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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

ROMANIA

LAW
ON THE SUPERIOR COUNCIL OF MAGISTRACY

**Law
on the Superior Council of Magistracy**

The Senate adopts this bill.

**Title I
General dispositions**

Art. 1 - (1) The Superior Council of Magistracy is the guarantor of the independence of justice

(2) The Superior Council of Magistracy is independent and only abides by the law in its activity. The members of the Superior Council of Magistracy are accountable to judges and prosecutors for the activity performed during the exercise of their term of office.

Art. 2 - The Superior Council of Magistracy has legal capacity and its headquarters are in Bucharest.

**Title II
Organization, functioning and attributions of Superior Council of Magistracy**

**Chapter I
Organization of the Superior Council of Magistracy**

**Section 1
The structure of the Superior Council of Magistracy**

Art. 3 - The Superior Council of Magistracy is composed of 19 members, out of which:

a) 9 judges and 5 prosecutors, elected in the general assemblies of judges and prosecutors, who shall constitute the two sections of the Superior Council of Magistracy, one for judges and one for prosecutors;

b) 2 representatives of the civil society, specialists in the field of law, who enjoy a high professional and moral reputation, elected by the Senate;

c) the President of the High Court of Cassation and Justice, the representative of the judiciary, the Minister of Justice and the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice, who are *de jure* members of the Superior Council of Magistracy .

Art. 4 - The section for judges of the Superior Council of Magistracy is composed of:

a) 2 judges from the High Court of Cassation and Justice;

b) 3 judges from the courts of appeal;

c) 2 judges from the tribunals;

d) 2 judges from the first instance courts.

Art. 5 - The section for prosecutors of the Superior Council of Magistracy consists of:

a) one prosecutor from the Prosecutor's Office attached to the High Court of Cassation and Justice, from the National Anticorruption Directorate or from the Directorate for the Investigation of Organized Crime and Terrorism;

- b) one prosecutor from the prosecutor's offices attached to the courts of appeal;
- c) 2 prosecutors from the prosecutor's offices attached to the tribunals;
- d) one prosecutor from the prosecutor's offices attached to the first instance courts.

Section 2

Election of the members of the Superior Council of Magistracy

Art. 6 - (1) The judges and prosecutors, members of the Superior Council of Magistracy, provided in Art. 3 lit. a), are elected in the general assemblies of judges or, as the case may be, of prosecutors.

(2) The date on which the general assemblies of judges and prosecutors will take place shall be established by the Plenum of the Superior Council of Magistracy at least 90 days before the expiry of the term of office of its members and shall be published in the Official Gazette of Romania, Part III, and on the website of the Superior Council of Magistracy.

Art. 7 - (1) The members of the Superior Council of Magistracy shall be elected amongst the judges and prosecutors appointed by the President of Romania, with at least 7 years of service as judge or prosecutor after passing the capacity exam, and who have not been subject to disciplinary sanctions in the last 3 years, unless the sanction has been cancelled

(2) Judges and prosecutors may present their candidacy for election as members of the Superior Council of Magistracy before the collective bodies of judges and prosecutors no later than two days before the date of the election. The applications of judges and prosecutors may be supported by the collective bodies of judges and prosecutors, as well as by their professional associations.

(3) The period during which applications may be submitted shall be established by the Plenary of the Superior Council of Magistracy and shall be published in the Official Gazette of Romania, Part III, and on the web page of the Superior Council of Magistracy.

(4) The applications shall be submitted to the Leading board of the High Court of Cassation and Justice or, as the case may be, to the Leading Board of the Prosecutor's Office attached to the High Court of Cassation and Justice, including for the prosecutors from the National Anticorruption Directorate and the Directorate for Investigation of Offences of Organized Crime and Terrorism, as well as to the leading boards of the courts of appeal or of the prosecutor's offices attached to these courts, accompanied by:

- a) a curriculum vitae;
- b) a project on the main objectives that judges or prosecutors will pursue if they are elected to the Superior Council of Magistracy as well as, where appropriate, the documents supporting the candidature;
- c) a statement on their own responsibility stating that they were neither part of the intelligence services before 1990 nor collaborated with them, in the case of persons who had reached the age of 16 on 1 January 1990;
- d) a statement on their own responsibility stating that they are not and have not been operative employees, including undercover, informants or collaborators of intelligence services;
- e) a statement on their own responsibility stating that they do not have a personal interest which influences or which might influence the fulfilment with objectivity and impartiality of the tasks laid down by law.

(5) Judges and prosecutors seconded to authorities other than courts or prosecutor's offices may not apply for the position of member of the Superior Council of Magistracy, and judges and prosecutors delegated or seconded to other courts or prosecutor's offices may

apply only for the court or prosecutor's office from which have been delegated or seconded. Judges and prosecutors who have been part of or collaborated with the intelligence services outside the legal framework, as well as those who have a personal interest which influences or which might influence the fulfilment with objectivity and impartiality of the tasks laid down by law, cannot be elected members of the Superior Council of Magistracy.

(6) The leading boards of the High Court of Cassation and Justice, of the Prosecutor's Office attached to the High Court of Cassation and Justice, of the courts of appeal and of the prosecutor's offices attached to them verify the fulfilment of the conditions provided in par. (1)-(5) by the judges and prosecutors who submitted their candidacies, within 5 days from the expiration date of the term for submitting the candidacies. The decision of the leading board shall be published, without delay, on the website of the respective court or prosecutor's office. (7) Against the decisions of the leading boards referred in par. (6), within five days from the publication, the candidates or, as the case may be, the judges or prosecutors from the level of the courts or prosecutor's offices for which the application has been lodged, may file an objection.

(8) The objection shall be submitted to the Superior Council of Magistracy and shall be settled by decision of the appropriate section of the Superior Council of Magistracy, within 7 days from the registration.

(9) The decision of the appropriate section of the Superior Council of Magistracy, provided in paragraph (8), may be appealed by the persons referred to in paragraph (7), before the Civil Section I of the High Court of Cassation and Justice, within 5 days of notification. The appeal is resolved within 7 days from the registration, with the summoning of the parties. The defense statement is not mandatory, and the provisions of articles 200 and 201 of Law no. 134/2010 on the Code of Civil Procedure, republished, with subsequent amendments and completions, are not applicable. The decision is final.

Art. 8 - (1) The judges of the High Court of Cassation and Justice shall elect, in general assembly, by secret vote, directly and in person, 2 members for the Superior Council of Magistracy, from among the judges who have submitted their candidacy.

(2) The prosecutors of the Prosecutor's Office of the High Court of Cassation and Justice, the prosecutors of the National Anticorruption Directorate and the prosecutors of the Directorate for the Investigation of Organized Crime and Terrorism shall elect, in the joint general meeting of their prosecutors, by secret, direct and personal vote, one member for the Superior Council of Magistracy from among the prosecutors who have submitted their candidacy. Prosecutors from the territorial structures of these prosecutors' offices also vote in the general assembly.

(3) Two judges from the High Court of Cassation and Justice, respectively one prosecutor from the Prosecutor's Office of the High Court of Cassation and Justice or from the National Anticorruption Directorate or from the Directorate for the Investigation of Organized Crime and Terrorism, who have obtained a majority of votes in the general assemblies, shall be elected as members of the Superior Council of Magistracy.

(4) If two or more candidates have obtained an equal number of votes, the magistrate with the longest effective seniority in the position of judge, respectively prosecutor, shall be declared elected.

Art. 9 - (1) The leading board of each court of appeal and each prosecutor's office attached to a court of appeal shall centralize the applications submitted by the judges and prosecutors in their jurisdictions.

(2) The candidacies are centralized on categories of courts and prosecutor's offices and are sent to the courts and prosecutors' offices within the jurisdiction of the court of appeal accompanied by the documents provided in art. 7 paragraph (4).

(3) The leading boards of the courts of appeal, tribunals and courts of first instance organize their own general assembly.

(4) The leading boards of prosecutors' offices attached to courts of appeal, prosecutors' offices attached to tribunals and prosecutors' offices attached to courts of first instance organize their own general assembly.

Art. 10 - (1) The judges of each court of appeal, the judges of all the tribunals and specialized tribunals within the jurisdiction of each court of appeal and the judges of each of the courts of first instance within the jurisdiction of each court of appeal shall nominate, by secret ballot, directly and in person, one candidate for the office of member of the Superior Council of Magistracy from among the judges who have submitted their candidatures.

(2) The public prosecutors of each prosecutor's office of each court of appeal, the public prosecutors of each public prosecutor's office of each court of appeal and the public prosecutors of each prosecutor's office of each court of appeal shall nominate, by secret vote, directly and in person, one candidate for the office of member of the Superior Council of Magistracy from among the public prosecutors who have submitted their candidatures.

(3) Judges and prosecutors who have obtained the highest number of votes in the general assemblies referred to in Article 9 para. (3) and (4) are nominated as candidates for the office of member of the Superior Council of Magistracy. The decisions of the general assemblies shall be sent to the leading board of the court of appeal or of the public prosecutor's office attached to it, which shall determine the outcome of the vote. The provisions of art. 8 paragraph (4) are applicable accordingly.

(4) Military judges and military prosecutors shall submit their application to the Military Court of Appeal of Bucharest or, as the case may be, to the Military Prosecutor's Office attached to the Military Court of Appeal of Bucharest. The provisions of para. (1) to (3) shall apply accordingly. The Military Court of Appeal of Bucharest, as well as the Military Prosecutor's Office of the Military Court of Appeal of Bucharest, shall nominate one candidate to be included on the lists referred to in Article 11 para. (1) letter a) and letter b) respectively. The military courts and the prosecutor's offices attached to them shall each nominate a candidate to be included on the lists provided for in Article 11(1) letter c) and letter d) respectively.

(5) The Superior Council of Magistracy shall draw up the lists of judges and prosecutors nominated to stand for the office of member of the Superior Council of Magistracy, by category of courts and prosecutor's offices.

(6) The lists referred to in para. (5) and the documents referred to in Article 7 para. (4) shall be published on the website of the Superior Council of Magistracy.

Art. 11 - (1) The lists of judges and prosecutors, who have been nominated as candidates for membership of the Superior Council of Magistracy shall be sent to the courts or, as the case may be, to the prosecutor's offices, by the Superior Council of Magistracy, at least 20 days before the date established for the general assemblies, as follows:

(a) the list of candidates from the courts of appeal shall be sent to all courts of appeal;

(b) the list of candidates from the prosecutors' offices attached to the courts of appeal shall be sent to all prosecutors' offices attached to the courts of appeal;

(c) the list of candidates from the specialized tribunals and tribunals shall be sent to all specialized tribunals and tribunals;

(d) the list of candidates from the prosecutors' offices of the tribunals and specialized tribunals shall be sent to all prosecutors' offices of the tribunals and specialized tribunals;

(e) the list of candidates from the courts of first instance shall be sent to all courts of first instance;

(f) the list of candidates from prosecutors' offices attached to courts of first instance shall be sent to all prosecutors' offices attached to courts of first instance.

(2) The lists provided in para. (1) and the documents provided in art. 7 para. (4) shall be displayed at the offices of courts and prosecutor's offices.

Art. 12 - (1) The lists referred to in Article 11 para. (1) and the documents referred to in Art. 7 para. (4) shall be forwarded by the Superior Council of Magistracy to the courts and prosecutor's offices, accompanied by ballot papers.

(2) The Superior Council of Magistracy shall transmit to each court and each prosecutor's office a number of stamped ballot papers equal to the number of judges and prosecutors in the prosecutor's office, plus 10%.

(3) The form and content of the ballot papers shall be determined by the Plenum of the Superior Council of Magistracy.

(4) The printing of the ballot papers shall be carried out by the Superior Council of Magistracy.

Art. 13 - (1) In order to elect the members of the Superior Council of Magistracy, within each court and each prosecutor's office the general assembly of judges or, as the case may be, of prosecutors is convened.

(2) The judges of the courts of appeal and the prosecutors of the prosecutor's offices attached to them shall elect as members of the Superior Council of Magistracy, in their general assemblies, by secret, direct and personal vote, three judges of the courts of appeal and one prosecutor of the prosecutor's offices attached to them.

(3) The judges of the tribunals and specialized tribunals and the prosecutors of the prosecutors' offices attached to them shall elect as members of the Superior Council of Magistracy, in their general assemblies, by secret, direct and personal vote, 2 judges of the tribunals and specialized tribunals and 2 prosecutors of the prosecutors' offices attached to them.

(4) The judges of the courts of first instance and the prosecutors of the prosecutor's offices attached to them shall elect as members of the Superior Council of Magistracy, in their general assemblies, by secret, direct and personal vote, 2 judges of the courts of first instance and one prosecutor of the prosecutor's offices attached to them.

Art. 14 - (1) In the procedure for nominating candidates and electing members of the Superior Council of Magistracy, general assemblies shall be legally constituted in the presence of a majority of the judges or, where applicable, of the prosecutors in office. Judges and prosecutors delegated or seconded to other courts or prosecutor's offices shall participate in the general assembly of the court or prosecutor's office from which they have been delegated or seconded. If a majority of the judges or, as the case may be, of the public prosecutors in office are not present, the general meeting shall not be legally constituted; on the same day the chairman of the general meeting shall convene the general meeting for a later date, fixed between the 3rd and the 5th working day of the following

week, when voting shall take place irrespective of the number of judges or, as the case may be, of public prosecutors in office present.

(2) The general assemblies shall be chaired by the most senior judge or prosecutor who has not applied for membership of the Superior Council of Magistracy.

(3) In the procedure for electing the members of the Superior Council of Magistracy, each judge and prosecutor shall vote for a maximum number of candidates equal to the number of members of the Superior Council of Magistracy representing the category of courts or prosecutor's offices in which the judge or prosecutor, as the case may be, is working.

(4) If fewer or more persons than those referred to in paragraph (3) have been voted for, the vote shall be void.

(5) Judges and prosecutors seconded to authorities other than courts or prosecutor's offices may not participate in the election of members of the Superior Council of Magistracy.

Art. 15 - (1) The judge or prosecutor who chaired the general assembly, together with 2 judges or prosecutors appointed before the vote by the general assembly:

a) shall ensure the counting of votes;

b) shall draw up the minutes regarding the conduct of the elections and the results of the vote and transmits it to the Superior Council of Magistracy;

c) shall communicate the names of the judges or prosecutors nominated as candidates for the office of member of the Superior Council of Magistracy in accordance with Article 10 para. (5) or, as the case may be, shall draw up and forward to the Superior Council of Magistracy the list of candidates in descending order of the votes obtained in the general assemblies referred to in Art. 8 (3) and Art. 13 para. (2) - (4).

(2) In order to fulfill the attributions provided in para. (1), the judge or prosecutor who chaired the general assembly shall be assisted by 2 judges or, as the case may be, by 2 prosecutors, appointed by the general assembly, from among the judges or prosecutors who have not submitted their candidacies.

Art. 16- (1) The Superior Council of Magistracy centralizes the results of the vote from all courts and prosecutor's offices.

(2) The following are elected as members of the Superior Council of Magistracy:

a) 3 judges from the courts of appeal, who obtained the highest number of votes at national level;

b) 2 judges from specialized tribunals and tribunals, who obtained the highest number of votes at national level;

c) 2 judges from the courts of first instance, who obtained the highest number of votes at national level;

d) one prosecutor from the prosecutor's offices attached to the courts of appeal, who obtained the highest number of votes at national level;

e) 2 prosecutors from the prosecutor's offices attached to the tribunals and specialized tribunals, who obtained the highest number of votes at national level;

f) one prosecutor from the prosecutor's offices attached to the courts of first instance, who obtained the highest number of votes at national level.

(3) The provisions of art. 8 paragraph (4) are applicable accordingly.

Art.17 - (1) The Superior Council of Magistracy checks the legality of the appointment and election procedures, ex officio or at the notification of any judge or prosecutor.

(2) In order to formulate the notification, the judges and prosecutors have the right to verify the minutes regarding the development of the procedures provided in par. (1) and their result, as well as the ballot papers.

(3) The appeals regarding the legality of the appointment and election procedures may be submitted to the Plenum of the Superior Council of Magistracy, within 15 days from the date on which the result of the vote was established.

(4) The appeals shall be resolved by the Plenum of the Superior Council of Magistracy, within 5 days from the date of notification. The motivated solution of the appeal is communicated to the persons who made the notification.

(5) In case of violations of the law in the designation and election procedures, the Plenum of the Superior Council of Magistracy shall order the necessary measures for their removal, including the repetition of elections, only in the courts or prosecutor's offices where the violation of the law had the effect of influencing the outcome of the election.

(6) The provisions of art. 7 para. (9) shall apply accordingly.

Art. 18 - (1) The Superior Council of Magistracy compiles the final list comprising the magistrates elected according to the provisions of Art. 8 para. (3) and Art. 16 para. (2) and transmits it to the Permanent Bureau of the Senate.

(2) Before sending the list to the Permanent Bureau of the Senate:

a) The National Council for the Study of Security Archives verifies and communicates, within 15 days from the request of the Superior Council of Magistracy, whether the elected judges and prosecutors were part of the intelligence services before 1990 or collaborated with them;

b) The Supreme Council of National Defense verifies and communicates to the Superior Council of Magistracy the result of the verifications regarding the quality of undercover officer, collaborator or informant of the intelligence services of elected judges and prosecutors, within 15 days from the request of the Superior Council of Magistracy.

(3) The Permanent Bureau of the Senate submits the list provided in par. (1) to the Committee on Legal Affairs, Appointments, Discipline, Immunities and Validations, for the drafting of a report.

(4) The Senate, in the presence of the majority of its members, based on the report of the Committee on Legal Affairs, Appointments, Discipline, Immunities and Validations, validates the list comprising the magistrates elected as members of the Superior Council of Magistracy.

Art. 19 - (1) In order to elect the 2 representatives of the civil society in the Superior Council of Magistracy, the professional organizations of legal professions, the professional councils of the accredited law faculties, the associations and foundations whose objective is to defend human rights may propose each of them one candidate to the Permanent Bureau of the Senate.

(2) Representatives of civil society who meet the following conditions may be elected as members of the Superior Council of Magistracy:

a) are specialists in the field of law, with at least 10 years' experience in a legal profession or in higher legal education;

b) enjoy a high professional and moral reputation;

c) have not been part of the intelligence services before or after 1990, have not collaborated in any way with them and do not have a personal interest that influences or could influence the fulfilment with objectivity and impartiality of the attributions provided

by law. They shall make a true statement that they have not been operative workers and have not cooperated in any way with any intelligence service before or after 1990;

d) neither were nor have been member of a political party in the last 6 years and have not held public office in the last 6 years.

(3) Nominations shall be submitted to the Permanent Bureau of the Senate, between the 90th and 60th day before the expiration of the term of office of the members of the Superior Council of Magistracy, accompanied by the court decision or, as the case may be, by the normative act of establishment, by the constitutive act and by the statute of the legal persons provided in para. (1), as well as by their fiscal record.

(4) The period in which the nominations are submitted shall be published in the Official Gazette of Romania, Part III, and on the website of the Superior Council of Magistracy, 30 days before the beginning of the term provided in para. (3).

(5) The candidates will present to the Senate the documents provided in art. 7 para. (4), as well as the criminal record.

(6) The list of candidates and the documents provided in art. 7 para. (4) shall be published on the websites of the Senate and the Superior Council of Magistracy, within 5 days from the expiration of the period for their submission.

Art. 20- (1) The Senate chooses, among the candidates provided in Art. 19, the 2 representatives of the civil society, according to the procedure provided in the Regulation of this Chamber.

(2) The provisions of art. 18 para. (2) shall apply accordingly.

Art. 21 - The decisions of the Senate on the validation and election of the members of the Superior Council of Magistracy shall be published in the Official Gazette of Romania, Part I.

Chapter II

Functioning of the Superior Council of Magistracy

Art. 22 - (1) Within 15 days from the publication of the decisions provided in art. 21, the president of the High Court of Cassation and Justice convenes the members of the Superior Council of Magistracy in the constituent session.

(2) Immediately after its establishment, the President of the High Court of Cassation and Justice shall convene the sections of the High Council of the Judiciary to nominate candidates for the office of President and Vice-President, and the Plenary of the High Council of the Judiciary to elect the President and Vice-President.

(3) Within 60 days from the constituent session of the Superior Council of Magistracy, the attributions and responsibilities of each permanent member shall be established, by fields of activity.

Art. 23 - (1) The Superior Council of Magistracy functions as a body with permanent activity. The decisions of the Superior Council of Magistracy are taken in plenary or in sections, according to their attributions.

(2) The members of the Superior Council of Magistracy carry out permanent activity with flexible work hours and do not exercise the activity of judge or prosecutor, except for the *de jure* members.

(3) The leading positions held by judges or prosecutors elected as members of the Superior Council of Magistracy cease automatically on the date of publication of the Senate's decision in the Official Gazette of Romania, Part I.

(4) The period in which the judge or the prosecutor is a member of the Superior Council of Magistracy constitutes seniority in these positions.

Art. 24 - (1) The Superior Council of Magistracy is headed by the President, assisted by a Vice-President, both of them elected by the Plenum, in the presence of at least 15 members of the Council, with the vote of the majority of the present members, from among the judges and prosecutors referred to in Article 3 (a), who belong to different sections, for a term of one year. The term of office of the President shall not be renewable.

(2) A judge and a prosecutor nominated by the Section for Judges and the Section for Prosecutors of the Superior Council of Magistracy, respectively, from among its members, in the presence of at least two thirds of the members of the sections, by a majority vote of the members present, shall apply for the office of President and Vice-President.

(3) The candidates for the positions of President and Vice-President respectively shall submit their candidacies, accompanied by a draft of the objectives pursued, to the sections to which they belong.

(4) The relevant sections of the Superior Council of Magistracy shall examine and debate the candidacies submitted and appoint the candidates for the positions of President and Vice-President of the Superior Council of Magistracy.

(5) The President of the Superior Council of Magistracy has the following main attributions:

- a) represents the Superior Council of Magistracy in internal and international relations;
- b) coordinates the activity of the Superior Council of Magistracy and allocate the work of the plenary and the sections;
- c) presides over the proceedings of the Plenum of the Superior Council of Magistracy, unless the President of Romania participates in the work;
- d) proposes to the Plenum the necessary measures for filling in the positions that have become vacant following the revocation of members of the Superior Council of Magistracy;
- e) signs the acts issued by the Plenum of the Superior Council of Magistracy;
- f) refers the matter to the Constitutional Court, with a view to settling legal disputes of a constitutional nature between public authorities;
- g) designates the members of the Superior Council of Magistracy who may be consulted for the elaboration of draft normative acts, upon proposal of the Plenum;
- h) presents in the public meeting of the Plenum the annual report on the activity of the Superior Council of Magistracy, which is sent to the courts and prosecutors' offices and is made public;

(6) The President of the Superior Council of Magistracy fulfills any other attributions established by law, by the Regulation concerning the organization and functioning of the Superior Council of Magistracy and by the Plenum.

(7) In the absence of the President of the Superior Council of Magistracy, the attributions provided in para. (5) and (6) shall be exercised by the Vice-President.

(8) Elections for the offices of President and Vice-President shall be held 3 months before the expiry of the term of office.

(9) In case of vacancy of the position of president or vice-president, the procedure provided for in this article shall be applied.

Art. 25 - The President of Romania presides, without the right to vote, over the work of the Plenary of the Superior Council of Magistracy in which he participates.

Art. 26 - (1) The proceedings of the sections of the Superior Council of Magistracy shall be legally constituted in the presence of the majority of their members and shall be chaired by the President or, as the case may be, by the Vice-President of the Superior Council of Magistracy. In their absence, the members of the section shall elect a chairperson by a majority vote of those present.

(2) The judge or public prosecutor presiding over the proceedings of the Section shall sign the decisions and other documents issued by the Section.

Art. 27 - (1) The Superior Council of Magistracy shall meet in plenary and in sections, at the convening of the president, of the vice-president or of the majority of the members of the plenary or, as the case may be, of the sections.

(2) The works of the Plenum of the Superior Council of Magistracy are carried out in the presence of at least 15 members. If this quorum is not attained, at its next meeting, but not earlier than 24 hours, for discussing the same agenda, the proceedings of the Plenum shall be held in the presence of a majority of its members.

(3) The decisions of the Plenum of the Superior Council of Magistracy and the decisions of the sections are taken by vote of the majority of the present members.

(4) In order to carry out the duties of the Superior Council of Magistracy through the plenum and the sections, specialized committees are organized, acting as specialized preparatory structures, composed of the members of the Superior Council of Magistracy.

(5) The organization, functioning and attributions of the specialized committees are laid down in Regulation on the organization and functioning of the Superior Council of Magistracy.

(6) The specialized committees have the following attributions:

a) analyze and propose the items on the agenda of the plenum and of the sections, except for those in disciplinary and career matters of an individual nature;

b) submit draft decisions for inclusion on the agenda and approval in plenum and in sections, except for those in disciplinary and in career matters of an individual nature;

c) in the event of divergent views and if the draft decisions cannot be adopted by consensus, a vote will be taken. Alternative draft decisions to resolve items on the agenda of the plenary session or the sections shall be placed on the agenda, indicating the majority and minority opinions, as appropriate;

d) analyze, within a maximum of 30 days from registration, the requests of the members, the professional associations, the civil society organizations, the authorities and public institutions in the field of activity of the Superior Council of Magistracy, and set priorities of thematic activity;

e) other attributions established by law and. the Regulation on the organization and functioning of the Superior Council of Magistracy.

Art. 28 - (1) The President of the High Court of Cassation and Justice participates in the works of the Section for Judges, the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice participates in the works of the Section for prosecutors, and the Minister of Justice participates in the works of both sections.

(2) The President of the High Court of Cassation and Justice, the Minister of Justice and the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice are not entitled to vote in situations where the sections act as a court of law in the area of disciplinary liability or in dealing with applications for the authorization of search, detention, pre-trial detention or house arrest of judges or prosecutors.

(3) The representatives of the civil society participate, with the right to vote, in the work of the Plenum of the Superior Council of Magistracy.

Art. 29 - (1) The works of the plenum and of the sections of the Superior Council of Magistracy are, as a rule, public. The members of the plenum or of the sections decide, with a majority of votes, the situations in which the meetings are not public. The sittings of the sections in which applications for search, detention, pre-trial detention house arrest, judicial control or bail concerning judges or prosecutors are dealt with, as well as those relating to hearings and deliberations in disciplinary matters, are not public.

(2) The professional associations of judges and prosecutors may participate through their legal representatives in the works of the plenum and of the sections, expressing, when they deem it necessary, a point of view on the issues being debated, on their own initiative or at the request of the members of the Superior Council of Magistracy.

(3) The agenda of the proceedings of the plenum and of the sections of the Superior Council of Magistracy shall be approved by them, at the proposal of the president or, as the case may be, of the vice-president of the Superior Council of Magistracy.

(4) The decisions of the Superior Council of Magistracy, in plenum and in sections, are taken by direct and secret vote and shall be motivated.

(5) The decisions of an individual nature of the plenum and sections concerning the career and rights of judges and prosecutors shall be drafted within a maximum of 20 days of their adoption, shall be communicated immediately and shall be published on the website of the Superior Council of Magistracy within 10 days of their drafting.

(6) The decisions provided in para. (5) may be appealed by any interested person, within 15 days from the communication or publication, to the Administrative and Fiscal Litigation Section of the High Court of Cassation and Justice. The appeal is heard by a panel of 3 judges. The decision on the appeal shall be final.

(7) Unless otherwise provided by law, the appeal lodged by the judge or prosecutor concerned by the decision provided in para. (5) shall suspend the enforcement of the measure ordered in respect of his career and rights.

(8) The draft agenda and the draft decisions that are subject to the vote of the plenum or sections are published 3 working days in advance on the website of the Superior Council of Magistracy. The published agenda does not include requests for the authorization of search, taking in custody, pre-trial detention or house detention, judicial control or bail concerning judges or prosecutors. The decisions of the Superior Council of Magistracy are published on the website of the Superior Council of Magistracy.

(9) In order to ensure transparency of the Superior Council of Magistracy activity:

a) public plenary and section meetings shall be broadcast live, by audio-visual means, on the website of the Superior Council of Magistracy, recorded and published on the website of the Superior Council of Magistracy, except in the cases referred to in paragraph (1);

b) the decisions of a regulatory nature adopted by the Superior Council of Magistracy in plenary sessions or sections are subject accordingly to the provisions of Law No 52/2003 regarding the decisional transparency in the public administration, republished, as subsequently amended;

c) at the end of the decisions adopted by the plenum or sections, the number of votes "for", the number of votes "against" and the number of votes "abstention", as the case may be, shall be mentioned, without affecting the secrecy of the vote.

Art. 30 - (1) In case of objective impossibility of some members to attend the meetings of the Plenum or of the sections of the Superior Council of Magistracy, the meetings may be

held by videoconference, by electronic means for direct remote communication, or, where appropriate, in a hybrid format, with physical participation and by videoconference, while respecting the secrecy of the vote.

(2) The electronic means for remote communication must meet the technical conditions allowing the following:

a) compatibility with the most common fixed or mobile access technologies, with as many operating systems as possible and connection with fixed or mobile public electronic communications networks;

b) identification of participants and their effective participation in the meeting;

c) continuous and real-time transmission, recording and archiving of the meeting;

d) real-time multidirectional communication;

e) expressing the vote and its registration;

f) subsequent verification of the manner in which the vote was taken.

Chapter III

Powers of the Superior Council of Magistracy

Section 1

Common provisions

Art.31 - (1) The corresponding sections of the Superior Council of Magistracy have the right, and the correlative obligation, to refer cases *ex officio* in order to protect judges and prosecutors against any act of interference in their professional activity or in connection therewith, which might affect their independence or impartiality, as well as against any act which might create suspicions about them. The sections of the Superior Council of Magistracy also protect the professional reputation of judges and prosecutors. Complaints concerning the defense of the independence of the judicial authority as a whole are dealt with by the Plenum of the Superior Council of Magistracy upon request or *ex officio*.

(2) Upon the request of a judge or prosecutor who considers that his/her independence, impartiality or professional reputation are affected in any way or *ex officio*, the Plenum of the Superior Council of Magistracy, the sections, the President and the Vice-President of the Superior Council of Magistracy shall refer the matter to the Judicial Inspection for investigations in order to defend the independence, impartiality and professional reputation of judges and prosecutors.

(3) In situations where the independence, impartiality or professional reputation of a judge or prosecutor are affected, the relevant section of the Superior Council of Magistracy shall order the necessary measures and ensure their publication on the website of the Superior Council of Magistracy. The section may refer the matter to the competent authority to decide on the necessary measures or may order any other appropriate measure, according to the law.

(4) At the request of the judge or prosecutor concerned, the notice published on the website of the Superior Council of Magistracy shall be displayed at the headquarter of institution where the judge or the prosecutor carries out his/her activity and/or published on the website of this institution.

(5) The Superior Council of Magistracy shall ensure compliance with the law and with the criteria of professional competence and ethics in the conduct of the professional career of judges and prosecutors.

(6) The competences of the Plenum of the Superior Council of Magistracy and its sections, related to the career of judges and prosecutors, shall be exercised in compliance with the legal provisions related to the statute of judges and prosecutors and those related to the judicial organization.

Art. 32 - (1) In exercising its powers, the Superior Council of Magistracy may request or submit to the Ministry of Justice, to the courts and prosecutor's offices, to the National Institute of Magistracy, to other public authorities and institutions, as well as to natural and legal persons, the information or the documents deemed necessary, in relation to the competences of the Superior Council of Magistracy or of the requested or requesting institutions and in the light of the principle of loyal cooperation between public authorities and institutions.

(2) To the end of being informed with regard to the activity of the courts and prosecutor's offices, the members of the Superior Council of Magistracy pay visits at the headquarters of the courts or prosecutor's offices and organize meetings with the judges, prosecutors and representatives of civil society.

Art.33 - (1) Where the law requires conformity endorsement (*avis conforme*), the approval or the agreement of the Superior Council of Magistracy, its opinion shall be binding. Where the law provides the consultation or the opinion (*avis*) of the Superior Council of Magistracy, its opinion shall not be binding.

(2) Where the law does not provide a specific deadline for the issuance of opinions by the Superior Council of Magistracy, such opinions shall be issued within 30 days of the referral. If the Superior Council of Magistracy exceeds the deadline for issuing the opinion, this does not affect the validity of the act.

Art. 34 - The Superior Council of Magistracy shall compile and keep the professional records of judges and prosecutors.

(2) The Superior Council of Magistracy is the competent authority for the supervision of personal data processing operations by the courts in the exercise of their judicial functions, within the meaning of Article 55 para. (3) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation).

Art. 35 - (1) The Superior Council of Magistracy may carry out cooperation activities with institutions of the judicial systems from other states.

(2) Under the conditions established by a decision of the Government, the Superior Council of Magistracy may bear from its own budget or, where appropriate, from external funds, the expenses incurred for the participation of representatives of institutions from other states to cooperation activities carried out in Romania.

Section 2

Powers of the Plenum of the Superior Council of Magistracy

Art. 36 - The Plenum of the Superior Council of Magistracy shall have the following powers concerning the career of judges and prosecutors:

- a) defends the independence of the judicial authority as a whole, according to Article 31(1);
- b) appoints and dismisses the chief inspector and the deputy chief inspector of the Judicial Inspection, according to the law;
- c) recommends to the President of Romania the awarding of distinctions upon judges and prosecutors, according to the law;
- d) performs any other duties laid down by law or the Regulation on the organization and functioning of the Superior Council of Magistracy.

Art. 37 - The Plenum of the Superior Council of Magistracy shall have the following powers concerning the admission to the magistracy, training and examinations of judges and prosecutors:

- a) exercises the powers provided for by law relating to the organization and conduct of the entrance examination to the National Institute of Magistracy, issues opinions and adopts regulations, in the cases and under the conditions provided for by law;
- b) exercises the powers laid down by law in relation to the competition/examination for admission in magistracy;
- c) approves the professional training programme for the auditors of justice and the continuous professional training for judges and prosecutors, following the proposal made by the National Institute of Magistracy;
- d) appoints and dismisses the director and deputy directors of the National Institute of Magistracy and designates the judges and prosecutors who will be members of the Scientific Council of the National Institute of Magistracy;
- e) on the proposal of the Scientific Council of the National Institute of Magistracy, approves the organizational structure, the function and staffing of the National Institute of Magistracy and adopts, by decision to be published in the Official Gazette of Romania, Part I, the Regulation of the National Institute of Magistracy;
- f) appoints and dismisses the director and deputy directors of the National School of Clerks;
- g) performs any other duties laid down by law or the Regulation on the organization and functioning of the Superior Council of Magistracy.

Art. 38 - The Plenum of the Superior Council of Magistracy shall have the following powers concerning the organization and functioning of courts and prosecutor's offices:

- a) convenes the general assemblies of judges and prosecutors, according to the law;
- b) endorses the draft Government Decision on the list of localities that are in the jurisdiction of the courts of first instance;
- c) drafts up its own draft budget, with the consultative opinion of the Ministry of Public Finance, and endorses the draft budgets of courts and prosecutor's offices;
- d) performs any other duties laid down by law or the Regulation on the organization and functioning of the Superior Council of Magistracy.

Art. 39 - (1) The Plenum of the Superior Council of Magistracy shall adopt the Ethical Code for Judges and Prosecutors, the Regulation on the organization and functioning of the Superior Council of Magistracy, the Regulation on the election of the members of the Superior Council of Magistracy as well as other regulations and decisions provided by the law.

(2) The Plenum of the Superior Council of Magistracy shall ensure the publication of the Ethical Code for Judges and Prosecutors and of the regulations provided in paragraph (1) in

the Official Gazette of Romania, Part I, and on the website of the Superior Council of Magistracy.

(3) The Plenum of the Superior Council of Magistracy shall endorse the draft normative acts concerning the activity of the judiciary.

(4) The Plenum of the Superior Council of Magistracy shall endorse the draft regulations and orders adopted by the minister of justice, in cases provided by the law.

(5) The Plenum of the Superior Council of Magistracy may notify the Minister of Justice with regard to the necessity to initiate or to amend some normative acts in the field of justice.

(6) Every year, the Superior Council of Magistracy shall draw up a report on the state of the judiciary and a report on its own activity, which shall be presented to the Joint Chambers of the Romanian Parliament by 15 February of the next year and published in the Official Gazette of Romania, Part III, and on the website of the Superior Council of Magistracy.

Section 3

Powers of sections of the Superior Council of Magistracy

Art. 40 - (1) The sections of the Superior Council of Magistracy shall have the following attributions pertaining to the career of judges and prosecutors:

a) make proposals to the President of Romania on the appointment and removal from office of judges and prosecutors;

b) appoint the debutant judges and prosecutors, based on the results they obtain in the graduation exam of the National Institute of Magistracy;

c) remove from office the debutant judges and prosecutors;

d) appoint judges and prosecutors in leading positions, according to the law;

e) decide on the promotion of judges and prosecutors in accordance with the law;

f) decide, in accordance with the law, the delegation and secondment of judges and prosecutors;

g) resolve appeals against the qualifications awarded by the committees for the evaluation of the professional activity of judges and prosecutors, set up under the law;

h) take measures to solve complaints received from litigants or other persons regarding the misconduct of judges and prosecutors;

i) order the suspension from office of judges and prosecutors;

j) approve the transfer of judges and prosecutors, according to the law;

k) perform any other duties laid down by law or the Regulation on the organization and functioning of the Superior Council of Magistracy.

(2) The Section for judges of the Superior Council of Magistracy appoints and removes from office the president, vice-presidents and presidents of the sections of the High Court of Cassation and Justice.

(3) The Section for Prosecutors of the Superior Council of Magistracy endorses, under the law, the proposal of the Minister of Justice to appoint and remove the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice, the First Deputy and his/her deputy, the Chief Prosecutor of the National Anticorruption Directorate and of the Directorate for Investigation of Offences of Organized Crime and Terrorism, their deputies, sections chief prosecutors of the Prosecutor's Office attached to the High Court of Cassation and Justice, of the National Anticorruption Directorate and of the Directorate for Investigation of Offences of Organized Crime and Terrorism.

Art. 41 - (1) The Section for judges of the Superior Council of Magistracy shall have the following powers concerning the organization and functioning of courts:

a) approves the setting up and closing down of the sections of the courts of appeal and of the courts in their jurisdiction, as well as the setting up of the secondary offices of the courts and their jurisdiction, under the law;

b) approves measures to supplement or reduce the number of courts' positions;

c) establishes the categories of trials or applications to be solved in Bucharest only by certain courts, while observing the substantive competence provided in the law;

d) establishes the number of vice-presidents for the courts of appeal, tribunals, specialized tribunals and for the first instance courts in the county residences and in the city of Bucharest, as well as the first instance courts with one vice-president, upon the proposal of the presidents of courts of appeal;

e) adopts, under the law, the Rules of Procedure of the courts;

f) monitors compliance with the legal and regulatory provisions in the field of organization and functioning of the courts and takes the necessary measures to immediately remove vulnerabilities that may affect the proper conduct of their work;

g) performs any other duties laid down by law or the Regulation on the organization and functioning of the Superior Council of Magistracy.

(2) The Section for Prosecutors of the Superior Council of Magistracy shall have the following powers concerning the organization and functioning of the prosecutor's offices:

a) approves the proposal of the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice, of the Chief Prosecutor of the National Anticorruption Directorate and of the Chief Prosecutor of the Directorate for Investigation of Offences of Organized Crime and Terrorism for setting up and closing down sections within prosecutor's offices;

b) approves the number of deputies of general prosecutors of the prosecutor's offices attached to the courts of appeal and of the chief prosecutors of the prosecutor's offices attached to the tribunals and to the first instance courts in the county residences and in the city of Bucharest, as well as the prosecutor's offices attached to the juvenile and family tribunals and the prosecutor's offices attached to courts of first instance where first-prosecutors are assisted by deputies, upon the proposal of the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice;

c) approves measures to supplement or reduce the number of positions for prosecutor's offices;

d) adopts, under the law, the Rules of Procedure of the prosecutor's offices and of the specialized directorates;

e) performs any other duties laid down by law or the Regulation on the organization and functioning of the Superior Council of Magistracy.

Art. 42 - (1) The Section for judges of the Superior Council of Magistracy shall approve the search, the taking in custody, the pre-trial detention or the house detention of judges. The Section for judges of the Superior Council of Magistracy shall approve the measure of judicial control and judicial control on bail, if the obligation not to exercise the office of judge is to be ordered.

(2) The Section for prosecutors of the Superior Council of Magistracy shall approve the search, the taking in custody, the pre-trial detention or the house detention of prosecutors. The Section for prosecutors of the Superior Council of Magistracy shall approve the measure

of judicial control and judicial control on bail, if the obligation not to exercise the function of prosecutor is to be ordered.

(3) The provisions provided in para. (1) and (2) regarding the search and taking in custody shall not apply in case of flagrant offence.

Art. 43 - The Sections of the Superior Council of Magistracy shall rule immediately after receiving the request provided in art. 42.

Section 4

Powers of the Superior Council of Magistracy in the field of disciplinary liability of magistrates

Art. 44 - (1) The Superior Council of Magistracy shall act, through its sections, as a court of law in the field of disciplinary liability of judges and prosecutors, for the acts provided by the law as disciplinary offences.

(2) Disciplinary action in the case of disciplinary misconduct committed by judges and prosecutors is exercised by the Judicial Inspection, through the judicial inspector.

(3) In order to exercise the disciplinary action, it is mandatory for the Judicial Inspection to carry out the preliminary disciplinary investigation.

Art. 45 - (1) Judicial Inspection may act *ex officio* or may be notified in writing and motivated by any interested person, including the Superior Council of Magistracy, in relation with disciplinary offenses committed by judges and prosecutors.

(2) If the referral is not signed, does not contain the identification data of the author or does not contain concrete indications regarding the factual situation that prompted the referral, the referral shall be filed and a reply to this effect shall be communicated. A new referral may be made, subject to the conditions laid down by law.

(3) The aspects reported according to paragraph (1) are subject to a preliminary check carried out by judicial inspectors from the Judicial Inspection, during which it is established whether there are indications of a disciplinary violation. The checks are carried out within no more than 45 days from the date of notification of the Judicial Inspection according to paragraph (1). The chief inspector can order the extension of the deadline for carrying out the prior verification, by no more than 45 days, if there are good reasons justifying this measure.

(4) If, following the preliminary checks, it is found that there are no indications of a disciplinary violation, the notification is filed, and the result is communicated directly to the person who formulated the notification and the person targeted by the notification. The closure resolution is subject to confirmation by the chief inspector. The resolution can be overruled, only once, by the chief inspector, who can order, through a written and reasoned resolution, the completion of the checks.

(5) If it is found that there are indications of disciplinary misconduct, the judicial inspector shall order, by resolution, the opening of a preliminary disciplinary investigation.

(6) Where several complaints concern the same act and the same person, the complaints are joined.

(7) The time limits laid down in this Article shall be subject to the penalty of forfeiture.

Art. 46 - (1) Against the decision to close the case referred to in art. 45 para. (4), the person who made the referral may lodge a complaint with the Chief Inspector within 15 days of the communication. The complaint shall be resolved within 20 days from the date of registration with the Judicial Inspection.

(2) The remedies that the Chief Inspector may order are:

a) rejection of the complaint and upholding of the contested resolution;
b) admit the complaint and complete the checks. The completion shall be carried out by the judicial inspector within a maximum of 30 days from the date when it was ordered by the chief inspector.

(3) The resolution of the chief inspector rejecting the complaint and the resolution to close the case may be appealed by the person who filed the complaint to the Administrative and Fiscal Chamber of the Court of Appeal of Bucharest, within 15 days from the communication. The case shall be dealt with as a matter of urgency.

(4) The decisions that the Administrative and Fiscal Chamber of the Court of Appeal of Bucharest may pronounce are:

a) dismiss the appeal;
b) uphold the appeal and annul the resolution of the Chief Inspector and the resolution to close the case and send the file for further investigation; the deadline for completing the checks is 30 days from the communication of the court's decision.

(5) The decision rendered under paragraph (4) letter b) shall contain the reasons for the annulment of the contested decisions and shall indicate the facts and circumstances to be clarified and the evidence to be taken to complete the investigations.

(6) The decision of the Administrative and Fiscal Chamber of the Court of Appeal of Bucharest shall be final.

Art. 47 - (1) The preliminary disciplinary investigation establishes the facts and their consequences, the circumstances in which they were committed, as well as any other conclusive data that can lead to a decision upon the existence or inexistence of guilt. It is mandatory to hear the person concerned and to check the defense brought by the judge or prosecutor who is being investigated. The refusal of the judge or prosecutor under investigation to make statements or to be present at the investigation shall be mentioned in a minute and shall not impede on the completion of the investigation. The judge or prosecutor under investigation is entitled to be aware of all the documents of the investigation and to request evidence for his/her defense.

(2) The preliminary disciplinary investigation shall be conducted in compliance with the legal provisions on classified information and the protection of personal data.

(3) The preliminary disciplinary investigation shall be suspended if criminal proceedings are initiated against the judge or prosecutor for the same acts.

(4) The criminal investigation body has to submit to the Superior Council of Magistracy and the Judicial Inspection, within a reasonable time, the document instituting the criminal proceedings.

(5) The preliminary disciplinary investigation shall be suspended by the judicial inspector through a resolution and shall last until the decision rendered in the case which gave rise to the suspension has become final. The provisions of paragraph (4) shall apply accordingly.

(6) The preliminary disciplinary investigation is carried out within 60 days from the date it was ordered, except the case when the suspension occurs. The preliminary disciplinary investigation may be extended by up to 30 days, if there are reasonable grounds to justify this measure.

(7) The disciplinary action may be exercised within 30 days after completion of preliminary disciplinary investigation, but no later than 2 years from the date on which the offence was committed.

Art. 48 - (1) After completing the preliminary disciplinary investigation, the judicial inspector may order through a written and grounded resolution:

a) admission of the notification, by exercising the disciplinary action and submitting the case to the competent Section of the Superior Council of Magistracy;

b) dismissal of the notification, if, following a preliminary disciplinary investigation, the judicial inspector finds that the conditions for bringing an action are not fulfilled.

(2) The resolution of the judicial inspector must be confirmed by the chief inspector. The Chief Inspector may order, in writing and giving reasons, one of the solutions provided for in paragraph 1 letter a) or (b) or the completion of the preliminary disciplinary investigation by the judicial inspector. The completion shall be carried out by the judicial inspector no later than 30 days after the date on which it was ordered by the chief inspector. After completing the investigation, the Chief Inspector may order, in writing and giving reasons, one of the solutions provided for in paragraph (1) letter a) or b).

(3) The resolution rejecting the referral referred to in paragraph (1) letter b) and para. (2) may be challenged by the person who lodged the complaint before the Administrative and Fiscal Chamber of the Court of Appeal of Bucharest, within 15 days of communication, without any prior procedure being required. The case shall be dealt with as a matter of urgency.

(4) The court may order the following solutions:

a) reject the appeal;

b) grant the appeal, annul the resolution of the judicial inspector and send the file for continuation of the disciplinary procedure. In this case, a new period of 30 days will run from the communication of the court's decision to complete the preliminary disciplinary investigation.

(5) The decision rendered under para. (4) lett. b) must indicate the reasons for annulment of the resolution of the judicial inspector and the facts and circumstances to be clarified, as well as the evidence to be taken to complete the preliminary disciplinary investigation. The judicial inspector will only be able to order the rejection of the referral for aspects that have not been examined by the court.

(6) The decision of the Administrative and Fiscal Chamber of the Court of Appeal of Bucharest is final.

Art. 49 - (1) In disciplinary proceedings before the sections of the Superior Council of Magistracy, the judge or prosecutor against whom the disciplinary action is taken and the Judicial Inspection shall be summoned. The judge or prosecutor may be represented by another judge or prosecutor or may be assisted or represented by a lawyer. The non-appearance of the judge or prosecutor under investigation at the trial shall not prevent the further conduct of the trial.

(2) Disciplinary proceedings shall be upheld before the sections by the judicial inspector who brought the proceedings and, only if he is unable to do so, by a judicial inspector designated by the Chief Inspector.

(3) In the disciplinary proceedings before the sections of the Superior Council of Magistracy, it is possible to join together several disciplinary actions concerning the same judge or prosecutor, including in cases where the disciplinary action was also brought against other judges or prosecutors, as well as disciplinary actions between which there is

a close connection. The exception of related actions (l'exception de connexité) may be raised of the court's own motion or by the parties at the first trial term at which all the parties are summoned and shall be decided by a reasoned decision.

(4) The competent disciplinary section shall discuss with the parties all claims, defenses, factual circumstances or legal grounds put forward by them in accordance with the law or raised of its own motion. The Disciplinary Section shall first rule on defenses which make it unnecessary to adjudicate on the merits of the disciplinary action.

(5) In the disciplinary proceedings before the sections of the Superior Council of Magistracy, it shall not be admissible to submit requests for ancillary intervention.

(6) A request for the recusal of the members of a Disciplinary Section is admissible only in the following circumstances:

a) where the disciplinary proceedings concern them, their spouse or their relatives up to and including the fourth degree;

b) whenever, in view of the capacity of the person concerned by the disciplinary proceedings, their impartiality might be affected;

c) in the event of a conflict of interest.

(7) The request for recusal shall be dealt with by the relevant Disciplinary Board in the same composition.

(8) All grounds for invalidity of disciplinary proceedings shall be raised, under penalty of disqualification, at the first full hearing.

(9) The competent disciplinary section may, ex officio or at the request of the parties, change the legal classification of the disciplinary offences for which disciplinary proceedings have been ordered. In all cases, the disciplinary court shall discuss the change of legal classification with the parties and, at their request, allow them a period of time to submit written submissions on the change of classification. The disciplinary section shall decide on the change of classification by means of a reasoned decision or by a judgment in the disciplinary proceedings.

(10) The provisions of Article 30 shall apply accordingly.

(11) The parties shall have the right to inspect all documents in the file and may request the taking of evidence.

(12) The provisions of Article 47 (3) and (4) shall apply accordingly. The suspension shall be ordered by a decision of the appropriate section of the Superior Council of Magistracy.

(13) The sections of the Superior Council of Magistracy, if they find that the complaint is justified, shall apply one of the disciplinary sanctions provided for by law, in relation to the seriousness of the disciplinary offence committed by the judge or prosecutor and his/her personal circumstances.

(14) The provisions of this Law regulating the procedure of disciplinary action shall be supplemented by the provisions of Law No. 134/2010 republished, as subsequently amended and supplemented, insofar as they are not incompatible with it.

Art. 50 - (1) The sections of the Superior Council of Magistracy shall settle the disciplinary action by means of a decision which shall mainly include the following:

a) description of the act constituting disciplinary misconduct and its legal classification;

b) the legal basis for the sanction;

c) the reasons why the defenses raised by the judge or prosecutor have been rejected;

d) the sanction imposed and the reasons for its application;

e) the appeal procedure and the time limit within which the judgment may be appealed;

f) the court with jurisdiction to hear the appeal.

(2) The provisions of paragraph (1) concerning the content of the judgment shall be supplemented by the provisions of Law No 134/2010 republished, as subsequently amended and supplemented,

Art. 51 - (1) The decisions of the sections of the Superior Council of Magistracy which have resolved the disciplinary action shall be drawn up, compulsory, at the moment when these are rendered and shall be immediately communicated, in writing, to the judge or prosecutor concerned, as well as to the Judicial Inspection. Decisions shall be communicated by the General Secretariat of the Superior Council of the Magistracy. Until the date of communication of the decision to the concerned judge or prosecutor, it does not produce effects regarding his career and rights.

(2) The member of the Superior Council of Magistracy against whom disciplinary proceedings are brought shall not take part in the proceedings of the section in which the disciplinary proceedings are heard.

(3) The decisions referred to in para. (1) may be appealed within 15 days from the communication by the sanctioned judge or prosecutor or, as the case may be, by the Judicial Inspection. The five-judge panel of the High Court of Cassation and Justice has jurisdiction to decide on the appeal. The five-judge panel may not include voting members of the Superior Council of Magistracy or the judge who has been disciplined.

(4) The appeal referred to in paragraph (3) is a devolutive appeal and suspends the enforcement of the decision of the section of the Superior Council of Magistracy imposing the disciplinary sanction.

(5) The decision on the appeal referred to in para. (3) shall be final.

(6) The sections of the Superior Council of Magistracy shall ensure the enforcement of the disciplinary sanctions they have imposed.

Art. 52 (1) During the disciplinary proceedings, the appropriate section of the Superior Council of Magistracy, *ex officio* or on the proposal of the judicial inspector, may order the suspension of the magistrate from office, pending the final settlement of the disciplinary action, if the continued exercise of the office could affect the impartial conduct of the disciplinary proceedings or if the disciplinary proceedings are likely to seriously prejudice the prestige of justice. The decision suspending a judge or prosecutor from his or her duties shall be drawn up at the time of the decision and shall be communicated immediately in writing to the judge or prosecutor concerned. Until such time as the decision is communicated to the judge or prosecutor concerned, it shall have no effect on his or her career or rights. The measure of suspension may be reviewed at any time during the disciplinary proceedings until a decision has been taken by the relevant section.

(2) The decision ordering suspension from office under paragraph (1) may be appealed by the suspended judge or prosecutor within 5 days of the date of notification. The competence to decide on the appeal belongs to the 5-judges panel of the High Court of Cassation and Justice, of which the voting members of the Superior Council of Magistracy cannot be part.

(3) The appeal shall be decided urgently and shall not suspend the enforcement of the decision of the section of the Superior Council of Magistracy. The decision of the court shall be final.

(4) Until the appeal has been decided, the court may, upon request, order the suspension of the enforcement of the decision.

(5) If the decision ordering the suspension of the judge or prosecutor from office is annulled, the suspension from office shall cease and the judge or prosecutor shall be reinstated in the previous situation, shall be paid the salary rights he/she was deprived of

during the period of suspension, and shall be recognized for the seniority in employment and in the judiciary during this period. The monetary rights granted are increased, indexed and updated on the date of payment, including the legal penal interest.

(6) During the disciplinary proceedings, the processing of the application for the granting of a retirement pension shall be suspended until the final settlement of the disciplinary proceedings. The relevant section of the Superior Council of Magistracy shall inform the National Public Pension House of the occurrence of any of the situations provided for in this article which has the effect of suspending or resuming the procedure for the settlement of the application for the granting of the service pension. The information shall contain the necessary elements for the application of the measure in question by the territorial pension offices, including the person's identification data, the legal basis for the measure and the date from which it applies.

(7) The duration of the suspension from office ordered under this Article may not exceed six months, at the end of which time the suspension shall cease automatically. The termination of the suspension shall be determined by a decision of the relevant section of the Superior Council of Magistracy.

(8) In case the relevant section, while deciding on the disciplinary action, applies the disciplinary sanction of suspension from office, by the same decision it shall deduct the duration of the suspension from office ordered under the terms of this Article from the duration of the disciplinary sanction applied.

(9) The provisions of paragraph (8) shall also apply where by the court decision deciding the appeal provided for in Article 51 para. (3), the disciplinary sanction imposed by the relevant section has been replaced by the disciplinary sanction of suspension from office.

(10) In cases where by a final decision of the section or by a court decision deciding the appeal provided for in Article 51 para. (3), the disciplinary proceedings have been dismissed or declared null and void, the provisions of paragraph (5) shall apply accordingly.

(11) The provisions of paragraph (1) to (5) shall also be duly applicable to the decisions of the sections by which the judge or prosecutor is suspended from office, according to the law, during the period between the date of the notification of the decision of the corresponding section imposing the disciplinary sanction of exclusion from the judiciary and the date of release from office.

(12) The provisions of Article 28 para. (2) shall remain applicable to the cases of suspension from office of judges and prosecutors provided for in this Article.

Art. 53 - (1) During the court's settlement of the cases referred to in Article 46 para. (3) and Art. 48 par. (3), the period of 2 years provided for in Article 47 para. (7) shall be suspended.

(2) The disciplinary liability of judges and prosecutors shall be time-barred after 4 years from the date of the commission of the disciplinary offence. The limitation period for disciplinary liability shall be suspended for the entire duration of the suspension of the disciplinary proceedings. Disciplinary liability shall be time-barred however many suspensions there may be, if the four-year period is exceeded by one year.

Art. 54 - (1) The appointment of a judge as a prosecutor or of a prosecutor as a judge shall not prevent the continuation of the disciplinary procedure.

(2) The disciplinary proceedings against a judge who, after committing a disciplinary offence, has been appointed as a prosecutor shall be heard by the Section for Judges. Disciplinary proceedings against a prosecutor who, after having committed a disciplinary offence, has been appointed as a judge shall be heard by the Section for Prosecutors.

(3) If the person in respect of whom disciplinary proceedings are being conducted is no longer a judge or prosecutor, if disciplinary proceedings are instituted, the relevant section shall, when it finds that the complaint is well founded, determine one of the disciplinary sanctions provided for by law, in relation to the seriousness of the disciplinary misconduct and the personal circumstances of the offender. The disciplinary penalty thus determined shall no longer be enforced.

The decision of the section imposing the disciplinary sanction, which has become final, shall be attached to the professional file of the person concerned.

Art. 55 - If a judge or a prosecutor has been excluded from the judiciary, the final decision shall be forwarded to the President of Romania for the issuance of a decree of dismissal.

Chapter IV

Statute for the members of the Superior Council of Magistracy

Art. 56 - (1) The length of the term of office for elected members of the Superior Council of Magistracy shall be 6 years, without the possibility of reinvestment.

(2) The status of elected member of the Superior Council of Magistracy, representative of the civil society, represents recognized seniority in the legal professions and during the term of office is incompatible with the exercise of any other public or private function, with the exception of teaching positions in higher education and the status of expert in externally funded projects in the field of justice.

(3) The members of the Superior Council of Magistracy annually complete a statement on their own responsibility, according to the criminal law, stating that they are not operative agents, including undercover agents, informants or collaborators of any intelligence agency. The statements are submitted to and archived at the human resources department.

(4) Verification of the veracity of the data from the statement provided in paragraph (3) shall be made individually for each statement by the Supreme Council of National Defense, annually, *ex officio* or whenever it is notified by the plenum of the Superior Council of Magistracy or by the member of the Superior Council of Magistracy concerned. The result of the verifications shall be recorded in a document and shall be communicated to the Superior Council of Magistracy, to the person concerned by the verification as well as, upon request, to any person.

(5) The document issued by the Supreme Council of National Defense provided in paragraph (5) may be appealed at the competent administrative court, within 3 months from the date on which it became aware, by any person who justifies a legitimate interest, according to the law, by following the prior/preliminary procedure.

(6) Membership of the Superior Council of Magistracy shall cease, as the case may be, upon expiry of the term of office, by resignation, revocation from office, termination, according to the law, of the position of judge or prosecutor, failure to solve a situation of incompatibility within 15 days from the date of election as member of the Superior Council of Magistracy, non-observance of the provisions regarding the prohibition of being operative agents, undercover agents, informants or collaborators of any intelligence agency, impossibility to exercise duties for a period longer than 3 months, as well as by death.

(7) Membership of the Superior Council of Magistracy shall be suspended *de jure* for the reasons of suspension from the position of judge and prosecutor provided by law.

(8) The elected members of the Superior Council of Magistracy who are representatives of the civil society do not participate in the meetings of the Sections for judges respectively for prosecutors and have the following specific duties:

a) ensures the constant information of the civil society organizations regarding the works of the Superior Council of Magistracy;

b) consults civil society organizations on their proposals and suggestions on the necessary steps at the Superior Council of Magistracy to improve the activity of judicial institutions as a public service, drawing up a quarterly report of analysis and synthesis of proposals, which forward it to the plenum or to the sections, as the case may be, for analysis and decision;

c) monitor the Superior Council of Magistracy's compliance with the obligations of transparency, ensuring public access to information and resolution of petitions in relation to civil society, and prepare an annual report which they publish on the website of the Superior Council of Magistracy.

Art. 57 - (1) The removal from office of an elected member of the Superior Council of Magistracy, judge or prosecutor may be ordered at any time during the term of office, in the following cases:

a) the person concerned no longer meets the legal conditions to be an elected member of the Superior Council of Magistracy;

b) the person concerned was subject to a disciplinary sanction as provided by law for judges and prosecutors, by final decision;

c) the corresponding section of the Superior Council of Magistracy found, based on the report drawn up by the Judicial Inspection, that the person concerned did not perform or performed improperly, in a serious, repeated and unjustified manner, the attributions provided by the law.

(2) The Plenary ascertains the incidence of one of the hypotheses provided in para. (1) lett. a) and b), at the request of the Chairperson or Vice-Chairperson of the Superior Council of Magistracy or of one third of its members, and shall order the removal from office by a majority vote of its members.

(3) In the situation provided for in paragraph (1) letter c), the procedure for revocation from office is carried out as follows:

a) the request for revocation can be initiated by at least two-thirds of the number of general assemblies at the level of courts or prosecutor's offices represented by the member of the Superior Council of Magistracy whose revocation is requested;

b) the notification must include the concrete indication of the attribution provided by the law that the person concerned did not fulfill or fulfilled in an improper, serious, repeated and unjustified way, as well as the reasons from which this situation results. The notification is inadmissible when it concerns the way in which the elected member exercised his right to vote;

c) the request for revocation is sent to the appropriate section of the Superior Council of Magistracy, which orders the necessary checks to be carried out by the Judicial Inspection. The checks must be carried out within no more than 90 days from the date of referral to the Judicial Inspection. The chief inspector can order the extension of the period for carrying out checks by no more than 30 days if there are valid reasons that justify this measure, the provisions of art. 47 paragraph (1) being applicable accordingly;

d) the report drawn up by the Judicial Inspection is sent to the corresponding section of the Superior Council of Magistracy, which will communicate it to the concerned judge or prosecutor. Against the report, the judge or the prosecutor can formulate objections within 30 days from the communication. The final report is communicated to the general

assemblies at the level of the courts or prosecutor's offices represented by the member of the Superior Council of Magistracy whose revocation is requested;

e) in order to debate the report, the appropriate section of the Superior Council of Magistracy convenes all the general meetings at the level of the courts or prosecutor's offices represented by the member of the Superior Council of the Magistracy whose revocation is requested, setting a single day for their holding;

f) the person concerned by the revocation may address the judges or prosecutors in order to support his point of view, in any way, until the date of the general meetings;

g) if two-thirds of the number of votes validly cast by the judges or prosecutors gathered in the general assemblies of the courts or prosecutor's offices represented by the member of the Superior Council of the Magistracy concerned by the procedure are in favor of maintaining the request for revocation, the corresponding section of the Superior Council of the Magistracy takes note of the decisions of the general meetings;

h) the general meetings of the courts or prosecutor's offices represented by the member of the Superior Council of Magistracy whose revocation is requested are legally constituted in the presence of at least two thirds of the number of judges or prosecutors in office. The general assembly is chaired by the judge or prosecutor with the longest seniority as a judge or prosecutor. The decisions of the general meetings are adopted with the vote of at least two thirds of the number of judges or prosecutors in office.

(4) The provisions of paragraph (3) shall also be applied in the case of the revocation of the members elected from the High Court of Cassation and Justice and from the Prosecutor's Office attached to the High Court of Cassation and Justice.

(5) Removal from office of the President or Vice-President in the event of failure to perform or defective performance of the duties provided by law shall be proposed by one third of the members of the Superior Council of Magistracy and shall be ordered by a majority vote of the Plenary of the Superior Council of Magistracy, in the presence of at least 2/3 of its members. The decision of the Plenary shall be drawn up within a maximum of 20 days and shall be communicated immediately.

(6) Elected members of the Superior Council of Magistracy, representatives of civil society, may be removed from office if they no longer meet the legal conditions for being an elected member of the Superior Council of Magistracy or in the case of non-fulfillment or improper fulfillment, in a serious, repeated and unjustified way, of the attributions provided by law; the provisions of paragraph (2) and paragraph (3) letter b) being applicable accordingly.

(7) The decision on the complaint for removal from the office of elected member of the Superior Council of Magistracy, as well as on the complaint for removal from the office of President or Vice-President shall be made only after hearing the person concerned by the complaint, the provisions of Article 47 para. (1) shall apply accordingly.

(8) The decision of revocation may be appealed against within 15 days from the date of communication to the Administrative and Fiscal Chamber of the High Court of Cassation and Justice. The appeal shall be heard by a panel of three judges. The lodging of an appeal automatically suspends enforcement of the decision. The decision on the appeal is final.

Art. 58 - (1) The members of the Superior Council of Magistracy who are judges or prosecutors shall be civilly, disciplinarily and criminally liable, according to the law on the status of judges and prosecutors.

(2) The member of the Superior Council of Magistracy against whom the disciplinary action is exercised does not participate as an elected member in the works of the section in which the disciplinary action is heard.

(3) No spouses, relatives or in-laws up to the fourth rank inclusively, may be members of the Superior Council of Magistracy during the same term of office.

Art. 59 - (1) In the event of termination of the membership of the Superior Council of Magistracy before its expiry date, new elections shall be organized for the vacancy, according to the procedure provided by the law, no later than 60 days after the vacancy, except for the situation in which the position becomes vacant in the last year of the mandate of the Superior Council of Magistracy.

(2) Pending the election of a new member, the interim will be provided by the judge or the prosecutor who obtained the next number of votes in the elections held according to Art. 8 para. (3) or Art. 13 or, as the case may be, Art. 19.

(3) In the situation where the vacancy occurred in the last year of the mandate, the person who obtained the next number of votes in the elections held according to art. 8 paragraph (3) or art. 13 or, as the case may be, art. 19, shall exercise his/her membership of the Superior Council of Magistracy for the remaining term of office until the expiry of the 6 years period.

(4) The President of the Superior Council of Magistracy notifies the Senate of Romania in order to validate the interim member or the member provided for in paragraph (3).

Chapter V

The staff of the Superior Council of Magistracy

Art. 60 - The Superior Council of Magistracy has its own technical administrative apparatus.

Art. 61 - (1) The financing of the current and capital expenses of the Superior Council of Magistracy is provided from the state budget.

(2) The budget of the Judicial Inspection, the National Institute of Magistracy and the National School of Clerks shall be distinctly included in the budget of the Superior Council of Magistracy.

(3) The president of the Superior Council of Magistracy has the quality of chief authorizing officer, which may be delegated to the Vice-President, the Secretary General, the Deputy Secretary General or the Economic Director.

Art. 62 - (1) The apparatus of the Superior Council of Magistracy shall be led by a secretary general.

(2) The secretary general is appointed and revoked by the Plenum of the Superior Council of Magistracy from among the judges with a seniority of at least 8 years in the judiciary or prosecutor.

(3) The secretary general of the Superior Council of Magistracy may be assisted by a deputy secretary general, The Deputy Secretary General is appointed and dismissed by the Plenum of the Superior Council of Magistracy from among prosecutors who have at least 8 years of seniority as prosecutor or judge.

Art. 63 - (1) The apparatus of the Superior Council of Magistracy shall be organized in directorates, services and offices.

(2) The organizational structure of the apparatus of the Superior Council of Magistracy is established by decision of the Plenum.

Art. 64 - (1) The personnel from the apparatus of the Superior Council of Magistracy shall be appointed based on a competition or exam.

(2) The leading personnel within the apparatus of the Superior Council of Magistracy shall be appointed by the Plenum, and the execution personnel, by the secretary general.

(3) The positions of legal specialty in the apparatus of the Superior Council of Magistracy may be filled in also by seconded judges and prosecutors, as provided by law.

(4) The civil servants and the contractual personnel from the apparatus of the Superior Council of Magistracy and of the Judicial Inspection are assimilated, as rank and remuneration, to the corresponding personnel within the Parliament, benefiting accordingly from its wage rights.

(5) IT specialists within the apparatus of the Superior Council of Magistracy and the institutions under its coordination, as well as within the apparatus of the Judicial Inspection, benefit from the same remuneration rights as IT specialists within the High Court of Cassation and Justice and have the same rights and duties provided for this category of personnel by Law no. 567/2004 regarding the status of the specialized auxiliary personnel of the courts and of the prosecutor's offices attached to them and of the personnel functioning within the National Institute of Crime Expertise, with the subsequent amendments and supplements, as well as of other normative acts.

(6) The lists of functions and the lists of personnel shall be approved by the Plenum of the Superior Council of Magistracy.

Art. 65 - The attributions of the secretary general and of the personnel within apparatus of the Superior Council of Magistracy, as well as the organization and functioning of the departments within the apparatus of the Superior Council of Magistracy shall be determined by the Regulation on the organization and operation of the Superior Council of Magistracy.

Title III Judicial Inspection

Chapter I General provisions

Art. 66 - (1) The Judicial Inspection functions as a structure with legal personality within the Superior Council of Magistracy and has its headquarters in Bucharest.

(2) The Judicial Inspection acts according to the principle of operational independence conferred by this title, in relation to the Superior Council of Magistracy, courts, prosecutor's offices attached to them and in relation to other public authorities, exercising its powers of analysis, verification and control in the specific fields of activity under the law and in order to ensure compliance with the law.

(3) The Judicial Inspection shall be led by a Chief Inspector, appointed from among the judges assisted by a Deputy Chief Inspector, appointed appointed from among the prosecutors.

(4) The rules for carrying out the inspection work are approved, at the proposal of the Chief Inspector, by regulation adopted by decision of the Plenum of the Superior Council of Magistracy, which shall be published in the Official Gazette of Romania, Part I.

(5) The financing of the current and capital expenses of the Judicial Inspection is provided entirely from the state budget.

(6) The Chief Inspector shall be the tertiary authorizing officer.

(7) The security of the Judicial Inspection headquarters, of the assets and values belonging to it, the supervision of access and maintenance of the internal order necessary for the normal development of the activity in this headquarters is ensured, free of charge, by the Romanian Gendarmerie, through its specialized structures.

Art. 67 - (1) The Judicial Inspection operates with a maximum number of 117 positions.

(2) The maximum number of positions for the Judicial Inspection's apparatus may be modified by a Government decision, at the proposal of the Chief Inspector.

Chapter II

Organization of the Judicial Inspection and the statute of judicial inspectors

Art. 68 - (1) For the fulfilment of its tasks, the Judicial Inspection has its own apparatus.

(2) The apparatus of the Judicial Inspection is organized in directorates, services and offices. Within the Judicial Inspection, in order to exercise the attributions of analysis, verification and control in the specific fields of activity, the Inspection Directorate for judges and the Inspection Directorate for prosecutors are organized separately.

(3) Within the apparatus of the Judicial Inspection there are judicial inspectors, personnel of legal specialty assimilated to judges and prosecutors, civil servants, contractual personnel and IT specialists.

(4) Judicial inspectors selected from among judges are operating within the Directorate of inspection for judges, and judicial inspectors selected from among prosecutors are operating within the Directorate of inspection for prosecutors.

(5) The Directorates of inspection for judges and prosecutors shall be assigned staff serving as secretariat, archive and register of the two directorates.

(6) Vacancies, other than those of judicial inspector, may be filled in temporarily by seconding judges, prosecutors or other categories of personnel, in accordance with the law.

(7) The organization and functioning of the Judicial Inspection, the organizational structure and the attributions of the compartments are established, at the proposal of the Chief Inspector, by regulation adopted by decision of the Plenum of the Superior Council of Magistracy, which shall be published in the Official Gazette of Romania, Part I.

Art. 69 - (1) The Chief inspector and the Deputy Chief Inspector are appointed by the Plenum of the Superior Council of Magistracy from among the judicial inspectors in office with a seniority of at least 1 year in the position of judicial inspector, following a competition consisting, in this order, in the presentation of a project related to the fulfilment of the tasks specific to the respective management position and in a grid-type written test regarding management, communication, human resources, the candidate's ability to make decisions and assume responsibility and resistance to stress.

(2) The competition is organized by the Superior Council of Magistracy, under this law and the regulation approved by decision of the Plenum of the Superior Council of Magistracy, published in the Official Gazette of Romania, Part I.

(3) The organization of competitions for the positions of Chief Inspector and Deputy Chief Inspector shall be announced at least 3 months before their date.

(4) The term of office of the Chief Inspector and of the Deputy Chief Inspector is 3 years and may be renewed once, under the provisions of paragraph (1). The term of office as the judicial inspector shall be extended de jure until the expiry of the term of office as Chief Inspector or Deputy Chief Inspector.

(5) In case the mandate of the Chief Inspector ceases prior to the expiration of its term of office, or in any other situation in which this position is vacant, the interim shall be carried out by the Deputy Chief Inspector, the Director of the Directorate of inspection for judges and the Director of the Directorate of inspection for prosecutors, in this order of priority.

Art. 70 - (1) The date and place of the contests for the positions of chief inspector and deputy chief inspector, their calendar, as well as the theme and bibliography of the contest are established by decision of the Plenary of the Superior Council of Magistracy.

(2) For the contests provided for in paragraph (1), the commission for organizing the contest, the examination commission and the commission for resolving appeals are established.

(3) The members of the commissions referred to in paragraph (2) are appointed by decision of the Plenary of the Superior Council of the Magistracy. The competition organizing commission fulfills the duties necessary for the good organization and conduct of the competition and is composed of the president and members, appointed from among the staff of the specialized apparatus of the Superior Council of Magistracy and the National Institute of Magistracy, including those with management positions. The presidents of the commissions for examination and resolution of appeals are appointed by the vote of the majority of the members of the commission.

(4) The verification of the fulfillment by the candidates registered for the contests provided for in art. 69 of the conditions provided by the law is carried out by the commission for organizing the contest. The results of the verification are published on the website of the Superior Council of Magistracy, no later than 15 days before the date of the first test of the competition. Candidates rejected after verification can file appeals within 48 hours from the publication of the list with the verification results. The plenary session of the Superior Council of the Magistracy pronounces on the appeals filed within 3 days at the most and validates the final list of candidates.

(5) For the test consisting in the presentation of the project relating to the exercise of the specific duties of the position for which the competition is being organized and for the grid-type written test, a single examination committee is constituted consisting of 2 judges of the High Court of Cassation and Justice, 2 prosecutors from the Public Prosecutor's Office High Court of Cassation and Justice, the National Anticorruption Directorate or the Directorate for the Investigation of Organized Crime and Terrorism and a specialist in management, communication and human resources.

(6) A psychologist from the Superior Council of Magistracy, the High Court of Cassation and Justice or the courts of appeal, appointed by the Superior Council of Magistracy, also participates in the presentation of the project related to the exercise of the specific attributions of the position, with an advisory role, and will be able to ask questions to candidates in order to assess their motivation and human and social skills.

(7) The examination committee prepares the evaluation grid based on which the test is assessed, consisting of the presentation of the project related to the exercise of the specific duties of the position, and carries out the examination and marking of the candidates, and in the case of the grid-type written test, it prepares the competition subjects, the evaluation scale and scoring and determines the time needed to formulate the answers to the questions in the grid test.

(8) In order to resolve the appeals made by the candidates against the results of the test consisting of the presentation of the project related to the exercise of the specific

attributions of the position and the grid-type written test, a single appeals resolution commission is established, which has the composition provided for in paragraph (5).

(9) Alternates are appointed for each competition commission, in the manner provided by this article.

(10) Persons who are spouses, relatives or persons related up to and including the fourth degree to any of the candidates or to another member of the selection boards may not be appointed to the selection boards. The same person can be part of only one competition commission.

(11) In the test consisting of the presentation of the project related to the exercise of the specific duties of the position, the project drawn up by the candidate is supported, the managerial and communication skills of the candidate are checked and the aspects related to the way the candidate relates to the values of the position for which he is applying are evaluated. The recording of the interview by technical audio-video means is mandatory. The mark for the test consisting of the presentation of the project related to the exercise of the specific duties of the chief inspector and deputy chief inspector represents the arithmetic mean of the marks awarded by each member of the commission. Each member of the commission evaluates and marks the candidates with grades from 1 to 10. The evaluation grid based on which the test is assessed, consisting of the presentation of the project related to the exercise of the specific duties of the position, is published on the website of the Superior Council of Magistracy after the end of the test.

(12) Candidates can file appeals against the results of the test consisting of the presentation of the project related to the exercise of the specific duties of the leadership position, within 48 hours from the date of publication of the results on the website of the Superior Council of Magistracy. Appeals are resolved by the appeals settlement committee, within 3 days from the expiration of the term for contesting the results, based on the audio-video recording of the evidence. The mark awarded following the resolution of the appeal is final and cannot be lower than the challenged mark.

(13) For the grid-type written test, the time set for solving the questions is communicated to the candidates together with the subjects. The evaluation and grading scale is published on the website of the Superior Council of Magistracy after the end of the test. The evaluation and marking of the papers in the grid-type written test is carried out by electronic processing. For the grid-type written test, each candidate is given a grade from 1 to 10.

(14) Candidates can file appeals to the evaluation and marking scale and appeals against the results obtained in the written test, within 48 hours from the publishing of the results on the website of the National Institute of Magistracy; appeals are resolved by the appeals settlement committee. The scale established following the resolution of appeals is published on the website of the Superior Council of Magistracy.

(15) In the event that, following the resolution of appeals on the scale, one or more questions from the grid test are cancelled, the score corresponding to the cancelled questions is given to all candidates.

(16) In the event that, following the resolution of appeals to the scale, it is assessed that the answer indicated as correct in the initial scale is not the only correct answer, the final scale will include both the score corresponding to the answer variant established by the examination committee in the initial scale, as well as the score corresponding to the response option established by the appeals resolution committee.

(17) In the event that, following the resolution of appeals to the scale, it is assessed that the correct answer to one of the questions is obviously different from the one indicated in the scale, without prejudice to the provisions of paragraph (16), the scale shall be corrected

and the score corresponding to the respective question will be given only to the candidates who indicated the correct answer established by the definitive scale.

(18) The final mark awarded to the candidates is made up of the arithmetic mean of the marks obtained in each test. To occupy the position of chief inspector or deputy chief inspector, the candidate must obtain at least a final mark of 7, and no less than a mark of 6 in each competition test.

(19) The results of the competition for appointment to the management positions provided for in paragraph (1) are subject to validation by the Plenary of the Superior Council of Magistracy.

(20) The Plenary of the Superior Council of the Magistracy can invalidate the competition in whole or in part, in case of non-compliance with the provisions regulating its conduct or in case of proven fraud. In the event that it invalidates the whole competition, by the same decision the Plenary will order the initiation of a new competition procedure. In the case of partial invalidation, the decision of the Plenary indicates the competition test to be retaken.

(21) If it validates the competition, the Plenary of the Superior Council of Magistracy appoints the candidate who obtained the highest mark to the management positions provided for in paragraph (1). In the case of equal scores, the plenary appoints one of the candidates to the management position, taking into account the following criteria: longest seniority as a judicial inspector, longest seniority as a judge and prosecutor, previous managerial experience.

Art. 71 - (1) The Director of the Inspection Directorate for judges and the Director of the Inspection Directorate for prosecutors shall be appointed from among the judicial inspectors in office with a seniority of at least one year as a judicial inspector, following a competition which consists, in this order, in the presentation of a project related to the exercise of the specific attributions of the management function and in a grid-type written test regarding management, communication, human resources, the candidate's ability to make decisions and assume responsibility and resistance to stress. The Director of the Inspection Directorate for Judges is appointed by the Section for Judges, and the Director of the Inspection Directorate for Prosecutors is appointed by the Section for Prosecutors. The competition is organized by the appropriate section of the Superior Council of Magistracy, depending on the inspection direction for which the competition is organized, with the support of the National Institute of Magistracy, according to the provisions of this law and the regulations approved by decision of the sections of the Superior Council of Magistracy, which are published in the Official Monitor of Romania, Part I.

(2) The provisions of Article 69 para. (3)-(4) and article 70 shall apply accordingly.

(3) In the event of termination of the mandate of the senior positions referred to in paragraph (1) before its expiry term of office or in any situation this position became vacant, the interim is ensured by delegation, decided by the appropriate section of the Superior Council of Magistracy, at the proposal of the Chief Inspector, of some judicial inspectors who meet the conditions provided by law.

(4) In case of termination of the mandate of the chief inspector before the expiry of its term or in any situation of vacancy of this position, when the interim position cannot be ensured according to the provisions of art. 69 paragraph (5), the delegation to the management positions provided for in paragraph (1) will be made ex officio by the corresponding section of the Superior Council of Magistracy.

Art. 72 - (1) The Chief Inspector and the Deputy Chief Inspector shall be dismissed from office by the Plenum of the Superior Council of Magistracy at the reasoned request of at

least five members of the Superior Council of Magistracy or at the reasoned request of the General Assembly of judicial inspectors, for failure to perform or improper performance of managerial tasks relating to efficient organization, behavior and communication, accountability and managerial skills.

(2) Following the revocation proposal, the Plenum of the Superior Council of Magistracy shall, no later than seven days after the registration of the request, appoints by vote two rapporteurs from among the elected members, judges and prosecutors, from different sections, who will verify the performance of the management tasks concerning efficient organization, behavior and communication, accountability and managerial skills. In the activity of verifying the exercise of the managerial tasks specific to the position for which the dismissal was requested, rapporteurs can be assisted by a management, communication and human resources specialist, appointed by the Plenum of the Superior Council of Magistracy together with the rapporteurs.

(3) Verifications shall be carried out no later than 30 days after the date of appointment of rapporteurs. The aspects ascertained following the verifications shall be recorded in a report which shall be communicated immediately to the person concerned.

(4) The Chief Inspector or, as the case may be, the Deputy Chief Inspector shall be entitled to consult the report referred to in paragraph (3) within five days of communication thereof.

(5) After expiry of the term provided for in paragraph (4), the rapporteurs shall hear the person concerned. A refusal to make statements or to appear at the hearing shall be made in the minutes.

(6) At the time of its hearing or by a separate request made not later than 10 days after the date of communication of the report referred to in paragraph (3), the Chief Inspector or, as the case may be, the Deputy Chief Inspector may propose evidence and raise objections against the findings. The rapporteurs shall give reasons for their requests or objections and, where appropriate, supplement the verifications within 10 days of the date on which the person concerned proposed evidence or raised objections. The assessment report shall be amended accordingly if objections are admitted.

(7) The report, which shall include the verifications carried out, the findings, the statements, the proposed evidence and the objections raised by the person concerned shall be submitted to the Plenum of the Superior Council of Magistracy.

(8) The Plenum of the Superior Council of Magistracy, following the analysis of the report provided in para. (6), shall rule on the dismissal from office by reasoned decision, within a maximum of 15 days from the date of registration of the report with the Superior Council of Magistracy. When resolving the request for revocation by the Plenum, it is mandatory to summon the Chief Inspector or, as the case may be, the Deputy Chief Inspector, for the hearing. The rapporteur shall not become incompatible and shall vote in the Plenum of the Superior Council of Magistracy. The Plenum of the Superior Council of Magistracy may order, only once, the completion of the report, when it considers that it is not complete. Completion shall be made by the rapporteur within a maximum of 15 days from the date when it was requested.

(9) The following criteria will be considered when verifying the effective organization of the activity: adequate use of human and material resources, assessment of needs, management of crisis situations, ratio of resources invested - results obtained, management of information and tasks distribution within the institution.

(10) When verifying the behavior and communication, the behavior and communication with the persons involved in the inspection procedures, with the institution's staff, other

institutions, mass media, ensuring access to public interest information within the institution and transparency of the management act shall be considered.

(11) When verifying the taking of responsibility, the fulfilment of the tasks provided by law and regulations shall be considered, as well as the observance of the principle of random distribution of the inspection work.

(12) Verification of managerial skills will consider organizational capacity, fast decision capacity, stress resistance, self-improvement, analysis capacity, synthesis, forecasting, strategy and short, medium- and long-term planning, initiative and fast adaptability.

(13) The decision ordering the revocation from the positions provided in para. (1) must be drawn up at the time of the judgment and communicated immediately in writing to the person concerned. The judgment ordering the revocation may be challenged with an appeal within 15 from the communication. The settlement of the appeal is within the competence of the Administrative and Fiscal Litigation Section of the High Court of Cassation and Justice and shall be made not later than 90 days after the date of its registration. The judgment given shall be final.

(14) Until the settlement of the appeal against the decision ordering the revocation, the competent court according to para. (13) may order, in accordance with the law, the suspension of the enforcement of the decision. The request for suspension shall be settled within 30 days from the date of its registration with the High Court of Cassation and Justice.

(15) Until the date of issuing the decision of the High Court of Cassation and Justice by which the reinstatement was ordered or, as the case may be, until the occupation of the position by competition, the provisions of article 69 para. (5) shall apply.

Art. 73 - (1) Directors of inspection directorates shall be dismissed from office by the appropriate section of the Superior Council of Magistracy, at the reasoned request of at least 3 members of the relevant section or the Chief Inspector, for non-fulfilment or improper fulfilment of managerial tasks concerning the effective organization, the behavior and communication, the assumption of responsibilities and managerial skills.

(3) The provisions of art. 72 shall apply accordingly.

Art. 74 - (1) The Chief Inspector of the Judicial Inspection mainly fulfills the following tasks:

a) exercises the function of management, organization, coordination and control at the level of the Judicial Inspection and is responsible for its activity;

b) represents the Judicial Inspection in the relations with the institutions within the judicial authority and other national or international institutions and authorities;

c) presents annually, before the Plenum of the Superior Council of Magistracy, the activity report for the previous year;

d) performs his legal duties as the chief of accounting;

e) convenes and chairs the General Assembly of Judicial Inspectors and the Management Board of the Judicial Inspection, in accordance with the law;

f) take measures for the random distribution of the inspection works within the Judicial Inspection and is responsible for this;

g) establishes annually or whenever it is required, the specific fields of activity in respect of which the controls of the Judicial Inspection are exercised, after consulting the judicial inspectors;

h) proposes to the Management Board the composition of the control teams ;

i) appoints, in accordance with the law, the judicial inspectors and the other categories of personnel within the Judicial Inspection and orders the modification, suspension and termination of their employment or service relations;

j) establishes the individual duties and tasks of the personnel, following a balanced distribution of them;

k) evaluates, in accordance with the law, the personnel of the Judicial Inspection;

l) verifies, approves, confirms or endorses, according to law and the Rules for carrying out inspection work, the resolutions, reports and other documents drawn up by the judicial inspectors;

m) proposes to the plenary and to the sections of the Superior Council of Magistracy the adoption of draft regulations, in the cases provided for by law;

n) approves other regulations, in the cases provided for by law;

o) adopts the draft budget of the Judicial Inspection;

p) performs any other duties provided by law or regulations.

(2) The Chief Inspector may not perform acts concerning judges or prosecutors carrying out their activity in the last court or, as the case may be, the last Prosecutor's Office, where he worked before his appointment as judicial inspector. In this case, the act is performed by the Deputy Chief Inspector.

(3) The provisions of para. (2) shall also apply whenever, in relation to the quality of the person concerned, the impartiality of the Chief Inspector may be affected, as well as in the event of a conflict of interest.

Art. 75 - The Deputy Chief Inspector mainly fulfills the following tasks:

a) coordinates the activity of the personnel of the Judicial Inspection, other than the judicial inspectors;

b) coordinates the activity of labor protection and safety;

c) coordinates the professional training of judicial inspectors and the unification of practice within the Judicial Inspection;

d) assists the chief inspector in the activity of verification, approval, confirmation or endorsement of the resolutions, reports and other documents drawn up by the judicial inspectors;

e) is the legal substitute of the Chief Inspector, ensuring the fulfilment of the attributions provided by law or regulations in case of absence or impossibility of exercising them by the Chief Inspector, as well as in the situations provided in art. 74 para. (2) and (3);

f) exercises any other attributions provided by law and regulations or delegated by the Chief Inspector.

Art. 76 - The directors of the Inspection Directorate for judges and of the Inspection Directorate for prosecutors fulfill, mainly, the following attributions:

a) exercise the function of management, of the directorate activity in the sense that they lead it and organize, coordinate, guide, control and are responsible for its work;

b) coordinate and control the activity of random distribution of inspection work at the level of the directorate they lead and are responsible for it;

c) organize the professional training of the judicial inspectors and the unification the practice at the level of the directorate;

d) propose to the Chief Inspector, after consulting the inspectors of the directorate, the composition of the control teams and the specific areas of activity in which the controls are to be carried out;

e) propose to the Management Board the appointment of inspectors to fulfill other attributions than those of inspection;

f) follow the balanced distribution of the attributions to the inspectors and the other personnel of the directorate they lead;

g) verify and endorse the resolutions, reports or other documents drawn up by the judicial inspectors at the level of the directorates they lead and submit them to the Chief Inspector for the performance of the duties referred to in article 74 para. (1) point (l);

h) seek the compliance with the time limits laid down by law or regulations for carrying out inspection and other administrative work at the level of the directorate;

i) perform any other duties provided by law or by regulations or delegated by the Chief Inspector of the Judicial Inspection.

(2) The provisions of art. 74 para. (2) and (3) are applicable accordingly; in these cases, the act is performed by the judicial inspector appointed by order of the Chief Inspector as a substitute for the director of the directorate.

Art. 77 - (1) Within the Judicial Inspection, the management board operates, which decides on the general management issues of the institution.

(2) The management board of the Judicial Inspection is made up of the chief inspector and 4 judicial inspectors, 2 from each inspection department, elected by the general assembly of judicial inspectors for a period of one year. When economic-financial and administrative issues are debated, the economic director also participates in the college meetings and has an advisory vote. Depending on the issues on the agenda, judicial inspectors or other categories of personnel may be invited to the college meetings.

(3) The management board of the Judicial Inspection has the following attributions:

a) approves, upon the proposal of the chief inspector, the drafts of the Regulation on the organization and operation of the Judicial Inspection, the Regulation on the rules for the performance of inspection works and the regulations on the organization and conduct of the competition for the appointment of judicial inspectors, as well as the amendments and additions to these;

b) approves, upon the proposal of the chief inspector, the regulations provided for by law, other than those established in letter a), as well as the amendments and additions to them;

c) debates the budget draft of the Judicial Inspection;

d) approves, at the beginning of the year or whenever necessary, the chief inspector's proposals regarding the composition of the control teams and their changes;

e) approves the proposals of the directors of the inspection departments regarding the delegation of additional attributions to those of the inspection works to the judicial inspectors;

f) approves, at the proposal of the chief inspector, the operational procedures drawn up at the level of the Judicial Inspection;

g) convenes the general assembly of judicial inspectors, under the law;

h) designates and revokes the members and alternate members of the commissions for evaluating the professional activity of judicial inspectors with executive functions;

i) designates the judicial inspectors and the other categories of personnel who represent the Judicial Inspection in internal or international missions;

j) fulfills other duties provided by law or the Regulation on the organization and operation of the Judicial Inspection.

(4) The management board can be convened by the chief inspector or, in his absence, by the deputy chief inspector and is chaired by the chief inspector or, in his absence, by the deputy chief inspector. The management board can also be convened by at least one third

of its members, in this case being chaired by one of the elected members, appointed with the majority of the members present.

(5) The management board meets monthly or whenever necessary. The board is legally constituted and adopts decisions with the vote of the majority of its members.

Art. 78 - (1) At the level of the Judicial Inspection, the general assembly of judicial inspectors is organized whenever necessary.

(2) The general assembly of judicial inspectors shall be composed of judicial inspectors-in office and has the following attributions:

- a) approves the annual activity report of the Judicial Inspection;
- b) issues points of view, at the request of the Chief Inspector, of one third of the number of judicial inspectors in office or of the Superior Council of Magistracy;
- c) initiates the procedure for the revocation of the Chief Inspector and the Deputy Chief Inspector;
- d) debates the annual plan of the specific fields of activity in which the controls are to be carried out and its amendments or additions;
- e) debates legal issues with a view to a uniform interpretation of the legal provisions at the level of Judicial Inspection;
- f) elects the members of the management board and revokes them in the case of improper exercise of the duties provided for by law;
- g) fulfills any other attributions provided by law or The Regulation on the organization and functioning of the Judicial Inspection.

(3) The General Assembly of judicial inspectors is convened by the Chief Inspector. The general assembly may be convened, in the absence of the Chief Inspector, in order, by the Deputy Chief Inspector, the director of the Inspection Directorate for judges, the director of the Inspection Directorate for prosecutors. The general assembly may also be convened by one third of the number of judicial inspectors in office or by the management board, as well as by the Plenum or Sections of the Superior Council of Magistracy.

(4) The General Assembly of judicial inspectors is chaired by the Chief Inspector or, in his absence, in order, by the Deputy Chief Inspector, the Director of the Inspection Directorate for Judges, the Director of the Inspection Directorate for Prosecutors, the judicial inspector with the longest seniority in the Judicial Inspection present at the meeting or by the judicial inspector with the longest seniority in the position of judge and prosecutor present at the meeting.

(5) The General Assembly of judicial inspectors is legally constituted in the presence of majority of the judicial inspectors in office and adopts decisions with the vote of the majority of the members present.

Art. 79 - (1) The judicial inspectors are appointed by the Chief Inspector, following a competition organized with the support of the National Institute of Magistracy, by the corresponding section of the Superior Council of Magistracy, depending on the inspection directorate for which the competition is organized. Judges and prosecutors may participate in the competition in accordance with the following conditions:

- a) they have at least a grade of tribunal/prosecutor's office attached to the tribunal, they actually work at least at the tribunal or at the prosecutor's office attached to the tribunal and have a seniority in the position of judge, respectively of prosecutor, depending on the directorate for which they are applying, for at least 10 years;

b) has never been sanctioned by disciplinary action, unless the disciplinary penalty has been removed, or for violating the norms of the Code of Ethics;

c) had the rating "very good" at the last evaluation.

(2) When calculating the minimum seniority condition in order to participate in the competition provided in para. (1), the period of time in which the judge or the prosecutor had the quality of justice auditor shall not be considered. The seniority provided in para. (1) must be met by the expiration date of the competition registration deadline.

(3) The competition for appointment as a judicial inspector is organized according to the provisions of this law and the regulations approved, at the proposal of the Chief Inspector, by decision of the sections of the Superior Council of Magistracy, which is published in the Official Gazette of Romania, Part I.

(4) The organization of competitions for the filling of the positions of judicial inspectors and the positions that are put up for competition shall be announced at least 3 months before the date of the competition. The competition is organized at least 3 months before the expiry date of the judicial inspector's mandate.

(5) The competition consists of an interview and a written multiple-choice test, in this order, and the competition topic includes:

a) civil procedural law, respectively criminal procedural law, depending on the candidate's specialization;

b) the laws, regulations and any other legal provisions specific to the Judicial Inspection, as well as the jurisprudence in disciplinary matters and in other matters within the competence of the Judicial Inspection;

c) the laws, regulations, any other legal provisions regarding the organization and functioning of courts, respectively prosecutor's offices, depending on the inspection directorate for which the candidates are registered.

(6) The date and place of the contest, its calendar, as well as the theme and bibliography of the contest are established by decision of the sections of the Superior Council of Magistracy.

(7) For the competition referred to in paragraph (1) shall be constituted:

a) the competition organizing committee;

b) the examination board, common for the interview test and for the grid-type written test ;

c) a committee for the resolution of appeals, common for the interview test and for the grid-type written test.

(8) Persons who are spouses, relatives or persons related up to and including the fourth degree to any of the candidates or to another member of the selection boards may not be appointed to the selection boards. The same person may sit on only one selection board.

(9) The members of the selection boards referred to in paragraph (7) shall be appointed by decision of the corresponding section of the Superior Council of Magistracy. The Competition Organizing Committee, which shall perform the tasks necessary for the proper organization and conduct of the competition, shall consist of a chairman and members, appointed from among the staff of the specialized apparatus of the Superior Council of Magistracy and of the National Institute of Magistracy, including those in managerial positions. The chairmen of the examination board and the appeal board are appointed by a majority of the members of those boards.

(10) Substitute members shall be appointed for each selection board in the manner provided for in paragraph (9).

Art. 80 - (1) The verification of the fulfillment by the candidates registered in the contest for the filling of judicial inspector positions within the Judicial Inspection of the conditions provided by the law is carried out by the commission organizing the contest. The results of the verification are published on the website of the Superior Council of Magistracy, no later than 15 days before the date of the first test of the competition. Candidates rejected after verification can file appeals within 48 hours from the publication of the list with the verification results. The corresponding section of the Superior Council of the Magistracy pronounces on the appeals filed within a maximum of 3 days.

(2) The examination committee is composed of a trainer from the National Institute of Magistracy and 2 judges of the High Court of Cassation and Justice, respectively of a trainer from the National Institute of Magistracy and 2 prosecutors from the Prosecutor's Office attached to the High Court of Cassation and Justice, the National Anticorruption Directorate or from the Directorate for the Investigation of Organized Crime and Terrorism, depending on the inspection department for which the contest is organized.

(3) A psychologist from the Superior Council of Magistracy, the High Court of Cassation and Justice or the Courts of Appeal, appointed by the relevant section, may also take part in the interview, in an advisory capacity, and may ask questions to the candidates in order to assess their motivation and their human and social skills.

(4) During the interview test, the examination committee evaluates aspects related to the candidate's integrity and moral and professional conduct, based on the report drawn up by the Judicial Inspection regarding these aspects and the answers to the questions asked by the members of the commission, based on this report. The recording of the interview by audio-video technical means is mandatory. Each member of the examination committee evaluates and marks the candidates based on the evaluation grid elaborated by the committee, by awarding a score of a maximum of 30 points. The mark for the interview is the arithmetic average of the marks given by each member of the committee. The evaluation grid based on which the test is assessed is published on the website of the Superior Council of Magistracy after the end of the test.

(5) The report provided for in para. (4) will analyze: the conduct of the candidate in the service relations and outside the service relations, the quality of the works prepared by the candidate, aspects related to compliance with the regime of prohibitions and incompatibilities, any other relevant aspects related to the conduct and activity of the candidate.

(6) Candidates can file appeals against the results of the interview test within 48 hours from the date of publication of the results on the website of the Superior Council of Magistracy.

Appeals are resolved by the appeals committee within 3 days from the expiration of the term for contesting the results, based on the audio-video recording of the test. The appeals commission has the composition provided for in paragraph (2). The mark awarded following the resolution of the appeal is final and cannot be lower than the challenged mark.

(7) For the grid-type written test, the examination committee elaborates the competition topics and the evaluation and grading scale and determines the time required for formulating the answers to the questions in the grid-test. The time set for solving the questions is communicated to the candidates together with the subjects. The evaluation and grading scale is published on the website of the Superior Council of Magistracy after the end of the test. The evaluation and marking of the papers in the grid-type written test is carried out by electronic processing. The maximum score that can be obtained in the grid-type written test is 70 points. For the verification of knowledge regarding the subjects provided for in art. 79 paragraph (5) letters b) and c), the questions from the grid test and

the evaluation and scoring scale are established by all members of the commission, and for the verification of knowledge for the subjects provided for in art. 79 paragraph (5) letter a), the questions in the grid test and the evaluation and scoring scale are established by the commission members specialized in civil procedural law, respectively in criminal procedural law.

(8) Candidates can file appeals to the evaluation and grading scale and appeals against the results obtained in the grid-type written test, within 48 hours from the publishing of the results on the website of the Superior Council of Magistracy; appeals are resolved by the appeals committee, and the provisions of paragraph (7) final sentence are applied accordingly. The scale established following the resolution of appeals is published on the website of the Superior Council of Magistracy.

(9) In the event that, following the settlement of appeals on the scale, one or more questions from the grid test are cancelled, the score corresponding to the cancelled questions is given to all candidates.

(10) In the event that, following the resolution of appeals to the scale, it is assessed that the answer indicated as correct in the initial scale is not the only correct answer, the final scale will include both the score corresponding to the answer variant established by the examination committee in the initial scale, as well as the score corresponding to the response option established by the appeals committee.

(11) In the event that, following the resolution of appeals on the scale, it is assessed that the correct answer to one of the questions is obviously different from the one indicated in the scale, without prejudice to the provisions of paragraph (10), the scale shall be corrected and the score corresponding to the respective question will be given only to the candidates who indicated the correct answer established by the definitive scale.

(12) The final mark obtained by the candidate is the arithmetic average of the marks awarded in the two tests. Candidates who obtained a minimum of 70 points are declared admitted to the competition.

Art.81.- (1) The results of the competition for the filling of judicial inspector positions are subject to validation by the corresponding section of the Superior Council of Magistracy.

(2) The Section may invalidate the contest in whole or in part, in case of non-compliance with the provisions regulating its conduct or in case of proven fraud. In the event that it invalidates the entire competition, by the same decision the section will order the initiation of a new competition procedure. In the case of partial invalidation, the decision of the section indicates the contest test to be retaken.

(3) After the validation of the competition, the chief inspector appoints the candidates to the position of judicial inspector, in descending order of the final marks obtained and within the limit of the places available for the competition. In case of equality of scores, the classification of the candidates is done, in order, according to the following criteria: longest seniority in the position of judge or prosecutor, holding the title of doctor of law, highest score obtained in the written test, highest score obtained in the interview test.

Art.82.- (1) If the competition for the appointment of judicial inspectors has not been completed, regardless of the reason, by the expiration of the mandate of the judicial inspectors who are applying for a new mandate, the corresponding section of the Superior Council of Magistracy, depending on the inspection directorate in which the judicial inspector carries out his activity, orders the delegation of the judicial inspector whose mandate has expired on the occupied position, with his consent, until the date of filling the position by competition.

(2) The mandate of judicial inspectors is 3 years and can be renewed only once, under the conditions of this law.

Art. 83 - (1) The judicial inspectors have, mainly, the following attributions:

a) in disciplinary matters, order and carry out the preliminary disciplinary investigation in order to exercise disciplinary action against judges and prosecutors, including those who are members of the Superior Council of Magistracy, under the conditions of this law;

b) perform verifications in the courts regarding the observance of the procedural rules regarding the receipt of applications, random distribution of files, setting deadlines, continuity of the panel, pronouncing, drafting and communicating of the court decisions, submission of files to competent courts, enforcement of criminal and civil court decisions, and informs the Section for Judges of the Superior Council of Magistracy, making appropriate proposals;

c) perform verifications at the prosecutor's offices regarding the observance of the procedural rules regarding the receipt and registration of work, the distribution of files on objective criteria, the continuity of the distributed work and the independence of prosecutors, the observance of deadlines, the drafting and communication of procedural documents, and informs the Section for Prosecutors of the Superior Council of Magistracy, making appropriate proposals;

d) verify the managerial efficiency and the way of fulfilling the attributions deriving from laws and regulations for ensuring the proper functioning of the court and the prosecutor's office, the proper quality of the service, indicate the deficiencies found and make appropriate proposals for their removal, which they shall submit to the appropriate section;

e) verify the notifications addressed to the Judicial Inspection or shall be notified *ex officio* in connection with the activity or misconduct of judges and prosecutors, including those who are members of the Superior Council of Magistracy, or in connection with the violation of their professional obligations;

f) perform the verifications for solving the requests regarding the defense of the independence, impartiality and professional reputation of judges and prosecutors and presents to the appropriate section of the Superior Council of Magistracy the report containing the result of the verifications;

g) perform any other verifications or controls ordered by the Plenum of the Superior Council of Magistracy, the sections of the Superior Council of Magistracy or by the Chief Inspector of the Judicial Inspection, in accordance with the law.

(2) The attributions provided in para. (1) point b), c) and d) shall be carried out *ex officio* or at the request of the Plenum of the Superior Council of Magistracy or of the sections of the Superior Council of Magistracy.

(3) The judicial inspectors carry out their activity independently and impartially. In disciplinary matters, the lack of impartiality of the judicial inspector on the grounds set out in this law shall be invoked by the person concerned during the preliminary verifications or, where appropriate, during the preliminary disciplinary investigation, as soon as the reasons became known to him. When the reasons were known by the person concerned only after the completion of the preliminary verifications or, as the case may be, of the preliminary disciplinary investigation, the lack of impartiality of the judicial inspector may be invoked before the disciplinary court as soon as the reasons are known.

(4) The judicial inspectors may not carry out the preliminary disciplinary investigation or any other work concerning the judges or prosecutors carrying out their activity in the last court or, as the case may be, in the last prosecutor's office where the judicial inspector

worked before his/her appointment. In this case, the file shall be distributed to another judicial inspector, at random, in compliance with the provisions of art. 84.

Art. 84 - (1) The distribution of notifications and disciplinary files to judicial inspectors, as well as the other work related to the activity and conduct of judges and prosecutors, shall be made according to the principle of random allocation in a computerized system.

(2) The redistribution of the work randomly distributed to the judicial inspectors may be made only in the following cases, with the application of para. (1):

- a) impossibility to exercise the attributions for at least 20 days;
- b) motivated request of the judicial inspector to whom the work was assigned;
- c) suspension from activity, in accordance with the law;

d) at the request of the interested person or of the judicial inspector, whenever, in relation to the quality of the person concerned, the impartiality of the judicial inspector could be affected, as well as in the event of a conflict of interest.

(3) The acts, documents or any other information requested by the Judicial Inspection or which are necessary for the conduct of the disciplinary investigation shall be sent directly to the Judicial Inspection.

(4) Judicial inspectors may request, under the terms of law, including the heads of courts or prosecutor's offices, any information, data, documents or may make any verifications they deem necessary in order to conduct preliminary disciplinary investigation or exercise other duties provided by law or regulations.

(5) The acts, documents or any other information which is pending before the Judicial Inspection have a confidential character, except for those that constitute, according to the law, information of public interest.

(6) The access of interested persons, according to the law, to the files and records of the Judicial Inspection will be made in compliance with the provisions of art. 285 para. (2) of Law no. 135/2010 on the Code of Criminal Procedure, as subsequently amended and supplemented.

(7) The system of random allocation of disciplinary complaints and files and other work relating to the work and conduct of judges and prosecutors shall be externally audited, from a technical point of view, every 2 years. The external audit shall be carried out for the purpose of identifying and remedying vulnerabilities in the system, including in terms of bias or influence or manipulation of random allocation, under the conditions laid down by decision of the Plenary of the Superior Council of Magistracy.

Art. 85 - (1) Upon notification of the appropriate section of the Superior Council of Magistracy, in the cases and terms provided by law, the Judicial Inspection performs verifications to assess whether the judicial error caused by the judge or prosecutor is the result of exercising the function in bad faith or serious negligence.

Art. 86 - (1) In the exercise of their attributions provided in art. 83, except for those related to preliminary investigations and preliminary disciplinary investigation, the judicial inspectors draw up inspection reports which they bring to the attention of the courts / prosecutor's offices subject to verifications, in order to formulate objections.

(2) The inspection report provided in para. (1), together with the objections raised and the point of view of the Judicial Inspection on the objections raised, shall be submitted to the Plenum or the corresponding Section of the Superior Council of Magistracy, which shall establish measures to remedy the situation.

(3) If the Plenum or the Section of the Superior Council of Magistracy find the objections are founded, it may order, through a motivated written request, the resubmission of the report in order to complete the verifications, with a specific indication of the aspects to be completed.

Art. 87 - During the exercise of the mandate of Chief Inspector, Deputy Chief Inspector, director of the inspection directorate and judicial inspector, judges and prosecutors are suspended from the positions they hold in courts and prosecutor's offices. Judges and prosecutors in senior positions shall be obliged to choose between the leading position and that of judicial inspector, within 30 days from the date of acquiring the right to continue holding the position of judicial inspector. After 30 days, the management or judicial inspector position for which the option was not made becomes vacant.

(2) The period during which the judge or prosecutor is a judicial inspector constitutes seniority in the position of judge or prosecutor.

(3) During the mandate, the judicial inspectors have all the rights of judges and prosecutors, as well as the obligations provided by law for judges and prosecutors. The provisions applicable to judges and prosecutors regarding disciplinary violations, disciplinary proceedings and disciplinary sanctions shall apply accordingly to judicial inspectors.

(4) Judicial inspectors may participate, during the mandate, in the competitions or selection procedures in order to be promoted on the spot or in execution positions. In case of promotion to executive positions, inspectors may choose between continuing the mandate of inspector, with the acquisition of the new professional grade, and effective promotion to the executive position for which they applied, within 30 days from the date of validation of the results of the promotion exam.

(5) The remuneration and the rights of the judicial inspectors shall be established in accordance with the law.

(6) Judicial inspectors who are domiciled in a locality other than that in which the Judicial Inspectorate has its seat shall enjoy the rights provided by law for judges and prosecutors on secondment.

Art. 88 - In order to verify the fulfilment of the professional competence and performance criteria, judicial inspectors shall undergo a periodic assessment of the effectiveness, quality of activity, integrity, communication and participation in other activities within the area of competence, and the directors of the inspection Directorate shall undergo a regular assessment of the performance of the managerial tasks.

(2) The evaluation of the professional activity of the directors of the inspection Directorates shall be carried out annually by a commission designated by the appropriate section of the Superior Council of the Magistracy. The evaluation commission for the evaluation of the director of the Directorate for judges shall be composed of 3 elected members of the judges' Section, and the evaluation commission of the director of the Directorate for prosecutors shall be composed by 3 elected members of the prosecutors' Section. The chairman of the evaluation panel shall be appointed from among its members by the relevant section. The members of the commission shall be appointed for the duration of an evaluation cycle, running from the first day of the year in which the evaluation procedure starts, until the date of its completion.

(3) The appropriate sections of the Superior Council of Magistracy shall designate, in accordance with paragraph (2), a substitute Chair a substitute member. The substitutes

shall participate in the evaluation activity in case of impossibility to exercise the attributions by the corresponding full members.

(4) The evaluation of the professional activity of judicial inspectors with executive functions shall be carried out annually by committees consisting of:

(a) the chief inspector and 2 judicial inspectors from the Inspection Directorate for Judges, appointed by the Management Board, for the evaluation of judicial inspectors who are judges;

b) the deputy chief inspector and 2 judicial inspectors from the Inspection Directorate for Prosecutors, appointed by the Management Board, for the evaluation of judicial inspectors who are prosecutors.

(5) The assessment may give one of the following ratings: "very good", "good", "satisfactory" or "unsatisfactory".

(6) The procedure and indicators for evaluation are set out in the annex which is part of this law.

(7) The directors of the inspection directorates dissatisfied with the awarded grade may appeal to the Plenum of the Superior Council of Magistracy within 30 days of communication.

(8) The appeal shall be submitted to the chairman of the evaluation commission, who shall, within the same day, forward it to the Plenum of the Superior Council of Magistracy, together with the evaluation report accompanied by copies of the documents considered for evaluation and the point of view of the commission on the appeal.

(9) In order to resolve the appeal, the Plenum of the Superior Council of Magistracy may request from the Chief Inspector or from the director of the inspection directorate any information it deems necessary, and the summoning of the evaluated one, in order to be heard, is mandatory.

(10) In the appeal proceedings, the Plenum of the Superior Council of Magistracy may:

a) rejects the appeal as unfounded, late or inadmissible;

b) admits the appeal.

(11) In the event of upholding the appeal under paragraph. (10) point (b), the Plenary of the Superior Council of Magistracy may order one of the following solutions:

(a) amends the evaluation report, giving another rating;

(b) abolishes the evaluation report and orders the re-evaluation, when it finds violations of the evaluation procedure likely to affect the grade awarded;

(c) abolishes the evaluation report, when the evaluation was carried out before the evaluation period.

(12) As a result of settlement of the appeal, a more difficult situation cannot be created for the appellant.

(13) In the situations provided in para. (11) point (b), the Plenum of the Superior Council of Magistracy establishes the term and, as the case may be, the limits within which the evaluation will be redone.

(14) The decision of the Plenum may be appealed, within 15 days from the communication, to the Administrative and Fiscal Litigation Section of the High Court of Cassation and Justice, without following the procedure of the preliminary complaint. The appeal suspends the enforcement of the decision. The decision rendered by the Administrative and Fiscal Litigation Section of the High Court of Cassation and Justice is final.

(15) The provisions of para. (7) to (14) shall apply accordingly for the purpose of contesting the qualifications awarded to judicial inspectors in executive positions. The decision on the appeal shall be taken by the appropriate section of the Superior Council of Magistracy, depending on the directorate of inspection in which the judicial inspector is working.

Art. 89 - (1) Judicial inspectors within the Judicial Inspection are dismissed if they have been subject to a disciplinary sanction or if, following the assessment, they have been awarded the grade "unsatisfactory" or twice consecutively the grade "satisfactory".

(2) The termination, according to law, of the office of judge or prosecutor entails the termination of the position of judicial inspector.

Art. 90 - Upon termination of the mandate of judicial inspector, judges and prosecutors return to the court or prosecutor's office where they come from or continue their activity in another court or prosecutor's office where they have the right to function, according to law.

Title IV **Final and transitory provisions**

Art. 91 - (1) The Superior Council of Magistracy shall operate with a maximum number of 304 positions, to which are also added those provided by the Government's Emergency Ordinance no. 127/2022 regarding the establishment of contractual staff positions in the personnel scheme of the Superior Council of Magistracy.

(2) The maximum number of positions of the Superior Council of Magistracy can be modified by a decision of the Government, at the reasoned request of the Superior Council of Magistracy.

Art. 92 - (1) The headquarters of the Superior Council of Magistracy will be made available by the Government or will be provided by the Superior Council of Magistracy from the budget approved according to law.

(2) The introduction of changes in the budget execution for the current year determined by the entry into force of this Law, including those related to the budget appropriations opened by the Judicial Inspection, shall be carried out on the basis of instructions prepared by the Ministry of Finance, upon request of the Superior Council of Magistracy.

Art. 93 - (1) The security of the headquarters of the Superior Council of Magistracy, of the assets and values belonging to it, the supervision of access and maintenance of the internal order necessary for the normal functioning of the activity shall be provided free of charge by the Romanian Gendarmerie.

(2) The magistrates elected as members of the Superior Council of Magistracy enjoy protection under the conditions laid down in the protocol concluded between the president of the Superior Council of Magistracy and the Minister of Interior.

Art. 94 - (1) Judicial inspectors in office at the date of entry into force of this law shall continue their mandate until the expiry date, and the procedure provided for in this law for appointment as a judicial inspector shall apply to new appointments.

(2) The provisions of this law regarding the appointment procedure for the positions of Chief Inspector, Deputy Chief Inspector and Director of the Inspection Directorate shall not apply to the Chief Inspector, the Deputy Chief Inspector and the directors of the inspection directorates in office at the time of its entry into force, which shall continue their mandates until their expiry date.

(3) The mandates for the positions provided in para. (2), as well as for the position of judicial inspector, exercised until the entry into force of this law, including those in force on this date, shall be included in the maximum number of mandates provided by this law.

(4) Within 30 days from the entry into force of this law, elections will be organized for the Leading Board of the Judicial Inspection. Until the members of the Leading Board are elected, its duties are exercised by the chief inspector.

Art. 95 - The opinions regulated by this law, for which their conformity is not stipulated, are advisory.

Art. 96 - (1) This law enters into force 30 days after its publication in the Official Gazette of Romania, Part I.

(2) Within 90 days of the entry into force of this Law, regulations and subsequent regulatory acts which are not in accordance with this Law shall be adopted or, as the case may be, amended or supplemented.

(3) Until the adoption of the acts referred to in paragraph (2), the Regulations and subsequent regulatory acts shall remain in force insofar as they do not contravene with this Law.

(4) At the date of entry into force of this Law, Law No 317/2004 on the Superior Council of Magistracy, republished in the Official Gazette of Romania, Part I, No 628 of 1 September 2012, as amended and supplemented, shall be repealed.

This bill was adopted by the Senate in the sitting of 17 October 2022, in compliance with the provisions of Art. 76 para. (1) of the Constitution of Romania, republished.

PRESIDENT OF THE SENATEA

Alina - Ștefania Gorghiu

Annex

Indicators and procedure

for the evaluation of the professional activity of judicial inspectors

CHAPTER I

General provisions

Art. 1 - (1) The objectives of the evaluation of the executive judicial inspectors and the directors of the inspection directorates are to determine their professional competence level, to improve their professional performance and to increase the efficiency of the work of the Judicial Inspection.

(2) The evaluation process involves the following stages: continuous evaluation, self-assessment, evaluation interview and the awarding of a grade.

Art.2.- (1) In order to verify the fulfilment of the professional performance standards, the judicial inspectors with executive function are subject to an annual evaluation, in relation to the following criteria: efficiency, quality of work, integrity, communication and participation in other activities in the area of competence.

(2) for directors of inspection directorates, the annual evaluation shall be made on the performance of managerial duties against the following criteria: leadership and organisational capacity, control capacity, coordination capacity, decision-making capacity and accountability, behavior and communication, integrity.

(3) The quality and efficiency of the executive work of judicial inspectors appointed as directors of the inspection directorates, if such work has also been carried out during their term of office, shall be assessed on the basis of the indicators set out in Articles 4 and 5.

(4) Where the judicial inspector is evaluated for both executive and managerial functions, only one mark shall be given in the evaluation report for the indicator "integrity".

Art.3.- The indicators for each evaluation criterion shall be established according to the specific activity of the judicial inspectors and the managerial activity of the directors of the inspection directorates, so as to stimulate their professional development and differentiate their professional performance, without affecting their independence.

CHAPTER II

Indicators for evaluating the professional performance of judicial inspectors with executive function

Section 1

Efficiency of work

Art.4.- (1) The efficiency of the work carried out by judicial inspectors shall be assessed according to the following indicators:

- a) the ability to organize, plan and prioritize the work assigned to them;
- b) the efficiency in the handling of the work and the rhythm in the management of the work assigned;
- (c) compliance with deadlines for completion of work.

(2) Indicators for evaluating the efficiency of the work of judicial inspectors shall be analysed and scored in relation to the workload of the judicial inspection directorate to which the judicial inspector belongs.

(3) When analysing and scoring the indicators referred to in paragraph 1, the evaluation shall be based on the following criteria (1) shall be taken into account also other activities carried out by judicial inspectors on the basis of the provisions of laws and regulations.

Section 2

Quality of work

Art. 5. The quality of the work of judicial inspectors shall be assessed according to the following indicators:

- a) the ability to identify the problems of the assigned work, the completeness of the checks and the thoroughness in carrying them out;
- b) the capacity for analysis and synthesis;
- c) clear and logical reasoning.

Section 3

Integrity

Art.6.- The integrity of the judicial inspectors shall be assessed according to the following indicators:

- a) compliance with the standards of conduct established by law and the Code of Ethics for Judges and Prosecutors;
- b) impartiality;

- c) uniformity of individual practice in dealing with assigned cases;
- d) respect for the principle of confidentiality.

Section 4
Communication

Art.7.- The criterion shall be assessed according to the following indicators:

- (a) communication with other judicial inspectors and other Judicial Inspection staff;
- b) communication within the teams of judicial inspectors set up to carry out inspection work;
- c) communication with the Chief Inspector, the Deputy Chief Inspector and the Directors of the Directorates of Inspection;
- d) communicating with the judges and prosecutors concerned by the work assigned to them and with the other persons with whom they come into contact in the performance of their duties.

Section 5
Participation in other activities in the area of competence

Art.8.- The criterion is assessed according to the following indicators:

- a) proactive attitude in relation to activities in the areas of competence related to the exercise of the function;
- b) concern for increasing professional performance.

CHAPTER III
Indicators for assessing the managerial performance of Directors of Inspection Directorates

Section 1
Management and organisational capacity

Art. 9 - The management and organisational capacity of the directors of the inspection directorates shall be assessed according to the following indicators:

- (a) capacity to organise, forecast and plan activities;
- b) balanced and equitable distribution of service tasks;
- (c) efficient management of human, material and financial resources in relation to legal tasks;
- d) information management;
- (e) the speedy completion of management tasks;
- f) monitoring the quality and efficiency of the work of judicial inspectors by reference to the indicators set out in Articles 4 and 5.

Section 2
Control capacity

Art.10.- The control capacity of the directors of the inspection directorates shall be evaluated according to the following indicators:

- a) the capacity to identify and remove deficiencies through appropriate measures;

- b) crisis management;
- (c) the frequency with which checks are carried out on the work of the directorate they head and the way in which delegated tasks are performed.

Section 3
Coordination capacity

Art. 11. - The coordination capacity of the directors of the inspection directorates shall be assessed on the basis of the following indicators:

- (a) the ability to organise and motivate staff;
- b) concern for the unification of practices at the level of the directorate they head;
- c) the ability to harness the professional potential of subordinate staff.

Section 4
Decision-making capacity and accountability

Art. 12. - The decision-making and accountability capacity of the directors of the inspection directorates shall be assessed according to the following indicators:

- a) initiative in decision-making;
- b) ability to adapt quickly;
- c) ownership of the measures ordered and their effects;
- (d) readiness to carry out additional or delegated tasks;
- e) resilience to stress.

Section 5
Behaviour and communication

Article 13 - The behaviour and communication of the directors of the inspection directorates shall be evaluated according to the following indicators:

- a) behaviour and communication with the chief inspector and deputy chief inspector, with the other heads of the functional structures of the Judicial Inspectorate, with judicial inspectors and other staff of the Judicial Inspectorate, with other institutions and the media;
- b) ensuring access to information of public interest within the Judicial Inspection;
- c) transparency of decision-making;
- d) objectivity and impartiality in decision-making.

Section 6
Integrity

Art.14.- The integrity of the directors of the inspection directorates shall be assessed according to the indicators set out in Article 6 a), c) and d).

CHAPTER IV
Evaluation Committees

Art. 15 - (1) The judicial inspectors of each directorate, who are part of the evaluation commissions, shall be appointed by the management college of the Judicial Inspection for

the duration of an evaluation cycle, from the first day of the calendar year in which the evaluation procedure starts until the date of its completion.

(2) The Governing Board shall designate, in the manner provided for in paragraph 1, the members of the Management Board of the Judicial Inspection Office. (1) an alternate chairperson and two alternate members. The alternates shall take part in the evaluation work if it is objectively impossible for an appropriate full member to carry out their duties.

(3) Appointed members of the evaluation panels, including alternates, may be removed from office for failure to perform their duties or for improper performance of those duties in a similar manner to their appointment.

(4) The evaluation of the professional activity of the judicial inspectors, members of the evaluation commission, shall be carried out by a commission consisting of the Chief Inspector, respectively the Deputy Chief Inspector and alternate members.

Art. 16.-(1) The chairman of the commission for the evaluation of the professional activity of judicial inspectors with executive functions who are judges is the Chief Inspector of the Judicial Inspection.

(2) The chairman of the commission for the evaluation of the professional activity of judicial inspectors with executive functions who are prosecutors shall be the deputy chief inspector of the Judicial Inspection.

(3) The evaluation commission shall function with the participation of all members and shall decide by a majority of their votes.

(4) The collection of data and information necessary for the evaluation as well as preliminary findings may be made by any of the members of the evaluation committee.

(5) If an elected member of the evaluation panel is unable for objective reasons to carry out the duties of the evaluator, the evaluation shall be carried out after his/her replacement by the appropriate alternate member.

(6) There is an incompatibility between the members of the evaluation panel and the appraisee in the following situations:

(a) where one of the members of the evaluation panel is the spouse, relative or relative up to and including the fourth degree to the person evaluated;

(b) where there is or has been in the 5 years preceding the appraisal a dispute between one of the members of the appraisal panel and the appraisee;

(c) in other situations where, objectively, the impartiality of the members of the panel could be affected.

(7) In the situations referred to in paragraph (6), the member of the evaluation panel who is incompatible shall be replaced by the appropriate alternate member.

(8) The provisions of paragraphs (3) to (7) shall also apply accordingly to the evaluation of the professional activity of the Directors of the Inspection Directorates.

CHAPTER V

Evaluation procedure

Art. 17 - (1) The evaluation of judicial inspectors and directors of inspection directorates shall be carried out annually and shall be completed, as a rule, in March of the following year.

(2) The evaluation of the professional work of judicial inspectors and directors of inspection directorates shall be carried out continuously during the evaluation period.

(3) The stages of the evaluation process referred to in Article 1(2) shall be defined as follows:

- (a) continuous evaluation shall consist of the collection of data containing the results of the professional activity of the person evaluated, by reference to the evaluation criteria and indicators;
- (b) self-evaluation shall comprise the appraisee's self-assessment of the work carried out during the period under appraisal and the appraisee's self-assessment by means of a reasoned rating of each appraisal criterion and indicator;
- (c) the appraisal interview is the discussion between the appraisee and the members of the appraisal panel on the issues arising from the continuous appraisal and self-assessment;
- (d) the awarding of the grade is the final stage of the evaluation process, during which the members of the evaluation committee analyse and give a reasoned rating of each evaluation criterion and indicator in the evaluation report.

Art. 18.-(1) The evaluation report contains the description of the activities carried out by the evaluation committee, the analysis and the mark awarded to each evaluation criterion and indicator, the recommendations made to the evaluated person, as well as the mark awarded.

- (2) Each indicator shall be graded with marks ranging from 1 to 10, and each mark awarded shall be substantiated by making the necessary recommendations, if any.
- (3) The mark awarded for each assessment criterion shall be the arithmetic average of the marks awarded for the indicators corresponding to that criterion.
- (4) The mark shall be awarded on the basis of the arithmetic average of the marks obtained by the assessor for each assessment criterion, as follows:
 - (a) from 9 inclusive to 10 - "Very good" rating;
 - (b) from 7 inclusive to 9 - "Good";
 - (c) from 5 inclusive to 7 - 'Satisfactory';
 - (d) below 5 - 'Unsatisfactory'.

Art. 19.- (1) The evaluation report shall be drawn up in 3 copies, one of which shall be communicated to the evaluated person, one shall be kept at the Human Resources Department of the Judicial Inspection and one shall be communicated to the Superior Council of Magistracy to be attached to the professional card of the evaluated person.

- (2) The evaluated person may object to the findings in the evaluation report, as well as to the manner of grading and the awarding of the grade, within 15 days of receiving the report.
- (3) Objections shall be submitted to the evaluation committee, which shall decide within 15 days from the date of submission.
- (4) The evaluation report shall be amended accordingly if the objections are upheld.
- (5) The amended appraisal report or, where appropriate, the decision rejecting the objections shall be communicated to the appraisee.