

**LAW**  
**ON THE STATUS OF JUDGE**

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**Chapter I**  
**STATUS OF JUDGE**

**Article 1.** Judge – bearer of judicial power

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

(2) Judge is the person constitutionally invested with powers to administrate justice, which s/he exercises under the law.

(3) Court judges are independent, impartial and immovable and obey only to law.

(4) Judges take decisions independently and impartially and act without any restrictions, influences, pressures, threats or interferences, direct or indirect, from any authorities, including judiciary ones. Hierarchical organization of the courts' jurisdictions can not affect individual independence of judges.

**Article 2.** Unity of the status of judge

Judges of all courts shall have a unique status and be distinguished among them only by their duties and competence.

**Chapter II**  
**CORPORATE BODY OF MAGISTRATES**

**Article 3.** Magistrates

(1) The following are magistrates and members of the corporate body of magistrates: judges from all courts in Moldova, as well as from international courts.

**Article 4.** Hierarchy of the Magistrates' positions

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

**Article 5.** Length of experience in Magistracy

Length of experience in magistracy represents the period of time within which an

individual exercised the positions provided for by art. 3.

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

**Article 6.** Requirements for Judicial Candidates

(1) Individuals who may run for the office of judge are the ones who have an impeccable reputation, are citizens of the Republic of Moldova, have domicile in this country and meet the following requirements:

- a) s/he has legal capacity;
- b) s/he has Bachelor Degree (university diploma) in Law or its equivalent;
- c) s/he has graduated from the National Institute of Justice and has length of experience as set forth in para. (2);
- d) s/he does not have criminal records;
- e) s/he knows the state language;
- f) s/he meets the medical requirements to hold the office.

(2) The length of experience offering the right to an individual to run for judge office is considered his/her work over the past five years as judge or assistant judge of the Constitutional Court, judge in international courts, prosecutor, law professor in higher accredited education institutions, lawyer, judicial assistant or clerk.

(3) Persons who have the length of experience as set forth in para. (2), except for judges in international courts and judges of the Constitutional Court, shall take an examination before the Graduation commission of the National Institute of Justice in accordance with the procedure and conditions laid down by Law no.152-XVI of 8 June 2006 on the National Institute of Justice.

(4) It is considered that a person does not have impeccable reputation within the meaning of para. (1) and can not run for judge office when:

- a) s/he has criminal record, including not extinguished ones, or was exempted from criminal liability by an act of amnesty or pardon;
- b) s/he was fired from law enforcement due to compromising reasons or was dismissed due to the same reasons from the positions specified in para. (2);
- c) s/he has an incompatible behaviour with the norms of the Code of Ethics for judges or carries activities incompatible with the norms of this code.

(5) A person who may apply to the office of the judge of the court of appeal or a judge of the Supreme Court of Justice should have the length of experience as a judge of at least 6 years and, respectively, 10 years.

(6) A person may be appointed as military judge may when s/he meets the conditions specified in para. (1) and is an acting officer. People who are not acting officers shall be granted with military ranks.

**Article 6<sup>1</sup>.** Verifying the health of the candidates for judge office and of the acting judges

(1) The health of candidates for judge office shall be verified before conducting the contest for filling out the position of judge.

(2) Verification of health of acting judges shall take place every 5 years.

(3) Verification of health also includes psychological and psychiatric assessment of candidates for judge offices and acting judges.

(4) The requirements and procedure for determining the health of candidates for judge offices and acting judges, including the list of diseases that do not enable the judge to exercise his/her position, shall be approved by the order of the Minister of Health after coordination with the Superior Council of Magistracy.

(5) The health of candidates for judge office and acting judges shall be verified by a specialized commission of the Ministry of Health issuing medical health certificate and conclusions regarding the adequacy of candidates and judges to the requirements for exercising the office, and shall be subsequently presented to the Superior Council of Magistracy.

**Article 6<sup>2</sup>.** Register for participants in the contest to fill vacancies of judges, court chair or deputy chair

(1) Candidates for vacant positions of judge, court chair or deputy chair who meet the conditions laid down in Article 6 are enrolled in the Register of participants in the contest to fill the vacancies of judges, the court chair or deputy chair, hereinafter called *Register*.

(2) The Register shall be maintained by the Secretariat of the Supreme Council of Magistracy and shall include 4 sections:

- a) list of candidates for vacancies of judges;
- b) list of judges seeking the transfer to another court of the same level or a lower court;
- c) list of judges seeking appointment as court chair or deputy chair;
- d) list of judges seeking appointment or promotion to a higher court.

(3) Applicants shall be entered in the Register regardless of whether an open contest for filling the judge position was announced.

(4) The procedure for inclusion of candidates in the Register shall be approved by the Superior Council of Magistracy.

(5) The Register is public and shall be placed on the website of the Superior Council of Magistracy.

**Article 7.** Length of experience in legal profession to run for the judge office  
*[Art. 7 was excluded by Law no.247-XVI dated 21.07.2006, in force since 31.03.2009]*

**Article 8.** Restrictions on the Office of Magistrate

(1) A judge may not:

- a) hold any other public or private positions, except for didactic and scientific activity;
- b) be MP or counsellor in local public authority;
- c) be member of any parties or carry out activities of political nature, including the period of detachment from office;
- d) carry out entrepreneurial activities;
- e) provide legal consultancy either in written or oral forms on litigation-related matters;
- f) conduct any activity related to performing his/her office duties in cases involving a conflict between his/her interests and the public interest in justice making, except where the conflict of interest was brought in writing to the knowledge of the court chair or, where appropriate, communicated to the Superior Council of Magistracy.

(2) Judge can collaborate with literary, scientific or social publications, or with audiovisual shows under the condition that s/he be prohibited from expressing his/her views on issues related to current internal policy.

(3) A judge has no right to provide media representatives with information about the

cases under examination in court, except through the person responsible for relations with the media.

(4) A judge, who was elected as President of the Republic of Moldova, was elected as Member of Parliament, councillor in local public authority or was appointed as member of Government, within 30 days from the date of validation / acceptance of office shall submit letter of resignation under article 26. If the judge do not file the resignation, after the expiry of 30 days s/he is considered as dismissed from the judge position.

**Article 9.** Contest to fill vacancies of judges, court deputy chair and chair

(1) The positions of judge, court deputy chair and chair shall be filled on a competitive basis.

(2) The contest for the position of judge, court deputy chair and chair shall be organized by the Superior Council of Magistracy under the regulation approved by it. The contest shall be attended by the persons entered in the Register.

(3) The contest for selecting the candidates to fill the vacancies of judges, court deputy chair and chair or the positions of judges, court deputy chair and chair that are going to become vacant shall be held within 3 months prior to the occurrence of vacancy.

(4) The Superior Council of Magistracy shall announce by publishing in the Official Gazette of the Republic of Moldova, in the media and on its website, the contest for vacancies of judges, court deputy chair and chair and sets time-limit for initiating the process of selecting the candidates.

(5) The persons entered in the Register shall inform in writing the Secretariat of the Superior Council of Magistrates about participation or refusal to participate in the contest to fill the vacancies of judges, court deputy chair and chair.

(6) Applicants for vacancies of judges, court deputy chair and chair, entered in the Register, shall participate in the competition only after submitting the following documents:

- a) application to participate in the competition;
- b) curriculum vitae;
- c) copy of diploma degree in law or its equivalent;
- d) certificate of graduation from the National Institute of Justice or, where appropriate, the certificate of taken exam before graduation commission of the National Institute of Justice;
- e) copy of the employment record (work record book);
- f) criminal record;
- g) medical certificate of health;
- h) statement of income and property;
- i) declaration of personal interests;
- j) reference letter from the last place of work or study.

(7) When submitting the set of documents, the applicant shall be informed about initiating the verification under the Law no. 271-XVI of 18 December 2008 on verification of office-holders and candidates for public office and shall sign the verification statement.

**Article 10.** Selection and criteria for selecting the candidates for the office of judge

(1) The selection of candidates for judicial office shall be conducted according to objective criteria based on merit, taking into account the professional qualification, integrity, ability and efficiency of candidates.

(2) Candidates for judge are selected by the Board for selection and career of judges under

this law, the law no. 154 of 5 July 2012 on the selection, performance appraisal and career of judges and the SCM' Regulations.

**Article 10<sup>1</sup>.** Length of experience in legal profession to run as candidate for judge office  
*[Art.101 was excluded by Law no. 191-XV from 08.05.2003, in force since 31.05.2003]*

**Article 11.** Appointment of judge in position

(1) Court judges and judges of the courts of appeal shall be appointed, from among the candidates selected by competition, by the President of the Republic of Moldova upon the proposal of Superior Council of Magistracy. Selected candidates, who meet the conditions specified in Art.6, shall be appointed as judges initially for 5 year. After the 5-year term, the judges shall be appointed till age-limit 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) The President of the Republic of Moldova may reject once the candidanship proposed by the Superior Council of Magistracy for appointment as a judge for 5 years or until age limit, and only when identifying certain incontrovertible evidence of candidate's incompatibility with the position, violation by the one of the law or violation of legal procedures for his/her selection and promotion.

(4) Refusal to appoint or reappointments must be motivated and be made within 30 days from the date of receiving the proposal. In the event of some circumstances requiring additional review, the President of the Republic of Moldova shall announce the Superior Council of Magistracy about extension of the provided period by 15 days.

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

**Article 12.** Oath of Judge

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

“I swear to respect the Constitution and laws of the country, to defend the homeland interests, human rights and freedoms, to honourably, conscientiously and impartially perform my duties”.

(2) Judge shall be sworn in within 10 days from the date of appointment, in an official solemn session of the Superior Council of Magistracy, after reading the act of appointment.

(3) The sworn taking shall be recorded in Minutes, signed by the President of the Superior Council of Magistracy and the person 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 his being sworn in are void.

(6) Judge who does not meet the requirements provided for by art. 8 shall not be allowed to be sworn in.

**Article 13.** Judges' performance evaluation

(1) Judges' performance shall be evaluated in order to assess the level of professional qualification and skills of judges.

- (2) Acting judges are subject to periodic performance evaluation once in 3 years.
- (3) Under the law, the acting judges are subject to performance evaluation also in case of:
- a) appointment until age limit;
  - b) promotion to a higher court;
  - c) appointment as court chair or deputy chair;
  - d) transfer to a court of the same level or a lower court.
- (4) Judges may be subject also to extraordinary performance evaluation if judicial decisions taken by them raise doubts about their qualification level and professional skills.
- (5) The performance of judges shall be evaluated by the Border for performance evaluation of judges under this law, the Law no. 154 of 5 July 2012 on the selection, performance appraisal and career of judges and the SCM' regulations.
- (6) Judges detached for business purposes, judges of international courts and judges on maternity leave or on parental leave shall not be subjected to performance evaluation.
- (7) The procedure and criteria for assessing the performance of judges is established by regulations of the Superior Council of Magistracy.

**Article 13<sup>1</sup>.** Magistrates' Qualification Degrees

- (1) Qualification degrees of judges have a honorary character conferred for high professionalism, outstanding merits in justice and exemplary performance of duties.
- (2) The method and conditions of conferring the qualification degrees shall be set forth by the Regulation of the Superior Council of Magistracy.

**Chapter IV**  
**MAGISTRATES' RIGHTS AND OBLIGATIONS**

**Article 14.** Magistrates' Rights

Judges have the right:

- a) to enjoy the rights and freedoms enshrined in the Constitution and legislation of the Republic of Moldova;
  - b) to be elected in judicial self-administration bodies;
  - c) to benefit in the administration of justice, of procedural rights established by procedural legislation;
  - d) to establish trade unions and to join trade unions or other national or international organizations to represent their interests, for professional development and protection of their status;
  - e) to get advantage of continuous training for free, within the limits established by law;
  - f) to participate in the preparation of publications or studies, literary or scientific works, except for political ones;
  - g) to be members of committees for examination or development of draft legislation, domestic or international documents;
  - h) to be members of scientific or academic societies and associations or foundations that have professional or scientific purposes.
- (2) Judges' demands and dispositions related to the administration of judicial activity are compelling for all natural persons and legal entities. Those who do not comply with them shall be held liable as provided for by law.



### **Article 15. Magistrates' Obligations**

- (1) Judges are obliged:
- a) to be impartial;
  - b) to ensure the defence of citizens' rights and liberties, their honour and dignity;
  - c) to observe exactly legislative requirements related to justice administration and to ensure uniform interpretation and application of legislation;
  - d) to refrain from any acts, which may discredit the justice, compromise magistrates' honour and dignity, or to cast doubts on their objectivity;
  - e) to comply with the Code of Judicial Ethics;
  - f) to keep the secret of deliberation and information obtained within closed meetings, as well as the data of criminal prosecution;
  - g) to submit the statement of income and property;
  - h) to submit the declaration of personal interests;
  - i) to verify their health conditions as laid down in Article 6<sup>1</sup>.
- (2) Judges are obliged to inform immediately the court chair and the Superior Council of Magistracy about any attempt to be influenced in the examination of cases.
- (3) If a magistrate does not comply with his/her obligations, s/he shall be held liable under this law.

### **Article 16. Judicial Clothing**

- (1) During court hearings the judge is obliged to wear the apparel as provided for by law.
- (2) State provides judges with free judicial clothing.

## **Chapter V GUARANTEEING JUDICIAL INDEPENDENCE**

### **Article 17. Judicial Independence Enforcement**

- Judicial independence is enforced by the following:
- a) procedure of justice administration;
  - b) procedure of appointment, suspension, resignation and dismissal;
  - c) inviolability;
  - d) secret of deliberations and prohibition on requests to disclose it;
  - e) establishing liability for lack of respect for court, judges and for interference with a court trial;
  - f) allocation of adequate resources for operation of judiciary, creation of organizational and technical conditions that are favourable for the activity of courts;
  - g) ensuring judges' material and social welfare;
  - h) other measures under the law.

### **Article 18. Judge's Immovability**

- (1) A court judge is immovable within his/her term of office, except for cases provided by art. 25.
- (2) Judicial powers may be suspended on the basis and in the way provided for by this law.

**Article 19.** The Inviolability of Judges

(1) The personality of judge shall be inviolable.

(2) The inviolability of a judge shall be extended to his/her dwelling place and workplace, vehicles and telecommunication means, which s/he uses, his/her correspondence, goods and personal documents.

(3) Judge shall not be held liable for his/her opinions expressed in justice making and for judgments s/he passed unless s/he is found guilty of criminal abuse by a final sentence.

(4) A judge may be subject to criminal prosecution only by the Prosecutor General with the consent of the Superior Council of Magistracy, under the Criminal Procedure Code. If the judge commits offenses specified in art.324 and 326 of the Criminal Code of the Republic of Moldova, the SCM consent to initiate criminal investigation is not necessary.

(5) A judge shall not be detained, brought by force, arrested, searched without the consent of the Superior Council of Magistracy. The SCM consent is not required in case of flagrant offenses and in case of offenses specified in art.324 and 326 of the Criminal Code of the Republic of Moldova.

**Article 20.** Judge's Career

(1) Career of judges means promotion to judge office in a higher court, appointment as court chair or deputy chair and transferring him/her to a court of the same level or a lower court.

(2) Promotion to the position of judge in a higher court, appointment as court chair or deputy chair and transferring him/her to a court of the same level or a lower court shall be preceded by performance evaluation of the judge under article 13 of this law, Law no. 154 of 5 July 2012 on selection, performance appraisal and career of judges and regulations of the Superior Council of Magistracy.

(3) Judges may request transfer to a court of the same level after the expiry of 5 years from the appointment, and judges who hold the office of court chair or deputy chair may require transfer to a court of the same level or to a lower court after the expiry of their terms of office or revocation.

(4) Promotion to the judge office in a higher court, appointment as court chair or deputy chair and transfer to a court of the same level or a lower court shall be made only with the consent of him/her, upon the proposal of the Superior Council of Magistracy, by the President of the Republic of Moldova or, where appropriate, by Parliament.

(5) In case of reorganization or dissolution of the court, the judge shall be transferred, with his/her consent, under law, to another court. If s/he refuses the transfer to another court, the judge has the right to resign under Article 26.

(6) The judge is considered as being promoted to judge office in a superior court, shall be considered appointed as court chair or deputy chair or shall be considered transferred to a court of the same level or a lower court on the date of publication of the decree of Moldovan President or of the respective decision of Parliament.

(7) A judge who has been subjected to disciplinary sanction or who has been granted the qualificative "insufficient" as result of performance evaluation can not be promoted to a higher court judge, can not be appointed as court chair or deputy chair, can not be transferred to another court, can not be elected as a member of the Superior Council of Magistracy and of the boards or of subordinated bodies during one year from the date of adopting the decision on sanctions.

**Article 20<sup>1</sup>.** Judge's transfer for a limited period of time to other courts

(1) If the courts can not operate normally due to the reasons of health inability of judges to exercise the duties for 6 months, due to the existence of vacancies, due to high workload of the court or due to other similar reasons, the court chair may request the Superior Council of Magistracy a transfer of judges from other courts for a limited term.

(2) Limited term transfer of judges from other courts in cases specified in par. (1) shall be admitted with their written consent, by the decision of the Superior Council of Magistracy. A judge shall be considered transferred for a limited term only after the publication of the SCM decision in the Official Gazette of the Republic of Moldova.

(3) Transfer of judges for a limited period of time may be done for a period of maximum 6 months, which may be extended, with their written consent, by additional 6 months.

(4) Once the limited term transfer is expired, or the situations that served as the basis for judge's transfer to another court are over, s/he returns to the court where worked permanently.

(5) During the limited term transfer to other courts, judges benefit of all rights provided by law for the position in which they are transferred. In case the salary provided for the position to which s/he was transferred is smaller, the judge shall receive the salary established for the previously held position.

**Article 20<sup>2</sup>.** Lists of judges seeking promotion to a higher court, appointment as court chair or deputy chair or transfer to another court of the same level or a lower court

(1) The judges seeking promotion to a higher court, appointment as court chair or deputy chair or transfer to another court of the same level or a lower court shall be included in the lists specified in art. 6<sup>2</sup> para. (2) let.b)-d), which are integral parts of the Register.

(2) Information regarding the persons included in the Register shall be submitted to the Secretariat of the Superior Council of Magistracy, Board for Selection and Career of Judges and the Superior Council of Magistracy.

## **Chapter VI MAGISTRATES' DISCIPLINARY LIABILITY**

### **Article 21.** Magistrates' Disciplinary Liability

Magistrates shall be subject to disciplinary liability for violating the obligations provided by art.15, for behaviour that damages the interest of judicial office and judicial prestige, as well as for disciplinary deviations specified in art.22

### **Article 21<sup>1</sup>.** Pecuniary liability of judges

*[Art.21<sup>1</sup> was excluded by Law no.153 of 05.07.2012, in force since 31.08.2012]*

### **Article 22.** Misconduct

(1) The following shall be considered as misconduct:

- a) breach of the duty of impartiality;
- b) uneven application of the law, intentionally or due to gross negligence, if this was found by superior court and led to the quashing the defected judgment;
- c) interference with the activity of another judge or any other interventions with authorities, institutions or officials to address specific requests, requesting or accepting solving personal interests or interests of family members other than within the legal provisions in force;

- d) failure to keep the secrecy of deliberations or confidentiality of works that have such a nature;
- e) public political activities;
- f) failure to comply with provisions on random distribution of cases;
- f<sup>1</sup>) violation, for attributable reasons, of the timeline required for examination of cases under consideration, or violation of the mandatory legislative norms;
- g) violation of legal provisions concerning the obligation of filing declaration of income and property and declaration of personal interests;
- h) unjustified refusal to perform a duty task;
- h<sup>1</sup>) violation of the time-frame of writing the judgments and of submitting their copies to participants in the process;
- i) unexcused absences from office, being late or departure before the working program;
- j) undignified attitude in the exercise of duties towards colleagues, lawyers, experts, witnesses or other participants in the process;
- k) breach of the Code of Judicial Ethics;
- l) failure to observe by the court chair of the obligation to report to the Superior Council of Magistracy about misconduct of judges;
- m) exploiting the position of judge in order to obtain undue benefits;
- n) violation of the provisions relating to incompatibilities and prohibitions concerning judges;
- o) public disclosure of agreement or disagreement with the decision of colleagues in order to interfere with their work.

(2) Repeal or modification of a judicial decision do not imply liability, if judge who has issued it did not break the law on purpose. Exceptions are the cases when the law has been infringed by negligence, which consequently led to substantial material and moral damages.

### **Article 23. Disciplinary Sanctions**

(1) Depending upon the gravity of deviations, disciplinary sanctions shall be the following:

- a) warning;
- b) reprimand;
- c) severe reprimand;
- [Letter d) was excluded by Law no. 153 of 05.07.2012, in force since 31.08.2012]*
- e) dismissal;
- f) dismissal from the office of court chair or deputy chair.

(2) Dismissal shall be applied when a judge commits a misconduct that harms the interests and prestige of justice, when disciplinary offenses specified in Article 22 are committed repeatedly, and when within the performance evaluation an obvious his/her unsuitability to the held position was found.

(3) If, for unfounded reasons the courts' chairs (deputy chairs) do not fulfil the obligations laid down in Article 16<sup>1</sup> of Law 514-XIII of July 6, 1995 on judicial organization, have committed a misconduct specified in Article 22 par. (1), letter l) of this law or failed performance evaluation, they are dismissed from the position of leading the court.

(4) A disciplinary sanction shall be applied within a 6-month term from the date of identifying the misconduct, but no later than one year from the date it has been committed. If a final decision of a national or international court finds that a judge committed misconduct, the

disciplinary sanction shall be applied within one year from the date when the domestic or international court's decision became final.

## **Chapter VII**

### **JUDGE'S SUSPENSION, DETACHMENT AND REMOVAL FROM POSITION**

#### **Article 24.** Suspension from position

(1) Judge may be suspended from position by decision of the Superior Council of Magistracy, if:

a) criminal prosecution was initiated against him/her until the decision on that case remains final;

b) judge is found missing by final court decision;

c) judge participates in electoral campaign as a candidate for public authority or local public administrative authority;

d) judge is given a maternity and parental leave for up to 3 years;

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

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

(4) In the case referred to in para. (1) let. a), if the judge's guilt was to proven or a decision was issued of acquittal or termination of criminal prosecution, the suspension from position shall be stopped and the judge is restored in all his/her previous rights.

(5) In the cases under par. (1) let. c) and d), at the expiration of the timeline for which the judge was suspended from office, s/he shall be granted the position of judge that s/he held before suspension or, on judge's consent, is given another equivalent judge position.

(6) Decision on suspension of a judge may be appealed with the Supreme Court of Justice under the law.

#### **Article 24<sup>1</sup>.** Detachment of a Judge

*[Para. (1) was excluded by Law no. 153 art.241 of 05.07.2012, in force since 31.08.2012]*

(2) Judge may be detached from position upon his/her consent by the Superior Council of Magistracy in order to exercise a position in the Secretariat of the Superior Council of Magistracy or of the Ministry of Justice, for a period of up to 18 months which may be extended by maximum 18 months. To ensure the activity of the Superior Council of Magistrates, judges elected as members of the council and in the position of inspector-judge in judicial inspection shall be detached from office for the whole term of office.

*[Para. (3) was excluded by Law no. 153 art.241 of 05.07.2012, in force since 31.08.2012]*

(4) If the judge is detached to the Superior Council of Magistracy, his/her salary is set at the level of the salary of judges in the Supreme Court of Justice. When the judge is detached to the judicial inspectorate, within the SCM Secretariat or in the National Institute of Justice, s/he shall be given the average salary for the entire previous period of activity.

(5) The detached judge shall maintain the status of judge, and period of activities in institutions provided for by paragraph (2) shall be included in his/her length of experience as

judge.

(6) Upon expiry of the term for which judge has been detached from position, by a decision of the Superior Council of Magistracy, s/he shall be conferred the prior position of judge that s/he used to hold before detachment or, with his/her consent, s/he shall be assigned to another equivalent judge office.

**Article 25. Dismissal of judge**

(1) The judge shall be dismissed by the body that appointed him/her in the following cases:

a) filing the request for resignation;  
b) finding an obvious unsuitability to the position held as a result of performance evaluation;

*[let. c) was excluded by Law no. 153 of 05.07.2012, in force since 31.08.2012]*

d) transfer to another position in the law;

*[Letter e) was excluded by Law no. 153 of 05.07.2012, in force since 31.08.2012]*

f) committing a disciplinary offense specified in Article 22 para. (1);  
g) delivery of the final judgment of his/her conviction;  
h) loss of Moldovan citizenship;  
i) infringement of art. 8;  
j) finding of incapacity to work, as evidenced by a medical certificate;  
k) expiration powers due to non-appointment of judge until age-limit, as well as for the reason of his/her attaining the age-limit;  
l) finding, by final court decision, the restricted capacity to act or incapacity to act.

(2) Proposal to remove the judge from position shall be submitted by the Superior Council of Magistracy to the President of the Republic of Moldova or, if necessary, to Parliament.

(3) Manner to remove a judge from his/her position and manner to appeal the decision of removal shall be established by law.

(3<sup>1</sup>) Dismissal of judge based on grounds specified in par. (1) let. b), f), g) and i) entails his/her deprivation of the right to single dismissal allowance provided for in Article 26 par. (3) and of the pension under article 32. Judges covered by this paragraph shall be entitled to age-limit pension under the general conditions laid down by Law no. 156-XIV of 14 October 1998 on State Social Insurance Pensions.

(4) If the decision to remove the judge from his/her position is cancelled then the respective judge shall be reinstated, as provided by law, with all his/her former rights including financial rights that s/he has been deprived of.

(5) In case of a judge's death, the Superior Council of Magistracy shall declare position as vacant.

**Article 26. Judge's Resignation**

(1) The judge's resignation is considered his/her honourable departure from office if, when being in office and out of duty, s/he did not commit any acts discrediting or undermining the justice or compromising the honour and dignity of judge.

(2) The judge has the right to resign by filing a resignation request, including the case of reorganization or dissolution of court.

(3) The resigned or retired judge shall be entitled to a single dismissal allowance equal to

the product of multiplying his average monthly salary by the number of complete years working as a judge. At the same time, the calculation of single dismissal allowance for resigned judge and returned to position shall take into account the time of activity as a judge since the date of termination of the last resignation.

(4) The resigned judge is entitled to seniority pension or a lifetime monthly allowance under this law.

(5) If judge who resigned has worked in judicial position for at least 20 years, then he/she shall be entitled to a monthly life 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 to more – of 100 % of the average salary paid for the respective judicial position, and the indexation of the salary shall also be taken into account.

(6) The judge is considered as resigned one as long as s/he complies with Article 8, retains citizenship of Moldova does not commit acts discrediting the justice or compromising the honour and dignity of judge.

(7) If it is found that the resigned judge does not meet the requirements of this law, the Superior Council of Magistracy suspends judge's resignation, and s/he shall be entitled to appeal the suspension decision with the court within 10 days from receiving the copy of the decision.

(8) The resignation of judge shall be suspended also if s/he is repeatedly appointed in the position of judge.

#### **Article 26<sup>1</sup>. Maintaining Judicial Powers**

The powers of judge who was transferred, detached, suspended when s/he was examining a criminal or civil case in termination phase, shall be maintained until the conclusion of the examination of the respective case.

### **Chapter VIII STATE PROTECTION OF JUDGE. HIS/HER MATERIAL AND SOCIAL SAFEGUARDS**

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

(1) Judge, his/her family members and their property are under state protection. Upon the request of judge or of the court chair, the law enforcement bodies are 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 judge's life and health, destroying or damaging his/her goods, threatening him/her with death, violence, or with 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. The judge has the right to be provided with defensive means by internal affairs bodies.

#### **Article 28. Remuneration of Judge**

(1) Court judges are remunerated under the conditions and as prescribed by Law no. 355-XVI of 23 December 2005 on the salary system in the public sector.

(2) Remuneration and other entitlements for military and civil personnel of military courts shall be provided by the Ministry of Defense, in accordance with the legislation in force and with regulations relating to substantive rights that active military personnel benefit of. For officers

from among military judges who have worked without interruption in court, in the investigation and prosecution bodies or who were elected in state bodies the length of experience in these courts is included in the length of military service and is calculated in accordance with legislation concerning the military personnel.

**Article 29.** Judge's annual leave

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

(2) If judge's length of experience in public position is up to 5 years, his/her annual leave shall be increased by 2 workdays; if between 5 to 10 years – by 5 workdays; between 10 to 15 years – by 10 workdays; for more than 15 years – by 15 workdays.

(3) Annual leave is granted by the respective court chair, according to annual leaves program approved by court chair. Annual leave to court chair and deputy chair is granted by the Superior Council of Magistracy.

(4) Annual leave shall be granted to a judge of the Supreme Court of Justice in accordance with the approved program, at least two weeks before the end of each calendar year, by the Plenum of the Supreme Court of Justice. Annual leave to the President of the Supreme Court of Justice is granted by a decision of the Plenum of the Supreme Court of Justice. Annual leave to the boards' chairs and deputy chairs, to Supreme Court' judges is granted by the President of the Supreme Court of Justice.

(5) A judge may be recalled from annual leave only with his/her written consent and only in unforeseen situations that require his/her presence at work. In this case, the judge is not obliged to refund the allowance for unused vacation days. Recall from leave shall be made in the order prescribed in granting the leave. In the absence of the chairperson of the court, court of appeal or the Supreme Court, including the interim case, the recall from leave is made, where appropriate, by the Superior Council of Magistracy or the Plenum of the Supreme Court.

**Article 30.** Providing the judge with housing

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

**Article 31.** Other Social safeguards

The judge and his/her family members shall benefit of free medical care at minimum necessary level and of other social safeguards provided by law.

**Article 32.** Providing with Pension

The judge is entitled to pension under the Law on State Social Insurance Pensions.

*Note: Article 32 is declared unconstitutional under Decision of the Constitutional Court no. 27 of 20.12.2011, in force since 20.12.2011*

**Article 32<sup>1</sup>.** Bodies establishing and paying the monthly life allowances

(1) The monthly life allowances are established and paid by social security bodies.

(2) Social security bodies have the right to control the authenticity of documents confirming the length of experience and the insured income, issued by the competent authorities.

*Note: Name and par. 1 of Art.32<sup>1</sup> are declared unconstitutional under Decision of the Constitutional Court no. 27 of 20.12.2011, in force since 20.12.2011*

**Article 32<sup>2</sup>.** Funding source for monthly life allowances



Expenses for paying the monthly life allowances are borne as follows: 50% of the amount set - from the state social insurance budget, and 50% - from the state budget.

*Note: Art.32<sup>2</sup> is declared unconstitutional under Decision of the Constitutional Court no. 27 of 20.12.2011, in force since 20.12.2011*

**Article. 33. State Insurance and Compensation Payments**

(1) Judge's life, health and goods shall be subject to obligatory state insurance from state budget. The obligatory state insurance of judge's life and health shall be equal to the amount of money for his/her maintenance for 15 years at the last place of work

(2) Insurance shall be paid in case of:

a) violent death or demise of acting 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 allowance equal to the number resulting from multiplying the dead judge's annual average salary by completed years s/he did not survive till reaching the age-limit, but not 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 allowance equal to the maintenance amount of money s/he receives 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 exclude the possibility to continue the professional activity – in form of a monthly compensation equal to maintenance amount of money s/he 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 s/he used to support, in form of monthly allowance equal to the difference between their part of defunct judge's salary s/he used to receive and pension established upon the loss of the family's supporter, without taking into account the single aid.

*Note: Law no.56 of 09.06.2011 (article II) is declared unconstitutional under Decision of the Constitutional Court no. 27 of 20.12.2011, in force since 20.12.2011*

*[Para. (3) of Article 33 was excluded by Law no.56 of 09.06.2011, in force since 01.07.2011]*

(4) In case of demise of a resigned or retired judge, his/her family or the person who proves that s/he incurred costs of death shall be paid with a demise aid equal to the amount established annually by the law on state social insurance.

**Article 34. Judge's Identity Card**

(1) Judge shall receive an identity card of a type approved by the President of the Republic of Moldova or, if necessary, by Parliament.

(2) Judge's identity card shall serve as an identity document on the entire territory of the republic.

**Chapter X  
FINAL AND TRANSITORY PROVISIONS**

**Article I. Entering into force**

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

**Article II. Bringing the legislation in compliance with this Law**

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

**Article III. Transitory provisions**

(1) It shall be considered that chairmen, vice chairmen and judges from district, municipal (sector) courts, who are acting on the date this law is passed, meet all the requirements provided for these positions and are irremovable during the term they have been appointed for.

(2) The provisions of this law that are related to compensations shall be extended to retired judges or judges who were removed from position upon the expiry of their powers, if the respective judges worked in judicial position for no less than 15 years.

(3) Judges who retired from position, irrelevant of the date of retirement, shall fall into the limits of art. 26 and art. 32.

(4). Persons specified in paragraph (3) shall be granted with monthly life allowance under conditions of art. art.26 and 32<sup>2</sup>.

*Note: Paragraph 4 of Article III is declared unconstitutional under Decision of the Constitutional Court no. 27 of 20.12.2011, in force since 20.12.2011*

**Article IV. Status of personnel**

(1) The Supreme Court of Justice' judges transferred on grounds of job-related interests, under conditions provided for by this law, to positions with a lower remuneration, shall be provided with the previous salary, bonuses and supplements.

(2) Civil servants from the Secretariat of the Superior Court of Justice transferred on grounds of job-related interests to positions with lower remuneration shall be provided with the previous salary during for 3 months.

**Article V. Duties of the Superior Council of Magistracy**

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

**Article VI. Duties of the Government**

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

Speaker of Parliament

Petru Lucinschi

Chisinau, July 20, 1995

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