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**PROMOTING REFORMS IN THE SYSTEM OF JURISDICTION
BODIES IN THE REPUBLIC OF MOLDOVA BY OPTIMIZING
REGULATIONS OF GENERAL COMPETENCE**

SPECIALTY 553.03 – CIVIL PROCEDURAL LAW

Summary of the habilitated doctorate thesis

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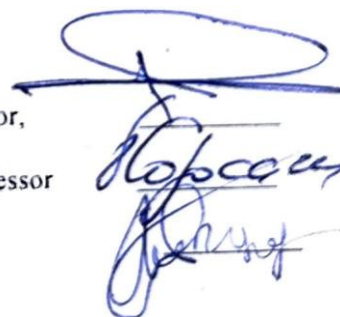
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CONCEPTUAL POINTS OF THE THESIS

The topicality and importance of the topic addressed. In the Republic of Moldova, the normative regulations on the general competence of courts and other jurisdictional bodies are amended and supplemented very quickly. Many of the new laws on general competence, which entered into force after a short period of time, are repealed or other organic laws are adopted to improve the legal framework in this area. There is a constant tendency of the legislator to improve this legislative framework, but we observe a failure to achieve the intended goal. This substantially affects the functionality of jurisdictional bodies, which also hinders the development of society in the Republic of Moldova.

Researching the general competence of judicial bodies is a pressing necessity, starting from the tendency of the legislator to reform the competence of some public institutions. The investigation of this legal institution, taking into account the practical difficulties for courts in delimiting the competence of judicial bodies, constitutes an original attempt to approach the proposed topic in order to explain the correct application in judicial practice of the norms regarding general competence, to formulate proposals *de lege ferenda* that would optimize the legal framework in the field and to adopt legislative provisions that will eliminate the existing conflicts of competence between the judicial bodies of the Republic of Moldova. This will contribute to raising the level of functionality of the judicial bodies in the efficient defense of civil rights.

Given that the institution of general competence contains legal norms from different branches of procedural law, we were motivated to research this new field starting from the interaction between several legal disciplines. The paper highlighted the essential features of general competence in order to allow a correct perception of this interbranch legal institution in the context of its evolution in the civil procedural law system of the Republic of Moldova.

The norms on general competence in the Republic of Moldova contain several legal imperfections determined by the dynamic reforms carried out within the system of judicial bodies. The rapid inertia of these reforms leaves behind legislative gaps regarding the general competence of judicial bodies, which led us to identify the optimal legislative solutions for this legal institution.

General competence is presented from the point of view of its importance for the forms of defense of civil rights. From a conceptual point of view, the research took place following the synthesis of doctrinal sources, the legal framework as a result of scientific progress and the emergence of new trends of the legislator regarding the realization of the right to a fair trial.

At the international level, it is obvious that the notion of jurisdiction is accepted in any legal system of each state. General competence also exists in each system of the jurisdictional bodies of each state, but it is defined and regulated differently. It is inconceivable for a judicial

system, or any other system of jurisdictional bodies, to have no regulations on general competence.

General competence finds its regulation in the sources of several branches of law, both in the legal system of the Republic of Moldova and in the legal systems of other states. Not having a single source of regulation, which would apply most to the resolution of civil cases, it is necessary to highlight the essential features of general competence in order to allow the correct perception of this legal institution in the context of its evolution in the civil procedural law system of the Republic of Moldova.

Also, the forms of civil rights defense are inconceivable in the absence of regulations on general competence. This legal institution should be seen as a prerequisite for the existence of all forms of civil rights defense, because in the absence of regulations on general competence, the activity of judicial bodies cannot exist. However, making available to the litigant several forms of civil rights defense is an indispensable condition for a democratic state and the rule of law.

In order to ensure the functionality of the jurisdictional bodies in resolving civil cases, without being jeopardized by certain conflicts of jurisdiction, it is necessary to regulate precise criteria for delimiting the powers of these bodies. General competence regulates such criteria. However, we approach these as also criteria for dehybridizing the competence of the jurisdictional bodies, especially the courts, and the phenomenon of hybridization of competence exists in each legal system of different states, a phenomenon that affects the certainty in delimiting the powers of the court compared to other jurisdictional bodies in resolving civil cases.

Likewise, another current phenomenon that has an indispensable connection with the regulations on general competence is that of dejudicialization. Democratic states aim to reduce the number of cases examined by courts and the empowerment of other jurisdictional bodies to resolve them. The central element in dejudicialization is the institution of general competence, because it fulfills the function of delimiting the powers of jurisdictional bodies in examining and resolving legal cases. For this reason, it is appropriate to study all the legal instruments stipulated by the regulations on general competence and mentioned by the relevant doctrine in order to achieve an efficient dejudicialization of the judicial system in the Republic of Moldova.

Although in the Republic of Moldova there is a tendency of intense dejudicialization of the judicial system, nevertheless this system also faces the duality of the exclusive competence of the courts and other jurisdictional bodies. The respective duality creates legal uncertainty for the courts and other jurisdictional bodies when applying the regulations of general competence, creating an uneven and bizarre practice. Thus, the legal institution under investigation gives us the opportunity to highlight all the dualities of general competence, in particular of the courts, erroneously admitted in the legislation of the Republic of Moldova. At the same time, it also gives us the

opportunity to identify a correct interpretation of the legal regulations that raise questions regarding the existence of a duality of the general competence of the courts in relation to other jurisdictional bodies.

In the judicial practice of the Republic of Moldova, difficulties are encountered in applying the effects of violating the rules on general competence, which requires practical recommendations for their resolution. Some legal regulations stipulating the effects of violating general competence contain legal tautologies, which affect the correct application in judicial practice. Likewise, some of them constitute duplicated procedural effects, such as declaring the action inadmissible in administrative litigation and refusing to receive the request for summons to court. All the aforementioned legislative inaccuracies should be removed as they generate multiple interpretations and give legal norms an unclear character.

Since the regulations on general competence are complex, it is appropriate to analyze several special provisions of this interbranch legal institution for the examination and resolution of civil cases. In particular, in special civil procedures, the compensatory nature of general competence is highlighted, the nature that ensures the filling of competence gaps in the system of jurisdictional bodies.

From the point of view of belonging to the legal disciplines of study, general competence has an interdisciplinary character characterized by some Russian authors as an interbranch legal institution, an opinion supported by us. However, the local specialized literature attributes this legal institution only to the branch of civil procedural law. Thus, in the civil procedural doctrine, this topic is quite controversial. In this paper, we have identified the link between the interbranch character of the institution of general competence and the study of this institution within the discipline of civil procedural law. In particular, this is the common law character of the discipline of civil procedural law that encompasses several subjects relevant to the functioning not only of the judicial system, but also of the entire system of jurisdictional bodies.

Among the most valuable local studies in the field of civil procedural law, which approach in depth or tangentially the institution of general competence are those of the authors E. Belei, A. Munteanu, V. Cojocaru, V. Crețu, V. Volcovschi, A. Băcu, I. Coban, I. Jimbei. In the works of the mentioned authors, general competence is analyzed within the framework of textbooks or university courses, being researched simultaneously with other legal institutions. Due to the interdisciplinary nature of the topic of the habilitated doctor thesis, the works of local authors that refer to the field of study of other branches of law are also appreciated. In particular, we mention the works of the authors A. Băieșu, C. Martin, V. Balmuş, I. Buruiană, M. Orlov, V. Zubco, A. Bot. The studies of the mentioned authors research aspects regarding the general competence of

jurisdictional bodies other than courts.

The most in-depth studies on general competence, which describe the diversity of aspects of this legal institution regarding the concept, types of general competence, criteria for delimiting the powers of judicial bodies, and effects of violating the rules on general competence, are found in the works of Russian authors Iu. Osipov, E. Norkina, P. Drujkov, I. Burova, E. Dokuchaeva, P. Nedbalo, V. Gorsheneva. In particular, the foundations of the concept of general competence in Russian specialized literature are laid by authors Iu. Osipov and P. Drujkov.

Given that many of the notions of civil procedural law in the Republic of Moldova are taken from Romanian specialized literature, and the meaning of the term general competence is also similar to that in Moldovan specialized literature, the works of the following authors are relevant to the thesis: G-L. Zidaru, I. Leș, V. M. Ciobanu, I. Deleanu, C. S. Săraru, C. Roșu, I. Popescu-Sălnicenu and E. Cosmin-Ionuț. Although, in the Romanian specialized literature there is no fundamental work published on general competence, the works of the mentioned authors nevertheless address some essential elements of the legal institution under study, in particular regarding its interdisciplinary character.

Pioneering studies related to certain topics regarding the general competence of judicial bodies can be found in the French specialized literature. Some of the authors approach the notions of dehybridization of jurisdictions as a way of concretizing the empowerment of public authorities in resolving civil cases, and others thoroughly research the phenomenon of dejudicialization. Among these authors are L. Cadiet, E. Jeluand, J. Normand, S. A. Mekki, Y. Strikler.

The applied scientific problem consists in identifying all the particularities of the institution of general competence according to the legislation of the Republic of Moldova, which led to the clarification of the delimitation of the powers of the jurisdictional bodies, to the substantiation of a new interbranch legal institution and to the identification of the atypical extended general competence of some jurisdictional bodies in the Republic of Moldova in order to correctly and uniformly apply the regulations in this field and improve them.

The purpose of the thesis is to conduct a comprehensive research on general competence as an inter-branch legal institution in the light of the legislation of the Republic of Moldova, judicial doctrine and practice from the perspective of elucidating gaps and putting forward theoretical and practical recommendations, including proposals for lege ferenda to improve the legal framework in this area. To achieve this goal, the following objectives were formulated:

- Identification of the atypical extended general competence of some jurisdictional bodies within the legal system of the Republic of Moldova after highlighting the interbranch character

of general competence.

- Presentation of the indispensable interaction of general competence with the forms of protection of the rights, freedoms and legitimate interests of the person.
- Formulation of criteria for delimiting the jurisdiction of various jurisdictional bodies based on its types and the specifics of the regulations in this field in the Republic of Moldova for the dehybridization of the powers of courts in resolving civil cases.
- Highlighting the effects of violating the norms of general competence and their consequences on the functionality of jurisdictional bodies in the Republic of Moldova.
- Elucidating the particularities of general competence in the Republic of Moldova in resolving civil cases in various material-legal relations: civil, family, labor and others.
- Identification and resolution of the dualities of the general competence of the court and other jurisdictional bodies.
- Highlighting the particularities of dejudicating civil cases in the Republic of Moldova.

Research hypothesis. In all legal systems, there has always been a problem of correctly delimiting the powers of various state bodies or certain jurisdictional bodies. General competence is not yet well configured in national regulations as a legal means of delimiting the executive power from the judicial power. Thus, if we define the institution of general competence and correctly determine its place in the legal system, we will be convinced that it constitutes a basic means of delimiting the powers of jurisdictional bodies and the executive power from the judicial power.

Given the fact that there are legislative imperfections in the Republic of Moldova regarding the consequences of violating general competence, the responsibility of jurisdictional bodies for its violation is also diminished. If we are to conceptualize the effects of violating the norms of general competence, effective mechanisms for assuming the responsibility of jurisdictional bodies for non-compliance with these regulations can be implemented.

When resolving each civil case by the court or other jurisdictional bodies, specific norms of general competence are regulated. Thus, if we theorize the peculiarities of general competence in the Republic of Moldova when resolving civil cases in various material-legal relations, we will identify practical solutions for the correct application in judicial practice of the regulations of this interbranch legal institution.

By formulating clear criteria for delimiting the competence of various jurisdictional bodies based on the types of general competence and the specifics of the regulations in this area, cohesion between these state institutions will be ensured in the Republic of Moldova for the purpose of defending the rights, freedoms and legitimate interests of the person following their implementation.

Presenting the interaction between general competence and the forms of defense of the rights, freedoms and legitimate interests of the person, we will observe the criteria that indicate the weight of civil rights defense activities existing in the Republic of Moldova and identify the factors that contribute to increasing the quality of the act of justice and the speed of judicial and administrative procedures.

Synthesis of the research methodology and justification of the chosen research methods. The investigations were carried out by applying several research methods, including: the *comparative* method, which allowed us to identify common features and differences between the approaches in various specialized studies, as well as between national and other state regulations regarding the general competence of courts and other jurisdictional bodies in resolving civil cases; the *historical* method, which was used to conduct a systematic study of the evolution of regulations regarding general competence and to capitalize on the most important specialized scientific works for the knowledge and explanation of the development trends of the researched legal institution; the *analytical* method, which was used to establish the practical and theoretical problems involved in the institution of general competence in the system of jurisdictional bodies in the Republic of Moldova; the *case study* method, which was applied to the analysis of cases from the judicial practice of the Republic of Moldova in order to observe the correct or erroneous application of the provisions regarding the general competence of jurisdictional bodies.

The novelty of the topic is highlighted in the fact that the substantive and procedural aspects of general competence are extensively analyzed. Such an analysis aims to clearly determine the place of this legal institution in the legal system of the Republic of Moldova and to establish the specific peculiarities of general competence starting from the specific and non-specific sources of civil procedural law.

The research brings together with other arguments various theoretical and practical accounts regarding the criteria for delimiting the general competence of various jurisdictional bodies. We have presented the types of general competence in a multi-faceted manner, as well as the effects of violating the norms of this legal institution. We have also formulated practical and normative recommendations regarding the correct resolution of conflicts of jurisdiction.

In the novelty segment, we also include the analysis carried out on some legal norms regulating general competence stipulated in the legislation of other states. Consequently, the appropriate normative elements proposed for incorporation into national legislation in order to optimize the regulations on general competence have been outlined.

The novelty also consists in the overall display of the imperfections of the national legislative framework regulating general competence, as well as the *lege ferenda* proposals that are formulated with a view to improving the legal framework in this area.

Approval of results. The thesis was developed within the Department of Procedural Law, Faculty of Law, USM. The research results were subject to debates at international and national scientific conferences. Some of these are: Prospects and problems of integration into the European Research and Education Area (2019, 2023); Technologization and digitalization of civil process and forced execution (2023); Promotion of socio-economic values in the context of European integration (2019, 2023); Integration through research and innovation (2018, 2023); Leadership through values - a solution for success (2017); Prevention and combating crime: problems, solutions and perspectives (2023); Evolution of constitutionalism in the Republic of Moldova (2018); Tradition and innovation in scientific research (2018). At the same time, some of the researched aspects were developed within the framework of the state-funded institutional fundamental research project carried out within the Institute of Legal, Political and Sociological Research, called "Development of the legal framework of the Republic of Moldova in the context of security needs and ensuring the European path" (2016-2019). Also, the research conducted was published in scientific articles in specialized journals and was presented in textbooks and course notes. Based on the research conducted, proposals for *lege ferenda* were formulated to the Parliament of the Republic of Moldova and the Ministry of Justice.

The structure of the paper was carried out in accordance with the scientific problem proposed for solution, with the purpose and objectives of the research. The paper consists of: introduction, five chapters, general conclusions and recommendations, bibliography and annexes.

Chapter 1, entitled **Analysis of the situation in the field of research on general competence in the system of judicial bodies**, includes an analysis of the evolution of regulations on general competence, as well as an analysis of scientific materials on the topic of the thesis. Some specific features of the concept of the institution of general competence were highlighted.

In particular, the works on the topic of the thesis by authors from Romania, the Republic of Moldova, the Russian Federation, France and other states are analyzed. Likewise, the new scientific direction was concretized and the research objectives of the institution of general competence were formulated.

Chapter 2, entitled **The theoretical dimension of the institution of general competence**, is notable for defining general competence as a legal institution and as a means of delimiting the judicial power from the executive power. In the same section, some terminological clarifications are also made regarding the notion of general competence. The interbranch nature of general competence is highlighted, contrary to the majority of opinions of local authors who share the idea that it constitutes an institution of civil procedural law.

General competence is also conceived as a premise for the existence of forms of civil rights defense. General competence is analyzed as a premise for the existence of the following forms of civil rights defense: judicial form, private form, administrative form and mixed form.

Chapter 3, entitled **Diversity of criteria for delimiting the general competence of judicial bodies in the normative dynamics of the Republic of Moldova**, is characterized by the exposition of the operating instruments of general competence for delimiting the powers of judicial bodies in resolving civil cases. The criteria for delimiting the powers of judicial bodies are analyzed, in particular, the one regarding the nature of material-legal relations and their subjective composition.

Likewise, the duality of exclusive general competence in the legislation of the Republic of Moldova and the way to eliminate this duality are identified. We analyzed the way to eliminate the duality of exclusive general competence when delimiting the competence of the Constitutional Court of the Republic of Moldova from the competence of the courts.

The types of general competence were analyzed in their diversity. The concept of conditional general competence is approached, by virtue of the controversy of being considered the imposition of a sequence of addressing to the jurisdictional bodies or of being a simple condition of respecting the preliminary procedure. In the study, we argued that this type of general competence should be considered to be defined as the imposition by law of a sequence of addressing to the jurisdictional bodies. At the same time, the alternative general competence argued to be based on the restricted alternative procedural law of the parties was also analyzed.

Particular attention was paid to the analysis of the dejudicialization and dehybridization of civil cases in the Republic of Moldova. In this regard, the ways of achieving this goal were identified. The most intense dejudicialization can be achieved by expanding the scope of the alternative procedural law of the parties, and dehybridization in the Republic of Moldova can be achieved by applying modern criteria for delimiting the powers of the jurisdictional bodies.

Chapter 4, entitled **Effects of Violation of the Rules on General competence in the Context of Interbranch Regulations**, is notable for its obvious application nature, encompassing some of the most important aspects related to the application in judicial practice of the effects of

violating the general competence of the court and other jurisdictional bodies. One of the controversial aspects was the argument that declaring the inadmissibility of the action in administrative litigation and refusing to accept the request for summons in the legislation of the Republic of Moldova constitute duplicated procedural effects, an imperfection that must be eliminated. Other important legal effects that were analyzed are: termination of the civil process; removal of the application from the list; quashing of the court decision or the decision of the appellate court; inadmissibility of the referral to the Constitutional Court in connection with the violation of general competence; finding the nullity of the administrative-jurisdictional act, annulment and refusal to enforce arbitration awards.

Chapter 5, entitled **Application of the norms of general competence of courts in the examination and resolution of civil cases**, is also stated to be of an applicative nature, with attention being paid to examining the manner of application of certain special regulations on general competence in connection with which the most practical difficulties may arise. In particular, the specifics of the regulation of general competence of courts in special civil procedures were investigated in relation to which the compensatory nature of certain regulations in the Code of Civil Procedure of the Republic of Moldova was highlighted.

In **General Conclusions and Recommendations**, a synthesis of the essential aspects addressed in the thesis is made, in which the author's position on the issues of the general competence of judicial bodies is marked. In order to present recommendations on the optimization of regulations on general competence, the lege ferenda proposals submitted by the author in the content of the thesis are briefly highlighted.

CONTENT OF THE WORK

In Chapter 1 – „**Analysis of the situation in the field of research on general competence in the system of jurisdictional bodies**”, the emergence and evolution of regulations on the general competence of jurisdictional bodies was first analyzed, which highlighted the essential aspects of this interbranch legal institution. Subsequently, an analysis of domestic and foreign scientific materials related to general competence was carried out. Thus, in the first paragraph of this chapter – “The evolution of general competence as an interbranch legal institution” – the development of regulations on general competence starting from the establishment of the state and law is highlighted. In particular, the sources of Romanian private law in this field were researched and subsequently the regulations of French law and German law were researched. Some essential reforms on general competence in Moldova, Bessarabia, the MSSR and, finally, in the Republic of Moldova were analyzed. The research in this paragraph highlighted the interbranch character

of the institution of general competence, which was permanently persistent in its legal configuration. This character derived from the fact that the analyzed legal institution incorporated the norms of several branches of law, but the basic roots started from the sources of civil procedural law as a branch of common law. This aspect was highlighted in the analysis of the sources of Roman private law.

The adoption of the Napoleonic Civil Code of 1804, which moved to the express regulation of the norms regarding the general exclusive jurisdiction of the courts in resolving various civil cases, was also an inspiration for the Romanian Civil Procedure Code of 1865¹. This means that each civil law institution in this codification also contains a norm regarding the competent judicial body to resolve disputes arising in connection with the legal relationships regulated by the substantive law institution.

The German Civil Code (BGB) of 1896², which incorporated a legal system based on pandects, also includes broader notions of general competence than simply stating the exclusive jurisdiction of the court to resolve civil cases. The notion of general competence was expressly used.

The reforms of Constantin Mavrocordat in Moldavia and Wallachia constituted some of the most important changes in the regulations regarding general competence, we mention the implementation of the principle of separation of powers in the state, namely, the first steps were taken in separating administrative and judicial powers, both at the central and local levels, the preparation of the premises for the transition to modern justice was carried out³. It was absolutely necessary to modify the general competence of certain officials, which was based on the Constitution of February 7, 1741.

In Moldova, the Commercial Court of Galati was active. When delimiting the powers of specialized courts from common law courts, both the subjective and objective criteria were applied. The subjective criterion was that in that civil trial, the cases regarding the contentious material relations in which the Boltas merchants or bankers participate as subjects of law should be examined. The objective criterion consisted in the fact that the object of examination in the civil trial pending before these specialized courts should be commercial legal acts. These two criteria

¹CREȚ, D.-C. *Instituții de drept procesual civil*. Ediția a 3-a reviz. și adăugită. Cluj-Napoca: Casa Cărții de Știință 2016, p. 249.

² German Civil Code. BGB. 18-08-1896. [citat 09.01.2023]. Disponibil: <https://www.fd.ulisboa.pt/wp-content/uploads/2014/12/Codigo-Civil-Alemao-BGB-German-Civil-Code-BGB-english-version.pdf>.

³ CHISARI-LUNGU, O. *Debutul procesului de modernizare a justiției naționale*: tz. de doct. în drept. Chișinău, 2016, p. 58. [citat 09.01.2023]. Disponibil: <http://dspace.usm.md:8080/xmlui/bitstream/handle/123456789/836/Teza%20Chisari-Lungu%20Oxana.pdf?sequence=1&isAllowed=y>.

were not to be met cumulatively. Thus, these two criteria were later taken over when delimiting the competence of the Commercial Courts of Circumscription from the Common Law Courts in the Republic of Moldova in the initial version of the Civil Procedure Code of the Republic of Moldova.

In the Civil Procedure Code of the Moldavian S. S. S.⁴ of 26.12.1964, the regulations on general competence had a mixed character, since the norms regarding this legal institution were found within the provisions referring to substantive jurisdictional competence. This source of civil procedural law contained both norms regarding the general competence of courts of law, as well as regulations regarding substantive jurisdictional competence. A specific and appreciated feature by us regarding the regulation of the analyzed legal institution in the Civil Procedure Code of the Moldavian S. S. S. was that the norms regarding general competence were stipulated in the general part of this legislative act, but those regarding jurisdictional competence were provided for in the special part.

Successful regulations on general competence, from the point of view of respecting the principle of unity of legal regulations and correlation of the system of normative acts set forth in the local doctrine⁵, existed in the Civil Procedure Code of the Republic of Moldova of 30.05.2003 in the version that was provided for by Law No. 244 of 21.07.2006 on amending and supplementing the Civil Procedure Code of the Republic of Moldova⁶. We note that general competence and jurisdictional competence were correctly systematized in two distinct chapters, because they constitute two different legal institutions and have different objects of regulation, because they regulate distinct legal relations. In chronological order, general competence is to be regulated first and, subsequently, jurisdictional competence, because the latter achieves a continuity of the legal institution under investigation.

Given that the institution of general competence has an interbranch character, its regulations have evolved in the Republic of Moldova not only in the Code of Civil Procedure, but largely in the codifications and legislative acts specific to other branches of law. Approximately 95% of all legislative acts in force in the Republic of Moldova, with the exception of laws amending and supplementing legislative acts, contain regulations on general competence. Thus, we can also formulate the principle of correlation between general competence and the content of

⁴ Codul de procedură civilă al R. S. S. Moldovenești din 26.12.1964 (abrogat). [cit. 24.10.2022]. Disponibil: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=286228>.

⁵ NEGRU, B., COJOCARU, V. Tehnica legislativă: note de curs. Chișinău, 1997, p. 13-14.

⁶ Legea pentru modificarea și completarea Codului de procedură civilă al Republicii Moldova: nr. 244 din 21 iulie 2006. In: Monitorul Oficial al Republicii Moldova, 2006, nr. 178-180, art. 814. [cit. 10.01.2023]. Disponibil: https://www.legis.md/cautare/getResults?doc_id=25498&lang=ro.

legislative acts: there are no legal norms without its sanction implicitly referring to a provision on general competence. In other words, the statement appears: indicate a law and we will indicate a norm on general competence in it. However, the law itself could not exist without the institution of general competence.

Another reform, which, in our opinion, affected the general exclusive jurisdiction of the courts and had an experimental character in the legislation of the Republic of Moldova, was mandatory judicial mediation⁷. The regulations on mandatory judicial mediation, in our opinion, were unconstitutional, because these provisions violated the general competence of the courts to administer justice, which derives from the essence of the principle provided for in art. 114 of the Constitution of the Republic of Moldova. Although the provisions of Chapter XIII¹ of the CPC, entitled „Judicial Mediation”, were declared constitutional, it was nevertheless excluded by Law No. 97 of 14.04.2022 on the repeal of Chapter XIII¹ of the Code of Civil Procedure of the Republic of Moldova No. 225/2003⁸. Thus, our reasoning formulated in the Notification of the Constitutional Court No. 3g/2018⁹ regarding the unconstitutionality of these provisions was well-founded.

In paragraph 1.2. – „*The institution of general competence reflected in the research of contemporary doctrinaires*” – an analysis of scientific works published abroad – from the Russian Federation, Romania, France and other states, and then those from the Republic of Moldova, was carried out.

A fundamental work from the Russian Federation on general competence are the two monographs of the Russian author I. Osipov, - „General competence in Legal Cases”¹⁰ and „General competence and Jurisdiction in Civil Cases”¹¹. The opinion of the aforementioned author is developed by us in this work and we bring additional arguments in order to support the idea that the institution of general competence in the procedural regulations of the Republic of Moldova has an interbranch character, aspects that are not recognized, at the moment, in the local specialized literature.

⁷ PRISAC, Alexandru. Mediarea judiciară în Codul de procedură civilă al Republicii Moldova. In: Vector European, USEM, 2021, nr. 1, pp. 43-46. ISSN 2345-1106/E-ISSN 2587-358X. [citat 21.01.2023]. Disponibil: https://usem.md/uploads/files/Activitate_%C8%98tiin%C8%9Bific%C4%83_USEM/Vector/Vector_European_2021_1.pdf.

⁸ Legea pentru abrogarea capitolului XIII¹ din Codul de procedură civilă al Republicii Moldova nr. 225/2003: nr. 97 din 14 aprilie 2022. In: *Monitorul Oficial al Republicii Moldova*, 2022, nr. 129-133, art. 233. [citat 22.01.2023]. Disponibil: https://www.legis.md/cautare/getResults?doc_id=131069&lang=ro.

⁹ Hotărârea Curții Constituționale privind excepția de neconstituționalitate a unor prevederi din Codul de procedură civilă al Republicii Moldova, adoptat prin Legea nr. 225 din 30 mai 2003 (medierea judiciară) (Sesizarea nr. 3g/2018): nr. 8 din 26 aprilie 2018. In: *Monitorul Oficial al Republicii Moldova*, 2018, nr. 167-175, art. 86. [citat 22.01.2023]. Disponibil: https://www.legis.md/cautare/getResults?doc_id=111026&lang=ro.

¹⁰ ОСИПОВ, Ю. К. Подведомственность юридических дел. Учебное Пособие. Свердловск, 1973. 123 с.

¹¹ ОСИПОВ, Ю. К. Подведомственности и подсудности гражданских дел. Москва: Госюриздат, 1962. 38 с.

An important work on the topic of the thesis is the doctoral thesis of the author E. Dokuceaev, entitled „Институт подведомственности в судебной деятельности”¹² /Institution of General Competence in Judicial Activity (translation belongs to us). The following aspects were addressed in this work: defining general competence; highlighting the principles of general competence of courts; analysis of the criteria for delimiting general competence in the judicial system; resolving conflicts of general competence. However, it is critical that the respective work did not highlight the types of general competence that provide all the criteria as a whole for delimiting the jurisdiction of courts over other jurisdictional bodies. Thus, the scientific results of the respective author constitute one of the pillars from which our research starts, but it was supplemented by us with the analysis of the problem of types of general competence and the effects of violating the norms of this legal institution.

The category of scientific works from the Russian Federation that tangentially analyze certain aspects of general competence also includes the doctoral thesis of the author A. Zolotuhin, entitled „Проблемы судопроизводства по делам об установлении фактов, имеющих юридическое значение в особом производстве”¹³ /Problems regarding the procedure for establishing facts that have legal value (translation belongs to us). The author deals in detail with the compensatory nature of general competence in the procedure for establishing facts that have legal value. For us, highlighting this character allowed us to find out the essence of general competence in several types of procedure, such as when explaining the nature of the general competence of the court, when there is a gap in the regulation of these powers. Thus, we identified that this compensatory character covers the “black hole” of the general competence of judicial bodies.

Romanian specialized literature also analyzes general competence and jurisdictional competence as two distinct categories correlated with each other¹⁴, and other Romanian authors mistakenly call general competence under the name of material competence¹⁵. These two legal institutions are considered separately in correlation as genus and species by the author I. Leș¹⁶. The given opinion contributes in our research to identifying the way of correct systematization of

¹² ДОКУЧАЕВ, Е.С. *Институт подведомственности в судебной деятельности*. Диссертация на соискания ученой ст. канд. юр. наук. Рязань 2011. 275 с.

¹³ Золотухин А. Д. *Проблемы судопроизводства по делам об установлении фактов, имеющих юридическое значение в особом производстве*. Диссертация на соискания ученой ст. канд. юр. наук. Саратов, 2009. 224 с.

¹⁴ DRAGOMIR, Eduard, PALIȚĂ, Roxana. *Drept procesual civil*. București: Nomina Lex, 2009, p. 70.

¹⁵ GRIGORAȘ, Constantin. *Contenciosul administrativ potrivit noului Cod de procedură civilă*. București: Editura Hamangiu, 2014, p. 230.

¹⁶ LEȘ, Ioan. *Drept procesual civil*. București: Ed. Lumina Lex, 2002, p. 118.

the regulations regarding general competence and jurisdictional competence in the Code of Civil Procedure of the Republic of Moldova.

Another Romanian researcher, who recognizes the division between general competence and jurisdictional competence, is V. Ciobanu, who uses the notion of „contact points” of general competence with other disciplines, which signifies the connection of this legal institution with constitutional law, administrative law, financial (fiscal) law, civil law, labor law, family law, intellectual property law¹⁷. Since the normative regulations regarding general competence in all these fields are constantly changing, the opinion of the aforementioned author contributes essentially to the analysis of the diversity of the criteria for delimiting the general competence of jurisdictional bodies in its normative dynamics.

The problem of the exception of general lack of jurisdiction is also researched by the Romanian author L. Zidaru¹⁸. Starting from the author's opinion, in the thesis we also touched on the problem of invoking the exception of general lack of competence in the procedural legislation of the Republic of Moldova. However, we do not support the opinion of the author L. Zidaru regarding the impossibility of invoking this procedural exception in hierarchically superior courts, because it refers to the violation of the imperative norms of the law and constitutes an absolute exception, which, once not admitted, will lead to the erroneous resolution of the case.

In French doctrine, the general competence of the jurisdictional bodies was studied by the authors S. Guinchard, F. Ferrand, C. Chainais and L. Mayer who analyzed the interaction between several types of jurisdiction. In particular, the authors qualify the situation when the law implicitly refers to arbitration when referring to the court as a legal extension (prorogation) of jurisdiction¹⁹. The authors' opinion contributes to our research by clarifying the issue regarding the interpretation of the provisions of art. 15 para. (4) Civil Code of the Republic of Moldova which provides the following: “References in this code to a judge or a court are also references to other competent jurisdictional bodies under the law, and references to legal provisions on civil procedure are also references to the procedural rules of the respective competent jurisdictional bodies”. The usefulness of these authors’ approach lies in the fact that the provisions of art. 15 para. (4) of the Civil Code of the Republic of Moldova constitute a novelty for the system of jurisdictional bodies of the Republic of Moldova, and the concept of legal extension of jurisdiction is appropriately incorporated into this system.

¹⁷ CIOBANU, Viorel Mihai. *Tratat teoretic și practic de procedură civilă. Teoria generală. Volumul I.* București: Editura Națională, 1996, p.372- 399.

¹⁸ ZIDARU, L. *Observații cu privire la condițiile de invocare a excepției de necompetență în proiectul Noului Cod de procedură civilă.* In: *Revista română de drept privat.* 2010, nr. 1, p. 261.

¹⁹ GUINCHARD, S., FERRAND, F., CHAINAIS, C., MAYER, L. *Procédure civile.* Paris: Dalloz, 2019, p. 233.

Other legal phenomena studied in French literature regarding the general competence of jurisdictional bodies are that of dejudiciarization and that of judicialization. These two phenomena are researched by the authors S. Cinamonti, J-B. Perrier, in the work *Les enjeux de la déjudiciarisation/ The challenges of dejudicialization* (translation is ours). According to the authors, dejudiciarization and judicialization constitute two opposing movements, which can evolve differently from one stage of human development to another and can coexist in parallel. Judicialization existed throughout the 20th century²⁰. Through judicialization, the aim is to grant more powers to courts in resolving civil, criminal and contravention cases, and through dejudiciarization, the state aims to reduce these powers of the court and invest other jurisdictional bodies with this competence. The latter trend also exists in the Republic of Moldova, which constitutes some research objectives in this work to highlight the role of the institution of general competence in dejudicating civil cases.

From the French literature we will mention the work of the authors of the general theory of the process that addresses the problem of hybridization of the jurisdiction of judicial bodies L. Cadiet, J. Normand, S.-Amekki. They consider that the phenomenon of hybridization of the jurisdiction of judicial bodies is aimed at achieving specific needs in a state²¹. Hybridization of general competence also persists in the system of judicial bodies of the Republic of Moldova, which produces negative effects for their functioning. Therefore, another objective of our research was to identify solutions for the dehybridization of general competence in the system of judicial bodies of the Republic of Moldova.

In the local civil procedural doctrine, the institution of general competence is analyzed in civil procedural law textbooks and university courses, as well as in some scientific articles. There are also scientific works in which this legal institution is tangentially approached.

In the civil procedural law textbook by the authors E. Beleï, A. Borș, F. Chifa. etc.²² the author A. Munteanu defines the general competence of courts as that ability of courts recognized by law to examine and resolve a category of civil cases. The author's opinion presents general competence as an institution of civil procedural law starting from the ability of the court to resolve civil cases. In our view, the latter aspect goes beyond the regulatory object of civil procedural law, because it can also involve other categories of legal relations, including administrative legal

²⁰ CINAMONTI, S., PERRIER, J.-B. *Les enjeux de la déjudiciarisation*. Lextenso éditions, LGDJ, 2019, p. 6.

²¹ CADIET, L., NORMAND, J., MEKKI S., A. *Théorie générale du procès*. Paris: Presses Universitaires de France, 2010, p. 422-423.

²² BELEI Elena, BORȘ Ana, CHIFA Felicia [et al.]; red. șt. COJUHARI Alexandru. *Drept procesual civil. Partea Generală*. Chișinău: S. n., 2016, p. 139.

relations, civil legal relations, criminal procedural relations, contravention procedural relations, relations regarding the procedure of constitutional jurisdiction.

Another local author, who calls the institution of general competence as an institution of civil procedural law, is the author V. Volcovschi who analyzed it in the article: „General notions about the essence and importance of studying general competence - as an institution of civil procedural law”²³. The author refers, in particular, to the fact that in the bankruptcy procedure, the courts were empowered with a series of administrative powers directly related to the economic management of bankrupt organizations, such as examining the application for the application of the reorganization procedure, examining the application for admission, confirmation and implementation of the reorganization plan²⁴. All these powers, which go beyond the civil procedural sphere of the regulatory object of this branch of law, indicate the interbranch nature of general competence. Therefore, the author contradicts herself in the research carried out on general competence.

From the local specialized literature, it is also worth noting the work of the author E. Belei, entitled *Admissibility of the action in administrative litigation*²⁵, in which some premises and conditions regarding the filing of an action in administrative litigation are analyzed, including general competence. The author supports our opinion that the institution of general competence constitutes a premise for the existence of the judicial form of defending the rights and legitimate interests of the person. In this context, we mention that another aspect touched upon in the thesis is the analysis of general competence as a premise for the existence of the judicial form of defending the rights and legitimate interests and of other forms of defending civil rights.

Another researcher who raises current issues regarding general competence is C. Martin, who touches on certain aspects regarding the issue of delimiting the general competence of courts from the jurisdiction of arbitration²⁶. The issue mentioned by the author also helped us to research the issue of the duality of the exclusive general competence of the court, which was otherwise addressed by the new regulations introduced by Law no. 133 of 15.11.2018 on the modernization

²³ VOLCOVSCHI, V. Noțiuni generale despre esența și importanța studierii competenței generale – ca instituție a dreptului procesual civil. In: *Revista Națională de Drept*. 2003, nr. 1 (28), p.p. 35-42.

²⁴ Ibidem, p. 39.

²⁵ BELEI, Elena. Admisibilitatea acțiunii în contenciosul administrativ. In: *Integrare prin cercetare și inovare. Științe juridice și economice*. SJE, 10-11 nov. 2021. Chișinău: Centrul Editorial-Poligrafic al USM, 2021, p. 331-333.

²⁶ MARTIN, C. Arbitrabilitatea litigiilor în materie de societăți comerciale. In: *Revista Națională de Drept*. 2018, nr. 10-12(216-218), pp. 36-42. ISSN 1811-0770. p. 40. [citat 28.01.23]. Disponibil: https://ibn.idsi.md/sites/default/files/imag_file/36-42.pdf.

of the Civil Code and the amendment of some legislative acts²⁷, in art. 15 para. (4) Civil Code of the Republic of Moldova.

In-depth research into some criteria regarding the delimitation between the powers of jurisdictional bodies in resolving civil cases was carried out by the author V. Crețu in the article *The principle and criteria regarding the differentiation of judicial bodies from other state bodies. The correlation of justice with other state functions in the Republic of Moldova*²⁸. The author's exposition contributes to highlighting the interaction between the method of appointing judges and the improvement of the judicial form of defending the rights and legitimate interests of the person, as well as the regulations regarding the general competence of courts.

In section 1.3. – „*New scientific direction and research objectives*”, the author highlighted, in particular, the new scientific direction – the interbranch legal institution of general competence regarding which all its particularities were identified in the legislation of the Republic of Moldova, which led to the identification of the atypical extended general competence of some jurisdictional bodies in the Republic of Moldova and to the clarification of the delimitation of the powers of jurisdictional bodies in order to correctly and uniformly apply the regulations in this field and improve them.

În Chapter 2 – „**The theoretical dimension of the institution of general competence**” – the defining elements of general competence as an interbranch legal institution are presented. The concept of general competence was analyzed and its distinctive features were highlighted. The norms regarding general competence were also conceptualized as allowing the existence of forms of civil rights defense.

In paragraph 2.1. – „*Definition of general competence in the legislation of the Republic of Moldova and determination of its place in the system of procedural law*” – general competence was defined, the following notion being formulated: that interbranch legal institution of public and private order that delimits the powers of jurisdictional bodies, as well as courts of law, to examine and resolve legal cases arising by virtue of the degree of specialization of certain public authorities as the main legal mechanism for distributing these cases and for delimiting the judicial power from

²⁷ Legea privind modernizarea Codului civil și modificarea unor acte legislative: nr. 133 din 15 noiembrie 2018. In: *Monitorul Oficial al Republicii Moldova*, 2018, nr. 467-479, art. 784. [citat 07.10.2022]. Disponibil: https://www.legis.md/cautare/getResults?doc_id=34327&lang=ro.

²⁸ CREȚU, V. Principiul și criteriile privind diferențierea organelor judiciare de celelalte organe ale statului. Coraportul justiției cu alte funcții statale în Republica Moldova. In: *Analele Universității de Stat din Moldova. Teoria și practica aplicării legislației în regimul constituțional în Republica Moldova*. Chișinău: Cartier, 1999, p. 34.

the executive power²⁹.

The definition was formulated based on the following features, established by us, of the institution of general competence:

- it constitutes an interbranch legal institution;
- it delimits the powers of some jurisdictional bodies to examine and resolve legal cases;
- it is provided for by law and in certain cases by the agreement of the parties;
- it arose due to the degree of specialization of some public authorities;
- it is related to the jurisdictional activity;
- general competence constitutes the main mechanism for the distribution of legal cases;
- general competence has a dual character of public order and private order;
- it constitutes the main legal mechanism for the delimitation of the judicial power from the executive power.

In our view, from the point of view of the logical-legal structure of the legal norm, all sanctions as elements of the legal norm implicitly contain a reference to the general competence of the court or other jurisdictional bodies. This is because in case of violation of the provisions of the legal norm, the coercive force of the state is applied through the authorized bodies of the state to enforce their compliance. Although, from the point of view of the technical-legislative structure, this sanction is not contained within a single article of the law, it can be identified within another legislative provision, especially of a procedural nature. Therefore, we believe that the institution of general competence ensures the indication of the body for applying the sanction provided for by the legal norm. Thus, general competence constitutes a legal institution that interferes with both the norms of procedural law and the norms of substantive law.

The closest to our opinion, which we support regarding the place of the institution of general competence in the legal system, is that of the Russian author I. Osipov, who vehemently argues that the institution of general competence of judicial cases constitutes an interbranch legal institution. In the author's opinion, in each branch of procedural law there is a common legal institution of general competence. He mentions: „Common branch legal institutions of general competence have many general features. One of the most important is that each of them regulates the system of procedural relations arising in different judicial cases ordered by their common subject. The existence of this feature of these legal institutions predetermines the existence of the interbranch legal institution of general competence of judicial cases”³⁰. Rightly, within each

²⁹ PRISAC, A. General competence - an interbranches legal institution that delimits the powers of jurisdictional bodies in continental law. In: *Juridical Journal Perspectives Of Law And Public Administration*, 2023, Volume 12, Issue 4, pp. 497-509.

³⁰ ОСИПОВ, Ю. К. Подведомственность юридических дел. Учебное Пособие. Свердловск, 1973, с. 82.

branch of procedural law there are legal norms that determine the competence of the jurisdictional body whose procedural activity is regulated by the norms of this branch of law.

The support of the opinion of the Russian author I. Osipov is not an outdated one compared to the contemporary doctrine, because at the current stage of development of law the aim is to create an integral system of law through interdisciplinary approaches. In this vein, H. Kelsen in his work entitled „Pure Theory of Law” mentioned the following: „The exaggerated abstract formalism of some representatives of classical science or their conservative attachment to the isolation of their discipline, or the metaphysical prejudices of those who claim to substantiate the science of history or society by denying the concept of man”³¹. So, the interdisciplinary approach to general competence is one in accordance with the current trend of development of legal sciences. Thus, it is also worth mentioning the opinion of the author Șt. Deacon, who notes that we accept an interdisciplinary approach not only because it implies limiting the power of the state through legal norms, but also because it ensures the guarantee of human freedoms and a rationalization of power by state authorities by creating a normative and hierarchical institutional system³².

Within each procedural branch of law, these legal norms are united in common legal institutions regarding the general competence of legal cases (general competence of civil cases; general competence of criminal cases; general competence in contravention cases), since they regulate the system of procedural relations that arise in concrete legal cases in connection with a single element – the object of legal activity formed by various substantive legal issues, which require individual resolution by a body invested with the function of applying the law³³.

However, the question may arise: "What is the rationale for studying the general competence of legal cases as the only mechanism for distributing files in the discipline of civil procedural law (specialty 553.03)?" The answer to this question can be found in the common law character of the branch of civil procedural law. The common law character consists in the fact that civil proceedings encompass any activity that involves the examination and resolution of certain divergences that do not contain a problem related to a specific special procedure. The object of civil proceedings is all cases regarding the defense of the legitimate rights and interests of the person that are not to be examined in another procedure expressly provided for by law (e.g.: criminal or contravention proceedings).

The determination of the cases examined in the order of civil procedure takes place by excluding the cases that are to be resolved in other procedures provided for by law (e.g.: criminal

³¹ LAPIERRE, J.-W. Viața fără stat? Iași: Institutul European, 1997, p.219.

³² DEACON, Șt. Instituții politice. București: C.H. Beck, 2017, p. 103-104.

³³ ОСИПОВ, Ю. К. Подведомственность юридических дел. Учебное Пособие. Свердловск, 1973. 123 с. с. 83.

and contravention cases). Thus, disputes that are not resolved in a special procedure will be examined and resolved in civil procedure³⁴. Therefore, if the issues studied within the discipline of Civil Procedural Law encompass the widest spectrum within the branches of procedural law, it is also correct that this interbranch legal institution be analyzed within the discipline of Civil Procedural Law.

In section 2.2. – „*General competence as an essential premise of the diversity of forms of defense of the rights, freedoms and legitimate interests of the person*” – it is argued that the regulations on general competence also constitute a premise of the existence of all forms of defense of civil rights, because the activity of the jurisdictional bodies defending subjective rights would not have existed if they had not been competent to examine these cases, in other words, if they did not have an authorization by virtue of general competence.

It is worth mentioning that in the Russian specialized literature the following two conditions have been stated for the existence of a procedural form of protection of civil rights: a) the obligation to respect the sequence of the implementation of powers; b) the existence of a high and well-known competence in resolving cases in the organized activity of each state body³⁵. In our opinion this obligation to respect the sequence of the implementation of powers of jurisdictional bodies is fully established by the rules on general competence. Therefore, there cannot be a procedural form in the absence of the establishment by general competence of the court's empowerment to carry out its activity in its consecutive order supplemented by law. Thus, the condition that was mentioned represents general competence as a premise for the existence of this procedural form of protection of civil rights.

Starting from the interaction of the norms regarding general competence with the forms of defense of civil rights, as well as from the specifics of the order of defense of rights and the legal status of the jurisdictional bodies that carry out a certain activity of defense of the rights and legitimate interests of the person, we can list the following forms of defense of civil rights for which general competence constitutes a premise for their existence: judicial form, administrative form, private form and mixed form³⁶.

General competence is one of the premises of the existence of the judicial form of civil rights protection, because any procedural legal institution has as its starting point this interbranch

³⁴ PRISAC, Alexandru. *Drept procesual civil. Partea Generală*. Chișinău: Cartier, p. 19.

³⁵ НЕДБАЛО, П. Е., ГОРШЕНЕВА, В. М. [Общ. ред.]. Юридическая процессуальная форма. Теория и практика. Москва: Юридическая литература, 1976. 280 с.

³⁶ PRISAC, A. Formele de apărare a drepturilor civile. In: *Analele Științifice ale Universității de Studii Europene din Moldova*. Ediția I-a [online]. Chișinău: USEM, 2012, p. 5-13. ISSN 2345-1114. [citat 12.01.23] Disponibil: https://usem.md/uploads/files/Activitate_%C8%98tiin%C8%9Bific%C4%83_USEM/Anale/Analele_I.pdf.

legal institution. It is mentioned that the object of regulation of all judicial procedural institutions is formed by the procedural relations that belong to the general competence of the court³⁷. Being a premise for the emergence of all judicial procedural relations, general competence is also a premise for the existence of the judicial activity of civil rights protection. The entire judicial form is regulated by the procedural norms.

Constitutional doctrines³⁸ themselves consider that „the special (procedural) form of administering justice, being unique and mandatory, differs essentially from the form of activity of the organs of the other branches of state power. The holders of judicial power are not entitled to derogate in their activity from the requirements of procedural legislation.” It implicitly follows that the entire procedural activity of examining and resolving cases takes place only with regard to those cases that fall within the jurisdiction of the courts. Therefore, the judicial form of defense would not have existed if there were no general competence. So, this constitutes a premise for the existence of this activity of defending subjective civil rights.

In the case law of the European Court of Human Rights (ECtHR), it is stated: „A court that is not organized in accordance with the will of the legislator would lack any legitimacy required in a democratic society for it to be able to resolve the cases of individuals. Also, the expression “established by law” concerns not only the legal basis for the very existence of the court, but also the structure of the judicial formation for each case”³⁹. Thus, the ECtHR has ruled that the very organization of the court and the entire process must be carried out according to the competence of each case of these public authorities. In other words, starting from general competence, the entire judicial process is built for the examination and resolution of a judicial case.

The efficiency and priority of the judicial form of defense over other forms of defense derives from the characteristics of the court as a public authority, which is empowered by virtue of the regulations of general competence to examine and resolve legal cases.

The judicial form of civil rights defense is the most ideal for the defense of the rights and legitimate interests of the person. For this reason, the rules on general competence are regulated in such a way as to give it a priority in relation to other forms of civil rights defense, which results from art. 33 of the CPC. This priority starts from the advantageous characteristics of the procedural form of civil rights defense. Most of the court's activity aimed at the defense of rights and

³⁷ ШЕСТИЮК, В. М. Система советского гражданского процессуального права (вопросы теории). Москва: Изд-во МГУ. 1989. 133 с.

³⁸ NEGRU, B., OSMOCHESCU, N., SMOCHINĂ, A., GURIN, A. Constituția Republicii Moldova. Comentariu. Chișinău: ARC, 2012, p. 416-417.

³⁹ Judgment of European Court of Human Rights (Chamber). Case of Bulut v. Austria. 22.02.1996. [online]. [citat 25.01.23]. Disponibil: <https://hudoc.echr.coe.int>.

legitimate interests is carried out within the framework of the civil procedural form, because civil procedural law is a branch of common law.

The institution of general competence establishes the priority of the judicial form of protection of civil rights in relation to the private, administrative and mixed form, including starting from the presumption of the high level of quality of the act of justice, which is supposed to exist in the judicial system. However, as a result of the decrease in the characteristics of the procedural form of protection of civil rights mentioned above, the quality of the act of justice may decrease, which is also a factor for the legislator to also decrease the priority of the judicial form of protection of civil rights by changing the general competence of several jurisdictional bodies.

In paragraph 2.3. – „*The institution of general competence as a premise of the existence of the private form of protection of the rights, freedoms and legitimate interests of the person*” – the institution of general competence was outlined as a premise of the existence of the private form of protection of civil rights.

Of all these bodies, the most pronounced activity applied in the defense of civil rights within the public form is arbitration. Within the framework of arbitration, we will explain in more detail that the institution of general competence constitutes a premise for the existence of the private form of defense of civil rights.

General competence is seen as a premise for the existence of the private form of defense of civil rights starting from the regulations on arbitrability. An exhaustive list of arbitrable disputes has not been possible to establish, which only indicates that only the stipulation of general criteria for establishing arbitrability is the most successful way to delimit the general competence of arbitration, combined with the express indication in special laws of the possibility of resolving disputes in arbitration, which we spoke about in the paragraph dedicated to general contractual competence in this paper.

In order to ensure a predictable legal framework regarding the delimitation of arbitration disputes, it is appropriate to stipulate it in Law no. 23 of 22-02-2008 on arbitration. Therefore, we propose *de lege ferenda* to supplement art. 3 with paragraph (2¹) of Law no. 23 of 22.02.2008 on arbitration, which would provide the following: “Disputes in which one of the parties is a public authority may not be the subject of an arbitration agreement, with the exceptions provided for by law.”

In section 2.4. – „*General competence of administrative jurisdictional bodies established to defend the rights, freedoms and legitimate interests of the person*” – the institution of general competence was outlined as a premise for the existence of the administrative form of defense of

civil rights.

The administrative form of protection of the rights and legitimate interests of the individual constitutes the activity of public administration authorities carried out in cases provided for by law in order to protect the rights, freedoms and legitimate interests of the individual. The essential condition for the existence of this form of protection of civil rights is that the law provides for the protection of legitimate rights and interests⁴⁰. Through the activity of an exponent body of public power, the protection of civil rights can be exercised only if the law provides for this form of protection of civil rights⁴¹, which is also defined as administrative activity⁴². Therefore, in the absence of a special regulation of the general competence regarding the empowerment of an administrative body to protect civil rights, this form of protection cannot even exist, which characterizes it as a premise of its existence.

Analyzing the recent changes in the legislation of the Republic of Moldova, in some regulations on the administrative form of protection of civil rights, the competence of administrative bodies has been restricted in the recent period, and in other regulations these powers have been expanded. Transferring the powers of administrative bodies to examine certain legal cases would reduce the overload of the judicial system that has persisted for a long time in the Republic of Moldova.

The assignment of administrative bodies to the jurisdiction of cases that are currently examined by the court of law would bring the following advantages:

- reduction of the overload of courts;
- resolution of cases by civil servants who have specialized training in the given field;
- lower expenses for maintaining the activity of administrative bodies for the examination of these cases, given the fact that the administrative apparatus is also ensured for the fulfillment of their common jurisdiction.

We consider it appropriate to empower several administrative bodies in the Republic of Moldova to examine certain civil cases that are currently examined by courts.

From the analysis of the regulations on administrative jurisdiction, we have formulated two important criteria in determining the civil cases examined by courts, which could be assigned by

⁴⁰ PRISAC, A. General competence is a premise for the existence of the administrative form and the mixed form of civil rights defense. In: *Актуальні Проблеми Права, Психології Та Педагогіки В Умовах Війни*, 13-14 aprilie 2023. Україна, Біла Церква, pp. 75-78.

⁴¹ PRISAC, A. Formele de apărare a drepturilor civile. In: *Analele Științifice ale Universității de Studii Europene din Moldova. Ediția I-a*. Chișinău: USEM, 2012, p. 5-13. ISSN 2345-1114. p. 11. [citat 12.01.23] Disponibil: https://usem.md/uploads/files/Activitate_%C8%98tiin%C8%9Bific%C4%83_USEM/Anale/Analele_I.pdf.

⁴² КУШНИР, Валерий, СОЧА, Борис. Некоторые достоинства и недостатки Административного кодекса Республики Молдова. In: *Revista de Filosofie, Sociologie și Științe Politice*. 2019, nr. 3(181), p. 109-110.

law for examination to administrative authorities: 1) the connection of these cases with the field of activity of this state body; 2) the exclusion of the violation of fundamental human rights by examining the case by administrative bodies instead of the court. Thus, in addition to the processes mentioned above, we propose *de lege ferenda* amending some legal provisions related to the assignment of the following cases to the competence of administrative bodies:

- *finding inaccuracies in the civil status registers*. The civil status body usually refuses to correct or modify the entries in the civil status registers, on the grounds that they are not competent to find this fact. Otherwise, it will constitute an excess of competence. However, starting from the high level of training in the field of civil status acts, these administrative authorities are professionally prepared and could solve the problem of these inaccuracies at the same qualitative level as the courts.

- *determining the domicile of the minor child*. In these processes, according to art. 63 para. (3) of the Family Code, it is mandatory for the court to also request the opinion of the territorial guardianship authority, within whose territorial radius the domicile of each of the parents is located. In judicial practice⁴³, in most cases, the court's solution is similar to the conclusion set out in the opinion of the guardianship authority, which is mistakenly involved in the process as an accessory intervener, although it is to be involved as public authorities to submit conclusions under Article 74 of the CPC.

- *civil cases regarding the issuance of a protection order regarding certain protection measures*. The protection measures that we consider that the police body should be exclusively empowered to apply are those stipulated in art. 278⁷ para. (2) let. a), b), c), d) and i) of the CPC.

In section 2.5. – “*The interrelationship between different types of general competence and the mixed form of protection of the rights, freedoms and legitimate interests of the person*” – outlined the institution of general competence as a premise for the existence of the mixed form of protection of civil rights.

Given that the regulations on jurisdiction within the mixed form of civil rights protection are complex, the adoption of the Administrative Code of the Republic of Moldova of 19.07.2018 aimed to simplify the regulations on conditional general competence in its interaction between the

⁴³ Decizia Colegiului civil, comercial și de contencios administrativ lărgit al Curții Supreme de Justiție: nr. dosar 2ra-1390/20 din 25 noiembrie 2020. [citat 30.01.2023]. Disponibil: http://jurisprudenta.csj.md/search_col_civil.php?id=59141; Decizia Colegiului civil, comercial și de contencios administrativ lărgit al Curții Supreme de Justiție: nr. dosar 2ra-117/18 din 14 februarie 2018. [citat 30.01.2023]. Disponibil: http://jurisprudenta.csj.md/search_col_civil.php?id=42115; Decizia Colegiului civil, comercial și de contencios administrativ lărgit al Curții Supreme de Justiție: nr. dosar 2ra-1639/16 din 07 septembrie 2016. [citat 30.01.2023]. Disponibil: http://jurisprudenta.csj.md/search_col_civil.php?id=30591.

powers of administrative bodies and the court. This was achieved by eliminating the condition of mandatory compliance with the preliminary procedure for resolving the case out of court. In art. 208 para. (1) of the Administrative Code of the Republic of Moldova, in the version of 19.07.2018, stipulated that in cases provided for by law, until the filing of the administrative litigation action, the preliminary procedure shall be complied with. So, in principle, compliance with the general procedure as a general rule, which could be mandatory as an exception in cases provided for by law, was excluded. Subsequently, by Law no. 155 of 15.07.2022 for the amendment of certain normative acts, the obligation to comply with the prior procedure was stipulated⁴⁴, with the exceptions provided for by law. So, in this case too, there are some special rules for the obligation of the preliminary procedure, which does not allow for the imposition of preliminary conciliation in all property disputes. Thus, in the administrative litigation procedure too, there are going to be some special rules for establishing the obligation of the preliminary procedure, which do not require the imposition of the preliminary procedure for all processes examined in the administrative litigation procedure.

In Chapter 3 – „*The diversity of criteria for delimiting the general competence of judicial bodies in the normative dynamics of the Republic of Moldova*” – the criteria for delimiting the general competence of judicial bodies in the Republic of Moldova were analyzed, highlighting their dynamic nature in their legislative regulation. These criteria were revealed to be evident in the types of general competence. The issue of delimiting general competence was approached, especially from the perspective of dejudicialization and dehybridization of general competence. Finally, the type of atypical extended general competence of some judicial bodies in the Republic of Moldova was conceptualized.

In section 3.1. – „*Explanation of the criteria for delimiting the powers of judicial bodies in the types of general competence*” – the interaction between the criteria for delimiting the powers of judicial bodies and the types of general competence was elucidated. As a result of the research of the provisions of the legislative acts⁴⁵, which are significantly dynamic⁴⁶, and of the doctrine⁴⁷

⁴⁴ Legea pentru modificarea unor acte normative: nr. 155 din 15 iulie 2022. In: *Monitorul Oficial al Republicii Moldova*, 2022, nr. 246-250, art. 474. [citat 03.02.23]. Disponibil: https://www.legis.md/cautare/getResults?doc_id=132548&lang=ro.

⁴⁵ Codul de procedură civilă al Republicii Moldova: nr. 225 din 30 mai 2003. In: *Monitorul Oficial al Republicii Moldova*, 2003, nr. 111-115, art. 451; Codul civil al Republicii Moldova: nr. 1107 din 06 iunie 2002. In: *Monitorul Oficial al Republicii Moldova*, 2002, nr. 82-86, art. 661. Republicat In: *Monitorul Oficial al Republicii Moldova*, 2019, nr. 66-75, art. 132; Codul familiei: nr. 1316 din 26 octombrie 2000. In: *Monitorul Oficial al Republicii Moldova*, 2001, nr. 47-48, art. 210. [citat 11.01.2023]; Codul muncii al Republicii Moldova: nr. 154 din 28 martie 2003. In: *Monitorul Oficial al Republicii Moldova*, 2003, nr. 159-162, art. 648.

⁴⁶ BĂCU, Adelina. *Drept procesual civil. Partea generală*. Chișinău, 2013. p. 97.

⁴⁷ ОСИПОВ, Ю. К. Подведомственности и подсудности гражданских дел. Москва: Госюриздат, 1962. 38 с. с. 6; ОСИПОВ, Ю. К. Подведомственность юридических дел. Учебное Пособие. Свердловск, 1973. 123 с; НОРКИНА, Елена. Подведомственность как общеправовая категория. Автореферат дис. кандидата юрид. наук.

relevant to the analyzed legal institution, we noticed that the problem of systematizing and defining the criteria for delimiting general competence fell only to the doctrine, which was appreciated⁴⁸ as a dynamic one in this field. For this reason, we identify the interaction of the criteria that the legislator applies in delimiting general competence in the specialized literature, in particular when classifying the types of general competence. Thus, in this chapter, we will analyze the criteria for delimiting general competence, including through the prism of the types of general competence.

Overall and in summary, I. Osipov systematizes the types of general competence in a complex way, which we support, but we aim to complete it. According to the author, general competence is divided into two large categories: I – common general competence; II – special general competence. The special one is composed of two types of general competence: 1) single (exclusive) general competence; 2) multiple general competence. In turn, multiple general competence includes the following categories: a) alternative general competence; b) imperative or conditional general competence; c) contractual general competence⁴⁹. Here, starting from the regulations of art. 37 of the Code of Civil Procedure of the Republic of Moldova, a fifth type should be added, called “General competence in the adjudication of related claims”.

In our opinion, the criteria of common general competence are applied in the delimitation of the jurisdiction of common law and specialized courts, which, however, are more effective if they are incorporated into special norms. We defined common general competence as that type of jurisdiction that is based on some general criteria for delimiting the powers of judicial bodies. This type of general competence identifies a wide group of cases that fall within the jurisdiction of one or another judicial body.

Саратов, 2010. 23 с; БУРОВА, Инна Леонидовна. Подведомственность дел арбитражным судам. Дис. кандидата юрид. наук. Санкт-Петербург, 2005. 186 с; ВЛАСОВА, А. (отв. ред.). Гражданское процессуальное право Российской Федерации, учебник. Москва: Издат. Юрайт – 2003, 448 с.; FODOR, Maria. *Drept procesual civil: teoria generală, judecata în primă instanță, căile de atac, mijloace procesuale de asigurare a unei practici judiciare unitare, proceduri speciale, arbitraj: reglementare, doctrină, grile*. București: Universul Juridic, 2014. 756 p. 210; BELEI Elena, BORȘ Ana, CHIFA Felicia [et al.]; red. șt. COJUHARI Alexandru. *Drept procesual civil. Partea Generală*. Chișinău: S. n., 2016. 464 p.; LEȘ, Ioan. *Drept procesual civil*. București: Ed. Lumina Lex, 2002. 695 p.; MĂGUREANU, Florea. *Drept procesual civil*. Ediția a VI-a. București: Ed. ALL BECK, 2002. 648 p.; GHEORGHE-LIVIU, Z. Competența materială, Capitolul I, art. 94-147. In: *Noul Cod de procedură civilă. Comentat și adnotat*. Vol. 1-526. București: Universul Juridic, 2013. 1314 p.

⁴⁸ БУРОВА, Инна Леонидовна. Подведомственность дел арбитражным судам. Дис. кандидата юрид. наук. Санкт-Петербург, 2005. 186 с. с. 43.

⁴⁹ ОСИПОВ, Ю. К. Подведомственность юридических дел. Учебное Пособие. Свердловск, 1973. 123 с. ОСИПОВ, Ю. К. Подведомственности и подсудности гражданских дел. Москва: Госюриздат, 1962. 38 с. с. 39.

The author P. Drujkov⁵⁰ based the general common jurisdiction on the following two criteria⁵¹, which, from those established by us, have been the basis for the delimitation of the powers of jurisdictional bodies for a long time in the legal system of the Republic of Moldova:

- 1) the nature of the legal relations from which the dispute arose;
- 2) the subjective composition of the parties when delimiting the jurisdiction of courts and other jurisdictional bodies.

The respective criteria were applied to the delimitation of the powers of common law courts from economic courts in the initial wording of the Code of Civil Procedure of the Republic of Moldova. Thus, the provisions of art. 29 para. (1) letter a) of the Code of Civil Procedure of the Republic of Moldova, in the wording of June 12, 2003, stipulated the following: "Economic courts shall adjudicate economic disputes arising from civil, financial, land legal relations, from other relations between legal entities, natural persons practicing entrepreneurial activity, without constituting a legal entity, having the status of individual entrepreneur, acquired in the manner established by law". The Moldovan legislator used, in this case, both the objective and the subjective criteria.

The absence of these in the legislation of the Republic of Moldova has the advantage that it would exclude any factor of corruption in the application of general norms, which could generate contradictory solutions in establishing the jurisdiction of the judicial body. This is in line with those stipulated in point 25 of Annex no. 5 of the "Methodology for conducting anti-corruption expertise of draft normative acts" of October 20, 2017 of the College of the National Anti-Corruption Center⁵², which provides for a factor of corruption called "Powers that admit derogations and abusive interpretations," which are those powers of public entities formulated in an ambiguous manner, determining the possibility of interpreting them differently in several situations, including interpreting them in the preferred version or derogating from them. The unclear formulation of the public entity's attributions generates the possibility for the public agent to choose the most convenient interpretation of his attributions, without taking into account other legitimate interests and the spirit of the law, the execution of which he is to ensure through his activity."

⁵⁰ ДРУЖКОВ, П. С. Судебная подведомственности споров о праве и иных правовых вопросов, рассматриваемых в порядке гражданского судопроизводства. Автореферат дис. кандидата юрид. наук. Свердловск, 1966, 22 с. с. 7.

⁵¹ *Ibidem*.

⁵² Hotărârea Colegiului Centrului Național Anticorupție cu privire la aprobarea Metodologiei de efectuare a expertizei anticorupție a proiectelor de acte normative și a Metodologiei de efectuare a expertizei anticorupție a proiectelor de acte normative departamentale: nr. 6 din 20 octombrie 2017 (Anexa nr. 1). [citat 02.02.2023]. Disponibil: https://www.cna.md/public/files/2017_metodol_rea/Hot.Colegiul_CNA_nr.6_din_20.10.2017.pdf.

As far as we are concerned, we do not recommend the reincorporation of these criteria into the procedural legislation of the Republic of Moldova. We see their introduction into the national regulations of these criteria only through their materialization in the special rules for the delimitation of the powers of the judicial bodies, which would allow for an accurate determination of the jurisdiction based on the specific nature of the activity of the judicial bodies.

In paragraph 3.2. – „*The duality of the general exclusive jurisdiction of courts in the legislation of the Republic of Moldova*” – we raise the issue of uncertainty related to a duality of jurisdiction, because, at present, in the legislation of the Republic of Moldova, the indication of a judicial body to resolve a civil dispute does not always mean that only this body is empowered to examine this case. We use the word „duality” because we consider it appropriate to express the uncertainty of determining the powers of judicial bodies to resolve civil cases, when it is not clear whether it can be examined or resolved by one judicial body or another.

Society, including Moldovan, has always been interested in providing its citizens with authoritative measures in resolving civil cases⁵³, a factor that essentially determined the need to supplement the provisions of art. 15 of the Civil Code of the Republic of Moldova⁵⁴, which previously created situations of uncertainty in determining the powers of judicial bodies. The general rule stipulated in art. 15 paragraph (1) of the Civil Code of the Republic of Moldova is that the defense of violated civil rights is done through the courts. So, civil law does not provide for each separate right the judicial body that will be empowered to defend it, but provides a common rule for the defense of violated civil rights that refers to the judicial form. However, the problem is that when the law expressly provides that the court will resolve the dispute, it does not mean that this dispute cannot always be examined by arbitration. Thus, in relation to the court and arbitration, the following was mentioned in the local specialized literature: "The indication in the law of the competence of courts to resolve civil disputes in the broad sense should not have any impact on their arbitrability. We believe that the express indication in art. 10 para. (1) of the Civil Code of the Republic of Moldova of the judicial means of resolving civil disputes in the broad sense is understood as the possibility of resolving disputes in the same civil matter and through arbitration (by concluding an arbitration agreement). Following this logic, the same interpretation will be applied in other cases, when the law establishes the court as the competent authority for resolving disputes. This extensive interpretation, at the same time, creates the risk that disputes

⁵³ DE SAULLES, D. *Reforming civil procedure: the hardest path*. Oxford: Hart Publishing, 2019, p. 4.

⁵⁴ PRISAC, A. The Duality of the Exclusive General Jurisdiction of Courts and other Jurisdictional Bodies in the Republic of Moldova. In: *Legal Sciences. Fascicle XXVI*, Vol. 6, no. 1/2023. pp. 270-277. In: *Annals of "Dunarea de Jos" University of Galati, Legal Sciences. Fascicle XXVI*, Vol. 6, no. 1/2023. pp. 263-269.

that cannot be arbitrable by their subject matter will also be considered arbitrable⁵⁵ (we note that the provisions of art. 15 of the Civil Code of the Republic of Moldova until the edition of 01.03.2019 were under number 10). So, when the law expressly mentions the court as having jurisdiction to examine a certain civil case, this reference implies that it also refers to the jurisdiction of other jurisdictional bodies to resolve this case. So, the problem we pose indicates the duality of the general exclusive jurisdiction, which does not only express the jurisdiction of the court to resolve a certain dispute.

Although the provisions of art. 15 paragraph (4) of the Civil Code of the Republic of Moldova stipulate that references in the Civil Code of the Republic of Moldova to a judge or a court are also references to other competent jurisdictional bodies under the law, however, the phrases mentioned above that refer to a court, interpreted systemically, cannot be considered references to other jurisdictional bodies, including arbitration.

Following a systemic interpretation of the provisions of art. 97 paragraph (1) of the Civil Code of the Republic of Moldova, we establish that they cannot be applied within the meaning of art. 15 paragraph (4) of the Civil Code. Therefore, the provisions of art. 15 paragraph (4) of the Civil Code bring a long-awaited novelty for the general exclusive jurisdiction of courts, but they are to be improved in order to delimit the phrases that refer to a court, but which do not also constitute references to other jurisdictional bodies from the phrases that have a dual character.

Based on the above, we propose *de lege ferenda* to supplement the provisions of art. 15 paragraph (4) of the Civil Code of the Republic of Moldova with the following sentence: „These provisions are not applicable in the situation when, by systemic interpretation, the resolution of the civil case by a jurisdictional body other than the court is not allowed”.

In section 3.3. – *“Eliminating the duality of exclusive general competence when delimiting the competence of the Constitutional Court of the Republic of Moldova from the competence of courts”* – the issue of delimiting the competence of the Constitutional Court of the Republic of Moldova and courts was addressed, which is to be filtered by certain regulations that produce certain dual interpretations.

The boundaries between the competence of the Constitutional Court and the courts of law should be such as to exclude certain ambiguities or duality of competence and of some other jurisdictional bodies⁵⁶. Thus, although it is well known that decisions of the Parliament, decrees

⁵⁵ MARTIN, C. Arbitrabilitatea litigiilor în materie de societăți comerciale. In: *Revista Națională de Drept*. 2018, nr. 10-12(216-218), p. 40.

⁵⁶ PRISAC, A. The Inadmissibility of the Duality of the Exclusive General Competence of the Constitutional Court of the Republic of Moldova in Relation to the Powers of the Courts In: *Annals of “Dunarea de Jos” University of*

of the President of the Republic of Moldova, provisions of the Government of an individual nature⁵⁷ are exempted from the control of the constitutionality of normative acts, including by raising the exception of unconstitutionality, the Constitutional Court of the Republic of Moldova carries out an uneven practice in this regard. The legislator should exclude regulations of a general nature that establish the object of the control of the constitutionality of normative acts, because these, by their nature, cannot admit the duality of the exclusive general competence of the Constitutional Court.

An existing problem in the judicial practice of the Republic of Moldova is that it limits the scope of constitutional jurisdiction and the control of the legality of the court in the administrative litigation procedure in many cases of interpretation given by the Constitutional Court, but it is not clearly stipulated in art. 135 paragraph (1) letter a) of the Constitution of the Republic of Moldova and art. 190 letter a) of the Administrative Code of the Republic of Moldova. In order not to admit such contradictory interpretations, the legislator is to revise the provisions of art. 190 letter a) of the Administrative Code of the Republic of Moldova, in order to clearly stipulate, on the one hand, which decisions of the Government and decrees of the President of the Republic of Moldova may be the subject of a civil action in the courts, and on the other hand, which decisions of the Government and decrees of the President of the Republic of Moldova may be the subject of constitutional jurisdiction. To this end, we propose *de lege ferenda* to supplement the provisions of art. 190 letter a) of the Administrative Code of the Republic of Moldova. a) of the Administrative Code of the Republic of Moldova with the following phrase: „of a normative nature.” Thus, all decrees of the President of the Republic of Moldova, decisions and ordinances of the Government and decisions of the Parliament of a normative nature will be subject to constitutional review, and those of an individual nature will be subject to legality review in courts.

In section 3.4. – *„Conditional general competence – imposition of a sequence or a condition for compliance with the preliminary procedure in the legislation of the Republic of Moldova”* – conditional general competence in the Republic of Moldova was defined as an imposition of a sequence, but not as a condition for compliance with the preliminary procedure as defined in the domestic specialized literature.

Galati, Legal Sciences. Fascicle XXVI, Vol. 6, no. 1/2023. pp. 270-277. In: *Annals of “Dunarea de Jos” University of Galati, Legal Sciences. Fascicle XXVI, Vol. 6, no. 1/2023. pp. 263-269.*

⁵⁷ PRISAC, A. Excepția de neconstituționalitate în lumina Codului de procedură civilă al Republicii Moldova. In: *Materialele Conferinței Științifice Interuniversitare a Tinerilor Cercetători „Evoluția constituționalismului în Republica Moldova”*. Chișinău, USEM, 27 aprilie 2018, p. 12.

In the specialized literature of the Russian Federation, where pioneering research on conditional general competence was conducted, there are two fundamental opinions regarding the definition of this type of general competence.

According to the first opinion, this implies the ability provided by law for the court to resolve a certain civil case only upon fulfillment of the condition⁵⁸ – compliance with the procedure for prior settlement of the case extrajudicially.

In another opinion, conditional general competence is regarded as an imperative general competence, which provides for the possibility of examining a civil case by several jurisdictional bodies in the sequence provided for by law. The examination of the case by a certain jurisdictional body constitutes a mandatory condition for it to be examined by the following jurisdictional body⁵⁹. So, in the case of the first opinion, the emphasis in defining this type of general competence is placed on the fulfillment of the condition of compliance with the prior procedure, and according to the second opinion, the observance of a sequence of addressing the competent jurisdictional bodies is highlighted.

Structurally, conditional general competence is essentially like this, which requires a consecutive address to the jurisdictional bodies and cannot be confused with a simple extrajudicial settlement of claims for the purpose of settling the dispute in the absence of a court. Such a mistake also exists in the local specialized literature⁶⁰, when it catalogs the condition of compliance with the prior procedure for resolving the case extrajudicially as an indicator of the existence of conditional general competence. So, not in every case when the condition of compliance with the prior procedure for resolving the case extrajudicially is imposed, we are in the presence of imperative (conditional) general competence.

The Administrative Code of the Republic of Moldova, in its initial draft, excluded the rule that required, in most cases, compliance with the preliminary procedure in administrative litigation and stipulated only that it is mandatory only in cases provided for by law (Art. 208 Administrative Code of the Republic of Moldova). Which, in our view, was correct, because only in some cases provided for by law the legislator could require compliance with the preliminary procedure, when for the public authority whose administrative act is the object of judicial review, the legislator promoted a certain specific administrative policy. This policy could consist in raising the quality level of administrative acts in a certain field until they are subject to judicial review. Preserving the concept of imposing the preliminary procedure indicates a stagnation in the development of

⁵⁸ ЖУЙКОВ М. В. *Судебная защита прав граждан и юридических лиц*. Москва: Городец, 1997, с. 7.

⁵⁹ ОСИПОВ, Ю. К. *Подведомственность юридических дел*. Учебное Пособие. Свердловск, 1973. с. 46-51.

⁶⁰ BELEI, E., BORȘ A., FELICIA, C. [et al.]; red. șt.: Alexandru Cojohari. *Drept procesual civil. Partea generală*. Chișinău: S.n. 2016, p. 141-142.

regulations on administrative litigation. It is necessary to maintain the preliminary procedure only for some cases provided for by law, such as those that constitute a new field for the public administration, for example, acts issued by the National Integrity Authority, which constitutes a relatively new field for the Republic of Moldova, which would require a certain period for the acquisition of certain skills by civil servants within this public authority.

We consider it rational, from the point of view of the specifics of conditional general competence, not to impose by law the procedure prior to the challenge in court of normative acts of public authorities, because there cannot be a judicial body, other than the issuer of the contested normative act, which can replace the latter body to adopt an administrative act of a normative nature. All this, since the adoption of normative regulations are essentially the duties of the body empowered by law to regulate a certain area of social relations. The only legitimate judicial body to annul the normative administrative act, by means of action in normative control⁶¹, but not to regulate in place of the issuing administrative body, is the court, because it is empowered to carry out normative control.

Since the preliminary procedure is vehemently required by virtue of a true consecutiveness of the general imperative (conditional) jurisdiction, we propose *de lege ferenda* to return to the initial version of the regulations of art. 208 paragraph (1) of the Administrative Code, which constituted a modern and substantiated version of the imposition of the obligation of the preliminary procedure only in cases provided for by law. Thus, we propose to amend the provisions of art. 208 paragraph (1) of the Administrative Code and to stipulate the following: "In cases provided for by law, until the filing of the administrative litigation action, the preliminary procedure shall be observed".

In paragraph 3.5. – „*Alternative general competence based on the restricted alternative procedural law of the parties*” – the interaction between alternative procedural law and alternative general competence was revealed.

In our view, the alternative procedural right of alternative general competence can be exercised only if the law provides for at least two jurisdictional bodies to which the person can address the civil case. Likewise, a foundation for exercising this alternative procedural right of the litigant, in our opinion, is the principle *electa una via, non datur recursus ad alteram*, which translated into Romanian means „choosing one way does not allow one to choose another way". This principle derives from a Latin phrase used to designate the limitation of the right of those

⁶¹ JIMBEI, Ina. Felurile de acțiuni în contenciosul administrativ. In: *Integrare prin cercetare și inovare. Conferință științifică națională cu participare internațională, 10-11 nov. 2020. Chișinău: Universitatea de Stat din Moldova*, p. 169.

who are to address justice, when the law indicates two or more competent courts to choose and refer their action to only one of them. Strictly speaking, [...] aims at extinguishing the right of option; once you have chosen one way, namely the competence of a court, you are not allowed to resort to another⁶². This principle was developed in the case law of the ECtHR in the case of Iorgulescu v. Romania⁶³, which as a whole ruled that as long as a person has found a solution to his dispute before an administrative court, the state is not obliged to allow him to use another judicial remedy⁶⁴. Therefore, if by virtue of the general alternative jurisdiction the litigant has chosen to address another jurisdictional body provided by law, other than the court for the protection of his legitimate rights and interests, he is no longer entitled to claim the realization of the right of access to justice for the resolution of his dispute. The litigant will only be entitled to challenge in court the decision of the jurisdictional body chosen by him.

In paragraph 3.6. – „*Dejudicialization of civil cases by virtue of the alternative procedural law of the parties – current trend in the Republic of Moldova*” – the importance and particularities of dejudicialization of civil cases in the Republic of Moldova are presented and the essential function of alternative procedural law in its realization is highlighted.

Dejudicialization and judicialization are two opposing movements, which can evolve differently from one stage of human development to another and can coexist in parallel. Judicialization has existed throughout the 20th century⁶⁵, but dejudicialization is the current trend in several legal systems of different states, especially in the Republic of Moldova. Judicialization focuses on courts by expanding their general competence in relation to other jurisdictional bodies. However, through dejudicialization, the aim is to increase the application of alternative dispute resolution methods and simplify judicial procedures, a trend that we observe also exists in the Republic of Moldova. Streamlining regulations on general contractual jurisdiction will contribute to the intensive dejudicialization of forms of civil rights defense.

The alternative procedural right of the parties in the regulations of general contractual jurisdiction is a full one, because it implies the will of both parties in choosing the judicial body, and the latter does not have only an advisory function⁶⁶, but also to resolve disputes. This fullness

⁶² LegeAZ. net. Legea de la A la Z. © 2022. [citat 29.04.2023]. Disponibil: <https://legeaz.net/dictionar-juridic/electa-una-via-non-datur-recursus-al-alteram>.

⁶³ Décision sur la recevabilité de la requête no 59654/00 Iorgulescu contre la Roumanie [online]. Cour européenne des Droits de l'Homme (troisième section). Strasbourg, 13 janvier 2005. [citat 29.04.2023]. Disponibil: <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22IORGULESCU%22%2C%22itemid%22:%5B%22001-68131%22%5D%7D>.

⁶⁴ LegeAZ. net. Legea de la A la Z. © 2022. [citat 29.04.2023]. Disponibil: <https://legeaz.net/hotarari-cedo/iorgulescu-contraromaniei-n02>.

⁶⁵ CINAMONTI, S., PERRIER, J.-B. *Les enjeux de la déjudiciarisation*. Lextenso éditions, LGDJ, 2019, p. 6.

⁶⁶ MOREIRA, F., C. The advisory role of international courts in the evolution of human rights law. In: *Tribuna Juridica*. Volumul 12, 2022, nr. 4, p. 443.

gives confidence in the impartiality and independence of the judicial body chosen by the parties to the dispute, because the specifics of today's society⁶⁷ require granting this possibility to the subjects of the legal-litigious relationship. However, with regard to dejudicialization, this cannot be total with regard to choosing arbitration as an alternative way of resolving disputes. Only some disputes can be resolved through arbitration.

In the civil procedural legislation of the Republic of Moldova, we identify this right to choose the jurisdiction of certain jurisdictional bodies only on the basis of the alternative general competence, and as for the jurisdiction jurisdiction, the parties do not enjoy this right, because the Law on Amending and Supplementing the Civil Procedure Code of the Republic of Moldova⁶⁸ excluded art. 41 of the Civil Procedure Code of the Republic of Moldova⁶⁹ called „contractual jurisdiction”, which referred to the contractual territorial jurisdictional competence. We believe that it was excluded because this was the state policy in regulating jurisdictional competence, which probably aims at stability in determining the competent court to examine the civil case. However, the general contractual jurisdiction was preserved, because this establishes jurisdiction over civil cases that encompass a broader scope than jurisdictional competence, including arbitration, which if excluded would violate the principles accepted in a democratic society, and would also increase the level of judicialization.

We believe that the limits of the full alternative procedural right of the parties would be the arbitrability of the dispute, as well as its principles⁷⁰, which meet a set of requirements and criteria to determine the dispute that can be resolved by arbitration. Including, this right also exists in the case of administrative arbitrability, which may arise in connection with the conclusion of an administrative contract⁷¹. These limits, in particular, are stipulated in art. 3 of the Law on Arbitration No. 23 of 22.02.2008. In other words, there are the following elements of general contractual jurisdiction when choosing to resolve the case by arbitration, which are to interact with each other: 1) the full alternative procedural right of the parties; 2) the arbitration clause or compromise; 3) arbitrability.

⁶⁷ KHOTYNSKA-NOR, O., IZAROVA, I. To reach sustainable justice with Millennials: example of Ukraine. In: *Tribuna Juridica*. Volumul 12, 2022, nr. 4, p. 458.

⁶⁸ Legea pentru modificarea și completarea Codului de procedură civilă al Republicii Moldova: nr. 244 din 21 iulie 2006. In: *Monitorul Oficial al Republicii Moldova*, 2006, nr. 178-180, art. 814.

⁶⁹ Codul de procedură civilă al Republicii Moldova: nr. 225 din 30 mai 2003. In: *Monitorul Oficial al Republicii Moldova*. 2003, nr. 111-115, art. 451.

⁷⁰ COZAC, Sofia Elena. Arbitrability of disputes and jurisdiction of arbitrators. In: *Revista de științe juridice*, 2018, nr. 1. pp. 232 p.

⁷¹ BRAVO, B., M., MOREIRA, F. C. Scope and limits of the administrative act arbitrability. In: *Tribuna Juridica*. Volumul 9, 2019, nr. 1, p. 443.

We believe that the principle *electa una via non, datur recursus ad alteram* is found at the basis of general contractual jurisdiction in the event of the existence of an arbitration agreement, starting from the provisions of art. 9 para. (1) of the Law on Arbitration no. 23 of 22.02.2008, which stipulates: "The court where the action is brought regarding the dispute that is the subject of an arbitration agreement, at the request of a party made no later than its first statement on the merits of the dispute, shall remove the application from the list and refer the dispute to arbitration for resolution, except in the case where the court finds that that agreement is null, invalid or unenforceable". This is justified by the authority and supreme good of the entire judicial system - including the parties to the trial - as well as the stability and transparency of legal relations. It would be to the detriment of the parties and the judicial system if another decision was rendered despite another already existing decision⁷². So, from the moment of concluding an arbitration agreement, the parties have chosen a judicial body, i.e. arbitration, which prevents one of the parties from addressing the court or another judicial body. However, this ground of inadmissibility does not operate by law, but is to be applied by way of a procedural exception by invoking it by the interested party in the court. This exception can be invoked no later than his first statement on the merits of the dispute, which in conjunction with the provisions of art. 267 letter e) of the Code of Civil Procedure of the Republic of Moldova means that the defendant can raise this exception only at the stage of preparing the case for judicial debates.

Another essential limit of the right to choose arbitration by virtue of general contractual jurisdiction is that public authorities do not enjoy this right and cannot avoid the rules on the competence of the national jurisdiction, which are rules that refer to exclusive general competence. This limit exists in most states in the continental law system, including Romania⁷³ and the Republic of Moldova. Dejudicialization in this regard is obvious and does not coexist with judicialization.

In paragraph 3.7. – „*Application of rules on dynamic general competence and its identification in the legal system of the Republic of Moldova*” – the type of dynamic general competence is conceptualized based on national regulations.

Dynamic general competence is defined by us as that jurisdiction that delimits the powers of jurisdictional bodies according to certain variable criteria and in most cases their essence is established following the overall interpretation of several legal norms or according to general criteria whose application depends on the court's discretion. This type of general competence does not exist in the specialized literature, but we add it to all other types, because the opportunity for

⁷² GOLAB, A. Inadmissibility of civil proceedings and access to court. In: *Access to Justice in Eastern Europe*. 2019, nr. 2(3), p. 91.

⁷³ SĂRARU, C., S. Arbitration settlement of disputes concerning administrative contracts in Romania. In: *Tribuna Juridica*. Volumul 8, 2018, Special Issue, p. 227.

its existence derives from the following⁷⁴: 1) the classical types of general competence to date do not include all the criteria for delimiting the powers of jurisdictional bodies; 2) the legislation on general competence is in constant change, and the exposition of certain types of general competence in the form of a closed and conservative system does not characterize this legal institution; 3) the legislator at each stage of the development of social relations develops new criteria for delimiting the powers of jurisdictional bodies, which may not fall within the classical types of general competence; 4) the criteria for delimiting the powers of jurisdictional bodies are so diverse that they cannot be incorporated into the form of abstract types of general competence.

In paragraph 3.8. – „*Dehybridization of general competence by applying the criteria for delimiting the powers of judicial bodies*” – the concept of hybridization and that of dehybridization of general competence is defined. Also, some criteria for the efficient achievement of dehybridization of general competence of judicial bodies in the Republic of Moldova are analyzed.

Hybridization of the powers of judicial bodies constitutes that mixture of various specific and non-specific powers of some judicial bodies determined by its imperfection, or by the incorrect conceptualization of the competence of these bodies. Dehybridization constitutes the reverse action of hybridization carried out for the purpose of clearly determining the powers of judicial bodies. We, undoubtedly recognizing the negative character of the hybridization of general competence, consider that it can be minimized by promoting the legislative policy of dehybridization of the competence of judicial bodies, which, in concrete terms, can be achieved by establishing rigorous criteria for delimiting the general competence of judicial bodies.

We have analyzed the criteria for delimiting general competence through their formulation as rules that are to be used as the basis for dehybridizing the general competence of judicial bodies. Specific to the criteria we have presented is that they primarily start from the delimitation of the general competence of courts of law from the jurisdiction of other judicial bodies, because the former occupy a central place in the system of judicial bodies, having a scope of application that derives from the common law nature of civil procedure and criminal trial that was separated from the regulations of civil procedure. These criteria are: 1. The object of examination and settlement in the activity of the judicial body must be specific to its activity; 2. The quality of the subjects of the legal relationship must be close to the object of examination in the activity of the judicial body; 3. The existence or absence of legal disputes; 4. The existence of an agreement concluded between the parties to the dispute; 5. The legal force of the contested normative act. When analyzing each criterion, the problematic practical aspects regarding their application are highlighted.

⁷⁴ PRISAC, A. Felurile competenței generale. In: *Vector European*, 2023, nr. 2, pp. 28-31.

In paragraph 3.9. – „*Atypical extended general competence of some judicial bodies in the Republic of Moldova*” – this type of general competence was conceptualized and we analyzed some non-specific powers of some judicial bodies in the Republic of Moldova.

We define the atypical extended general competence of judicial bodies as the extension of the jurisdiction of a court or another judicial body to cases that would not normally correspond to the specifics of its specialization according to the law. Similarly, we distinguish between the atypical extended legal general competence and the atypical extended illegal general competence. The atypical extended legal jurisdiction is regulated by law and does not affect the fundamental principles underlying the entire system of judicial bodies. However, the atypical extended illegal jurisdiction is the one that is illegally extended through erroneous interpretation of the law and dangerous practices, which, as a rule, affect the principle of the administration of justice exclusively by the court.

In Chapter 4 – **Effects of violation of rules on general competence in the context of interbranch regulations** – the effects of violation of rules on general competence of some jurisdictional bodies, in particular of the court, are analyzed.

In paragraph 4.1. – „*General considerations on the effects of violation of rules on general competence*” – the method of researching each effect of violation of the general competence of jurisdictional bodies was presented.

In section 4.2. – „Effects of violation of rules on general competence of courts” – the following effects of violation of the general competence of courts are analyzed: declaring the action inadmissible in administrative litigation; refusing to receive the summons; returning the summons; termination of the trial; removing the application from the list; quashing the court decision or the decision of the court of appeal.

In section 4.2.1. – „*Declaration of inadmissibility of the action in administrative litigation and refusal to accept the request for summons as duplicated procedural effects*” – in addition to the analysis of these two effects of the violation of the general competence of the judicial bodies, the inadvertence of their duplication in the regulations of the procedural legislation of the Republic of Moldova is highlighted.

The declaration of inadmissibility of the action in administrative litigation, based on the fact of violation of general competence, is stipulated in art. 207 paragraph (2) letter e) of the Administrative Code of the Republic of Moldova, which provides: „The action in administrative litigation is declared inadmissible especially when the plaintiff cannot claim the violation, through administrative activity, of a right within the meaning of art. 17 of the Administrative Code of the Republic of Moldova.” This procedural effect drew our attention to the fact that in the legislation

of the Republic of Moldova the meaning of the refusal to accept the request for a summons and the declaration of inadmissibility of the action in the administrative dispute under art. 207 para. (2) let. e) of the Administrative Code of the Republic of Moldova have the same meaning from the point of view of the purpose of each procedural solution given by the court during the process and the procedural effects they produce. In other words, the declaration of inadmissibility of the action in the administrative dispute on all the grounds stipulated in art. 207 para. (2) of the Administrative Code of the Republic of Moldova includes two camouflaged procedural categories, but renamed in a different way. These are: refusal and return of the request for a summons. We argue this opinion based on the two effects produced by declaring the inadmissibility of the action in the administrative dispute at the stage of initiating the civil trial, which are identical to those produced by the refusal and return of the summons.

Based on the above, we propose *de lege ferenda* to amend the provisions of art. 207 para. (2), (3) and (4) of the Administrative Code of the Republic of Moldova, so that the cases stipulated in art. 207 para. (2) letters a)-e) of the Administrative Code of the Republic of Moldova are resolved by refusing to receive the summons, and the cases stipulated in art. 207 para. (2) letters f)-h) of the Administrative Code are resolved by returning the summons.

In section 4.2.2. – „*Return of the summons as a result of failure to comply with the conditions for exercising the right to action regarding general competence*” – the effect of returning the summons under art. 170 para. (1) letters a), b) and j) of the CPC, which constitutes a condition for exercising the right to action, is analyzed.

There are some cases in the judicial practice of the Republic of Moldova⁷⁵ when judges return the summons without indicating the specific legal provisions stipulating the obligation to comply with the preliminary procedure. One reason is that the provisions of art. 170 para. (1) letter a) of the CPC do not include the situation when the plaintiff did not respect the consecutiveness of the out-of-court settlement of the dispute. However, the failure to indicate or the incomplete indication of the legal norm providing for the return of the summons constitutes a violation of the principle of free access to justice, a violation also highlighted in the relevant ECtHR jurisprudence art. 6 § 1 of the ECHR, in particular, in the case *Negura and Others v. the Republic of Moldova*⁷⁶. In this regard, we propose *de lege ferenda* to supplement art. 170 para. (1) with letter a1) of the CPC to provide: the plaintiff did not respect the consecutiveness of the out-of-court settlement of

⁷⁵ Încheierea Judecătorei Chişinău, s. Centru: nr. dosar 2-27941/2022 din 20 decembrie 2022. Încheierea Judecătorei Chişinău, s. Centru: nr. dosar 2-20341/2021 din 01 septembrie 2021.

⁷⁶ Judgment in Case of *Negura and Others v. The Republic Of Moldova* (Application no. 16602/06) [online]. European Court of Human Rights. Strasbourg 5 March 2019. [citat 22.04.2023]. Disponibil: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-191476%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-191476%22]}).

the dispute.

In paragraph 4.2.3. – „*Termination of civil proceedings as a sanction for the non-existence of the premise for exercising the right to action regarding the general competence of the court*” – the effect of terminating civil proceedings as a sanction for the non-existence of the premise for exercising the right to action regarding the general competence of the court was analyzed.

The grounds for terminating civil proceedings are exhaustively stipulated in art. 265 of the Civil Procedure Code, and the one that refers to the violation of the norms of general competence is stipulated in art. 265 letter a) of the Civil Procedure Code, which stipulates: „The court orders the termination of the proceedings if the case is not to be tried in civil proceedings”. We note that these are the same provisions as in art. 169 paragraph (1) letter a) of the Civil Procedure Code, but the judge detects this violation of the general competence of the courts after the civil proceedings have been initiated. Therefore, the most frequently raised issues in relation to the termination of civil proceedings are those regarding the invocation of the violation of the rules on general competence in order to produce this procedural effect.

In our view, the exception of general lack of jurisdiction should be defined as the procedural means of defense of the defendant by which the empowerment of a judicial body to examine a civil case is contested, incidentally, which has the effect of terminating the proceedings thus filed. The invocation of the violation of the rules on general competence takes place through the exceptions of general lack of jurisdiction.

We attribute the exception of general lack of jurisdiction to the category of peremptory or *dirimante* exceptions. These exceptions are defined in the specialized literature as those which, being admitted, determine the rejection or annulment of the application, in principle, preventing the continuation or resumption of the trial⁷⁷. It constitutes a peremptory exception, because according to art. 266 par. (2) of the CPC, the termination of the civil trial prevents the continuation or resumption of the trial and has the effect of excluding a new appeal to court by the same party regarding the same object and on the same grounds.

We consider that the Moldovan legislator, in the recent period, has excessively used the sanction of forfeiture in the Civil Procedure Code of the Republic of Moldova, in particular, when raising the exception of general lack of jurisdiction to ensure the speed of examination of civil cases, but which affects the quality of the act of justice. The norms regarding general competence stipulated in art. 265 lit. a) The CPC are of an imperative nature, because they refer to the exclusive competence of the judicial bodies, and failing to comply with them on the grounds that the sanction

⁷⁷ DELEANU, I. Considerații cu privire la excepțiile procesuale în contextul prevederilor Proiectului Noului Cod de procedură civilă. In: *Revista română de drept privat*. 2009, nr. 4, p. 50-51. p. 34.

of forfeiture of the invocation of the exception of lack of competence has occurred is irrational.

Based on the above, we propose *de lege ferenda* to exclude letter a) from art. 185 paragraph (4) of the CPC, which will allow, in a fair and rational manner, the court to order at any procedural stage to terminate the process under art. 265 letter a) of the CPC.

In section 4.2.4. – „*Removal of the application from the list*” – the procedural incident “removal of the application from the list” was analyzed as an effect of the violation of the rules of general competence of the courts. Removal of the application from the list also constitutes an exception of jurisdiction, which has a relative character, because it can only be invoked by the participants in the process.

The three grounds for removing the application from the list were analyzed, which refer to the general competence stipulated in art. 267 letter e), l) 1) of the CPC. The ground stipulated in art. 267 letter a) The CPC was not included by us in the category of those that refer to non-compliance with the rules of general competence, because, as we argued in para. 3.4. of the thesis, this ground does not hold general competence conditional, because it does not refer to a consecutive order of resolving civil cases.

The basis of art. 267 letter l) of the CPC refers to the exclusive general competence, because the jurisdiction of the court to examine cases in the general procedure that does not consist of a legal dispute and does not fall within the jurisdiction of other jurisdictional bodies than the court is violated. Thus, based on this basis for removing the application from the list, the exception of general incompetence can be raised, which has an absolute character, because it can be raised by the participants in the process and by the court *ex officio* at the stage of preparing the case for judicial debates. The absolute character is conferred by virtue of the violation of the rules of the exclusive general competence of the court, which have an imperative character. This, since the private jurisdiction is highlighted by the dispositive character of the rules by which it is regulated⁷⁸. The lifting of this exception may be made by the participants in the process by reference or written or verbal request. Specific for this ground for removing the application from the list is that, although at the stage of initiating the civil process the general competence of the court in the special procedure was not violated, nevertheless, during the course of the process, up to the stage of preparing the case, such a violation could be found. This is because during the process, the persons interested as participants in the special procedure could, after the initiation of the civil process, contest a right of the petitioner deriving from the material-legal relations.

In section 4.2.5. – “Cancellation of the court decision or the decision of the court of appeal”

⁷⁸ DURAC, G. *Drept procesual civil: Partea generală*. București: Editura Hamangiu, 2020, p. 218.

– the exercise of the power of the court of appeal and the court of restitution to cancel the court decision and the decision of the court of appeal as an effect of the violation of the rules regarding the general competence of the court is analyzed.

The grounds for restitution for retrial in the first instance by the court of appeal are exhaustively provided for in art. 388 paragraph (1) of the Code of Civil Procedure, and they do not refer to the violation of the exclusive general competence, which is contrary to the procedural codifications existing in European states. Therefore, we conclude that it is necessary to expressly stipulate in art. 388 paragraph (1) of the Code of Civil Procedure a ground for the annulment of the court decision by the court of appeal that refers to the violation of the general competence, because these, for the most part, contain mandatory legal norms regarding the jurisdiction of the judicial bodies.

Based on the above, we propose *de lege ferenda* to supplement the provisions of art. 388 paragraph (1) of the CPC with letter "i)" containing the following words: "the case was examined in violation of general competence".

A similar problem exists in the application of the grounds for appeal stipulated in art. 432 paragraph (1) of the CPC. Thus, we propose *de lege ferenda* to supplement the provisions of art. 432 paragraph (1) of the CPC with letter g) which stipulates the following: "the decision was pronounced in violation of general competence".

In paragraph 4.3. - „*Effects of the violation of the competence of other jurisdictional bodies in the Republic of Moldova*” - some of the effects of the violation of the competence of other jurisdictional bodies than the court were analyzed starting from the issue of their regulation and their importance for the system of jurisdictional bodies.

In section 4.3.1. – “Inadmissibility of the referral to the Constitutional Court in connection with the violation of general competence” – the incident of the inadmissibility of the referral to the Constitutional Court as an effect of the violation of general competence is analyzed.

With the adoption of the new Law on the Constitutional Court no. 74 of 10.04.2025⁷⁹, there is already a legal basis for declaring the inadmissibility of the referral addressed to the Constitutional Court in connection with the failure to comply with general competence. The provisions of art. 27 para. (3) lett. a) of the Law on the Constitutional Court no. 74 of 10.04.2025 stipulate the following: “The referral shall be declared inadmissible if its resolution does not fall within the competence of the Constitutional Court.” Although the respective provision has been subject to criticism, we consider that the regulations of art. 27 para. (3) letter a) of the Law on the

⁷⁹ Legea cu privire la Curtea Constituțională nr. 74 din 10.04.2025. In: *Monitorul Oficial al Republicii Moldova*, 2025, nr. 187-189, art. 217.

Constitutional Court no. 74 of 10.04.2025 are appropriate to stipulate the effect of the violation of general competence, because in this case the Constitutional Court will not address itself on the merits of the referral, which is not specific to a decision of the Constitutional Court. Therefore, the decision on the inadmissibility of the referral addressed to the Constitutional Court under art. 27 para. (3) letter a) of the Law on the Constitutional Court no. 74 of 10.04.2025 can in no way replace a decision of the Constitutional Court.

In section 4.3.2. – „*Declaration of the nullity of the administrative-jurisdictional act, annulment and refusal to enforce arbitral awards*” – three effects of the violation of general competence were analyzed: 1) declaration of the nullity of the administrative-jurisdictional act; 2) annulment of the arbitral award; 3) refusal to enforce the arbitral award.

The illegality of an administrative-jurisdictional act issued by a non-competent authority is established by means of a declaratory action, because it represents an absolute nullity that is established but not declared, being null but not annulable. An administrative-jurisdictional act issued in violation of general competence is a null administrative act, and the justified interest of the plaintiff determines the establishment of nullity by means of a declaratory action. The absolute or relative nullity of administrative acts must be invoked and established by certain competent bodies. This can be established and disposed of by the issuing authority, by the higher hierarchical body or the common law courts, or by the administrative litigation⁸⁰.

Regarding the annulment and refusal to enforce arbitral awards in connection with the violation of general competence, we note that these are ordered by the court based on the priority of the judicial form of defense over the private one. However, the legality of judicial acts cannot be verified by the arbitral court, but the court can exercise control over arbitral awards as the sole authority empowered to administer justice.

Having violated the mandatory legal norms and the parties to the dispute have failed to respect the limits of the discretionary right established by the judicial body (arbitration), we conclude that the refusal to enforce and annul the arbitral award occurs when the rules of exclusive general competence and general contractual jurisdiction are violated.

In order to ensure the balance between the grounds for annulment of arbitral awards and the grounds for refusal to issue an enforceable title regarding the specification of the meaning that they are attributed to the violation of the imperative legal norms of exclusive general competence, we propose *de lege ferenda* to introduce in the provisions of art. 480 para. (2) letter a) CPC the

⁸⁰ GUZNAC, V. Efectele juridice ale actelor administrative. In: *Teoria și practica administrării publice*, 22 mai 2012, Chișinău: S.C. „Garamont-Studio” S.R.L., 2012, pp. 45-48.

word „imperative” after the words „the dispute examined by arbitration cannot be, according to”.

Chapter 5 – **Application of the rules of general competence of courts in the examination and resolution of civil cases** – the peculiarities of the application of the regulations on general competence in the examination and resolution of civil cases by the court are analyzed.

In paragraph 5.1. – „*Specifics of the regulation of general competence of courts in special procedure*” – the peculiarities of the regulations on general competence in special procedure are highlighted.

Each chapter of the Civil Procedure Code of the Republic of Moldova, which contains regulations on special procedure, also includes provisions on the general competence of courts and the jurisdictional competence to examine civil cases with special procedure. These provisions either expressly stipulate general competence or implicitly result from their interpretation, but involve certain issues in their application⁸¹. Likewise, a specific feature of these provisions is that they refer, in most cases, to the general exclusive jurisdiction of the court and to the general conditional jurisdiction. Since civil rights, which are different in nature, are defended through this special procedure, the legislator has stipulated rules of general exclusive jurisdiction in order to avoid extensive interpretations that may exist in connection with the diversity of the nature of the civil rights defended. In any case, when in regulating a special procedure the law refers to the provisions of jurisdictional competence, it implicitly follows that they also refer to the general exclusive jurisdiction of the court.

The most highlighted provisions on general competence in the special procedure are the provisions of art. 281, 309, 319, 331 paragraph (2) of the CPC. In particular, we mention the procedure for establishing facts that have legal value, these regulations are identified in art. 281 CPC. The general competence of the court in the procedure for establishing facts that have legal value most highlights the compensatory nature. This particularity of the special procedure in cases for establishing facts that have legal value is expressed in the fact that the legislator stipulates the possibility of applying this special procedure in the event of the impossibility of applying the administrative order for establishing or registering the corresponding legal facts and issuing the necessary documents⁸². The general competence in this procedure is regulated so that the court is entitled to intervene to fill a gap in the jurisdiction of all public authorities, with the exception of

⁸¹ PRISAC, A. Efectul prejudicialității hotărârii judecătorești irevocabile în cazul reconstituirii procedurii judiciare pierdute în procesele civile. In: Conferința Științifică Internațională „Promovarea valorilor social-economice în contextul integrării europene, Chișinău, 12-13 decembrie 2019, p. 33.

⁸² Золотухин А. Д. *Проблемы судопроизводства по делам об установлении фактов, имеющих юридическое значение в особом производстве*. Диссертация на соискания ученой ст. канд. юр. наук. Саратов, 2009, с. 21-22.

the court, in the realization of the rights and legitimate interests of the person.

Other special rules regarding the general competence of courts in the special procedure are identified in the procedure regarding the approval of forced hospitalization and forced treatment regulated in Chapter XXIX of the Code of Civil Procedure of the Republic of Moldova. These are stipulated in art. 309 para. (1) of the CPC. The aforementioned provisions stipulate the exclusive general competence of courts to resolve the respective applications, when there is a basis provided by law for the forced hospitalization and forced treatment of the person⁸³.

The specifics of the general competence stipulated in the provisions of art. 309 para. (1) CPC is that they contain reference norms, using the words „in case, according to the law”, which implicitly refers to other legal provisions that expressly provide for the court's competence to order forced hospitalization and forced treatment. The respective procedure is often used to regulate the general competence of courts. The legislative acts to which the provisions of art. 309 para. (1) CPC refer are the Health Protection Law⁸⁴ and the Law on the Rights and Responsibilities of the Patient⁸⁵.

The approval of the psychiatric examination or hospitalization in a psychiatric hospital is also ordered by the court, in the order provided for in Chapter XXX of the CPC (art. 312-318). The limits between the jurisdiction of the court and the medical and health institutions in cases regarding the approval of forced hospitalization and forced treatment are clearly delimited by the general exclusive jurisdiction stipulated in art. 309 of the CPC. The medical and health institution has no authority to order forced hospitalization or forced treatment. The medical and health institution only performs administrative application acts that do not have a decision-making role in resolving these cases.

The problem of delimiting the limits of the general competence of the court and the psychiatric institution may arise in the procedure regarding the approval of hospitalization in a psychiatric inpatient facility. This issue may arise when delimiting the powers of the court from those of the psychiatric institution to hospitalize the person until the court is addressed to decide on the subsequent stay in the psychiatric inpatient facility. Thus, according to art. 314 paragraph (1) of the CPC: „The request for hospitalization in a psychiatric inpatient facility without the free consent of the person shall be submitted as soon as possible, but no later than 72 hours from the

⁸³ PRISAC, Alexandru, CORJAN, Angela. Procedura încuviințării spitalizării forțate și a tratamentului forțat. In: *Jurnalul juridic național: teorie și practică*, 2019, nr. 2(36), p. 87.

⁸⁴ Legea ocrotirii sănătății: nr. 411-XIII din 28 martie 1995. In: *Monitorul Oficial al Republicii Moldova*, 1995, nr. 34/373.

⁸⁵ Legea cu privire la drepturile și responsabilitățile pacientului: nr. 263 din 27 octombrie 2005. In: *Monitorul Oficial al Republicii Moldova*, 2005, nr. 176-181, art. 867.

moment of his/her admission to the inpatient facility". From the aforementioned provisions, it follows that the specifics of the general competence of the psychiatric institution to hospitalize the person have a temporary character and are interdependent on the general competence of the court.

In paragraph 5.2. – „*General competence of courts in resolving cases arising from legal employment relationships*” – the peculiarities of the regulations on general competence in resolving cases arising from legal employment relationships are highlighted.

The general competence of cases arising from legal employment relationships is diverse⁸⁶ in terms of its types and the ways of choosing the judicial body for resolving individual or collective employment disputes. The types of general competence differ depending on whether an individual employment dispute or a collective employment conflict is to be resolved. In the case of an individual employment dispute, the rules on the exclusive general competence of the court shall apply, and in the resolution of collective employment conflicts, the rules of conditional (imperative) general competence shall apply.

The criterion that delimits the individual labor dispute from other legal disputes is the subjective composition of the legal labor relations. Practice shows that under the current conditions of subjective criteria, in most cases they play a decisive role in delimiting the general competence of the jurisdictional bodies⁸⁷. The mandatory subjects of these legal disputes are the employee and the employer. This criterion is also applied to the delimitation of the general competence of the court from other jurisdictional bodies in resolving individual labor disputes.

Another issue regarding general competence in the matter of labor disputes, raised in the Russian specialized literature by the author A. Kurushin, concerns two understandings of the understanding of the labor dispute that interfere with the institution of general competence. These are: 1) the „material-legal” understanding; 2) the „procedural-legal” understanding. The difference between them is related to the fact that the authors who support one or another understanding have different views on the importance of addressing a jurisdictional body for resolving a labor dispute. The material-legal meaning assumes that the labor dispute arises until the case is referred to the competent judicial body. However, the procedural-legal meaning assumes that the labor dispute arises from the moment of referral to a competent judicial body for its resolution⁸⁸. The author

⁸⁶ BELIGRĂDEANU, Ș. Considerații critice asupra diversității nejustificate a reglementărilor legale privind competența materială a instanțelor judecătorești în domeniul soluționării conflictelor de muncă. In: *Revista română de drept privat*. 2009, nr. 3, pp. 12-37. ISSN 1843-2646. p. 36.

⁸⁷ НЕЧАЕВА, С. В. Обеспечение конституционного права на судебную защиту в контексте разграничения подведомственности дел между судами общей и арбитражной юрисдикции. Дис. кандидата юрид. наук. Москва, 2011, с. 113.

⁸⁸ КУРУШИН, А. *Трудовые споры: понятие, структура, виды, подведомственность*: Автореферат дис. кандидата юридических наук. Ульяновск, 2003, с. 11.

mentions that addressing a judicial body is only a form of resolving a labor dispute. We support the aforementioned opinion, and for the activity of judicial bodies in resolving labor disputes, general competence constitutes a premise for the emergence of procedural relations. This implies that the institution of general competence is one of the premises that can give a procedural character to labor disputes.

In the Republic of Moldova, when resolving individual labor disputes by the court, the rules regarding exclusive general competence are applied, because they can be examined and resolved only by the court. We deduce this conclusion from the phrase “shall be submitted to the court”, stipulated in the provisions of art. 355 paragraph (1) of the Labor Code of the Republic of Moldova⁸⁹.

From the systemic interpretation of the Labor Code of the Republic of Moldova it follows that a duality of exclusive general competence regarding the resolution of labor disputes is not admitted. The Labor Code of the Republic of Moldova does not contain a provision on the duality of exclusive general competence compared to the Civil Code of the Republic of Moldova, which stipulates in art. 15 para. (4) that references in the Civil Code to a judge or a court are also references to other competent jurisdictional bodies under the law. However, the Labor Code of the Republic of Moldova does not admit such an interpretation of a reference to a court, which excludes the option of interpreting that this reference is one that also refers to another jurisdictional body. However, the problem of controversial interpretations in the specialized literature of the exclusive general competence of the court of individual labor disputes persists in the Republic of Moldova. Thus, in order to exclude such doctrinal interpretations, which may have a negative influence on the judicial practice of the Republic of Moldova, we propose *de lege ferenda* to supplement the provisions of art. 355 paragraph (1) of the Labor Code of the Republic of Moldova by adding the word „exclusively” after the words „is submitted”. The respective wording of the provisions of art. 355 paragraph (1) of the Labor Code of the Republic of Moldova excludes any interpretation that individual labor disputes could be resolved by other jurisdictional bodies (arbitration) than the court.

In paragraph 5.3. – „*General competence of courts in resolving civil cases arising from family legal relations*” – the peculiarities of the regulations on general competence in resolving cases arising from family legal relations are highlighted.

When resolving civil cases arising from family legal relations, there is the greatest diversity of types of general competence of the court, compared to other civil processes. In order to meet

⁸⁹ Codul muncii al Republicii Moldova: nr. 154 din 28 martie 2003. In: *Monitorul Oficial al Republicii Moldova*, 2003, nr. 159-162, art. 648.

the premises and conditions for exercising the right to action when initiating civil processes regarding family legal relations, as a rule, the rules of some of the following types of general competence of courts must be observed: a) exclusive general competence of courts; b) alternative general competence; c) conditional (imperative) general competence of courts.

Some of the legislative provisions referring to the general exclusive jurisdiction of the court in resolving civil cases resulting from family legal relations are: art. 23 Family Code (Recognition of the spouses' personal property as their separate property); art. 31 paragraph (2) Family Code (Declaration of the nullity of the marriage contract); art. 41 paragraph (1) of the Family Code (Declaration of the nullity of marriage); art. 48 Family Code (Establishment of paternity in court); 49 paragraph (1) Family Code (Contestation of paternity (maternity)); art. 68 paragraph (1) Family Code (Termination of parental rights); art. 78 paragraph (2) Family Code (Establishment of the amount of maintenance for adult children incapable of work). In all these cases, the law establishes the general exclusive jurisdiction of the courts, a common rule in the legal systems of other states, such as Romania⁹⁰, for the purpose of defending the interests of the child, or the person who has suffered abuse from family members.

Having established the general exclusive jurisdiction of the courts to examine these civil cases, the judge cannot require the plaintiff at the stage of initiating the civil process to present certain evidence regarding compliance with a prior extrajudicial procedure. We also refer to the case of establishing paternity in court, regulated in art. 48 of the Family Code, in which it is not necessary to present the refusal of one of the parents or the child's father to be registered as the father in the birth certificate by the civil registry office. In the case of addressing one of the parents to the court, there is a legal presumption that there is no joint declaration of the parents regarding the establishment of paternity and this circumstance is not to be proven at the time of filing the application for summons. The judge, in this civil trial, may impose, through a ruling not to grant the request, the compliance with the provisions of art. 166 and 167 of the CPC, in particular those provided for in art. 166 letter e) of the CPC, which stipulates: "The factual and legal circumstances on which the plaintiff bases his claims and all the evidence at his disposal at the time of filing the request".

The general conditional jurisdiction of courts to resolve civil cases arising from family legal relationships is found in the court's confirmation of facts and events relating to civil status documents. In particular, we refer to the provisions of art. 281 para. (2) letter c) of the CPC which stipulates: „The court shall try cases in which it is requested to ascertain the registration of birth,

⁹⁰ ROȘU, Claudia. *Drept procesual civil: Partea specială. Ed. a 11-a, rev. și adăug.* București: Ed. C.H. Beck, 2021, p. 114.

adoption, marriage, divorce and death”. Since a condition for ascertaining these facts with legal value is that the petitioner is unable to obtain or restore the documents that would certify the legal fact whose ascertainment he is requesting, he must present to the court the evidence (a response from the civil status body) proving the impossibility of restoring the documents regarding the registration of the fact of birth, adoption⁹¹, marriage, divorce and death⁹². Therefore, the condition is imposed on the petitioner to first address the civil status body regarding the restoration of documents regarding the registration of the fact of birth, adoption, marriage, divorce and death, and in case of impossibility for the civil status body to restore them, the petitioner may request the establishment of the respective facts in court. Thus, we note that when resolving these cases, the existence of the basic jurisdictional body (the civil status body) and another – the complementary and non-binding jurisdictional body (the court). These civil cases are examined in a consecutive order by the jurisdictional bodies, which characterizes the rules of conditional general competence.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

The complexity of the delimitation of the powers of courts in relation to other jurisdictional bodies is a current problem in the context in which the Republic of Moldova is pursuing reform in the justice sector and, in general, in the system of jurisdictional bodies. This complexity involves regulations of several branches of procedural law within the legal system. In this context of approaching, systematizing and delimiting knowledge, the research carried out in this paper, through the new results obtained, contributed to the development of a new scientific direction in the theory of civil procedural law of the Republic of Moldova, this being the interagency institution of the general competence of jurisdictional bodies⁹³.

As a result of conducting research in the entire scientific area of the theory of civil procedural law⁹⁴ and other branches of procedural law, we highlight the following conclusions:

1. The institution of general competence has an interbranch character, given that it contains legal norms of two or more branches of law⁹⁵. We limit this character only to the procedural branches of law, such as: civil procedural law; criminal procedural law; contravention procedural

⁹¹ PRISAC, A. Reglementarea procedurii de încuviințare a adopției în codul de procedură civilă al Republicii Moldova. In: Vector European, Nr. 2/2018, pp. 18-23.

⁹² PRISAC, A. *Comentariul Codului de procedură civilă al Republicii Moldova*. Chișinău: Cartea Juridică, 2019, p. 889.

⁹³ PRISAC, A. *Competența generală a instanțelor judecătorești și a altor organe jurisdicționale din Republica Moldova la soluționarea cauzelor civile*: monografie. Chișinău: Lexon-Prim, 2024, 235 p..

⁹⁴ PRISAC, Alexandru. Definition of general competence in the legal literature of Romania. In: *Перспективи розвитку суспільно-гуманітарних наук в умовах євро інтеграції*, 11-12 aprilie 2024. Україна, Біла Церква, pp. 70-73.

⁹⁵ PRISAC, A. *Competența generală a instanțelor judecătorești și a altor organe jurisdicționale din Republica Moldova la soluționarea cauzelor civile*: monografie. Chișinău: Lexon-Prim, 2024. 235 p.

law and constitutional law in the regulations of the procedure of constitutional jurisdiction. The institution of general competence does not have such a broad interaction with all branches of law⁹⁶, which would go beyond the branches of procedural law.

Implicitly, the interbranch character of the institution of general competence is also highlighted by the fact that it also constitutes a legal means of delimiting the judicial power from the executive power⁹⁷. The institution of general competence constitutes a legal means of delimiting the powers in the state, because each judicial body whose powers are delimited by general competence can be part of either the composition of the judicial power or that of the executive power. Therefore, the wide scope of application of the norms regarding general competence in achieving the balance between the two powers involves not only civil procedural relations, but also constitutional jurisdiction, which once again marks the interbranch character of this legal institution.

All the powers of the jurisdictional bodies, which go beyond the civil procedural sphere of the regulatory object of this branch of law, indicate the interbranch character of general competence. However, the procedure for examining and resolving a civil case by a public authority other than the court does not refer to civil procedure⁹⁸. Therefore, the legal norms that delimit the competence to examine in various dispute resolution procedures cannot constitute only norms of civil procedural law. However, given the fact that civil procedural law constitutes a branch of common law, the issues studied within the discipline of Civil Procedural Law encompass the widest spectrum within the branches of procedural law, it is also correct that the institution of general competence be analyzed within the discipline of Civil Procedural Law.

We define general competence as that interbranch legal institution of public and private order that delimits the powers of jurisdictional bodies, as well as of courts, to examine and resolve legal cases arising by virtue of the degree of specialization of certain public authorities as the main legal mechanism for distributing these cases and for delimiting the judicial power from the executive power⁹⁹ (Chapter II).

In the context of the existence of general competence as an interbranch legal institution,

⁹⁶ PRISAC, A. Evoluția competenței generale în Moldova și Țara Românească. In: *Prevenirea și combaterea criminalității: probleme, soluții și perspective*, Ed. 5, 18 mai 2023. Chișinău: 2023, Ediția 5, pp. 347-351.

⁹⁷ PRISAC, A. Deosebirea dintre competența generală și competența jurisdicțională. In: *Perspectivelor și Problemele Integrării în Spațiul European al Cercetării și Educației*, Ed. Volumul X, 7 iunie 2023. Cahul: Tipografia „CentroGrafic” SRL, 2023, Vol.10, Partea I, pp. 194-199.

⁹⁸ PRISAC, A., RUSU, D. Competența generală la înaintarea acțiunii privind exercitarea dreptului de gaj. In: *Prevenirea și combaterea criminalității: probleme, soluții și perspective*, Ediția 5, 18 mai 2023, Chișinău: 2023, pp. 326-329.

⁹⁹ PRISAC, A. General competence - an interbranches legal institution that delimits the powers of jurisdictional bodies in continental law. In: *Juridical Journal Perspectives Of Law And Public Administration*, 2023, Volume 12, Issue 4, pp. 497-509.

there is also the premise of the establishment of atypical jurisdictional bodies, which operate by virtue of the atypical extended general competence. The extended character derives from the junction of the typical jurisdiction of a state body with that of another jurisdictional body, and their functionality is often affected if there is no consonance between the norms of the general competence.

2. The basis of the interaction of general competence with the forms of protection of the rights, freedoms and legitimate interests of the person is the concept of the premise of the existence of the respective forms. This is in order for there to be an activity regulated by law, it is obvious that there must be a legal norm to regulate such activity. The premise of general competence being regulated by the law which underlies the existence of the following forms of protection of civil rights: judicial form¹⁰⁰, administrative form¹⁰¹, private form¹⁰² and mixed form¹⁰³. Other forms of protection of civil rights may exist, if the premise of the general competence of the respective judicial body is stipulated by law. In particular, general competence is one of the premises of the existence of the judicial form of protection of civil rights, because any procedural legal institution has this interbranch legal institution as its starting point. The institution of general competence establishes the priority of the judicial form of defense of civil rights in relation to the private, administrative and mixed forms, including starting from the presumption of the high level of quality of the act of justice, which is assumed to exist in the judicial system¹⁰⁴.

The existence of the judiciary within the state powers exists by virtue of the general competence, which is regulated by law and clearly delimits the power of courts to administer justice vis-à-vis the executive and judicial powers. I have formulated two important criteria in determining the civil cases examined by courts that could be assigned by law for examination to administrative authorities: 1) the connection of these cases with the field of activity of this state body; 2) the exclusion of the violation of fundamental human rights by examining the case by administrative bodies instead of the court (Chapter II).

¹⁰⁰ PRISAC, A. Competența generală – o premisă a existenței formei judiciare de apărare a drepturilor civile. In: *Studia Universitatis Moldaviae (Seria Științe Sociale)*, 2023, nr. 3(163), pp. 214-220.

¹⁰¹ PRISAC, A. General competence is a premise for the existence of the administrative form and the mixed form of civil rights defense. In: *Актуальні Проблеми Права, Психології Та Педагогіки В Умовах Війни*, 13-14 aprilie 2023. Ucraina, Біла Церква, pp. 75-78.

¹⁰² PRISAC, A. Instituția competenței generale – o premisă a existenței formei private de apărare a drepturilor civile. In: *Vector European*, 2023, nr. 1, pp. 41-44.

¹⁰³ PRISAC, Alexandru. The interaction between the forms of defense of civil rights in the Republic of Moldova and Ukraine. In: *Глобалізаційні виклики: урядування майбутнього*, Київський Національний Університет Імені Тараса Шевченка Навчально-Науковий Інститут 24 aprilie 2024, Kiev. Матеріали щорічної Міжнародної науково-практичної конференції. pp. 120-121.

¹⁰⁴ PRISAC, A., RUSU, D. Competența jurisdicțională la înaintarea acțiunii privind exercitarea dreptului de gaj. In: *Perspectivile și Problemele Integrării în Spațiul European al Cercetării și Educației*, Ed. Volumul X, 7 iunie 2023. Cahul: Tipografia „CentroGrafic” SRL, 2023, Vol.10, Partea I, pp. 200-205.

3. The factors that determine the legislator to stipulate in a legislative act certain rules regarding exclusive general competence are: the systematization of legal norms in codifications in which the activity of certain jurisdictional bodies is regulated; the need to empower a jurisdictional body to resolve disputes arising from material-legal relations regulated by this legislative act; the need to have a jurisdictional body to apply the sanctions provided for by the legal norms in the legislative act; the specificity of state policy in a certain field of social relations; the specialization of jurisdictional bodies that requires the existence of certain legal norms of jurisdiction in the special legislative act.

In the legislation of the Republic of Moldova, the indication of a judicial body to resolve a civil dispute does not always mean that only this body is empowered to examine this case by virtue of the duality of the general exclusive¹⁰⁵ competence of the courts in the Republic of Moldova¹⁰⁶. When express mention is made in the law to the court of law to be competent to examine a certain civil case, this reference implies that it is also attributed to the competence of other judicial bodies to resolve this case. However, the legislator is to exclude regulations of a general nature that establish the object of the control of the constitutionality of normative acts, because these, by their nature, cannot admit the duality of the general exclusive competence of the Constitutional Court.

The dehybridization of the general competence of the judicial bodies can be achieved by applying the following criteria for delimiting the powers of the judicial bodies: 1. The object of examination and resolution in the activity of the judicial body must be specific to its activity; 2. The quality of the subjects of the legal relationship must be close to the object of examination in the activity of the judicial body; 3. The existence or absence of legal disputes; 4. The existence of an agreement concluded between the parties to the dispute; 5. The legal force of the contested normative act (Chapter III).

4. The effects of violating the rules on general competence are the consequences of not respecting the hypothesis and provision of legal norms regarding general competence¹⁰⁷. However, these legal norms are comprised of legal institutions of several branches of law that are applied by several jurisdictional bodies.¹⁰⁸

¹⁰⁵ PRISAC, A. Felurile competenței generale. In: *Vector European*, 2023, nr. 2, pp. 28-31.

¹⁰⁶ PRISAC, Alexandru. Dynamic general competence and the application of the criteria for delimitation of economic disputes. In: *„European Finance, Regulation and Business” 25 years united under euro. EUFIRE-RE*, 17-18 mai 2024. Iași, România, Alexandru Ioan Cuza University of Iași. pp. 312-319.

¹⁰⁷ PRISAC, Alexandru. The effects of breaking the jurisdiction of some jurisdictional bodies in the Republic of Moldova. In: *Bona fides in iure. Buna-credință ca fundament al echității juridice*, 16-17 mai 2024, Ediția a XII-a București, România, Universitatea Titu Maiorescu din București. pp. 172-179.

¹⁰⁸ PRISAC, Alexandru. Cancellation of the court decision or the decision of the court of appeal as an effect of the breaking of the general jurisdiction. In: *Bona fides in iure. Buna-credință ca fundament al echității juridice*, 16-17 mai 2024, Ediția a XII-a București, România, Universitatea Titu Maiorescu din București. pp. 167-171.

The declaration of inadmissibility of the action in the administrative dispute and the refusal to accept the request for summons constitute duplicated procedural effects, when the norms on the general competence of the courts are violated, because they exclude the possibility of repeated filing of the same plaintiff with the same action against the same defendant, with the same object and the same grounds. In the legislation of the Republic of Moldova, the meaning of the refusal to accept the request for summons and the declaration of inadmissibility of the action in the administrative dispute under art. 207 para. (2) let. e) of the Administrative Code of the Republic of Moldova have the same meaning from the point of view of the purpose of each procedural solution given by the court during the process and the procedural effects they produce. The declaration of inadmissibility of the action in the administrative dispute on all grounds stipulated in art. 207 para. (2) of the Administrative Code of the Republic of Moldova includes two camouflaged procedural categories, but renamed in a different way. These are: refusal and return of the subpoena.

The return of the summons raises questions as to whether it refers to the effect of the violation of the rules regarding conditional general competence, and the provisions of art. 170 para. (1) letter a) of the CPC do not refer to conditional general competence, because it does not attribute to the possibility of the civil case being examined by several jurisdictional bodies in the sequence provided for by law..¹⁰⁹

We attribute the exception of general lack of jurisdiction to the category of peremptory or dirimetary exceptions. We define the exception of general lack of jurisdiction as the procedural means of defense of the defendant by which the authorization of a judicial body to examine a civil case is incidentally contested, which has the effect of terminating the process thus initiated (Chapter IV).

5. The Civil Procedure Code of the Republic of Moldova stipulates common rules on determining the general competence of the court in examining cases with special procedure and special rules. The common provisions stipulating this limit between the jurisdiction of courts in relation to other jurisdictional bodies are stipulated in Art. 279 of the CPC by a non-exhaustive list of cases examined by the court in special procedure. Therefore, the legislator used in Art. 279 of the CPC the procedure of exclusive general competence to determine the cases that are examined by the court in special procedure. This list is non-limiting, because according to Art. 279 paragraph (2) of the CPC, courts may be assigned by law to examine in special procedure other categories of

¹⁰⁹ PRISAC, Alexandru. Restituirea cererii de chemare în judecată în legătură cu nerespectarea condițiilor de exercitare a dreptului la acțiune privind competența generală. In: *Tehnologizarea și digitalizarea procesului civil și a executării silite*, 14-16 septembrie 2023. pp. 118-125.

cases. The determination of general competence in cases with special procedure takes place by first verifying the coincidence of the application in the list of cases with special procedure provided for by law ¹¹⁰. Subsequently, compliance with the special rules of general competence stipulated in the Chapters of Section C "Special Procedure", for example the provisions of Art. 281 of the CPC, will be verified.

Special rules of general competence in the Civil Procedure Code of the Republic of Moldova are stipulated in the procedure for establishing facts that have legal value and in which the compensatory nature of general competence is particularly highlighted¹¹¹. Similarly, these special rules exist in the procedure for approving a psychiatric examination or hospitalization in a psychiatric hospital, in the procedure for restoring rights arising from lost bearer securities and promissory notes, and in the procedure for establishing the inaccuracy of entries in civil status registers. A true form of conditional general competence exists in the procedure for establishing the inaccuracy of entries in civil status registers, because it requires addressing several jurisdictional bodies in a certain sequence.

When resolving individual labor disputes in the Republic of Moldova, the rules on the general exclusive jurisdiction of the court are applied, since they can be examined and resolved only by the court. Similarly, from the systemic interpretation of the Labor Code of the Republic of Moldova it follows that a duality of the general exclusive jurisdiction regarding the resolution of labor disputes is not admitted.

In order to fulfill the premises and conditions for exercising the right to action when initiating civil lawsuits regarding family legal relations, usually, the rules of some of the following types of general competence of the courts must be observed: a) general exclusive jurisdiction of the courts; b) general alternative jurisdiction; c) general conditional (imperative) jurisdiction of the courts¹¹².

6. The problem of the duality of the general competence of the courts of the Republic of Moldova exists in the delimitation between the powers of this judicial body and the competence of the Constitutional Court of the Republic of Moldova and the courts of law. However, in the case of delimitation of the powers of the Constitutional Court of the Republic of Moldova and those of

¹¹⁰ PRISAC, Alexandru. Competența generală a instanțelor judecătorești în diferite feluri de procedură civilă. In: *Conferință Științifică Internațională: Promovarea Valorilor Socio-Economice În Contextul Integrării Europene, Ediția a 6-a*, 1-2 decem. 2023, Chișinău: USEM, pp. 186-192.

¹¹¹ PRISAC, A., CORJAN, A. Noțiuni conceptuale privind procedura constatării faptelor care au valoare juridică. In: *Legea și Viața*, 2019, nr. 9(333), p. 24

¹¹² PRISAC, Alexandru. Competența generală a instanțelor judecătorești la soluționarea cauzelor civile ce rezultă din raporturile juridice de familie. In: *Conferința internațională științifico-practică în onoarea a 33-a aniversării a Universității de Stat Comrat*. Comrat, 2014. pp. 547-550.

the courts, it is inadmissible to admit a duality of the exclusive general competence, because it hinders the functioning of these state institutions due to the existence of uncertainty in the application of the stipulations regarding the competence of these two judicial bodies¹¹³. Also, such regulation creates a lack of uniformity in the practice of constitutional jurisdiction and causes conflicts of general competence that cannot be resolved otherwise than by amending the law.

When delimiting the powers between the court and arbitration, a duality of exclusive general competence may be admitted, so that a reference in the law to the court also constitutes a reference to arbitration, except in cases where the law does not expressly admit the resolution of disputes through arbitration.¹¹⁴ However, the legislator continues to pay particular attention to regulating cases that are not arbitrable¹¹⁵, because dualistic interpretations may also be allowed regarding the assignment of cases to arbitration, although following the systemic interpretation such arbitrability is not allowed by law (Chapter III).

7. Dejudicialization is the current trend in several legal systems in different states, especially in the Republic of Moldova. Dejudicialization aims to increase the application of alternative dispute resolution methods and simplify judicial procedures. The promotion of judicialization or dejudicialization depends on the state policy in this area. The trend of dejudicialization in the Republic of Moldova comes in the context of European integration policies. In the Republic of Moldova, dejudicialization is also achieved by broadening the general contractual jurisdiction on which the arbitrability of disputes is based¹¹⁶. Making regulations on general contractual jurisdiction more efficient will contribute to the intensive dejudicialization of forms of civil rights defense (Chapter III).

The conclusions formulated are found in the author's scientific and didactic works. By virtue of these conclusions regarding the general competence of the jurisdictional bodies, we formulate the following recommendations *de lege ferenda* for the Parliament of the Republic of Moldova:

- to transfer the regulations on jurisdiction from Chapter IV to Title II of the Code of Civil Procedure of the Republic of Moldova, and in this title to provide a new chapter entitled

¹¹³ PRISAC, A. The Inadmissibility of the Duality of the Exclusive General Competence of the Constitutional Court of the Republic of Moldova in Relation to the Powers of the Courts In: *Annals of "Dunarea de Jos" University of Galati, Legal Sciences. Fascicle XXVI*, Vol. 6, no. 1/2023. pp. 270-277. ISSN: 2601-9779. In: *Annals of "Dunarea de Jos" University of Galati, Legal Sciences. Fascicle XXVI*, Vol. 6, no. 1/2023. pp. 263-269.

¹¹⁴ PRISAC, A. General alternative and contractual jurisdiction in Moldova and Romania based on the alternative procedural right of parties. In: *Access to Justice in Eastern Europe*, no. 3 (20), 2023. pp. 167-178.

¹¹⁵ PRISAC, A. The Duality of the Exclusive General Jurisdiction of Courts and other Jurisdictional Bodies in the Republic of Moldova. In: *Legal Sciences. Fascicle XXVI*, Vol. 6, no. 1/2023. pp. 270-277. In: *Annals of "Dunarea de Jos" University of Galati, Legal Sciences. Fascicle XXVI*, Vol. 6, no. 1/2023. pp. 263-269.

¹¹⁶ PRISAC, A. Dehybridization of the general competence of the jurisdictional bodies. In: *Perspectives Of Law And Public Administration*, 2024, Volume 13, Issue 1, pp. 184-191.

„Jurisdictional jurisdiction in civil cases”;

- amending the provisions of art. 444 of the Code of Civil Procedure of the Republic of Moldova in the following wording: „The appeal shall be heard by summoning the parties. However, their failure to appear shall not prevent the examination of the appeal”;

- art. 3 para. (2)¹ of Law no. 23 of 22.02.2008 on arbitration to provide the following: „Disputes in which one of the parties is a public authority may not be the subject of an arbitration agreement, with the exceptions provided for by law”;

- to be excluded from the Civil Procedure Code of the Republic of Moldova Chapter XXIII „Determination of inaccuracy of entries in civil status registers”. At the same time, we propose de lege ferenda, to supplement letter a) of paragraph (2) of art. 66 of Law no. 100 of 24.04.2001 on civil status acts, with the following words: „which may be contested including through evidence with witnesses”;

- to be excluded from art. 278⁷ paragraph (2) CPC the following letters: a), b), c), d) and i). Likewise, to be excluded from art. 15 paragraph (1) of Law no. 45 of 01.03.2007 on the prevention and combating of domestic violence, the following letters: a), b), c), d) and j). To amend the provisions of art. 12¹ paragraph (2) of Law no. 45 of 01.03.2007 in which the phrase 10 days is replaced by the phrase „3 months”;

- to supplement art. 208 paragraph (1) of the Administrative Code of the Republic of Moldova with the following sentence: „The preliminary procedure shall be explained in the content of the individual administrative act”;

- to be supplemented with a new chapter, called by us „General competence of courts” the Civil Procedure Code of the Republic of Moldova, which should include the provisions of art. 33² of the CPC, which should stipulate the following: „In the case of the existence of an arbitration agreement, the application will be removed from the list and sent for arbitration, if one of the parties requests this at the stage of preparing the case for judicial debates, except in the case where the court establishes that the arbitration agreement is null, invalid or unenforceable”;

- to supplement the provisions of art. 15 paragraph (4) of the Civil Code of the Republic of Moldova with the following sentence: „These provisions are not applicable in the situation when, by systemic interpretation, the resolution of the civil case by a jurisdictional body other than the court is not allowed”;

- to supplement art. 189 of the Administrative Code of the Republic of Moldova with a new paragraph, paragraph (4), which would provide the following: “the acts of sanctioning contraventions may also be contested in the administrative litigation procedure, if an

administrative procedure was initially initiated”;

- to supplement the provisions of art. 190 letter a) of the Administrative Code of the Republic of Moldova with the following phrase: „of a normative nature”;

- to amend the provisions of art. 208 paragraph (1) of the Administrative Code and stipulate the following: „In the cases provided for by law, until the filing of the administrative litigation action, the preliminary procedure shall be observed”;

- to amend the provisions of art. 207 paragraph (2), (3) and (4) of the Administrative Code of the Republic of Moldova so that the cases stipulated in art. 207 paragraph (2) letter a)-e) of the Administrative Code of the Republic of Moldova are resolved by refusing to receive the summons, and the cases stipulated in art. 207 paragraph (2) letter f)-h) of the Administrative Code are resolved by returning the summons;

- supplementing art. 170 paragraph (1) with letter a1) of the CPC to provide: the plaintiff did not respect the sequence of amicable settlement of the dispute;

- to amend the provisions of art. 170 paragraph (1) letter b) of the CPC to the following wording: "the request for summons is filed in violation of the rules of jurisdictional competence”;

- to repeal letter j) of paragraph (1) of art. 170 of the CPC;

- to exclude letter a) of art. 185 paragraph (4) of the CPC, which will correctly and rationally allow the court to order at any procedural stage to terminate the process under art. 265 letter a) of the CPC;

- to include the word "compromise" after the words "arbitration agreement" in art. 267 letter e) of the CPC;

- to supplement the provisions of art. 388 paragraph (1) of the CPC with letter "i)" containing the following phrase: "the case was examined in violation of general competence”;

- to supplement the provisions of art. 432 paragraph (1) of the CPC with letter g) providing the following: "the decision was pronounced in violation of general competence”;

- to introduce in the provisions of art. 480 paragraph (2) letter a) of the CPC the word "imperative" after the words "the dispute examined by arbitration cannot be, according to”;

- to supplement the provisions of art. 355 paragraph (1) of the Labor Code of the Republic of Moldova by adding the notion "exclusively" after the words "is submitted”;

- to exclude the word "only" from the provisions of art. 68 paragraph (1) of the Family Code.

The implementation of scientific results regarding general competence was also achieved through the publication of the Commentary on the Civil Procedure Code of the Republic of Moldova, in which each provision related to this interbranch legal institution was given rigorous explanations regarding its correct application in judicial practice.

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ADNOTARE

Prisac Alexandru, „Promovarea reformelor în sistemul organelor jurisdicționale din Republica Moldova prin optimizarea reglementărilor competenței generale”, teză de doctor habilitat în drept, Chișinău, 2025

Structura tezei: introducere, 5 capitole, Concluzii generale și recomandări, Bibliografie din 421 de titluri, 250 pagini text de bază. Rezultatele obținute sunt publicate în 39 de lucrări științifice.

Cuvinte-cheie: competență generală, organ jurisdicțional, cauză civilă, împuternicire, reglementări.

Scopul tezei de doctor habilitat constă în efectuarea unei cercetări ample a competenței generale ca instituție juridică interramurală în lumina legislației Republicii Moldova, a doctrinei și a practicii judiciare, în vederea elucidării lacunelor și înaintării recomandărilor teoretice și practice, inclusiv a propunerilor *de lege ferenda* pentru îmbunătățirea cadrului legal în acest domeniu.

Obiectivele cercetării: identificarea competenței generale prorogate atipice a unor organe jurisdicționale în cadrul sistemului dreptului Republicii Moldova în urma evidențierii caracterului interramural al competenței generale; prezentarea interacțiunii indispensabile a competenței generale cu formele de apărare a drepturilor, libertăților și intereselor legitime ale persoanei; formularea criteriilor de delimitare a competenței diferitelor organe jurisdicționale pornind de la felurile acestora și a specificului reglementărilor în acest domeniu în Republica Moldova pentru dehibridizarea împuternicirilor instanțelor de judecată la soluționarea cauzelor civile; conceptualizarea efectelor încălcării normelor de competență generală și consecințele acestora asupra funcționalității organelor jurisdicționale în Republica Moldova; elucidarea particularităților competenței generale în Republica Moldova la soluționarea cauzelor civile în diferite raporturi material-juridice: civile, de familie, de muncă și altele; identificarea și soluționarea dualităților competenței generale a instanței de judecată și a altor organe jurisdicționale; evidențierea particularităților dejudiciarizării cauzelor civile în Republica Moldova.

Noutatea și originalitatea științifică derivă din aceea că analizăm amplu aspectele de drept material și procedural ale competenței generale. O astfel de analiză vine să determine clar locul acestei instituții juridice în sistemul de drept al Republicii Moldova, fiind caracterizată drept o instituție juridică interramurală. De asemenea, sunt etalate în ansamblu imperfecțiunile cadrului legislativ național ce reglementează competența generală, în legătură cu care sunt înaintate propuneri *de lege ferenda* în vederea îmbunătățirii cadrului legal în acest domeniu.

Rezultatele științifice principale noi ce contribuie la soluționarea unei probleme științifice constau în identificarea ansamblului particularităților instituției competenței generale potrivit legislației Republicii Moldova, fapt care a condus la clarificarea delimitării împuternicirilor organelor jurisdicționale și la fundamentarea unei noi instituții juridice interramurale, în vederea de a aplica corect și uniform reglementările din acest domeniu și a le perfecționa.

Semnificația teoretică. Acest studiu complex și aprofundat asupra competenței generale constituie un aport considerabil la fondul doctrinar național și un reper temeinic pentru cercetători în dezvoltarea în continuare a științei în domeniul temei interdisciplinare.

Valoarea aplicativă se învederează în elucidarea aspectelor importante ale competenței generale ce facilitează aplicarea corectă și uniformă a reglementărilor privind această instituție juridică interramurală.

Implementarea rezultatelor științifice. Propunerile *de lege ferenda*, în special cele de modificare și completare a prevederilor privind competența generală din legislația Republicii Moldova, au fost depuse spre examinare la Parlamentul Republicii Moldova și Ministerul Justiției.

АННОТАЦИЯ

Присак Александру, „Продвижение реформ в системе судебных органов в Республике Молдова путем оптимизации положений подведомственности”, Диссертация на соискание степени доктора хабилитата, Кишинэу, 2024 г.

Структура диссертации: Введение, 5 глав, Общие выводы и рекомендации, Библиография из 421 наименований, 250 страниц основного текста. Полученные результаты опубликованы в 39 научных статьях.

Ключевые слова: подведомственность, юрисдикционный орган, гражданское дело, доверенность, нормативные акты.

Целью диссертации является проведение обширного исследования подведомственности как межведомственного правового института в свете законодательства Республики Молдова, доктрины и судебной практики, с целью выяснения пробелов и направить теоретические и практические рекомендации, включая предложения *de lege ferenda*, по совершенствованию правовой базы в этой области.

Задачи исследования: выявление нетипичной отложенной общей компетенции некоторых юрисдикционных органов правовой системы Республики Молдова после выделения межотраслевого характера подведомственности; представление о обязательном взаимодействии подведомственности с формами защиты прав, свобод и законных интересов личности; формулирование критериев разграничения компетенции различных юрисдикционных органов исходя из ее видов и особенностей регулирования в этой области в Республике Молдова для дегибридизации полномочий судов по разрешению гражданских дел; выделение особенностей подведомственности в Республике Молдова для разрешения гражданских дел в различных материально-правовых отношениях: гражданских, семейных, трудовых и других; выявление и разрешение двойственности общей юрисдикции суда и других юрисдикционных органов; освещение особенностей десудиялизации гражданских дел в Республике Молдова.

Научная новизна и оригинальность обусловлены тем, что автор подробно анализирует материальные и процессуально-правовые аспекты подведомственности. Подобный анализ позволяет четко определить место этого правового института в правовой системе Республики Молдова, характеризующегося как межотраслевой правовой институт. Также в целом проявляются несовершенства национальной законодательной базы, регулирующей общую компетенцию, в связи с чем вносятся предложения *de lege ferenda*, направленные на совершенствование правовой базы в этой сфере.

Основные новые научные результаты, способствующие решению научной проблемы, заключаются в выявлении всех особенностей института общей компетенции по законодательству Республики Молдова, что привело к уточнению разграничения полномочий юрисдикционных органов и созданию нового межотраслевого правового института с целью правильного и единообразного применения норм в этой области и их совершенствования.

Теоретическая значимость. Это комплексное и углубленное исследование общей компетентности представляет собой значительный вклад в национальный доктринальный фонд и фундаментальный ориентир для исследователей в дальнейшем развитии науки по междисциплинарной теме.

Прикладное значение видится в выяснении важных аспектов подведомственности, способствующих правильному и единообразному применению норм, касающихся этого межотраслевого правового института.

Внедрение научных результатов. Предложения *de lege ferenda*, особенно те, которые изменяют и дополняют положения об общей юрисдикции в законодательстве Республики Молдова, были представлены на рассмотрение Парламента Республики Молдова и Министерства Юстиции.

ANNOTATION

Prisac Alexandru, „Promoting reforms in the system of judicial bodies in the Republic of Moldova by optimizing the regulations regarding general jurisdiction”, Thesis of doctor habilitate in law, Chisinau, 2024

Structure of the thesis: Introduction, 5 chapters, General conclusions and recommendations, Bibliography of 421 titles, 250 pages of basic text. The obtained results are published in 39 scientific papers.

Keywords: general jurisdiction, jurisdictional body, civil case, power of attorney, regulations.

The purpose of the habilitation doctor's thesis is to carry out an extensive research of the general competence as an inter-mural legal institution in the light of the legislation of the Republic of Moldova, the doctrine and the judicial practice, in order to elucidate the gaps and forward the theoretical and practical recommendations, including *de lege ferenda* proposals for the improvement the legal framework in this field.

The objectives of the research: identification of the atypical prorogued general competence of some jurisdictional bodies within the legal system of the Republic of Moldova following the highlighting of the interbranch nature of the general competence; presentation of the indispensable interaction of the general competence with the forms of defense of the rights, freedoms and legitimate interests of the person; the formulation of the criteria for delimiting the competence of different jurisdictional bodies starting from its types and the specifics of the regulations in this field in the Republic of Moldova for the dehybridization of the powers of the courts to resolve civil cases; conceptualization of the effects of the violation of the norms of general competence and their consequences on the functionality of the jurisdictional bodies in the Republic of Moldova; highlighting particularities of the general jurisdiction in the Republic of Moldova for the settlement of civil cases in different material-legal relations: civil, family, labor and others; identifying and resolving the dualities of the general jurisdiction of the court and other jurisdictional bodies; highlighting the peculiarities of dejudicialization of civil cases in the Republic of Moldova.

The scientific novelty and originality derives from the fact that the author extensively analyzes the material and procedural law aspects of general competence. Such an analysis comes to clearly determine the place of this legal institution in the legal system of the Republic of Moldova, being characterized as an inter-branch legal institution. Also, the imperfections of the national legislative framework that regulates the general competence are displayed as a whole, in connection with which *de lege ferenda* proposals are submitted in order to improve the legal framework in this field.

The main new scientific results that contribute to the solution of a scientific problem consist in the identification of all the particularities of the institution of general competence according to the legislation of the Republic of Moldova, a fact that led to the clarification of the delimitation of the powers of the jurisdictional bodies and to the foundation of a new interbranch legal institution, with a view to the correct and uniform application of regulations in this field and their improvement.

Theoretical significance. This complex and in-depth study on general competence constitutes a considerable contribution to the national doctrinal fund and a fundamental benchmark for researchers in the further development of science on the interdisciplinary theme.

The applicative value is seen in the elucidation of the important aspects of the general competence that facilitates the correct and uniform application of the regulations regarding this interbranch legal institution.

Implementation of scientific results. The proposals to amend and complete the provisions regarding the general competence in the legislation of the Republic of Moldova, were submitted for examination to the Parliament of the Republic of Moldova and the Ministry of Justice.

PRISAC ALEXANDRU

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