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**LAW OF THE REPUBLIC OF MOLDOVA ON THE SUPERIOR COUNCIL  
OF MAGISTRACY**

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## Chapter I GENERAL PROVISIONS

### **Article 1. Superior Council of Magistracy - Judicial Self-Administration Body**

- (1) Superior Council of Magistracy is an independent body, created in view of organization and functioning of the judicial system, and is the guarantee of the judicial authority's independence.
- (2) Superior Council of Magistracy shall exercise the judicial self-administration.

### **Article 2. Legal Framework**

Manner in which the Superior Council of Magistracy is organized and functions shall be regulated by the Constitution, by laws on the organization of the judiciary, on the status of judge, by this law and other normative acts.

### **Article 3. Composition**

- (1) The Superior Council of Magistracy shall be made up of 12 magistrates.
- (2) The members of the Superior Council of Magistracy are judges, full law professors, as well as Minister of Justice, President of the Supreme Court of Justice, General Prosecutor, being members ex officio.
- (3) Three members of the Superior Council of Magistracy from among titular professors in law, selected in an open and transparent way by the Parliament's Committee for Immunities and Appointments, following a public contest, shall be selected by the Parliament by majority votes of the deputies.  
*[Art.3 para. (3) as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*
- (4) Six members from among judges, including two alternates, are elected for the Superior Council of Magistracy, by secret ballot, by the General Assembly of Judges, representing all levels of courts. Elected members and alternate members of the Superior Council of Magistrates are considered those judges who have accumulated more than half the votes of those present at the meeting, according to decreasing order of votes obtained.
- (5) In order to ensure the activity of the Superior Council of Magistrates, judges elected by the General Assembly of Judges, are detached during his/her mandate as a member of the Council.
- (6) The members of the Superior Council of Magistracy, except for members ex officio members cannot be engaged in any gainful activity except the didactic and scientific ones.
- (7) At the election as a member of the Superior Council of Magistracy, the persons who occupy administrative positions, within 30 days from the election date, shall apply for suspension from the administrative work during the mandate term at the Superior Council of Magistracy.

*(Article 3 amended by Law No 280 of 21.11.2013 in force 06.12.2013)*

### **Article 4. Competence of the Superior Council of Magistracy:**

- (1) To exercise its functions, the Superior Council of Magistracy shall have the following competences related to career judges:
  - a) submits proposals to the President of the Republic of Moldova or to Parliament on appointment, promotion to a higher level court, transfer to a same level or lower court,

appointment of presidents or deputy presidents of courts, removal from position of judges, presidents or deputy presidents of courts; b) takes the oath of judges;

- c) approves the regulations on criteria and procedures of selection of candidates judges, for promotion of judges to a higher level court, appointment of presidents or deputy presidents or transfer of judges to a same level or lower court;
- d) approves the rules of the competition for filling vacancies of judges, president or deputy president of the court and shall organize and carry on such a competition;
- e) ensures the temporary posting of president or vice president of the court, the Court of Appeal or the Supreme Court of Justice, in case of vacancy or their suspension from office, until the vacancy is filled or the suspension is cancelled; f) applies incentive-related measure to judges;

- g) appoints members of the board responsible for selection and career of judges and performance evaluation board, within its competence;

2) To exercise its functions, the Superior Council of Magistracy shall have the following competences in the field of initial and continuous training of judges and court's Secretariat staff:

- a) appoints judges to the Council of the National Institute of Judges;
- b) approves the strategy on initial and continuous training of judges, presents its opinion on the action plan for its implementation;
- c) considers and submits its opinion on the rules for organizing the contest for admission to National Institute of Justice, on training programs and curricula for initial and continuous training in the Institute, the rules of contest organization for teaching positions, and the composition of admission and graduation committees of the National Institute of Justice;
- c<sup>2</sup>) delegates judges to participate at seminars, conferences, training courses and business trips;
- d) submit annually, by 31 March, to the National Institute of Justice the proposals regarding the number of places to be taken to the admission contest for the initial training of the candidates for the position of judge in the following year.
- e) examines the appeals filed against the decisions (opinions) by the Selection and Career Board and Qualification Board;

(3) To exercise its functions, the Superior Council of Magistracy shall have the following competences in respect to discipline and ethics of judges:

- a) examines citizens' petitions on the issues related to judicial ethics;
- b) examines the appeals filed against the decisions (opinions) by the Disciplinary Board;
- c) based on the decision of the Disciplinary Board, submits to the President of Moldova or, where appropriate, to the Parliament, a proposal on the dismissal of a president or vice president of a court or on the dismissal of a judge;

(letter d) repealed by Law no. 107 of 28.05.2015, in force 26.06.2015)

- e) asks competent bodies information with regard to judges' revenues and property declarations; -repealed
- f) asks fiscal bodies to check the veracity of judges' family revenue declarations; -repealed
- g) places on internet web page judges' revenues and property declarations, keeping them for the entire year. - repealed

*[Art.3 para. (3), let. g) as amended by Law no. 137 of 27.09.18, in force since 19.10.18*

(4) To exercise its functions, the Superior Council of Magistracy shall have the following competences in the administration of courts:

- a) examine the information provided by the Ministry of Justice on the manner in which organizational, material and financial needs of the courts are met.
- b) approves the Regulation on the random distribution of cases for review in the courts, which ensures transparency, objectivity and impartiality of the process;
- c) examines, confirms and proposes the draft budget of courts, as provided for by the law;
- d) submits annually, no later than April 1st, to Parliament and the President of the Republic of Moldova, a report on the manner in which the courts were organized and functioned during the previous year;
- d<sup>1</sup>) collaborates with civil society and media to inform the public about the activity of the Superior Council of Magistracy and the courts;  
*[Art.3 para.(4), let.d<sup>1</sup>) as amended by Law no. 137 of 27.09.18, in force since 19.10.18 ]*
- e) approves the structure of the apparatus of the Superior Council of Magistracy, promotes, transfers and dismisses employees, applying to them measures of encouragement and disciplinary sanctions;
- f) grants annual leaves to presidents and deputy presidents of the courts;

(5) In order to perform its functions, the Superior Council of Magistracy may have other competences under the law.

(6) For the proper achievement of its functions, the Superior Council of Magistracy shall approve laws for the enforcement of provisions of the law on organization and functioning of the judiciary.

(7) The Superior Council of Magistracy shall draft and maintain personal records of courts' judges.

*(Art. 4 amended by Law no.107 of 28.05.2015, in force 26.06.2015)*

#### **Article 5. President**

(1) The President of the Superior Council of Magistracy shall be elected by secret vote, for the duration of the mandate, by majority vote of members of the Council and is carrying out his/her activities on a permanent basis.

(2) During the absence of the President, his/her functions shall be exercised by a member of the Council, who shall be appointed by a decision by the Superior Council of Magistracy.

(3) The function of the president of the Superior Council of Magistracy cannot be held or exercised by the ex officio members as specified in Art. 3 paragraph (2) of the present law.

#### **Article 6. President's Duties**

The President of the Superior Council of Magistracy shall:

- a) convene and chair the sessions of the Council;
- b) coordinate the activity of the Council and distribute materials to be examined, appoints a rapporteur for presenting the materials to be examined;
- c) represent the Council before domestic and foreign public authorities;
- d) organize and implement the system of financial management and internal control and have the managerial responsibility of the institution budget management along with the public patrimony in management.

e) exercise other responsibilities under law.

### **Articolul 7. The Specialized Bodies**

*[Art.7 as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*

(1) Within the Superior Council of Magistracy there shall function:

- a) Board for Selection and Career of Judges;
- b) Board for Performance Evaluation of Judges;
- c) The Disciplinary Board;
- d) The Judicial Inspection

(2) The competence, organization and functioning of the Boards shall be established by law and by regulations approved by the Superior Council of Magistracy.

### **Article 7<sup>1</sup>. Judicial Inspection**

(1) The Judicial Inspection is an independent body, consisting of 7 judges-inspectors, with functional autonomy.

*[Art.7<sup>1</sup> para.(1) as amended by Law no. 137 of 27.09.18, in force since 01.01.19]*

(2) The duration of mandate of an inspector-judge is 6 years. The inspector-judge may only be appointed for one mandate.

*[Art.7<sup>1</sup> para.(2) as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*

(3) The person who holds bachelor's degree in law or its equivalent, with experience in legal specialty for at least 7 years and an irreproachable reputation under the terms of Article 6 para. (4) of Law No. 544-XIII of 20 July 1995 on the status of judges, and who has not served as a judge during the last 3 years, may be appointed as inspecting judge. The candidate who accumulated more than half of the votes of the members of Superior Council of Magistracy shall be considered as elected.

*[Art.7<sup>1</sup> para. (3) as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*

(4) The Judicial Inspection is headed by a Senior Inspecting Judge appointed by the Superior Council of Magistracy, for the duration of the mandate, selected from among inspecting judges.

*[Art.7<sup>1</sup> para. (4) as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*

(4<sup>1</sup>) The salary of the inspector-judge and of the superior judge-inspector is established according to the ~~Law no. 328/2013 on the remuneration of judges and prosecutors and Law no. 355/2005 on the salary system in the budgetary sector~~ the legislation regarding the uniform system of remuneration in the budgetary sector.

*(Art.7<sup>1</sup> para.(4<sup>1</sup>) amended by Law no. 271 from 23.11.18, in force since 01.12.18)*

(5) In performing his/her duties, the inspecting judge enjoys inviolability under article 19 of the Law on the Status of Judges.

(6) The Judicial Inspection has the following competences:

- a) verifies the organizational activity of the courts in the administration of justice;
- a<sup>1</sup>) verify the accuracy of the random distribution of cases for examination in court;

*[Art.7<sup>1</sup> para.(6), let. a<sup>1</sup>) as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*

- b) examines petitions of citizens on issues related to judicial ethics, addressed to the Council of Magistrates, demanding compulsory written explanation from the judge concerned in the petition;
  - b<sup>1</sup>) verifies complaints regarding acts that may constitute disciplinary offenses;
  - c) checks acts representing the Superior Judicial Council's agreement on initiating criminal proceedings against a judge;
  - d) studies the grounds for refusal by the President of Moldova or the Parliament the candidate, proposed by the Superior Council of Magistracy for the appointment as judge or for the appointment of vice-president or president of the court, presenting an informative note from the Superior Council of Magistrates.
- (7) The Superior Council of Magistrates ensures the technical and material basis in the activity of the judicial inspection, in accordance with the budget law. *(Art.7<sup>1</sup> completed by Law no.107 of 28.05.2015, in force 26.06.2015)*

## **Article 7<sup>2</sup>. Verification of the Organizational Activity of the Courts in the Administration of Justice**

- (1) The organizational activity of the courts in the administration of justice shall be verified in order to ensure:
- a) the rapidity of the process;
  - b) transparency in the administration of justice and openness to society;
  - c) the efficiency of courts, judges and court personnel;
  - d) compliance with the Code of Ethics of judges;
  - e) high professional conduct of the judicial staff;
  - f) continuous improvement of performance of judges and court staff.
- (2) The organizational activity of the courts in the administration of justice shall be verified in two forms:
- a) ordinary control - to discuss a specific case or a distinct field;
  - b) complex control - to examine the entire activity of justice administration. (3) ordinary and complex controls shall be of planned or unplanned character.
- (4) With the view to conducting planned inspections of the organizational activity of the courts annual plans for verifying the courts shall be developed and approved.
- (5) Planned complex controls of the organizational activity of each court shall be conducted at least once every 3 years, as provided of by this Article.
- (6) After the controls, but not later than one month from the date of conclusion, a verification act shall be drafted, which is presented for information to the court under control, which is authorized to submit comments and objections on the respective verification act.
- (7) The final verification act of control shall be made within 10 working days from the date of objections submission or the last date for their submission and shall be published on the website of the Superior Council of Magistracy.
- (8) Subjects, who do not agree with the results of the control, within 10 working days from the date of their presentation for information, have the right to submit in writing their objections to the Superior Council of Magistracy. In such case, the results of the control will be examined at the meeting of the Superior Council of Magistracy.
- (9) The volume, methods, grounds and procedure for verification of the organizational activity of courts are approved by the Superior Council of Magistracy.

## **Article 8. Relations with Other Authorities**

- (1) In relations with the public authorities, the Superior Council of Magistracy shall be independent, and base its activity only upon the Constitution and other laws.
- (2) The Superior Council of Magistracy may notify Parliament, the President of the Republic of Moldova and the Government in relation to any issues, which under law, are related to its competence.
- (3) The Superior Council of Magistrates shall keep relations with similar bodies from other countries as for the issue of functioning and administration of justice.

## **Article 8<sup>1</sup> Transparency of the Superior Council of Magistracy's Activity**

- (1) The Superior Council of Magistracy's activity is transparent and is ensured by providing access to the society and the media to information on Council's activities.
- (2) The meetings of the Superior Council of Magistracy shall be public, except for cases when, upon reasoned request of the President or of at least three members of the Council, it is deciding that the meetings shall be closed in order to protect the information constituting state secret or where, due to special circumstances, public character may prejudice the interests of justice or could affect the privacy of individuals. The reasoned decision on the declaration of the closed session shall be adopted by the majority vote of the present members.

*[Art.8<sup>1</sup> para.(2) as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*

- (3) The Superior Council of Magistracy shall create conditions and shall take the necessary measures to ensure the participation of media representatives and interested persons to attend its meetings.
- (4) The Superior Council of Magistracy's meeting agenda, the draft resolutions and additional materials to be submitted for examination, shall be placed on the website of the Council at least three days before the meeting in the part that not containing information.

*[Art.8<sup>1</sup> para. (4) as amended by Law no. 137 of 27.09.18, in force since 19.10.18 ]*

- (5) The Superior Council of Magistracy's meetings are recorded through the use of video and audio and registered in the minutes, which are placed on the website of the Council. (6) The regulations approved by the Superior Council of Magistracy and announcements on launching of competitions for judicial positions are published in the Official Gazette of the Republic of Moldova.

- (7) Decisions of the Superior Council of Magistracy and its specialized bodies, including the decisions adopted within the closed meetings, individual opinions of members of the Council, as well as Council's annual reports are published on the website of the Superior Council of Magistracy. Decisions of the Superior Council of Magistracy by which he expresses his consent or disagreement for the commencement of the criminal prosecution under Art. 19 para. (4) of the Law no. 544/1995 on the statute of the judge shall be published on the official website of the Superior Council of Magistracy, with the anonymization of data on the identity of the judge.

*[Art.8<sup>1</sup> para. (7) as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*

## **Chapter II THE STATUS OF MEMBER OF THE SUPERIOR COUNCIL OF**



## MAGISTRACY

### Article 9. Duration of Mandate

(1) The duration of mandate of member of the Superior Council of Magistracy shall be of 4 years. The members of the Superior Council of Magistracy can not be elected for two consecutive mandates.

*[Art.9 para. (1) as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*

(2) Members who were appointed *ex officio* to the Council shall not fall under the terms of paragraph (1).

### Article 10. Rights

Member of the Superior Council of Magistracy shall be entitled to:

- a) take knowledge of the materials presented to the Council for examination;
- b) participate in examining them;
- c) file requests, express his/her arguments and present additional materials;
- d) ask courts, Ministry of Justice, other institutions and organizations for information and documents that are necessary to exercise his/her responsibilities;
- e) propose issues that are related to the competence of the Council to be discussed within Council's session;
- f) participate by vote in passing decisions and express, as the case may be, a separate opinion;
- g) enjoy other rights under law.

### Article 11. Obligations

(1) Member of the Superior Council of Magistrates shall be obliged to:

- a) exercise his/her responsibilities according to law;
- b) enforce magistrates' rights and liberties, their honor and dignity, as specified by law;
- c) contribute to the promotion of the principle of the judicial authority's independence;
- d) keep the secret of deliberations and confidentiality of his/her work;
- e) vote *pro* or against in the process of adopting decisions;
- f) to submit, under the law, the declaration of assets and personal interests;
- g) comply with the legal provisions on conflict of interest and the legal status of incompatibilities and prohibitions.

(2) Members of the Superior Council of Magistracy from among the full professors are obliged to comply with the restrictions specified in article 8 of the Law on the Status of Judges.

### Article 12. Cessation of Mandate

(1) Mandate of member of the Superior Council of Magistracy shall cease in case of: a) expiry;

- b) resignation;
- c) personal request;
- d) withdrawal of mandate, transfer to another job, removal from position; e) demise.

(2) The withdrawal of mandate of member of the Superior Council of Magistracy shall be performed:

a) in case the finding that established the issuance/adoption of the conclusion by him/her of an administrative or the conclusion directly or through a third person of a legal act, taking or participating in a decision in violation of the legal provisions on the conflict of interests becomes final;

b) at the proposal of the Council, in case of ill-founded non-fulfillment of the obligations of member as established by the present law, as well as for violation of the restrictions specified in Art.8 of the Law no.544-XIII of July 20 1995 on the Status of Judges.

b<sup>1</sup>) in case of the person failing to submit the declaration of his or her personal assets and interests or refusal to submit it, in accordance with Art. 27 par. (8) of the Law no. 132 of 17 June 2016 on the National Integrity Authority;

b<sup>2</sup>) in case of a court order by an irrevocable decision to confiscate unjustified wealth;

c) at the proposal of the Council, in the case of non-fulfillment without good reasons of the membership obligations established by the present law, as well as in case of violation of the incompatibilities and prohibitions specified in art. 8 of the Law no. 544-XIII of 20 July 1995 on the status of judge.

(3) The withdrawal of the mandate of member of the Superior Council of Magistracy shall be performed by the body that has elected the person to this position.

#### **Article 13. Completion of Vacancy**

(1) In case the mandate of member of the Superior Council of Magistracy ceased, the election or appointment of a new member shall be performed within a 30-day term from the date of vacancy, under the procedure of election or appointment of the member.

(2) In case of vacancy appearance for the position of member of the Superior Council of Magistracy from among full professors of law, the vacancy shall be filled pursuant to the same procedure as for the appointment.

#### **Article 14. Identity Card**

Member of the Superior Council of Magistracy shall receive an identity card of a model approved by Parliament.

### **Chapter III ORGANIZATION OF THE ACTIVITY OF THE SUPERIOR COUNCIL OF MAGISTRATES**

#### **Article 15. Sessions**

(1) The Superior Council of Magistrates, as a corporative body, shall exercise its attributions in plenary sessions.

(2) The sessions of the Superior Council of Magistracy shall be deliberative if at least two thirds of its members attend them.

*(Para.(3) Article 15 of 05.07.2012 no.153 excluded by law, in force 31.08.2012)*

(4) The individuals whose problems are being examined shall be obligatorily summoned to the session of the Superior Council of Magistracy.

#### **Article 16. Convocation**

(1) Convocation of session of the Superior Council of Magistracy shall be performed at the initiative of the President of the Superior Council of Magistracy.

(2) The Superior Council of Magistracy may also be convened at the initiative of at least 3 of the Council's members.

(3) The members of the Superior Council of Magistracy shall be informed about the date, hour, place and agenda of the session no later than 3 days before the session, except for extraordinary cases.

#### **Article 17. Procedure to Examine Issues**

The examination of the issues to be considered at the session shall start with the report by the President of the Superior Council of Magistracy or by one of the Council's members, who had beforehand studied the materials and documents submitted, and after this the individuals invited to the session shall be heard, and necessary documents and materials shall be examined.

#### **Article 18. Objection and Self-removal**

(1) The member of the Superior Council of Magistracy may not participate in the examination of the issue and shall be objected if there are circumstances, which exclude his/her participation in the examination, or circumstances, which would cast doubts on his/her objectivity. In case such circumstances exist, the Council's member shall be obliged to declare self-recusal.

(2) Based on the same reasons, objection may be made by the person whose issue is being examined, as well as by the person who submitted the materials to be examined.

(3) The objection should be reasoned by a written or verbal request.

(4) The objected member of the Superior Council of Magistracy shall not participate in voting on the request for objection.

(5) If, following the admission of the request for recusal of several members of the Superior Council of Magistracy, the meeting is not deliberative, they shall be replaced by alternate members with priority being given to the member who has accumulated a larger number of votes.

*[Art.18 para. (5) as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*

#### **Article 19. Proposing Candidates for the Position of Judge, President and Deputy President of the Court**

(1) The Superior Council of Magistracy shall make proposals to the President of the Republic of Moldova or, as the case may be, to Parliament on the appointment of candidates to these positions, as well as on the appointment to the position of court president or court deputy president.

(2) Selection of candidates for appointment as judges, president or deputy president of the court is made by the Superior Council of Magistracy, based on the decision of the Board for selection and career of judges. Decision of the Superior Council of Magistracy on selecting

candidates for judge, president or deputy president of the court must be reasoned and adopted by open vote of the members.

(3) The decision of the Superior Council of Magistracy, along with the respective proposal on the appointment to the position of judge, court president or court deputy president, the personal file records of the candidate with the curriculum vitae on his/her activity and draft decree or draft decision on the appointment to the position, shall be submitted by the President of the Council.

(4) If the President of the Republic of Moldova or, as the case may be, Parliament rejects the proposed candidate, the Superior Council of Magistracy may propose the same or another candidate for the existent vacancy under the terms of article 11 of the Law on the Status of Judge, article 16 of the Law on Judicial Organization and article 9 of the Law on the Supreme Court, with the votes of two thirds of its members.

### **Article 20. Promotion to a Higher Court, Transfer to a Court of the Same Level or a Lower Court, Detachment, Suspension, Resignation and Dismissal of Judge**

(1) The issues related to promotion to a higher court, transfer to a court of the same level or a lower court, detachment, suspension, resignation and dismissal of judge shall be examined by the Superior Council of Magistracy under the terms of law.

(2) The transfer of a judge to a court of the same level for a limited period of time to shall be performed by the Superior Council of Magistracy upon judge's consent, as provided for article 20 of the Law on the Status of Judge.

(3) Judge may be detached from the position by the Superior Council of Magistracy under the terms of article 24<sup>1</sup> of Law on the Status of Judge.

(3<sup>1</sup>) Transferring a judge in a court of the same level or a lower court, promotion of a judge to a higher court, appointment of president or deputy president of the court and his/her dismissal are based on the recommendations of the Board for selection and career of judges. Decision of the Superior Council of Magistracy on transferring the judge in a court of the same level or a lower court, promotion of judges to a higher court, appointment of president or deputy president of the court and his/her dismissal must be motivated and adopted by open vote of Council members.

(3<sup>2</sup>) Participation in the competition for promotion in a higher court, the transfer to a court of the same level of the members of the Superior Council of Magistracy among the judges, as well as of the judges seconded to the National Institute of Justice and the Secretariat of the Superior Council of Magistracy, shall be forbidden for the period for the exercise of the mandate and for a period of 6 months after the cessation of membership or, as the case may be, the expiry of the term for which he was seconded.

*[Art.20 para. (3<sup>2</sup>) as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*

(4) The decisions on transferring a judge in a court of the same level or a lower court, promotion of a judge to a higher court, resignation and his/her removal from position, along with a *curriculum vitae* with information his/her activity and a draft decree or draft decision shall be submitted to the President of the Republic of Moldova or, as the case may be, to Parliament, by the President of the Superior Council of Magistrates.

(5) The suspension from position of judge shall be performed by the Superior Council of Magistracy, under the conditions of article 24 from Law on the Status of Judge.

(6) In case the circumstances, which served as grounds for the suspension of judge from position, have disappeared, the Superior Council of Magistracy shall adopt a decision on the repeal of his suspension from position.

(7) The decision of the Superior Council of Magistracy on the suspension of judge from position or repeal of the suspension of judge from position shall be immediately submitted to the President of the Republic of Moldova or, as the case may be, to Parliament.

(8) The Superior Council of Magistracy shall cease the resignation of judge and order the cessation of the monthly life allowance payment under the conditions of article 26 from Law on the Status of Judge.

#### **Article 21. Validation of Decisions of the Disciplinary Board**

*(Article 21 repealed by Law no.107 of 28.05.2015, in force 26.06.2015)*

#### **Article 22. Examination of Appeals Filed Against Decisions of Specialized Bodies**

**[Art.22 as amended by Law no. 137 of 27.09.18, in force since 19.10.18 ]**

(1) Appeals against decisions of the Board for the selection and career of judges and the Board for judicial performance evaluation shall be examined within 30 work days from the date of their registration in the Superior Council of Magistracy.

*[Art.22 para. (1) as amended by Law no. 137 of 27.09.18, in force since 19.10.18 ]*

(2) The date, time and place for examining complaints from shall be communicated in due time to the interested persons.

(3) After the examination of appeals, the Superior Judicial Council shall decide:

a) maintaining without amendment of the decisions of the Board for the selection and career of judges and the Board for judicial performance evaluation;

*(lett. b) repealed by Law no.107 of 28.05.2015, in force 06.26.2015)*

c) the admittance of the appeal and remittance of the decision for reconsideration to the Board for the selection and career of judges or, where appropriate, the Board for judicial performance evaluation, in case violation in the procedure of selection or evaluation was found.

*(lett.d) repealed by Law no.107 of 28.05.2015, effective 26.06.2015)*

(4) Appeals against decisions of the Disciplinary Board shall be examined in accordance with Law No. 178 of July 25, 2014 on disciplinary responsibility of judges. *(Art.22 modified by Law no.107 of 05.28.2015, in force 26.06.2015)*

#### **Article 22<sup>1</sup> Examination of Information with Regard to Prohibited Communication with the Judges**

(1) Information on prohibited communication between judge and a case party or other persons, including persons holding public office, presented under the terms of art. 15 (para. 2) of the Law No. 544-XIII July 20, 1995 on the status of judges, as well as information on prohibited communication presented by other interested persons, are

examined within 15 days from the date of registration in the Superior Council of Magistracy.

(2) After reviewing the information, the Superior Council of Magistracy shall decide on:

- a) transmitting information to the Prosecutor General's Office, in case there are constituent elements of offense provided for by art.303 of the Criminal Code or an offense referred to in art. 317 par. (2) of the Contravention Code;
- b) informing the management authority or competent self-administration bodies where the persons committing prohibited communication with the judge are working;
- c) submitting materials, according to the procedures established by law, to initiate disciplinary proceeding against the judge, who admitted prohibited communication or did not notify the Superior Council of Magistracy, in an established way, about the prohibited communication or attempted prohibited communication.

*(Art 22<sup>1</sup> introduced by Law no. 326 of 23.12.2013, in force 25.02.2014)*

### **Article 23. Ensuring Judge's Inviolability**

(1) The proposal of the General Prosecutor or the first deputy, or in his absence - his deputy, designated by the General Prosecutor's order, to initiate criminal proceedings against a judge, his/her detention, bringing him/her by force, arrest or search shall be examined by the Superior Council Magistrates immediately, but not later than 5 working days.

(2) The Superior Council of Magistracy shall examine the proposal of the General Prosecutor or his/her first deputy, or in his/her absence – his/her deputy, designated by the General

Prosecutor's order, only in terms of the conditions or the circumstances of the Code of Criminal Procedure for disposing of initiating criminal proceedings, detention, bringing his/her presentation by force, arrest or search of the judge, without attributing itself the responsibilities of a court.

*[Art.23 para. (2) as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*

(3) The General Prosecutor does not participate in deliberations.

*(Art.23 amended by Law no.177 of 07/25/2014 to the 08/08/2014 force)*

### **Article 24. Adoption of Decisions**

(1) The Superior Council of Magistracy shall adopt decisions with the open vote of the majority of its present members, except in the cases stipulated in art. 19 para. (4). When adopting decisions on judges' career, their disciplinary liability, sanctioning and dismissal of judges, the members of the Superior Council of Magistracy participate without voting right.

*[Art.24 para. (1) as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*

(2) The voting procedure shall be performed in the absence of person whose case is being examined and in the absence of other persons who were invited.

(3) The Superior Council of Magistrates, following the deliberation, publicly pronounces the ruling of the decision, which is recorded in a minutes. The reasoned decision, which also contains the number of votes, shall be drafted in maximum 30 days and signed by the chairman of the meeting.

*[Art.24 para. (3) as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*

(4) If a member of the Superior Council of Magistracy has a separate, it has to be motivated and attached to the decision, without reading it out.

(5) In case the Superior Council of Magistracy exercises its attributions provided for by articles 21 and 22 para. (4), the member of the Council at whose proposal or initiative the disciplinary proceedings were instituted shall not attend the deliberations. *(Art. 24, was amended by Law no. 107 of 28.05.2015, in force 26.06.2015)*

#### **Article 25. Appealing the Decisions of the Superior Council of Magistracy**

(1) The decisions of the Superior Council of Magistracy can be appealed at the Supreme Court of Justice, by any interested person within 15 days from the date of communication.

*[Art.25 para. (1) as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*

(2) The appeals are examined by a panel of five judges.

(3) Decisions of the Supreme Court of Justice adopted under paragraph (2) shall be irrevocable and shall enter into force on the date of their adoption.

### **Chapter IV ENSURING THE ACTIVITY OF THE SUPERIOR COURT OF JUSTICE**

#### **Article 26. Secretariat's Work**

(1) The secretariat work of the Superior Council of Magistracy shall be performed by the Secretariat's staff.

(2) The meetings of the Superior Council of Magistrates shall be recorded by video / audio and recorded in the minutes.

*[Art.26 para.(2) as amended by Law no. 137 of 27.09.18, in force since 19.10.18 ]*

(3) The official minutes will include: the presence of the members of the Superior Council of Magistracy and other participants who attended the meeting, the contents of the debates subjected to vote, the results of the vote and decision adopted.

*[Art.26 para.(3) as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*

(4) The official minutes shall be developed within 3 days, signed by the chairperson of the session and countersigned by the secretary.

#### **Article 27. Ensuring the Activity of the Superior Council of Magistracy**

(1) The Superior Council of Magistracy shall be financed from the state budget within the limits of the budgetary allocations approved by the annual budget law.

(1<sup>1</sup>) The budget of the Superior Council of Magistracy shall be elaborated, approved and administered in accordance with the principles, rules and procedures laid down in the Public

*(Art. 27 para. (1) amended and para. (1<sup>1</sup>) added by Law no. 172 of 27.07.2018, in force since 24.08.2018)*

~~2) The members of the Superior Council of Magistrates detached from among the judges, shall be remunerated at the level of the salary of the judge of the Supreme Court of Justice established at art. 4 par. (4) lit. a) of Law no. 328/2013 on the remuneration of judges and prosecutors. The members of the Superior Council of Magistracy among the titular teachers, except the person elected as the President of the Council, receive monthly remuneration in the amount of 2,4 average salaries per economy.~~

*(Art.27 para. (2) excluded by Law no. 271 from 23.11.18, in force since 01.12.18)*

### **Article 27<sup>1</sup>. Secretariat of the Superior Council of Magistracy**

(1) The organizational and administrative assistance to the activity of the Superior Council of Magistracy and specialized bodies is provided by the secretariat of the Superior Council of Magistracy, led by Head of the Secretariat.

*[Art.27<sup>1</sup> para. (1) as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*

(2) The Head of the Secretariat is appointed by the Superior Council of Magistracy and shall exercise his/her duties in accordance with the regulations approved by the Superior Council of Magistracy.

### **Article 27<sup>2</sup> Structure of the Superior Council of Magistracy's Secretariat**

(1) The Superior Council of Magistracy's Secretariat consists of the Directorate General of judicial self-administration and Administrative Division.

(2) The Directorate General of judicial self-administration of the Superior Council of Magistracy's Secretariat assists members of the Council and its specialized bodies to exercise their functions. Departments, divisions and services may be created within the Directorate General of judicial self-administration of the Superior Council of Magistracy.

*[Art.27<sup>2</sup> para. (2) as amended by Law no. 137 of 27.09.18, in force since 19.10.18]*

(3) The Administrative Division of the Superior Judicial Council's Secretariat ensures the administrative and economic functioning of the Council. The Administrative Division includes the following subdivisions: economic and financial, information technology, archive, library and other divisions necessary to the Council.

### **Article 27<sup>3</sup> Staff and Remuneration of the Secretariat's Staff of the Superior Council of Magistracy**

(1) The staff of the Directorate General of judicial self-administration of the Superior Council of Magistracy's Secretariat is composed of civil servants, subject to the regulations of Law No. 158-XVI of 4 July 2008 on the public function and civil servant status and is remunerated under the law.

(2) The staff of the Administrative Division of the Superior Judicial Council's Secretariat is composed of civil servants, subject to the regulations of Law No. 158-XVI of 4 July 2008



on the public function and status of civil servant, and contracted staff subject to the regulations of the labor law on auxiliary activities, and is remunerated under the law.

(3) The personnel of the Superior Council of Magistracy's Secretariat shall be approved by the Superior Council of Magistracy.

#### **Article 28. Seal and Headquarters**

(1) The Superior Council of Magistracy shall enjoy the status of a legal entity and shall have its own seal representing the State Coat of Arms and its name.

(2) The Superior Council of Magistracy shall have its headquarters in Chisinau municipality.

#### **Article 29. Report of the Superior Council of Magistracy**

1) The Superior Council of Magistracy shall prepare annually by 1 of February, a report on its work and on the work of the judicial sector in the previous year.

(2) The progress report is publicly presented and debated at the General Assembly of Judges.

(3) A copy of the report shall be handed to the President of the Republic of Moldova and the Parliament for information.

### **Chapter V FINAL PROVISIONS**

#### **Article 30**

This law shall go into effect from the date of its publication.

### **PRESIDENT OF PARLIAMENT**

**Petru LUCINSCHI**

**Chisinau, 19 July 1996 No.947-XIII.**

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\* Republished under Art. VIII par. (9) of the Law no.153 of 5 July 2012 - Official Gazette of RM, 2012, No. 185, art.620.

Amended by Laws of the Republic of Moldova:

- 1) Law no.174-XVI of 22.07.2005 - Official Gazette, 2005 no.107-109, art. 533;
- 2) Law no. 154-XVI of 21.07.2005 - Official Gazette, 2005 no.126-128, art. 611;
- 3) Law no.247-XVI of 21.07.2006 - Official Gazette, 2006 no.174-177, art. 796;
- 4) Law no. 185-XVI of 26.07.2007 - Official Gazette, 2007 no.136-140, art. 579;
- 5) Law no.257-XVI of 29.11.2007 - Official Gazette, 2008 no.14-15, art. 46;
- 6) Law no. 65-XVI of 27.03.2008 - Official Gazette, 2008 no. 86-87, art. 302;
- 7) Law no. 229-XVI of 06.11.2008 - Official Gazette, 2008 no. 208-209, art. 768;
- 8) Law no. 306-XVI of 25.12.2008 - Official Gazette, 2009 no. 30-33, art. 77;
- 9) Law no.115 of 17.06.2010 - Official Gazette, 2010 no. 117-118, art. 365;
- 10) Law no. 152 of 08.07.2010 - Official Gazette, 2010 no. 155-158, art. 547;
- 11) Law no. 48 of 26.03.2011 - Official Gazette, 2011 no. 53, art. 114;
- 12) Law no. 181 of 19.12.2011 - Official Gazette, 2012 no.1-6, art. 4; 13) Law no.153 of 05.07.2012 - Official Gazette, 2012, no. 185, art .620.

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\* Republished under Parliament Decision no.1546-XIII of 25.02.1998 - Official Gazette, 1998 no.26-27, art. 176.

Amended by Laws:

- 1) Constitutional Court Decision No. 10 of 04.03.1997 - Official Gazette, 1998 nr.6-7, art. 5;
- 2) Law no. 1414-XIII of 17.12.1997 - Official Gazette, 1998 no.24-25, art. 152;
- 3) Law no. 772-XIV of 02.02.2000 - Official Gazette, 2000 no. 29-30, art. 179; 4) Law no. 373-XV of 19.07.2001 - Official Gazette, 2001 no.129, art. 926;
- 5) Law no. 191-XV of 08.05.2003 - Official Gazette, 2003 no.97-98, art.423.