

PARLIAMENT OF THE REPUBLIC OF MOLDOVA



**L A W
ON THE STATUS OF JUDGE**

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Parliament adopts this law.

Chapter I STATUS OF JUDGE

Article 1. Judge – Bearer of Judicial Power

(1) Judicial power shall be exercised only by the courts, in the person of judge – the sole bearer of this power.

(2) Judge is the person constitutionally vested with duties of justice, which s/he exercises under the law.

(3) Judges of the courts shall be independent, impartial and immovable, and shall obey only the law.

[Art.1 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

[Art.1 amended by Law no.191-XV din 08.05.03, in force since 31.05.03]

Article 2. Unity of the Status of Judge

Judges of all courts, including the investigation judges, shall have a single status and shall be distinguished among them only by their powers and competence.

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

[Art.2 amended by Law no.206-XV din 29.05.03, in force since 18.07.03]

Chapter II MAGISTRATE CORPS

Article 3. Magistrates

(1) Judges from all courts of the country, as well as from international courts, including investigation judges have the status of magistrates and are part of the magistrate corps.

[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 of 21.07.2006, in force since 10.11.2006]

[Art.3 amended by Law no.206-XV of 29.05.03, in force since 18.07.03]

[Art.3 amended by Law no.1099-XV of 06.06.2002]

[Art.3 amended by Law no.1414-XIII of 17.12.97]

[Art.4 excluded by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

Article 5. Tenure in Magistracy

(1) Tenure in magistracy is the period when the person exercised the functions provided for by Article 3.

[Art.5 in the version of the Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

[Art.5 amended by Law no.206-XV of 29.05.03, in force since 18.07.03]

[Art.5 amended by Law no.366-XV of 13.07.2001]

[Art.5 supplemented by Law no.789-XIV of 03.02.2000]

[Art.5 supplemented by Law no.18-XIV of 14.05.98]

Chapter III CANDIDATE NOMINATION FOR THE OFFICE OF JUDGE. APPOINTMENT OF JUDGE

Article 6. Requirements for Judicial Candidates

(1) A person may run for the office of judge if s/he is a citizen of the Republic of Moldova, has domicile in the country and meets the following requirements:

- a) has legal capacity;
- b) is licensed in law;
- c) has the tenure in legal profession for the position s/he runs for;
- d) does not have criminal records and enjoys a good reputation;
- e) knows the state language;
- f) is able, from medical point of view, to exercise the position concerned, according to the medical health certificate.

(2) A person who reached the age of 30 years, a tenure in legal profession of at least 5 years and passed the capacity examination may be appointed to the judge position in court.

(3) An individual may be appointed to the position of judge in court of appeal of in the Supreme Court of Justice if his/her tenure as judge is at least 6 and 10 years, accordingly.

[Art.6 amended by Law no.127-XVIII of 23.12.2009, in force since 31.12.2009]

[Art.6 amended by Law no.273-XVI of 07.12.2007, in force since 13.05.2008]

Note: Art.6 shall be amended after the first graduation of the National Institute of Justice according to the Law no.247-XVI of 21.07.2006

[Art.6 in version of the Law no.191-XV of 08.05.03, in force since 31.05.03]

[Art.6 amended by Law no.1099-XV of 06.06.2002]

[Art.6supplemented by Law no.373-XV of 19.07.2001]

Article 7. Tenure in Legal Profession required for Judicial Candidates

(1) The tenure in legal profession enabling a candidate to run for the office of judge shall include the periods when the person licensed in law has worked as prosecutor, investigator, officer of criminal investigation, lawyer, ombudsman, notary, legal consultant, court consultant (councillor), in positions of legal profession as staff member of the Constitutional Court, Superior Council of Magistrates, public authorities, as well as in the former arbitrage.

2) In order to be appointed as investigation judge, a person, besides the need to meet additional requirements under para.(1), shall have tenure as prosecutor, investigator or criminal investigation officer of at least 5 years or as judge of at least 3 years.

(3) The tenure in legal profession shall also include the periods when the person licensed in law has exercised the mandate as Member of Parliament, has worked as a member of the Court of Accounts, as professor in law in higher education institutions, bailiff and clerk.

Note: Art.7 shall be excluded after the first graduation of the National Institute of Justice according to the Law no.247-XVI of 21.07.2006

[Art.7 amended by Law no.206-XV of 29.05.03, in force since 18.07.03]

[Art.7 in version of the Law no.191-XV of 08.05.03, in force since 31.05.03]

[Art.7 amended by Law no.373-XV of 19.07.2001]

[Art.7 amended by Law no.1027 of 06.12.96]

Article 8. Restrictions on the Office of Judge

(1) A judge may not:

- a) hold any other public or private positions except for didactic and scientific activity;
- b) be Member of Parliament or councillor in local public administration authority;
- c) be affiliated to parties and other social-political organizations or carry out activities of political nature, collaborate in activities that are contrary to the judge oath;

- d) carry out entrepreneurial activities;
- e) provide written or verbal consultations on litigations.

(2) Judge may collaborate with publications specialized in literary, science or social issues, or with audiovisual programmes, under the interdiction of expressing his/her views on internal policies-related current issues.

(3) Judge shall be not entitled to provide media representatives with information about the cases under consideration in court but through the judge responsible for relations with the media.

[Art.8 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

[Art.8 amended by Law no.191-XV of 08.05.03, in force since 31.05.03]

[Art.8 amended by Law no.1099-XV of 06.06.2002]

[Art.8 amended by Law no.373-XV of 19.07.2001]

Article 9. Competition for filling judge positions

(1) All judge positions may be filled only on competitive basis. Superior Council of Magistrates shall make sure to regularly publication in the Official Gazette of the Republic of Moldova the information on job vacancies of court judges that are to be filled.

(2) The competition for filling vacancies of judge position shall be organized by the Superior Council of Magistrates, under the regulation approved by it, which must provide objective criteria for selecting the best candidates. Date, venue and manner of the contest shall be communicated at least 90 days before the contest through media and Internet website.

(3) Graduates of the National Institute of Justice shall participate in the competition for filling vacant judge positions based on the certificate, according to general average mark gained. Persons with tenure in legal profession that is necessary to run for judge position shall participate in the competition on the basis of capacity examination, taken under the law before the Qualification Board.

(4) For each category of persons mentioned in para. (3) the competition shall be organized according to the number of vacancies distributed by the Superior Council of Magistrates for each category separately.

[Art.9 in version of the Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

[Art.9 in version of the Law no.191-XV of 08.05.03, in force since 31.05.03]

[Art.9 amended by Law nr.373-XV of 19.07.2001]

Article 10. Registration of the candidates for filling judge positions

(1) In order to participate in the contest for the judge position, the candidate shall file, within 60 days from the publication of the contest date, a written request with the Superior Council of Magistrates, which shall register him/her as a participant in the contest.

(2) To enter the contest, the candidate shall submit the following documents:

- a) curriculum vitae;
- b) copy of diploma;
- c) graduation certificate of the National Institute of Justice (if existent);
- d) copy of the workbook (if existent);
- e) criminal record;
- f) medical health certificate;
- g) declaration on income and property;

h) reference from the last job held or place of study.

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

[Art.10 excluded by Law no.191-XV of 08.05.03, in force since 31.05.03]

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

[Art.10¹ excluded by Law no.191-XV of 08.05.03, in force since 31.05.03]

[Art.10¹ introduced by Law no.1099-XV of 06.06.2002]

Article 11. Appointment of Judge in Office

(1) Court judges, including specialized court judges, investigation judges and judges of the courts of appeal shall be appointed in office, from among the candidates selected based on competition, by the President of the Republic of Moldova upon the proposal of Superior Council of Magistrates. Selected candidates who meet the requirements specified by Article 6 and 7 shall be appointed to the judge position for a period of 5 years initially. After the 5 year term expires, the judges shall be appointed in office until reaching the age threshold of 65 years old.

(2) Judges of the Supreme Court of Justice are appointed by Parliament upon the proposal of the Supreme Council of Magistracy.

(3) President of the Republic of Moldova may reject once the candidate proposed by the Superior Council of Magistrates for appointment as a judge for 5 years or until reaching the threshold age and only provided that compelling evidence were found about the incompatibility of the candidate with the job concerned or about a breach by him of the law or legal procedures concerning his/her selection and promotion

(4) Refusal to appoint in position or to reconfirm in position shall be done within 30 days from the date of receiving the proposal. In the event of some circumstances requiring additional examination, the President of the Republic of Moldova shall announce the Superior Council of Magistrates about extending the time limit with 15 days.

(5) Upon repeated proposal of the Superior Council of Magistrates, the President of the Republic of Moldova shall issue a decree on appointment as a judge for 5 years term or until reaching the threshold age within 30 days from the date of receiving the repeated proposal.

[Art.11 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

[Art.11 amended by Law no.174-XVI of 22.07.05, in force since 12.08.05]

[Art.11 amended by Law no.206-XV of 29.05.03, in force since 18.07.03]

[Art.11 amended by Law no.140-XV of 21.03.03, in force since 11.04.03]

[Art.11 amended by Law no.373-XV of 19.07.2001]

[Art.11 amended by Law no.1027 of 06.12.96]

Article 12. Oath of Judge

(1) Before starting to exercise his/her position, the judge shall be obliged to take the following oath:

“I swear to respect the Constitution and laws of the country, human rights and liberties, to perform my duties with honour, conscientiously and unbiasedly”.

(2) The oath shall be taken within 10 days from the date of appointment, in a solemn session before the Superior Council of Magistrates, after the act of appointment is read.

(3) The process of taking the oath shall be registered in minutes, which shall be signed by the chairperson of the Superior Council of Magistrates session and by the individual who took the oath.

(4) It is not necessary to take oath if a judge is promoted or transferred to another position in another court.

(5) Actions taken by the judge before s/he took oath shall be void.

(6) Judge who does not meet the requirements provided for by Art. 8 shall not be allowed to take the oath.

[Art. 12 was amended by Law No. 191-XV of 08.05.03, effective as of 31.05.03]

[Art. 12 was amended by Law no. 373-XV of 07.19.2001)

Article 13. Attestation and Qualification Degree of Judges

(1) Under the law, judges shall be attested for appointment in office until they reach the threshold age in order to be granted with qualification degrees, for promotion to a higher court or for appointment as President or deputy president of court, as well as periodically, every three years, to confirm the qualifications degree held.

(2) The judge who holds the superior qualification degree shall not be subject to attestation.

[Art.13 in version of the Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

[Art.13 amended by Law no.191-XV of 08.05.03, in force since 31.05.03]

Chapter IV

JUDGES' RIGHTS AND OBLIGATIONS

[Title of Chapter IV amended by Law no.191-XV of 08.05.03, in force since 31.05.03]

Article 14. Judges' Rights

(1) In order to administrate the justice, judges have powers established by legislation.

(2) Judges' demands and decisions related to judicial activity shall be binding for all individuals and legal personalities. The failure to comply with them shall entail the liability under the law.

(3) Judges shall be entitled to found and get affiliated to trade unions or other organizations to represent their interests, to develop professionally and to defend their status.

(4) The judge has the right to follow for free the ongoing training within the limits set by law.

[Art.14 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

Article 15. Judges' Obligations

(1) Judges shall be obliged to execute exactly the law requirements on justice administration, to ensure the protection of citizens' rights and liberties, their honour and dignity, defence of society's interests and high culture of judicial activity, to be unbiased.

(2) While exercising their official functions, as well as outside of their official relations, judges shall have the duty to refrain from any deed that may discredit the justice, compromise judges' honour and dignity, or to cast doubts on their objectiveness.

(3) Judges shall not have the right to disclose the secret of deliberation and information gained within closed session, and the investigation judge shall not have the right to disclose the data on criminal proceedings.

(4) Judges shall be obliged to study and generalize the judicial practice.

(5) Judges are required to lodge, under the law, the statement on income and property.

(6) The failure for a judge to comply with his/her obligations entails the liability under the law.

[Art.15 amended by Law no.257-XVI of 29.11.2007, in force since 01.07.2008]

[Art.15 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

[Art.15 supplemented by Law no.136-XV of 06.05.04, in force since 11.06.04]

[Art.15 amended by Law no.206-XV of 29.05.03, in force since 18.07.03]

Article 16. Appearance

(1) During court hearings the judge shall be obliged to wear the clothing under the law.

(2) State provides judges with free judicial clothing.

[Art.16 amended by Law no.306-XVI of 25.12.2008, in force since 13.02.2009]

[Art.16 amended by Law no.206-XV of 29.05.03, in force since 18.07.03]

Chapter V

GUARANTEEING THE INDEPENDENCE OF JUDGE

Article 17. Ensuring the independence of judge

Independence of judge shall be ensured by:

- a) procedure of justice administration;
- b) procedure of appointment, suspension, resignation and dismissal from office;
- c) his/her inviolability statement;
- d) secret of deliberations and prohibition to request its disclosure;
- e) setting out the liability for the lack of respect towards the court, judges and for the interference with judging the case;
- f) allocation of adequate finds for the functioning of judiciary, creation of favourable organizational and technical conditions for the activity of courts;
- g) ensuring the material and social security of judge;
- h) other measures under the law.

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

Article 18. Judge's Immovability

(1) The court judge shall be immovable within his/her term of office, except for the cases provided for by Article 25.

(2) His/her powers may be suspended on the basis and in the way as provided for by this law.

Article 19. The Inviolability of Judge

(1) The personality of judge shall be inviolable.

(2) The inviolability of judge shall be extended upon his/her dwelling place and workplace, vehicles and telecommunication means used by him/her, upon his/her correspondence, goods and personal documents.

(3) Judge shall not be held liable for his/her opinion expressed during justice administration, as well as for the rendered decision unless s/he is found guilty of criminal abuse by a final sentence.

(4) Criminal investigation against judge may be launched only by the Prosecutor General upon the consent of the Superior Council of Magistrates and the President of the Republic of Moldova or, when appropriate, of the Parliament, under the provisions of the Criminal Procedure Code.

(5) Judge may not be apprehended, brought by force, arrested, searched, except in cases of flagrant offence, or held criminally accountable without the consent of the Superior Council of Magistrates and the President of the Republic of Moldova or, when appropriate, of the Parliament.

(6) Judge may be subject to administrative sanctions by court only, with the consent of the Superior Council of Magistrates. A judge apprehended for alleged administrative offence shall be released immediately after identification.

[Art.19 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

[Art. 19 amended by Law no.191-XV of 08.05.03, in force since 31.05.03]

[Art. 19 amended by Law no.373-XV of 07.19.2001]

[Art. 19 amended by Law no.1027 of 12. 06.96]

Article 20. Judge's Promotion or Transfer

(1) Judge's promotion and transfer for an unlimited term shall be carried out only upon his/her consent, upon the proposal of the Superior Council of Magistrates, by the President of the Republic of Moldova or, when appropriate, by Parliament. Promotion shall be carried out on the basis of a competition organized by the Superior Council of Magistrates.

(2) Promotion and transfer of judge for a limited term to the position of a suspended, demoted, transferred or detached judge shall be allowed upon his/her consent, by decision of the Superior Council of Magistrates.

(3) Professional experience and participation in ongoing training courses shall be the major criteria for promotion of judge.

(4) It shall not be considered as a transfer when, by the decision of the Superior Council of Magistrates, the judge is assigned to examine certain categories of file cases or exercise the function of investigation judge in the same court.

(5) The judge who was disciplinary sanctioned or who did not passed the attestation, as well as the judge demoted for inadequacy with the level of professional knowledge, can not be promoted during one year in a hierarchically superior court, to the position of President or deputy president of court, to the Qualification Board and Disciplinary Board.

[Art.20 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

[Art. 20 was amended by Law No. 191-XV of 08.05.03, effective as of 31.05.03]

[Art. 20 was amended by Law no. 373-XV of 07. 19.2001]

[Paragraph 2, art. 2, was amended by Law no. 1414-XIII of 12.17.97]

Chapter VI

JUDGES' DISCIPLINARY AND ECONOMIC LIABILITY

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

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

Article 21. Judges' Disciplinary Liability

(1) Judges shall be held disciplinary accountable for deviations from official duties, as well as for conduct that harms the interest of judicial office and the prestige of justice.

[Art.21 para.2 annulled by Law no.152 of 08.07.2010, in force since 03.09.2010]

[Art.21 amended by Law no.191-XV of 08.05.03, in force since 31.05.03]

[Art.21 amended by Law no.373-XV of 19.07.2001]

Article 21¹. Judges' Economic Liability

(1) The state shall be economically liable for damages caused by judicial errors on human rights and fundamental freedoms guaranteed by the Constitution and international treaties to which Moldova is a party.

(2) In order to repair the damage, the person is entitled to use remedies only against the state, represented by the Ministry of Finance.

(3) The state's liability does not exempt from liability the judges who exercised their powers in bad faith or gross negligence.

(4) After compensating the damage based on the irrevocable court decision, the state may initiate, under the law, a recourse action against the judge who in bad faith or gross negligence committed judicial error causing the damage.

(5) A person's right to compensation for material damages caused by judicial error committed in the processes other than criminal can only be exercised if, beforehand, by a final court decision, it is found which is the judge's criminal liability for a deed committed when judging the case and if this deed may determine a judicial error.

(6) In the case under para. (4), if the fundamental rights and freedoms were violated by a panel composed of several judges, the action may be brought against all the guilty judges, to be held accountable jointly. The recourse action regarding a judge may be initiated only with the consent of the Superior Council of Magistrates.

[Art.21¹ introduced by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

Article 22. Disciplinary Infringements

(1) The following shall be considered as disciplinary infringements:

- a) violation of the impartiality obligation;
- b) uneven interpretation or application of the legislation, intentionally or through gross negligence, if this is not justified by the change of jurisprudence practice;
- c) interference in the activity of another judge or any kind of interferences with the authorities, institutions or officials to resolve certain requests, pretending or accepting to resolve personal interests or interests of family members otherwise than within the limits of legal provisions in force;
- (d) violation of the secret of deliberation or confidentiality of such proceedings;
- (e) public political activities;
- (f) violation of provisions regarding the random distribution of file cases;
- f¹) violation, due to imputable reasons, of the time terms to examine cases under consideration or violation of mandatory legislative norms;
- g) violation of the legal provisions regarding the obligation to lodge the declaration on income and property;
- h) unjustified refusal to perform an official duty;

h¹) violation of the time terms of drafting the court decision and submitting their copies to the parties in the process;

h²) failure to publish, due to the reasons imputable to the judge, a court decision on the website of the court through File-Case Management software;

i) unjustified absences from office, being late or leaving before the time;

j) undignified attitude, while exercising official duties, towards colleagues, lawyers, experts, witnesses or other parties in the process;

k) violation of the Code of Judicial Ethics;

l) the court President failure to observe the obligation to inform the Superior Council of Magistrates about disciplinary infringements of judges;

m) making use of judge's position in order to obtain improper benefits;

n) violation of the provisions on incompatibilities and prohibitions concerning the judges;

o) public exposure of agreement or disagreement with the decision of colleagues aiming at interfering into their activity;

p) rendering a decision that later on is recognized by the European Court of Human Rights as a decision that violated human rights and fundamental freedoms.

(2) Cancellation or change of judicial decision does not imply liability, if the judge who rendered it did not break the law on purpose. Exceptions are the cases when the law was violated by negligence, which consequently led to substantial material and moral damages to people.

[Art.22 amended by Law no.152 of 08.07.2010, in force since 03.09.2010]

[Art.22 amended by Law no.257-XVI of 29.11.2007, in force since 01.07.2008]

[Art.22 supplemented by Law no.44-XVI of 06.03.2008, in force since 15.04.2008]

[Art.22 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

[Art.22 amended by Law no.191-XV of 08.05.03, in force since 31.05.03]

[Art.22 supplemented by Law no.373-XV of 19.07.2001]

Article 23. Disciplinary Sanctions

(1) Under the law, the following disciplinary sanctions may be applied to the judge:

a) warning;

b) reprimand;

c) severe reprimand;

d) demotion;

e) dismissal from office;

f) dismissal from the position of President or deputy president.

(2) Dismissal from office applies if the judge commits a disciplinary infringement that affects the image of the judiciary or if the disciplinary infringements specified in Article 22 were repeatedly committed.

(3) Where presidents (deputy presidents) of courts or courts of appeal, due to groundless reasons, do not meet the requirements under Art. 27-28 and accordingly, under Art. 39-40 of the Law on the Judicial Organization or if they commit a disciplinary infringement under Article 22 letter l) of this law, they shall be dismissed from office. Similarly, the President and deputy president of the Supreme Court of Justice shall be dismissed from office failing to perform the duties under the Law on the Supreme Court of Justice.

(4) A disciplinary sanction shall be applied within a 6 months from the date of finding the disciplinary infringement, but not later than one year from the date it was committed. Where proceeding from a final decision of a national or international court it results that a judge committed a disciplinary infringement, the disciplinary sanction shall be applied within one year after the national or international court decision became definitive.

[Art.23 amended by Law no.152 of 08.07.2010, in force since 03.09.2010]

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

[Art.23 amended by Law no.373-XV of 19.07.2001]

Chapter VII

JUDGE'S SUSPENSION, DEMOTION, DETACHMENT AND DISMISSAL FROM OFFICE

[Title of Chapter VII was supplemented by Law no. 373-XV of 07.19.2001]

Article 24. Suspension from office

(1) Judge may be suspended from office by decision of the Superior Council of Magistrates if:

a) criminal proceedings is initiated against him-her, until the decision concerned remains final;

b) s/he is found missing by final court decision;

c) s/he participates in electoral campaign as a candidate for public authority or local public administrative authority position and is elected for these authorities;

d) s/he is granted maternity leave and child care vacation for up to 3 years;

(2) In cases provided for by paragraph (1) letter b), judge's salary shall be paid to his/her family, and in cases provided for by letters a), c) and d) of the same paragraph the salary shall be paid to judge under the law.

(3) Suspension of judge from office on the grounds enumerated by paragraph (1), except for letter a), does not imply the cancellation of personal inviolability and material and social guarantees.

(4) In the case under para. (1) let.a), if the judge was not proven guilty or a decision to acquit or to dismiss the criminal process was rendered, the suspension from office shall cease and the judge is reinstated in all rights s/he had before.

(5) In the cases mentioned in para. (1) let.c) and d), upon expire of the time for which the judge was suspended from office, s/he is granted the judge position that s/he held before the suspension or, with the consent of the judge, s/he is granted another equivalent judge position.

(6) The decision on suspending a judge from office may be appealed in the Supreme Court of Justice under the law.

[Art.24 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

Article 24¹. Demotion and Detachment of Judge

(1) Judge may be demoted from his/her office by decision of the Superior Council of Magistrates under the law.

(2) Judge may be detached from office, upon his/her consent, by decision of the Superior Council of Magistrates aiming at exercising a staff position in the Superior Council of Magistrates or Ministry of Justice, for a period of up to 18 months, which may

be extended by 18 months at most. A judge elected based on contest to the position of investigation judge in judicial inspection of the Superior Council of Magistrates is detached from his position for the whole term of office.

(3) To ensure the work of the Superior Council of Magistrates, the elected judges shall be detached for the duration of the Board member' term of office.

(4) In cases provided for by paragraph (2), judge shall maintain previous average salary for the entire term of office in judicial inspection within the Superior Council of Magistrates personnel or National Institute of Justice. In case of detachment under para. (3), the judge's salary shall be set at the level of the judge of the Supreme Court of Justice.

(5) The detached judge shall maintain his/her status of judge, and the period of activities in institutions specified in para. (2) and (3) shall be included in his/her judicial tenure.

(6) Upon expiry of the term for which the judge was detached from office by the decision of the Superior Council of Magistrates, he/she shall be granted the previous judge position that s/he held before detachment.

[Art.24¹ amended by Law no.306-XVI of 25.12.2008, in force since 13.02.2009]

[Art.24¹ supplemented by Law no.229-XVI of 06.11.2008, in force since 21.11.2008]

[Art.24¹ supplemented by Law no.65-XVI of 27.03.2008, in force since 16.05.2008]

[Art.24¹ in version of the Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

[Art.24¹ introduced by Law no.373-XV of 19.07.2001]

Article 25. Judge's Dismissal from Office

(1) Judge shall be removed from his/her office by the body that appointed him/her in the following cases:

- a) filing resignation request in accordance with provisions of the Article 26 para. (2);
- b) filing resignation request on his/her own initiative;
- c) filing resignation request on the grounds that s/he reached the retirement age;
- d) transfer to another position under the law;
- e) professional incapacity;
- f) committing disciplinary infringement specified in Art. 22 para.(1);
- g) rendering the final conviction sentence;
- h) loss of Moldovan citizenship;
- i) violation of provisions stipulated in Art.8;
- j) finding of labour incapacity, proven by medical certificate;
- k) expiry of powers when judge is not appointed until s/he reaches the age threshold, as well as when s/he reaches the age threshold;
- l) finding, by final court decision, the judge's limited exercising capacity or incapacity.

(2) Proposal to dismiss the judge from office shall be submitted by the Superior Council of Magistrates to the President of the Republic of Moldova or, when appropriate, to the Parliament.

(3) How judge shall be dismissed and how to appeal the dismissal decision shall be set out by law.

(4) If the decision to dismiss the judge from office is annulled, s/he shall be reinstated with all former rights, including the payment, under the law, of financial rights that s/he was deprived of.

[Art.25 amended by Law no.306-XVI of 25.12.2008, in force since 13.02.2009]

[Art.25 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

[Art.25 amended by Law no.191-XV of 08.05.03, in force since 31.05.03]

Article 26. Judge's Resignation

(1) The resignation of a judge shall be considered a honoured judge's departure from office, if when performing the functions and out of official relations s/he did not commit deeds discrediting justice or compromise the honour and dignity of judge.

(2) Judge shall be entitled to resignation in case of filing the resignation request.

(3) Judge who resigned shall keep the title of magistrate, his/her affiliation to magistrate corps and guarantees of personal inviolability;

(4) Judge who resigned or was pensioned shall receive a non-recurrent resignation pay equal to the amount resulting from multiplying his/her average monthly salary by the number of years worked as judge. At the same time, the calculation of non-recurrent resignation pay for judge who resigned and got back to the position shall take into account the period of time worked as judge from the date when his/her last resignation ended.

(5) Judge who resigned shall be entitled to seniority pension or to lifetime monthly allowance, under this law.

(6) If the resigned judge has a judicial tenure of at least 20 years, s/he shall be entitled to lifetime monthly allowance of 80 %; from 25 to 30 years – of 85 %; from 30 to 35 years – of 90%; from 35 to 40 years – of 95 %; from 40 and more – of 100 % of the average salary paid in the judicial position concerned, taking into account the salary indexation. The lifetime monthly allowance shall be recalculated taking into account the salary level of an active judge.

(7) The resigned judge shall have the right to work in the area of justice.

(8) If the resigned judge performs another functions in the area of justice, s/he shall be paid lifetime monthly allowance and be remunerated according to Art. 28.

(9) Judge shall be considered as resigned one as long as s/he observes the provisions of Art.8, preserves the citizenship of the Republic of Moldova and does not commit deeds discrediting justice or compromise the honour and dignity of judge.

(10) When the Superior Council of Magistrates finds a resigned judge does not observe the requirements of this law, it shall cease the judge's resignation. S/he may appeal the cessation decision with the Supreme Court of Justice within 10 days from the date of receiving the copy of this decision.

(11) Judge's resignation shall be also ceased upon his/her being repeated appointed to the position of judge.

[Art.26 amended by Law no.108-XVI of 17.12.2009, in force since 01.01.2010]

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

[Para.9 Art.26 excluded by Law no.191-XV of 08.05.03, in force since 31.05.03]

[Art.26 amended by Law no.1099-XV of 06.06.2002]

[Art.26 in version of the Law no.429-XV of 27.07.2001]

[Amended introduced by Law no.934-XIV of 14.04.2000 declared unconstitutional according to Decision of the Constitutional Court no.40 of 07.12.2000]

[Art.26 amended by Law no.934-XIV of 14.04.2000]

[Art.26 amended by Law no.552-XIV of 28.07.99]

[Action of para.4 Art.26 suspended for the year 1999 by Law no.216-XIV of 12.12.98]

[Art.26 amended by Law no.1592-XIII of 27.02.98]

Article 26¹. Maintaining Judicial Powers

The powers of judge who is transferred, demoted, detached, suspended while s/he examines a criminal or civil case in termination phase shall be maintained until the end of trial on the case concerned.

[Art.26¹ amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

[Art.26¹ introduced by La no.373-XV of 19.07.2001]

Chapter VIII

STATE PROTECTION OF JUDGE, HIS/HER MATERIAL AND SOCIAL SECURITY

Article 27. State Protection of Judge and his/her Family Members

(1) Judge, his/her family members and their property, shall be under the state protection. At the request of judge or president of the court, the bodies of internal affairs shall be obliged to take appropriate measures in order to ensure the security of judge, his/her family members and integrity of their goods.

(2) Attempt on the life and health of judge, destruction of or damaging his/her goods, threatening him/her with death, violence or damaging his/her goods, defaming or insulting him/her, as well as attempt on his/her close relatives' life and health (parents, wife, husband, children), shall imply liability under the law. Judge shall be entitled to be provided by internal affairs bodies with means of defence.

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

Article 28. Remuneration of Judge

Court judges shall be paid under conditions and as set out by the Law no. 355-XVI of December 23, 2005 on salary system within public sector.

[Art.28 in version of the Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

[Art.28 amended by Law no.191-XV of 08.05.03, in force since 31.05.03]

[Art.28 amended by Law no.1099-XV of 06.06.2002]

[Art.28 amended by Law no.162-XV of 17.05.2001]

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

Article 29. Judge's annual leave

(1) Judge is entitled to annual leave of 30 calendar days.

(2) If a judge's tenure is up to 5 years, his/her leave shall be increased by 2 workdays; from 5 to 10 years – by 5 workdays; from 10 to 15 years – by 10 workdays; more than 15 years – by 15 workdays.

(3) The annual leave shall be granted to judges by presidents of the respective courts, in compliance with the schedule of annual leaves approved by them and coordinated with the Superior Council of Magistrates at least two weeks before the end of every calendar year. Presidents and deputy presidents of courts are provided with the annual leave by the Superior Council of Magistrates.

(4) The annual leave shall be granted to the judge of the Superior Court of Justice in compliance with the approved programme, at least two weeks before the end of every calendar year, by the Plenum of the Supreme Court of Justice. President of the Supreme

Court of Justice shall be provided with annual leave by the decision of the Plenum of the Supreme Court of Justice. Deputy Presidents of Boards, deputy presidents of Boards and judges of the Supreme Court of Justice shall be provided with annual leave by the President of the Supreme Court of Justice.

(5) Judge may be recalled from annual leave only upon his/her written consent and only in unexpected situation, which make his/her presence necessary in the office. In this case, judge shall not be obliged to reimburse the allowance for the unused vacation days. Recall from leave shall be made in the order established for granting it. In absence of the president of court, court of appeal or Supreme Court of Justice, including the interim cases, the recall from leave shall be made, when appropriate, by the Superior Council of Magistrates or the Plenum of the Supreme Court of Justice.

[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]

[Art.29 amended by Law no.1027 of 06.12.96]

[Art.30 excluded by La no.90-XVIII of 04.12.2009, in force since 18.12.2009]

[Art.30 amended by Law no.934-XIV of 14.04.2000]

[Action of para.3 Art.30 suspended by the year 1999 by Law no.216-XIV of 12.12.98]

[Action of para. 3 (4) Art.30 suspended, except for the recovery of renting expenditures, for the year 1999 by Law no.216-XIV of 12.12.98]

[Action of Art. 30 para.(3) suspended in the year 1998 by the Law no.96-XIV of 16.07.98]

[Action of Art.30 para.(4) suspended for the year 1998, except for the compensation of renting expenditures, by the Law no.96-XIV of 16.07.98]

[Action of Art. 30 para.(3) suspended for the year 1997 by Law no.1127-XIII of 21.03.97]

Article 31. Other Social Guarantees

Judge and members of his/her family shall benefit from a minimum necessary free medical assistance and other social guarantees under the law.

[Art. 31 amended by Law no. 191-XV of 08.05.03, in force since 31.05.03]

[Art. 31 introduced by Law no. 429-XV of 07.27.2001]

[The amendment introduced by Law no. 934-XIV of 04.14.2000 is declared unconstitutional according to the Constitutional Court's decision no. 40 of 12.07.2000]

[Art. 31 excluded by Law no. 934-XIV of 04.14.2000]

Article 32. Pension Provision

(1) Judge who reached the age of 50 and has a tenure of at least 20 calendar years, of which at least 12 years and 6 months in judge position, shall be entitled to pension of seniority in proportion of 55 per cent of his/her average salary, and for each completed year of work over the tenure of 20 years – additional 3%, and by total no more than 80 per cent comparative to his/her salary, taking into account the indexation of salary. The judge's pension shall be recalculated taking into account the level of salary of an active judge.

[Para.1 Art. 32 supplemented by Law no.1099-XV of 06.06.2002, entering into force on 01.01.2003]

(2) Provisions of para.(1) shall also apply to judges who worked in international courts, taking into account the average salary of judge of the Supreme Court of Justice.

[Para.2 Art. 32 introduced by Law no. 1099-XV of 06.06.2002]

(3) The seniority pension shall be entirely paid to the judge in office.

(4) After having retired, the judge shall have the right to be employed and receive both the pension and the salary entirely.

[Art. 32 amended by Law no. 429-XV of 07.27.2001]

[Art. 32 declared unconstitutional by the Constitutional Court's decision no. 4 of 01.27.2000]

[Art. 32 in version of the Law no. 552-XIV of 07.28.99]

[Action of the para.2, 3 Art.32 suspended for the year 1999 by Law no. 216-XIV of 12.12.98]

Article 32¹. Bodies that establish and pay pensions

(1) Monthly pensions and lifetime monthly allowances shall be established and paid by social insurance bodies.

(2) Social insurance bodies shall have the right to control over the authenticity of documents confirming the tenure and ensured income, issued by competent bodies.

[Art.32¹ introduced by Law no.399-XVI of 14.12.2006, in force since 23.03.2007]

Article 32². Finding source

Expenditure for paying the pensions and lifetime monthly allowances shall be covered as follows: 50% of established amount - from the state social insurance budget and 50% - from the state budget.

[Art.32² in version of the Law no.139-XVIII of 29.12.2009, in force since 01.01.2010]

[Art.32² introduced by Law no.399-XVI of 14.12.2006, in force since 23.03.2007]

Art. 33. State Insurance and Compensation Payments

(1) Judge's life, health and goods shall be subject to obligatory state insurance from the state budget. The obligatory state insurance of judge's life and health shall be equal to money he/she received during 15 years of employment in his/her last position.

(2) Insurance shall be paid in case of:

a) violent death or demise of active judge, if the demise was caused by bodily injuries or other injuries inflicted upon his/her health, or by a work-related accident – to his/her successors, in form of non-recurrent compensation equal to the number resulting from multiplying the dead judge's annual average salary by complete years he/she did not survived to work to reach the age threshold. This non-recurrent compensation shall be of no less than 15 annual average salaries.

b) mutilation of judge or other injuries inflicted upon his/her health, or mutilation, or other injuries inflicted upon the health of judge as a result of a work-related accident, which makes it impossible for him/her to continue his/her professional activity and caused the loss of the full capacity to work – in form of a non-recurrent compensation equal to the maintenance amount of money he/she received during 15 years of employment.

c) infliction of bodily injures upon an active judge or other violent injuries upon his/her health, or bodily injuries caused by work-related accident, which did not lead to the loss of capacity to work, but exclude the possibility to continue the professional activity – in form of a non-recurrent compensation equal to maintenance amount of money he/she receives during 1 year of employment.

d) mutilation of an active judge or other violent injuries inflicted upon his/her health, or mutilation or other injuries inflicted upon his/her health caused by work-related accident, which exclude the possibility to continue the professional activity – in form of monthly compensation equal to the salary he/she received as a judge. Disability pension or other types of pensions established until or after the loss of ability to continue the

professional activity shall not be included in the calculation of reparations for injuries he/she suffered. At the same time, the calculation of reparations for injuries shall not include the salary, which the judge received after injury, as well as the compensations received on the basis of state insurance.

e) violent death or demise of judge as a result of bodily injuries or other injuries inflicted upon his/her health, or as a result of a work-related accident – to members of his/her family who are unable to work and whom he/she used to keep up, in form of monthly allowance equal to the difference between their part of defunct judge's salary they used to enjoy and pension established upon the loss of the judge who supported the family. the Non-recurrent compensation shall not be taken into account in this respect.

(3) In case of demise of an active judge, his/her family shall be paid a non-recurrent compensation of an amount and under conditions provided for by Art.26 para.(4).

(4) In case of demise of an active judge, resigned or retired judge, his/her family shall be paid a compensation of demise equal to two monthly average salaries of judge in the respective position.

(5) Material damages caused in relation to judges' official functions, by deterioration or destruction of his/her goods, the ones of his/her family members and his/her close relatives, shall be entirely recovered from the state budget.

[Art. 33 in version of the Law no. 1099-XV of 06.06.2002]

[Art. 33 supplemented by Law no. 429-XV of 07.27.2001]

[The amendment introduced by Law no. 934-XIV of 04.14.2000 declared unconstitutional pursuant to the Constitutional Court's decision no. 40 of 07.12.2000]

[Art. 33 amended by Law no. 934-XIV of 04.14.2000]

[The action of letter a) para.2 Art.33 suspended for the year 1999 by the Law no.216-XIV of 12.12.98]

[The action of Art.33 para.(2) letter a) suspended for the year 1998 by the Law no.96-XIV of 07.16.98]

Article 34. Judge's Identification Card

(1) Judge shall receive identification card based on sample approved by the President of the Republic of Moldova or, when appropriate, by Parliament.

(2) Judge's identification card shall be issued by the Superior Council of Magistrates and serves as identity document on the entire territory of the republic.

(3) Judges who resigned and retired shall also fall under the scope of this article.

[Art.34 amended by Law no.247-XVI of 21.07.2006, in force since 10.11.2006]

Chapter X

FINAL AND TRANSITORY DISPOSITIONS

Article I. Entering into force

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

Article II. Bringing the legislation into compliance with the present law

Laws and other normative acts shall stay in force in those parts which do not conflict with this law.

Article III. Transitory provisions

(1) It shall be considered those presidents, deputy presidents and judges of district, municipal (sector) courts, who are in office on the date this law is passed meet all the requirements provided for these positions and are immovable during the term for which they were appointed.

(2) The provisions of this law that are related to allowances shall extended over retired judges or judges dismissed upon expiry of their powers, provided the tenure in judge position of at least 15 years.

(3) Judges who retired from position, regardless the date of retirement, shall fall under the scope of Art.26 and Art.32.

(4) Persons specified in para.(3) shall be paid lifetime monthly allowance or, when appropriate, pension, taking into account the monthly salary of an active judge in the respective position and supplements under Article 28 para. (1).

[Art.III amended by Law no.139-XVIII of 29.12.2009, in force since 01.01.2010]

[Art.III amended by Law no.1099-XV of 06.06.2002]

Article IV. Status of personnel

(1) The Supreme Court of Justice judges transferred for business-related interests, under conditions of this law, to positions with a lower remuneration, shall enjoy the salary, increases and supplements of previous position.

(2) Civil servants of the Superior Court of Justice transferred for business-related interests to positions with lower remuneration shall enjoy the previous salary during 3 months.

[Art.IV amended by Law no. 1027 of 12.06.96]

Article V. Tasks of the Superior Council of Magistrates

The Superior Council of Magistrates, by December 1, 1995, shall provide the Parliament with the Supreme Court of Justice's list of candidates to the judge positions, and the President of the Republic of Moldova – with the list of candidates for the office of judge within tribunals and Court of Appeal.

[In version of the Law no.1027 of 06.12.96]

Article VI. Tasks of the Government

Government, within 3 months from the date this law is passed shall bring its normative acts in compliance with this law.

[Art. VI amended by Law no.822-XV of 07.02.2002]

[Art. VI declared unconstitutional by the Constitutional Court's decision no. 35 of 01.12.97]

CHAIRPERSON OF THE PARLIAMENT

PETRU LUCINSCHI