

**PARLIAMENT OF THE REPUBLIC OF MOLDOVA**



**L A W**

**ON THE BOARD OF QUALIFICATION AND ATTESTATION OF JUDGES**

No.949-XIII of 19.07.1996

*Republished: Official Gazette no.170-172/693 of 08.08.2003, page 8  
Official Gazette of the Republic of Moldova no.61-62/605 of 20.09.1996*

**\* \* \***

**TABLE OF CONTENT**

**TITLE I  
QUALIFICATION BOARD**

**Chapter I  
GENERAL PROVISIONS**

- Article 1. The Tasks of the Qualification Board**
- Article 2. Composition, Duration of Mandate**
- Article 3. Electing and Appointing Members of the Qualification Board**
- Article 4. Conducting Elections**
- Article 5. Excluded**
- Article 6. Identification Card**

**Chapter II  
POWERS AND MODUS OPERANDI OF THE QUALIFICATION BOARD**

- Article 7. Powers of the Qualification Board**
- Article 8. President and Deputy President**
- Article 9. Modus Operandi**
- Article 10. Rights and obligations of Qualification Board Members**
- Article 11. Recusation and Self-Recusation**
- Article 12. Taking Decisions (Opinions)**
- Article 13. Appealing the Decision (Opinion)**
- Article 14. Secretariat activity**
- Article 15. Ensuring the activity**
- Article 16. Information on the Activity of the Qualification Board**

**TITLE II  
CAPACITY EXAMINATION AND ATTESTATION OF JUDGES**

**Chapter I**  
**CAPACITY EXAMINATION**

**Article 17. Lodging applications for capacity exam**

**Article 18. Excluded**

**Article 19. Excluded**

**Article 20. Capacity Examination**

**Article 21. Decisions of the Qualification Board**

**Chapter II**  
**ATTESTATION OF JUDGES**

**Article 22. Attestation Goal**

**Article 23. Attestation Terms**

**Article 24. Attestation**

**Article 25. Decision on Attestation**

**Article 26. Excluded**

**Article 27. Judges' Qualification Degrees**

**Article 28. Excluded**

**Article 29. Terms of Holding Qualification Degrees**

**TITLE III**  
**FINAL AND TRANSITORY PROVISIONS**

**Article I. Excluded**

**Article II. Entering into force**

**Article III. Tasks of the Government**

**Article IV. Tasks of the Superior Council of Magistrates**

\* \* \*

Parliament adopts this law.

**TITLE I**  
**QUALIFICATION BOARD**

**Chapter I**  
**GENERAL PROVISIONS**

**Article 1. The Tasks of the Qualification Board**

The Qualification Board shall be created within the Superior Council of Magistrates and its goal shall be to ensure the selection of candidate to the position of judge, capable to exercise justice in a qualified way, conscientious and objective, based on law, as well as to identify the professional level of judges.

*[Art.1 in the version of the Law no.247-XVI of 21.07.2006, in force since 10.11.2006]*

**Article 2. Composition, Term of Office**

- (1) The Qualification Board shall operate in the following composition:
  - a) two judges of the Supreme Court of Justice, two judges from the courts of appeal and two judges from courts;
  - b) six professors in law.
- (2) Members of the Qualification Board shall perform their competences on a voluntary basis, keeping the wages at their job.
- (3) The term of office of the Qualification Board shall be of 4 years. Qualification Board member may exercise his/her competences two terms of office in consecutively at most.

*[Art.2 amended by Law no.306-XVI of 25.12.2008, in force since 13.02.2009]*

*[Art.2 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]*

*[Art.2 amended by Law no.191-XV of 08.05.03, in force since 31.05.03]*

### **Article 3. Electing and Appointing Members of the Qualification Board**

- (1) Members of the Qualification Board from among members of the Supreme Court of Justice, courts of appeal judges shall be elected by open or secret vote during the assemblies of judges of these courts, convened by the Superior Council of magistrates.
- (2) Three members of the Qualification Board who are professors in law shall be appointed by the Superior Council of Magistrates, and other three – by the Minister of Justice.
- (3) If the person elected as a member of the Qualification Board no longer performs the functions specified in Article 2 para. (1), the body that has elected him/her shall ensure to appoint a new member within 45 days.
- (4) Members of the Superior Council of Magistrates and members of the Disciplinary Board cannot be elected to the Qualification Board.

*[Art.3 amended by Law no.306-XVI of 25.12.2008, in force since 13.02.2009]*

*[Art.3 amended by Law no.247-XVI din 21.07.2006, in force since 10.11.2006]*

*[Art.3 amended by Law no.191-XV din 08.05.03, in force since 31.05.03]*

### **Article 4. Conducting Elections**

- (1) Elections for the position of member of the Qualification Board shall be organized by the President of the respective court and by the Superior Council of Magistrates.
- (2) The assembly of judges convened for the election of members of the Qualification Board shall be deliberative if attended by at least 2/3 of the total number of judges of the respective court.
- (3) A candidate shall be considered elected as a member of the Qualification Board if more than half of the present judges voted for him/her.
- (4) If the number of candidates who accumulated more than a half of the votes is less than the necessary number, additional elections shall be held.
- (5) The results of elections shall be registered in minutes, which shall be signed by the chairman and endorsed by the secretary of the assembly. The minutes shall be submitted to the Superior Council of Magistrates within 5 days after the assembly.

*[Art.5 was excluded by the Law no.247-XVI of 21.07.2006, in force since 10.11.2006]*

### **Article 6. Identification Card**

The President of the Superior Council of Magistrates shall provide every member of the Qualification Board with an identification card according to a sample established by the Council.

## **Chapter II**

### **POWERS AND MODUS OPERANDI OF THE QUALIFICATION BOARD**

#### **Article 7. Powers of the Qualification Board:**

- a) Holds the capacity examination for the candidates to the position of judge, specified in Art. 6 para. (3) of the Law on the status of judge;
- b) Issues opinions regarding the possibility of proposing a candidate to the position of judge, as well as for a judge to hierarchically higher courts;
- c) Conducts attestation of judges and establishes their qualification degrees.

*[Art.7 amended by Law no.247-XVI din 21.07.2006, in force since 10.11.2006]*

*[Art.7 amended by Law no.191-XV din 08.05.03, in force since 31.05.03]*

#### **Article 8. President and Deputy President**

- (1) The President and Deputy President of the Qualification Board shall be elected by open or secret vote during the first meeting of the Board. The President of the Qualification Board shall be elected from among judges. A candidate shall be considered elected if s/he accumulated the majority of the votes of members present at the meeting.
- (2) The President of the Qualification Board shall organize the work of the Board, administrate the secretariat activity and assign duties among its members.
- (3) If the President is absent, the Deputy President shall perform his/her functions.
- (4) If both the President and the Deputy President are temporary absent, the functions of the President shall be performed by one of Board members, based on the decision of the Board.

*[Art.8 amended by Law no.306-XVI of 25.12.2008, in force since 13.02.2009]*

#### **Article 9. Modus Operandi**

- (1) The President, Deputy President or, based on the assignment by the President, one of the members, shall ensure the preparation of the Board's meeting.
- (2) The President of the Qualification Board shall establish the time and venue of the meeting, and shall inform about this the candidate or judge whose case is to be considered, as well as the persons at whose proposal the case is to be considered.
- (3) The Qualification Board shall consider, within one month the submitted materials.
- (4) The Qualification Board shall hold meetings whenever it is needed.
- (5) The meeting of the Board shall be deliberative if attended by at least 2/3 of its members.
- (6) The meetings of Qualification Board shall be public.
- (7) The meeting of Qualification Board shall be chaired by its President, and in his/her absence by the Deputy President, and if the Deputy President is also absent - by a Board member.
- (8) The consideration of the case which is to be settled within Board meeting starts with a report by the President or by a Board member who made a prior examination of the submitted materials. Afterwards, the persons invited to attend the meeting shall be heard, and the necessary documents shall be analyzed.

### **Article 10. Rights and obligations of the Qualification Board Members**

- (1) Members of Qualification Board shall be entitled to get acquainted with the materials submitted to the Board for consideration, to study and verify them, to take part by voting in the adoption of decisions and to sign them.
- (2) Board Members shall be obliged to:
  - a) Exercise their powers under law;
  - b) Vote for or against the debated issues.
- (3) Members of the Qualification Board who are professors shall be also obliged to observe the restrictions stipulated in Art.8 para.(1) let.a) and b) and para.(2) of the Law on the Status of Judge.

*[Art.10 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]*

*[Art.10 supplemented by Law no.373-XV of 19.07.2001]*

### **Article 11. Recusation and Self-Recusation**

- (1) In case of circumstances that cast doubts on the objectivity of a member of the Qualification Board, s/he cannot attend the consideration of the case and shall be recused. If such circumstances exist, the Board member shall declare self-recusation. Based on the same grounds, a member of the Board may be recused by the person whose case is to be considered, as well as by the persons who have requested the consideration of this case.
- (2) The recusation shall be grounded and submitted in written form before the examination of the case.
- (3) The decision of recusation or self-recusation shall be adopted by the majority vote of Board members attending the meeting, without the presence of the member whose recusation or self-recusation is being settled.

### **Article 12. Taking Decisions (Opinions)**

- (1) The decision (opinion) of the Qualification Board shall be adopted by the majority vote of the majority of members attending the meeting. The voting shall take place in the absence of the person whose case is being considered, as well as of the invited persons.
- (2) During his/her attestation, the judge who is a member of the Qualification Board cannot attend the examination.
- (3) The decision (opinion) of the Qualification Board shall be issued in written and shall include the adoption date and venue, the composition of the Board that examined the case, the reasoning for the adopted decision. The decision (opinion) shall be signed by the President and members of the Board who attended the meeting. The member (members) of the Board who has (have) a dissenting opinion shall submit it in written. This document shall be attached to the file case, without being read out.
- (4) The copy of the decision (opinion) shall be handed over to the person, whose case was examined upon his/her request if the decision (opinion) was adopted in his/her absence.

*[Art.12 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]*

*[Art.12 amended by Law no.373-XV of 19.07.2001]*

### **Article 13. Appealing the Decision (Opinion)**

- (1) The decision (opinion) of the Qualification Board may be appealed within 7 days with the Superior Council of Magistrates by the person whose case was examined by the Qualification Board or by the person who submitted the request to consider the case.
- (2) The decision (opinion) that was not appealed within this term shall be submitted to the Superior Council of Magistrates for validation.

#### **Article 14. Secretariat activity**

- (1) The secretariat work of the Qualification Board shall be performed by the secretariat personnel of the Superior Council of Magistrates.
- (2) The meeting of the Qualification Board shall be registered in the meetings, which shall include the following: date of the meeting, attendance of the Board members and of other participants in the meeting, agenda, brief contents of speeches, issues subject to voting and the results of voting. The minutes shall be developed within 3 days and shall be signed by the chairperson of the meeting and endorsed by the secretary.
- (3) The materials concerning the performed attestations shall be submitted on quarterly basis to the Superior Council of Magistrates for storage and published on its website.

*[Art.14 supplemented by Law no.306-XVI of 25.12.2008, in force since 13.02.2009]*

*[Art.14 amended by Law no.1414-XIII of 17.12.97]*

#### **Article 15. Ensuring the activity**

- (1) In order to perform its competences, the Qualification Board shall be entitled to request the necessary information from the Presidents of courts, Minister of Justice and other public administration bodies, and they shall provide that information.
- (2) The Superior Council of Magistrates shall provide the Qualification Board with necessary equipment and facilities.

*[Art.15 amended by Law no.1414-XIII of 17.12.97]*

#### **Article 16. Information on the Activity of the Qualification Board**

The Qualification Board shall provide annually the Superior Council of Magistrates with the information about its activity, which shall be published on the late website.

*[Art.16 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]*

### **TITLE II**

#### **CAPACITY EXAMINATION AND ATTESTATION OF JUDGES**

*[Titled as in the Law no.247-XVI of 21.07.2006, in force since 10.11.2006]*

*[Titled as in the Law no.191-XV din 08.05.03, in force since 31.05.03]*

#### **Chapter I**

##### **CAPACITY EXAMINATION**

*[Titled as in the Law no.247-XVI din 21.07.2006, in force since 10.11.2006]*

*[Titled as in the Law no.191-XV din 08.05.03, in force since 31.05.03]*

#### **Article 17. Lodging applications for capacity exam**

- (1) Persons whose tenure in practicing law is at least 5 years and who meet the requirements of the Article 6 of the Law on the Status of Judge may lodge with the Superior Council of Magistrates an application for participation in the capacity exam.
- (2) The capacity examination shall be held twice a year, in equal time periods. If necessary, additional examination may be organized. Date and venue of examination shall be determined by the Qualification Board, the information being disseminated through media and website at least 60 days before the date fixed.
- (3) The way of organizing and conducting the capacity examination shall be established by the regulation approved by the Superior Council of Magistrates.

*[Art.17 in the version of the Law no.247-XVI of 21.07.2006, in force since 10.11.2006]*

*[Art.17 amended by Law no.191-XV din 08.05.03, in force since 31.05.03]*

*[Art.18 excluded by Law no.191-XV din 08.05.03, in force since 31.05.03]*

*[Art.18 amended by Law no.373-XV din 19.07.2001]*

*[Art.18 amended by Law no.1414-XIII din 17.12.97]*

*[Art.19 excluded by Law no.191-XV din 08.05.03, in force since 31.05.03]*

*[Art.19 supplemented by the Law no.373-XV din 19.07.2001]*

## **Article 20. Capacity Examination**

- (1) The capacity examination shall consist of:
  - a) oral tests on civil and criminal procedure, on civil, criminal, administrative, constitutional, labour law, as well as tests on the status of judge and judicial organization;
  - b) developing two procedural documents and solving some particular cases;
- (2) The evaluation grid for each answer shall be of 10 points.
- (3) The person who gets less than 75% of the total number of points shall not pass the capacity examination.
- (4) The person who did not pass the capacity examination may be accepted for second examination only in one year.
- (5) The results of the passed capacity examination shall be valid for 3 years. If during this period the person does not participate in competition for filling the judge positions or does not pass such a competition, s/he shall take a new capacity examination, under the conditions of this law.

*[Art.20 in the version of the Law no.247-XVI of 21.07.2006, in force since 10.11.2006]*

*[Art.20 amended by Law no.191-XV of 08.05.03, in force 31.05.03]*

*[Art.20 amended and supplemented by Law no.373-XV of 19.07.2001]*

*[Art.20 amended by Law no.1414-XIII of 17.12.97]*

## **Article 21. Decisions of the Qualification Board**

- (1) Following the capacity examination, the Qualification Board decides whether the examination is passed, indicating the number of accumulated points.
- (2) The results of capacity examination, indicated in the decision of the Qualification Board, serve as the basis for the participation of the person concerned in the competition to fill vacancies of judge positions and shall be submitted to the Superior Council of Magistrates to be published on its website.

*[Art.21 supplemented by Law no.306-XVI of 25.12.2008, in force since 13.02.2009]*

*[Art.21 in the version of the Law no.247-XVI of 21.07.2006, in force since 10.11.2006]*

## Chapter II ATTESTATION OF JUDGES

### Article 22. Attestation Goal

The goal of the attestation of judges is to assess the professionalism of judges, to stimulate its growth, as well as to increase the responsibility in observing the legislation in judging the cases.

### Article 23. Attestation Terms

- (1) The person appointed for the first time to the position of judge shall be attested within 6 month after the date of his/her appointment.
- (2) Judges shall pass the attestation once in 3 years, except for the judges holding the superior qualification degree.
- (3) Judges shall be also attested in case when:
  - a) a qualification degree was granted;
  - b) a proposal of appointment to the position of judge before reaching the age threshold is submitted;
  - c) they participate in the competition for the position of judge in another court, for the for the position of President, Deputy President of a court.
- (4) Judge who fail to perform satisfactory his/her working competences or does not improve his/her professional level may be subject to attestation before the term indicated under para. (2), but not more than once in a year.
- (5) The proposal for attestation shall be made in the cases:
  - a) stipulated under para. (2) and para. (3) let.a) - by the President of the court where the judge who is to be subject to attestation works or by the President of the hierarchically superior court;
  - b) stipulated under para.(3) let.b) and let.c) - by the members of the Superior Council of Magistrates, by the judge who is going to run for the position of judge in another court, by the President or Deputy President of a court;
  - c) stipulated under para.(4) - by the hierarchically superior court or by the President of the court, by the members of the Superior Council of Magistrates, reasoning the need for attestation.

*[Art.23 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]*

*[Art.23 in the version of the Law no.1414-XIII of 17.12.97]*

### Article 24. Attestation

- (1) In order to attest a judge, the President of the court or a member of the Superior Council of Magistrates shall provide a character reference, analyzing his/her professional and moral qualities, professional activity, and submits it along with the recommendation to the Qualification Board.
- (2) In order to attest a court President, the character reference and the rest of required acts shall be developed by the President of the hierarchically superior court.
- (3) In order to attest judges of the Supreme Court of Justice, the documents mentioned under para. (1) shall be developed and submitted to the Superior Council of Magistrates by the President of the Supreme Court of Justice.
- (4) The judge shall get acquainted with his/her character reference at least 15 days before the attestation.
- (5) The attestation shall be held in the presence of the attested person.



*[Art.24 amended by Law no.1414-XIII of 17.12.97]*

### **Article 25. Decision on Attestation**

(1) Depending on the level of professional knowledge, tenure and working experience, results of professional activity or, as appropriate, also on the organizational skills of the person undergoing the attestation, the Qualification Board shall decide:

- a) to grant the qualification degree or to grant a higher qualification degree;
- b) to hold the current qualification degree;
- c) to postponing the attestation.
- d) demotion.

(2) Based on the results of the judge's attestation under Art.23 para.(2), the Qualification Board shall issue an opinion on the adequacy between the judge's level of professional knowledge and the granted degree. If the judge's level of professional knowledge is not adequate with the qualification degree s/he holds, the Qualification Board shall issue an opinion on inadequacy, which serves as the basis for the judge's demotion. If demotion is not possible due to you holding the fifth qualification degree or due to the lack of a qualification degree, the Qualification Board shall submit a proposal on dismissing the judge from office.

(3) Based on the results of the judge's attestation and under art.23 para.(3) letter a), the Qualification Board shall grant the qualification degree, hold the current qualification degree or proceeds as stipulated under para.(2).

(4) Based on the result of judge's attestation under Article 23 para. (3) let.b), the Qualification Board shall provide the Superior Council of Magistrates with the proposal to appoint the judge before reaching the age threshold or dismiss him/her from office.

(5) Judge shall be informed about the results of the attestation immediately after the decision is taken.

(6) The decision of the Qualification Board and the materials reasoning the Board's proposal shall be submitted to the Superior Council of Magistrates for validation.

*[Art.25 in version of the Law no.247-XVI of 21.07.2006, in force since 10.11.2006]*

*[Art.25 amended and supplemented by Law no.373-XV of 19.07.2001]*

*[Para.6(5) art.25 introduced by Law no.1414-XIII of 17.12.97]*

*[Art.26 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]*

*[Art.26 amended by Law no.206-XV of 29.05.03, in force since 18.07.03]*

### **Article 27. Judges' Qualification Degrees**

(1) Depending on position, tenure, experience and professionalism, 6 qualification degrees for the life term are established for judges:

- a) fifth qualification degree;
- b) fourth qualification degree;
- c) third qualification degree;
- d) second qualification degree;
- e) first qualification degree;
- f) superior qualification degree.

(2) The superior qualification degree shall be granted by the President of the Republic of Moldova, the other degrees - by the Qualification Board.

(3) The qualification degrees shall be granted as follows:

- a) the superior qualification degree - to the President and Deputy Presidents of the Supreme Court of Justice and, taking into account the long tenure within magistracy and high professionalism – to other judges of the Supreme Court of Justice;
- b) the first qualification degree - to judges of the Supreme Court of Justice, assistant judges of the Constitutional Court, Presidents and Deputy Presidents of the courts of appeal;
- c) the second qualification degree - to judges of the courts of appeal;
- d) the third qualification degree - to judges of the courts of appeal, to Presidents and Deputy Presidents of courts;
- e) the fourth and fifth qualification degrees - to the Presidents, Deputy Presidents and judges of courts.

Demotion under Article 25 does not result in a transfer of the judge to a hierarchically lower court.

*[Art.27 amended by Law no.306-XVI of 25.12.2008, in force since 13.02.2009]*

*[Art.27 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]*

*[Art.27 amended by Law no.191-XV of 08.05.03, in force since 31.05.03]*

*[Art.27 amended by Law no.762-XIV of 24.12.99]*

*[Art.27 supplemented by Law no.1414-XIII of 17.12.97]*

*[Art.28 excluded by Law no.191-XV din 08.05.03, in force since 31.05.03]*

*[Art.28 supplemented by Law no.1414-XIII of 17.12.97]*

### **Article 29. Terms of Holding Qualification Degrees**

(1) The following are minimal terms of holding a qualification degree that makes one eligible for acquiring the next qualification degree are established:

- a) fifth qualification degree - 2 years;
- b) fourth qualification degree - 4 years;
- c) third qualification degree - 5 years;
- d) second qualification degree - 5 years.

(2) The time of holding the first qualification degree shall not be limited.

(3) Judges who proved to be highly professional and hold academic ranks or other merits may be granted a qualification degree skipping one level, but at most twice.

*[Art.29 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]*

*[Art.29 amended by Law no.191-XV of 08.05.03, in force since 31.05.03]*

## **TITLE III FINAL AND TRANSITORY PROVISIONS**

*[Art. I excluded by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]*

### **Article II. Entering into force**

This law shall enter into force from the moment of its publication.

### **Article III. Tasks of the Government**

The Government, within one month from the date this law enters into force, shall provide the Parliament with proposals aiming at conforming the current legislation to this law.

### **Article IV. Tasks of the Superior Council of Magistrates**

The Superior Council of Magistrates, within one month from the date this law enters into force, shall establish the Qualification Board in compliance with the provisions of Art.3 and Art.4 and shall organize the attestation of judges.

**Chairperson of the Parliament**

**Petru LUCINSCHI**