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SYNTHESIS

Ph.D. Thesis

CIVIL TORMENTAL LIABILITY

FOR JUDICIAL ERRORS

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1. Actuality, importance and justification of the research

The motivation for choosing the theme follows as a natural development of constant personal and professional concerns for the study and analysis of the judicial system, with a preponderance towards legislative and jurisprudential aspects, concerns started during the undergraduate studies followed at the Faculty of Law of the University of Bucharest. Later, pursuing a master's degree in the field of Judicial career and practicing the professions of lawyer, and currently as a judge, researching the issue of the connection between the execution of the act of justice, judicial errors and tortious civil liability, in the context of the increasing interest in the legal sphere regarding these concepts, I considered that it can be a natural and opportune approach to follow during my doctoral studies.

At the same time, in the course of scientific research, I had as a basis the theoretical knowledge acquired within the studies carried out, but also the practical activity, which helped me outline the idea that the administration of justice represents one of the most important missions of a democratic state, which has as its primary objective the provision of an act of justice in accordance with the law and with respect for the rights of the parties, the State having the main obligation to organize the activity of judicial bodies, this being the reason why, in the situation finding some judicial errors, the liability is carried out, first of all, towards the State, in relation to the violation of its objective.

Another motivation in choosing the theme consists of *its novelty*, which derives from the originality of the complex interdisciplinary analysis carried out with a multifaceted approach to the issue of tortious civil liability and judicial errors that includes the theoretical perspective of the legal regulations in the field, the practical aspects regarding the damage caused and the ways to repair it, with the presentation of the types of liability, the deep implications in the act of justice and in state stability, but also the importance of this concept, which derives from the fact that in all systems of right, provisions relating to judicial errors are identified.

The actuality of the scientific approach it is conferred by its connection to the legislative, doctrinal, jurisprudential trends both in Romania and in the European Union and at the international level in the field of justice aimed at making magistrates responsible for the judicial act performed and the awareness of the essential role they have in ensuring the stability of a democratic society and in conferring trust for citizens in favor of state institutions, which are meant to apply the law in its letter and spirit, to ensure the protection of the rights of individuals.

The opportunity to research the chosen topic is closely related to the development of studies regarding the analysis of the concepts of tortious civil liability and judicial error through the prism of the importance for the judicial system and for the respect of the fundamental rights

and freedoms of citizens within educational institutions with concerns in the field of law and with the efforts of the academic community in Romania to develop (especially through bachelor's, master's and doctoral study programs, specialized conferences, the publication of works and not only) a solid and appropriate legal culture for a society modern, in which it receives the educational-preventive role to the detriment of the sanctioning one.

In this context, we appreciate that our approach to research the connection, on the one hand, between the administration of justice and the activity of magistrates, and on the other hand, between tortious civil liability and judicial errors, is not without interest, it approaches an area that has not been sufficiently exploited up to now, from here also deriving *its importance*.

Considering the aspects contained in the research, we believe that our theme can be placed in the context of scientific research in the field of law, bringing added value to the approach of tortious civil liability for judicial errors, both from the perspective of holding the State and the magistrates accountable, thereby contributing to the consolidation of the justice system, to the understanding and action to reduce cases of judicial errors, basically, to ensure an act of justice in conditions of legality, constituting a basic concern of the national policy.

We appreciate that this scientific research paper offers a *integrative vision* și is circumscribed to the efforts to clarify and conceptual and practical perspective of judicial error, the responsibility of the State and magistrates, of the act of justice, in the conditions of the significant implications of justice on multiple levels of social, economic and political life, the pronouncement of illegal court decisions generating a lack of trust in the structures of the State.

The practical utility of the carried out scientific approach derives from the fact that the research results are able to capture the attention of the factors interested in the issue of tortious civil liability for judicial errors, of justice and the activity of magistrates, the work being *applicable* to all national and European bodies, civic organizations, lawyers, courts of law, specialized teachers, students and master's students from the university environment with concerns in specific subject areas, but also related ones, who thus have at their disposal a synthetic document on the evolution of the concept of judicial errors, the conditions and forms in which tortious civil liability can be incurred for them, analyzing the impact on the judicial system as a whole and the need for a unitary approaches to this issue in view of ensuring respect for human rights.

From the perspective of the implications for the whole society, the chosen theme is one of *current affairs* in order to ensure a normal functioning of the justice system, the aspects presented and the differentiation made between cases of judicial error and simple errors identified in the judicial activity, which can be remedied in appeals having a practical utility and

being able to constitute grounds for the elaboration of legislative projects in the field, strengthening the general trust of citizens in the act of justice.

Tortious civil liability for judicial errors does not benefit from an extensive reflection in the national specialized literature, so this theme presents, for us, numerous opportunities for capitalization, our work being able to open additional perspectives for research, given that the quality of the judicial act is and has always been important for ensuring state security.

2. Research methodology

The purpose of the scientific research approach it is the realization of an analysis that constitutes the basis of the development of the legislative framework in the matter of the responsibility of the State and magistrates, of the conceptual clarification of the notion of judicial error, with an impact on the quality of the judicial act, constituting a useful starting point for further research, whose objective is to avoid the pronouncement of court decisions in conditions of illegality, which can produce serious disturbances and can have effects not only on an individual level, but also on the community, affecting state stability.

At the same time, during our work, we presented the implications and the impact of the judicial error both regarding the litigants, viewed individually, but also regarding the judicial system as a whole, being able to create a feeling of distrust in the act of justice, in the stability of the judicial system, which would cause the weakening of the authority of the judiciary.

That's why we consider it a real *challenge* that the judicial system is currently facing is related to the quality of the judicial act, because the state stability and the guarantee of trust in the State institutions depend on its solution, under all legal and organizational aspects, right for which during the scientific research we explained the impact of judicial errors to ensure the stability of the justice system and the need to respect the rules of law.

Tortious civil liability for judicial errors cannot be dissociated from the analysis of the importance of magistrates for the judicial system, their essential role being to ensure the respect of human rights and fundamental freedoms, their independence constituting an essential element of the normal functioning of the judicial system, which aims to protect the interests of all people in relation to the importance of respecting the rules of law to ensure the balance of the judicial system and the fairness of the justice act.

Thus, in the elaboration of the research, we exposed the fact that independence, impartiality, objectivity and the power to act without any kind of subjective influence, pressure, threats or interference, direct or indirect, are essential aspects for the decision-making process, the solutions being pronounced in accordance with the interpretation of the facts and with the observance of the legal provisions incident to the respective case, the exercise of judicial

responsibilities with the aim of resolving the cases fairly, efficiently and quickly, with equal respect for the rights of the parties from process, without any kind of interference in the act of achieving justice.

Also, in the work we have detailed the compatibility between the institution of tortious civil liability for judicial errors and the independence of magistrates, especially since the procedure of attracting liability for judicial errors involves, in the first stage, an action directed against the State through which the existence of the judicial error is established and through which the amount of the damage to be paid is established, and, in the second stage, which is optional, the State can initiate a civil liability action on a subjective basis in which to verify whether the conditions for the personal liability of the magistrate who pronounced the solution affected by judicial error are met.

At the same time, another challenge of the scientific approach is related to the exposure of the effect that the non-fulfillment or erroneous fulfillment of professional obligations by magistrates can have from the perspective of civil liability, disciplinary, but also in some criminal cases, but these ordered measures should not be interpreted as affecting the independence of the judicial system and the authority of the courts, but constitute a strengthening of the fundamental mission of justice, that of protecting the fundamental rights and freedoms of citizens, in relation to the fact that the errors produced in the act of justice can create material and moral damages.

The present scientific research approach has as *fundamental objective* the analysis of the concept of judicial error from the perspective of tortious civil liability that can be imposed on the State, but also on the magistrates, the two types of liability having different foundations, but having the same effect, i.e. directly affecting trust in the act of justice.

In order to ensure the conceptual coherence of the work and the ongoing research, we paid special attention to the careful formulation a *specific problems* related to the approach of tortious civil liability for judicial errors, with the main purpose of establishing the connection between it and the quality of the judicial act, starting from *the main hypothesis* that bringing tortious civil liability for judicial errors constitutes a fundamental pillar for the judicial system.

The paper analyzes the evolution of the concept of tortious civil liability, in general, and of tortious civil liability for judicial errors, in particular, with the presentation of the general and particular conditions that must be met in order to attract this type of liability, as well as the specificity regarding the damage derived from judicial errors.

We believe that this mode of exposure represents a contribution to the understanding and further development of these important aspects in which the interconnection of legal norms and

the protection of citizens' rights are closely related to ensuring state stability, which can be threatened by distrust in the judicial system.

Thus, the scientific contribution made within the research approach consists in the analysis of tortious civil liability for judicial errors, in correlation with the need for the existence of the quality of the judicial act, these concepts being approached in a correlated manner, as the foundation of the development of a justice system adapted to a rule of law, which can face constant challenges.

The practical utility of the scientific research carried out is revealed in the exposition of the most important cases of judicial errors identified in the practice of the courts at the international, European, and national level, which are analyzed both from the perspective of the illegal act, as an essential condition for holding tortious civil liability, as well as prejudice, being also relevant the mention of some court decisions from recent practice to exemplify the way of combining the categories of damages, but also of the types of damages, from which the impact produced by the miscarriage of justice on the direct victim both morally and materially, but also on the family members, of the workplace, being identified in jurisprudence cases in which, although it was found that the petitioner was the victim of the miscarriage of justice, the simple recognition of it was sufficient, and it was no longer necessary to grant compensations.

However, for the part of scientific research that considers the regulation of judicial error in other legal systems, we believe that it would have been useful to travel to at least one representative country for each legal system and collect some information directly, which constitutes *research limits*.

We appreciate that it would have been opportune to participate during the doctoral studies in Erasmus programs, in partnership with universities abroad, in order to have access to more complex bibliographic resources created in the field of tortious civil liability for judicial errors, which represent other *research limits*, but also *possibilities of its development in the future*.

Present scientific research *proposed* to highlight at the end the importance of the judicial system in a state of law, of the pronouncement of judicial decisions under conditions of legality, without affecting the rights and interests of citizens, but also of the need for the existence of a complex normative framework in the matter of tortious civil liability for judicial errors, which can respond to the multiple challenges that may appear in the act of justice. As a result, the reduction of cases of judicial errors is one of the most important aspects that must be considered when adopting policies in the judicial field. In order to achieve the objectives of the scientific approach, I mainly used the following methods:

- *the historical method* of research to highlight the legislative evolution of the concepts of civil liability, State liability, but also the notion of damage;
- *the descriptive method* for the presentation and detailing of some concepts regarding tortious civil liability, judicial error, illegal act, damage;
- *the qualitative method* based on bibliography study;
- *the analysis method* to make connections between the concepts of tortious civil liability and miscarriage of justice, on the one hand, and the normal functioning of justice, on the other;
- *the sociological method* to determine the context of the emergence, development and substantiation of civil liability, in general, and State liability for judicial errors, in the subsidiary;
- *the comparative method* in the regulation of miscarriage of justice in other legal systems, but also in the presentation of other types of legal liability incident to miscarriage of justice.

We considered these research methods to be the most appropriate in relation to the specifics of the topic addressed, especially since in carrying out our scientific approach we tried, most of the time, to give preference to primary sources and, to the extent that they are not accessible, to secondary ones, but also to specialized doctrine.

The analysis of the national legislative provisions specific to the tortious civil liability for judicial errors facilitates the in-depth knowledge of the issue and the optimal assessment of the short and medium term evolution of the various fields in which this form of liability has syncope, but also the achievement of a realistic presentation of the possibilities of reducing the cases of judicial errors.

The working hypothesis chosen for the analysis of the proposed objectives was of a deductive type based on the bibliographic study that refers to current primary, secondary and tertiary documents included in the relevant cited literature, as well as in studies, articles and legislative documents accessible online.

At the same time, it should be stated that the research results were disseminated both by giving presentations on the subject of this work, as the sole author, at national law conferences, but also by publishing articles in recognized specialist magazines, accredited in the field of law.

3. The structure of the work

The work is structured on six chapters that correspond to the research directions addressed in its content.

Thus, the first chapter entitled „*General considerations regarding tortious liability and the functioning of the justice system*” has as its specific hypothesis the fact that tortious civil liability for judicial errors is one of the most important legal institutions in the national normative system, and the judicial power represents the fundamental pillar of a rule of law.

The scientific research department of this chapter is concerned with the presentation of general considerations regarding civil liability from the perspective of the evolution of the concepts of tortious civil liability, damage and liability of the State, the principles of tortious civil liability, the functions of liability, realizing a multifaceted approach to the logical-legal connections between these concepts, initially through a theoretical approach to them, followed by the presentation of the main legal regulations in the field, analyzing and the influence of tortious civil liability for judicial errors on the normal functioning of the justice system.

The institution of judicial error cannot be dissociated from the presentation of the judicial system in Romania, respectively the most relevant aspects regarding the separation of powers in the State, the importance of the judiciary and its independence within the three powers of the State, the normal functioning of the justice system, with the exposure of the relationship identified between the legislative and judicial powers, on the one hand, and, on the other hand, between the executive and judicial powers, presenting the elements of interference found after the analysis of the powers of each among them, but also the interdependence between them, in order to demonstrate that the powers enshrined at the constitutional level constitute the basis of a rule of law, which determines the obligation of collaboration between them, of the existence of an institutional dialogue, but also of mutual respect.

Although within the justice system it is desired that the existence of judicial errors be reduced, nevertheless, in practice, the existence of such situations is found, therefore it is necessary for this concept to benefit from legal regulation and to be established at a normative level which is the way in which liability intervenes, first of all for the State, and, in the alternative, if the legal conditions are met, for the magistrate who pronounced the solution or drew up the act affected by the judicial error; these aspects outline the importance of the judiciary and the idea that tortious civil liability for judicial errors is one of the most important legal institutions in the national normative system, indispensable for the normal functioning of justice, which validates the specific hypothesis of this chapter.

The second chapter titled „*Regulation of judicial error*” has as a specific hypothesis the fact that miscarriage of justice benefits from a regulation at the international, regional and

national level, in all legal systems, which proves that the stability of the justice system, as a whole, at the global level, but also the guarantee of respect for human rights are interdependent with the idea of miscarriages of justice.

The research direction of this chapter is focused on the definition of the miscarriage of justice and the presentation of the seat of the matter at the international, regional level, with the exposure of the regulations from the European framework, but also those of the inter-American system, as well as the detailing of the normative framework related to the miscarriage of justice in domestic law, both in the field of criminal and civil law.

Thus, we have started the presentation of the normative framework related to judicial errors and the liability that can intervene in the event of their existence from the chronological exposition of the regulations identified at the international level, detailing the way of regulating the judicial error in the International Covenant of December 6, 1966 regarding civil and political rights, in the Magna Carta of Judges, in the Universal Charter of the Judge and the United Nations Charter of the Peoples of the World, as well as in the Universal Declaration of Rights Man, concluding that this legal institution is of global interest, the concern for its normative detail not being a novelty for the legal environment.

We found that within the European Union there are no extensive regulations regarding judicial errors, but there are mentions regarding this, in criminal matters, in certain normative acts, such as Protocol no. 7 to the Convention for the Protection of Human Rights and Freedoms, the Charter of Fundamental Rights of the European Union, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Charter on the Statute of Judges, the Consultative Council of European Judges, these being detailed by the decisions handed down by the Court of Justice of the European Union and the European Court of Human Rights, the most representative of which mentioned in the presentation are the Cilfit, Kobler, Traghetti del Mediterraneo cases of the Court of Justice of the European Union, but also the Ullens De Schooten and Rezabek v. Belgium case of the European Court of Human Rights.

In the inter-American system, we exposed the judicial errors, as found regulated in the American Convention on Human Rights (Pact of San Jose), being also exposed relevant cases from the jurisprudence of the Inter-American Court of Human Rights, namely Caso Grande against Argentina, Cirio against Uruguay, Baena Ricardo against Panama and Rojas-Piedras against Costa Rica.

Also, another important aspect exposed in this chapter concerns the definition of judicial error, the regulation of the concept being detailed starting from the constitutional provisions of art. 52, para. 3, continuing with the provisions of Law no. 303/2022 on the Statute of judges and prosecutors in force at this moment, but also of the legal norms that followed after the entry into

force of Law no. 303/2004 on the Statute of judges and prosecutors, currently repealed until the current regulations are adopted.

At the doctrinal level, we specified that for the definition of the concept of judicial errors, its component elements are relevant, which essentially involve the pronouncement of clearly illegal decisions or the taking of abusive measures, contrary to the law or the evidence administered in the case, which creates damages for their victims and harms their rights, which attracts the responsibility of the State, as the entity responsible for the legality of judicial acts, being presented the way in which it is reflected in the regulations of the law civil procedure and criminal procedure law.

In the field of criminal law, the normative framework is constituted by art. 538-542 of the Code of Criminal Procedure, and in the matter of civil law, there being no specific procedure in the case of judicial error, considering the doctrinal interpretations that make the connection with the appeal in special annulment, respectively the reason provided by art. 503, para. 2, point 2 Civil Procedure Code, this legal institution and the conditions that must be met for the admission of this extraordinary appeal were detailed.

Also, in the second chapter, we set out the regulation of judicial error in the main legal systems, showing that all states of the world and all legal systems start from the premise that justice is impartial and independent, with respect for the right to a fair trial, but also with respect for human rights, regardless of the geographical space in which the rules of law are applied; the presentation began with the detailing of the characteristics and specific elements of the Anglo-Saxon, Romano-German and Muslim law systems, the differences between them, continuing with the way of reflecting the judicial error in the national legislation of some representative States for each of the systems, concluding that this legal institution is a fundamental one for a modern state, which is important not only in domestic law, but also in international law.

A final aspect presented in this chapter was the presentation of the miscarriage of justice in several Latin American countries, namely Mexico, Chile, Ecuador, Colombia and Peru, within which the institution of liability for miscarriage of justice is regulated at the constitutional level and detailed by subsidiary regulations, in accordance with international provisions in the field.

Thus, the conclusion that emerges after the exposition of the regulations concerning the institution of judicial errors and the way of attracting liability in their case is that at the international, regional and national level there is a normative framework applicable in the hypothesis of the existence of judicial errors in the act of justice, the legal provisions in the matter being found in all legal systems, even if they contain differences in the approach to normative aspects, an expression of the importance of this legal institution for the stability of the

justice system, as a whole, at global level, but also to guarantee respect for human rights, so the specific hypothesis of this chapter is validated.

The third chapter named “*Elements of specificity regarding liability for judicial errors*” has as a specific hypothesis the fact that judicial errors are closely connected with the quality of the judicial act and with the security of the judicial system, as a whole.

The research direction in this chapter is concerned with the presentation of the main legal features of civil liability for judicial errors, as a form of civil liability, which belongs, mainly, to the State, as the guarantor of correctness in judicial procedures, and, in the subsidiary, to the magistrate who committed a judicial act affected by judicial errors, this being optional.

At the same time, the main types of judicial errors were exposed, in which legal errors were mentioned, errors caused by the lack of clarity of court rulings, as well as errors deriving from non-compliance with procedural formalities; also, a distinction was made between genuine judicial errors, on the one hand, and, on the other hand, between errors determined by the erroneous interpretation of factual aspects or evidence or legal norms, which cannot fall into the category of judicial errors.

It was also detailed the scope of persons who can commit judicial errors, represented by magistrates, who according to Law no. 303/2022, can be judges and prosecutors, and the conditions for joining this profession will be presented, as well as the fundamental principles that govern this public dignity, namely independence, impartiality, but also relevant aspects regarding the defense of independence, impartiality and professional reputation.

Although the independence of magistrates is of the essence of their activity, the importance of cooperation between them and the institutions with attributions in the administration of the judicial system should not be overlooked, to guarantee the right of the parties to a fair trial, to the resolution of cases in a reasonable, optimal and predictable term, with the defense of judges and prosecutors against any interferences and abuses, regardless of the way in which they are carried out.

Under these conditions, we noticed a distinction between the two professional categories that make up the notion of magistrates, respectively judges and prosecutors; judges enjoy independence in carrying out their professional duties, while prosecutors are subject, on the one hand, to hierarchical control, and, on the other, to the authority of the executive power, these aspects being carried out with the protection of their independence, but, at the same time, it creates the possibility for them to receive instructions from the hierarchically superior authority, necessarily given in writing and in accordance with the law, which generates a form of responsibility before the superior hierarchical prosecutor.

In addition, in this chapter, causes of the appearance of judicial errors were presented, including the lack of funding of the judicial system, the lack of staff, the lack of predictability and clarity of legal norms, the lack of unified interpretation of the law, the high number of normative acts that are adopted, but also the high frequency of amendments or additions to legal norms, as well as factors that can reduce cases of judicial errors, namely the unification of judicial practice, the increase in the degree of specialization in judicial activity and the level of professional training in the judicial system.

Thus, the conclusion that emerged from the presentation of the specific elements regarding judicial errors is that they constitute one of the most complex legal institutions of the judicial system, in that their effects cannot be analyzed only in correlation with civil liability, but also with the judicial system as a whole, with the professional activity of magistrates, with their independence and impartiality, with the need for the existence of a high-quality judicial act and with the obligation to respect the security of legal relationships, which which validates the specific hypothesis of this chapter.

The fourth chapter titled „*Analysis of the State's tortious civil liability criteria for judicial errors*” has as a specific hypothesis the fact that the legal institution of miscarriages of justice constitutes an important landmark in judicial activity in terms of maintaining a high level of citizens' confidence in the legality of judicial activity, this having a limited applicability determined by the rigor of the conditions that must be met by the petitioner in order to establish that he was the victim of a miscarriage of justice,

The research direction in this chapter analyzes the foundations of civil liability for judicial errors, analyzed from an objective perspective, in the case of the State's liability, but also subjective in the situation of the liability of magistrates, but also of the criteria for the tortious civil liability of the State for judicial errors, starting from the exposition of the general conditions of attracting civil liability, respectively the illegal act, the damage, guilt, but also the causal link between the act and the damage.

The notion of judicial error is also approached from a jurisprudential perspective, respectively through the lens of the interpretations given by the courts, both international ones, references being made to cases identified in the United States of America, but also in the States of South America, as well as the European ones, the aspects presented with the aim of making a delimitation between the literal judicial errors, which bring a restrictive interpretation of what was conceived and the other mistakes or inconsistencies in the establishment of the facts and the interpretation of the law, which does not fall into the category of judicial errors.

Regarding the illegal act, we focused on the exposure of legal errors, those caused by the non-compliance with some procedural formalities, with the presentation of some cases in which

it was found that illegal acts were committed from international jurisprudence, respectively in the United States of America and in the States of South America, but also by the European courts, and we highlighted the fact that a person's dissatisfaction with the solution pronounced in a court decision does not automatically imply the existence of a judicial error in the conditions in which the activity of the magistrate was carried out within the legal limits and was not the result of an obvious mistake in establishing the facts or in the interpretation or application of the law; thus, the simple inconsistency of law regarding the interpretation of legal texts does not lead to the retention of the judicial error, in essence, this consists in the neglect by the judge of certain data of an indisputable character, violating the legal order, by pronouncing a decision, as the last stage of the trial phase, which cannot be accepted in any way by the judicial practice.

At the same time, we have shown that the main way in which the errors in the judicial act can be repaired is within the appeals, the responsibility for judicial errors, either on the part of the State or of the magistrates, can be attracted only in exceptional cases, the generalization of the attraction of responsibility and the finding of the existence of judicial errors having serious consequences on the stability of the judicial system.

We also mentioned that the reparation of the damage represents one of the most important elements of the idea of tortious civil liability of the State's responsibility for judicial errors, taking into account the fact that by committing an illegal act, fundamental values of the person's life are affected, it being important that the judicial errors have a certain gravity and to try to restore the social balance and legal order within the society; we have proven that the damage can be remedied in kind or by a monetary equivalent, or by covering the moral damage, most of the time there is a combination of these forms in practice, the necessary conditions to be met by the damage is that it be certain, direct, personal, material or moral, the reparation aiming to be full in order to fulfill the objective.

Regarding the condition of guilt, we presented the fact that it must not be fulfilled in the case of objective tortious civil liability, a category in which the responsibility of the State for judicial errors falls, so that guilt, which takes into account the mental attitude of the author of the illegal act, is relevant only in the hypothesis where the State exercises a right of recourse against the magistrate who committed the judicial error.

Regarding the condition of the causal link between the deed and the damage, I presented the obligation to prove in the case of tortious civil liability that the deed produced by the magistrate is the necessary cause that generated the damage that must be repaired, being important to analyze if the magistrate's deed has the effect of pronouncing a court decision that is obviously contrary to the law, the principles of law, the requirements of equity and that generates

damages to the litigants, an aspect that can be achieved with difficulty in the case of moral damages due to the multitude of factors that must be taken into account.

In the analysis of the particular conditions of the State's liability for judicial errors, as well as procedural aspects, the procedurally passive quality that belongs to the State through the Ministry of Public Finance, the specific territorial and material competence, the possibility of formulating a request for intervention in the case by the magistrate, and proposals for legislative changes regarding the involvement of the Superior Council of Magistracy in the case of actions that have as their object the tortious civil liability of the State for judicial errors, taking into account the attributions, were highlighted legal provisions of the Ministry of Public Finance and the impossibility of carrying out an effective defense, aimed at protecting the independence of the judicial system, so that this type of action does not turn into a way of threatening the activity of judges and prosecutors.

As specific conditions of the tortious civil liability of the State for judicial errors, I presented the existence of an ongoing civil or criminal trial, of some procedural acts carried out by the judge or prosecutor, the non-compliance or violation of the legal provisions of substantive and procedural law, which have an obvious character, seriously affect the rights, freedoms and legitimate interests of the person, produce an injury, which cannot be remedied in an appeal.

The tortious civil liability of the State for judicial errors constitutes one of the most important legal institutions incident to the judicial activity, which, although it has a limited applicability, determined by the rigor of the conditions that must be fulfilled by the petitioner in order to establish that he was the victim of a judicial error, represents an important landmark in the judicial activity, which is based on the need to maintain a high level of citizens' trust in the legality of the judicial activity, to create a consolidated judicial system and respect for the independence of magistrates and the principle of legality, thus validating the specific hypothesis of this chapter.

The fifth named chapter "*Peculiarities of the State's liability for judicial errors regarding damage*" has as a specific hypothesis the fact that the damage is a fundamental component in the tortious civil liability of the State for judicial errors, the determining role in establishing it falling to the judge entrusted with the resolution of the case.

The research direction within the fifth chapter focuses on the analysis of the issues related to the damages created by committing judicial errors and the methods of their restitution, a complex and, at the same time, difficult process, in view of the implications that these illegal acts have not only on the direct victim, but also on the trust in the judicial system, as a whole.

In this sense, the framework provisions that govern the institution of reparation for

damage caused by illegal acts must be rigorously analyzed and applied in a strict and limiting manner in the situation of tortious civil liability of the State deriving from judicial errors, so that, on the one hand, it does not cause unjust enrichment of the victim, and, on the other hand, it does not disrupt the proper functioning of the judicial system through attempts to harass abuse of the activity of the magistrates.

The scientific research in this chapter focused on detailing the ways to repair the material and moral damages caused by judicial errors, relevant aspects regarding the establishment of the amount of compensation, detailing the criteria for establishing them, taking into account the negative consequences suffered by the victim of the judicial error on a physical and mental level, the importance of the damaged values, the extent to which they were damaged, the intensity of perception of the consequences of the injury, the impact the family, professional and social situation, referring including to the relevant national and international jurisprudence, but also to the differences that exist between the two categories of damages from the perspective of the methods of carrying out the evidence and their coexistence.

Also, in this chapter, the categories of damages that can be requested in case of material errors were analyzed, the identified factors according to which we assess that the compensations are established, as well as factors that remove their award or that reduce the amount of the amounts established, which we assess mainly target the victim of the judicial error and her behavior during the process, respectively the situations in which she prevented the discovery of the truth, contributed through a culpable attitude to taking a preventive measure against her or postponed the presentation of some evidence, a situation that led to the pronouncement of a judgment of conviction as regards her.

We believe that within the scientific research carried out in this chapter we have proven that the damage is a fundamental component of the tortious civil liability of the State for judicial errors, including from the perspective of the fact that the amounts awarded cannot be identical for all the victims of the judicial error, the determining role in this procedure falling to the judge invested with the solution of the case and the way in which the victim of the judicial error manages to prove the material and moral damages suffered due to the commission of the judicial error, thus the specific hypothesis of the chapter was validated.

The sixth chapter is entitled „*The connection between tortious civil liability and other forms of legal liability in the case of miscarriages of justice*” and has as a specific hypothesis the fact that there are close connections and interdependencies between the forms of liability applicable to magistrates, the application of all being a guarantee of the decrease in the number of judicial errors identified in the practice of the courts.

The research direction of this chapter aims to present the current general legal framework

regarding the liability of magistrates, represented by Law no. 303/2022 regarding the status of judges and prosecutors, in which the three forms of liability of magistrates are regulated, namely disciplinary, criminal and civil liability, which have been detailed, including the exposition of the specificity aspect.

Regarding the disciplinary responsibility of the magistrates, I have shown that it is based on the demands that they are obliged to show in the exercise of their professional duties, Law no. 303/2022 clearly regulating the situations considered disciplinary violations, but also the sanctions applied and the procedures to be followed, the predictability of the legal norms being essential, as well as the possibility of contesting the sanctions.

In the matter of criminal liability, we found that the magistrates are equal to the rest of the citizens from the point of view of attracting criminal liability, the differences being related to procedural issues, necessary to avoid situations of abuse of the activity they carry out, being presented aspects regarding the state policy regarding the competence to carry out criminal prosecution in the cases in which they had the capacity of active subjects of the crimes of the magistrates, starting from 2018 until now.

The civil liability of the magistrates has been proven to be closely related to the State's liability for judicial errors, having exposed relevant aspects regarding the recourse action that can be exercised by the State against the magistrates, both in national law and in other states of the European Union, noting that they regulate the possibility of exercising the right of recourse against the magistrate who committed a judicial error; We have presented and detailed in this chapter the obligation to take out a professional civil liability insurance for magistrates, as a way to ensure total compensation for the victim of the judicial error and guarantee that the damage will be paid in full.

At the same time, in this chapter, we consider that we have demonstrated that the legislation in force guarantees a balance between the independence of magistrates and their responsibility, principles that are not in antithesis, but, on the contrary, constitute ways of shaping the evolution of the judicial system and of adaptation to the requirements of modern society, which require the existence of some forms of liability in the case of magistrates, which, however, do not imply a subordination to another power of the State or to another entity because, in this case, the principle of separation of powers in the State and the specific independence of magistrates would be violated.

We stated in the research carried out that the forms of liability are not direct towards the litigants in order not to reach situations of pressure on the magistrates and their activity; therefore, the accountability of magistrates is direct to the State, not to the citizens, but it is capable of guaranteeing a more efficient judicial system and conferring greater confidence in

judicial activity, concluding that the approach to the interdependence between the types of legal liability applicable to magistrates is useful to establish the connections between these forms of liability, their importance for the judicial system, to reduce the number of errors, but also for the normal functioning of the State, in the conditions in which the regulation of liability for magistrates is a guarantee of the exercise in optimal parameters of the activity in the judicial system, noting in recent years an increased attention paid to the modality of civil liability for judicial errors, thus validating the hypothesis specific to this chapter.

4. Final conclusions

As a final conclusion, we consider that through the scientific research carried out the main hypothesis has been validated, in the sense that we have proven the fact that the attraction of tortious civil liability for judicial errors constitutes a fundamental pillar of the judicial system, for this purpose, legal mechanisms have been created to give litigants the opportunity to address the courts in order to ascertain judicial errors, but also to obtain compensation for the damages suffered, which strengthens the important role of justice in ensuring state balance and outlines the impact of this legal institution on security.

At the same time, we have proven that it is essential that court decisions, which represent, in fact, the result of judicial activity, are pronounced in accordance with the law, in good faith and give the parties a sense of trust in the judicial system and its fairness, constituting the basis for the execution of the act of justice, the understanding of judicial procedures and the reasoning in pronouncing the essential solutions, constituting the element that must be analyzed in order to establish the existence of tortious civil liability for judicial errors.

We appreciate that within the chosen theme, the analysis of the evolution of the concepts of judicial errors and tortious liability outlined the present and especially future importance of the scientific research of the idea of liability, mainly of the State, and subsidiarily of the magistrates, to ensure the stability of the judicial system and to increase confidence in justice, in a constantly changing world, in which legality remains the fundamental pillar of the security of legal relations.

We believe that Romania, like the other countries of the world, is constantly intensifying its efforts to reduce the number of cases of judicial errors, aware of the implications they have on the justice system and the efficient administration of justice, which requires the sharing and application of common legal principles and ethical values by all professionals involved in the judicial process, in accordance with the right to a fair trial and the citizens' interest in respecting their rights.

In the framework of the research carried out, I noticed that, from the perspective of the regulation, but also of the applicable sanctions, the concepts of tortious civil liability and judicial error have evolved, in the sense that, if initially, liability was not approached from a legal perspective, but as a rule of conduct necessary to be fulfilled for the good running of society, later it turned into a legal institution that attracts sanctions in case of non-compliance; I also found that, to protect the interests of the victims of the miscarriage of justice, the objective basis of tortious civil liability was established, so that the State, as the guarantor of the legality of the act of justice, would respond in the event of the existence of miscarriages of justice, which gives efficiency to the legal institution and creates the practical possibility to repair the damage, if it is identified that it exists, presenting in the scientific approach carried out the classical ways of repairing the damage, applicable in the case of material damage, respectively of moral damage, criteria related to establishing the amount of compensation for the damage caused, categories of damage that can be requested in the case of a judicial error, as well as factors according to which compensation is established, which lead to the removal of the possibility of granting compensation or to their reduction.

At the same time, as part of the scientific research approach, I have shown that the current legislation enshrines a direct liability of the State for judicial errors, as the guarantor of an effective judicial system, which protects the rights and freedoms of citizens, and, in the alternative, a liability of the magistrate who is guilty of committing a judicial error, under the condition of the existence of a final court decision that finds it, for the good running of society and for the normal functioning of a state of law being indispensable that any conduct of magistrates contrary to the law be sanctioned, this being the reason why the Romanian legislator provided for three forms of legal liability in the case of judges and prosecutors, respectively criminal, disciplinary and civil.

I specified in the research carried out that the forms of liability for judicial errors are not direct to the litigants in order not to reach situations of pressure on the magistrates and their activity, which could constitute a way of interfering in their independence, by the fact that they would be put in a position to give explanations to the citizens about the way a case was processed and the arguments that were the basis of the decision in a different framework than that of the justification of the court decision or documents procedural; therefore, the accountability of magistrates is direct to the State, not to the citizens, but it is capable of guaranteeing a more efficient judicial system and conferring greater confidence in the judicial activity.

Thus, in the framework of the conducted research, I argued that there is a clear distinction between the State's responsibility for judicial errors, with an objective foundation, and the

personal responsibility of the magistrates, with a subjective foundation, the two different conditions that must be met, in the sense that, in order to attract the subjective responsibility of the magistrates, it is mandatory to verify compliance with the condition of guilt, while the State's responsibility implies the existence of only the conditions of the illegal act, the damage and the causal link between these; the personal liability of magistrates, we demonstrated that it is useful to be regulated in order to increase the confidence of litigants in the justice system and to create their conviction that the magistrates will do all the necessary diligence to pronounce a decision under conditions of legality and thoroughness, otherwise being aware that they will be subject to a form of liability, which, however, must not become a form of abuse of the judges and prosecutors, likely to affect their independence and represent a permanent threat in their professional activity.

At the same time, we observed that at the national level it was desired to create an effective regulatory framework that would be implemented in order to remedy the errors committed by the justice system and to be able to combat the deficiencies of the system that create premises for the appearance of judicial errors, such as those related to the lack of predictability of the legislative framework, insufficient human resources, the lack of predictability regarding remuneration, the pressures exerted, especially through the media on the judicial system, the attempt to affect the image of magistrates and their professional prestige, so that for the proper functioning of the justice system, the adoption of predictable legislative measures to ensure a uniform practice, the existence of a qualified and sufficiently numerical staff to cover the needs of the courts and prosecution units, which can carry out their activity in optimal spaces, the prompt and efficient exercise by the Superior Council of Magistracy of the effective defense of magistrates against interference in the judicial act and the attempt to discrediting of magistrates, but also the allocation of financial resources for the modernization of the infrastructure of courts and prosecutor's offices.

In addition, the research carried out identified the current tendency to create a broad legal framework that allows the sanctioning of judicial errors in the event of their detection, this desired, found at the international, European and national level, being a constant in all legal systems, the way of regulating responsibility for judicial errors being similar, with the exception of the Islamic law system which has strong religious influences and in which the emphasis is placed on the sin committed by the magistrate by committing a judicial error and on his responsibility before the divine force, more than on the sanctions that intervene as a result of the application of legal norms.

At the same time, in the framework of the scientific approach, we highlighted that the national legislation includes an extended regulation of tortious legal liability for judicial errors,

respectively both in the field of criminal law, where we find explicit provisions in the matter, and of the civil law, where I showed that the legislator created the possibility of applying the legal rules regarding the annulment challenge, in the event of a judicial error, being detailed both the general conditions regarding the necessary tortious civil liability met, as well as specific conditions, with the indication of substantive and procedural requirements to prove the constant legislative concern for outlining a detailed legal framework regarding this form of liability, which has been constantly evolving in recent years.

During the research, we proved that the legal institution of miscarriages of justice is an extremely complex one in that its effects are not only related to tortious civil liability, but also to the stability of the judicial system as a whole, to respect for the independence and impartiality of magistrates, considering the fact that this form of liability is not only incumbent on the magistrate who produced the miscarriage of justice in the judicial activity, but also on the State, being based on its obligation to guarantee the legality of the act of justice of high quality and preserving the security of legal relationships.

This aspect justifies the need to impose rigorous criteria for the existence of tortious civil liability for judicial errors, determined by the need to maintain a high level of citizens' trust in the legality of judicial activity, to create a consolidated judicial system and to respect the independence of magistrates, as legal professionals who watch over the protection of citizens' rights and the preservation of the legal order.

At the same time, we exposed the importance of the proper functioning of the judicial system, the foundation of any state of law, but also the necessity of carrying out a high-quality act of justice, respecting the professional obligations of judges and prosecutors, the rights of the parties, the law, with good faith and fairness, justice being a pillar of state stability, the relationship of institutional collaboration with the other powers in the State, respectively the legislative and the executive, taking place within the limits of the Constitution and the normative provisions in force, but also the good collaboration of the judicial system with the other professional categories in the legal field.

As an element of originality of the present scientific research, we show the achievement of a complex approach to the notion of prejudice caused by judicial errors, by exposing the categories of prejudice that can derive from these illegal acts, but also the criteria according to which they are granted, in the analysis of the bibliographic documents studied, the condition of the prejudice being analyzed briefly, without individualizing the types of prejudice and the interdependence between them, of the relevant national, European and international jurisdiction, especially since we have observed that, in the case of committing a judicial error, no single form of damage is retained, as several rights and freedoms of the person are affected.

At the same time, another element of originality of the scientific approach that we carried out is the presentation of the way of regulating liability for judicial errors in all significant legal systems, which outlined the importance of the legal institution in the legal system in all states of the world, and, on the other hand, strengthened the idea of the normative connection of Romania at the international level, through the existence in the field of a complex legislative framework, which takes over and develops the main legal concepts in the matter of tortious civil liability for judicial errors, taking into account the observance of some rules of conduct at the level of society, the rights of individuals and the order of the state, which constitute a common desire of any community; the interdisciplinary approach of the ways of liability that can intervene in the case of finding the existence of a judicial error that we realized showed that the occurrence of a judicial error does not only have patrimonial effects for the State, but can also attract other forms of legal liability in the case of magistrates, namely civil, disciplinary and criminal liability in the case of prosecutors and judges, proof of the importance of this legal institution and the respect for the principle of legality in judicial activity.

Also as an aspect of originality, we specify the multidisciplinary approach to the concept of justice, both from a legal and security perspective, by referring to the impact on state stability and the influence that judicial errors can have on trust in the judicial system and in the complex activity of magistrates, to maintain state balance and guarantee respect for the rights and freedoms of citizens, bearing in mind that justice is not analyzed only in the field of law, but has implications on multiple levels of social, economic and political life.

We consider that we have proven that, in the situation of incurring liability for judicial error, it is essential to respect the right to defense of the magistrate presumed to have committed a judicial error and to give him the possibility to make an effective defense not only at the stage of attracting personal liability, on a subjective basis, but also when the person who considers himself the victim of a judicial error sues the Romanian State through the Ministry of Public Finance, a procedure in which the magistrate is not a party.

Thus, I appreciated that art. 269, para. 1 of Law no. 303/2022 could be completed, in the sense that the Ministry of Public Finances has a clearly established deadline, in which it communicates the summons request to the magistrate who is concerned, the optimal deadline that we propose being 2 days so that, if the judge or the prosecutor wishes, they have the opportunity to formulate a point of view, which will be taken into account when the Ministry of Public Finances drafts the response.

If the magistrate is not made aware of the alleged judicial error immediately after the State, through the Ministry of Public Finances, receives the court's communication regarding the progress of the action having as its object tortious civil liability for judicial errors, we appreciate

that he is made unable to make an effective defense regarding the illegal act committed in the activity he carried out, only being able to try to prove that the condition of guilt in the task is not met yes, but without being able to bring evidence regarding other aspects.

A legislative improvement regarding the regulation of tortious civil liability for judicial errors can be the competence to resolve the retroactive action that can be established in the first instance in favor of the High Court of Cassation and Justice, Civil Section I, in relation to the implications that this procedure has on the judicial system and the independence of the magistrates, therefore we consider it advisable that the supreme court be designated with the resolution of cases of this kind; thus, *by law ferenda*, it is useful to analyze the amendment of art. 269, para. 14 of Law no. 303/2022, in the sense of stating that "the competence to resolve the retroactive action rests, in the first instance, with the First Civil Section of the High Court of Cassation and Justice.", as well as para. 15 of this article, respectively, it should be noted that "Against the decision pronounced according to para. (14) the right of appeal can be exercised at the Panel of 5 Judges of the High Court of Cassation and Justice."

Also *by law ferenda*, we proposed that in the judicial procedure to ascertain the existence of judicial errors in the activity carried out by magistrates, the Superior Council of Magistracy should also have an essential role, not only the Ministry of Public Finance, which currently has the passive procedural quality, although it does not have legal powers in the field of justice, so we consider it useful to improve art. 269, para. 1 of Law no. 303/2022 in its current form, so as to provide that alongside the Ministry of Public Finances, it is also mandatory to cite the Superior Council of the Magistracy, this normative change considering that it would have a positive impact both in the short, medium and long term on the creation of a consolidated judicial system, characterized by responsibility, promptly involved in the realization of an effective defense and ensuring a fair balance between respecting the independence of magistrates and protecting the rights of litigants.

Related to this legislative amendment proposal, we considered it advisable to carry out the normative correlation with the provisions of art. 541 of the Code of Criminal Procedure, which stipulates that in cases aimed at reparation of damage, the State is summoned through the Ministry of Public Finance; taking into account the aspects presented, it would be useful that alongside the State, in these procedures, the Superior Council of Magistracy, an institution with explicit attributions in the field of justice, should also be cited.

Also, *by law ferenda* we appreciate that Law no. 303/2022 should provide as the only sanction for the disciplinary offense of exercising the function in bad faith or gross negligence that of exclusion from the judiciary, the continuation of the activity by a judge or prosecutor who has consciously violated the rules of law, pursuing or accepting the injury of a litigant or who

has negligently, seriously, undoubtedly and inexcusably disregarded the legal norms being obviously incompatible with the mission of the magistrate profession, which involves the exercise of a public service, in the interest of citizens, for the protection of their legitimate rights and interests; thus, I considered it useful to analyze the amendment of art. 273 of Law no. 303/2022 for the introduction of para. 1, index 1 which provides that "In case of disciplinary violation from art. 271, lit. s, the applied disciplinary sanction will be that of para. 1, lit. f)", this legislative improvement proposal being in direct correlation with the oath taken by magistrates before starting to exercise their duties, but also with their fundamental obligation aimed at guaranteeing respect for individual rights and freedoms.

An identified legislative gap is the lack of regulation of judicial error in the Code of Civil Procedure, this institution being currently analyzed in correlation with the annulment appeal procedure provided for by art. 503, para. 2, point 2, but without benefiting from an independent section as in the field of criminal law, which enshrines the reparation of material damage in case of judicial error; considering that in the Romanian legal system, judicial error is recognized both in the field of criminal and civil law, we consider it useful that the normative regulation be extended in both areas in order to create a complex legislative framework that provides for the express possibility of incurring liability in the case of committing judicial errors.

Regarding the criteria considered for the type and extent of the reparation, we find that currently, art. 540 of the Criminal Procedure Code enumerates by way of example certain criteria taken into account when determining the amount of damages, but there is no similar provision in civil law; in this sense, we consider it advisable, that in the provisions that will be introduced in the Code of Civil Procedure, provisions in this matter should be found, detailing the factors according to which to determine the extent and method of compensation for the damages caused by committing a judicial error.

In addition, we consider it useful, as a way of improving the current legislative framework, both in the field of criminal and civil law, to provide explicitly at the legislative level that the decisions by which the judicial error is established must be motivated within 30 days from the date of the decision, both in the substantive judgment and in the appeals, also considering the fact that the provisions of art. 541, para. 2 of the Code of Criminal Procedure indicates a term of 6 months from the date of the definitive stay of the court decision by which the judicial error was found in order to be able to exercise an action to obtain compensation for the damage.

We consider that, in the hypothesis in which the judicial decision establishing the existence of the miscarriage of justice would not be motivated promptly, the right of the victim of the miscarriage of justice to request the reparation of the prejudice caused would be limited,

given the fact that it could not fall within the mandatory term established by art. 541, para. 2 of the Code of Criminal Procedure, which would render the sentence or decision establishing a miscarriage of justice ineffective, taking into account that the possibility of compensation for the damage caused would no longer apply; we consider the proposed period of 30 days for the reasoning of the court decision to be an optimal one which ensures, on the one hand, the possibility for the magistrates who have pronounced the solution to argue the solution pronounced, regardless of whether it is for admission or rejection, and, on the other hand, to offer the victim of the judicial error the opportunity to effectively exercise his right to defense in the legal action he will initiate regarding the reparation of the damage, to have enough time to motivate the action he will take introduce and to argue in fact and in law its validity.

A direction of action that should be capitalized in the future concerns the formation of a civic awareness of respect for the principle of legality and the rights of the parties involved in judicial proceedings, defining conditions for any democratic state, which, in the long term, will have the effect of reducing the cases of judicial errors, especially considering that, although the main duty to repair judicial errors rests with the State, as the guarantor of a good functioning of justice, in fact this debt is assigned to each member of society, which is affected by the fragility of the judicial system, but also pecuniary by the fact that compensations for judicial errors are paid from public funds.

In addition, we believe that this scientific research theme can be exploited in the future in the context of debates about justice and artificial intelligence, which involves the creation of an institutional and legislative framework adapted to technological progress, but which, on the other hand, respects the rights and freedoms of citizens, access to justice and the right to a fair trial; at the same time, this subject remains a delicate one in the context in which court decisions are motivated according to the specification of each individual case, bearing the personal imprint of the magistrate who resolves the case, of his way of interpreting the law and the administered evidence, which makes it difficult to imagine at this moment the replacement of classic justice with the technological one, although as arguments in favor of the latter can be brought the reduction of the time to resolve the case, the avoidance of cases of non-unitary practice or removing the subjectivism that the magistrate can show in certain situations.

On the other hand, the discussions related to the importance of respecting confidentiality and security for the judicial system, but also about the importance of the digitalization of justice, cannot be without interest, but it is essential to carry out a substantiated analysis to outline a specific normative framework, but also to determine whether artificial intelligence can be applied in the act of justice in any type of action or must be limited only to certain cases.

As we have proven, tortious civil liability for judicial errors occurs exclusively for a human action, that of magistrates, who carry out procedural acts in which they clearly violate the legal provisions or pronounce a court decision in contradiction with the law or with the facts, seriously violating the rights of the person, damage that could not be remedied in an appeal, not being able to be analyzed in relation to artificial intelligence errors that do not involve the action of a judge or prosecutor in the pronouncement of a solution or in the course of a judicial proceeding.

However, we believe that human involvement in the administration of justice cannot be completely eliminated in the future, bearing in mind that the essence of justice is for it to be carried out by humans, the application of artificial intelligence can only be discussed in cases of a repetitive nature from the perspective of the administered evidence and the necessary documents, but in the rest, the involvement of magistrates for the interpretation of the law and the evidence is the basis for the resolution of the case, also taking into account the fact that the thorough reasoning of court decisions is not it is only an obligation established by national legislation, but it constitutes a fundamental principle also established by the European Convention on Human Rights, analyzed in correlation with the right to a fair trial.

Thus, although the involvement of artificial intelligence in justice is a current topic for the legal system, which will certainly be developed through future research in the field of law, we believe that it has no impact on the liability for judicial errors, in the sense of eliminating this form of liability, taking into account the fact that the way of regulating justice in the national, European and national legislation in force at the moment necessarily implies the existence of a human person to exercise judicial activity, the elimination in full cannot be conceived of judges and prosecutors from the judicial act and replacing their duties with artificial intelligence, which, even if it would make the trial of cases more efficient and reduce the time needed for their resolution, would not be able to solve all the factual situations with which courts and prosecutors' offices are invested, in which the activity of interpreting the law and the evidence is indispensable.

On the other hand, the digitization of justice is a priority of the current state policy, which was accentuated after the COVID-19 pandemic, facilitating access to justice and the efficiency of judicial procedures, but which cannot remove the human factor, as the main resource of justice, its number and high professional qualification being in close correlation with the quality of the justice act, in the future being indispensable for the proper functioning of the justice system, the interweaving of artificial and human intelligence.

In addition, we appreciate that this scientific research topic can also be capitalized from the perspective of the constant desired of the existence of a high level of the quality of

the judicial act, which is closely related to the reduction of cases of judicial errors, with the identification of the causes that determine their occurrence, but also of the ways of limiting them, taking into account the permanent need to improve the judicial system and to strengthen its capacity for resilience, through the continuous adaptation of human resources, both from a numerical perspective, as well as professional training for the needs of courts and prosecutors' offices, to increase the efficiency and effectiveness of justice.

At the same time, we *proposed* the introduction of new subjects of study, with a preponderance in the university environment, which study the functioning of the judicial system, the importance of pronouncing court decisions in legal conditions, as a way of reducing cases of judicial errors, the teaching being useful to be accompanied by the presentation of the relevant jurisprudence, which reflects the effects that judicial errors can have on the victim, but also on the people close to them in the short, medium and long term, as well as the disruptions they can create at the level of the whole.

The bibliographic material for the proposed discipline can be based, at least as a secondary resource, on the aspects presented in the content of this scientific work, to be permanently adapted to the existing normative framework and to the concrete cases identified in the practice of international, regional or national courts.

Also, also in this sense, I considered it useful to take some professional training courses in the field of tortious civil liability for judicial errors, intended both for teachers who want to improve themselves in this field and for magistrates, to help raise awareness of the impact that judicial errors have on the judicial system, but also on all citizens interested in this field of study, which significantly influences the lives of each of us.

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