provide clear and fully substantiated solutions. A detailed analysis of this concept is lacking, as most works are limited to enumerating and describing the forms of competence, and only in certain cases has an attempt been made to elucidate the scope of meanings and the essence of this concept. Such attempts have generally been built either around the objective circumstances characterising a criminal case or around the powers delegated to a specific criminal investigation body for the investigation of that particular case.

2. We have identified a lack of coherence within the current normative framework.

Although the Criminal Procedure Code devotes a distinct chapter (Chapter III, Title I) to the competence of criminal investigation bodies, its provisions are incomplete and often contradictory. They do not provide a clear definition of competence, do not expressly establish the indicators and forms of competence, and do not explicitly regulate the procedure for assessing and applying the rules of competence, including in non-standard situations involving connected cases, separation of cases, or plurality of offences and participants.

An examination of practical experience in the field has revealed, on the one hand, the insufficiency of the existing regulations and, on the other hand, their non-uniform application by representatives of the criminal investigation bodies and by prosecutors. The analysis of judicial practice has shown an inconsistent application of the rules concerning competence. Even though the Decision of the Plenum of the Supreme Court of Justice of 7 May 2013 clarified certain aspects regarding the application of the rules

of competence and the negative consequences that may arise as a result of their violation, these clarifications have not fully resolved the situation in this field, with legislative gaps persisting and continuing to generate conflicts of competence. In the absence of a clear normative algorithm, prosecutors and criminal investigation bodies apply the rules based on their own conviction or on established institutional practice.

The existing shortcomings affect the efficiency of the criminal process. Legislative deficiencies and the absence of clear regulations may lead to delays in criminal prosecution, conflicts of competence, inadmissibility of evidence, a decline in the quality of justice, and the inability to restore the rights of the parties. Consequently, citizens' confidence in law enforcement institutions is undermined, which runs counter to the very essence of the rule of law.

3. A clear delimitation of competence has particular practical significance, especially given that, within the territory of the Republic of Moldova, a multitude of criminal investigation bodies with diverse competences have been created and are currently operating.

According to the provisions of Article 253 of the Criminal Procedure Code, the criminal prosecution is carried out by the prosecutor and by the four criminal investigation bodies established within the following authorities: the Ministry of Internal Affairs (MIA), the Customs Service (CS), the National Anticorruption Centre (NAC), and the State Tax Service (STS).

However, from the analysis of this provision, it is not clear whether the prosecutor is included in the list of criminal investigation bodies alongside those constituted within the four above-mentioned authorities, since the provision merely states that the prosecutor conducts the criminal prosecution together with the other criminal investigation bodies. Therefore, it may be asserted that the prosecutor does not constitute a criminal investigation body in the classical sense but may act as a genuine criminal investigation body only in cases where he or she directly carries out the criminal prosecution, being thereby vested with the powers of such a body.

At the same time, the legislator, inexplicably, included the prosecutor individually among the criminal investigation bodies, without referring to the institution of the Prosecutor's Office, even though the prosecutor, or prosecutors as the case may be, conduct the criminal prosecution not in their own name or interest but on behalf of the Prosecutor General's Office of the Republic of Moldova. By contrast, the criminal investigation bodies are indicated as institutional entities carrying out criminal prosecution, not as their representatives, such as criminal investigation officers acting in an individual capacity.

4. In the current stage of the Republic of Moldova's development, the establishment of multiple criminal investigation bodies within the hierarchy of various authorities is not only unfounded but may also lead to overlapping competences among them and, consequently, to conflicts of competence — a situation that undermines the achievement of the purpose of the criminal proceedings in general, and of the criminal investigation in particular.

The establishment of a complex system of criminal investigation bodies within the Ministry of Internal Affairs (MIA) contravenes the provisions of Article 254 of the Code of Criminal Procedure, as well as the provisions of Law No. 320 of 27.12.2012 and Law No. 333 of 10.11.2006, from the correlated interpretation of which it follows

that a single criminal investigation body shall be created and operate within the MIA, rather than several bodies established within its subdivisions such as the General Police Inspectorate (GPI), the General Border Police Inspectorate (GBPI), or the Internal Protection and Anti-Corruption Service (IPACS), in the absence of a hierarchically superior body to coordinate their activity.

Furthermore, the creation of several criminal investigation bodies within the MIA's subdivisions is unjustified, taking into account both the universal material competence of the MIA's criminal investigation body and the limited number of criminal investigation officers, as well as the insufficient technical and material resources available. Since these subdivisions do not possess *distinct material competences*, we consider that their efforts should be focused on providing operational support (through the conduct of special investigative measures) and logistical assistance to the MIA's criminal investigation body.

5. In practice, the competence of the criminal investigation body of the Security and Intelligence Service (SIS) often overlaps and interferes with that of the Border Police in relation to the detection and investigation of offences, particularly those related to smuggling. These overlaps stem from certain contradictions between specific organic laws and the Code of Criminal Procedure (CCP). More precisely, Article 6 paragraph (2) letter (a) of Law No. 283 of 28.12.2011 grants the Border Police the authority to conduct special investigative measures and to carry out criminal investigations — a provision that contradicts the CCP, which assigns this competence exclusively to the criminal investigation body of the SIS.

Following the example of the SIS, a criminal investigation body was also established within the State Tax Service (STS). However, from its creation until the present time, this body has proven to be ineffective. This outcome is mainly due to the fact that the personnel employed within this body were, to a large extent, individuals with training in the fiscal field but lacking the necessary expertise in criminal investigation, which has made it difficult to ensure a complete, objective, and prompt investigation of offences falling within its competence.

We consider the legislator's decision to create criminal investigation bodies within the hierarchy of other authorities whose purposes and objectives differ from those of the criminal process and criminal investigation to be unfounded. Such an approach inevitably leads to the subordination of these criminal investigation bodies to the purposes of the respective authorities, with the result that their activity risks becoming biased.

6. The correct determination of the *territorial competence* of the criminal investigation body is established through the consecutive application of two objective criteria: first, *the sector where the offence was committed*, and, if this is unknown, *the sector where the offence was discovered*; and one subjective criterion — *the decision of the prosecutor*. However, the prosecutor's decision cannot be arbitrary or based on absolute discretion. The legislator restricts and conditions it by certain objective circumstances other than the basic criterion, namely: *the domicile of the suspect/accused or of the majority of witnesses.*

We disagree with the legislator's approach of conditioning this latter criterion upon *the domicile of the suspect/accused and of the witnesses*, considering that these persons may be located elsewhere than at their domicile, such as in places of detention

or various medical institutions. Moreover, the legislator has limited the circle of relevant subjects solely to the suspect/accused and the majority of witnesses. At the stage of initiating the criminal investigation, suspects or accused persons may not yet exist, as they can be identified only at a more advanced stage of the criminal process. Furthermore, it is unclear why the legislator linked this final criterion to the person of the suspect/accused, while completely neglecting the victim or the injured party, who, besides being already harmed, are further disadvantaged by the need to travel to the domicile of the suspect/accused.

From another perspective, the wording of paragraphs (1) and (3) of Article 257 of the Code of Criminal Procedure does not allow for a clear conclusion as to whether the modification of the territorial competence of the criminal investigation body is decided directly by the prosecutor supervising the investigation, by the prosecutor conducting the criminal investigation, by the hierarchically superior prosecutor to the one supervising or conducting the investigation, or by any hierarchically superior prosecutor in general.

We consider that the provisions of paragraphs (1) and (3) of Article 257 of the Code of Criminal Procedure should be interpreted and applied in conjunction with paragraphs (4) and (5) of the same article, since it is presumed that the authority to decide upon the territorial competence of the criminal investigation body lies with the hierarchically superior prosecutor to the one supervising the criminal investigation, within the limits of the territorial-administrative unit in which they operate, and with the Prosecutor General across the entire territory of the Republic of Moldova.

7. *The alternative competence* of criminal investigation bodies represents, in fact, a variant of *subject-matter competence*, determining which investigative body has the right and obligation to conduct the criminal investigation for certain offences, depending on the specific circumstances of each case. This system introduces a certain degree of flexibility within the competence framework, regulating how cases are allocated to investigative bodies according to the nature of the offence and the context in which it was detected.

In essence, the alternative competence was conceived as a mechanism to ensure the fluidity of the criminal investigation process and to avoid situations in which a case might become stalled due to rigid competence allocation rules. However, it must be emphasized that, in certain situations, this type of competence may generate ambiguities and conflicts in determining responsibility, particularly when the relevant provisions are vaguely formulated.

Thus, the provisions of Articles 269^1 and 269^3 of the Code of Criminal Procedure may give rise to confusion due to the way they are phrased, as they seem to suggest that any criminal investigation body may carry out the investigation in cases where the offence has been directly detected.

In practice, such ambiguous wording may lead to difficulties in distributing responsibilities among the investigative bodies, as it could create situations where several authorities claim competence over the same criminal case. This uncertainty not only generates institutional conflicts but also risks procedural delays and inconsistencies in the collection and evaluation of evidence.

Therefore, the norms governing the competence of criminal investigation bodies must be clear, unambiguous, and strictly delimited, ensuring a uniform and predictable

application. This would prevent jurisdictional overlaps and ensure that each investigative body operates within the limits of its legal attributions, thereby strengthening the efficiency and legality of the criminal investigation process.

8. *Delegated competence* does not represent a distinct form of competence in itself, but rather constitutes a set of exceptions from the fundamental rules of competence, determined by certain objective circumstances. These exceptions are designed to ensure the comprehensive and impartial investigation of a specific criminal act, allowing the competent authorities to act effectively even when the standard procedural framework would otherwise limit or hinder the proper conduct of the investigation.

9. The grounds for assessing and evaluating the competence of the criminal investigation body serve as the basis for determining, by the subjects empowered with this right, the indicators of competence at any stage of the criminal proceedings.

We consider justified the legislator's decision to establish the first level of verification and assessment of competence precisely at the stage of notification of the criminal investigation body.

The issue of determining competence at the stage of notification is primarily related to the existence of non-uniform practices in this area. Thus, some practitioners continue to determine competence only after the initiation of the criminal investigation, others decline competence immediately upon receipt of the notification, while the most numerous category consider it necessary to assess and evaluate competence only after the notification has been registered in Register No. 1 for recording information on criminal offences.

By introducing the provision of Article 271(2^1) of the Code of Criminal Procedure (CCP), the legislator in fact sought to ensure the immediate declination of competence upon receipt of a notification regarding an offence, rather than after the commencement of the criminal proceedings. This conclusion clearly follows from the wording of Article 271(2^1) CCP, which operates with the term notification and not criminal proceedings, since, according to Article 1(2) CCP, the criminal proceedings are deemed to have commenced from the moment the notification is registered by the competent criminal investigation body.

The activity of assessing and evaluating competence is not limited solely to the moment of receiving the notification or initiating the criminal investigation. Throughout the entire course of the investigation, up to its completion, new objective circumstances may arise which were not known at the time of the notification or initiation of the proceedings, or the objective circumstances that previously formed the basis for determining competence may change, thereby requiring their reinterpretation and, consequently, the transfer of competence to another criminal investigation body.

Moreover, it is not possible to determine precisely in time the moment when competence is established, as this moment represents a cognitive process during which the representative of the criminal investigation body, by evaluating the objective circumstances of the case, reaches the conclusion that competence must be reinterpreted in favour of another body.

The subjects empowered to assess and evaluate the competence of the criminal investigation body are as follows: the criminal investigation officer – for offences directly detected or for which they have been notified; the head of the criminal investigation body

– for offences detected by or notified to the body under their authority; the prosecutor – for criminal cases in which they direct or conduct the investigation; the hierarchically superior prosecutor – for cases investigated by the prosecution authority they supervise or manage; the Prosecutor General and their deputies – for all offences committed throughout the territory of the Republic of Moldova.

10. The criminal investigation officer, as the representative of the criminal investigation body acting in its name and interest, is the primary subject empowered to assess and evaluate the competence of the criminal investigation body in each specific case involving the investigation of a prejudicial act (Article 57(2)(1) and (2) CCP).

However, the provision of Article 57(2)(1) CCP is not consistent with that of Article 271(2¹) CCP, since it regulates the active role of the criminal investigation officer in assessing and evaluating competence only at the stage of the criminal investigation. According to the new provision of Article 271(2¹) CCP, the criminal investigation officer is required to assess and evaluate the competence of the criminal investigation body also at the moment of receiving a notification regarding an offence.

During the course of the criminal investigation, the head of the criminal investigation body may intervene in the process of assessing and evaluating competence by providing methodological support, including guidance on the interpretation and application of the rules governing competence. However, they cannot issue direct instructions to the criminal investigation officer, as the latter acts independently in performing their duties.

Given the current realities, the head of the criminal investigation body may intervene in the activity of the criminal investigation officer only upon the latter's request and solely for the purpose of providing methodological assistance. This, however, may in certain circumstances create difficulties in determining and evaluating the competence of the criminal investigation body in relation to a specific case.

11. The central role in assessing and determining the competence of the criminal investigation body lies with the institution of the prosecutor. The prosecutor intervenes in the assessment and determination of competence in three distinct situations:

a) in the context of directing the criminal investigation;

b) in the context of supervising the legality of the actions carried out by the criminal investigation body;

c) in the context of resolving conflicts of competence that may arise between criminal investigation bodies.

The assessment and determination of the competence of the criminal investigation body are carried out by the prosecutor who directly leads and supervises the activity of the respective criminal investigation body in a specific case. The criminal procedure legislation regulates only the aspects related to the competence of the criminal investigation body that directly performs the criminal investigation, and not the aspects related to the competence of the prosecutor in directing the investigation, which gives rise to certain ambiguities in practice.

Moreover, based on a joint interpretation of the provisions of the Law on the Prosecution Service and the Regulation of the Prosecution Service, it may be concluded that the activity of the prosecution service is more closely linked to the territorial division of the courts than to that of the criminal investigation bodies.

In exercising the function of supervision and control over the activity of the criminal investigation bodies, the prosecutor is required to resolve conflicts of competence arising between these bodies. Despite the provisions of Article 271 paragraph (3) of the Code of Criminal Procedure, it is considered that the prosecutor directing the criminal investigation may assess and determine the competence of the criminal investigation body whose activity he or she supervises with respect to the investigation of a specific offence, but does not have functional powers to resolve conflicts of competence arising between criminal investigation bodies, since he or she does not direct or control the activity of all bodies involved in the conflict.

In light of these considerations, it is considered that the hierarchically superior prosecutor to the one directing the investigation shall resolve conflicts of competence arising between the criminal investigation bodies within which the prosecution office he or she represents conducts the criminal investigation, whereas the Prosecutor General and his or her deputies shall resolve conflicts of competence arising between criminal investigation bodies from different territorial-administrative units or between different criminal investigation bodies.

12. The procedure for determining the competence of the criminal investigation body involves the establishment and assessment of the factual circumstances on the basis of which the elements of competence are to be identified and evaluated, both individually and as a whole, in order to determine precisely the competence of the criminal investigation body.

The assessment and determination of the competence of the criminal investigation body are carried out by the subjects vested with this authority (criminal investigation officers, the head of the criminal investigation body, and the prosecutor) through the logical analysis of the factual circumstances and their evaluation according to their inner conviction.

Each element of competence must be analysed and assessed separately, as well as in conjunction with the others, bearing in mind that they may be mutually exclusive or complementary, and may therefore indicate a different competence in the given case.

The results obtained derived from the objectives of the thesis, contributing to the resolution ***of the important scientific problem addressed therein***, which consists in ***substantiating a unified and applicable concept of the competence of the criminal investigation body***. This has been achieved through *the clarification of its notion, elements, and forms; the identification and correction of existing legislative and jurisprudential shortcomings; and the development of mechanisms and lege ferenda proposals aimed at ensuring the coherent application of the rules of competence, the resolution of conflicts between criminal investigation bodies, and the overall improvement of the efficiency of the criminal process*.

Based on the conclusions formulated, we put forward the following recommendations and proposals aimed at improving the field concerning the competence of the criminal investigation body.

- Taking into account the wording of Article 266 of the Code of Criminal Procedure, as well as the provisions of Law No. 320 of 27 December 2012 and Law No. 333 of 10 November 2006, it is considered necessary to consolidate all criminal investigation bodies established within the Ministry of Internal Affairs into a single

body, with a clear delimitation of its competence in relation to the criminal investigation bodies of the National Anticorruption Centre (NAC), the Security and Intelligence Service (SIS), and the State Tax Service (STS). In this way, offences in the public sphere, including corruption offences, should fall exclusively within the competence of the NAC and the Anticorruption Prosecutor's Office (APO), whereas offences in the private sphere, including economic offences (Articles 190, 191 of the Criminal Code), should be attributed to the competence of the criminal investigation body of the Ministry of Internal Affairs;

- In order to exclude interference between the criminal investigation body of the Customs Service and that of the Border Police, it is proposed to amend the provisions of Article 6 of Law No. 283/2011, which should clearly specify that the Border Police holds only the powers to identify transnational offences and offences concerning the violation of the customs regime, but not the powers to conduct the criminal investigation in respect of such offences;

- It is proposed to consolidate the National Anticorruption Centre and the Anticorruption Prosecutor's Office into a single structure, similar to the National Anticorruption Directorate of Romania, in order to enhance the efficiency of combating high- and medium-level corruption. This would improve case management and increase the effectiveness of corruption investigations, while petty corruption should fall within the competence of the criminal investigation body of the Ministry of Internal Affairs;

- It is deemed necessary to eliminate the provisions concerning alternative competence set out in Articles 270^{1} and 270^{2} of the Code of Criminal Procedure with regard to money laundering offences (Article 243 of the Criminal Code), given that such offences fall within the competence of specialised prosecution offices;

- The personal competence of the Anticorruption Prosecutor's Office must be finalised and clearly defined, so as to eliminate all confusions and interpretations concerning the subjects in respect of whom it is competent to conduct the criminal investigation;

- It is considered appropriate to amend Article 274 paragraph (4^{1}) of the Code of Criminal Procedure so that the failure to establish the elements of competence shall constitute sufficient grounds for returning the criminal case to the criminal investigation body for the conduct of additional investigative actions;

- It is important to ensure clear regulation of the responsibilities of the procedural subjects vested with the right to assess and determine the competence of the criminal investigation body (the criminal investigation officer, the head of the criminal investigation body, and the prosecutor);

- The normative framework should expressly regulate the procedure for prosecutorial control over the determination of the competence of the criminal investigation body by establishing clear powers and mechanisms for resolving conflicts of competence.

Based on the conclusions and the reasoning underlying the recommendations formulated, we put forward the following *lege ferenda* proposals aimed at improving the field concerning the competence of the criminal investigation body:

- amendment of the provisions of paragraphs (1) and (3) of Article 257 of the Code of Criminal Procedure by merging them and restating them in a new wording as follow:

„ *The criminal investigation shall be conducted within the territorial-administrative unit where the offence was committed. In cases where the place of commission of the offence is unknown, the criminal investigation shall be conducted within the territorial-administrative unit where the offence was discovered.*

On the basis of a reasoned decision of the prosecutor, the criminal investigation may be conducted within the territorial-administrative unit where the suspect, the victim, the majority of witnesses, or the material evidence are located".

- restatement of Article 270[1] of the Code of Criminal Procedure in a new wording as follows:

„ (1) The Anticorruption Prosecutor's Office shall conduct the criminal investigation in respect of corruption offences and offences related to corruption, provided for in Articles 324–335[1], 352[1] paragraph (2), 181[2] paragraph (5), 181[3], 191, and 243 of the Criminal Code, where:

a) the offences have been committed by persons holding public office at the national or senior management level, including those appointed or elected by Parliament, the President of the Republic of Moldova, or the Government, as well as by other persons holding positions of public dignity within the meaning of Article 123 of the Criminal Code;

b) the value of the goods, services, advantages, or the damage caused exceeds 10,000 conventional units;

c) the offences are related to criminal cases already within the competence of the Anticorruption Prosecutor's Office".

- the merger of Articles 269[1] and 269[3] of the Code of Criminal Procedure into a single provision that would clearly regulate the alternative competence of the criminal investigation bodies, taking into account the principles of transparency and predictability of legislation, whereby the new provision shall have the following wording:

„ *In cases concerning the offences provided for in Articles 311–316, Article 323, and Article 243 of the Criminal Code, the criminal investigation shall be conducted by the body that detected the offences, in connection with the conduct of the criminal investigation, under the conditions laid down by this Law*".

- amendment and restatement of the provision of paragraph (1), Article 258 of the Code of Criminal Procedure, in a new wording as follows:

„ *In cases where certain acts of criminal investigation must be carried out outside the territory in which the investigation is being conducted, the criminal investigation body may either carry them out itself or delegate their execution to the territorial subdivision of the respective criminal investigation body*".

- the repeal of the provision in paragraph (10) of Article 270 of the Code of Criminal Procedure, insofar as it was relevant in the context of paragraph (9) of the same provision, which regulated the prosecutor's right to assume the conduct of the criminal investigation in any criminal case in which he or she was directing the investigation.

- the presentation of the provisions of Article 271 paragraph (2^1) of the Code of Criminal Procedure, in the following wording: *"If the criminal investigation body finds that it is not competent to examine the notification concerning the preparation or commission of an offence, within 3 days from the moment of its receipt, without*

registering it in the register of recorded offences, it shall forward the notification together with the materials gathered to the prosecutor for transmission to the competent authority."

- the supplementation of Article 274 of the Code of Criminal Procedure with paragraph (1^1), having the following content:

"(1^1) Upon the commencement of the criminal investigation, the criminal investigation body or the prosecutor shall assess its competence to conduct the investigation, and if it finds that it is not competent, in accordance with the provisions of Article 271 paragraph (1), it shall decline its competence."

- the amendment of the provisions of Article 274 paragraph (4^1) of the Code of Criminal Procedure, so that it shall have the following content:

" *(4^1) If it is established that the criminal investigation body has not undertaken all the necessary measures prescribed by law for the comprehensive, thorough and objective examination of the notification and of other relevant objective circumstances necessary for the proper resolution of the criminal proceedings, and if no grounds are found for returning the case materials for the initiation of the criminal investigation, the prosecutor shall return the materials, by a reasoned order, to the criminal investigation body and shall indicate which procedural actions are to be carried out. In such case, the prosecutor shall set a time limit which shall not exceed 15 days."*

- the presentation of the provision of Article 290 paragraph (1) of the Code of Criminal Procedure, in a new wording, as follows:

"The prosecutor, within no more than 15 days from the receipt of the case file transmitted by the criminal investigation body, shall verify the quality of the evidence administered and the observance of the general conditions for the conduct of the criminal investigation. If the prosecutor finds that evidence has been obtained in violation of the provisions of this Code and that the general conditions for carrying out the criminal investigation have not been observed, he or she shall, by a reasoned order, annul and amend the procedural acts and exclude from the criminal case file the evidence obtained unlawfully. The evidence excluded from the file shall be kept under the conditions provided for in Article 211 paragraph (2)."

the amendment of the provisions of Article 57 paragraph (2) point 1) of the Code of Criminal Procedure and their presentation in a new wording as follows: *"...ensures the registration, in the manner prescribed, of the notification concerning the preparation or commission of an offence, in cases where the notification has not been registered by the head of the criminal investigation body; initiates the criminal investigation where, from the contents of the notification or the acts of ascertaining, there arises a reasonable suspicion that an offence has been committed; submits to the prosecutor proposals regarding the referral, according to competence, of the notification concerning the offence or of the criminal case, the initiation of the criminal investigation, the termination of the criminal investigation, the discontinuance of the criminal proceedings, or the refusal to initiate the criminal investigation."*

- the supplementation of Article 56 of the Code of Criminal Procedure, as follows:

"(2) The head of the criminal investigation body shall ensure the registration and resolution of notifications concerning the commission of offences, as well as the supervision of the activity of subordinate criminal investigation officers in

investigating notifications regarding offences and criminal cases transmitted for examination."

"(3^1) The head of the criminal investigation body shall withdraw materials and criminal cases from the procedure of subordinate criminal investigation officers and shall transmit them, according to competence, through the prosecutor."

- the supplementation of Article 270 of the Code of Criminal Procedure with a new paragraph:

"(4^2) The conduct of the criminal investigation shall be ensured by the territorial prosecutor's offices within whose jurisdiction operates the criminal investigation body carrying out the investigation."

– the presentation of the text of Article 271 paragraph (3) of the Code of Criminal Procedure in a new wording as follows:

"Conflicts of competence between criminal investigation bodies are inadmissible. Issues related to conflicts of competence shall be resolved by the hierarchically superior prosecutor of the prosecutor directing the criminal investigation, or by the Prosecutor General and his or her deputies."

Suggestions regarding future directions for research on the competence of criminal investigation bodies:

1. Digitalisation and modernisation of procedures for determining and applying the competence of criminal investigation bodies;

2. The interdisciplinary dimension of the competence of criminal investigation bodies in relation to the combating of cross-border crime and new forms of criminality;

3. The development of methodological guidelines and uniform instructions for practitioners, approved by the Prosecutor General's Office and the Supreme Court of Justice, in order to reduce discrepancies and ensure the consistent application of the rules on competence, taking into account the results obtained in this research.

BIBLIOGRAPHY

1. BÎRSAN, Corneliu. *Convenția europeană a drepturilor omului: comentariu pe articole – Ed. a 2-a, rev*. București: Editura C.H. Beck, 2010. 1887 p. ISBN 978-973-115-676-7.
2. BRÎNZA, Sergiu, STATI, Vitalie. *Drept penal. Partea specială*. Volumul II. Chișinău: „Tipografia Centrală", 2011. 1324 p. ISBN 978-9975-53-034-7.
3. ECtHR, case Sevk vs. Turkey, application nr. 4528/02, Judgment of 11.04.2006, Strasbourg [reffered 08.07.2024]. Available: https://hudoc.echr.coe.int/rus#{%22itemid%22:[%22001-73185%22]}
4. ECtHR, case Tomac vs. Republic of Moldova, application nr. 4936/12, Judgment of 16.03.2021, Strasbourg, [reffered 30.11.2024]. Available: https://hudoc.echr.coe.int/spa#{%22itemid%22:[%22001-208953%22]}
5. ECtHR, case Svetoslav Hristov vs. Bulgary, application nr. 36794/03, Judgment of 13.01.2011, Strasbourg [reffered 08.07.2024]. Available: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-116485%22]}
6. ECtHR, case Dammann vs. Switzerland, application nr. 77551/01, Judgment of 25.4.2006 [reffered 23.05.2024]. Available: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22002-3398%22]}
7. ECtHR, case Fox, Campbell and Hartley vs. United Kingdom, application nr. 12244/86; 12245/86; 12383/86, Judgment of 30.08.1990, Strasbourg [reffered 08.07.2024]. Available: file:///C:/Users/Lenovo/Downloads/CASE%20OF%20FOX,%20CAMPBELL%20AND%20HARTLEY%20v.%20THE%20UNITED%20KINGDOM%20-%20[Romanian%20Translation]%20by%20the%20COE%20and%20the%20EC.pdf
8. ECtHR, case Golder vs. United Kingdom, application nr. 4451/70, Judgment of 21.02.1975, Strasbourg [reffered 23.04.2025]. Available: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57496%22]}
9. ECtHR, case Ignatenco vs. Republic of Moldova, application nr. 36988/07, Judgment of 08.02.2011, Strasbourg [reffered 08.07.2024]. Available: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-124098%22]}
10. ECtHR, case Irahim and others vs. United Kingdom, application nr. 50541/08, 50571/08, 50573/08 și 40351/09), Judgment of 13.09.2016, Strasburg [reffered 06.04.2024]. Available: http://ier.gov.ro/wp-content/uploads/cedo/Ibrahim-s.a.-impotriva-Regatului-Unit.pdf
11. ECtHR, case Moreira de Azevedo vs. Portugal, application nr. 11296/84, Judgment of 23.10.1990, Strasbourg [reffered 23.04.2025]. Available: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57645%22]}
12. ECtHR, case Muradverdiyev vs. Azerbaijan, application nr. 16966/06, Judgment of 09.12.2010, Strasbourg [reffered 08.07.2024]. Available: https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-229410%22]}
13. ECtHR, case Mușuc vs. Republic of Molodva, application nr. 42440/06, Judgment of 06.11.2007, Strasbourg [reffered 08.07.2024]. Available: https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-112791%22]}
14. ECtHR, case Oral and Atabay vs. Turkey, application nr. 39686/02, Judgment of 23.06.2009, Strasbourg [reffered 08.07.2024]. Available: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-153995%22]}
15. ECtHR, case Plotnicova vs. Republic of Moldova, application nr. 38623/05. Judgment of 15.05.2012, Strasbourg [reffered 27.03.2024]. Available: https://www.agentguvernamental.md//wp-content/uploads/2015/04/PLOTNICOVA-RO.pdf
16. ECtHR, case Rotaru vs. Romania, application nr. 28341/95, Judgment of 04.05.2000, Strasbourg [reffered 27.03.2024]. Available: https://legislatie.just.ro/Public/DetaliiDocumentAfis/25965
17. ECtHR, case Sttanday Times vs. Great Britain, application nr. 6538/74, Judgment of 26.04.1979, Strasbourg [reffered 08.07.2024]. Available: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57584%22]}

18. ECtHR, case Popov vs. Republic of Moldova, application nr. 74153/01, Judgment of 18.01.2005, Strasbourg [reffered 13.06.2024]. Available: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-112656%22]}
19. ECtHR , case Dumitru Guțu vs. Republic of Moldova, application nr. 47804/07, Judgment of 21.01.2014, Strasbourg [reffered 13.06.2024]. Available: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-142857%22]}
20. ECtHR, case Assenov and others vs. Bulgary, application nr. 24760/94, Judgment of 28.10.1998, Strasbourg [reffered la 20.07.2024]. Available: https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-58261%22]}
21. ECtHR, case Vasileva vs. Danmark, application nr. 52792/99, Judgment of 25.09.2003, Strasbourg, [reffered 20.07.2025]. Available: https://hudoc.echr.coe.int/eng?i=001-61348
22. Criminal Procedure Code of the Republic of Moldova, adopted on 14 March 2003. Published in the Official Monitor No. 248-251, Art. 699.
23. **COSTIȘANU, Vitalie.** *Unele aspecte privind competența organului de urmărire penală a serviciului fiscal de stat*. În: Revista națională de drept nr.2(248)/ 2022. p.164-178. ISSN 1811-0770 /ISSNe 2587-411X.
24. **COSTIȘANU, Vitalie.** *Aspecte practice privind competența judecătorului de instrucție*. În: Științe juridice, Legal Sciences, nr. 16/2022, pp. 239–252. ISSN 1857-0976.
25. **COSTIȘANU, Vitalie.** *Competența organului de urmărire penală al Centrului Național Anticorupție în contextul ultimelor modificări ale codului de procedură penală*. În: Publicaţie ştiinţifico-practică Legea și Viața, octombrie - decembrie 2023, p.85-98. ISSN 1810-309X.
26. **COSTISANU, Vitalie,** PAVLENCU, Mariana. *Explicații privind competența procurorului la efectuarea urmăririi penale*. În: Anale ştiinţifice ale Academiei „Ştefan cel Mare” a MAI al RM: ştiinţe juridice, 2023, nr. 17, pp. 194-214. ISSN 1857-0976.
27. **COSTIȘANU, Vitalie.** *Jurisdiction of the Prosecutor's Authority: Theoretical Aspects and Legal Provisions*. In: International Scientific Conference „*Crime Prevention and Combating: Problems, Solutions and Perspectives*”, 6th Edition, April 25th, 2024, published in Law and Life, Special Edition, 2024, pp. 447–461. ISSN 2587-4365.
28. CRIȘU, Anastasiu. *Drept procesual pena: partea generală*. Ed. a 2-a, rev. București: Editura Hamangiu, 2017. 600 p. ISBN 978-60627-0783-5.
29. DIDÂC, V., ȘTERBET, V., BOTEZATU, R., ROMAN, D., VIZDOAGĂ, T. *Drept procesual penal: conducerea și efectuarea urmăririi penale de către procuror. Suport de curs/ cartea a II-a*. Chișinău: Elan Poligraf S.R.L., 2008. 200 p. ISBN 978-9975-66-093-8.
30. Decision of the Supreme Court of Justice of 07.05.2013 in case nr.4-1ril-1/2013[online]. Jurisprudence of the Supreme Court of Justice [reffered 01.11.2024]. Available: https://jurisprudenta.csj.md/search_interes_lege.php?id=1
31. DOLEA, Igor ș.a. *Drept procesual penal*. Chișinău: Cartier (F.E.-P.„Tipografia Centrală), 2005. 960 p, ISBN 9975-79-343-6.
32. DOLEA, Igor ș.a. *Drept procesual penal. Partea specială. Volumul II. Ediția a 2-a revizuită și completată*. Chișinău: Reclama, 2006. 335 p. ISBN 978-9975-940-95-5.
33. DOLEA, Igor. *Codul de procedură penală al Republicii Moldova (comentariu aplicativ).* Chișinău: Cartea Juridică, 2016. 1172 p. ISBN 978-9975-3111-3-7.
34. DOLEA, Igor. *Codul de procedură penală al Republicii Moldova:* (comentariu aplicativ). Ed. a 2-a. Chișinău: Cartea Juridică, 2020 (Tipogr. „Bons Ofiices). 1408 p. ISBN 978-9975-3418-0-6.
35. DOLEA, Igor. *Drepturile persoanei în probatoriul penal//conceptul promovării elementului privat*. Chișinău: Cartea Juridică, 2009. 416 p. ISBN 978-9975-9927-7-0.
36. MARTÂNCIK, Evghenii. *Justiția penală: Standarde internaționale și principii naționale de activitate*. În: Legea și viața, nr.4.1999. p.9. ISSN 2587-4365 (E-ISSN 2587-4373).
37. OSOIANU, Tudor, ANDRONACHE, Anatol, ORÎNDAȘ, Victor. *Urmărirea penală*. Chișinău: Academia „Ștefan cel Mare” a MAI, 2005. 236 p. ISBN 9975-935-70-2.
38. OSOIANU, Tudor, OSTAVCIUC, Dinu. *Urmărirea penală*. Chișinău: Cartea Militară, 2021(F.E.P. „Tipografia Centrală”), 494 p. ISBN 978-9975-157-58-2.

39. OSOIANU, Tudor. „Corelația dintre protecția drepturilor omului și contracararea criminalității (comentariu teoretic al art.1 Cod de procedură penală al Republicii Moldova). În: Dezvoltarea cadrului juridic al Republicii Moldova în contextul necesităților de securitateși asigurare a parcursului european (Partea a II-a), Chișinău: 2019, pp. 206-216. ISBN 978-9975-3298-8-0.
40. OSOIANU, Tudor. **COSTIȘANU, Vitalie.** *Procedura și regulile de stabilire a competenței în domeniul asistenței juridice internaționale*. În: Publicaţie ştiinţifico-practică Legea și Viața, octombrie-decembrie, 2024, p. 67-79. ISSN: 2587-4365.
41. OSOIANU, Tudor, **COSTISANU, Vitalie.** *Unele aspecte privind competența în cazul delegării și detașării ofițerilor de urmărire penală și a ofițerilor operativi*. În: Protecţia drepturilor şi libertăţilor fundamentale ale omului în procesul asigurării ordinii şi securităţii publice , Ed. Editia III-a, 5 decembrie 2024, Chişinău. Chişinău: Departamentul Editorial-Poligrafic al Academiei „Ştefan cel Mare" al MAI, 2024, Ediția IV-a, pp. 64-79. ISBN 978-9975-135-99-3.
42. OSTAVCIUC, Dinu. *Constatarea semnelor infracțiunii și pornirea urmăririi penale în cazurile de traficare a copiilor, pe baza informațiilor obținute din măsurile speciale de investigație*. În: Legea și viața, aprilie 2015. p.10-16. ISSN 1810-309X.
43. OSTAVCIUC, Dinu. *Principiile procesului penal:* Monografie. Chișinău: Print-Caro, 2022. 719 p. ISBN 978-9975-135-64-1.
44. OSTAVCIUC, Dinu. *Sesizarea organelor de urmărire penală*: monografie. Chișinău: „Tipografia Centrală", 2020, 206 p. ISBN 978-9975-3366-5-9
45. PAVLENCU, Mariana, **COSTISANU, Vitalie.** Aspecte generale privind competenţa organului de urmărire penală al Serviciului Vamal. În: *Prevenirea şi combaterea criminalităţii: probleme, soluţii şi perspective* , Ed. 5, 18 mai 2023, Chişinău. Chişinău: 2023, Ediția 5, pp. 291-299. ISSN 2587-4365
46. PINTEA, Alexandru; PINTEA, Dan-Cristian; BĂLĂNESCU, Alina-Cristina. *Urmărirea penală. Aspecte teoretice și practice. Modele de acte procesuale și procedurale. Ediția a II-a, revăzută și adăugită*. București: Editura Universul Juridic, 2020, 600 p. ISBN 978-606-39-0607-7
47. Draft Law on the Anti-Corruption and Organised Crime Prosecutor's Office. Available: https://www.parlament.md/preview?id=a9d8d65c-e5db-422f-a9c8-6616aaa3a278&url=https://ep-sp.parlament.md/materials/638749944215504677/Documents/20250213164256.pdf&method=GetDocumentContent
48. THEODORU, Grigore Gr., CHIȘ, Ioan-Paul. *Tratat de Drept procesual penal*. Ediția a 4-a. București : Editura Hamangiu, 2020. p.629-634. 1171 p. ISBN 978-606-27-1671-4.
49. UDROI, M. ș.a. *Codul de procedura penala. Comentariu pe articole. Editia a 2-a*. București: C.H. Beck, 2017. 2600 p. ISBN 978-606-18-0672-0
50. КИСЕЕВ; Н.М. *Уголовный процесс. Учеб. для студентов юридических фак*. Chișinău: MONOGRAF, 2006. 1175 p. ISBN978-9975-9747-0-7
51. *Руководство по расследованию преступлений*: Учебное пособие/ Рук. авт. колл. д. ю. н. А.В. Гриненко. Москва: НОРМА-ИНФРА М, 2002. 768 p. ISBN 5-89123-681-8 (НОРМА), ISBN 5-16-001166-8 (ИНФРА М).
52. *Уголовнй процесс*: *Учебник для студентов юридических вузов и факультетов.* Под ред. К.Ф. Гуценко. Издание 5-е, переработанное и дополненное. Москва: Зерцало-М, 2004. 704 p. ISBN 5-94373-082-6
53. *Уголовно-процессуальное право*: Учебник для юридических вузов/ Под общ.ред. В.И. Рохлина. Санкт-Петербург, 2004. 653 p. ISBN 5-94201-279-2
54. *Уголовный процесс*: Учебник для студентов юридических вузов и факультетов/ Под. Общ. Ред. ЛЕБЕДЕВА, В.М. Москва: Издательско-торговая корпорация „Дашков и К", 2004, 776 p. ISBN: 5-94798-215-3
55. ЯКУПОВ, Р.Х. *Уголовный процесс: Учебник вузов/ 4-е изд. испр. и доп.* Москва: ТЕИС, 2004. 607 p. ISBN 5-7218-0583-8

LIST OF SCIENTIFIC PUBLICATIONS OF THE AUTHOR ON THE TOPIC OF THE THESIS

Articles in national and international scientific journals

1) **COSTIȘANU V.** *Competence – The Basic Institution of the Criminal Trial, Or Simple Technical Rules of Its Organization,* În: ACROSS Vol 8 No 4 (2024): Law and Litigation in the EU and the Candidate States, Published: 2024-03-28, pag. 11-23, Disponibil: Vol 8 No 4 (2024): Law and Litigation in the EU and the Candidate States | ACROSS. https://www.gup.ugal.ro/ugaljournals/index.php/across/article/view/7351/6149;
2) **COSTIȘANU V.** *Aspecte practice privind competența judecătorului de instrucție,* În: Anale Științifice ale Academiei „Ștefan cel Mare" a MAI, nr.16, Chișinău 2023, p.239- 252 Categoria-B, CZU: 343.16, DOI 10.5281/zenodo.7625345, Disponibil: https://heinonline.org/HOL/LandingPage?handle=hein.journals/celmare16&div=22&id=&page=
3) **COSTIȘANU V.** *Unele aspecte privind competența organului de urmărire penală a serviciului fiscal de stat*, În: Revista Națională de drept, Numărul 2(248) / 2022 / ISSN 1811-0770, p.164-178, Categoria-B, CZU 343.359.2 DOI https://doi.org/10.52388/1811-0770.2022.2(248).16, Disponibil: https://uspee.md/wp-content/uploads/2023/03/16_Vitalie-COSTISANU.pdf;
4) **COSTIȘANU V.** *Competența organului de urmărire penală al Centrului Național Anticorupție în contextul ultimelor modificări ale codului de procedură penală,* În: Publicaţie ştiinţifico-practică Legea și Viața, octombrie - decembrie 2023, p.85-98, Categoria-C, CZU: 343.1, DOI 10.5281/zenodo.10725720, Disponibil: https://academy.police.md/wp-content/uploads/2024/03/p_85-98.pdf
5) **COSTIȘANU V.** *Competența organului de urmărire penală: aspecte teoretice şi dispoziţii legale,* În: Materialele Conferinței științifice internaționale Prevenirea și combaterea criminalităţii – probleme, soluţii şi perspective, Ed. a VI-a 25 aprilie 2024, Chișinău 2024, p.447-461, CZU: 343.12/.13, ISSN 2587-4365, E-ISSN 2587-4373 Disponibil: https://ibn.idsi.md/sites/default/files/imag_file/447-461.pdf;
6) OSOIANU T., **COSTIȘANU V.** *Procedura și regulile de stabilire a competenței în domeniul asistenței juridice internaționale,* În: Publicaţie ştiinţifico-practică Legea și Viața, octombrie-decembrie, 2024, p. 67-79, Categoria-C, CZU 341.4, DOI 10.5281/zenodo.14930277, Disponibil: https://academy.police.md/wp-content/uploads/2025/02/p_67-79.pdf
7) OSOIANU, T., **COSTIȘANU V.** *Unele aspecte privind competența în cazul delegări și detașării ofițerilor de urmărire penală și a ofițerilor operativi,* În: Materialele Conferinței științifice naționale cu participare internațională Protecția drepturilor și libertăților fundamentale ale omului în asigurările ordinii și securității publice, Ediția IV-a, din 05 decembrie 2024, p. 64-79, CZU: 343.12/.13, ISBN 978-9975-135-99-3, Disponibil: https://academy.police.md/wp-content/uploads/2025/02/Mater_conf_Protect_dr_si_liber_omului_ed_4_03_02_2025.pdf.
8) OSOIANU, T., **COSTIȘANU V.** *Critical opinion on the establishment of the prosecutor's office for anti-corruption and combating organized crime*, În: Materialele Conferinței științifice internaționale „Prevenirea și combaterea criminalității: probleme, soluții și perspective", ediția a VII-a, din 10 aprilie 2025, p.236-250; CZU: 343.1:343.98; ISSN 2587-4365 E-ISSN 2587-4373; Disponibil: https://academy.police.md/wp-content/uploads/2025/06/Materialele-Conferintei stiintifice_internationale_10_04_2025.pdf
9) **COSTIȘANU V.,** PAVLENCU M. *Explicații privind competența procurorului la efectuarea urmăririi penale,* În: Anale Ştiinţifice ale Academiei „Ştefan cel Mare" a MAI, nr.17 Chișinău, 2023, p.194-214, Categoria-B, CZU 343.1, ISSN 1857-0976, DOI 10.5281/zenodo.8320926, Disponibil: https://academy.police.md/wp-content/uploads/2023/09/Anale_Stiintifice_2023_nr_17-1.pdf
10) **COSTIȘANU V.,** PAVLENCU M. *Aspecte generale privind competența organului de urmărire penală al serviciului vamal,* În: Ediția specială a Publicaţiei ştiinţifico-practice Legea și Viața, publicarea materialele Conferinţei Ştiinţifice Interuniversitare cu participare internaţională *Prevenirea Şi Combaterea Criminalităţii: Probleme, Soluţii Şi Perspective* Ediția a V-a,

Chișinău, 18 mai 2023, p.291- 299, CZU 343.1:339.543, ISSN 2587-4365, Disponibil: https://ibn.idsi.md/sites/default/files/imag_file/291-299_4.pdf;
11) **COSTIȘANU V.,** PAVLENCU M. *Unele aspecte privind competența organelor de constatare,* În: Materialele Conferinței cu participare internațională *Infracțiunea – Răspunderea penală – Pedeapsa. Drept şi Criminologie,* Ediția a III, organizată de USM, la 7-8 decembrie 2023, p.525-551, CZU: 343.18, DOI: https://doi.org/10.5281/zenodo.12178427, Disponibil: https://ibn.idsi.md/sites/default/files/imag_file/525-551.pdf

ANNOTATION

Vitalie Costișanu, *"The Competence of the Criminal Investigation Authority — Analysis of the Normative Framework and Case Law." Doctoral thesis in law.* Chișinău, 2025

Thesis structure: introduction, four chapters, general conclusions and recommendations, bibliography comprising 284 sources, 240 pages of main text. The obtained results are published in 11 scientific articles.

Keywords: competence, criminal investigation authority, indicators of competence, forms of competence, material competence, personal competence, territorial competence, alternative competence, delegated competence, conflict of competence, competence rules.

The purpose of the research: The paper aims to provide a theoretical and practical analysis of the competence of the criminal investigation authority in order to establish the essence and content of this concept and to clarify issues related to the correct interpretation and application of the rules governing this criminal procedural institution. The ultimate goal is to ensure a comprehensive, objective, and thorough investigation of criminal cases, to eliminate potential conflicts between investigative bodies, and to formulate proposals and recommendations for improving and rationalizing current practices.

The objectives of the research: The research addresses the competence of criminal investigation authorities from the perspective of the existing national and international normative framework, the case law of the European Court of Human Rights, the Supreme Court of Justice, the Constitutional Court, and the practices of law enforcement bodies.

Scientific novelty and originality: The novelty of the present study lies in its theoretical and practical approach to the competence of criminal investigation authorities, highlighting existing practices and the jurisprudence of the European Court of Human Rights, the Supreme Court of Justice of the Republic of Moldova, and the Constitutional Court of the Republic of Moldova. The research identified numerous legislative deficiencies and poor practices in the application of competence rules. In addition to proposing ways to rationalize the legal framework, it offers crucial proposals for improving and harmonizing the interpretation and application of competence rules, as well as the resolution of potential conflicts between criminal investigation bodies.

Solved scientific problem: The study formulates a well-grounded concept based on current practice and legislation that allows for the improvement and rationalization of the system by proposing amendments or introducing additional regulations where necessary.

Theoretical significance: This research is based on a substantial number of national and international scientific approaches, on the analysis of the current normative framework, and on the judicial practice of domestic courts and the European Court of Human Rights. It not only identifies legislative flaws and inconsistent application of competence rules but also puts forward effective measures for aligning the legal framework and unifying practices.

Practical value of the research: The practical significance of the thesis is given by the development of concrete proposals and recommendations for reform and improvement of the addressed field, based on the analysis of theoretical perspectives, existing regulations, and judicial practice.

Implementation of scientific results: The results of this study can serve not only as a basis for the development of this field in the training of students and professionals but more importantly, as a starting point for reforming and rationalizing the activities of criminal investigation bodies and creating a unified practice for the application of competence rules. This would ensure thorough, objective, and timely criminal investigations and significantly reduce or eliminate conflicts of competence that may arise among investigative authorities.

АННОТАЦИЯ

Виталий Костишану, *«Компетенция органа уголовного преследования — анализ нормативной базы и судебной практики». Диссертация на соискание ученой степени доктора юридических наук.* Кишинёв, 2025

Структура диссертации: введение, четыре главы, общие выводы и рекомендации, библиография из 284 источников, 240 страниц основного текста. Полученные результаты опубликованы в 11 научных статьях.

Ключевые слова: компетенция, орган уголовного преследования, признаки компетенции, формы компетенции, предметная компетенция, персональная компетенция, территориальная компетенция, альтернативная компетенция, делегированная компетенция, конфликт компетенций, правила компетенции.

Цель работы заключается в теоретико-практическом анализе компетенции органа уголовного преследования с целью установления сущности и содержания данного понятия, а также выявления аспектов, связанных с правильным толкованием и применением норм, регулирующих эту уголовно-процессуальную правовую институцию. Исследование направлено на обеспечение всестороннего, объективного и полного расследования уголовных дел, устранение конфликтов между органами уголовного преследования, а также на формулирование предложений и рекомендаций по улучшению и рационализации существующей практики.

Цели исследования состоят в изучении компетенции органов уголовного преследования в свете действующей национальной и международной нормативной базы, практики Европейского суда по правам человека, Верховного суда и Конституционного суда, а также практики правоохранительных органов.

Научная новизна и оригинальность настоящего исследования заключаются в теоретико-практическом подходе к проблеме компетенции органа уголовного преследования с акцентом на анализ существующей практики и судебной практики Европейского суда по правам человека, Верховного суда и Конституционного суда Республики Молдова. В исследовании выявлены многочисленные пробелы в законодательстве и недостатки в практике применения норм о компетенции. В рамках работы были предложены не только меры по рационализации нормативной базы, но и, что более важно, конкретные предложения по улучшению и унификации практики толкования, применения правил компетенции и разрешения возможных конфликтов между органами уголовного преследования.

Решенный научный вопрос состоит в формулировании обоснованной концепции, основанной на практике и действующем законодательстве, которая позволила бы усовершенствовать и рационализировать сферу компетенции органов уголовного преследования путём внесения изменений или принятия дополнительных регламентов.

Теоретическая значимость работы определяется тем, что исследование основано на обширном числе научных источников как национального, так и международного уровня, анализе действующего законодательства и судебной практики национальных судов и Европейского суда по правам человека. Это позволило не только выявить нормативные несовершенства и несогласованность практики применения правил компетенции, но и предложить эффективные меры по приведению нормативной базы в соответствие и унификации практики.

Прикладная ценность работы настоящей работы заключается в том, что на основе анализа теоретических подходов, нормативной базы и судебной практики были разработаны конкретные предложения по реформированию и улучшению сферы компетенции органов уголовного преследования.

Внедрение научных результатов. Результаты настоящего исследования могут быть использованы не только в образовательном процессе подготовки студентов и специалистов, но и стать отправной точкой для реформирования и рационализации деятельности органов уголовного преследования, а также для создания единой практики применения правил компетенции с целью обеспечения полного, объективного и своевременного расследования уголовных дел и значительного снижения числа возможных конфликтов компетенции между органами уголовного преследования.

ADNOTARE

Vitalie Costișanu, *Competența organului de urmărire penală — analiza cadrului normativ și al jurisprudenței*". Teză de doctor în drept. Chișinău, 2025

Structura tezei: introducere, patru capitole, concluzii generale și recomandări, bibliografie din 284 de surse, 240 pagini text de bază. Rezultatele obținute sunt publicate în 11 articole științifice.

Cuvinte-cheie: competență, organ de urmărire penală, semnele competenței, formele competenței, competență materială, competență personală, competență teritorială, competență alternativă, competență derogată, conflict de competență, reguli de competență.

Scopul lucrării constă în abordarea teoretico-practică a competenței organului de urmărire penală în vederea stabilirii esenței și conținutului acestui concept și elucidări aspectelor ce țin de interpretarea și aplicarea corectă a normelor acestei instituții de drept procesual-penal astfel încât să fie asigurată cercetarea completă, obiectivă și sub toate aspectele a unor conflicte de ordin penal și excluderea conflictelor care pot apărea între organele de urmărire penală dar și formularea de propuneri și recomandări în vederea îmbunătățirii și raționalizării practicilor existente.

Obiectivele cercetării constă în abordarea competenței organelor de urmărire penală din perspectiva cadrului normativ național și internațional existent, al jurisprudenței Curții Europene a Drepturilor Omului, Curții Supreme de Justiție, Curții Constituționale dar și a practicii existente la nivelul organelor de urmărire penală.

Noutatea și originalitatea științifică a prezentului studiu constă în abordarea teoretico-practică a competenței organului de urmărire penală cu aducerea în prim plan a practicilor existente dar și a jurisprudenței Curții Europene a Drepturilor Omului, Curții Supreme de Justiție a Republicii Moldova și Curții Constituționale a Republicii Moldova. Această studiu a relevat numeroase carențe la nivel legislativ dar și existența unor practici defectuoase legat de aplicarea normelor de competență. În cadrul acestui studiu nu doar că s-au formulat propuneri de raționalizare a cadrului normativ dar cel mai important au fost formulate propuneri de îmbunătățire și de uniformizare a practicii ce ține de interpretarea, aplicarea regulilor de competență și de soluționare a eventualelor conflicte de competență care pot apărea între organele de urmărire penală.

Problema științifică soluționată rezidă în fundamentarea unui concept unitar și aplicabil al competenței organului de urmărire penală, prin clarificarea noțiunii, semnelor și formelor acesteia, prin identificarea și corectarea neajunsurilor legislative și jurisprudențiale existente și prin elaborarea unor mecanisme și propuneri de lege ferenda care asigură aplicarea coerentă a regulilor de competență, soluționarea conflictelor între organele de urmărire penală și eficientizarea procesului penal în ansamblu.

Semnificația teoretică. Acest studiu fiind elaborat în baza unui număr mare de abordări științifice din țară și străinătate, din analiza cadrului normativ în vigoare dar și al practicei judiciar a autorităților autohtone cât și a Curții Europene a Drepturilor Omului a permis nu doar relevarea și identificarea imperfecțiunilor normative și a practicei neuniforme la aplicarea regulilor de competență dar cel mai important sau propus măsuri eficiente de racordare a cadrului normativ și de uniformizare a practicei.

Valoarea aplicativă a prezentei lucrări a fost determinată de faptul că în baza analizei abordărilor teoretice în domeniu, a cadrului normativ în vigoare și al practicei judiciare au fost elaborate propuneri și recomandări de reformare și îmbunătățire a domeniului abordat.

Implementarea rezultatelor științifice. Rezultatele prezentului studiu nu doar că pot fi folosite pentru dezvoltarea acestui domeniu în procesul de instruire a studenților și profesioniștilor în domeniu dar cel mai important pot constitui un punct de plecare în reformarea și raționalizarea organelor de urmărire penală și la crearea unei practici uniforme privind aplicarea regulilor de competență astfel încât să se asigure cercetarea completă, obiectivă și în termeni proximi a pricinilor penale și evitarea sau diminuarea considerabilă a eventualelor conflicte de competență care pot apărea între organele de urmărire penală.

COSTIȘANU Vitalie

THE COMPETENCE OF THE CRIMINAL INVESTIGATION AUTHORITY ANALYSIS OF THE NORMATIVE FRAMEWORK AND CASE LAW

Specialty: 554.03 – Criminal procedural law

Summary of the phd thesis in law

Approved for printing: 29.10.2025
Offset paper. Digital printing
Pattern sheets: 2.75.

Paper format A4
Edition 50 ex.
Order no.117

Tipografia PRINT-CARO
m. Chisinău, str. Columna, 170
printcaro@gmail.com
tel. 069124696