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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

ROMANIA

LAW

ON THE STATUTE OF JUDGES AND PROSECUTORS

**ROMANIAN PARLIAMENT
CHAMBER OF DEPUTIES**

Law on the Statute of judges and prosecutors

The Senate adopts this bill.

**Title I
General provisions**

Art. 1 - (1) Magistracy is the judicial activity performed by judges in order to deliver justice and by prosecutors in order to safeguard the general interests of society, the rule of law and the rights and freedoms of citizens.

(2) Judges and prosecutors have the status of magistrates. The career of judges is separated from the career of prosecutors.

Art. 2 - (1) Judges appointed by the President of Romania shall be irremovable in accordance with this Law.

(2) Irremovable judges may not be reassigned by transfer, delegation, secondment or promotion without their consent and may be suspended or removed from office only as provided for by this Law.

(3) Judges shall be independent and subject only to the law. Judges shall handle cases in accordance with the law, with due regard for the procedural rights of the parties, without any direct or indirect constraint, influence, pressure, threat or direct or indirect interference by any person or authority.

(4) Any person, organization, authority or institution shall respect the independence of judges.

Art. 3 - (1) Prosecutors appointed by the President of Romania shall enjoy stability and shall be independent, in accordance with the law. Prosecutors shall act in accordance with the principles of legality, impartiality and hierarchical control, under the authority of the Minister of Justice.

(2) In carrying out and supervising the criminal investigation, as well as in the ordered solutions, the prosecutor is independent, under the conditions provided by law.

(3) Prosecutors who enjoy stability can be reassigned by transfer, secondment, delegation or promotion, only with their consent. They can be suspended or released from office under the conditions provided by this law.

Art. 4 - (1) Throughout their activity, judges and prosecutors are required to safeguard the rule of law, to respect the rights and freedoms of individuals and their equality before the law, to provide non-discriminatory legal treatment to all the participants in judicial proceedings, regardless of their capacity, to comply with the Code of Ethics for Judges and Prosecutors, and to participate in continuous professional training.

(2) Judges and prosecutors must ensure, at all stages of, that individual rights and freedoms are guaranteed and that public order is protected.

(3) Judges and prosecutors shall act in good faith and in an impartial manner, including by ensuring the appearance of impartiality.

(4) Judges may not refuse to rule on a case on the grounds that the law does not contain specific provisions, is unclear or incomplete.

Title II

The career of judges and prosecutors

Chapter I

Admission to the National Institute of Magistracy and the initial training of judges and prosecutors

Art. 5 - (1) The admission to the National Institute of Magistracy is carried out by competition, on the basis of professional competence, of skills and of good repute, in compliance with the principles of transparency and equality.

(2) Admission to the magistracy and professional initial training in order become judge and prosecutor shall be carried out through the National Institute of Magistracy.

(3) A person may be admitted to the National Institute of Magistracy if he/she meets the following conditions cumulatively:

- a) has Romanian citizenship, domicile in Romania and full legal capacity;
- b) is licensed in law;
- c) has no criminal record and enjoys a good reputation;
- d) knows the Romanian language;
- e) is fit, from a medical and psychological point of view, to exercise the function.

Art. 6 - (1) The date and place of the admission competition referred to in Article 5 (1), the timetable for the competition, the number of positions put out for competition, the amount of the registration fee, the subject matter and bibliography of the competition, as well as the registration application form shall be determined by decision of the Plenum of the Superior Council of Magistracy, upon the proposal from the National Institute of Magistracy.

(2) For registration for the competition referred to in Article 5 para. (1), the candidate shall pay a fee the amount of which shall be determined according to the expenses necessary for the organisation of the competition. The registration fee shall be reimbursed in the event of objective situations preventing a candidate from participating in the competition provided that such situations occurred before the candidate took the first test of the competition.

(3) The number of positions to be filled shall be determined according to the number of vacant positions of judges and prosecutors and the number of such posts to be established.

(4) The dates referred to in paragraph (1) shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy at least 60 days before the date set for the competition.

(5) Vacancies for legal professionals treated as judges and prosecutors of the Superior Council of Magistracy and institutions coordinated by or subordinated to the Council, the Public Ministry or the Ministry of Justice and institutions coordinated by or subordinated to it which shall be filled by means of the admission competition provided for in Article 5 para. 1 shall be published at the same time as the notice of competition for admission to the National Institute of Magistracy, the provisions of this chapter applying accordingly to the admission to such positions. For the Ministry of Justice and the institutions coordinated or subordinated to it and the Public Ministry, the positions that are put up for competition are established by each of the two institutions, as the case may be.

(6) In the application, the candidate shall opt either for the positions of auditors of justice, or for the vacancies for legal professionals treated as magistrates, without indicating the institution where the position is to be filled, and only one option may be made.

Art. 7 - (1) For the admission competition provided for in Article 5 paragraph (1), the Plenum of the Superior Council of Magistracy shall appoint the organising committee of the competition, the committee responsible for setting the tests, the committee responsible for marking, the interview committee, as well as and the complaints committee,

(2) The committee responsible for setting the tests shall prepare the questions and draw up the evaluation and scoring scales for the multiple-choice test and for the written test of legal knowledge, and committee responsible for marking shall correct and mark the written tests of legal knowledge. For the multiple-choice test and for the written test of legal knowledge, separate committees for civil law and civil procedural law and for criminal law and criminal procedural law, respectively shall be set up within the committee for drafting the subjects and within that for correcting the tests. The substantive law tests shall be set by the members of the committee that is also responsible for setting the procedural law tests in the field concerned.

(3) The interview committee shall draw up the evaluation scale on the basis of which the interview is assessed, as well as the questions on the basis of which the candidates will be examined, and shall conduct the interviews, in order to identify the skills, motivations and ethical elements specific to the profession. Interview subcommittees may be set up under the interview committee, depending on the number of candidates declared admitted after the first elimination stage.

(4) The complaints committee shall be composed of:

a) subcommittees dealing with complaints against the scale established for the two written tests and against the score of the multiple-choice testing the legal knowledge, established separately in civil law and civil procedural law, and in criminal law and criminal procedural law respectively;

b) subcommittees dealing with complaints against the results of the written test of legal knowledge, established separately for civil law and civil procedural law, and for criminal law and criminal procedural law respectively;

c) subcommittees dealing with complaints against the results of the interview test.

(5) Persons whose spouse or relatives up to and including the fourth-degree are among the candidates may not be appointed to the committees referred to in paragraph (1). A person may sit on one committee. In the same committee or in different committees may not participate spouses or relatives up to and including the fourth-degree.

(6) Members of the Superior Council of Magistracy, neither persons from the managerial staff of the Superior Council of Magistracy or of the National Institute of Magistracy may not be on the committees referred to in paragraphs (2) to (4).

Art. 8 - The organizing committee shall coordinate the organization and progress of the competition and shall verify that candidates fulfil the conditions for participation therein. The organizing committee shall be composed of the President, Vice-President and members appointed from among the staff of the specialized departments of the Superior Council of Magistracy and of the National Institute of Magistracy, including those in managerial positions. Invigilators and any other persons working for the proper organization of the competition shall be appointed by the chairperson of the organizing committee.

Art. 9 - (1) The committee responsible for drafting the subjects, the committee responsible for grading the tests, the interview committee and the complaints committee shall be chaired by a chairperson. The number of members of the committees shall be laid down in the decision appointing them, based on the number of candidates.

(2) The members of the committee responsible for drafting the subjects, of the committee for grading the tests, of the interview committee and of the complaints committee shall be appointed from among the judges and prosecutors specialised in the subjects of the competition. Academics specialised in the competition disciplines may also be included in these committees.

(3) Substitute members shall also be appointed in the committees referred to in paragraph (1) and shall automatically replace, in the order laid down by the Plenum of the Superior Council of Magistracy, upon a proposal from the Scientific Council of the National Institute of Magistracy, by the decision appointing the committees, the committee members who, for good reason, are unable to perform their duties. The replacement shall be carried out by the chairperson of the committee concerned.

(4) The members of the committees referred to in paragraphs (1) and (3) shall be appointed on the basis of prior written consent.

Art. 10 - (1) The complaints against the marking grids and the competition tests shall be handled by the complaints committee through the appropriate subcommittees.

(2) The sub-committees dealing with complaints for the two written tests shall be composed of members specializing in civil law and civil procedural law, and in criminal law and criminal procedural law respectively. These subcommittees may also include academics specialising in the competition disciplines.

(3) The sub-committees dealing with complaints for the interview test shall have the composition provided for in Article 18(1).

Art. 11 - (1) After registration, all candidates shall be checked for compliance with the conditions laid down in Article 5 paragraph (3) letter a), b) and d), as well as for medical fitness and for lack of criminal record and tax record. Medical fitness shall be evidenced by a medical certificate issued by a medical practitioner specialized in occupational medicine, at the request of each candidate, on the basis of a medical scoring scale approved by decision of the Plenum of the Superior Council of Magistracy, at the proposal of a specialized medical commission appointed by order of the Minister of Health. The decision of the Plenum is published in the Official Gazette of Romania, Part I.

(2) Compliance with the conditions laid down in paragraph (1) shall be checked by the organizing committee.

(3) The results of those checks shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy, at the latest 15 days before the date of the first test in the first stage of the competition.

(4) Candidates rejected as a result of the verification may lodge complaints within 48 hours of the publication of the list containing the results of the verification.

(5) The complaints shall be lodged with the tribunals and the prosecutor's offices attached to them, which shall immediately forward them to the organizing committee.

(6) The complaints shall be settled by final decision of the plenum of the Superior Council of Magistracy.

(7) The final lists of candidates, drawn up separately in accordance with the option expressed according to Article 6 para. (6), shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

Art. 12 - (1) The examination of candidates in the context of the admission competition shall take place in two stages.

(2) The first stage is eliminatory and consists of the following eliminatory written tests:

a) a multiple-choice test of the candidate's legal, theoretical and practical knowledge covering the following subjects: civil law, civil procedural law, criminal law and criminal procedural law.

b) a written test of the legal, theoretical and practical knowledge taken in civil law and civil procedural law, and in criminal law and criminal procedural law, respectively.

(3) Only candidates who passed the multiple-choice test of legal knowledge shall participate in the written test of legal knowledge.

(4) The score obtained in the first round is the arithmetic mean of the grades obtained in the tests referred to in paragraph (2).

(5) The second stage consists of a psychological test and an interview. All candidates who passed the first stage shall participate in the psychological testing. Candidates declared to be psychologically fit to perform their duties shall take part in the interview, in descending order of the grades obtained in the first round and up to a maximum of one and half of the number of auditors of justice seats or the number of vacancies for legal professionals treated as judges and prosecutors. In the case of an odd number of seats or positions, rounding shall be made to the greater number. The number of candidates who passed to the interview stage shall be increased in the case of scores equal to that of the last successful candidate.

Art. 13 - (1) The multiple-choice test of legal knowledge shall comprise 100 questions, 25 for each of the competition disciplines referred to in Article 12 para.(2) letter(a).

(2) In the multiple-choice test of legal knowledge, each correct answer receives one point, which is equivalent to 10 hundredths in the scoring system from 1 to 10.

(3) The time taken to reply to questions in the multiple-choice test of legal knowledge shall be that set by the committee responsible for drafting the subjects and may not exceed 4 hours, counted from the end of the distribution of the tests to all candidates.

(4) The evaluation and grading of the multiple-choice tests of legal knowledge shall be carried out by electronic processing. The papers will be rated 'Pass' or 'Fail', depending on the candidate's score. Candidates who have obtained a minimum of 60 points, equivalent to grade 6,00, in descending order of the grades obtained, up to twice the number of auditors of justice seats or vacancies for legal professionals treated as magistrates, shall get a 'Pass' for this test. The number of successful candidates shall be increased in the case of scores equal to that of the last candidate who passed.

Art. 14 - (1) The evaluation and scoring scale for the test referred to in Article 13 shall be displayed at the competition centers after the completion of the test and published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy. In 24 hours after being displayed at the competition centers, the candidates may challenge the evaluation and grading scale which shall be sent by fax or e-mail to the National Institute of Magistracy. The challenges to the grading scale shall be dealt with by the relevant complaints' subcommittee no later than 48 hours after the deadline for lodging an objection expires. Reasons shall be given for the decision within 3 days of the expiry of the deadline for dealing with objections. The scale established following the resolution of the complaints shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

(2) Should one or more questions of the multiple-choice test be cancelled following the resolution of the objections to the scale, the points corresponding to the cancelled questions shall be awarded to all candidates.

(3) If, following the resolution of the objections to the scale, it is considered that the answer indicated as correct in the initial scale is not the only correct answer, the definitive scale shall include both the score corresponding to the choice of answer set in the initial scale, and the score corresponding to the choice of answer set by the committee dealing with complaints.

(4) If, following the resolution of the objections to the scale, it is considered that the correct answer to one of the questions is clearly different from that indicated in the scale, without prejudice to the provisions of paragraph (3), the scale shall be corrected and the points corresponding to that question shall be awarded only to the candidates who have indicated the correct answer set out in the definitive scale.

(5) If the competition for admission to the National Institute of Magistracy takes place at the same time as the competition for admission to the magistracy and there are identical questions, the admission of a complaint against any of those questions in the competition for admission to the magistracy shall also have effect with regard to the competition for admission to the National Institute of Magistracy, in accordance with paragraphs (2) to (4).

(6) In the event that an objection to the scale is upheld, the Plenum of the Superior Council of Magistracy may order that the members of the committee drafting the subjects be penalised, provided they are found to have acted in bad faith or in manner that was grossly negligent.

(7) The persons referred to in paragraph (6) may be penalised by reduction or non-payment of the financial entitlements due for the work carried out; such persons may also be prohibited from participating in similar committees for up to 3 years.

(8) The penalties referred to in paragraph (7) shall be applied in accordance with the specific circumstances and proportionate to the consequences.

Art. 15 - (1) The results of the multiple-choice test shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

(2) Candidates may object to the grades obtained in the multiple-choice test. The objection may be sent by fax or e-mail to the National Institute of Magistracy within 24 hours from the date of publication of the results on the websites of the National Institute of Magistracy and the Superior Council of Magistracy.

(3) Objections shall be settled within 3 days of the expiry of the deadline referred to in paragraph (2).

(4) The grade given following the resolution of the objection is final and may not be less than the contested grade.

Art. 16 - (1) The written test of legal knowledge consists of papers on civil law and civil procedural law, and on criminal law and criminal procedural law, respectively.

(2) The provisions of Articles 13(3), 14 and 15(1) shall apply accordingly.

(3) Each paper is marked on the basis of the final assessment and grading scale and shall be graded separately for civil law and civil procedural law, and for criminal law and criminal procedural law, respectively, with grades from 0 to 10, to two decimal places.

(4) The grade of the written test of legal knowledge shall be the arithmetic mean, to two decimal places without rounding, of the grades obtained for each paper.

(5) Candidates may contest the grades obtained in this test, with the provisions of Article 15(2) and (4) duly applied. The objections are solved in the deadline established by the Plenum of the Superior Council of Magistracy, in the contest timetable.

(6) In order to pass the written test of legal knowledge, the candidate must obtain at least a 5 for each paper and at least a 6 average, calculated in accordance with paragraph (4).

Art. 17 - (1) The candidates who passed the two written tests shall take the psychological test to establish that the condition of psychological fitness to perform their duties is fulfilled. Psychological testing consists of taking a written test and an interview before a psychologist appointed by the Plenum of the Superior Council of Magistracy upon a proposal from the Scientific Council of the National Institute of Magistracy, from among the psychologists of the Superior Council of Magistracy, the High Court of Cassation and Justice, Judicial Inspection, NIM, the Prosecutors Office attached to the HCCJ, the courts of appeal or the prosecutors offices attached to or the single register of psychologists with the right to practice in Romania certified in accordance with the law. The results of the psychological testing shall take the form of a report including the psychological profile of each candidate, as well as the 'Pass' or 'Fail' rating.

(2) The methodology for organizing and conducting the psychological testing is provided by the Regulation for the admission to the National Institute of Magistracy.

(3) With a view to the publication of the psychological testing results, each candidate shall be assigned a code. The rating given is communicated by making it available on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

(4) Candidates dissatisfied with the rating given may lodge complaints within 24 hours of the publication of the results, to be sent by fax or e-mail, to the National Institute of Magistracy.

(5) The complaints shall be addressed by the psychological review committee, made up of 3 psychologists designated in a similar manner to that set out in paragraph (1), other than those who initially examined the candidates. The psychological review shall be carried out by reassessing the written test, giving a new written test and conducting a new interview.

(6) The grade given by the psychological review committee shall be final and shall be published in accordance with paragraph (3).

Art. 18 - (1) Candidates who fulfil the condition of being psychologically fit to perform their duties shall take the interview. One psychologist, 2 judges, one prosecutor and one academic, usually selected from among those with the teaching degree of professor, shall be part of the interview committee and of each subcommittee, respectively, as appropriate. The number of interview subcommittees shall be determined by the number of successful candidates after the first eliminatory round. The members to serve in the subcommittees shall be established, for each category, in the order approved by the Plenum of the Superior Council of Magistracy, by means of the decision appointing the competition committees. Where more than one subcommittee is active, the nominal composition of each shall be determined by drawing lots on the day of the test. Members of the non-activated subcommittees shall acquire the status of substitute member, in the order laid down by the Plenum of the Superior Council of Magistracy by the decision appointing the committees, and the provisions of Article 9(3) apply accordingly.

(2) The methodology for organizing and conducting the interview shall be provided by the Regulation for admission to the National Institute of Magistracy.

(3) The interview shall consist of:

a) presentation of the candidate in the light of personal and professional experience;
b) analysis and interpretation of a text at first sight; the analysis shall be written and presented orally by the candidate;

c) oral analysis of a case with ethical elements specific to the profession.

(4) The analysis referred to in paragraph (3) letter (b) shall be submitted to the interview committee/subcommittee after its oral presentation and shall be considered for the evaluation of the interview. Each of the members of the committee/subcommittee may ask questions to the candidates.

(5) In the interview test, the committee/subcommittee shall consider the following evaluation criteria:

a) the motivation for entering the the judges or prosecutor profession;

b) the existence of skills specific to the judges or prosecutor profession, considering the ability to communicate ideas clearly and logically, the ability to think critically, the ability to analyze, motivate and synthesize, an understanding of the social reality, and the correct use of the Romanian language;

c) ethical elements specific to the profession, considering how the candidate relates to values such as the independence of the judiciary, impartiality of judge or prosecutor, integrity, accountability.

(6) The members of the committee/subcommittee shall individually give grades for each of the criteria set out in paragraph (5), on the basis of an evaluation scale drawn up by the interview committee, which shall be published on the CSM and NIM web page immediately after the end of the test. For the evaluation criterion referred to in paragraph (5) letter (a), the highest score that may be awarded shall be 20 points, while for each of the criteria referred to in paragraphs (5) let. (b) and (c) the highest score that may be awarded shall be 40 points.

(7) The evaluation of the interview shall be made using grades from 1 to 10, to two decimal places. Grade 1 shall be awarded when the score obtained by the candidate is less than or equal to this grade.

(8) The grade obtained on this test shall be the arithmetic mean of the grades given by the members of the committee/subcommittee.

(9) Depending on the candidate's score in the interview, either a 'Pass' or a 'Fail' is given. Candidates who have obtained at least grade 7 are declared to have passed the test.

(10) The results of the interview shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

(11) The audio and video recording of the interview is mandatory.

(12) Candidates may object to the grade given in the interview test, with the provisions of Article 15(2) and (4) duly applied. The objections are solved in the deadline established by the Plenum of the Superior Council of Magistracy in the competition timetable. The settlement of the objection to the interview test shall be carried out by reassessing the test, on the basis of audio-visual recording and of the written analysis presented by the candidate. The final test results of the interview shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

Art. 19 - After the two stages of the competition, candidates who 'Passed' the interview shall be declared admitted, in descending order of the grades obtained in the first stage of the competition, established in accordance with Article 12 para. (4), within the number of positions for auditors of justice and the number of available positions for legal professionals treated as judges and prosecutors open for competition, respectively.

Art. 20 - (1) The lists with the final results of the competition, drawn up separately in accordance with the choice made according to Article 6 para. (6), shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

(2) Candidates shall be ranked in descending order of the grades obtained in the competition, according to the candidate's choice made in accordance with Article 6 para. (6). Successful candidates who have opted for vacancies for legal professionals treated as magistrates shall be invited by the organising committee to express their choice for one of the open positions. Candidates cannot reconsider their choice.

(3) The Plenum of the Superior Council of Magistracy supplements the number of seats for auditors of justice put up for competition, so that all candidates who obtained grades equal to that of the last successful candidate after the two stages of the competition are declared admissible.

(4) In the case of candidates who have opted for vacancies for legal professionals treated as magistrates referred to in Article 6 para. (6), for candidates with equal grades ties will be broken according to the following criteria, in the given order: the higher score obtained in the written test of legal knowledge referred to in Article 12 para. (2) let.(b), the length of service in legal expertise, holding a PhD in law, the status of doctoral student in law, specialized publications.

(5) If for the vacant positions of legal professionals treated as magistrates there haven't been candidates declared admissible or if there weren't any options for these positions, the candidates declared admissible according to art. 13 para. (4) and 16 (6) and who 'Passed' the interview but who haven't been declared admissible in the limit of the seats and the positions put up for competition may opt for these positions, in the descending order of the grades obtained in the first stage of the competition established according to art. 12 para. (4). The provisions of paragraph (4) shall apply accordingly.

Art. 21 - (1) After the final results of the competition are displayed, candidates having passed the two stages of the competition shall be checked for compliance with the condition of good repute laid down in Article 5 para. (3) let. (c).

(2) Checks on the fulfilment of the condition of good repute shall be carried out by the organizing committee, in compliance with the legislation in force on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

(3) The Rules on admission to the National Institute of Magistracy lay down the documents which candidates are required to submit in order to prove the fulfilment of the condition of good repute.

(4) A person shall not be of good repute if, in the three years preceding the date of the first round of the first stage of the competition, he or she has been disciplined or penalized for acts in respect of which his or her appointment as judge or prosecutor would not be in accordance with the honor and probity of the office or would be prejudicial to the prestige of justice, having regard to the criteria set out in paragraph (5). Disciplinary sanctions for which removal from the register has occurred shall not be considered.

(5) The following criteria shall be considered in determining good repute:

a) the seriousness of the offence, as reflected in its nature and the circumstances in which it was committed, the form and degree of guilt and the penalty imposed;

b) the conduct of the person before and after the commission of the offence, showing persistence in committing acts of the kind referred to in paragraph (4), sanctioned as such.

(6) The results of the check shall be recorded in the report on the fulfilment of the conditions for admission to the National Institute of Magistracy, which shall be forwarded to the plenum of the Superior Council of Magistracy.

(7) The report referred to in para. (6) which establishes, in respect of one or more candidates, that the condition of good repute has not been met shall contain the reasons why the committee considers that the condition in question has not been met, consisting of an analysis of the facts of the person in question and the application of the criteria laid down by law to the facts established.

Art. 22 - (1) The plenum of the Superior Council of Magistracy shall decide whether the condition laid down in Article 21 para. (1) is fulfilled and shall validate the results of the competition. Candidates who are not of good repute shall be declared rejected.

(2) For the positions of auditor of justice and the positions of legal personnel treated as magistrates which have become available as a result of the application of paragraph (1), may opt, until the date of validation of the competition, the candidates admitted under the conditions laid down in Articles 13 para. (4) and 16 para. (6) and who have "Passed" the interview in descending order of the grades obtained at the first stage of the competition, as determined in accordance with Article 12 para. (4). In case of equal grades, the provisions of Article 20 para. (3) and (4) shall apply accordingly.

(3) The provisions of Article 21 shall apply accordingly.

(4) The final lists of successful candidates shall be displayed at the headquarters of the National Institute of Magistracy and shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

Art. 23 - In the case of positions of legal personnel treated as judges and prosecutors which are available at the date of the competition's validation or which become available after the competition was validated, at the request of the institutions where those positions are held, the results of the admission competition may be used within one year of the validation of the competition, and such positions may be filled by candidates who meet the conditions laid down in Articles 13 para. (4) and 16 para. (6) and who have "Passed" the interview, but who have not been declared admitted within the number of places and positions open to competition. The provisions of Article 20 para. (2) and (4) and Article 21 shall apply accordingly.

Art. 24 - The Regulation on the admission to the National Institute of Magistracy shall be approved by decision of the plenum of the Superior Council of Magistracy, upon a proposal from the National Institute of Magistracy, and shall be published in the Official Gazette of Romania, Part I.

Art. 25 - (1) The trainees of the National Institute of Magistracy shall have the status of auditors of justice.

(2) Initial training at the National Institute of Magistracy consists in the theoretical and practical training of auditors of justice to become judges or prosecutors.

(3) The duration of the professional training courses for judicial auditors is 3 years. At the end of the training courses judicial auditors opt, under the provisions of this law, for the posts of trainee judges and trainee prosecutors respectively.

(4) The professional training program for judicial auditors is approved by the Plenum of the Superior Council of Magistracy, upon the proposal of the National Institute of Magistracy. The professional training program for judicial auditors must include the subjects of study,

the number of hours allocated to the conferences and seminars allocated for each discipline, the internships to be carried out and the method of evaluation.

Art. 26 - (1) During the training period at the National Institute of Magistracy, auditors of justice carry out internships at courts and prosecutor's offices attached to them, law offices, penitentiaries and other institutions relevant to the professional training of auditors of justice; during the internships, judicial auditors assist in the specific activities of legal institutions and professions, under the conditions established by the law and the Regulation regarding the organization, conduct and evaluation of internships.

(2) The institutions where the internships will be carried out, for each course year, and their duration are established by the Plenum of the Superior Council of Magistracy, upon the proposal of the National Institute of Magistracy. The internships will be organized on the basis of collaboration protocols concluded by the National Institute of Magistracy with the relevant institutions for the professional training of judicial auditors and the professional organizations representing the legal professions.

(3) The internships provided for in para. (1) must last at least 3 months in the first year and at least 6 months in the second and third year.

(4) The regulation regarding the organization, conduct and evaluation of internships is approved by the Plenum of the Superior Council of Magistracy, upon the proposal of the National Institute of Magistracy.

Art. 27 - (1) Auditors of justice shall receive an allowance established by law equivalent to an allowance for the gross monthly classification of a trainee judge or prosecutor.

(2) The allowance of auditors of justice referred to in paragraph (1) shall have the nature and the legal status of a salary entitlement to which the deductions for net compensation shall be calculated, with the obligation of the employer and the insured to social security payments, the obligations with regard to the health insurance payments, as well as the employer's obligation regarding insurance contributions for work. Auditors of justice shall also be entitled to an allowance during the holiday period.

(3) The allowances of auditors of justice shall be paid from the approved annual budget of the Superior Council of Magistracy, under a separate budget heading.

(4) Auditors of justice shall benefit from the reimbursement of teaching materials, subject to the conditions and within a monthly ceiling laid down in the Rules of the National Institute of Magistracy. Auditors of justice shall be provided free of charge with housing in the accommodation spaces of the National Institute of Magistracy, within the limits of available places, under the conditions laid down in the Rules of the National Institute of Magistracy. Maintenance costs shall be borne by the Institute.

(5) If the available places in the accommodation spaces of the National Institute of Magistracy run out, and in the cases where the auditors of justice carry out their training activities outside the municipality of Bucharest, they are entitled to reimbursement of the rent for housing, up to a maximum of 50% of the amount which would be due, in this respect, to magistrates, in accordance with the law.

(6) Auditors of justice shall receive free medical assistance consisting of medical services, medicines and prostheses, which shall be paid from the Single National Health Insurance Fund, except for the personal contribution/co-payment which shall be paid from the budget of the Superior Council of Magistracy, under the conditions of the framework contract of the social health insurance system and subject to compliance with the legal provisions on the payment of the social health insurance contribution. The conditions for the free provision of medical services, medicines and prostheses shall be established by the

Government Decision referred to in Art. 210 para. (5). These entitlements are not of a salary nature and are not taxable.

(7) Auditors of justice shall be entitled to leave and allowances for temporary incapacity for work, other leave and allowances for social health insurance, as well as other leave and allowances, including maternity, maternity risk and parental leave, in accordance with the law.

(8) The period when a person has the status of auditor of justice, provided he/she passed the graduation exam of the National Institute of Magistracy, shall constitute length of service as a judge or a prosecutor.

(9) The provisions of paragraphs (1)-(3) and (5) shall also apply to auditors of justice from other countries, on the basis of arrangements concluded with the Ministries of Justice of the countries concerned.

Art. 28 - The legal provisions on incompatibilities of and bans to judges and prosecutors shall apply accordingly to the auditors of justice.

Art.29 - Auditors of justice shall be bound by the obligation to preserve the confidentiality of works and the secrecy of deliberations when participating in them. The provisions of Articles 201 paragraph (3) and art. 223 shall apply accordingly.

Art. 30 - Transport costs for the training staff of the National Institute of Magistracy who do not have their domicile or residence in the municipality of Bucharest and who participate in the initial training activities organized by the National Institute of Magistracy shall be borne by the budget of that institution.

Art. 31 - (1) Deviations of auditors of justice from their duties under the law or the Rules of the National Institute of Magistracy shall be subject to disciplinary action.

(2) The following shall be disciplinary offences:

a) attitudes affecting accepted principles of morality or public order, irreverent attitudes towards colleagues, the training and managerial staff of the National Institute of Magistracy, as well as towards the persons with whom they come into contact during courses;

b) unjustified absences from the compulsory activities established by the training programme, if they exceed 8 hours per month;

c) the facts provided for in art. 271 let. a), c), i), k) l), m) and p), provisions that apply accordingly.

(3) The disciplinary sanctions applicable to the auditors of justice are:

a) warning;

b) reduction of the allowance of auditor of justice by up to 15% for a period from one to three months;

c) reduction of the allowance of auditor of justice in proportion with the number of unjustified absences, if they exceed 8 hours in one month;

d) expulsion from the National Institute of Magistracy.

(4) The penalties provided for in paragraph (3) shall be applied by the Scientific Council of the National Institute of Magistracy, after carrying out a disciplinary investigation. Disciplinary liability shall be time-barred within one year of the act being committed.

(5) The decisions of the Scientific Council referred to in paragraph (4) may be appealed before the competent contentious administrative and fiscal court, in accordance with the Law on Contentious Administrative.

(6) In the case of expulsion from the National Institute of Magistracy, the sanctioned person must reimburse the auditor's allowances received and the training expenses.

(7) The procedure for the disciplinary investigation and the application of disciplinary sanctions shall be laid down in the Rules of the National Institute of Magistracy.

(8) The disciplinary investigation shall be suspended when an indictment has been ordered against the auditor of justice for the same act.

(9) The prosecution body is obliged to immediately notify the National Institute of Magistracy of the act ordering the prosecution of the auditor of justice.

(10) The suspension of disciplinary investigation shall be ordered by the Director of the National Institute of Magistracy and shall continue until the court decision in the case giving rise to the suspension has become final. The final decision shall be notified immediately to the National Institute of Magistracy. During the suspension of the disciplinary investigation, the limitation period for disciplinary liability shall be suspended.

Art. 32 - (1) During the professional training at the National Institute of Magistracy, the auditors of justice shall comply with the conditions laid down in Article 5(3)(a), (c) and (e).

(2) Where there are indications that the auditor suffers from a mental disorder, the Scientific Council shall, on a proposal from the Director or Deputy Director of the Institute, arrange for the auditor to be presented with specialized medical expertise. Specialist expertise is carried out by a specialist medical committee appointed by the Plenary of the Superior Council of the Magistracy on the basis of proposals from the Minister of Health. If the committee finds that the auditor suffers from a mental disorder which prevents him from continuing the training activity at the Institute, the status of auditor of justice shall be suspended by decision of the Scientific Council of the National Institute of Magistracy. In the expert report, the committee shall also set out the deadline within which the auditor is to return for re-examination. The methodology for carrying out specialized medical expertise shall be approved by the Plenum of the Council on the basis of proposals from the specialized medical committee.

(3) Suspension from the status of auditor shall be ordered until recovery, as established by a new specialized expertise carried out by the medical committee. If the new expert report finds him/her to have recovered, the Scientific Council shall decide to terminate the suspension. Otherwise, an extension of the suspension may be ordered until a further re-examination or, if the disorder is irreversible, expulsion may be ordered. If the suspension is terminated, the auditor of justice shall resume the entire year at the National Institute of Magistracy during which the suspension took place. During the period of suspension, the auditor of justice shall be paid an allowance equal to 80% of the allowance of auditor of justice.

(4) The refusal of the auditor to report to specialized expertise shall constitute a disciplinary offence punishable under Article 31.

(5) If a final conviction for an offence, or the discontinuation or the postponement of the sentence imposed by a final court decision, or the discontinuation of the prosecution confirmed by the judge of the preliminary chamber has been ordered against the auditor of justice, excepting the situation where these last mentioned solutions were taken for unintentional offences for which the Scientific Council of the National Institute of Magistracy considered that they do not affect the dignity of the quality of auditor of justice or the image of the Institute, the auditor shall be expelled from the Institute and shall be obliged to reimburse the allowance of auditors received and the training costs. The status of auditor shall be suspended during pre-trial detention or house arrest and, in the event of an indictment, from the time of the final decision by which the preliminary chamber judge

ordered the commencement of proceedings until a final decision has been handed down. During the period of suspension, the auditor of justice shall not receive the allowance of auditors or other auditor benefits.

(6) Failure to fulfil the other conditions laid down in paragraph (1) shall be established by the Scientific Council of the National Institute of Magistracy and shall bring about expulsion and the obligation to reimburse the allowances of auditors received and the costs of professional training, in those cases attributable to the auditors. The matter shall be referred to the Scientific Council by the Director of the National Institute of Magistracy *ex officio* or at the request of any person concerned.

(7) The procedure for checking compliance with the conditions laid down in paragraph (1) shall be laid down in the Rules of the National Institute of Magistracy.

(8) The decisions of the Scientific Council may be appealed to the competent administrative and tax court.

Art. 33 - (1) After the third year of training at the National Institute of Magistracy, the auditors of justice shall take a psychological test, as well as the graduation exam consisting of theoretical and practical tests, checking the knowledge required to perform the respective duties of judge or prosecutor.

(2) The psychological test shall be taken before a panel of 3 psychologists who rate the candidate as 'fit' or 'unfit'. The psychologists are appointed by decision of the Plenum of the Superior Council of Magistracy, upon the proposal from the Institute, from the psychologists of the National Institute of Magistracy, the Superior Council of Magistracy, the High Court of Cassation and Justice, Judicial Inspection, the Prosecutor's Office attached to the High Court of Cassation and Justice, the courts of appeal, the prosecutor's offices attached to the courts of appeal and, where applicable, from those registered in the single Register of psychologists with the right to practice in Romania certified under the law.

(3) The candidate may lodge an objection to the qualification 'unfit', which shall be dealt with by a committee composed of 5 psychologists, appointed in accordance with paragraph (2), different from the composition of the previous committee. The outcome following the resolution of the objection shall be final.

(4) Psychological testing is carried out on the basis of the Methodology for organizing and conducting psychological testing, which is provided by the Regulation on graduation examination at the National Institute of Magistracy.

(5) Only auditors of justice qualified as 'fit' in accordance with paragraphs (2) or (3) may take the graduation exam at the National Institute of Magistracy. Auditors qualified as 'unfit' shall not be required to reimburse the allowance of auditors and the training costs.

(6) The graduation examination shall consist of a written test, consisting of three written papers on:

- a) civil law and civil procedural law;
- b) criminal law and criminal procedural law;
- c) ethics and judicial organisation.

(7) The date of the examination shall be proposed by the National Institute of Magistracy and approved by decision of the plenum of the Superior Council of Magistracy, together with the approval of the initial training programme. The timetable, the subject matter and the bibliography of the examination shall be proposed by the National Institute of Magistracy and shall be approved by decision of the plenum of the Superior Council of Magistracy at least 60 days before the date of the graduation examination.

(8) The Regulation on the graduation examination of the National Institute of Magistracy shall be approved by decision of the plenum of the Superior Council of Magistracy upon

proposal of the National Institute of Magistracy and shall be published in the Official Gazette of Romania, Part I.

Art. 34 - (1) The Plenum of the Superior Council of Magistracy, upon the proposal from the National Institute of Magistracy, with the advisory opinion of the Scientific Council of the National Institute of Magistracy, shall appoint the committee responsible for drafting the subjects, the committee responsible for grading the tests and the complaints committee.

(2) Persons having their spouse, relatives up to and including fourth-degree among the candidates may not be appointed to the committees provided for in this Article. A person may sit on a single committee. Spouses, relatives up to and including fourth-degree may not take part in the same committee or in different committees.

(3) Each committee shall have a chairperson appointed by the decision appointing the committee.

(4) Members of the Superior Council of Magistracy or persons of the managerial staff of the Superior Council of Magistracy or of the National Institute of Magistracy may not be part of the committees referred to in paragraph (1).

Art. 35 - The organising committee appointed by the National Institute of Magistracy shall coordinate the organisation and conduct of the examination and shall consist of a chairperson, a vice-chair and members.

Art. 36 - Each committee shall be composed of judges, prosecutors and trainers from the National Institute of Magistracy specialising in competition disciplines. The provisions of Article 9 para. (3) shall apply accordingly.

Art. 37 - (1) For the duration of the tests, it is permissible to consult the legislation indicated in the bibliography, with the exception of the commented and annotated legislation.

(2) The time needed to solve the subjects for each examination test shall be that determined by the committee for drafting the subjects and may not exceed 4 hours counted from the end of the distribution of the subjects to all candidates.

Art. 38 - (1) The committee responsible for drafting the subjects shall draw up subjects and scales for the evaluation and grading of written tests, and the committee for grading the tests shall evaluate and grade the papers in accordance with the final evaluation and grading scales.

(2) The evaluation and grading scales shall be displayed at the examination centre after completion of the written tests.

(3) Within 3 days of such display, candidates may lodge complaints against the scale, which shall be decided by the complaints committee no later than 48 hours after the expiry of the deadline for lodging a complaint. Reasons shall be given for the solution within 3 days of the establishment of the definitive scale.

(4) The scale established following the resolution of the complaints shall be published on the website of the National Institute of Magistracy and is final.

(5) Each written paper shall be given grades from 0 to 10 to two decimal places, without rounding.

(6) The final grade is the average to two decimal places of the grades obtained in each of the written papers.

Art. 39 - (1) The results of the graduation examination shall be entered in a table which shall be displayed at the headquarters of the National Institute of Magistracy and published on the website of the Institute.

(2) The results can be contested within 48 hours of being displayed.

(3) The complaints committee shall reassess the papers for which the initial grades have been contested and shall give grades in accordance with the final evaluation and grading scales.

(4) The grade given following the resolution of the objection is final and may not be less than the contested grade.

(5) The final results of the examination shall be displayed at the headquarters of the National Institute of Magistracy and published on the Institute's website.

(6) In order to graduate from the National Institute of Magistracy, the candidate must obtain a general average of at least 7, with at least grade 5 in each of the examination subjects.

(7) Graduates from the National Institute of Magistracy shall be issued with a certificate stating that they graduated the Institute, the class and the overall average obtained.

Art. 40 - (1) If an auditor of justice fails to pass the graduation exam in the first session, he/she shall be entitled to attend the next session organised in accordance with this Law.

(2) In the case referred to in paragraph (1) and if the auditor of justice did not sit for the examination in the first session, he/she shall not receive an allowance of auditors and other rights of auditors until passing the examination.

(3) Unjustified absence or failure to pass the examination in the second session shall result in the loss of the right to be appointed as a judge or prosecutor. The person in that situation shall be obliged to reimburse the received allowance of auditors and the training costs.

Art. 41 - The graduates of the National Institute of Magistracy enjoying good repute shall be appointed by the corresponding section of the Superior Council of Magistracy to the positions of trainee judges or trainee prosecutors, as appropriate, according to the choice expressed, on the basis of the overall average, calculated with 3 decimal places, obtained on the basis of the 4 averages: at the end of each year of study and in the Institute's graduation exam. For equality of averages, priority shall be given, in the following order, to those candidates who have obtained: the higher final grade in the graduation examination, the higher average of the 3 years of training at the National Institute of Magistracy, the higher final grade in the competition for admission to the National Institute of Magistracy, the longer length of service in the positions referred to in Article 63 of the Law.

(2) The verifications on fulfilling the condition of good repute are carried out by the National Institute of Magistracy, the provisions of art. 21 being applied accordingly.

(3) The corresponding section of the Superior Council of Magistracy decides on the fulfilment of the condition of good reputation. Graduates of the National Institute of Magistracy who do not enjoy a good reputation cannot be appointed as trainee judges or prosecutors, being obliged to return auditor allowances received and training expenses.

Art. 42 - (1) Graduates of the National Institute of Magistracy are obliged to fulfil the position of judge or prosecutor for 10 years.

(2) If a graduate of the National Institute of Magistracy is released from office before the expiration of the 10-year period, on his own initiative or for reasons attributable to him, he is obliged to return the auditor's allowances received and the expenses of training, proportional to the time remaining until the deadline provided for in paragraph (1).

(3) Between the date of passing the graduation exam and the date of appointment as a trainee judge or a trainee prosecutor, graduates of the National Institute of Magistracy who have passed the graduation exam shall receive a monthly allowance equal to, and having the same legal regime as, the last year's allowance of auditors of justice. The salary rights shall be borne by the budget of the Superior Council of Magistracy, from a separate budget heading.

CHAPTER II

Trainee judges and trainee prosecutors

Art. 43 - (1) Auditors of justice shall opt for the positions of trainee judges and trainee prosecutors, in accordance with Article 41.

(2) In the jurisdictions of the courts and of the prosecutor's offices where a national minority accounts for at least 50% of the population, in the event of equal average marks, candidates who speak the language of that minority shall have priority over the criteria laid down in Article 41.

(3) The candidate who did not exercise his right to choose the position is offered, ex officio, a position by the corresponding Section of the Superior Council of the Magistracy. Refusal to accept the proposal is considered resignation. The provisions of Art. 31 para. (6) shall apply accordingly.

(4) The assignment to positions shall be displayed at the headquarters of the Superior Council of Magistracy and published on its website.

(5) The period between passing the graduation examination and the appointment by the corresponding section of the Superior Council of Magistracy to the position of trainee judge or trainee prosecutor, as well as the period spent as a trainee judge or trainee prosecutor, provided he/she has passed the examination of professional competence, shall constitute seniority as a judge or prosecutor.

(6) Trainee judges and trainee prosecutors shall enjoy stability.

Art. 44 - (1) The duration of the traineeship of trainee judges and trainee prosecutors shall be of one year.

(2) During the traineeship, judges and prosecutors shall be under an obligation to continue their training, under the coordination of a specific judge or prosecutor appointed by the president of the court of first instance or, where appropriate, the chief prosecutor of the prosecutor's office attached to the court of first instance.

(3) The managerial staff of the courts and prosecutor's offices shall take all measures to ensure the smooth running of the traineeship.

(4) The judge or prosecutor responsible for the coordination of trainee judges or, where appropriate, trainee prosecutors shall draw up a quarterly individual evaluation report on the acquisition of practical knowledge specific to the activity of judge or prosecutor.

(5) The provisions of this Law regarding traineeship shall also apply to legal professionals treated as judges and prosecutors.

Art. 45 - (1) Trainee judges take part, with an advisory vote, in the trial of cases in panels of the court made up of permanent judges. In the cases in which they take part,

trainee judges sign the minutes and the judgments delivered and, on the instructions of the President of the panel, draft judgments so as to ensure a varied caseload. The trainee judge's opinion shall be recorded in the judgment and reasons shall be given for the dissenting opinion. The President of the Court shall determine the panels in which the trainee judge is to sit, and the non-participation of the trainee judge in the trial of a case shall not preclude the continuation of the trial or the delivery of the judgment by the panel composed of the final judge.

(2) Trainee judges hear applications for a declaration of enforceability, non-contentious applications and:

- a) maintenance pensions;
- b) applications for the issue of a order for payment and a European order for payment;
- c) small claims, as referred to in Articles 1.026 - 1.033 of Law no. 134/2010 on the Code of Civil Procedure, republished, as amended and supplemented, and European small claims;
- d) applications for the replacement of a fine by a sanction of community service;
- e) rehabilitation;
- f) a declaration of amnesty or pardon;
- g) the offences provided for by Law no. 286/2009 on the Criminal Code, as amended and supplemented and by special laws, for which criminal proceedings are initiated upon prior complaint of the injured party, with the exception of the offences provided for in Article 218 para. (1) and (2), art. 219 par. (1), Articles 223, 226 and 227 and Articles 239 to 241 of Law No 286/2009, as amended. (3) The arrangements for participation in such panels shall be determined by decision of the Leading Board.

(4) Trainee prosecutors have the right to make submissions, to carry out and sign processual and procedural acts, under the coordination of a tenured prosecutor.

(5) The trainee prosecutor shall issue an advisory opinion which is motivated and solves the work entrusted to him/her by the chief prosecutor of the prosecutor's office attached to the court of first instance.

(6) Trainee judges and trainee prosecutors shall not be entitled to order measures detaining a person or restricting their freedom.

(7) Decisions handed down by trainee prosecutors shall be countersigned by the prosecutors coordinating them.

Art. 46 - (1) After the end of the traineeship period, trainee judges and trainee prosecutors shall be required to attend a capacity examination. If the trainee judge or the trainee prosecutor fails the capacity examination, he/she is obliged to attend the next available examination.

(2) Unjustified absence from the capacity examination or rejection of the candidate for two sessions shall lead to the loss of the status of trainee judge or trainee prosecutor. In that case, the trainee judge or trainee prosecutor is obliged to reimburse the allowances of auditor received and the training costs at the National Institute of Magistracy.

(3) A person who, for justified reasons, did not attend the capacity examination may sit for this examination if no more than 2 years have passed from the end of the traineeship until the date set for the examination. The provisions of paragraph (2) shall apply accordingly.

(4) After the 2-year period, the persons referred to in paragraph (3) are held to carry out the traineeship again, in accordance with the law.

Art. 47 - (1) The capacity examination of trainee judges and trainee prosecutors shall be organised by the Superior Council of Magistracy, with the support of the National Institute of Magistracy.

(2) The Regulation on the capacity examination of trainee judges and trainee prosecutors shall be approved, by decision of the corresponding section of the Superior Council of Magistracy, which shall be published in the Official Gazette of Romania, Part I.

(3) The capacity examination referred to in paragraph (1) shall be taken by trainee judges and trainee prosecutors, as well as legal professionals treated as judges and prosecutors of the Superior Council of Magistracy and of coordinated or subordinated institutions, the Public Ministry, as well as the Ministry of Justice and the institutions coordinated or subordinate to it, the provisions relating to the capacity examination also applying accordingly to this category of staff.

(4) The date, the location and the manner of holding the capacity exam shall be approved by the corresponding section of the Superior Council of Magistracy and published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy and shall be communicated to the courts and prosecutor's offices attached thereto at least 90 days before the date set for the capacity examination.

(5) Applications for registration for the capacity examination, accompanied by the evaluation reports and other acts required under the Regulation on the capacity examination for trainee judges and trainee prosecutors shall be submitted to the Superior Council of Magistracy within 60 days of publication of the date of the examination.

(6) Trainee judges and trainee prosecutors whose traineeship is to be completed by the last day of the capacity examination may take the exam.

Art. 48 - (1) The capacity examination consists of checking theoretical and practical knowledge by means of written and oral tests.

(2) The written tests shall consist of papers on different subjects for judges and prosecutors, including the resolution of cases and the drafting of practical works, depending on the specific nature of the candidates' activity.

(3) Written tests shall be taken on the following subjects:

- a) civil law;
- b) civil procedural law;
- c) criminal law;
- d) criminal procedural law.

(4) Oral tests shall be taken on the subjects referred to in paragraph (3), constitutional law, as well as judicial organisation and the Code of ethics for judges and prosecutors.

(5) During the written and oral tests, it is permissible to consult the legislation indicated in the subject matters and bibliography, with the exception of the commented and annotated bibliography.

Art. 49 - (1) The corresponding section of the Superior Council of the Magistracy appoints the examination organization committee, the subject development committee, the examination committee and the appeals resolution committee. The commissions are led by presidents appointed by the decision appointing the commissions.

(2) Persons having their spouse, relatives up to and including fourth-degree among the candidates may not be appointed to the committees. A person may sit on a single committee. Spouses and relatives up to and including fourth-degree may not take part in the same committee or in different committees.

(3) Members of the Superior Council of Magistracy or persons from the managerial staff of the Superior Council of Magistracy or of the National Institute of Magistracy may not be part of the committees responsible for drafting the subjects, of the examination committees and of the complaints committees.

Art. 50 - (1) The committee organising the capacity examination shall coordinate the organisation and conduct of the examination.

(2) The committee organising the capacity examination shall be composed of the chairperson, vice-chair and members, appointed from the staff of the specialised apparatus of the Superior Council of Magistracy and the National Institute of Magistracy, including those in managerial positions. Room monitors and supervisors, as well as other persons working for the proper organisation of the competition shall be appointed by the chairperson of the committee organising the capacity examination.

Art. 51 - (1) The committee organising the capacity examination shall verify that the conditions of participation in the examination are fulfilled and draw up a list of candidates at least 25 days before the date of the examination. The list of candidates shall be displayed at the headquarters of the National Institute of Magistracy and shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

(2) Unsuccessful candidates may lodge objections within 48 hours of the publication of the list referred to in paragraph (1) on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

(3) Objections shall be lodged with the Superior Council of Magistracy by legal professionals treated as magistrates, or with the courts of appeal and the prosecutor's offices attached to them by judges and prosecutors, who shall immediately forward them by fax or e-mail to the committee organising the capacity examination.

(4) Disputes are resolved within 3 days from the expiration of the term provided for in para. (2), by final decision of the corresponding Section of the Superior Council of Magistracy.

(5) The final lists of candidates who meet the conditions for participation in the exam are published on the website of the Superior Council of Magistracy and the National Institute of Magistracy.

Art. 52 - (1) The committee responsible for drafting the subjects, the examination committee, as well as the complaints committee shall be appointed by decision of the corresponding section of the Superior Council of Magistracy, upon proposal from the Scientific Council of the National Institute of Magistracy, separately for judges and prosecutors, respectively.

(2) The committees for judges are composed of judges from the High Court of Cassation and Justice, judges from the courts of appeal and trainers from the National Institute of Magistracy.

(3) The committees for prosecutors are composed of prosecutors from the Prosecutor's Office attached to the High Court of Cassation and Justice, prosecutors from the prosecutor's offices attached to the courts of appeal and trainers from the National Institute of Magistracy.

(4) In the commissions provided for in para. (1)-(3) alternate members are also appointed, who will replace them by right, in the order established by the corresponding Section of the Superior Council of the Magistracy by the decision appointing the commissions, those

members of the commission who, for valid reasons, do not they can exercise their duties. The replacement is carried out by the president of the respective commission.

Art. 53 - (1) Written test committees shall be constituted separately for civil law and civil procedural law, and for criminal law and criminal procedural law, respectively.

(2) Examination committees for oral tests shall include at least 3 members and shall be constituted separately for each of the six subjects of the oral tests.

Art. 54 - (1) The committee responsible for drafting the subjects shall draw up the examination subjects for written and oral tests, the evaluation and grading scales, per examination disciplines, and the examination committee shall correct and grade the written tests and shall also examine the candidates in oral tests; for oral tests, the committee responsible for drafting the subjects shall draw up an evaluation scale.

(2) The complaints committee shall decide on objections to the scale and to the written papers, as well as to the oral tests.

(3) If the complaints committee rejects all objections to the scale, the initial evaluation and grading scales shall become final.

(4) If the members of the complaints committee consider that one or more objections to the scale are well founded, the committee shall draw up final scales.

Art. 55 - (1) The time needed for preparing the written papers shall be that laid down by the committee responsible for drawing up the subjects and may not exceed 4 hours from the time when the distribution of the subjects for each candidate has been completed.

(2) The evaluation and grading scales established for each subject of examination shall be displayed after completion of the written tests at the examination centers. Candidates may lodge objections to the scale within 24 hours of the display, which shall be sent to the National Institute of Magistracy and settled in accordance with Article 54 para. (2)-(4). The provisions of Article 14 para. (6)-(8) shall apply accordingly.

(3) The final scales established following the resolution of the objections shall be published immediately on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

Art. 56 - Written papers shall be corrected for each subject in accordance with the final evaluation and grading scales. Written papers shall be graded, for each subject, with grades from 0 to 10, to two decimal places.

Art. 57 - (1) The results of the written tests of the capacity examination shall be displayed at the headquarters of the National Institute of Magistracy and published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

(2) Objections regarding the written tests can be submitted by candidates, within 3 days of displaying the results, at the premises of the National Institute of Magistracy or at the offices of the courts of appeal or prosecutor's offices attached thereto, which shall immediately forward them, by fax or e-mail, to the National Institute of Magistracy.

(3) Objections shall be addressed by the complaints committee within 10 days of the expiry of the deadline laid down in paragraph (2), and the decision of the committee shall be final.

(4) The grade given following the objections may not be less than the contested grade.

(5) The list of the final results of the written test, after the resolution of the objections, shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

Art. 58 - At least 24 hours before the oral tests are held, the committee organising the capacity examination shall draw up the alphabetical list of candidates, specifying the time when the groups of candidates must appear, and shall ensure that the lists of candidates are published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

Art. 59 - (1) Grading the oral tests shall be carried out, on the basis of the evaluation scale, with grades from 0 to 10, to two decimal places. The grade given in the oral test shall be the average of the grades given by each member of the committee. Grade 1 shall be awarded when the score obtained by the candidate is less than or equal to this grade.

(2) The results of the oral tests shall be displayed at the headquarters of the National Institute of Magistracy and published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

(3) The recording of oral tests by audio or audio-video technical means shall be mandatory.

(4) Candidates may object to the grade given in the oral tests, with the provisions of Article 15 paragraph (2) and (4) duly applied. The settlement of the objections shall be carried out by the complaint committee within the deadline set by the corresponding section of the Superior Council of Magistracy by the timetable for the competition. The settlement of the objection to the oral tests shall be made on the basis of the audio-video recording. The final results of the oral tests shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

Art. 60 - (1) The general average of the capacity examination shall be the arithmetic mean of the grades obtained in the written and oral tests. In order to be declared admissible, a candidate must obtain at least the general average of 7, with at least grade 5 in each written and oral test.

(2) The final results of the capacity examination shall be entered in the table classifying the candidates, which shall be displayed at the headquarters of the National Institute of Magistracy and published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

(3) After drawing up the candidate classification table, the corresponding Section of the Superior Council of the Magistracy validates the capacity exam, in the first meeting following the publication of the results.

(4) The corresponding section of the Superior Council of Magistracy can invalidate, in whole or in part, the capacity exam in cases where it finds that the conditions provided by law or regulation regarding the organization of the exam have not been respected or that there is evidence of fraud.

CHAPTER III

Appointment of judges and prosecutors

Art. 61 - (1) Judges and prosecutors who have passed the capacity examination shall be appointed by the President of Romania upon a proposal from the corresponding section of

the Superior Council of Magistracy. The note containing the proposals for appointment shall be submitted to the President of Romania under the signature of the President and the Vice-President of the Superior Council of Magistracy, to the posts of judge or prosecutor at the courts or public prosecutor's offices where they were appointed as trainees.

(2) The proposals for appointments shall be submitted no later than 30 days after the validation date of the capacity examination.

(3) The President of Romania may not refuse to appoint the judges and prosecutors referred to in paragraph (1).

Art. 62 - During the period between the date of validation of the capacity examination and the date of entry into force of the decree of appointment by the President of Romania, the judges and prosecutors who have passed the capacity examination shall receive the salary rights corresponding to the position immediately higher than that of a trainee judge or trainee prosecutor.

Art. 63 - (1) The following may be appointed to the magistracy on the basis of a competition, provided that they meet the conditions laid down in Article 5(3): former judges and prosecutors who have ceased their activity for reasons not attributable to them, legal professionals treated as magistrates, lawyers, public notaries, judicial assistants, legal advisers, bailiffs with higher legal education, probation officers with higher legal education, judicial police officers with higher legal education, clerks with higher legal education, persons who have held judicial professional offices within the apparatus of the Parliament, the Presidential Administration, the Government, the ministries, the Constitutional Court, the Ombudsman, the Court of Accounts or the Legislative Council, in the Institute of Juridical Research of the Romanian Academy and the Romanian Institute for Human Rights, accredited higher education teachers, as well as assistant magistrates, with at least 5 years of experience in the field.

(2) The persons appointed under the conditions of this Article may not be delegated, seconded, transferred or promoted to any other court or prosecutor's office for at least 3 years after the appointment.

(3) The Rules governing the competition for admission to the magistracy shall be approved by the plenum of the Superior Council of Magistracy, upon a proposal from the National Institute of Magistracy, by means of a decision published in the Official Gazette of Romania, Part I.

Art. 64 - (1) The competition for admission to the magistracy provided for in Article 64(1) shall be organised by the Superior Council of Magistracy, with the support of the National Institute of Magistracy, to fill vacancies in courts and prosecutor's offices.

(2) The date, location, manner of holding the competition, timetable for conducting the competition, registration fee, subject-matters and bibliography of the competition and the registration application form shall be established by decision of the plenum of the Superior Council of Magistracy, upon a proposal from the National Institute of Magistracy.

(3) The number and the list of open positions for the competition shall be determined by decision of the plenum of the Superior Council of Magistracy.

(4) The data referred to in paragraphs (2) and (3) shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy at least 60 days before the date set for the competition.

(5) In order to register for the competition for admission to the magistracy, candidates shall pay a fee, the amount of which shall be determined by decision of the plenum of the

Superior Council of Magistracy, upon a proposal from the National Institute of Magistracy, on the basis of the costs required for organising the competition. The registration fee shall be reimbursed in the event of objective situations preventing participation in the competition which occurred before taking the first test of the competition.

(6) The provisions of Article 11 shall apply accordingly.

Art. 65 - (1) For the competition for admission to the magistracy, the plenum of the Superior Council of Magistracy shall appoint the organising committee, the committee for drafting the subjects, the committee for correcting the tests, the interview committee and the complaints committee, upon a proposal from the the Scientific Council of the National Institute of Magistracy.

(2) The organising committee shall coordinate the organisation and conduct of the competition and shall verify the candidates' compliance with the conditions for taking part in the competition.

(3) The organising committee shall be composed of the chairperson, vice-chair and members appointed from among the staff of the specialised apparatus of the Superior Council of Magistracy and of the National Institute of Magistracy, including those in managerial positions. Room monitors and supervisors, as well as other persons working for the proper organisation of the competition shall be appointed by the chairperson of the organising committee.

(4) Persons who have their spouse, relatives up to and including fourth-degree among the candidates may not be appointed to the committees. A person may sit on a single committee. Spouses, relatives up to and including fourth-degree relatives may not sit on the same committee or on the different committees.

(5) Members of the Superior Council of Magistracy or managerial staff of the Superior Council of Magistracy or of the National Institute of Magistracy cannot be on the committees for drafting the subjects, the committee for correcting the tests, the interview committee or the complaints committee.

Art. 66 - (1) The committee for drafting the subjects, the committee for correcting the tests, the interview committee and the complaints committee shall be chaired by a chairperson.

(2) The committee for drafting the subjects shall draw up the subjects and the evaluation and scoring scales for the multiple-choice test and for the written test of legal knowledge, and the committee for correcting the tests shall correct and grade the written tests of legal knowledge. For the multiple-choice test and for the written test of legal knowledge, separate committees for civil law and civil procedural law, and for criminal law and criminal procedural law respectively shall be set up within the committee for drafting the subjects and the committee for correcting the tests. The subjects of substantive law shall be drawn up by the members of the committee who also draw up the subjects of procedural law in the relevant field.

3) In the commissions provided for in para. (1) substitute members are also appointed, who will replace them by right, in the order established by the decision on the appointment of the tender commissions, those members of the commission who, for valid reasons, cannot exercise their duties. The replacement is carried out by the president of the respective competition committee.

Art. 67 - The committees referred to in Article 66(2) and (3) shall be composed of members specialising in civil law and civil procedural law, and in criminal law and criminal

procedural law, respectively. These committees/subcommittees may also include academics specialising in the competition disciplines. The number of committee members shall be determined by the decision appointing them, on the basis of the number of candidates.

Art. 68 - The interview committee shall draw up the evaluation scale on the basis of which the interview shall be assessed, shall draw up the subjects on the basis of which candidates are examined and shall interview candidates in order to identify the skills, motivations and ethical elements specific to the profession. Interview subcommittees may be set up in the interview committee, depending on the number of candidates declared admitted after the first elimination round.

Art. 69 - (1) The complaints committee shall be composed of the following subcommittees:

a) subcommittees solving the objections to the scale established for the two written tests and to the score of the multiple-choice test of the legal knowledge, established separately for civil law and civil procedural law, and for criminal law and criminal procedural law, respectively;

b) subcommittees solving the objections to the results obtained in the written test of legal knowledge, established separately for civil law and civil procedural law, and for criminal law and criminal procedural law, respectively;

c) subcommittees dealing with complaints against the results of the interview test.

(2) The complaints sub-committees for the two written tests shall be composed of members specialising in civil law and civil procedural law, and in criminal law and criminal procedural law, respectively. They may also include academics who specialise in the competition disciplines.

(3) The complaints subcommittees for the interview test shall have the composition provided for in Article 74.

Art. 70 - (1) The examination of candidates in the context of the competition for admission to the magistracy shall take place in two stages.

(2) The first stage is eliminatory and consists of the following eliminatory written tests:

a) a multiple-choice test of the legal, theoretical and practical knowledge, taken on the following subjects: civil law and civil procedural law, criminal law and criminal procedural law;

b) a written test of the legal, theoretical and practical knowledge of civil law and civil procedural law, and of criminal law and criminal procedural law, respectively.

(3) Only candidates declared admitted in the multiple-choice test of legal knowledge shall participate in the written test of legal knowledge.

(4) The grade obtained in the first stage shall be the arithmetic mean of the grades obtained in the tests referred to in paragraph (2).

(5) The second stage shall consist of a psychological test and an interview. All candidates declared admitted in the first stage of the competition shall take part in the psychological testing. Candidates declared to be psychologically fit to perform their duties shall take part in the interview, in descending order of the grades obtained in the first round and up to a maximum of one and half of the number of seats to be filled, in the case of an odd number of seats or positions, rounding being made to the greater number. The number of candidates admitted in the second stage shall be supplemented, in case of equal averages, by that of the last successful candidate.

Art. 71 - (1) The multiple-choice test of the legal knowledge shall comprise 100 questions, 25 for each of the competition disciplines.

(2) In the multiple-choice test of legal knowledge, each correct answer receives one point, which is equivalent to 10 hundredths in the scoring system from 1 to 10.

(3) The time needed to reply to the questions in the multiple-choice test of legal knowledge shall be that set by the committee drawing up the subjects and may not exceed 4 hours counted from the end of the distribution of the tests to all candidates.

(4) The evaluation and grading of the papers on the multiple-choice test of legal knowledge shall be carried out by electronic processing. The papers shall be rated 'Pass' or 'Fail', depending on the candidate's score. Candidates who have obtained a minimum of 60 points, equivalent to grade 6,00, in this test in descending order of the grades obtained, up to twice the number of positions made available, shall be declared admissible. The number of successful candidates shall be increased in the case of averages equal to that of the last successful candidate.

(5) The evaluation and grading scale shall be displayed at the competition centres after the completion of the test and shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy. Candidates may challenge the evaluation and grading scale within 3 days of being displayed at the competition centres. The complaints against the scale shall be sent, including by fax or e-mail, to the National Institute of Magistracy and shall be dealt with by the relevant complaint subcommittee, no later than 48 hours after the deadline for lodging a complaint expires. Reasons shall be given for the solution within 3 days of the expiry of the deadline for dealing with complaints. The scale established following the resolution of the complaints shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

(6) Should one or more questions of the multiple-choice test be cancelled following the resolution of the objections to scale, the points corresponding to the cancelled questions will be awarded to all candidates.

(7) If, following the resolution of the objections to the scale, it is considered that the answer indicated as correct in the initial scale is not the only correct answer, the definitive scale shall include both the score corresponding to the answer set by the committee preparing the subjects in the initial scale, and the score corresponding to the answer determined by the complaints committee.

(8) If, following the resolution of the objections to the scale, it is considered that the correct answer to one of the questions is clearly different from that indicated in the scale, without prejudice to the provisions of paragraph (7), the scale shall be corrected and the score corresponding to that question shall be awarded only to the candidates who have indicated the correct answer set out in the definitive scale.

(9) If the competition for admission to the magistracy takes place at the same time as the competition for admission to the National Institute of Magistracy and there are identical questions, the admission of an objection to any of these questions in the competition for admission to the National Institute of Magistracy shall also have effect with regard to the competition for admission to the magistracy, in accordance with paragraphs (6) to (8).

(10) The provisions of Article 14(6) to (8) shall apply accordingly.

(11) The results of the multiple-choice test shall be displayed at the National Institute of Magistracy and published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

(12) Candidates may object to the grades obtained in the multiple-choice test within 3 days of the date of publication of the results. The complaint shall be submitted, including by fax or e-mail, to the National Institute of Magistracy.

(13) The complaints shall be settled within 3 days of the expiry of the deadline referred to in paragraph (12).

(14) The grade given following the resolution of the objection is final and may not be less than the contested grade.

Art. 72 - (1) The written test of legal knowledge consists of drafting papers on civil law and civil procedural law, and on criminal law and criminal procedural law respectively.

(2) The provisions of Article 71 (3), (5) to (11) shall apply accordingly.

(3) Each paper shall be corrected on the basis of the final evaluation and scoring scale and shall be graded separately, in civil law and civil procedural law, and in criminal law and criminal procedural law, respectively, with grades from 0 to 10 to two decimal places.

(4) The grade of the written test of legal knowledge shall be the arithmetic mean, to two decimal places, without rounding, of the grades obtained for each paper.

(5) Candidates may challenge the grades obtained in this test, with the provisions of Article 71 (12) duly applied. The complaints shall be settled within the time limit set by the plenum of the Superior Council of Magistracy by the timetable for the competition.

(6) Objections to the grades obtained in the written test of legal knowledge shall be solved by the complaints subcommittee against the results.

(7) In order to be declared admissible in the written test of legal knowledge, the candidate must obtain at least 5 for each paper and at least grade average 6 calculated in accordance with paragraph (4).

Art. 73 - The candidates declared admissible to the two written tests shall take the psychological test to establish that the condition of being psychologically fit to perform their duties is fulfilled. The provisions of Article 17 shall apply accordingly.

Art. 74 - Candidates who fulfil the condition of being psychologically fit to perform their duties shall take an interview, the interview committee or each interview subcommittee, where appropriate, comprising a psychologist, two judges, a prosecutor and an academic selected, as a rule, from among those with the teaching degree of university professors. The number of interview subcommittees is determined according to the number of candidates declared admissible after the first eliminatory phase. The provisions of Article 18 shall apply accordingly.

Art. 75 - (1) After the two stages of the competition, candidates who obtained the 'Pass' rating for the interview shall be declared admissible in descending order of the grades obtained at the first stage of the competition, established in accordance with Article 70(4), within the number of positions made available.

(2) The list of final results of the competition shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

(3) The plenum of the Superior Council of Magistracy may order additional positions to be filled if several candidates have obtained grades equal to that of the last candidate declared admissible after the two stages of the competition, with vacancies for judges and prosecutors from courts and prosecutor's offices where there are difficulties in filling these positions.

(4) If there are no vacancies of the kind referred to in paragraph (3), the selection of candidates who obtained grades equal to that of the last candidate declared admissible after the two stages of the competition shall be carried out in descending order of the grades obtained in the written test of legal knowledge. In case of identical grades obtained by the candidates in this competition test, the distinction shall be made, in order, on the basis of seniority in legal expertise, holding a scientific degree of PhD in law, doctoral candidate in law, and specialised publications.

(5) In the jurisdictions of the courts and of the prosecutor's offices where a national minority has a share of at least 50% of the population, in case of equal averages, candidates who are familiar with the language of that minority shall have priority over the criteria set out in paragraph (4).

(6) Candidates ranked in descending order of the grades obtained in the competition shall submit, in that order, within the time limit set by the organising committee, an option for one of the positions made available or, where appropriate, supplemented. Applicants may submit only one option, which may be changed only in the cases expressly provided for in this Law. In case of equal grades, candidates shall be divided in accordance with paragraphs (4) and (5).

Art. 76 - (1) After the final results of the competition are displayed, successful candidates after the two stages of the competition shall be checked for compliance with the condition of good repute laid down in Article 5 para. (3) let. (c).

(2) Checks on the fulfilment of the condition of good repute shall be carried out in compliance with the legislation in force on the protection of individuals with regard to the processing of personal data and the free movement of such data.

(3) The Regulation referred to in Article 63 para. (3) lays down the documents which candidates are required to submit in order to prove that the condition of good repute is met. The provisions of Art. 21 para. (4) to (7) shall apply accordingly.

Art. 77 - (1) The plenum of the Superior Council of Magistracy shall decide whether candidates admitted after the two stages of the competition comply with the condition laid down in Article 76(1) and shall validate the results of the competition.

(2) Candidates who are not of good repute shall be declared rejected.

Art. 78 - (1) If one of the candidates has been rejected under the conditions of Article 77(2) or has renounced the choice made in accordance with Article 75 para. (6), the procedure laid down in Article 75 para. (6) shall be resumed for candidates who meet the conditions laid down in Article 71 (4) and Article 72 para. (7), who have obtained a 'Pass' rating in the interview and who occupy the following positions in the list of final results of the competition. Within the time limit set by the organising committee, candidates may retain their initial choice or make a new option, but only for the position which the unsuccessful candidate had chosen or, after that is occupied, for the position thus left unfilled, where appropriate.

(2) For positions which have become available after completion of the procedure referred to in paragraph (1), candidates who meet the conditions laid down in Article 71 para. (4) and Article 72 para. (7) and who have obtained a 'Pass' rating for the interview in descending order of the grades obtained in the competition, may opt within the time limit set by the organising committee, as determined in accordance with Article 70 para. (4).

(3) In case of equal grades, candidates shall be divided in accordance with Article 75 para. (4) and (5).

(4) The provisions of Articles 76 and 77 shall be applied accordingly.

Art. 79 - (1) Within no later than 30 days from the date of validation of the competition for admission to the judiciary, the corresponding section of the Superior Council of Magistracy shall propose to the President of Romania the appointment of successful candidates to the position of judge or, where appropriate, prosecutor. The provisions Article 61 para. (3) shall apply accordingly.

(2) After being appointed to the position of judge or prosecutor, the persons referred to in paragraph (1) shall be required to undergo, for a period of 6 months, a training course at the National Institute of Magistracy, which must include elements of European Union law.

Art. 80 - (1) Before taking up their duties, judges and prosecutors shall take the following oath: "I swear to uphold the Constitution and the laws of the country, to protect the fundamental rights and freedoms of the individual, to perform my duties with honour, conscience and without bias. So help me God!" The reference to divinity in the oath formula changes according to the religious belief of judges and prosecutors and is optional.

(2) Refusal to take an oath shall automatically render the appointment null and void.

(3) The oath shall be taken in a formal sitting before the judges of the court or, where appropriate, the prosecutors of the prosecutor's office to which the judge or prosecutor has been appointed, after reading the act appointing him/her.

(4) Taking of the oath shall be recorded in minutes, which shall be signed by the president of the court or, where appropriate, of the prosecutor's office and by the 2 of the judges or the prosecutors present, as well as the one who took the oath.

(5) Taking of an oath shall not be necessary in the event of transfer or promotion of the judge or prosecutor to another position.

CHAPTER IV Continuous training

Art. 81 - (1) The continuous training of judges and prosecutors is the guarantee of independence and impartiality in the performance of their duties. Initial and continuous training is a right and a duty for judges and prosecutors.

(2) Continuous training must take account of the dynamics of the legislative process and consists mainly of knowledge and deepening of national legislation, European and international documents to which Romania is a party, of the case-law of the courts and of the Constitutional Court, of the case-law of the European Court of Human Rights and of the Court of Justice of the European Union, of comparative law, of rules of ethics, of the multidisciplinary approach of new institutions, as well as of the knowledge and deepening of foreign languages and operating a computer.

Art. 82 - The responsibility for the continuous training of judges and prosecutors shall lie with the National Institute of Magistracy, the presidents of the courts or prosecutor's offices where they work, and each judge and prosecutor, through individual training.

Art. 83 - (1) Judges and prosecutors shall participate, at least every 3 years, in continuous training programmes organised by the National Institute of Magistracy, by national or foreign higher education institutions, or in other forms of professional development.

(2) The accommodation and meal expenses of foreign judges and prosecutors, trainees or representatives of other training institutions abroad who participate, in the framework

of cooperation programmes, in training activities organised by the National Institute of Magistracy may be charged to the budget of this institution.

(3) Judges and prosecutors are required to attend, as part of continuous training programmes, an intensive course to learn or improve on a foreign language and an intensive course to initiate or improve computer-based operating knowledge organised by the National Institute of Magistracy or courts or prosecutor's offices, national or foreign higher education institutions, and other specialised institutions.

(4) The Plenum of the Superior Council of Magistracy shall approve annually, on a proposal from the National Institute of Magistracy, the continuous training programme for judges and prosecutors.

(5) The continuous training of judges and prosecutors shall take into account the need for their specialisation.

Art. 84 - (1) The accommodation and meal expenses of judges, prosecutors, legal professionals treated as magistrates, judicial auditors and training staff of the National Institute of Magistracy who participate in continuous training activities organised by the National Institute of Magistracy shall be borne by the budget of that institution.

(2) The maximum expenditure ceiling referred to in paragraph (1) and in Article 83(2) shall be established by decision of the President of the Superior Council of Magistracy on a proposal from the National Institute of Magistracy. Participants may be housed in tourist reception facilities up to the maximum ceiling set by decision of the President of the Superior Council of Magistracy, irrespective of their classification.

(3) The transport costs of judges, prosecutors, legal professionals treated as magistrates in connection with continuous training activities organised by the National Institute of Magistracy shall be borne by the budget of the institutions where they perform the basic function.

(4) The transport costs of the judicial auditors and the training staff of the National Institute of Magistracy relating to continuous training activities organised by the National Institute of Magistracy shall be borne by the budget of that institution.

(5) Judges, prosecutors, legal professionals treated as judges and prosecutors, judicial auditors, as well as training staff participating in training activities organised by the National Institute of Magistracy shall not receive a delegation allowance from the institutions where they perform the basic function.

Art. 85 - (1) Continuous training activities, consisting of consultations, debates, seminars, sessions or round tables, with the participation of the National Institute of Magistracy, shall be organised periodically within each court of appeal and at each prosecutor's office attached to the court of appeal. Their subject-matters shall be approved by the corresponding section of the Superior Council of Magistracy.

(2) Expenses relating to the organisation of the activities referred to in paragraph (1), including accommodation, meals and transport of training staff and participants, shall be borne from the budget of the court of appeal or the prosecutor's office attached to the court of appeal, according to case. In the case of training staff of the National Institute of Magistracy who participate, on a proposal from the Institute, in this capacity, in accordance with the annual programme for continuous training of judges and prosecutors approved by the plenum of the Superior Council of Magistracy, in the activities referred to in paragraph (1), the costs relating to their accommodation, meals and transport shall be borne from the budget of the National Institute of Magistracy.

(3) The maximum expenditure ceiling referred to in paragraph (2) shall be established by order of the President of the High Court of Cassation and Justice and the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice. In the case of training staff of the National Institute of Magistracy participating, on a proposal from the Institute, in this capacity, in accordance with the annual programme for continuous training of judges and prosecutors approved by the plenum of the Superior Council of Magistracy, in the activities referred to in paragraph (1), the maximum expenditure ceiling shall be determined in accordance with Article 84(2).

(4) The costs for the remuneration of training staff participating in the activities referred to in paragraph (1) shall be borne by the budget of the court of appeal or the prosecutor's office attached to the court of appeal, according to case. In the case of training staff employed with hourly payment of the National Institute of Magistracy participating, on a proposal from the Institute, in this capacity, in accordance with the annual programme for continuous training of judges and prosecutors approved by the plenum of the Superior Council of Magistracy, in the activities referred to in paragraph (1), the costs for the remuneration of training staff shall be borne from the budget of the National Institute of Magistracy.

(5) Judges, prosecutors and training staff participating in the activities referred to in paragraph (1) shall not benefit from delegation daily allowances from the institutions where they fulfil their basic function.

(6) The President of the court of appeal or, where appropriate, the Prosecutor General of the prosecutor's office attached to the court of appeal shall designate the judges and the prosecutors, respectively who shall be responsible for the organisation of the continuous training of judges and prosecutors at the court of appeal and the courts of its jurisdiction, and the prosecutor's office attached to the court of appeal and the subordinate prosecutor's offices, respectively.

Art. 86 - The provisions on the continuous training of judges and prosecutors shall also apply to legal professionals treated as magistrates.

CHAPTER V

Professional evaluation of judges and prosecutors

Section 1

General provisions

Art. 87 - (1) The individual professional evaluation of judges and prosecutors involves the analysis and rating of criteria and indicators for assessing the professional performance of judges and prosecutors, which relate mainly to the quality of the work, the efficiency, the integrity and the obligation of continuous training, and, in the case of judges and prosecutors appointed to management positions, the performance of managerial duties as well. The criteria and indicators for professional evaluation are set out in Annex 1.

(2) The professional evaluation of judges and prosecutors is designed to establish their level of professional competence and aims at improving professional performance, increasing the efficiency of the work of courts and prosecutors and public trust in judicial authority, maintaining and strengthening the quality of the judicial system.

(3) The Regulation on the evaluation of the professional activity of judges shall be approved by decision of the Section for Judges of the Superior Council of Magistracy and the

Regulation on the evaluation of the professional activity of prosecutors shall be approved by decision of the Section for Prosecutors of the Superior Council of Magistracy.

(4) The decisions referred to in para. (3) shall be published in the Official Gazette of Romania, Part I.

Art. 88 - In relation to the length of service as a judge or prosecutor, the evaluation shall be carried out as follows:

- a) every 2 years, for judges and prosecutors with a length of service of one to 5 years;
- b) every 3 years, for judges and prosecutors with a length of service of 5 to 10 years;
- c) every 4 years, for judges and prosecutors with a length of service of 10 to 15 years;
- d) every 5 years, for judges and prosecutors with a length of service of over 15 years.

(2) Judges of the High Court of Cassation and Justice are not subject to evaluation.

(3) The professional evaluation can be carried out whenever requested by the judge or prosecutor.

Art. 89 - (1) The evaluation provided for in Article 87 shall be carried out by evaluation committees set up separately for judges and prosecutors, as follows:

a) for the evaluation of the president, the vice-president and the president of the section from the courts, specialized courts, military courts, appeal courts and the Military Court of Appeal, the commission is formed by the president of the hierarchically higher court, the president of the section of the hierarchically higher court corresponding to the specialization the evaluated judge, as well as a judge from the higher court, designated by the governing board of that court;

b) for the evaluation of the other judges from the courts provided for in letter a), the evaluation commission is made up of the president of the court where the evaluated person works, as well as 2 judges from the hierarchically higher court, appointed by the governing board of this court, with the same specialization as the evaluated judge;

c) for the evaluation of the head of the prosecutor's offices attached to judges, tribunals, specialized courts, military courts, courts of appeal and of the Military Prosecutor's Office attached to the Military Court of Appeal, his deputies and chief prosecutors of sections within them, the commission is formed from the head of the higher hierarchical prosecutor's office, a prosecutor with a management position corresponding to the specialization of the evaluated prosecutor from the higher hierarchical prosecutor's office and another prosecutor, appointed by the management college of the higher hierarchical prosecutor's office;

d) for the assessment of the other prosecutors from the prosecutor's offices provided for in letter c), the evaluation commission is made up of the head of the prosecutor's office of which the evaluated person is a member, as well as two prosecutors from the hierarchically superior prosecutor's office, appointed by the governing board of that prosecutor's office, with the same specialization as the evaluated prosecutor, as the case may be;

e) for the evaluation of the general prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice, the first deputy of the general prosecutor, his deputy, the chief prosecutors of the National Anti-corruption Directorate and of the Organized Crime and Terrorism Investigation Directorate and their deputies, the assessment is made by a committee composed of three prosecutors from the Prosecutors' Section of the Superior Council of Magistracy appointed by the Prosecutors' Section and 2 prosecutors appointed by the management board of the Prosecutor's Office attached to the High Court of Cassation and Justice, respectively of the National Anti-Corruption Directorate or of the Directorate

for the Investigation of Organized Crime and Terrorism, as the case may be, of which the assessed person cannot be a member;

f) for the evaluation of chief prosecutors and prosecutors with management positions within the Prosecutor's Office attached to the High Court of Cassation and Justice, the National Anti-Corruption Directorate and the Directorate for Investigating Organized Crime and Terrorism, as well as prosecutors advisers of the general prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice, of the chief prosecutor of the National Anti-Corruption Directorate and of the Directorate for the Investigation of Organized Crime and Terrorism, the commission is formed by the general prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice, the chief prosecutor of the National Anti-Corruption Directorate or, as the case may be, of the Directorate for Investigating Organized Crime and Terrorism and 2 prosecutors appointed by the management board of each of these prosecutions;

g) for the evaluation of prosecutors from the Prosecutor's Office attached to the High Court of Cassation and Justice, from the National Anti-Corruption Directorate and the Directorate for Investigating Organized Crime and Terrorism, with execution functions, the commission is formed by the head of the section or, as the case may be, of the department/service, if they exist, where the prosecutor is assigned and 2 prosecutors appointed by the governing board of each of these prosecution offices.

(2) For each of the commissions provided for in para. (1), one substitute member is appointed in a similar way. In the situation where the presidents of the courts or the heads of the prosecutor's offices cannot, for temporary objective reasons, exercise the specific attributions within the evaluation commission or they are incompatible, they are replaced by the vice-president or, as the case may be, their deputy, and if there are more vice-presidents or deputies, by one of them designated by the governing board of that court or prosecutor's office.

(3) The president of the evaluation commission shall be the ex officio member, and in the evaluation commissions where there are several legal members, the president is the one with the longest tenure as a judge or prosecutor, as the case may be.

(4) Judges and prosecutors, as well as substitute members, are appointed to the evaluation commissions taking into account the following criteria: training and professional experience, the reputation they enjoy, communication skills, as well as the result obtained at the last evaluation and must have the same specialization with the evaluated judge or prosecutor. Judges and prosecutors who have not been evaluated in the position of judge or prosecutor or those who have been disciplinary sanctioned in the last 3 years cannot be appointed to the evaluation commissions, unless the disciplinary penalty has been struck off.

(5) Judges and prosecutors who are spouses, relatives or relatives up to the fourth degree inclusive cannot be part of the same evaluation commission.

Art. 90 - (1) The members and substitute members of the evaluation committee, with the exception of *de jure* members, shall be appointed for a period of 5 years with the possibility of reappointment once by the same procedure.

(2) After their appointment as members of the evaluation committees, if they have not attended training courses for the evaluation activity organised by the National Institute of the Magistracy, they will be trained as evaluators by one of the other members of the commission or by one of the members of the evaluation commission constituted at the level of the hierarchically superior court or the hierarchically superior prosecutor's office, designated by the head of that court or, as the case may be, prosecutor's office.

- (3) The committees shall operate with the participation of all members and shall decide by a majority of their votes on giving scores for each indicator and awarding a rating.
- (4) If, for objective reasons, one of the members is unable to perform the duties of assessor or if his/her term of office has expired, the evaluation shall be carried out after his/her replacement by the substitute member. Acts performed up to the time of replacement shall remain valid.

Art. 91 - (1) Incompatibility between the members of the evaluation committee and the judge or prosecutor assessed shall arise in the following situations:

- a) where one of the members of the evaluation committee is a spouse, relatives up to and including fourth-degree with the judge or prosecutor assessed;
- b) where there is or was, during the 5 years prior to the evaluation, a dispute between one of the members of the evaluation committee and the judge or prosecutor assessed.

(2) If a member of the evaluation committee is in a situation which, although not covered by the incompatibility cases referred to in paragraph (1), is likely to affect his objectivity in the evaluation of a judge or prosecutor, he/she shall immediately notify the Leading Board of the court or prosecutor's office.

(3) The power to decide the replacement of the member of the evaluation committee with the substitute member rests with the Leading board of the court / prosecutor's office that appointed that member of the evaluation committee, which cannot include the judge or prosecutor who is a member or substitute member in the evaluation committee.

(4) If the Leading Board of the court or prosecutor's office finds that there is incompatibility, it shall order that member of the committee to be replaced by the substitute member.

Art. 92 - (1) The members of the evaluation commissions, including alternate members, may be revoked for failure to fulfill their duties or improper performance of them, similarly to their appointment, upon notification of any member of the evaluation commission or any judge or prosecutor from the court or prosecutor's office where the member of the evaluation commission works.

(2) Depending on the volume of activity from the courts and prosecutor's offices, the governing boards may order the partial release of evaluators from certain activities, expressly provided for in the decision of the governing board where they activate.

Section 2

The evaluation procedure

Art. 93 - The evaluation process for judges and prosecutors shall involve the following steps: the observation of professional activities of a public nature carried out by the judge/prosecutor assessed, the analysis of documents containing the results of the professional activity of the judge or prosecutor being assessed, the self-analysis and self-assessment, and awarding the rating. The evaluation process of judges and prosecutors may also include an evaluation interview, as well as the establishment of an individual professional development plan.

Art. 94 - (1) The indicators for assessing the professional performance of judges and prosecutors shall be structured according to the specific nature of the work of judges and prosecutors in such a way as to stimulate their professional development and differentiate their professional performance, without affecting their independence.

(2) With a view to achieving uniform assessment, the concrete method of assessing each indicator and criterion, the areas from which the data and information needed for the evaluation of judges and prosecutors is collected, the activity of self-evaluation and self-assessment, as well as the conduct of the interview will be detailed in the Guide for the evaluation of judges and prosecutors respectively, which is part of the Regulations provided for in Article 87 para. (3).

Art. 95 - (1) The first evaluation of judges and prosecutors shall be carried out 2 years after the publication in the Official Gazette of Romania, Part I, of the decree of appointment to the position, and the following assessments shall be made in accordance with Article 88, as a rule by June of the following year. The evaluation may also be carried out in another calendar period, at the request of the judge or prosecutor, to the extent that the evaluation is necessary for promotion to executive positions or appointment to managerial positions or for other situations provided for by law.

(2) For judges and prosecutors who are members of the Superior Council of Magistracy, the evaluation shall be carried out at least 3 years after the end of the term of office, in compliance with Article 88.

(3) The evaluation of the professional activity of judges and prosecutors, respectively, who have also served as a prosecutor or judge, respectively, during the period under assessment shall be carried out within 2 years of the appointment to the position of judge and prosecutor respectively, by decree of the President of Romania.

(4) The evaluation of judges and prosecutors seconded to institutions other than courts and prosecutor's offices shall be carried out after the end of the secondment, after 2 years, in the case of the first evaluation, and, in the case of the other assessments, upon reaching the seniority referred to in Article 88 para. (1), by combining the period prior to secondment with the period after the secondment.

(5) In the case of judges or prosecutors who, during the period under assessment, worked at different courts or prosecutor's offices following delegation, secondment, transfer or promotion, the chairperson of the evaluation committee set up before being transferred, seconded, delegated or promoted shall be required to forward the evaluation file drawn up, including statistical data, to the court or the prosecutors' office at which the judge or the public prosecutor assessed activates.

(6) The evaluation of judges and prosecutors transferred or promoted at the end of a period under assessment, but before the completion of the evaluation report, shall be carried out by the same evaluation committee set up prior to the date of transfer or promotion.

(7) When calculating the interval at which the evaluation is carried out, only the period in which the evaluated person has actually carried out her/his activity as a judge or prosecutor, the periods in which she/he was on rest leave, as well as the periods in which she/he was on other leave which, cumulatively, does not exceed 3 months, shall be taken into account.

Art. 96 - (1) The evaluation of the professional activity of judges and prosecutors shall be carried out throughout the entire period under assessment.

(2) The evaluation committee, through its secretariat, shall draw up an evaluation file for each judge or prosecutor, which shall include statistical data on workload and efficiency indicators, submitted annually, self-evaluation, the evaluation report, the observations and objections of the person assessed, and any other documents, data or information on the

basis of which the evaluation is carried out. Where appropriate, the individual professional development plan shall also be submitted to the evaluation file.

(3) Judges and prosecutors shall have access to their own evaluation file at any time.

(4) The chairman of the evaluation committee shall take the necessary steps to preserve the evaluation file so as to ensure its confidentiality.

Art. 97 - (1) In the evaluation procedure, committees may consult and, where appropriate, request any records or documents of courts or prosecutor's offices, including control documents.

(2) The collection of data and information necessary for the evaluation may be carried out by any of the members of the evaluation committee. The Judicial Inspection and the judges and prosecutors in managerial positions at the court or, where applicable, at the prosecutor's office where the judge or the prosecutor under assessment work or at the higher courts or the higher prosecutor's offices, respectively, may also automatically transmit to the evaluation committee data and information useful for carrying out the evaluation.

(3) The Superior Council of Magistracy shall forward to the evaluation committees the final decisions taken by the plenum or, where applicable, by its sections, relevant to the evaluation of the integrity indicators.

Art. 98 -(1) In order to assess the quality of the wording of decisions, the judge under assessment shall select, annually, at least 5 decisions with a different subject matter, of at least medium complexity, handed down at different procedural stages, which he/she consider relevant to the work carried out. The evaluation committee annually selects, in a computerised system, at least 5 other decisions relevant to the professional activity of the judge. Judgments resolving a procedural issue, noting the waiver of trial, waiver of a right or withdrawal of a motion of appeal, a declaration that a case is time-barred or that the application has been dismissed, a declaration of enforceability, a confirmation of dropping charges or the guilty plea shall not be taken into account. The evaluation committee may determine, for all the judges it evaluates, other categories of judgments which will not be taken into account in the selection.

(2) In order to assess the quality of the professional activity of prosecutors, the prosecutor under assessment annually selects, at least 5 documents with a different subject matter, with at least an average degree of complexity, which he/she considers relevant to the work carried out. The evaluation committee selects, for each year of activity, at least 5 other papers relevant to the professional activity of the prosecutor.

(3) The works provided in par. (1) and (2) shall be submitted, annually, to the evaluation file in electronic format. Other documents drawn up by the judge or prosecutor, considered by him and the members of the commission to be relevant in terms of the quality of the activity, are attached to the evaluation report in copy or in electronic format or are indicated by mentioning the number of the work.

(4) In the process of evaluating conduct during court hearings, at least one member of the evaluation committee shall attend at least one hearing session each year chaired by the evaluated judge or attended by the evaluated prosecutor and shall draw up a report stating clear and logical communication skills and professionalism of social interaction. The members of the evaluation committee may listen to the recordings of the court hearings conducted by the evaluated judge or attended by the evaluated prosecutor.

(5) In order to evaluate the indicators relating to the work carried out by judges and prosecutors in managerial positions, the judge or prosecutor under assessment shall submit

to the evaluation file at least 5 documents relevant to his or her managerial work; the evaluation committee may also take in consideration, if deemed necessary, at least 5 other documents relevant to the performance of managerial duties.

Art. 99 - (1) The evaluation interview represents the discussion held between the evaluated judge or prosecutor and the members of the evaluation commission at the end of the evaluation period, both regarding the aspects that could not be clarified as a result of the data collection and the information necessary for the evaluation, as well as regarding the aspects in relation to which the judge or the prosecutor formulated observations and objections. During the evaluation period, between the evaluated judge or prosecutor and the evaluation committee members, discussions may take place periodically regarding any aspects of the evaluation process.

(2) The evaluation interview shall take place at the request of the judge or the prosecutor under assessment or if the examination committee considers it necessary. The evaluation interview may also discuss how the judge or prosecutor assesses his or her own work.

(3) The refusal of the to take the interview, where the committee deems it necessary, does not prevent the further steps of the evaluation procedure from being taken, nor its completion.

Art. 100 - (1) For each of the criteria relating to efficiency of the activity, quality of activity and integrity, a score of not more than 30 points shall be awarded; for the criterion relating to the obligation to undertake further training and the completion of specialisation courses the maximum score shall be 10 points.

(2) If there are several indicators for one criterion, the score provided for in paragraph (1) shall be distributed equally among them. Where the work carried out by the judge or the prosecutor under assessment does not concern one or more indicators, the related score shall be distributed among the other indicators.

(3) The score obtained by the judge or the prosecutor under assessment for each evaluation criterion is the sum of the points awarded by the evaluation committee for the indicators corresponding to that criterion, and the final score is the sum of the points awarded by the evaluation committee for each evaluation criterion.

(4) The rating is given on the basis of the final score, as follows:

- a) 90 points (included) to 100 points - 'Very good' rating;
- b) 70 points (included) to 90 points - 'Good' rating;
- c) 50 points (included) to 70 points - 'Satisfactory' rating;
- d) less than 50 points - 'Not satisfactory' rating.

(5) For judges and prosecutors who, during the period under assessment, have performed only activity specific to the management position, the final score is awarded as follows: for the criterion on the performance of managerial duties no more than 60 points, for the evaluation criterion on integrity no more than 30 of points, and for the evaluation criterion regarding the professional training no more than 10 points. The provisions of Article 16 para. (2) of Annex no. 1 shall apply accordingly only to prosecutors.

(6) For judges and prosecutors who, during the period under assessment, have performed both executive and managerial activities, at the same time or successively, the final score shall be awarded as follows: for evaluation criteria relating to the efficiency and quality of the activity no more than 15 points each, for the criterion on the performance of managerial duties no more than 30 points, for the integrity criterion no more than 30 points, and for the criterion regarding professional training no more than 10 points. The provisions of Article 16 para. (2) of Annex no. 1 shall apply accordingly only to prosecutors.

(7) For the hypothesis provided for in par. (6), an appropriate score is awarded for each category of attributions, according to para. (1) - (5) and their arithmetic average shall be established. The criteria "integrity" and "obligation of continuing vocational training" are awarded a single point. The provisions of Article 16 para. (2) of Annex no. 1 shall apply accordingly only to prosecutors.

(8) The score obtained for each evaluation indicator, as well as the rating given must correspond to the data, findings and observations of the evaluation committee.

Art. 101 - (1) The report assessing the professional activity shall be confidential and shall be drawn up separately for each judge and prosecutor on the basis of the documents in the evaluation file, and shall be communicated to the person under assessment.

(2) The evaluation report shall include a description of the activities carried out by the evaluation committee, the evaluation sheet, the recommendations made to the judge or the prosecutor under assessment, and is drawn up in 3 copies, one of which shall be communicated to the judge or the prosecutor under assessment, one shall be kept in the evaluation file and one shall be attached to the professional record.

(3) The report assessing the professional activity of the judge or prosecutor shall give one of the following ratings: 'Excellent', 'Very good', 'Good', 'Satisfactory' or 'Not satisfactory', in accordance with Article 100(4). If the judge or prosecutor is assessed for both executive and managerial positions, the evaluation report shall give only one rating.

(4) Before drawing up the evaluation report, the evaluation committee shall draw up a draft report which shall be communicated, according to case, to the judge or the prosecutor under assessment, who shall have the right to comment and object within a maximum of 15 days.

(5) Observations and objections shall be submitted in writing to the evaluation committee, which shall decide on them within 15 days at the latest. Where observations and objections are deemed admissible, appropriate changes shall be made to the evaluation report. The report shall record the objections and observations of the evaluated person and the reasoned solution of the committee regarding them.

Art. 102 - (1) Judges or prosecutors dissatisfied with the rating awarded may appeal to the appropriate Section of the Superior Council of Magistracy no later than 30 days after the final report has been communicated. Magistrates on the evaluation committee may not take part in the resolution of the objection by the section of the Superior Council of Magistracy.

(2) The objection shall be submitted to the chairperson of the evaluation committee who shall, within 3 days, forward it to the Superior Council of Magistracy together with the evaluation file.

(3) In order to resolve the objection, the sections of the Superior Council of Magistracy may ask the evaluation committees for any information they deem necessary. The objection shall be dealt with by the mandatory summoning the judge or, where applicable, the prosecutor. The hearing of the judge or prosecutor is mandatory. The failure to appear of the judge or prosecutor who was legally summoned shall not prevent the objection from being resolved.

(4) In the resolution of the objection, the relevant Section of the Superior Council of Magistracy may:

- a) dismiss the objection as unfounded, belated or inadmissible;
- b) uphold the objection.

(5) If the objection is accepted according to par. (4) (b), the appropriate Section of the Superior Council of Magistracy:

- a) shall modify the evaluation report by giving another rating;
- b) shall cancel the evaluation report and order the re-evaluation when it finds breaches of the evaluation procedure likely to influence the rating given;
- c) shall cancel the evaluation report when the evaluation was carried out before the period under assessment;

(6) The solution adopted may not result in a harder situation for the applicant.

(7) In the situations referred to in paragraph (5)(b) and (c), the relevant Section of the Superior Council of Magistracy shall determine the deadline and, where appropriate, the limits for redoing the evaluation.

(8) The decisions of the sections may be subject to appeal for review to the administrative and tax litigation section of the High Court of Cassation and Justice within 15 days of service, without going through the preliminary procedure. The decision of the Court shall be final.

Art. 103 - (1) If the judge or the prosecutor is rated as 'Satisfactory' or 'Not satisfactory', after the rating has become final, the evaluation committee and the judge or prosecutor assessed shall establish, by common agreement, an individual professional development plan.

(2) If the evaluation committee and the judge or the prosecutor under assessment do not agree, the individual professional development plan shall be determined by the evaluation committee.

Art. 104 - (1) Judges and prosecutors rated as 'Not satisfactory' shall be required to attend courses organised by the National Institute of Magistracy, for a period between 3 and 6 months.

(2) Judges and prosecutors rated as 'Satisfactory' following two consecutive assessments are required to attend the courses organised by the National Institute of Magistracy, for a period between 3 and 6 months.

(3) For judges or prosecutors who, following two consecutive assessments, are rated as 'Not satisfactory' or who have not passed the examination provided for in Article 105, the appropriate section of the Superior Council of Magistracy shall propose their dismissal by the President of Romania for lack of professional capacity.

Art. 105 - (1) The courses referred to in Article 104 shall finish with an examination, organised by the Superior Council of Magistracy, with the support of the National Institute of Magistracy.

(2) The subjects of the courses to be attended by judges or prosecutors who have been rated as 'Not satisfactory' or who, following two consecutive assessments, have been rated as 'Satisfactory', exam topics and bibliography shall be approved by the corresponding section of the Superior Council of Magistracy, on a proposal from the National Institute of Magistracy, subject to the recommendation of the evaluation committees.

(3) The examination referred to in paragraph (1) shall be taken in the subjects of the courses attended by the judge or prosecutor concerned and shall consist of a theoretical and practical written test in each of those subjects.

(4) The examination committees are the committee for correcting tests and the complaints committee; the committee for correcting tests is responsible for drawing up scales, subjects and the correction and scoring of the papers, while the complaints committee is charged with the task of resolving objections to the scale and the written test.

(5) The committees shall be appointed by the corresponding section of the Superior Council of Magistracy, upon the proposal from the Scientific Council of the National Institute

of Magistracy, separately for judges and prosecutors, and consist of 2 judges or, where appropriate, 2 prosecutors, who have at least the same professional degree as the judge or the prosecutor examined, and one member of the training staff from the National Institute of Magistracy.

(6) The evaluation and grading scale for the written test shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy. Within 24 hours of the publication on the webpages, candidates may lodge objections to the scale, which shall be submitted, including by fax or e-mail, to the National Institute of Magistracy. Objections to the scale shall be addressed by the complaints committee no later than 48 hours after the expiry of the deadline for lodging a complaint. The scale established following the resolution of the complaints shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

(7) The written test shall be graded from 0 to 10; in order to pass the examination, a candidate must obtain at least grade 7.00 in each of the examination subjects.

(8) The result of the written test shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy. The candidate dissatisfied with the result obtained may object within 24 hours of publication, which shall be settled no later than 24 hours after the expiry of the deadline for submission.

(9) The final results of the examination shall be displayed in accordance with paragraph (8) and shall be submitted to the corresponding section of the Superior Council of Magistracy for validation. The corresponding section of the Superior Council of Magistracy may invalidate the examination, in whole or in part, in the cases where it finds that the conditions relating to the organisation of the examination have not been complied with or that there is evidence of fraud.

(10) Unjustified absence from the examination is tantamount to failing the examination.

(11) For those who, for serious reasons, are unable to take part in the examination, the examination shall be taken no later than one month after the cause of absence ceases to exist. In such cases, the judge or prosecutor is required to notify the management of the Superior Council of Magistracy of both the reason for not taking the examination, and the date on which such reason ceases to exist, providing evidence of the reasons given.

Art. 106 - (1) The legal provisions regarding the professional evaluation of judges and prosecutors shall be applied accordingly to the assistant magistrates of the High Court of Cassation and Justice and to the specialized legal personnel assimilated to judges and prosecutors.

(2) The regulation regarding the professional evaluation procedure and criteria for assistant magistrates is approved by order of the president of the High Court of Cassation and Justice.

(3) The evaluation criteria and indicators for staff assimilated to judges and prosecutors are provided in Annex no. 2.

(4) The evaluation is carried out by commissions established by act of the president of the High Court of Cassation and Justice, for assistant magistrates or by act of the head of the institution, for other staff.

Art. 107 - (1) The judges and prosecutor's career development shall be recorded in a sheet in the professional record, which shall be drawn up and kept by the Superior Council of Magistracy.

(2) The data contained in the professional record is confidential under the conditions laid down by law.

(3) The judges and prosecutors have access to their own professional record and can obtain copies of the documents in the file.

CHAPTER VI Promotion of judges and prosecutors

Section 1

Promotion to the position of judge at the High Court of Cassation and Justice

Art. 108 - (1) Promotion to the position of judge at the High Court of Cassation and Justice is done only through a competition organized whenever necessary, within the limits of vacant positions, by the Section for judges of the Superior Council of Magistracy.

(2) The competition provided in paragraph (1) seeks to select judges who meet the highest standards of professional competence, evaluated by the High Court of Cassation and Justice, as well as integrity, conduct and deontology, evaluated by the Section for judges of the Superior Council of Magistracy.

(3) The positions made available shall be determined by the Section for judges of the Superior Council of Magistracy separately for each section of the High Court of Cassation and Justice for which there are vacancies.

(4) Judges who have effectively served for at least 5 years as a judge at the court of appeal, who were rated as 'Very good' in the last 3 evaluations, have not been subject to disciplinary penalties in the last 3 years, unless the disciplinary penalty has been struck off, and have a length of service as judges or prosecutors of at least 18 years may participate in the competition for promotion as judge or prosecutor at the High Court of Cassation and Justice. When calculating that length of service, no account shall be taken of the time period when the person was an auditor of justice.

(5) The conditions regarding the length of service laid down in paragraph (4) must be met on the date of expiry of the deadline for submission of applications for registration.

(6) The judges who were part of the intelligence services or who collaborated with them or the judges who have a personal interest that influences or could influence the objective and unbiased fulfilment of the duties provided for by law may not sit in the competition for promotion at the High Court of Cassation and Justice.

(7) Judges taking part in the competition are required to make a solemn declaration to the effect that they were not part of the intelligence services or collaborated with them and a declaration that they have no personal interest that influences or could influence the objective and unbiased fulfilment of the duties provided for by law.

(8) The National Council for the Study of 'Securitate' Archives and the Supreme Council of National Defence shall verify and communicate, within 15 days of the request of the Section for judges of the Superior Council of Magistracy, whether the judge was part of the intelligence services or collaborated with them.

Art. 109 - (1) The competition for promotion to the position of judge at the High Court of Cassation and Justice shall be organised on the basis of objective criteria for assessing the professional performance and conduct of judges.

(2) The date, place and manner of conducting the competition shall be approved by decision of the Section for Judges of the Superior Council of Magistracy. The content of the announcement regarding the organization of the promotion competition specifies the specializations for which the competition can be held, depending on the sections of the High Court of Cassation and Justice.

(3) The information referred to in paragraph (2) and the vacancies for which the competition is organised shall be communicated to all judges through the courts of appeal and shall be published on the websites of the Superior Council of Magistracy and the High Court of Cassation and Justice, at least 40 days before the date set for the competition.

(4) Within 15 days from the date of publication of the data provided for in para. (3), those interested can submit applications for registration to the competition at the Superior Council of Magistracy.

(5) Applications for registration in the competition for promotion to the position of judge at the High Court of Cassation and Justice include the specification of two specializations, one corresponding to the section for which they are applying and another specialization corresponding to another section of the High Court of Cassation and Justice, specialization that either results from the activity previous professional experience in the candidate's career, proven with documents that are submitted together with the registration application, either as a result of his option.

(6) Each candidate can opt for only one section of the High Court of Cassation and Justice in which he/she takes part in the competition. The candidate has the right to return to the option formulated until the date of expiry of the registration period.

(7) The registration application will be accompanied by a curriculum vitae, the declarations and documents provided by law.

(8) A maximum of 10 court decisions with a different subject matter can be attached to the registration application, in certified copies, in both specializations mentioned in the registration application, as the case may be. The candidate can also submit specialized published works, if applicable, as well as any other documents they consider relevant, in Romanian.

Art. 110 - (1) The centralization of the applications for registration in the competition of the judges and the verification of the fulfillment of the legal conditions for participation in the competition are carried out by the commission for organizing the competition.

(2) The competition organizing committee draws up the list of candidates who meet the legal conditions for participating in the competition and publishes it on the website of the Superior Council of Magistracy and the High Court of Cassation and Justice.

(3) Candidates rejected after the verification can file appeals within 48 hours from the publication of the list provided for in para. (2). Appeals are submitted to the Superior Council of Magistracy.

(4) Disputes are resolved within no more than 5 days from the expiration of the term provided for in paragraph. (3), by the Section for judges of the Superior Council of Magistracy.

(5) Within no more than 5 days from the expiration of the period provided for in para. (4), the competition organizing committee draws up the final list of candidates who meet the conditions for participating in the competition and publishes it under the conditions of para. (2).

Art. 111 - (1) Applications for registration in the competition of candidates who meet the conditions for participation in the competition are published on the website of the Superior Council of Magistracy and the High Court of Cassation and Justice, accompanied by an announcement bringing to the public knowledge of the possibility of any person to submit to the competition commissions judicial decisions drafted by the candidates, as well as the term in which they can be submitted.

(2) Court decisions submitted after the expiration of the term provided for in the announcement are not taken into account.

(3) Within 2 days from the display of the final list provided for in art. 110 para. (5), the organizing committee requests the Judicial Inspection to verify the aspects regarding the integrity of the candidates.

Art. 112 - (1) The evaluation committee and the appeals settlement committee, known as competition committees, are appointed in relation to the sections of the High Court of Cassation and Justice for which candidacies were submitted. Within the contest commissions, subcommittees can be set up.

(2) The competition's organizing commission is appointed by decision of the Section for judges of the Superior Council of the Magistracy.

(3) The commissions provided for in para. (1) and (2) are headed by a president each. The president of each commission resolves the incompatibility situations of the members of the commission he leads. Situations of incompatibility between the presidents of the commissions are resolved by the Section for judges of the Superior Council of the Magistracy.

(4) The members of the commissions cannot have political affiliation at the time of the formation of the commissions. All committee members fill out declarations in this regard.

Art. 113 - (1) People who have a husband or wife, relatives or affines up to the fourth degree including among the candidates cannot be appointed to the contest and contest organization commissions. All committee members fill out declarations in this regard. If the incompatibility emerges after the appointment of the members of the commissions, the person in question has the obligation to withdraw and immediately communicate this situation to the president of the commission.

(2) The same person cannot be part of the evaluation committee and the appeals settlement committee at the same time.

(3) Spouses, relatives or cousins up to the fourth degree inclusive cannot be part of the same commission or different commissions.

Art. 114 - The competition for promotion to the position of judge at the High Court of Cassation and Justice consists of:

- a) a test having as its object the evaluation of drafted court decisions;
- b) an interview conducted in front of the Section for judges of the Superior Council of Magistracy.

Art. 115 - (1) Each competition committee, respectively subcommittee, if it has been established, has the following composition:

- a) 2 judges from the High Court of Cassation and Justice, appointed by the president of the High Court of Cassation and Justice, on the recommendation of the sections presidents;
- b) a university professor from a law school who has an employment contract for an indefinite period with a university of advanced research and education, as classified on the basis of the evaluation provided by the Law on national education no. 1/2011, with subsequent amendments and additions, proposed by the law school, appointed by the Section for Judges of the Superior Council of Magistracy.

(2) The appointment of the members of the competition commissions is based on the previously expressed written consent.

(3) In the composition of the commissions, alternate members are also appointed in the same way, who will replace, by law, in the order established by the decision appointing the

commissions, those members of the commission who, for valid reasons, cannot exercise their duties. The replacement is carried out by the president of the commission of which the respective person is a member.

(4) The attributions of the contest commissions/subcommittees, of the organizing commission, of their presidents and members are established by the Regulation on the promotion contest at the High Court of Cassation and Justice.

Art. 116 - (1) In order to assess the candidates in the test referred to in Article 114(a), the organising committee shall request from the Superior Council of Magistracy the lists of court decisions handed down and drawn up by these candidates during their entire activity at the court of appeal, showing the date and number of the court decision, the file number in which it was delivered, the subject matter of the case, the stage of the proceedings, the type of decision and stating that the solution has been cancelled/quashed, where appropriate. The lists shall be generated in electronic form only.

(2) With a view to submitting them to the evaluation committees, the lists referred to in paragraph (1) shall be anonymised by the organising committee, by replacing the name of the candidate with the code number assigned thereto and by removing the mention of the court where the candidate activates and the case file number under which the decision was handed down.

(3) Within 5 days of receipt of the anonymised lists referred to in paragraph (2) from the organising committee, the evaluation committees shall establish uniform criteria per specialisation for the random selection of 30 court decisions per candidate, to be evaluated, in accordance with the weighting relating to the different stages of the proceedings determined by the evaluation committees. When setting selection criteria, evaluation committees shall take into account that court decisions have different subject matter and are drawn up at different procedural stages.

(4) Within the time limit and on the basis of the criteria established under paragraph (3), the evaluation committees shall carry out the selection of court decisions using a computer programme. The selection shall be made with the support of the IT division, in the presence of the chair of the organising committee or another member of that committee appointed by the chair.

(5) If the computer programme referred to in paragraph (4) is not available, the selection of court decisions shall be carried out by the evaluation committees, within the time limit and on the basis of the criteria laid down in paragraph (3).

(6) The courts of appeal shall transmit the court decisions requested to the organising committee within 5 days of receipt of the requests to that effect. The court decisions shall also be submitted in electronic form, to the extent that they are available in this format.

(7) Once the court decisions received from the courts of appeal have been anonymised, the organising committee shall forward them to the evaluation committees. The organising committee shall also forward the court decisions referred to in Articles 109(8) and 111(1) to the evaluation committee.

(8) If the evaluation committees consider that not all the court decisions selected are representative of the candidate's work, they shall carry out, in addition, a new selection only once, on the basis of the procedure laid down in paragraphs (4) or (5), where appropriate.

(9) The provisions of this Article shall also apply accordingly to judges supervising the deprivation of liberty.

(10) The decisions referred to in paragraph (7) shall be published on the website of the Superior Council of Magistracy and of the High Court of Cassation and Justice, in compliance

with the legal provisions on the protection of personal data, after anonymising the data which would enable the candidate to be identified and with the code indicated, in order to be subject to public debate within 7 days of publication.

(11) Any person may submit written referrals and comments in relation to the acts published in accordance with paragraph (10) in order to be taken into account in the evaluation. Anonymous referrals and comments shall not be taken into account and shall not be forwarded to the evaluation committees. Notifications and observations regarding the candidate's integrity are sent to the Judicial Inspection to be taken into account when drawing up the report provided for in art. 111 para. (3).

Art. 117 - (1) The evaluation of drafted court decisions is carried out by the evaluation commission.

(2) The evaluation of judicial decisions has as its object:

- a) verification of analysis and synthesis capacity;
- b) verification of coherence in expression;
- c) checking the argumentation from the point of view of clarity and logic;
- d) the approval or reasoned removal of the requests of the parties by reference to evidence, principles and rules of law;
- e) coherent and correct argumentation from the point of view of legal logic;
- f) avoiding exposure and detailing of irrelevant aspects in the motivation;
- g) drafting the device in a clear, concise, enforceable form;
- h) analysis and interpretation of the evidence administered;
- i) the manner in which the jurisprudence of the Constitutional Court, the High Court of Cassation and Justice, the European Court of Human Rights and the Court of Justice of the European Union was respected, when appropriate;
- j) verifying compliance with reasonable deadlines for resolving cases and drafting decisions.

(3) The maximum score that can be assigned to this test is 100 points, and the minimum score to be declared admitted is 70 points.

(4) Each criterion from those listed in para. (2) has equal weight, i.e. a maximum of 10 points.

(5) During the evaluation procedure, the commissions may ask the candidates for explanations regarding any aspect subject to evaluation, through the contest's organizing commission. The explanations provided by the candidate will be anonymized and will be forwarded to the evaluation committee, indicating the candidate's code.

(6) Notifications or observations received from public opinion until the end of the public debate can be taken into account in the evaluation. The evaluation commissions can take into account those notifications and observations received from the public opinion that refer to the criteria provided by paragraph. (2).

(7) The evaluation commissions draw up a reasoned report in which, for each candidate identified by numerical code, it is shown: the score obtained for each criterion among those provided in paragraph. (2); the total score obtained by the candidate; the reasoning behind the scoring for each criterion; the explanations required of the candidate and his response, if applicable; the arguments for which the candidate's support or public opinion notifications and observations were retained or removed; notifications and observations whose content exceeds the provisions of para. (2).

(8) The report of the evaluation commission is published on the website of the Superior Council of Magistracy and the High Court of Cassation and Justice, with the candidates' codes.

Art. 118 - (1) Against the score obtained during the evaluation, the candidate can file an appeal within 3 days of publication, presenting the arguments for which he criticizes the score given, based on scoring criteria. The appeal is submitted to the Superior Council of Magistracy.

(2) The appeal is anonymized in order not to allow the identification of the candidate and is forwarded, together with the candidate's file, to the appeals settlement committee.

(3) The appeals settlement commission pronounces on them in no more than 10 days.

(4) The appeals settlement commission draws up a reasoned report for each appeal, showing the arguments for which, it changed the score, separately for each criterion, respectively the arguments for which it removed the candidate's claims, in case it maintains the evaluation commission's score.

(5) As a result of the appeal, a candidate cannot be given a lower score than the one obtained at the initial evaluation, for each criterion.

(6) The reports drawn up by the appeals resolution commission are published on the website of the Superior Council of Magistracy and the High Court of Cassation and Justice, with the candidates' codes.

Art. 119 - The competition organizing committee prepares the list with the final results obtained in the test with the object of evaluating the documents prepared by the candidates which are published on the website of the Superior Council of the Magistracy and the High Court of Cassation and Justice, mentioning for each candidate whether he was admitted or rejected, depending on the score obtained.

Art. 120 - (1) The announcement regarding the scheduling of the interview and the order of its support by the candidates, established according to the sections for which the contest is organized, is published at least 24 hours before the date of the interview.

(2) During the interview test, the Section for judges of the Superior Council of Magistracy evaluates aspects related to integrity, the way in which the candidates relate to values such as the independence of justice and the impartiality of judges, the candidate's motivation, the candidate's human and social skills, the professional conduct of him and the relations with the court staff.

(3) At the meeting of the Section for judges of the Superior Council of Magistracy in which the interview is held, a psychologist appointed by the Section for judges of the Superior Council of the Magistracy participates, with an advisory role, who can ask questions to the candidates, in order to evaluate their motivation and human and social skills.

Art. 121 - (1) The evaluation of candidates is based on the report of the Judicial Inspection provided for in art. 116 para. (11), as well as the answers received from the candidate to the questions put to him based on this report, the existing data in the professional file, the documents submitted by the candidate, as well as the issues raised during the discussions.

(2) The report drawn up by the Judicial Inspection is sent to the competition organizing committee at least 10 days before the date set for the interview test.

(3) The competition organizing committee communicates the report provided for in para. (2) to the candidate, together with the professional path drawn up by the specialized department within the Superior Council of Magistracy.

(4) The recording of the interview by technical audio-video means is mandatory.

(5) At the interview, one of the qualifications "admitted" or "rejected" is given.

Art. 122 - To be declared admitted to the promotion competition, the candidate must obtain at least 70 points in the test regarding the evaluation of court decisions and the qualification "admitted" in the interview.

Art. 123 - The competition organizing commission prepares, in the order of the points provided in art. 122, the list with the final results of the competition that is published on the website of the Superior Council of Magistracy and the High Court of Cassation and Justice.

Art. 124 - (1) The final results are presented to the Section for judges of the Superior Council of the Magistracy, for validation.

(2) The Section for judges of the Superior Council of Magistracy can invalidate, in whole or in part, the promotion competition in cases where it finds that the conditions provided by law or regulation regarding the organization of the competition have not been respected or that there is evidence of a frauds.

Art. 125 - (1) Within no more than 15 days from the communication of the results of the promotion competition for the position of judge at the High Court of Cassation and Justice, the Section for Judges of the Superior Council of the Magistracy orders, by decision, the promotion of the candidates declared admitted.

(2) The promotion of candidates declared admitted to the competition is done in order of score, according to art. 122, within the limit of the number of positions open to competition for each section of the High Court of Cassation and Justice.

(3) The promotion is made only in the department for which the candidate has held the competition.

(4) In the case of equal scores, they have priority, in the following order: candidates who have more seniority in the position of judge, those who have more seniority at the court of appeal, those who have the scientific title of doctor of law.

Art. 126 - The regulation regarding the promotion competition at the High Court of Cassation and Justice is approved by decision of the Section for judges of the Superior Council of the Magistracy and is published in the Official Monitor of Romania, Part I.

Section 2

Promotion of judges and prosecutors to tribunals, specialised tribunals, courts of appeal and prosecutor's offices attached thereto, as well as to the prosecutor's office attached to the High Court of Cassation and Justice

Art. 127 - (1) The promotion of judges and prosecutors to higher courts and prosecutor's offices, effectively or on the spot, is done according to this section, at the immediately higher court or prosecutor's office, respectively in the rank immediately higher than that held by the judge or prosecutor, until at the level of the court of appeal for judges, respectively up to the level of the Prosecutor's Office attached to the High Court of Cassation and Justice, for the effective promotion of prosecutors or up to the level of the prosecutor's office attached to the court of appeal, for the promotion of prosecutors on the spot.

(2) The promotion of judges and prosecutors at higher courts and prosecutor's offices, effective or on the spot, is done only through a competition organized at the national level,

within the limits of vacant positions, for the actual promotion, respectively within the limits of the places open for competition, for promotion on the spot.

(3) The contest for the promotion of judges and prosecutors is organized, annually or whenever necessary, by the Superior Council of Magistracy, with the support of the National Institute of Magistracy.

(4) The positions open to competition for effective promotion, respectively the places open to competition for promotion on the spot, are established by the Section for judges, respectively by the Section for prosecutors of the Superior Council of Magistracy, separately. During the effective promotion, the positions are established for each court or prosecutor's office, following the consultation of the courts/prosecution offices, depending on the human resources needed, within the limits of existing vacancies.

(5) Judges and prosecutors who meet the conditions provided by the law can apply for effective promotion at any of the courts or, as the case may be, the prosecutor's offices for which the vacant positions were put out to competition, regardless of the court/prosecutor's office where they work.

(6) The promotion to the immediately higher professional grade of legal specialist personnel assimilated to judges and prosecutors within the Superior Council of Magistracy, the Public Ministry, the Ministry of Justice, as well as the institutions coordinated or subordinated to them is done through the organized on the spot promotion contest for judges and prosecutors, at their choice, under the conditions of this section which are applied accordingly.

(7) The promotion of legal specialist personnel assimilated to judges and prosecutors can only be done in the rank immediately higher than the one held, within the institution where they carry out their activity, up to the professional rank corresponding to the judge of the court of appeal.

Art. 128 - (1) The competition for effective or on the spot promotion can be entered by judges and prosecutors who were rated 'Very good' in the last assessment, have not been subject to disciplinary penalties in the last 3 years, unless the disciplinary penalty has been struck off, and fulfil the following minimum seniority requirements:

a) 7-year seniority as judge or prosecutor, for promotion to the position or, where appropriate, to the rank of judge of at the tribunal or specialised tribunal and prosecutor at the prosecutor's office attached to the tribunal or at the prosecutor's office attached to the specialised tribunal;

b) 9-year seniority as judge or prosecutor, for promotion to the position or, as the case may be, the rank of a court of appeal judge and prosecutor at the prosecutor's office attached to it;

c) 10-year seniority as judge or prosecutor, for promotion to the position or, where appropriate, the rank of prosecutor at the Prosecutor's Office attached to the High Court of Cassation and Justice.

(2) The lengths of service referred to in paragraph (1) must be completed by the date corresponding to the last day inclusive of the closing date for registration for the promotion competition. When calculating these seniorities, the period during which the person was an auditor of justice shall not be taken into account.

(3) In the case of effective promotion to the next higher courts and prosecutor's offices, judges and prosecutors must have effectively worked for at least 1 year at the lower court or prosecutor's office of the specialized prosecutors' offices.

(4) In the case of legal professionals treated as magistrates, the calculation of the minimum seniority condition in order to participate in the promotion competition shall take

into account both the period during which the candidates carried out this activity and the period during which they served as judges or prosecutors.

Art. 129 - (1) The date and place of the effective or on the spot promotion contest, the manner of conducting the contest, the calendar of events, as well as the theme and bibliography of the contest are approved, for judges, by a decision of the Section for judges, and for prosecutors, by decision of the Section for prosecutors of the Superior Council of Magistracy.

(2) The data provided for in para. (1), as well as the positions/places that are put up for competition are published on the website of the Superior Council of Magistracy and the National Institute of Magistracy, at least 60 days before the date set for the competition and are communicated, together with the standardized application for registration, elaborated by the organizing committee, to all the courts of appeal and the prosecutor's offices attached to them, which will immediately transmit them to the courts and prosecutor's offices in their constituency, to be brought to the attention of all judges and prosecutors, as well as, if applicable the case, to the Ministry of Public Affairs and the Ministry of Justice, who will transmit them to the institutions coordinated or subordinated to them, the Judicial Inspection and the National Institute of Magistracy, to be published on their websites and brought to the attention of legal specialist personnel assimilated to judges and prosecutors.

(3) The contents of the announcement regarding the organization of the promotion competition shall specify the subjects for which the competition is held, in the case of promotion on the spot.

(4) Within no more than 15 days from the date of publication of the data provided for in para. (2), those interested can submit applications for registration to the competition at the National Institute of Magistracy, in which they mention the type of promotion, effective or on the spot, the court or prosecutor's office to which the promotion is requested, respectively the professional degree in which the promotion on the spot is desired, the specialization and the section for which they opt or, in the case of promotion on the spot, the subject of the competition related to the place for which they opt.

(5) Each candidate can formulate only one option regarding the type of promotion, the court or the prosecutor's office to which he applies for the effective promotion, respectively the section and the specialization he opts for, including in order to establish the competition subjects. In the case of promotion on the spot, the candidate's option can look at only one place.

(6) In the case of effective promotion, for tribunals and appeals courts, candidates are obliged to choose one of the specializations of the section they opted for. By way of exception, in the case of those courts in which there are several departments for which positions have been put out to competition for the occupation of which at least one common specialization is required, candidates who choose the common specialization can opt for one or more of these sections, indicating them in the order of preferences.

(7) The candidate has the right to return to the formulated option or to the order of preference of the multiple options provided for in para. (6) until the date of expiry of the registration period.

Art. 130 - (1) The commission for organizing the contest, the commission for elaborating the subjects and and the commission for resolving appeals, as well as the evaluation commission are appointed by the Section for judges, respectively the Section for prosecutors of the Superior Council of Magistracy. Within these committees, subcommittees can be

established for each competition subject, with the exception of the evaluation committee. A president is appointed for each committee/subcommittee.

(2) Persons who have a husband or wife, relatives or affines up to the fourth degree including among the candidates cannot be appointed to the commissions. All committee members fill out declarations in this regard. If the incompatibility emerges after the appointment of the members of the commissions, the person in question has the obligation to withdraw and immediately communicate this situation to the president of the commission in order to replace him.

(3) One person can be part of only one committee. Spouses, relatives or cousins up to the fourth degree inclusive cannot be part of the same commission or different commissions.

(4) The duties of each commission, of the presidents and their members are established by the Regulation on the competition for the promotion of judges and respectively by the Regulation on the competition for the promotion of prosecutors.

Art. 131 - The commission for organizing the contest coordinates the organization and conduct of the contest and verifies the candidates' fulfillment of the conditions for participation in the contest. The commission for organizing the contest is composed of the president, a vice-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. Hall managers and supervisors, as well as other persons who carry out the activity for the good organization of the competition, are designated by the president of the organizing committee.

Art. 132 - (1) In case of promotion on the spot, each commission for judges is made up of judges from the High Court of Cassation and Justice, judges from the appeal courts and trainers from the National Institute of Magistracy.

(2) In the case of promotion on the spot, each committee for prosecutors is made up of prosecutors from the Prosecutor's Office attached to the High Court of Cassation and Justice, prosecutors from the prosecutor's offices attached to the appeal courts and trainers from the National Institute of Magistracy.

(3) Within the commissions provided for in para. (1) and (2), university teaching staff who have at least the degree of associate professor can also be appointed.

(4) The number of members of the commissions or, as the case may be, of the subcommittees is established depending on the number of candidates and the subjects they opted for, but it cannot be less than 3 members for each competition subcommittee.

(5) In the commissions provided for in para. (1)-(3) substitute members are also appointed who will replace them by right, in the order established by the corresponding Section of the Superior Council of the Magistracy, for those members of the commission who, for valid reasons, cannot exercise their duties. The replacement is carried out by the president of the respective competition committee.

(6) In the case of effective promotion of judges, the evaluation commissions are established at the level of each court of appeal and are made up of the president of the court of appeal, who is also the president of the commission, and 4 other judges with the specialization corresponding to the sections in which the vacant positions are put up for competition, proposed by the governing board of the court of appeal; for promotion to courts or specialized courts, commissions can be constituted in the same way, whose members can also be appointed from among the judges of the courts in the district of the appeal court, who have the specialization corresponding to the sections within which the vacancies are open to competition.

(7) In case of the impossibility of fulfilling the duties by the president of the appeal court, the evaluation committee is led by the vice president of the appeal court or, as the case may be, by one of the vice presidents, designated by the Section for judges. In the case of the impossibility of establishing the evaluation commission with the number of members provided for in paragraph (6), upon the proposal of the management board of the appeal court, the Section for judges may establish a smaller number of members in that case.

(8) In the case of effective promotion of prosecutors, the evaluation commissions are formed by a president and 2-4 members, commissions that are established at national level and are composed of:

a) prosecutors who hold the professional rank corresponding to the Prosecutor's Office of the High Court of Cassation and Justice or trainers at the National Institute of Magistracy, for the evaluation committee for effective promotion within the Prosecutor's Office of the High Court of Cassation and Justice;

b) prosecutors who hold the professional grade corresponding to the Prosecutor's Office of the High Court of Cassation and Justice, prosecutors who hold the professional grade corresponding to the Prosecutor's Office of the Court of Appeal or trainers at the National Institute of Magistracy, for the evaluation committee for effective promotion within the Prosecutor's Offices of the Courts of Appeal;

c) prosecutors holding the professional rank corresponding to the Prosecutor's Office of the High Court of Cassation and Justice, prosecutors holding the professional rank corresponding to the Prosecutor's Office of the Court of Appeal, prosecutors holding the professional rank corresponding to the Prosecutor's Office of the Tribunal or trainers at the National Institute of Magistracy, for the evaluation committee for effective promotion within the Prosecutor's Offices of the Courts.

(9) The appointment of commission members is made only on the basis of their previously expressed consent.

(10) The members of the Superior Council of Magistracy or persons from the management of the Superior Council of Magistracy or the National Institute of Magistracy cannot be part of the commission for the elaboration of subjects and the commission for resolving appeals and the evaluation commission.

Art. 133 - (1) The commission for elaborating the subjects develops the subjects and the evaluation and marking scales for the competition tests.

(2) The commission for resolving the appeals resolves appeals on the scale and the competition tests.

(3) The evaluation commission evaluates the court decisions or, in the case of prosecutors, the documents drawn up by them, as well as the conduct of the judge or the prosecutor and gives a score regarding the fulfillment of the evaluation criteria, according to this law.

Art. 134 - (1) The centralization of applications for registration in the competition of judges and prosecutors and the verification of the fulfillment of the legal conditions for participation in the competition are carried out by the commission organizing the contest.

(2) At least 25 days before the date of the competition, the commission for organizing the contest draws up the list of candidates for on the spot promotion, respectively for effective promotion, who meet the legal conditions for participating in the competition. The list of candidates is published on the website of the Superior Council of Magistracy, the National Institute of Magistracy and the Prosecutor's Office attached to the High Court of Cassation and Justice.

(3) Candidates rejected following the verification may file appeals within 48 hours from the publication of the lists provided for in para. (2).

(4) Appeals are filed at the headquarters of the appeal courts, respectively of the prosecutor's offices attached to the appeal courts or, as the case may be, at the headquarters of the Prosecutor's Office attached to the High Court of Cassation and Justice and are forwarded immediately, by fax or e-mail, the commission for organizing the contest.

(5) Appeals are resolved by final decision of the Section for judges, respectively of the Section for prosecutors of the Superior Council of Magistracy.

(6) The commission for organizing the contest draws up, immediately after the decision of the Section of the Superior Council of Magistracy, the final list of candidates for promotion on the spot, respectively for effective promotion who meet the conditions for participation in the competition, which is published on the website of the Superior Council of the Magistrate, the National Institute of the Magistrate and the Prosecutor's Office attached to the High Court of Cassation and Justice.

Art. 135 - (1) The competition for on the spot promotion consists of taking written tests of a theoretical and practical nature.

(2) Written tests of a theoretical and practical nature are submitted to:

a) one of the following subjects, depending on the specialization chosen by the judge/prosecutor: civil law, criminal law, administrative law, financial and fiscal law, labor and social security law;

b) civil procedural law for specialized matters: civil law, administrative law, financial and fiscal law, labor and social insurance law or criminal procedural law for the specialized subject of criminal law;

(3) As part of the evidence provided for in para. (2), regardless of specialization, the knowledge of the jurisprudence of the High Court of Cassation and Justice, the Constitutional Court, the European Court of Human Rights and the Court of Justice of the European Union will be evaluated.

(4) The written tests take place in two stages and consist of:

a) passing a written grid-type test to verify theoretical knowledge;

b) taking a written grid-type test to verify practical knowledge.

(5) The evaluation of the answers to the grid-test questions is carried out by electronic processing.

Art. 136 - (1) The evaluation and marking scales are displayed at the competition centers at the end of the written test and on the website of the Superior Council of Magistracy and the National Institute of Magistracy. Within 3 days of the publication of the scales, candidates can appeal the scales, which are submitted to the National Institute of Magistracy.

(2) Scale appeals are resolved within 3 days from the expiration of the appeal term by the appeals commissions/subcommittees. The definitive scales established following the resolution of appeals are immediately published on the website of the Superior Council of Magistracy and the National Institute of Magistracy.

(3) The Subcommittees for resolving the appeals, set up for each subject for which options have been formulated, examine, under the coordination of the chairman of the commissions for resolving the appeals and in consultation with the subcommittees for elaborating the subjects, within the limits of the reasons given by the candidates, appeals against the scales.

(4) If the subcommittee for resolving the appeals rejects all appeals, the initial evaluation and marking scales become definitive.

(5) If the members of the subcommittee for resolving the appeals consider that the correct answer is other than that indicated in the scale or that the correct answer indicated in the scale is not the only correct answer or that one or more of the questions in the grid test should be cancelled, and the members of the subcommittee for elaborating the subjects agree with this solution, the subcommittee for resolving the appeals shall adopt the final scales.

(6) In the situations referred to in paragraph (5), if the members of the Subcommittee for resolving the appeals and those of the Subcommittee for elaborating the subjects do not reach agreement, the final marking and evaluation scales shall be established by the Subcommittees, acting jointly, by a majority of their members. In order to achieve a majority, the chairman of the commission for resolving the appeals shall mediate. If the members of the committees have more than two opinions, those whose opinions are closer together must unite in a single opinion.

(7) If, following the resolution of appeals against the scale, it is considered that the correct answer to one of the questions is obviously different from the one indicated in the scale, without the provisions of paragraph (8) being applicable, the mark sheet shall be corrected and the mark for that question awarded only to those candidates who gave the correct answer as set out in the definitive mark sheet.

(8) In the event that, following the resolution of appeals against the marking scale, it is found that the answer indicated as correct in the initial marking scheme is not the only correct answer, the final marking scheme will include both the mark corresponding to the answer variant set by the commission for elaborating the subjects in the initial marking scale and the mark corresponding to the answer variant set by the commission for resolving the appeals.

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

(10) In the situations referred to in paragraph (6), if a majority cannot be reached, the final marking scale will include both the answer variants set by the commission for elaborating the subjects in the initial marking scale and the answer variants set by the commission for resolving the appeals, with the mark for the question in question being awarded for both variants.

(11) In the situations referred to in paragraph (6), where a majority cannot be reached, if the subcommittee for resolving the appeals considers that one or more questions in the grid test should be cancelled and the subcommittee for elaborating the subjects does not agree, the questions in question shall be cancelled and the corresponding marks awarded to all candidates.

(12) The appropriate section of the Superior Council of Magistracy may order the sanctioning, with reduction of the financial rights due for the work performed, of the members of the committees who are responsible for the cancellation of some subjects or the modification of some scales, insofar as their bad faith or serious negligence is found. Such persons may also be banned from serving on similar committees for up to 3 years.

(13) The sanctions provided for in para. (12) is applied depending on the concrete circumstances and in proportion to the consequences produced.

Art. 137 - (1) The results of the written tests are published on the website of the Superior Council of Magistracy and the National Institute of Magistracy.

(2) Candidates can dispute the marks obtained in the grid-type written tests.

(3) Appeals are submitted to the courts of appeal, respectively to the prosecutor's offices attached to them or, as the case may be, to the Prosecutor's Office attached to the High Court of Cassation and Justice, within 3 days from the publication of the results, which will transmit them immediately, by fax or e-mail, to the National Institute of Magistracy.

(4) In order to resolve the appeals, the written works are renumbered and sealed, being entered in a separate slip.

(5) The grade awarded by the appeals settlement committee is final and cannot be lower than the challenged grade.

(6) Following the calculation of the general averages of the candidates, the competition organizing committee prepares the final lists.

(7) The final results of the competition are published on the website of the Superior Council of Magistracy and the National Institute of Magistracy.

Art. 138 - (1) The mark obtained in the on-the-spot promotion competition is the average of the marks obtained in the theoretical test and the practical test, in the following weighting: 75% practical test and 25% theoretical test.

(2) To be declared admitted to the on-the-spot promotion contest, the candidate must obtain at least a general average of 7, but not less than 5 in each of the two contest tests.

(3) The final results are presented to the corresponding Section of the Superior Council of Magistracy, for validation.

(4) The corresponding section of the Superior Council of the Magistracy can invalidate, in whole or in part, the promotion competition on the spot in cases where it finds that the conditions provided by law or regulation regarding the organization of the competition have not been respected or that there is evidence committing a fraud.

(5) In the case of promotion on the spot, the occupation of places is carried out in the order of averages obtained, within the limit of the number of places put up for competition related to the professional degree and the subject for which it was chosen.

(6) In the case of equal grades, the number of positions is supplemented by the appropriate Section of the Superior Council of the Magistracy, so that all candidates who have grades equal to that of the last candidate declared admitted, corresponding to the degree and the subject for which they applied, are declared admitted.

Art. 139 - (1) The effective promotion competition consists of taking a test with the object of evaluating the activity and conduct of the candidates in the last 3 years of effective activity.

(2) For the evaluation of the activity of judges, the judicial decisions drawn up by the candidates in the last 3 years of activity actually carried out are considered, and for the evaluation of the activity of the prosecutors, the documents drawn up by the candidates in the last 3 years of activity actually carried out are considered. Court decisions and prosecutor's documents must be relevant to the candidate's activity, have different objects and be drawn up in different procedural phases.

(3) For prosecutors, documents drawn up by the candidates or concerning their activity constitute: documents drawn up by prosecutors in the criminal investigation phase or in the trial phase, the points of view that contain the approach to some legal issues drawn up within the various attributions, the transcription of the records of the arguments oral statements of the hearing prosecutor, appeal projects in the interest of the law, reports in

the files in which definitive solutions of acquittal or restitution were pronounced, as well as any other documents drawn up in the exercise of official duties. Also taken into account are documents that have been denied or followed by court decisions returning the case to the prosecutor's office or acquittal, respectively rejected appeals or appeals, if any, and the court decisions or the prosecutor's documents that decided on the candidate's solution will also be attached.

(4) For judges, annulled or annulled court decisions are also taken into account, and the decisions pronounced in appeals will also be attached; the court rulings are not taken into account by which the renunciation of the trial, the renunciation of the right or the withdrawal of an appeal, the suspension of the trial is pronounced, the statute of limitations is established or the claim is canceled, as well as the court rulings that confirm the transaction intervened between the parties or whose object is the approval of enforced execution, the confirmation of the waiver of the criminal prosecution or the agreement to admit guilt. The evaluation committee can establish, for all the candidates it evaluates, other categories of decisions that will not be considered when making the selection.

(5) Immediately after the publication of the final list of candidates provided for in art. 134 para. (6), the evaluation committee requests from the courts/prosecution offices where the candidates work the lists of court decisions pronounced and drafted, respectively of the documents drawn up by them in the last 3 years of activity actually carried out, highlighting the date and number of the drawn up decision/act, of the file number, the object of the case, the procedural stage, the type of decision/act, the solution pronounced and with the mention that it was abolished/cancelled/denied, if applicable. Lists are generated exclusively in electronic format. In the case of candidates who, during the period under evaluation, worked in several courts/prosecution offices, the lists are requested from each of these courts/prosecution offices.

(6) Immediately after receiving the lists provided for in para. (5), the evaluation commission establishes unitary criteria for each specialization for the random selection of 10 court decisions, respectively 10 documents for each candidate, which will be subject to evaluation. When establishing the selection criteria, the evaluation committee will also consider the provisions of para. (2) - (4).

(7) Based on the criteria established according to para. (2) - (4), the evaluation committee performs the selection of judicial decisions/prosecutors' documents, with the support of the organizing committee and the IT application specially provided for this purpose by the Superior Council of Magistracy.

(8) After the selection made according to para. (7), the evaluation commission requests the selected decisions/documents from the courts/prosecution offices where the candidates work.

(9) Courts/prosecutors' offices shall send the court decisions/documents requested to the evaluation commission within 5 days of receiving the addresses. Court decisions/prosecutor documents are also submitted in electronic format, together with the records in the Electronic Case Management System, hereinafter referred to as ECRIS, as the case may be.

(10) Together with the application for registration to the competition, the candidate can submit to the evaluation committee no more than 5 court decisions drafted during the evaluation period, regardless of the matter in which they were pronounced and their object, which will be considered in the evaluation of the activity or, as the case may be, at most 5 documents with a different object drawn up by prosecutors during the period under evaluation.

(11) The evaluation committee analyzes, for all candidates, the way in which they have respected the unitary jurisprudence of the High Court of Cassation and Justice or of the

higher courts, requesting in this regard the information they deem necessary from the courts/prosecutions within which the candidates carry out their activity.

(12) In order to verify the manner in which the candidate respects the deadlines for solving the works, regarding the entire period subject to evaluation, immediately after the publication of the final list of candidates who meet the conditions for participation in the competition, the evaluation committee requests the courts/prosecutions within which candidates carry out their activity by submitting the necessary documents and statistical data regarding:

a) the activity of the candidate: for judges - the number of court hearings, the number of cases in which he participated in the trial, the number of resolved cases, the number of decisions drawn up, the number of decisions without reasons within the deadline, the average number of days by which he was exceeded this term, the average time spent resolving cases by the candidate, other activities carried out in the exercise of official duties, and for prosecutors - the number of cases or resolved works, the number of court hearings attended, the average time spent resolving cases of to the candidate, the number of appeals declared and motivated, other activities carried out in the exercise of the duties;

b) the activity of the court/prosecutor's office at the section where the judge/prosecutor worked: for judges - the average case load per judge, the average number of participations in court hearings, the average resolution time by type of case, the average number of decisions drawn up by judges, the average number of decisions not drafted within the deadline, and for prosecutors - the average number of files/cases resolved by prosecutors, the average number of participations in court hearings, the average number of declared and reasoned appeals, the average time to resolve cases.

c) the ECRIS files of the files referred to in paragraph (9) and (10), analyzing the information from the ECRIS system regarding each of these files, as appropriate.

(13) The presidents of the courts or the heads of the prosecutor's offices in which the candidate works take the necessary measures to gather the information provided for in para. (12) and for their transmission to the evaluation committee as soon as possible.

(14) Immediately after the publication of the final list of candidates who meet the conditions for participation in the competition, the evaluation commissions request, with regard to each candidate, the reasoned opinion of the section corresponding to the candidate's specialization from the hierarchically superior court/prosecution office superior to the one where it operates this. For this purpose, the judges/prosecutors of the section are consulted respecting the confidentiality of the opinions expressed, the result being recorded in a report, signed by the president/chief prosecutor of the section and dated, which is sent to the evaluation committee. If there are several sections with common specialization at the hierarchically higher court/prosecution office higher than the one where the candidate works, all the sections with common specialization are consulted, and a single report signed by the presidents of the respective sections is drawn up.

(15) The opinion of the section or sections corresponding to the candidate's specialization has an advisory role for the evaluation committee.

Art. 140 - (1) The evaluation commissions evaluate the activity according to the following criteria:

a) capacity for analysis and synthesis, coherence in expression;

b) argumentation in terms of clarity and logic, reasoned analysis of the requests and defenses formulated by the parties, compliance with the unified jurisprudence of the High Court of Cassation and Justice and the courts of appeal;

c) compliance with reasonable deadlines for resolving cases/works and drafting decisions, considering the volume of activity;

(2) The criteria provided for in para. (1) lit. a) and b) concern the evaluation of court decisions, respectively of the prosecutor's documents.

(3) The total maximum score that can be assigned as a result of the evaluation of the activity is 60 points, for each of the criteria provided in paragraph. (1) a maximum of 20 points can be awarded.

(4) The commission awards a single total score for each candidate, the president of the commission ensuring mediation in case of disagreements between the members of the commission.

(5) The evaluation of the candidates' conduct from the last 3 years of activity actually carried out is based on the criteria provided for in para. (7). In the case of judges, the evaluation is based on the records of some court sessions in which the panel was led by the candidate, the existing data in the professional file and the information requested from the Judicial Inspection regarding possible disciplinary violations and violations of the Judges' Code of Ethics and prosecutors from the last 3 years of effective activity, as well as any other information about the candidate that can be verified, and in the case of prosecutors based on the evaluation report drawn up by the commissions provided for in art. 89, of the existing data in the professional file and the information requested from the Judicial Inspection regarding possible disciplinary violations and violations of the Code of Ethics of judges and prosecutors from the last 3 years of activity. For this purpose, immediately after the publication of the final list of candidates who meet the conditions for participation in the competition, the evaluation commission requests the courts/prosecution offices in which they carried out their activity during the period under evaluation, the specialized department within the Superior Council of the Magistracy and the Judicial Inspection the necessary information for the evaluation of the conduct of the candidates.

(6) The evaluation commission establishes a relevant number of court hearings in which the panel was led by the candidates, regarding which it will request the records from the courts in which they carried out their activity during the period under evaluation. The evaluation committee can proceed to listening by sampling of the received recordings.

(7) The evaluation commission evaluates the conduct of the candidates according to the following criteria:

a) the appropriate attitude in the relationship with litigants, lawyers, experts, interpreters during the court session or, as the case may be, during the activity of criminal investigation, supervision of criminal investigations or the activity of participating in court sessions, as well as in the fulfillment to other professional duties, using an appropriate, polite tone, avoiding arrogant or contemptuous manifestations and attitudes, the ability to manage situations encountered in the courtroom;

b) the ability to collaborate with the other members who compose, respectively constitute the panel of judges, as well as the behavior and communication with the other judges/prosecutors and with the staff of the own court/prosecutor's office or of the higher or lower hierarchical courts/prosecutors.

(8) The total maximum score that can be assigned as a result of the conduct evaluation is 40 points, for each of the criteria provided in paragraph. (7) a maximum of 20 points can be awarded. The commission awards a single total score for each candidate, with the president of the commission ensuring mediation in case of disagreements between the commission members.

(9) The evaluation commissions draw up a reasoned report showing the scores obtained for each criterion and the total score obtained by the candidate, as well as the motivation for awarding that score. The evaluation report is submitted to the organizing committee.

(10) The total final score obtained by each candidate is published on the website of the Superior Council of Magistracy and the National Institute of Magistracy, with the candidates' codes.

(11) Against the score obtained during the evaluation, the candidate can file an appeal within 48 hours of publication, presenting the arguments for which he criticizes the score awarded. The appeal is sent by fax or e-mail or submitted to the National Institute of Magistracy, according to the indications in the announcement regarding the possibility of submitting appeals, and is forwarded for resolution to the Section for judges, respectively to the Section for prosecutors, within the term provided by the competition calendar.

(12) In order to resolve the objections, at the request of the organizing committee, the evaluation committee immediately sends the candidate's file to the corresponding Section of the Superior Council for Magistracy, which contains all the documents that were the basis of the evaluation, as well as the reasoned report of the committee.

(13) The appropriate section of the Superior Council of Magistracy analyzes the appeal, in relation to the criticisms formulated and the documents received and if it considers that its admission is required, it proceeds to a new evaluation of the candidate based on the criteria and points provided by law. On a nominal evaluation sheet, each member of the section awards the appropriate points. In this case, following the re-evaluation of the candidate, no score awarded can be lower than the one obtained during the initial evaluation. The total score obtained as a result of the admission of the appeal is definitive and is calculated as the arithmetic mean of the scores awarded by each of the present members of the corresponding section of the Superior Council of Magistracy.

(14) After resolving the appeals, the competition organizing committee draws up the list with the final results of the effective promotion competition, determining for each candidate whether he is admitted or rejected, depending on the score obtained.

(15) To be declared admitted to the competition, the candidate must obtain a total score of at least 70 points.

(16) The Provisions of Art. 138 para. (4) apply accordingly.

Art. 141 - (1) The effective promotion is done in the order of averages obtained, within the limit of the number of positions put up for competition, in relation to the candidate's option. In the case of art. 129 para. (6) thesis II, the order of preference indicated by the candidates will be taken into account for the effective promotion.

(2) In the case of equal scores, priority is given to candidates who have more seniority in the position of judge, respectively prosecutor, and in the event that equality is maintained after applying this criterion, they will be considered in the following order: seniority in the professional degree held, grade obtained at the on-the-spot promotion contest. In the constituencies of the courts and prosecutor's offices where a national minority has a share of at least 50% of the number of inhabitants, candidates who know the language of that minority have priority in equal circumstances.

(3) Within no more than 30 days from the communication of the results, the corresponding Section of the Superior Council of the Magistrate orders, by decision, the promotion of the judges, respectively of the prosecutors declared admitted.

(4) Judges and prosecutors who have actually been promoted to executive positions at courts or higher prosecutor's offices cannot be delegated, seconded or transferred for at least 2 years from the date of promotion.

(5) Judges who were actually promoted to executive positions at higher courts cannot be appointed to the position of prosecutor, and prosecutors who were actually promoted to executive positions at higher prosecutors' offices cannot be appointed to the position of judge for at least 2 years from the date of promotion.

(6) Judges and prosecutors who meet the conditions of Article 140 paragraph (15) but who have not been promoted due to the lack of vacant posts may be promoted to the vacant posts in the courts or public prosecutor's offices for which they opted at the time of registration, within 6 months from the date of validation of the competition. The provisions of paragraphs (1) and (2) shall apply accordingly.

(7) The regulation regarding the competition for the promotion of judges is approved by a decision of the Section for judges of the Superior Council of the Magistracy, and the Regulation regarding the competition for the promotion of prosecutors is approved by a decision of the Section for prosecutors of the Superior Council of the Magistracy. The regulations are published in the Official Monitor of Romania, Part I.

CHAPTER VII

Appointment to managerial positions in courts and prosecutor's offices and dismissal from such positions

Section 1

Appointment to managerial positions at the High Court of Cassation and Justice, the Prosecutor's Office attached to the High Court of Cassation and Justice, the National Anti-Corruption Directorate and the Directorate for Investigating Organised Crime and Terrorism

Art. 142 - (1) The president, vice-presidents and section presidents of the High Court of Cassation and Justice are appointed by the Section for judges of the Superior Council of the Magistracy from among the judges of the High Court of Cassation and Justice who have worked at this court for at least 2 years and who have not been disciplined in the last 3 years, unless the disciplinary penalty has been struck off.

(2) Appointment to the positions provided for in para. (1) is made over a period of 3 years, with the possibility of reinvestment only once, in the same way.

(3) The procedure for occupying the positions provided for in para. (1) is triggered by the president of the Superior Council of the Magistracy within a term that cannot exceed 30 days from the date on which the position of president, vice-president or section president became vacant, with the exception of the situation in which the vacancy it follows the expiration of the mandate, in which case the initiation of the procedure is done at least 30 days before the expiration of the mandate, but not earlier than 60 days until the moment when the position is to become vacant. The Superior Council of Magistracy publishes on its website the announcement regarding the initiation of the procedure and its calendar.

(4) They cannot be appointed to the positions provided for in para. (1) judges who were part of the intelligence services or collaborated with them or judges who have a personal interest, which influences or could influence the objective and impartial fulfillment of the duties provided by law.

(5) Candidate judges are obliged to give, on their own responsibility, a statement from which it follows that they have not been part of the intelligence services nor have they collaborated with them and a statement from which it follows that they have no personal interest what influences or could influence the objective and impartial fulfillment of the duties provided by law.

(6) The National Council for the Study of Security Archives and the Supreme Council of National Defense verify and communicate, within no more than 15 days from the request of the Superior Council of Magistracy, whether the judge was part of the intelligence services or collaborated with them.

(7) Judges of the High Court of Cassation and Justice who meet the conditions provided for in paragraph (1) they can submit their candidacies, accompanied by a curriculum vitae, the declarations provided for in para. (5) and a project related to the exercise of managerial duties, at the Section for judges of the Superior Council of Magistracy, within the term established in the calendar.

(8) At the expiration of the deadline for submitting candidacies, the Superior Council of the Magistracy publishes on its website the list of registered candidates and the projects related to the exercise of managerial duties.

Art. 143 - (1) The Superior Council of the Magistracy prepares, through the specialized department, a report in which it records:

a) the evolution of the professional career of the candidate judge, highlighting the qualification awarded at the last evaluation and, if applicable, the mention of the disciplinary sanctions applied in the last 3 years, unless the disciplinary penalty has been struck off;

b) fulfilling the seniority conditions established by law for the position for which the candidacy was submitted;

c) submission of the declarations provided by the law and the result of the checks carried out by the National Council for the Study of Security Archives and the Supreme Council of Defense of the Country, if it was received within the term provided by the law.

(2) In the case of candidates for the positions of vice-president and section president, the Section for judges of the High Court of Cassation and Justice requests the president of the High Court of Cassation and Justice for an opinion on the compatibility of the management plan prepared by the candidate with his management plan.

(3) Candidates for the positions of president, vice-president and section president at the High Court of Cassation and Justice hold an interview in front of the Section for judges of the Superior Council of Magistracy, which can also be conducted by videoconference, which consists of:

a) supporting the managerial plan under the following aspects: the synthetic presentation of the court or section for which the management is applying; identification of possible dysfunctions and vulnerabilities, as well as proposed solutions for their prevention and removal; proposals for improving the managerial activity of the court or the section for which the management is applying; the compatibility of the managerial plan drawn up by the candidate with that of the president of the court, if applicable.

b) verification of managerial and communication skills, essentially aiming at organizational capacity, speed in decision-making, resistance to stress, self-improvement, capacity for analysis, synthesis, foresight, strategy and planning in the short, medium and long term, initiative, the ability to quick adaptation, ability to relate and communicate;

c) verification of knowledge specific to the position for which the application was submitted.

(4) The members of the Section for Judges of the Superior Council of the Magistracy may ask the candidate questions regarding professional conduct and deontology, as well as circumstances resulting from the presentation of the management plan and may consult the candidate's latest professional activity evaluation report.

(5) A psychologist from the Superior Council of the Magistracy or the High Court of Cassation and Justice, appointed by the Section for judges, can also participate in the interview, who can ask questions to the candidate.

(6) In the case of reappointment to the leadership position or appointment to another leadership position at the High Court of Cassation and Justice, the Section for Judges of the Superior Council of Magistracy may consider the results of previous evaluations of the candidate's activity prepared by the court management, as well as the results of the thematic controls carried out by the Judicial Inspection regarding the fulfillment of managerial duties by the candidate.

(7) If several candidacies were submitted, the Section for judges selects one of the candidacies, through a reasoned decision that also includes a detailed analysis of all submitted candidacies, with the justification of the rejection of the other candidacies.

Art. 144 - (1) The Prosecutor General of the Prosecutor's Office of the High Court of Cassation and Justice, his Deputy and First Deputy, the Chief Prosecutor of the National Anticorruption Directorate and of the Directorate for the Investigation of Organized Crime and Terrorism, their Deputies, the Chief Prosecutors of the Prosecutor's Office of the High Court of Cassation and Justice, of the National Anticorruption Directorate and the Directorate for the Investigation of Organized Crime and Terrorism are appointed by the President of Romania, on the proposal of the Minister of Justice, with the opinion of the Prosecutors' Section of the Superior Council of Magistracy, from among prosecutors who have a minimum of 15 years' seniority as a prosecutor or judge, for a period of three years, with the possibility of reappointment once in the same way. Article 128 para. (2) will apply accordingly.

(2) They cannot be appointed to the positions provided for in para. (1) prosecutors who were part of the intelligence services or collaborated with them, or those who have a personal interest, which influences or could influence the objective and impartial fulfillment of the duties provided by law.

(3) Candidate prosecutors are obliged to give, on their own responsibility, a statement from which it follows that they were not part of the intelligence services nor did they collaborate with them and a statement from which it follows that they have no personal interest, which influences or could influence the fulfillment with objectivity and impartiality of the attributions provided by the law.

(4) The National Council for the Study of Security Archives and the Supreme Council of National Defense verify and communicate, within no more than 15 days from the request of the Ministry of Justice, whether the prosecutor was part of the intelligence services or collaborated with them.

Art. 145 - (1) In order to formulate proposals for appointment to the management positions provided for in art. 144 para. (1) the Minister of Justice organizes the selection procedure, according to the provisions of this law.

(2) The notice containing the timetable of the selection procedure, its conduct, the date and place of the interview and the vacancies for management positions for which the selection is organized shall be published on the website of the Ministry of Justice at least 40 days before the scheduled date of the interview.

(3) Applications for participation in the selection of magistrates meeting the conditions laid down in Article 144 para (1), specifying the managerial position for which the application is made, shall be submitted to the Ministry of Justice before the expiry of the deadline laid down in paragraph (2) and shall be accompanied by the following documents:

a) a project regarding the exercise of the specific duties of the management position for which he participates in the selection, which is submitted both on paper and in electronic format, on a specific medium;

b) the declarations provided for in art. 144 para. (3);

c) proof of meeting the seniority conditions required by law;

d) a curriculum vitae of the prosecutor, according to the common European model;

e) a number of at least 10 papers drawn up by the prosecutor in the departments in which he carried out his activity in the last 5 years;

f) the last evaluation report of the professional activity of the prosecutor participating in the selection;

g) any other documents considered relevant.

(4) After checking the participants in the selection in terms of fulfilling the conditions provided for in art. 144 para. (1) and (2) and of the submission of the documents provided for in para. (3), the Ministry of Justice publishes on the website the list of prosecutors participating in the selection meeting the conditions provided by law.

Art. 146 - (1) The prosecutors participating in the selection who meet the conditions provided by the law take part in an interview before a commission established by order of the Minister of Justice.

(2) From the commission provided for in para. (1) includes the Minister of Justice who is also its president, 2 representatives of the Ministry of Justice, 2 prosecutors appointed by the Section for Prosecutors of the Superior Council of Magistracy, a representative of the National Institute of Magistracy appointed by its Scientific Council, a specialist in management, institutional organization and communication designated by the Academy of Economic Studies - Faculty of Management and a psychologist from the Superior Council of Magistracy or from the courts or prosecutor's offices.

(3) The interview committee has the role of supporting the Minister of Justice in the conduct of the interview, being able to ask questions to the candidate freely, directly or through the Minister, as well as, subsequently, by formulating advisory opinions and recommendations to the Minister of Justice.

(4) During the interview, the project regarding the exercise of the specific duties of the management position for which he is applying is supported, the managerial and communication skills of the candidate are checked and the aspects related to the way in which the candidate relates to the values of the profession and the position for which he is applying are evaluated.

(5) Regarding the support of the project regarding the exercise of the specific duties of the management position for which the applicant is applying, the following will be taken into account: knowledge of the specifics of the unit or structure for which he is applying, in terms of the activity carried out and the way of organization; the vision of how the candidate intends to organize the institution in order to fulfill the constitutional duties of promoting the general interests of society and defending the rule of law, as well as the rights and freedoms of citizens; identification of possible dysfunctions and vulnerabilities of the unit or structure for which they are applying; proposing solutions to prevent or remove identified dysfunctions or vulnerabilities; the compatibility of the managerial project with that of the superior hierarchical prosecutor, if applicable.

(6) Regarding the verification of managerial and communication skills, the following will be considered: organizational capacity; taking responsibility; speed in decision-making; stress resistance; self-improvement; the ability to analyze, synthesize, forecast and plan in the short, medium and long term; the initiative to modernize the management of the

unit/structure; ability to quickly adapt; the ability to relate and communicate; the ability and willingness to work in a team and collaborate with colleagues; knowledge regarding public and interpersonal communication, resolving conflicts and crisis situations; knowledge of judicial management.

(7) Regarding the evaluation of aspects related to the way the candidate relates to the values of the profession and the position for which he is applying, the following will be taken into account: the candidate's motivation to occupy the position, the attitude towards the values of the profession and the management position, personal assessments regarding the level of integrity, professional deontology, responsibility, proposals and solutions for increasing citizens' confidence in justice.

(8) In order to ensure transparency, the hearing of the candidates during the interview is transmitted live, audio-video, on the website of the Ministry of Justice, recorded and published on the website of the ministry.

Art. 147 - (1) The Minister of Justice shall select the candidates and shall make a reasoned proposal for each of the managerial positions.

(2) The Minister of Justice shall immediately forward the reasoned appointment proposals for each vacancy for a managerial position, together with all the documents submitted by the proposed candidates, to the Section for Prosecutors of the Superior Council of Magistracy for opinion. At the same time as the proposals are sent to the Section for Prosecutors, they shall also be brought to the attention of the public through publication on the website of the Ministry of Justice.

(3) In the procedure for issuing an opinion by the Section for Prosecutors of the Superior Council of Magistracy, the provisions of Article 168 shall apply accordingly. The reasoned opinion of the Superior Council of Magistracy shall be delivered no later than 30 days after receipt of the request from the Minister of Justice. Reasons for a negative opinion may be given only on the basis of aspects relating to the magistrate's career or to the way in which the interview before the Public Prosecutors' Section was conducted.

(4) Failure to issue the opinion within the time limit laid down in paragraph (3) shall not prevent the continuation of the procedure.

Art. 148 - (1) After issuing the positive opinion of the Section for Prosecutors of the Superior Council of Magistracy or after the expiry of the deadline provided for in Article 147 para. (3), the Minister of Justice continues the procedure by submitting to the President of Romania the proposal for appointment to the managerial position, together with all the relevant documents.

(2) In the case of issuing a negative opinion of the Section for Prosecutors of the Superior Council of Magistracy, the Minister of Justice organizes a new interview exclusively with the candidate who received a negative opinion, under the conditions of art. 146 which is applied accordingly, within which the aspects retained in the opinion of the Superior Council of the Magistracy are considered. The date and place of the interview is publicly announced at least 5 days before it takes place.

(3) Following the interview provided for in para. (2), the Minister of Justice can continue the procedure by submitting to the President of Romania the proposal for appointment to the management position, accompanied by all the relevant documents, or withdraw the proposal, triggering a new selection procedure within a maximum of 60 days from the withdrawal of the proposal.

(4) The President of Romania may provide a reasoned refusal to appoint a person to the managerial positions referred to in Article 144 paragraph (1), informing the public of the

reasons for the refusal. The decree of appointment by the President of Romania or his reasoned refusal shall be issued no later than 60 days after the date of transmission of the proposal by the Minister of Justice.

Art. 149 - (1) Appointment for managerial positions other than those referred to in Article 144(1) in the Prosecutor's Office attached to the High Court of Cassation and Justice, the National Anti-Corruption Directorate and the Directorate for Investigating Organised Crime and Terrorism shall be made for a period of 3 years, with the possibility of re-appointment only once, in the same manner, by the Section for Prosecutors of the Superior Council of Magistracy, upon a proposal from the Prosecutor General of Prosecutor's Office attached to the High Court of Cassation and Justice, the chief prosecutor of the National Anti-Corruption Directorate and the chief prosecutor of the Directorate for Investigating Organised Crime and Terrorism, as appropriate, with the recommendation of the section head or, as appropriate, of the Directorate in the Prosecutor's Office attached to the High Court of Cassation and Justice, the National Anti-Corruption Directorate or the Directorate for Investigating Organised Crime and Terrorism where the prosecutor is to be appointed.

(2) Prosecutors who have not been subject to disciplinary sanctions in the last 3 years, unless the disciplinary penalty has been struck off, and have at least 12 years seniority in the position of prosecutor or judge may be appointed to the managerial positions referred to in paragraph (1). The provisions of Article 128 para (2) and Article 144 para. (2) - (4) shall apply accordingly.

(3) Each application shall be accompanied by the curriculum vitae, the declarations provided for by law, a project relating to the performance of the duties specific to the managerial position and any other documents considered relevant.

(4) On the basis of the applications submitted, the head of the prosecutor's office shall consult the prosecutors of the section/directorate where the application was submitted, with due regard for the confidentiality of options, and shall record the result in a signed and dated report.

(5) After consulting the prosecutors, the head of the prosecutor's office shall seek the opinion of the Leading Board of the prosecutor's office.

(6) The opinion of the Leading Board shall be reasoned on the basis of elements regarding the candidate's professional competence and the colleagues' perception of it.

(7) If several applications have been submitted for the same position, the head of the prosecutor's office, on the basis of his or her own assessments, the results of the consultation of the prosecutors in the section/service/office for which the application has been submitted and the reasoned opinion of the Leading Board, shall select one of the applications.

(8) The reasons for the proposed application of the selected prosecutor must include an analysis of the applications submitted, the reasons justifying the selection and the reasons for rejecting the other applications. The reasoned proposal shall be sent to the Section for Prosecutors of the Superior Council of Magistracy, together with the application submitted, the opinion of the Leading Board, the report on the consultation of prosecutors and the recommendation provided for by law. The provisions of Article 168 shall apply accordingly.

Section 2

Appointment to managerial positions in district courts, tribunals, specialised tribunals, courts of appeal and prosecutors' offices attached thereto

Art. 150 - (1) The appointment to the positions of President of the first instance courts, tribunals, specialised tribunals and courts of appeal, as well as the appointment to the positions of General Prosecutor of the prosecutor's office attached to the Court of Appeal and first-prosecutor of the prosecutor's office attached to the tribunal, specialised tribunal or court of first instance shall be made only by means of a competition or examination organised, whenever necessary, by the Superior Council of Magistracy, with the support of the National Institute of Magistracy.

(2) The appointment to managerial positions other than those referred to in paragraph (1) in the first instance courts, tribunals, specialised tribunals and courts of appeal and the prosecutors' offices attached thereto shall be carried out without competition or examination, upon a proposal from the president of the court or the head of the prosecutor's office, in accordance with the procedure laid down in this law.

(3) The appointment to managerial positions in first instance courts, tribunals, specialised tribunals and courts of appeal, as well as prosecutors' offices attached thereto, shall be made by decision of the Section for Judges and the Section for Prosecutors for a period of 3 years, with the possibility of re-appointment only once, in accordance with the conditions laid down in paragraphs (1) and (2).

(4) The judges and prosecutors who were part of the intelligence services or who collaborated with them or the judges and prosecutors who have a personal interest that influences or could influence the objective and unbiased fulfilment of the duties laid down by law may not be appointed to managerial positions.

(5) The candidates for management positions are held to make a solemn declaration that they were not part of the intelligence services or collaborated with them, as well as a declaration that they have no personal interest that influences or could influence the objective and unbiased fulfilment of the duties provided for by law.

(6) The National Council for the Study of 'Securitate' Archives and the Supreme Council of National Defence shall verify and communicate, within 15 days from the request made by the Superior Council of Magistracy, whether the judge or the prosecutor was part of the intelligence services or collaborated with them.

(7) The regulation on the appointment of judges to managerial positions shall be approved by decision of the Section for Judges of the Superior Council of Magistracy and the Regulation on the appointment of prosecutors to managerial positions shall be approved by decision of the Section for Prosecutors of the Superior Council of Magistracy, which shall be published in the Official Gazette of Romania, Part I.

Art. 151 - (1) A managerial position in first instance courts, tribunals, specialised tribunals and courts of appeal, as well as in the prosecutors' offices attached thereto, in accordance with the conditions laid down in Article 150, is open for judges and prosecutors with a 'Very good' rating in the last report assessing the professional activity, have not been subject to disciplinary penalties in the last 3 years, unless the disciplinary penalty has been struck off, and who meet the following minimum seniority requirements:

a) for the position of president, vice-president or section president of the first instance court, first-prosecutor of the prosecutor's office attached to the first instance court and his deputy, a 5 years' seniority as a judge or a prosecutor;

b) for the position of president and vice-president of the tribunal or specialised tribunal, as well as president of section at the tribunal or specialised tribunal, first-prosecutor of the prosecutor's office attached to the tribunal or of the prosecutor's office attached to the Juvenile and Family Court, his deputy and chief section prosecutor of the

prosecutor's office attached to the tribunal or of the prosecutor's office attached to the Juvenile and Family Court, 8 years' seniority as a judge or a prosecutor;

c) for the position of president, vice-president, president of the section of the Court of Appeal, General Prosecutor of the Prosecutor's Office attached to the Court of Appeal and his deputy, chief section prosecutor of the prosecutor's office attached to the Court of Appeal, 10 years' seniority as a judge or a prosecutor;

(2) The seniority requirements must be fulfilled until the expiration date of the registration period for the competition/examination or, as the case may be, of the deadline for submitting the applications. Seniority as an auditor of justice shall not be taken into account in the calculation of the seniority referred to in paragraph (1).

(3) In order to run for a management position in the first instance courts, tribunals, specialized tribunals and courts of appeal, the judge must have served for at least one year at the court where the management position for which she/he is applying is vacant.

(4) By way of derogation from the provisions of paragraph (3), in case no candidate is appointed following the organisation of two competitions/examinations or, as the case may be, of two consecutive selection procedures for appointment to management positions in courts, at the next competition or examination or, as the case may be, selection procedure for appointment to the same management position, judges from another court who have the right to serve in the court for which they are applying may also participate.

Art. 152 - (1) The record of vacancies for managerial positions at courts and prosecutors' offices shall be published and permanently available on the websites of the Superior Council of Magistracy, the National Institute of Magistracy, the Ministry of Justice, the courts and the prosecutors' offices.

(2) The managerial positions referred to in paragraph (1) which are to be vacated shall be published on the websites of the Superior Council of Magistracy, the National Institute of Magistracy and the Ministry of Justice, the courts and prosecutors' offices, 90 days before the expiration date of the term of office.

§2 - Competition/exam for appointment to managerial positions

Art. 153 - The date, location, subject matter, bibliography and timetable of the competition or examination for appointment to managerial positions shall be approved by the corresponding Section of the Superior Council of Magistracy and shall be published on the websites of the Superior Council of Magistracy, the National Institute of Magistracy and the Ministry of Justice at least 30 days before the date when it is held. The notice shall also include the positions for which the contest/examination is organised.

Art. 154 - (1) Judges and prosecutors shall submit their applications to the National Institute of Magistracy together with the declarations referred to in Article 150 paragraph (5) and the documents deemed relevant within 20 days from the publication of the date of the competition or examination.

(2) Changes to the options in the submission of applications can be made up to the expiry date for the submission of applications.

(3) The project relating to the performance of the duties specific to the managerial position shall be submitted to the National Institute of Magistracy within the deadline laid down in the timetable for the competition or examination, both in hard copy and electronically, on a specific medium. Exceeding the deadline for submitting a project, for

reasons imputable to the candidate, leads to loss of the right to take part in that competition or examination.

Art. 155 - (1) The organising committee, the examination committee, the complaints committee and the psychological testing committee for the competition for appointment to managerial positions are appointed by the corresponding Section of the Superior Council of Magistracy, on the proposal of the Scientific Council of the National Institute of the Magistracy.

(2) The powers of the committees, their chairs and members, as appropriate, shall be laid down in the Regulation on the appointment of judges to managerial positions and the Regulation on the appointment of prosecutors to managerial positions.

Art. 156 - (1) The examination committee for judges shall consist of 2 judges from the High Court of Cassation and Justice, 2 judges from the courts of appeal and 3 specialists in institutional management and organisation. In setting up the committees, shall be taken into account mainly the judges who have received management training, as well as those with managerial experience. Substitute members shall also be appointed on the examination committee and shall automatically replace, on the basis of the decision of the chairman of the examination committee, in the order laid down by the corresponding Section of the Council, those members of the committee who are unable to perform their duties.

(2) The examination committee for prosecutors consists of 2 prosecutors from the Prosecutor's Office attached to the High Court of Cassation and Justice, 2 prosecutors from the prosecutors' offices attached to the courts of appeal and 3 specialists in institutional management and organisation. In setting up the committees, account shall be taken mainly of prosecutors who have attended management courses, as well as those with managerial experience. Substitute members shall also be appointed on the examination committee and shall automatically replace, on the basis of the decision of the chairman of the examination committee, in the order laid down by the corresponding Section of the Council, those members of the committee who are unable to perform their duties.

(3) The complaints committee for judges consists of 3 members: 1 judge from the High Court of Cassation and Justice, 1 judge from the courts of appeal and 1 specialist in institutional management and organization, other than those from the examination committee. The complaints committee for prosecutors consists of 3 members: 1 prosecutor from the Prosecutor's Office attached to the High Court of Cassation and Justice, 1 prosecutor from the prosecutors' offices attached to the courts of appeal and 1 specialist in institutional management and organization, other than those from examination committee. The substitute members of these committees are also appointed in the same composition.

(4) The examination committee and the complaints committee shall be chaired by a judge or a prosecutor, respectively, appointed by the corresponding Section of the Council, which shall also determine the order in which the other members of the committee can act as President in the event of incompatibility of the President-designate or where he/she is unable to perform his or her duties.

(5) In case of incompatibility or in case they cannot exercise their duties, the members of the committees are replaced by substitute members, under the conditions and in compliance with the composition provided in paragraphs (1) to (3).

(6) The judges or prosecutors having served on the examination committee/complaints committee of the previous competition or examination may not be appointed to that committees for the next two sessions. These provisions shall also apply, as far as possible, to the specialists in institutional management and organisation.

(7) The members of the Superior Council of Magistracy nor persons from the management of the Superior Council of Magistracy or of the National Institute of Magistracy may not be part of the examination committee.

Art. 157 - (1) Persons with spouses, relatives or relations by marriage up to and including fourth-degree among the candidates may not be appointed to committees. Spouses, relatives up to and including fourth degree may not be members of the same committee or of different committees.

(2) The appointment of committee members shall be based on prior written consent.

(3) If a member of a committee works at the same court/prosecutor's office as one or more candidates, he/she must withdraw from the examination of those candidates and shall immediately notify the chairperson of the committee with a view to being replaced with regard to those candidates.

(4) The provisions of paragraph (3) shall also apply, mutatis mutandis, where a member of the committee has previously been examined by one of the candidates, in a competition or examination for a managerial position held in the last 3 years.

(5) In other cases where a request for the withdrawal of a member of the committee is made by the latter or by one of the candidates, the Chairperson shall consider the replacement.

(6) In all cases where replacement is ordered, the member concerned shall not be able to take part in the examination of any of the candidates for the managerial position in that court/prosecutor's office.

(7) A person may not sit on more than one committee of the same competition or examination.

Art. 158 - (1) On the date set in the schedule for the competition or examination, the lists of candidates who meet the legal conditions for taking part in the competition or examination shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

(2) Candidates rejected after the verification may lodge objections within 24 hours of the publication of the lists. Objections shall be lodged with the National Institute of Magistracy and shall be decided by the corresponding Section of the Superior Council of Magistracy, within the time limit laid down in the schedule for the competition or examination.

(3) Following the decision of the corresponding Section of the Superior Council of Magistracy, the final list of candidates who meet the conditions for participation in the competition or examination shall be drawn up and shall be made public using the means laid down in paragraph (1).

Art. 159 - (1) The competition or examination for appointment to managerial positions shall consist of the following tests:

a) the psychological testing, which also assesses the candidate's ability to make decisions and to assume responsibility, as well as resistance to stress;

b) the presentation of a project relating to the performance of the duties specific to the position for which he/she is applying;

c) the written test on management, communication and human resources.

Art. 160 - (1) The psychological test consists of a written test and an interview before the committee(s) made of 2 psychologists appointed from among the psychologists of the Superior Council of Magistracy, of the National Institute of Magistracy, of the courts, the

prosecutors' offices or the single register of psychologists licensed to practice in Romania certified in accordance with the law.

(2) Substitute members of the psychological test committee shall also be appointed to automatically replace, on the basis of the decision of the chairperson of the examination committee, in the order laid down by the corresponding Section of the Superior Council of Magistracy, those members of the committee who are unable to perform their duties.

(3) For the purpose of publishing the results of the psychological testing, each candidate shall be assigned a code consisting of one letter and 4 digits.

(4) The results of the psychological test shall take the form of a report containing the psychological profile of each candidate in relation to the position for which he/she is applying, as well as the 'fit' or 'unfit' rating; the rating given shall be made public through publication on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

(5) Candidates who are dissatisfied with the rating given may, within 3 days of the publication of the test results, lodge objections, including by fax or e-mail, to the National Institute of Magistracy.

(6) Objections shall be resolved within 3 days of the expiry of the deadline for submission by a committee consisting of 3 psychologists, appointed in a similar manner to that provided for in paragraph (1), other than those who initially examined the candidates, on the basis of a review of the written test applied and a new interview. The rating given following the resolution of the objections shall be final.

(7) The final results of the psychological test, set out in the report containing the candidate's psychological profile in relation to the position for which he/she is applying and the rating obtained, shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy and shall be brought to the attention of the members of the examination committee.

Art. 161 - (1) Candidates shall give an oral presentation before the examination committee of the project on the performance of the duties specific to the managerial position.

(2) When assessing the project presentation, the following criteria shall mainly be taken into account:

a) organisational capacity, speed in decision-making, self-improvement, ability to analyse, synthesise, predict, strategy and planning in the short, medium and long term, initiative and ability to adapt fast;

b) fulfilling the duties provided for by law and regulations, knowledge and ability to implement public policies in the field of justice, national and sequential strategies in the field of justice and compliance with the principle of random distribution;

c) behaviour and communication with judges, prosecutors, auxiliary staff, litigants, persons involved in the act of justice, other institutions, the media, ensuring access to information of public interest in the court and transparency of the management act;

d) adequate use of human and material resources, needs assessment, crisis management, the relation resources invested - results achieved, information management, organisation of training and further training and division of responsibilities within courts.

(3) In order to assess the project, the examination committee may request the Judicial Inspection for the control reports drawn up at the court/prosecutor's office for which he/she applies.

(4) For each category of criteria referred to in paragraph (2), a maximum of 2.5 points shall be awarded out of the total maximum score for this test of 10 points. The final grade

for the project presentation shall be the arithmetic mean of the scores given by each member of the committee.

(5) The test consisting of the presentation of the project shall be recorded by audio-video technical means.

(6) If the grade calculated in accordance with paragraph (4) is less than 5, at the request of the candidate, the members of the committee shall provide reasons for the grades given in a report.

(7) The results of the project presentation shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy after all candidates have stood the test.

(8) The candidates may contest the grade given at the test consisting in the presentation of a project related to the performance of the duties specific to the position. The appeal is sent by fax or e-mail to the National Institute of Magistracy, within 3 days from the date of publication of the results provided in paragraph (7). The appeals are solved by the complaints committee within the deadline established by the corresponding Section of the Superior Council of Magistracy through the competition timetable. The settlement of the appeal is made by re-evaluating the test, based on the audio-video recording and the written analysis submitted by the candidates. The final results of the test are published on the website of the Superior Council of Magistracy and that of the National Institute of Magistracy.

Art. 162 - (1) The written test shall consist of a multiple-choice test verifying the knowledge regarding the management, communication and human resources.

(2) The evaluation and scoring scale and the time allocated for solving the multiple-choice test shall be determined by the examination committee; the score and the solving time shall be made known to the candidates together with the subjects, and the evaluation and scoring scale shall be displayed at the competition or examination centres and published, together with the subjects, on the websites of the Superior Council of Magistracy and the National Institute of Magistracy after the completion of the written testing.

(3) Within 3 days of the publication of the evaluation and grading scale, candidates may lodge objections to the scale, which can also be sent by fax or e-mail to the National Institute of Magistracy and shall be dealt with by the examination committee, within the time-limit laid down in the schedule for the competition or examination. The solution is motivated within 3 days from the expiration of the term provided for solving the appeals. The final evaluation and grading scale, drawn up following the resolution of the objections, shall be published immediately on the websites of the Superior Council of Magistracy and of the National Institute of Magistracy.

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

(5) If, following the resolution of the appeals to the scale, it is considered that the answer indicated as correct in the initial scale is not the only correct answer, the final scale shall include both the score corresponding to the variant of the answer set out in the initial scale and the score corresponding to the variant of the answer set by the complaints committee.

(6) If, following the resolution of the appeals to the scale, it is considered that the correct answer to one of the questions is clearly different from that indicated in the scale, without prejudice to the provisions of paragraph (5), the scale shall be corrected and the score corresponding to that question shall be awarded only to the candidates who have indicated the correct answer set out in the definitive scale.

(7) The provisions of Article 14 paragraphs (6) to (8) shall apply accordingly.

Art. 163 - (1) The evaluation and scoring of the papers in the written test shall be carried out by electronic processing.

(2) The result of the written test shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

Art. 164 - (1) The candidate dissatisfied with the grade obtained in the written test may object within 3 days of the publication of the results. Objections shall be sent, including by fax or e-mail, to the National Institute of Magistracy.

(2) In order to resolve the appeals by the complaints commission, the written works will be renumbered and resealed, being registered in a separate slip.

(3) The grade obtained following the objection shall be final and may not be lower than the contested grade.

(4) The results of the objections shall be published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

Art. 165 - (1) The final grade of the competition or examination shall be the arithmetic mean between the grade for the project and the grade for the written test.

(2) The judge or prosecutor who obtained at least grade 7 as the final grade and at least grade 5 for the project and for the written test shall be declared admitted in the competition or examination.

(3) On the basis of the final grade, the table ranking the candidates shall be drawn up and published on the websites of the Superior Council of Magistracy and the National Institute of Magistracy.

(4) The vacancy for the managerial position shall be filled by the candidate who obtained the highest final grade.

(5) In case of equal averages, the candidates shall be differentiated, in order, based on the longest seniority in the position of judge in the court for which he/she is applying or in the position of prosecutor in the prosecutor's office for which he/she is applying, the longest seniority in managerial positions in courts or prosecutor's offices, the longest seniority in the position of judge or prosecutor.

(6) In the jurisdictions of the courts/prosecutors' offices where a national minority has a share of at least 50% of the population, in case of equal averages, candidates who are familiar with the language of that minority shall have priority over the criteria laid down in paragraph (5).

Art. 166 - (1) The corresponding Section of the Superior Council of Magistracy shall validate the result of the competition or examination for the appointment to managerial positions of judges and prosecutors within 15 days of the publication of the final results.

(2) The corresponding Section of the Superior Council of Magistracy may invalidate, in whole or in part, the competition or examination in cases where it finds that the conditions laid down by law or the regulation relating to the organisation of the competition or examination have not been complied with or that there is evidence of fraud.

§3 - Appointment to other managerial positions in courts/prosecutor's offices

Art. 167 - (1) The appointment of judges to fill in vacancies as section vice-president and president of section of first instance courts, tribunals, specialized tribunals and Courts of

Appeal shall be carried out by the Section for Judges of the Superior Council of Magistracy, upon proposal from the President of the Court, based on the applications submitted by the judges.

(2) The appointment of prosecutors to hold managerial positions within the prosecutors' offices attached to courts of first instance, the prosecutors' offices attached to tribunals and tribunals for minors and family, and those attached to the Courts of Appeal, other than those that are filled by means of a contest procedure or exam, shall be carried out by the Section for Prosecutors of the Superior Council of Magistracy, upon the proposal issued by the head of the prosecutor's office where the vacancy opened, based on the applications submitted by prosecutors.

(3) Each application shall be accompanied by the curriculum vitae, the statements laid down in Article 150 paragraph (5), a project relating to the performance of the duties specific to the senior position and by any other documents deemed relevant.

(4) On the basis of the applications that were submitted, the President of the Court or the head of the prosecutor's office shall consult the judges from the court or the section where the application was submitted, according to the case, respectively the prosecutors of the prosecutor's office or of the section where the application was submitted, according to the case, with due regard for the confidentiality of the options, and shall record the result in a report, to be signed and dated. For the courts/prosecutors' offices where there are no sections, the judges and the prosecutors of the respective court/prosecutor's office are consulted.

(5) After the consultation provided for in paragraph (4), the President of the Court/head of the prosecutor's office requests the opinion of the Leading Board of the court/prosecutor's office.

(6) The opinion of the Leading Board shall be reasoned on the basis of the elements regarding the candidate's professional competence and the colleagues' perception of it.

(7) If several applications have been submitted for the same position, the President of the Court/head of the prosecutor's office shall select one of the applications on the basis of his/her own assessments, of the results obtained after having consulted with the judges/prosecutors and of the reasoned opinion of the Leading Board.

(8) The reasons for proposing the application of the judge/prosecutor selected in accordance with paragraph (7) must include an analysis of the applications that were submitted, the grounds justifying the selection and the reasons for having rejected the other applications.

(9) Where judges are concerned, the proposal made by the President of the court of first instance or of the tribunal, of the specialized tribunal or of the court of appeal, together with the application of the judge selected by him/her and the documents laid down in paragraph (3), as well as accompanied by the reasoned opinion of the Leading Board and by the report concerning the consultation with the judges shall be sent to the Section for Judges of the Superior Council of Magistracy.

(10) Where prosecutors are concerned, the head of the prosecutor's office shall draw up a reasoned proposal of appointment, which is then sent to the Section for Prosecutors of the Superior Council of Magistracy, together with the application submitted by the selected prosecutor, as well as accompanied by the supporting documents laid down in paragraph (3), by the reasoned opinion of the Leading Board and by the report pertaining to the consultation of the prosecutors.

Art. 168 - (1) On the basis of the drafted proposal, through its specialised department, the Superior Council of Magistracy shall draw up a report wherein it makes note of the following:

a) the trajectory of the professional career of the judge/prosecutor submitted for the appointment, highlighting the rating received during his/her last evaluation and, where applicable, the mention regarding any disciplinary sanctions applied over the past 3 years, unless the disciplinary penalty has been struck off;

b) the fulfilment of the seniority prerequisites laid down by law for the position in regards to which the application was submitted;

c) the submission of the statements laid down under Article 150 paragraph (5) and of the result of the checks carried out by the National Council for the Study of 'Securitate' Archives and by the Supreme Council of National Defence, if it was received in compliance with the deadline laid down by law;

d) the contents of the reasoned opinion of the Leading Board and of the consultation with the judges/prosecutors.

(2) When the Section for Judges or, where applicable, the Section for Prosecutors of the Superior Council of Magistracy deems it necessary, the judge/prosecutor proposed for appointment in a senior position pursuant to Article 167 shall be subjected to an interview before the Section for Judges or the Section for Prosecutors of the Superior Council of Magistracy, that may also be carried out via video conference. The interview consists of:

a) presenting the proposal concerning the exercise of the duties that are specific to the senior position, focusing on the following aspects: a brief description of the court or of the prosecutor's office, respectively of the section/department they envisage to lead by means of their submitted application; the identification of possible dysfunctions and vulnerabilities, as well as proposed solutions in order to prevent and overcome them; proposals for improving the managerial activity of the section/department they envisage to lead by means of their submitted application; the compatibility of the managerial plan drawn up by the candidate with that of the President of the Court/head of the prosecutor's office, where applicable;

b) verification of managerial and communication skills, focusing essentially on organisational capacity, speed in decision-making, resistance to stress, self-improvement, analysis, synthesis, forecasting, short-, medium- and long-term strategy and planning, initiative, ability to adapt fast, networking and communication capacity;

c) verification of knowledge specific to the position for which the application has been submitted.

(3) The members of the Section for Judges or those of the Section for Prosecutors of the Superior Council of Magistracy may ask the candidate questions pertaining to the professional conduct and code of ethics, as well as to circumstances arising from the contents of the reasoned proposal drawn up by the President of the Court/head of the prosecutor's office, or those of the reasoned opinion received from the Leading Board, and they may go over the last evaluation report of the candidate's professional activity.

(4) The interview may also be attended by a psychologist, who may ask the candidate questions, through the chairperson. The psychologist shall be appointed by the appropriate Section of the Superior Council of Magistracy from among the psychologists referred to in Article 17 paragraph (1).

(5) In the event of re-appointment to hold a senior position or of being appointed to another leading position at the same court or prosecutor's office, the corresponding Section of the Superior Council of Magistracy may consider the results of previous assessments of

the candidate's work, as well as the results of the thematic controls carried out by the Judicial Inspection with respect to the performance of managerial duties by the candidate.

Section 3

Removal of judges and prosecutors from senior positions

Art. 169 - (1) Removal of judges and prosecutors from senior positions within courts of first instance, tribunals, specialized tribunals, Courts of Appeal and from the prosecutors' offices attached to them, as well as from senior positions laid down under Article 149, shall be ordered by the Section for Judges or by the Section for Prosecutors of the Superior Council of Magistracy, of its own motion or upon proposal submitted by the general assembly or by the President of the Court/head of the prosecutor's office, for one of the following reasons:

a) in the event that the person no longer meets one of the prerequisites necessary for the appointment to hold the senior position;

b) in case of the inappropriate exercise of management duties relating to the effective organisation, to behaviour and communication, to the undertaking of responsibilities and to management skills;

c) in the event that a disciplinary sanction is applied, with the exception of a warning.

(2) Upon checking that the work was organised in an efficient manner, the following elements shall be taken into consideration: the appropriate use of human and material resources, the assessment of needs, crisis management, the ratio between invested resources - yielded results, information management, the organisation of professional training and advancement and the assignment of tasks within the courts or prosecutors' offices.

(3) When checking the conduct and communication, account will be taken of: conduct and communication with judges, prosecutors, auxiliary personnel, parties, persons involved in the act of justice, other institutions, the media, ensuring access to information that is of public interest, found in that court or prosecutor's office and transparency in leadership.

(4) When verifying the undertaking of responsibility, the following aspects are to be taken into account: the fulfilment of duties provided in laws and regulations, the implementing of national and sequential strategies in the field of the Judiciary and the compliance with the principle of random case distribution or, where applicable, of case distribution based on objective criteria.

(5) When assessing managerial skills, account will be taken of: the capacity for organisation, the capacity for quick decision-making, resistance under stress, self-improvement, capacity for analysis, synthesis, foresight, strategy and planning in the short, medium and long term, initiative and capacity to adapt quickly.

(6) Until such time as the procedure of revocation from the senior positions laid down in paragraph (1) is finalised, where applicable, the Section for Judges and the Section for Prosecutors within the Superior Council of Magistracy may order the suspension of the judge or prosecutor from the senior position he/she holds.

(7) The decision of the respective Section laid down in paragraph (6) shall be reasoned within five days after being handed down and it may be challenged at the High Court of Cassation and Justice - Administrative and Fiscal Section, within five days after it was notified, without carrying out the prior procedure.

(8) Until such time as the challenge is solved, upon request, the court may order that the enforcement of the suspension decision be halted.

Art. 170 - (1) The removal from senior positions laid down in Article 169 paragraph (1) for the grounds laid down in Article 169 paragraph (1) letter (b) shall be carried out based on the checks undertaken by the Judicial Inspection.

(2) Following the checks carried out at the Court or, where applicable, at the prosecutor's office, within a maximum of 45 days from the request, the Judicial Inspection shall draw up a report to be presented before the Section for Judges and, respectively, before the Section for Prosecutors of the Superior Council of Magistracy.

(3) After receiving the report, the Section for Judges and, respectively, the Section for Prosecutors of the Superior Council of Magistracy, shall set a deadline of maximum 20 days for a debate with respect to it, ordering that the judge or prosecutor holding the senior position be subpoenaed and that the report be notified, with a view to acknowledging and, possibly, to drawing up objections.

(4) The judge/prosecutor in a leading position is entitled to request the taking of documentary evidence as part of the defence.

(5) On that deadline, the Section for Judges and, respectively, the Section for Prosecutors of the Superior Council of Magistracy shall have a debate on the report and the possible objections brought forth by the judges or prosecutor subject to the revocation measure. Should it deem that necessary, the respective Section may decide to add to the report that was drawn up by the Judicial Inspection with respect to the aspects that were highlighted in the revocation proposal, or to draw up a new report, in compliance with the terms and the procedure from paragraphs (2) and (3).

(6) In case of an inappropriate exercise of management duties relating to the effective organisation, to behaviour and communication, to the undertaking of responsibilities and to management skills, the Section for Judges and, respectively, the Section for Prosecutors of the Superior Council of Magistracy, shall order the removal of the judge/prosecutor from the senior position he/she holds.

(7) The removal of judges/prosecutors from a senior position on the grounds laid down in Article 169 paragraph (1) letters (a) and (c) shall be carried out based on the checks undertaken by the specialised department within the Superior Council of Magistracy, whilst also subpoenaing the judge/prosecutor holding the senior position.

(8) The decision of the respective Section of the Superior Council of Magistracy by means of which the removal from office is ordered shall be drawn up within 20 days from the moment when it was handed down and it shall be immediately notified to the person being dismissed from the senior position.

(9) The decision of removal from the leading position handed down by the Section for Judges and, respectively, by the Section for Prosecutors of the Superior Council of Magistracy may be challenged with appeal, without undergoing the prior procedure, in 15 days from the communication, at the Administrative and Fiscal Section of the High Court of Cassation and Justice. The delivered decision is final. The appeal suspends the enforcement until the solution of the case.

Art. 171 - (1) The dismissal of the president, vice-presidents and section presidents of the High Court of Cassation and Justice shall be carried out by the Section for Judges of the Superior Council of Magistracy, that may either be notified *ex officio*, or it may be notified by the general assembly of the judges of the High Court of Cassation and Justice. The provisions of Articles 169 and 170 shall apply accordingly.

(2) When the term for senior positions laid down in paragraph (1) elapses, the judges shall return to the office they held previously within the High Court of Cassation and Justice.

Art. 172 - (1) The removal from the offices of General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice, of his first deputy and deputy, of chief prosecutor of the National Anti-Corruption Directorate, as well of chief prosecutor of the Directorate for Investigating Organized Crime and Terrorism and his/her deputies, of chief prosecutor of the Section within the Prosecutor's Office attached to the High Court of Cassation and Justice, of the National Anti-Corruption Directorate and of the Directorate for Investigating Organized Crime and Terrorism, shall be carried out by the President of Romania, at the proposal of the Minister of Justice, with the endorsement of the Section for Prosecutors of the Superior Council of Magistracy, with Article 169 being applied accordingly. The Minister of Justice may observe *ex officio* either upon request from the General Assembly of Prosecutors from that prosecutor's office, or, where applicable, upon request from the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice, or from the chief-prosecutor of the National Anti-Corruption Directorate, or that of the Directorate for Investigating Organized Crime and Terrorism, as appropriate.

(2) The proposal for revocation from office under the conditions laid down in paragraph (1) shall be made by the Minister of Justice, on the basis of a comprehensive analysis of the grounds for revocation laid down in Article 169. The provisions of Art. 170 paragraphs (1) to (5) shall apply accordingly.

(3) The proposal for revocation together with, where applicable, the relevant documents, shall be sent to the Section for Prosecutors of the Superior Council of Magistracy, with a view to issuing the opinion.

(4) The opinion of the Section for Prosecutors shall be delivered no later than 30 days after receipt of the request of the Minister of Justice. Failure to submit the opinion in observance with this time limit shall not impede the course of the procedure.

(5) After the opinion of the Section for Prosecutors of the Superior Council of Magistracy has been issued or upon expiry of the time limit laid down in paragraph (4), the Minister of Justice may continue the procedure by submitting the proposal for revocation from the senior position to the President of Romania, together with all the relevant documents.

(6) The President of Romania may refuse, solely on grounds of legality, to revoke the persons from the senior positions referred to in paragraph (1), informing the public of the grounds for the refusal.

(7) The decree handed down by the President of Romania to remove the person from office or his reasoned refusal shall be issued no later than 60 days after the date when the proposal was handed down by the Minister of Justice.

(8) The decree of the President of Romania to remove the person from senior office may be challenged with appeal by the prosecutor being revoked, in 15 days from the publication, without going through the prior procedure, at the Administrative and Fiscal Section of the High Court of Cassation and Justice. During the trial, which shall be tried urgently and by way of priority, the court will be able to verify the legality and validity of the proposal of the Minister of Justice for revocation from the leading position. The delivered decision is final.

(9) Starting from the date when the term of senior office elapses, the prosecutors laid down under paragraph (1) shall reacquire the professional executive mandate and the corresponding pay scale that they previously held, or that they received as a result of the promotion, in accordance with the law, during the time when they performed their work within the prosecutor's office attached to the High Court of Cassation and Justice, the

National Anti-Corruption Directorate, or the Directorate for Investigating Organized Crime and Terrorism.

Art. 173 - (1) The management positions provided by this chapter may also cease by resignation, in compliance with a notice period of at least 30 working days.

(2) At end of the term of office for their senior position, for any reason, in accordance with this Law, judges or prosecutors may take another senior position with the same court or prosecutor's office, or they may take over an executive position within the courts or prosecutor's offices that they previously headed or where they worked prior to being appointed in a senior position.

Art. 174 - (1) The suspension of the employment relationship does not, in any way, suspend the duration of the terms of senior office.

(2) Failure to exercise the duties over a period longer than a year entails the cessation of the terms of senior office.

Chapter VIII

The delegation, secondment and transfer of judges and prosecutors

Art. 175 - (1) Judges and prosecutors may be delegated or seconded under the terms of this Law only with their written consent.

(2) Judges and prosecutors may be delegated, including to management positions or seconded only to courts or prosecutors' offices where they are entitled to serve according to their professional rank. The prosecutors from the National Anticorruption Directorate and from the Directorate for the Investigation of Organized Crime and Terrorism may not be delegated or seconded at other prosecutors offices or institutions during the activity within the two directorates.

(3) During the period of delegation or secondment, judges and prosecutors shall enjoy all the rights provided by law for the position to which they are delegated or seconded and the rights provided by law for delegated/detached staff. Where the salary and other financial entitlements provided for in respect of the position to which the judge or prosecutor is delegated/detached are lower, the judge or prosecutor shall retain his or her monthly salary and other financial entitlements. The period of delegation/detachment shall constitute seniority in the position of judge or prosecutor.

Art. 176 - (1) In objective, thoroughly justified cases, exclusively pertaining to the need to ensure the proper functioning of the court where the delegation is requested, the President of the Court of Appeal may delegate judges from the Court of Appeal or from a court within the jurisdiction of that Court of Appeal to another court where the delegated judge is entitled to sit according to his or her professional rank within that jurisdiction, on a reasoned proposal from the President of the court to which the delegation is made.

(2) For the reasons referred to in paragraph (1), the Section for judges may order that judges be assigned to courts of the same or a lower grade outside the district of the Court of Appeal where the judge is sitting, at the request of the President of the Court of Appeal in whose district the court to which the assignment is requested is situated.. In this case, the request for delegation shall be made on a reasoned proposal from the President of that court.

(3) The delegation of judges to vacant managerial positions shall be ordered by decision of the Section for Judges of the Superior Council of Magistracy, until the position is filled by

appointment under the terms of this law, on the proposal of the president of the court where the vacant managerial position is held, and if the vacant position is that of president of the court, on the proposal of the management college of the hierarchically superior court, with the exception of delegation to the position of president of the court of appeal, which shall be ordered on the proposal of the management college of that court of appeal. Delegation to vacant managerial positions at the High Court of Cassation and Justice shall be ordered on the proposal of the President of that court.

Art. 177 - (1) In objective, thoroughly justified cases, exclusively pertaining to the need to ensure the proper functioning of the prosecutor's office where delegation is requested, the General Prosecutor of the Prosecutor's Office of the High Court of Cassation and Justice may order the delegation of prosecutors, upon proposal:

a) of the general prosecutor of the prosecutor's office of the court of appeal where the delegation is requested or in whose jurisdiction the prosecutor's office where the delegation is requested is located, for the delegation of prosecutors from the prosecutor's offices attached to first instance courts, tribunals, specialized tribunals or courts of appeal to the prosecutors' offices attached to these courts;

b) of the chief prosecutors of the Prosecutor's Office attached to the High Court of Cassation and Justice where the delegation is requested, for the delegation of prosecutors from the Prosecutor's Offices attached to first instance courts, tribunals, specialized tribunals or courts of appeal to the Prosecutor's Office of the High Court of Cassation and Justice,

c) of the general prosecutor of the prosecutor's office of the court of appeal where the delegation is requested or in whose jurisdiction the prosecutor's office where the delegation is requested is located, for the delegation of prosecutors from the prosecutor's office attached to the High Court of Cassation and Justice to the prosecutor's offices attached to the first instance courts, tribunals or courts of appeal.

d) the chief prosecutor of the National Anticorruption Directorate or of the Directorate for the Investigation of Organized Crime and Terrorism, for the delegation of prosecutors at the National Anticorruption Directorate and at the Directorate for the Investigation of Organized Crime and Terrorism.

(2) The delegation of prosecutors to managerial positions shall be ordered by decision of the Section for Prosecutors of the Superior Council of Magistracy, until the position is filled by appointment under the conditions of this law, upon the proposal of the head of the prosecutor's office where the vacant managerial position is located, and if the vacant position is that of the chief prosecutor of the prosecutor's office attached to the first instance court or tribunal, or of general prosecutor of the prosecutor's office attached to the court of appeal, at the proposal of the head of the hierarchically superior prosecutor's office.

(3) The functions of General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice, of chief prosecutor of the National Anticorruption Directorate and of the Directorate for the Investigation of Organized Crime and Terrorism may not be filled in by delegation, the Minister of Justice having the obligation to initiate the procedure to fill in the respective positions in no more than 60 days from the date when the functions became vacant.

Art. 178 - (1) The delegation to executive functions is decided on the basis of an analysis which shall include elements such as: the reasons for the proposal/request, the specialization of the judge/prosecutor, the situation of occupied positions, vacant positions,

positions to be vacant and temporary vacancies at the court/prosecutor's office where the magistrate works and where the delegation is requested, the statistical data from the last 12 months with respect to the work volume and actual workload falling to the judge/prosecutor, including the workload featured in the staffing table, relative to the national average within the court/prosecutor's office where the magistrate works and where delegation is requested, possible transfer requests drawn up for that court/prosecutor's office, as well as mentions concerning the rate of interdictions laid down in Article 63 paragraph (2) and Article 141 paragraph (4).

(2) In the case of prosecutors, the proposal for delegation shall be made on the basis of a reasoned request by the head of the prosecutor's office where delegation is requested.

Art. 179 - (1) Judges or prosecutors who work in the court or prosecutor's office where the management position is vacant may be delegated to management positions. In the event that, within a court or prosecutor's office where the senior position is vacant, no judge or prosecutor consents to be delegated or, for objective reasons, no judge or prosecutor from that court or prosecutor's office can be delegated to the respective leading position, any of the judges or, where applicable, the prosecutors serving within a different court or prosecutor's office under the jurisdiction of the same Court of Appeal/prosecutors office attached to the court of appeal may be delegated into that senior office, in compliance with Article 175 paragraph (1).

(2) The delegation of judges and prosecutors in a senior position in courts of first instance, tribunals, specialised tribunals and courts of appeal and, respectively, in the prosecutors' offices attached to these courts is not conditioned by the accomplishment of the same seniority requirements provided by the law for the appointment in the respective position.

(3) The delegation proposal in managerial positions encompasses the following: the written consent of the judge/prosecutor, the grounds for the delegation proposal, the statements laid down by law upon the appointment into that senior office.

(4) The specialised department within the Superior Council of Magistracy shall draw up a report wherein it lays out the submitted documents, and a brief summary of the professional career of the person proposed for delegation, as well as the status of the vacant senior position for which delegation is proposed.

(5) The decisions issued by the Section for Judges or by the Section for prosecutors with respect to delegation into senior office, its extension and cessation, shall be notified to the presidents of the courts and to the heads of the prosecutor's offices involved, respectively.

Art. 180 - (1) The duration of the delegation is of six months at most, and it may be extended for six more months, under the same conditions and through the same procedure.

(2) The delegation of prosecutors to the National Anticorruption Directorate and the Directorate for the Investigation of Organized Crime and Terrorism may be ordered only once, for a maximum of one year, without the possibility of extension, without the professional grade referred to in Article 175 paragraph (2) being required, but subject to the conditions of seniority laid down by law for appointment to the post of prosecutor in these specialised structures.

(3) The delegation may cease before the time limit elapses at the reasoned request of the delegated person, of the President of the Court/head of the prosecutor's office where that person is delegated, or of the President of the Court/head of the prosecutor's office he/she is delegated from. Delegation into leading positions may cease prior to the time limit also in the event that the position is filled by appointment, in accordance with the law.

Art. 181 - (1) In the interest of the proper functioning of the courts or prosecutor's offices, judges may be seconded to vacancies in other courts, and prosecutors may be seconded to vacancies in other prosecutor's offices.

(2) Judges and prosecutors may also be seconded to vacancies at the Superior Council of Magistracy, the Judicial Inspection, the National Institute of Magistracy, the National School of Clerks, the Ministry of Justice or its subordinate units, at the motivated request of the respective institution to justify the interest of seconding that judge or prosecutor.

(3) The secondment of judges and prosecutors cannot be ordered where offices of public dignity are concerned or in positions of judicial inspector.

(4) In the case of the National Institute of Magistracy and of the National School of Clerks of Court, secondment shall only be ordered where the secondee carries out their professional training full time.

Art. 182 - (1) The secondment of judges shall be ordered by the Section for Judges of the Superior Council of Magistracy, with the opinion of the President of the Court of Appeal where the judge is sitting.

(2) The secondment of judges to other courts shall be ordered on a reasoned proposal of the President of the court to which they are seconded.

(3) The secondment of prosecutors shall be ordered by the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice, upon proposal:

a) of the general prosecutor of the prosecutor's office attached to the court of appeal where the secondment is requested or in whose jurisdiction the prosecutor's office where the secondment is requested is located, for the secondment of prosecutors from the prosecutor's offices attached to the first instance courts, tribunals, specialised tribunals or courts of appeal to the prosecutor's offices attached to these courts;

b) of the chief prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice where the secondment is requested, for the secondment of prosecutors from the Prosecutor's Offices attached to the first instance courts, tribunals, specialized tribunals or courts of appeal to the Prosecutor's Office attached to the High Court of Cassation and Justice;

c) of the general prosecutor of the prosecutor's office attached to the court of appeal where the secondment is requested or in whose jurisdiction the prosecutor's office where the secondment is requested is located, for the secondment of prosecutors from the prosecutor's office attached to the High Court of Cassation and Justice to the prosecutor's offices attached to first instance courts, tribunals or courts of appeal.

(4) In the case of prosecutors, the proposal for secondment shall be made on the basis of a reasoned request by the head of the prosecutor's office to which secondment is requested.

Art. 183 - (1) The reasoned proposal of the secondment which also covers the period for which the secondment is requested, accompanied by the written consent of the judge or prosecutor whose secondment is requested, shall be sent to the president of the court of appeal where the magistrate works, or, as the case may be, to the general prosecutor of the prosecutor's office attached to the High Court of Cassation and Justice.

(2) In the case of judges, the president of the court of appeal shall send this request to the Superior Council of Magistracy together with his/her opinion. The Superior Council of Magistracy shall draw up, through its specialised department, a report containing the information referred to in paragraph (3).

(3) Secondment shall be ordered taking into account elements such as: the grounds upon which the request is founded, , the professional background of the judge/prosecutor, the

status of the positions that have been filled, of vacancies, of those to become vacant and of the positions that are temporarily vacant within the court from which the secondment is requested and to which secondment is requested, the statistical data from the last 12 months with respect to the work volume and actual workload falling to the judge/prosecutor, including the workload featured in the staffing table, relative to the national average, possible transfer requests drawn up for that court/prosecutor's office, as well as the rate of interdictions laid down in Article 63 paragraph (2) and in Article 141 paragraph (4).

Art. 184 - (1) The requests for secondment to the Superior Council of Magistracy, to the Judicial Inspection, to the National Institute of Magistracy, to the National School of Clerks of Court, to the Ministry of Justice or the entities subordinated to it shall be submitted to the Superior Council of Magistracy, for judges, respectively to the General Prosecutors Office attached to the High Court of Cassation and Justice, for prosecutors by the institutions concerned, shall be approved by the appropriate Section for Judges of the Superior Council of Magistracy, respectively by the Prosecutor General of the Prosecutor's Office of the High Court of Cassation and Justice and shall include the grounds, the duration for which secondment is sought, the office and the duties of the position for which secondment is sought.

(2) For secondments to institutions laid down in paragraph (1), the secondment report that is laid down in Article 183 paragraphs (2) and (3) shall also include mentions concerning the description of the office for which secondment is sought, the manner in which it corresponds to the statute of the office of judge/prosecutor and the manner in which the work of a magistrate shall be reflected in the conducted work that is specific to the office to which he/she is to be seconded.

(3) In case of secondment to full-time trainer positions for which selection procedures are supported, the Section for Judges, respectively, the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice shall issue in advance, at the request of the judge or of the prosecutor, an agreement for the secondment.

(4) In order to transfer the seconded magistrate to a position other than that for which secondment was sought, it is necessary to obtain prior consent from the person who ordered the secondment, with paragraphs (1) and (2) being applied accordingly.

(5) The number of judges and prosecutors seconded into the institutions laid down in paragraph (1) cannot exceed 20% of the total number of positions approved for that institution.

Art. 185 - (1) The secondment cannot exceed three years. The secondment may be extended once, for up to three more years, observing the conditions laid down for the initial secondment.

(2) Requests for extension of secondment shall be dealt with in a similar manner to the procedure laid down for ordering the secondment.

Art. 186 - (1) The secondment of the judge or of the prosecutor may cease prior to the duration for which it was ordered, by means of an act handed down by the person who ordered the secondment, at the request of the institution that sought the secondment, or of the seconded judge or prosecutor, or in case of dismissal from the position of judge or prosecutor. After the secondment elapses, the judge or prosecutor shall resume the office they held prior to the secondment.

(2) If the seconded judge or prosecutor holds a senior office within courts or prosecutor's offices, the senior office shall become vacant within a month from the issuance of the act by means of which the secondment was ordered; when the secondment ceases, the judge or prosecutor shall be duly subjected to the provisions laid down in Article 173 paragraph (2).

Art. 187 - (1) Judges and prosecutors and legal professionals treated as such may hold offices within European Union institutions or within international organisations, should the international act regulating the terms for filling those positions expressly limit access to that office upon the capacity of magistrate.

(2) In the event that the judge, prosecutor or the legal professionals treated as such make known their wish to exercise one of the offices laid down in paragraph (1), and the corresponding section of the Superior Council of Magistracy or the head of the institution ascertain that taking said office is expressly contingent upon the capacity of magistrate through an international act, the person is released from their office of magistrate, by means of resignation, with the position being reserved upon request.

(3) Upon cessation of the offices laid down in paragraph (1), the person is entitled to return to magistracy, within the court or prosecutor's office or department where he/she previously served, and take over the reserved position, under the terms laid down in paragraph (2), or to take a different vacant position within another court or, where applicable, prosecutor's office or department, wherein he/she is entitled to serve, in accordance with the law, if the resignation request did not expressly require that the previously held office be reserved.

(4) The time period wherein a judge or prosecutor held one of the offices laid down in paragraph (1) constitutes length of service in the office of judge or that of prosecutor.

Art. 188 - (1) The transfer of judges and prosecutors from a court to another court or from a prosecutor's office to another prosecutor's office, including to and from military courts and prosecutors' offices or to a public institution shall be approved, upon the request of the concerned persons, by the corresponding Section of the Superior Council of Magistracy, with the reasoned opinion of the president of the court or of the head of the prosecutor's office the person is being transferred from and to, accompanied by the point of view of the presidents of the courts of appeal/general prosecutors of the prosecutor's offices attached to the courts of appeal in whose jurisdiction the court/prosecutor's office is located and where they are being transferred. If the transfer is requested in the jurisdiction of the same court of appeal/the same prosecutor's office attached to the court of appeal, the point of view of the president of the respective court of appeal/general prosecutor of the respective prosecutor's office attached to the court of appeal is required.

(2) The transfer cannot be conducted to courts or prosecutors' offices of superior ranking to those where the judge or prosecutor is entitled to serve, according to the law. Should the transfer be conducted to courts or prosecutor's offices of superior ranking where the judge or prosecutor is entitled to serve in accordance with their professional rank, he/she it must have served for at least one year in a hierarchically inferior court or, as the case may be, in the hierarchically inferior prosecutor's office or in specialized prosecutor's office structures.

(3) Vacant senior offices cannot be taken by means of transfer.

(4) The status of military judge or military prosecutor shall be acquired by transfer or by the procedure for appointing judges as prosecutors and prosecutors as judges, after obtaining the assent of the Ministry of National Defence regarding the fulfilment of the

specific legal conditions for acquiring the status of active officer within this Ministry. The assent of the Ministry of National Defence shall be issued no later than 60 days after the request of the Superior Council of Magistracy.

(5) Judges may be transferred to military courts and prosecutors to military prosecutor's offices if they have at least the rank of tribunal, respectively prosecutor's office attached to the tribunal.

Art. 189 - (1) The launching of the transfer procedure laid down in Article 188 shall be decided, as a rule, semestrial by the President or, as the case may be, the Vice-President of the Superior Council of Magistracy and shall be carried out by means of publishing an announcement to this end on the website of the Superior Council of Magistracy, together with the list of vacancies within courts/prosecutors' offices, as well as a list of the positions to be vacated, with the mention, where applicable, of the section where the vacancy is to be found.

(2) Where the offices of judge are concerned, positions to be vacated shall be taken to mean those positions for which it has been decided, prior to the publication of the list provided for in paragraph (1) or, at the latest, on the date of its publication, to promote those persons to the High Court of Cassation and Justice, to higher courts, as well to transfer them, to appoint judges to the office of prosecutors, to appoint them to take over a senior position or to remove them from office.

(3) Where the offices of prosecutor are concerned, positions to be vacated shall be taken to mean those positions for which it has been decided, prior to the publication of the list provided for in paragraph (1) or, at the latest, on the date of its publication, to appoint those persons within the National Anti-Corruption Directorate, the Directorate for Investigating Organized Crime and Terrorism, to transfer them, to appoint prosecutors to the office of judge, appointment in management positions or to remove them from office.

(4) The reasoned opinion laid down in Article 188 paragraph (1) shall comprise mentions regarding vacancies, the positions already filled and the workload falling to the judge or prosecutor and featured in the staffing table within the court/prosecutor's office from and to which, respectively, transfer is being requested, as well as the tally comprising the outstanding decisions/works of the judge/prosecutor requesting the transfer. The opinion shall be requested immediately after the time limit for submitting the transfer applications elapses and shall be notified to the Superior Council of Magistracy within ten days from the request in 10 days from the request.

(5) For each transfer request, through its specialised department, the Superior Council of Magistracy shall draw up a report that encompasses the relevant data pertaining to the applicant's career as a judge/prosecutor, the grounds on which the application is brought forth, the status of the positions already filled, that of vacancies, the positions to be vacated and those that are temporarily vacant within the court/prosecutor's office from which transfer is requested, as well as within the court/prosecutor's office to which transfer is being sought, the number of previous transfer applications and the grounds for their approval/dismissal as well as, where applicable, the mention whether or not for the office concerned there were requests to appoint prosecutors to the office of judge or, vice-versa, to appoint judges to the office of prosecutor. It is mandatory that the report should comprise the statistical data from the past 12 months with respect to the volume of work and the actual workload falling to the judge/prosecutor, including the workload featured in the staffing table, within the courts/prosecutors' offices involved in the transfer procedure, in relation to the national average, as well as mentions regarding the rate of interdictions laid down in Article 63 paragraph (2) and in Article 141 paragraph (4) or, where applicable,

mentions concerning the judges/prosecutors who were delegated from the court/prosecutor's office where the judge/prosecutor requesting the transfer is serving, as well as from the court/prosecutor's office to which transfer is being requested.

Art. 190 - (1) The transfer applications shall be submitted to the Superior Council of Magistracy within 15 days from the date when the announcement that is laid down in Article 189 paragraph (1) was published. The transfer application shall contain information regarding the judge's/prosecutor's area or expertise and, where applicable, their willingness to serve, within the court/prosecutor's office they are requesting to be transferred to, within any of the sections/panels/departments wherein the requirements of that court's/prosecutor's office demand it.

(2) After all requests have been tallied, a consolidated report concerning the transfer applications that have been submitted and the courts/prosecutors' offices for which transfer was requested shall be published on the website of the Superior Council of Magistracy.

(3) Within five days from the publication date of the information laid down in paragraph (2), the judges/prosecutors may submit, at the Superior Council of Magistracy, transfer applications for the positions that may become vacant following the approval of a transfer application that was drawn up pursuant to paragraph (1). The provisions pertaining to the contents of the application provided for in paragraph (1) shall apply accordingly.

(4) All transfer applications that are drawn up under the conditions of paragraph (1) for a certain vacancy and submitted at the Superior Council of Magistracy within the time limit shall be analysed and settled by the Section for Judges, and by the Section for Prosecutors, respectively, during the same meeting, based on the criteria laid down in Article 192.

(5) The transfer applications drawn up pursuant to paragraph (3) shall be analysed and settled by the Section for Judges/Prosecutors over the course of the meeting following the one laid down in paragraph (4), based on the criteria laid down in Article 192.

(6) Should it deem it necessary, the Section for Judges/Prosecutors may invite the applicant to present their transfer application, either in person or via video conference.

(7) The time limits provided in the transfer procedure shall be calculated according to the provisions of Law no. 134/2010, republished, as subsequently amended and supplemented.

Art. 191 - Decisions on transfer requests may be appealed by any interested party under Article 29 paragraphs (5)-(7) of the Law on the Superior Council of Magistracy.

Art. 192 - When settling the requests to transfer judges to other courts and to transfer prosecutors to other prosecutors' offices, the following criteria are to be taken into consideration:

a) the reasons included in the reasoned opinions and the points of view provided in Article 188 paragraph (1);

b) the volume of work within the court or the prosecutor's office from which transfer is being sought and to which transfer is being sought, the number of vacancies and of temporarily vacant positions within the courts or the prosecutors' offices concerned, and the difficulties encountered with respect to filling them;

c) the specialization of the judge or the prosecutor, the complementary specializations, the seniority within the section or the panel corresponding to the specialization;

- d) the length of service within the court or the prosecutor's office from which transfer is being requested;
- e) the effective seniority in his position of judge, as the case may be, of prosecutor;
- f) the seniority in the degree afferent to the court or the prosecutor's office to which the transfer is requested;
- g) willingness to serve within the section or the panel corresponding to the area of expertise associated with the vacant position;
- h) the domicile or, as the case may be, the residence of the applicant;
- i) the distance between the domicile or, as the case may be, the residence and the headquarters of the court or the prosecutor's office wherein the judge or the prosecutor serves and the actual commuting options, including the time allotted to this;
- j) the state of health and family situation.

Art. 193 - (1) The transfer of a judge or prosecutor to another public institution other than a court or a prosecutor's office shall entail dismissal from office, pursuant to Article 201 paragraph (1) letter (c).

(2) The transfer application, together with the written consent of the institution to which transfer is being sought, shall be submitted at the Superior Council of Magistracy.

(3) The Superior Council of Magistracy, through the specialized department, shall draw up a report comprising the relevant information pertaining to the applicant's career and the grounds underlying the request and shall present it to the Section for Judges or to the Section for Prosecutors, as the case may be.

(4) Should it deem it necessary, the Section for Judges or the Section for Prosecutors may invite the applicant to present their transfer application, either in person or via video conference.

(5) The transfer shall take effect starting from the date when the decree to remove the judge or the prosecutor from office is published.

(6) In justified cases, the Section for Judges or, where applicable, the Section for Prosecutors, may set a time limit of no more than 90 days until the proposal for dismissal by transfer is referred to the President of Romania, and it is within this time limit that the judge or prosecutor is held to fulfill all of his/her duties with respect to completing any ongoing work. The provisions of Article 191 remain applicable.

Art. 194 - (1) Upon their reasoned request, the judges may be appointed as prosecutors within prosecutors' offices attached to courts, and prosecutors may be appointed as judges within courts, by decree issued by the President of Romania, at the proposal of the Section of the Superior Council of Magistracy corresponding to the office to which he/she will be appointed, in accordance with the terms laid down in this law. The proposal for an appointment in the office of judge shall be drawn up by the corresponding section of the Superior Council of Magistracy, with the advisory opinion of the head of the prosecutor's office the person comes from and of the president of the court where the person is to serve, and the proposal to appoint judges in the office of prosecutors shall be drawn up by the corresponding section of the Superior Council of Magistracy, with the advisory opinion of the president of the court where the person is currently operating and that of the head of the prosecutor's office where the person is to operate.

(2) If the appointment is requested according to paragraph (1) in military courts or prosecutors' offices, the appointment of military judges may be made only at the prosecutors' offices attached to the military tribunals, and the appointment of military prosecutors or prosecutors only at military tribunals, provided that those requesting the

appointment have at least the professional degree of tribunal/prosecutor's office attached to the tribunal.

Art. 195 - (1) Requests to appoint a person from the office of judge into the office of prosecutor and from the office of prosecutor into the office of judge shall be settled in sessions that are usually held every six months by the President of the Superior Council of Magistracy.

(2) The request to appoint judges into the office of prosecutor and to appoint prosecutors into the office of judge shall be done in writing and submitted at the Superior Council of Magistracy within 15 days from the date when the announcement and the list of vacancies left open after the transfers were organised in accordance with Article 189 are published on the Council's website. The provisions of Article 190 paragraph (7) remain applicable.

(3) The advisory opinions shall be requested by the Superior Council of Magistracy immediately after the time limit for submitting the transfer applications elapses and shall be sent to the Council within five days from the request.

(4) For each appointment request, through its specialised department, the Superior Council of Magistracy shall prepare a report comprising: the relevant information concerning the judge's or the prosecutor's career, the status of occupied positions, of vacancies, of positions to be vacated and of the temporarily vacant positions within the court or prosecutor's office wherein the judge or prosecutor concerned is serving and within the court or prosecutor's office to which the appointment is being requested, information on the ongoing procedures for the appointment or promotion into the offices of judge or prosecutor, the number of transfer requests that were drawn up for the court or prosecutor's office where the taking of the office is up for proposal in accordance with this article, as well as the volume of work and the workload falling to the judge or prosecutor within the court or prosecutor's office involved in the procedure to take office under the terms laid down by this Article. The contents of the report shall include mentions concerning the difficulties encountered with respect to the filling of vacancies within the court or prosecutor's office where the judge or prosecutor concerned works and within the prosecutor's office or court where the appointment and duration of the vacancy are requested at the court or prosecutor's office concerned.

Art. 196 - (1) The judge or prosecutor requesting the appointment pursuant to Article 195 shall be called for an interview before the section of the Superior Council of Magistracy corresponding to the position to which she/he is to be appointed.

(2) During the interview, the corresponding section of the Superior Council of Magistracy shall take the following aspects into account:

a) the motivation to access the profession of judge and that of prosecutor, respectively;

b) the previous work and professional experience to be presented from the perspective of the manner in which they shall be reflected in the work that is particular to the office he/she shall be appointed into;

c) the existence of skills that are specific to the profession of judge and to that of prosecutor, respectively;

d) elements of ethics that are particular to the profession, following the manner in which the candidate refers to values such as the independence of justice, the impartiality of magistrates, integrity, responsibility.

(3) When settling the applications, as well as in the event that there are multiple requests for a single position, the following criteria shall be taken into consideration:

a) the volume of work within the court or prosecutor's office the applicant is from and to which appointment is being sought, the number of vacancies within the courts or prosecutors' offices concerned, and the difficulties encountered with respect to filling them;

b) the actual length of service in the office of judge or that of prosecutor;

c) length of service within the court or prosecutor's office the applicant comes from;

d) any relevant information included in the report prepared by the specialised department of the Superior Council of Magistracy or in the professional record of the judge/prosecutor.

(4) The decisions handed down by the sections of the Superior Council of Magistracy, by means of which dismissal from the office of judge and appointment as prosecutor is proposed or, where applicable, removal from the office of prosecutor and appointment as judge is proposed, shall be sent to the President of Romania, with a view to handing down the decree. The provisions of Article 193 paragraph (6) shall apply accordingly.

CHAPTER IX

Suspension from and cessation of the office of judge or prosecutor

Art. 197 - (1) The judge or prosecutor shall be suspended from office in the following cases:

a) when him/her was sent to trial for having committed a crime, from the moment when the decision by means of which the preliminary chamber judge ruled to commence the proceedings remains final;

b) when there was an order to remand the person in custody or to put the person under house arrest;

c) when it was ordered that the person be subject to the preventive measure of judicial control or of judicial control on bail legal and the judicial body has established that the defendant be held responsible for not performing his/her duties during the performance of which he/she committed the crime;

d) when the person suffers from a mental illness that prevents him/her from properly exercising his/her duties;

e) when the person was sanctioned for having committed a disciplinary offence, and was sanctioned by being suspended from office;

f) when, over the course of the disciplinary proceedings, the respective section within the Superior Council of Magistracy ordered the suspension from office, in accordance with the law;

g) in the period between the date of communication of the decision of the corresponding section for applying the disciplinary sanction of exclusion from the magistracy and the date of dismissal, if the Section for Judges or the Section for Prosecutors deems this measure is necessary in relation to the nature and gravity of the act and its consequences.

(2) The judge or prosecutor suffering from a condition other than the one laid down in paragraph (1) letter (d), that renders the person unable to exercise his/her duties, may be suspended from office, at their own request, or at the request of the president of the court or of the head of the prosecutor's office, or at the request of the Leading Board of the court or of the prosecutor's office. This measure may only be ordered after expiry of the period for which leave for temporary incapacity for work is granted. The condition shall be ascertained by means of a specialised exam to be conducted by a specialised medical committee appointed by the corresponding section of the Superior Council of Magistracy, based on the nominal proposals of the Minister of Health. The suspension from office shall

be ordered until such time as the person recovers, and this shall be ascertained by means of a new specialised medical exam to be carried out by the medical committee. Through the new exam report, the committee shall also determine the date when the judge or the prosecutor is to come back for another exam. If, as a result of the new exam report, it is found that the person has recovered, the respective Section within the Superior Council of Magistracy may decide to cease suspension and to reinstate the judge or prosecutor in office. If this is not the case, the Section may order that the suspension from office be extended or, if the condition is irreversible, it shall propose to release the person from office by retirement. The methodology regarding the performance of the specialized medical expertise is approved by the corresponding section of the Council, based on the proposals of the specialized medical commission.

(3) The act whereby the measures laid down in paragraph (1) letters (a) to (c) with respect to a judge or prosecutor were ordered shall be notified within 24 hours to the Section for Judges or, where applicable, to the Section for Prosecutors within the Superior Council of Magistracy.

Art. 198 - (1) The suspension of judges and prosecutors from office shall be ordered by the Section for Judges or, where applicable, by the Section for Prosecutors within the Superior Council of Magistracy, starting with the date established in the decision of the Section.

(2) Over the course of the suspension from office ordered pursuant to Article 197 paragraph (1), letters (a) to (c) and (e) to (g), the provisions pertaining to the interdictions and incompatibilities laid down in Articles 227 and 231 shall not apply to the judge and prosecutor and he/she shall not receive their salary rights, but shall benefit from health insurance, where applicable. This period does not constitute length of service with respect to working and serving in office.

(3) Over the course of the suspension from office in accordance with Article 197 paragraph (1) letter (d) and with paragraph (2), the judge or prosecutor shall receive a non-taxable indemnity equal to 80% of the basic monthly net allowance from the last month of work prior to the date of suspension from office and shall be subject to the provisions pertaining to the interdictions and incompatibilities laid down in this Law.

Art. 199 - (1) In the event laid down in Article 197 paragraph (1) point d), the mental illness shall be ascertained by means of a specialised medical examination conducted by a specialised medical committee appointed by the corresponding section of the Superior Council of Magistracy, based on the proposals of the Minister of Health.

(2) When there is indication that a judge or a prosecutor suffers from mental illness, upon notifying the president of the court or the head of the prosecutor's office, the Leading Board of the court or that of the prosecutor's office or of its own initiative, the respective Section within the Superior Council of Magistracy shall order that the judge or the prosecutor submit themselves for the specialised medical exam laid down under paragraph (1).

(3) In the event that the committee ascertains that the judge or the prosecutor suffers from a mental illness that prevents him/her from duly exercising his/her office, he/she shall be suspended from office by means of a decision handed down by the respective Section within the Superior Council of Magistracy. Through the exam report, the committee also determines the date on which the judge or the prosecutor is to come back for another exam.

(4) The suspension from office shall be ordered until such time as the person recovers, and this shall be ascertained by means of a new specialised medical exam to be carried out by the medical committee. If, as a result of the new exam report, it is found that the person

has recovered, the respective Section within the Superior Council of Magistracy shall decide to cease the suspension and to reinstate the judge or prosecutor in office. If this is not the case, the Section may order that the suspension from office be extended or, if the condition is irreversible, it shall propose to release the person from office by retirement.

(5) The methodology for carrying out specialist medical expertise shall be approved by the corresponding section of the Council on the proposal of the specialist medical committee.

(6) In the event that the judge or prosecutor refuses to submit himself/herself to the specialised exams within the set time period and in an unjustified manner or if the expertise cannot be carried out for reasons attributable to the judge or prosecutor, the respective Section within the Superior Council of Magistracy shall order his/her suspension from office for a year. Over the course of the suspension from office on these grounds, the judge and prosecutor shall not receive salary rights, nor shall the provisions pertaining to the interdictions and incompatibilities laid down in Articles 227 and 231 apply to him/her. This period shall not constitute length of service. The suspension from office shall cease prior to the one-year time limit, as a result of the judge or the prosecutor submitting himself/herself to the specialised exam, and the cessation of the suspension shall be ascertained by means of a decision handed down by the respective Section within the Superior Council of Magistracy.

Art. 200 - (1) The Section for Judges or, where applicable, the Section for Prosecutors, shall immediately inform the judge or the prosecutor and the management of the court or prosecutor's office where he/she serves of the decision by means of which the suspension from office was ordered.

(2) Should no further action, an acquittal or cessation of the criminal proceedings against the judge or prosecutor be ordered, the suspension from office shall cease, and the suspended judge or prosecutor shall be reinstated in the previous work situation, he/she shall receive the pecuniary rights he/she was deprived of during the suspension from the executive office or, where applicable, over the course of the entire term of the senior office that the person could not serve due to the suspension. The pecuniary rights that are granted shall be increased, indexed and updated on the payment date, including the legal remunerative interest, and these payment obligations shall be set by means of an Order handed down by the President of the High Court of Cassation and Justice or, as the case may be, of the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice. The length of service of the judge or prosecutor in the office of judge or prosecutor over the course of this period shall be acknowledged.

(3) The suspension from office also ceases in the situation where the acquittal or termination of the criminal process is pronounced in the first instance. In this case, the rights provided for in paragraph (2) are granted after the judgment of acquittal or termination of the criminal process remains final.

Art. 201 - (1) Judges and prosecutors shall be removed from office in the following cases:

- a) resignation;
- b) retirement, in accordance with the law;
- c) transfer to another office, under the law;
- d) professional incapacity;
- e) as a disciplinary sanction;
- f) the final conviction of the judge or prosecutor;

g) postponement of the application of the punishment, waiver of the application of the punishment, ordered by a final court decision, as well as waiver of the criminal investigation confirmed by the judge of the preliminary chamber, except for the situations in which these solutions were ordered for crimes committed unintentionally, for which the corresponding section of the Superior Council of Magistracy considers that it does not affect the prestige of justice;

h) at the expiration of the term of one year provided in Article 199 paragraph (6) in which the magistrate did not appear, unjustifiably, at the specialized expertise or if the expertise cannot be carried out for reasons attributable to the judge or prosecutor;

i) non-fulfillment of the conditions provided in Article 5 paragraph (3) letters a) and e);

(2) The removal of judges and prosecutors from office shall be ordered by Decree handed down by the President of Romania, at the proposal of the corresponding Section of the Superior Council of Magistracy.

(3) The removal of trainee judges and that of trainee prosecutors from office shall be conducted by the corresponding section of the Superior Council of Magistracy.

(4) The transfer to reserve or retirement of military judges and prosecutors shall be made, in accordance with the law, from the date of dismissal by the President of Romania, including in the case of retirement.

(5) When appointing judges to the position of prosecutor and prosecutors to the position of judge, as well as to the transfer of military judges and prosecutors to courts or prosecutors' offices, other than military ones, the transfer to the reserve or retirement is made in accordance with the law, from the date provided for in the transfer or appointment deed.

(6) In the event that the judge or prosecutor requests to be removed from office by means of resignation, in justified cases, the corresponding Section of the Superior Council of Magistracy may set a maximum period of 90 days on which the resignation becomes effective, and during this time the judge or the prosecutor is required to fulfil all his/her duties with a view to completing the ongoing work. The president of the court or the head of the prosecutor's office, shall take the necessary steps to ensure that, by the time of dismissal, the judge or prosecutor has concluded his ongoing work.

(7) The judge or prosecutor who has been removed from office for reasons not imputable to him/her shall retain the professional rank he/she acquired when moving up in the hierarchy of courts or prosecutors' offices.

Art. 202 - (1) In the event that the judge or prosecutor exercises the appeal proceedings laid down by law against the decision of the section of the Superior Council of Magistracy to remove him/her from office or against the decision by means of which the removal from office is proposed, he/she shall be suspended from office until such time as the case is finally settled by the competent court.

(2) During the suspension laid down in paragraph (1), the provisions pertaining to the interdictions and incompatibilities laid down in Articles 227 and 231 shall not apply to the judge or prosecutor, nor shall salary rights be paid to him/her. During the same period, the judge or prosecutor's health insurance contributions shall be paid, where applicable, in accordance with the law.

Art. 203 - (1) Within three days from the moment when the decision handed down in a criminal case with respect to a magistrate becomes final, the enforcement court shall send the corresponding section of the Superior Council of Magistracy a copy of the operative part of the decision.

(2) For the purposes of this Law, judges, prosecutors, assistant-magistrates and legal professionals treated as judges and prosecutors who have been removed from office by resignation, retirement and transfer, shall be considered to have been removed from office for reasons not attributable to them, except for the case that, after the resignation, retirement or transfer, the disciplinary sanction of exclusion from magistracy was applied.

TITLE III

Rights, duties, incompatibilities and interdictions

CHAPTER I

Rights and duties

Art. 204 - Establishing the rights of judges and prosecutors shall consider the place and role of the Judiciary under the Rule of Law, the responsibility and complexity of the offices of judge and prosecutor, the interdictions and incompatibilities provided in the law for these offices, and shall aim at safeguarding their independence and impartiality.

Art. 205 - (1) For the performed activity, the magistrates are entitled to a monthly remuneration established in relation to the level of the court or of the prosecutor's office, to the office held, and, where applicable, to the length of service and to other criteria provided by the law.

(2) The salary rights of judges and prosecutors may not be reduced or suspended, except in the cases provided by this Law. The pay system of judges and prosecutors shall be established by means of the special Law on wages and other salary rights within the Judiciary.

(3) Military judges and prosecutors are active members of the Ministry of National Defense and shall have all the rights and duties arising from this capacity. The obligations as military and the command military structure cannot affect the independence of the military judges and prosecutors in the exercise of the judicial tasks.

(4) The salaries and the other rights due to military judges and prosecutors shall be provided by the Ministry of National Defence, in accordance with the legislation on salaries and other rights of the personnel within the bodies of the Judiciary and with the regulations on the material and pecuniary rights specific to the quality of military active member. In the event that certain rights are provided for both in the legislation applicable to personnel of the justice system and in that applicable to military personnel, the military judges and prosecutors opt for one of these rights.

(5) The granting of military ranks and advancement to the next military rank, on time, of military judges and prosecutors shall take place in accordance with the legal provisions applicable to the military personnel of the Ministry of National Defence.

(6) Advancement to the next military rank is made upon the proposal of the president of the Military Court of Appeal, for military judges and upon the proposal of the chief military prosecutor of the Military Prosecution Section within the Prosecutor's Office attached to the High Court of Cassation and Justice, for military prosecutors.

(6) Promotion to executive positions or appointment to managerial positions in military courts and prosecutors' offices may be made regardless of the military rank corresponding to the respective position, the participation in these procedures being conditioned by holding the qualification of military judge or military prosecutor.

Art. 206 - Judges, prosecutors, assistant-magistrates and legal professionals treated as judges and prosecutors are free to organise or to accede to local, national or international professional organisations, for the protection of their professional rights and interests, and they may be members of scientific or academic bodies, as well as of any legal entities of private law that do not have a pecuniary-related purpose, and they may also be part of their management bodies.

Art. 207 - (1) Judges and prosecutors that are in office or retired are entitled to special measures of protection against threats, violence or any acts that jeopardise them, their families or their property.

(2) The special measures of protection, the conditions and the manner of putting them into practice shall be set forth by Government Decision, upon the proposal of the Ministry of Justice and of the Ministry of Internal Affairs, with the endorsement of the Superior Council of Magistracy.

(3) The concrete protection measures ordered by the competent bodies for each separate case shall be notified at once, but no later than 48 hours, to the Superior Council of Magistracy.

Art. 208 - (1) Judges and prosecutors, including retirees, shall be granted compensation paid from the approved budget of the High Court of Cassation and Justice, of the Ministry of Justice, of the Public Ministry or of the Ministry of National Defence, where applicable, in the event that their life, health or property are damaged while exercising their office duties or with respect to them.

(2) The compensation laid down in paragraph (1) shall be subject to the conditions established by Government Decision, with the endorsement of the Superior Council of Magistracy.

Art. 209 - (1) Judges, prosecutors, assistant-magistrates and legal professionals treated as judges and prosecutors shall benefit from an annual paid leave of 35 working days.

(2) Judges and prosecutors shall be entitled to paid leaves for attending courses or other forms of specialisation organised within the country or abroad, for preparing and sitting for the capacity and the PhD examination, as well as to leaves without pay, pursuant to the Regulation on the leaves of absence of magistrates, approved by Decision issued by the corresponding section of the Superior Council of Magistracy, to be published in the Official Gazette of Romania, Part I.

(3) Judges and prosecutors are entitled to social health insurance and other leave and allowances in accordance with the legislation in force.

Art. 210 - (1) Judges and prosecutors shall be entitled to lodgings for work purposes or to be reimbursed the amount of money spent for renting lodgings, within the limits and conditions laid down by law.

(2) The contract for renting the service dwellings terminates on the date of dismissal, including by retirement, of the holder.

(3) Annually, judges and prosecutors shall be entitled to six national round trips, free of charge, for first class railway, vehicle, sea and air transportation or to the reimbursement of 7.5 litres of fuel/100km for six national round trips if travelling by car. These rights do not pertain to the salary and shall not be taxed.

(4) The Judges and prosecutors who are in office or retirees, their spouse as well as the children under their care receive free health care consisting of medical services, medicines

and prostheses, which are paid for out of the single national health insurance fund, except for the personal contribution/co-payment which is paid for out of the budget of the main authorising officers, under the conditions of the framework contract of the social health insurance system and compliance with the legal provisions on the payment of social insurance contributions.

(5) The terms for the free provision of medical care, of medication and prostheses provided in paragraph (4) shall be laid down by Government Decision. These rights do not pertain to the salary and shall not be taxed.

Art. 211 - (1) Judges, prosecutors, judges of the Constitutional Court, assistant magistrates of the High Court of Cassation and Justice and the Constitutional Court and legal professionals treated as judges and prosecutors, regardless of age, with a length of service of at least 25 years in positions of judge, prosecutor, judge at the Constitutional Court, assistant - magistrate at the High Court of Cassation and Justice and at the Constitutional Court, specialized personnel treated as judges and prosecutors, financial judge, financial prosecutor or accounts advisor from the jurisdictional section of the Court of Accounts, lawyer, legal specialist staff in former state arbitrations, court clerk with legal higher education, legal advisor or jurisconsult can retire upon request and may benefit from a service pension in the amount of 80% of the calculation basis represented by the monthly gross employment allowance and the increases received in the last month of activity before the retirement date.

(2) For each year that exceeds the seniority provided in paragraph (1), 1% of the calculation basis shall be added to the amount of the service pension, without being able to exceed it.

(3) Judges, prosecutors, judges from the Constitutional Court, assistant magistrates from the High Court of Cassation and Justice and from the Constitutional Court and the professionals treated as judges and prosecutors, with a length of service between 20 and 25 years only in these positions may benefit from the service pension at the age of 60, in this case the amount of the pension being reduced by 1% of the calculation basis for each year that is missing from the full seniority of 25 years. The provisions of paragraph (4) applies accordingly to the persons provided for in this paragraph.

(4) The persons with a length of service of at least 25 years only in the positions listed in paragraph (1) may retire at the age of 60 and may benefit from a service pension, even if at the date of retirement, they have another occupation. In this case, the service pension is equal to 80% of the calculation basis established by reference to an active judge or prosecutor, in identical conditions of position, seniority and professional degree. Only persons who have been dismissed for non-attributable reasons may benefit from this service pension.

(5) Judges, prosecutors, assistant magistrates and legal professionals treated as judges and prosecutors are entitled to an invalidity pension in the amount of 80% of the service pension calculated according to the calculation basis from paragraph (1), under the conditions provided by the legislation regarding the public pension system. On the date of fulfilling the conditions provided by this law, the beneficiaries of the disability pension may request a service pension.

(6) The personnel who is entitled to the service pension established according to this law, to the service pension established according to other normative acts or pension in the public pension system has the obligation to opt for one of these pensions.

(7) The pensions provided by this Article, except for paragraph (5), have the legal regime of an old-age pension.

Art. 212 - (1) Upon the age of 60, the surviving spouse of the judge or prosecutor shall be entitled to the survivor's benefit, pursuant to the legislation concerning the public pensions system, calculated out of the paid service pension or out of the service pension the provider would have been entitled to on the date of his/her passing, updated, where applicable.

(2) The under-age children of the deceased judge or prosecutor, children over 18, until such time as they finalise their studies but are no more than 26 years old as well as children with disabilities shall be entitled to the survivor's benefit, in a percentage calculated out of the paid service pension or out of the service pension to which he/she would have been entitled on the date of the passing of the magistrate, updated, where applicable, pursuant to the legislation concerning the public pensions system and in the percentages provided by this Law, depending on the number of inheritors.

(3) If, on the date of his/her death, the judge or prosecutor does not fulfil the conditions for receiving a service pension, the under-age children, children over 18, until such time as they finalise their studies but are no more than 26 years old as well as children with disabilities shall be entitled to a survivor's pension amounting to 75% of the gross salary of the deceased holder during the last month of professional activity, as laid down in Article 211 paragraph (1), pursuant to the legislation concerning the public pensions system.

Art. 213 - (1) The amount of the service pension, including invalidity pension and survivor's pension which exceeds the level of the pension from the public system or, as the case may be, is not covered pursuant to the legislation concerning the public pensions system shall be covered by the State budget.

(2) The service pensions, including invalidity pension and survivor's benefit are updated as a percentage whenever the monthly gross employment allowance is increased for judges or prosecutors in activity, in identical conditions of function, seniority and professional rank. The update is made by applying on the pension the percentage increase of the monthly gross employment allowance for judges or prosecutors in activity, in identical conditions of position, seniority and professional degree. The date of the update and the percentage increase of the gross monthly employment allowance are communicated to the National Public Pension House or the competent territorial or sectoral pension house by the principal ordinarators involved.

(3) Retirement applications formulated for the granting of the service pensions provided by this law shall be submitted to the competent territorial or sectoral pension house. The payment of the pension is made from the date provided in the decree of the President of Romania as that of dismissal or, in case of lack of such data, from the date of publication in the Official Gazette of Romania, Part I, of the decree of the President of Romania.

(4) On the date on which the conditions laid down by law are met, the competent pension fund shall automatically determine the old-age pension which forms part of the service pension.

Art. 214 - (1) Judges, prosecutors, assistant-magistrates and legal professionals treated as judges and prosecutors who, even after having been removed from office, have received final sentences or were subject to postponement of enforcement of the sentence for a crime involving corruption, a crime equated to acts of corruption, an offense of service or an offense in connection therewith, or an offense against the administration of justice,

committed before dismissal, shall not be entitled to the service pension laid down in Article 211. Such persons shall be entitled to a pension under the public system, under the law.

(2) The commencement of criminal proceedings for one of the crimes laid down in paragraph (1) shall lawfully entail the suspension of settlement of the request to grant the service pension or, where applicable, the suspension of payment of the service pension, if the latter was provided by the time when the case was finally settled. During this period, the person with respect to whom criminal proceedings were initiated shall be entitled, under the law, to a public system pension.

(3) If it is ordered that the case be closed, that the prosecution cease, that the person be acquitted, that the criminal proceedings be ceased or that the sentence with respect to the judge, prosecutor, assistant-magistrate or legal professionals treated as judges and prosecutors be dropped, he/she shall be reinstated in the previous situation and shall be paid the service pension that he/she was deprived of as a result of the commencement of criminal proceedings or, where applicable, the difference between such pension and the public system pension he/she received after the criminal proceedings were initiated.

(4) The conviction or the ruling ordering postponement of enforcement of the sentence, which remained final, shall be notified by the enforcement court to the Superior Council of Magistracy.

(5) The corresponding section of the Superior Council of Magistracy shall inform the National Public Pensions House with respect to the occurrence of one of the situations laid down by this Article, the effect of which is the granting, suspension, cessation or resumption of payment of the service pension or, where applicable, the suspension or resumption of the procedure to settle the application for granting the service pension. Informing the corresponding section of the Superior Council of Magistracy shall entail the necessary elements for the application of the respective measure by the territorial pension houses, including the person's identification data, the legal grounds of the measure, as well as the date when it begins to apply.

Art. 215 - Judges, prosecutors, assistant-magistrates and legal professionals treated as judges and prosecutors in respect of whom the disciplinary action of exclusion from magistracy was established shall not be entitled to the service pension laid down in Article 211. Such persons may be entitled to a pension under the public system, in accordance with the law.

Art. 216 - (1) Judges, prosecutors, assistant-magistrates, as well as legal professionals treated as judges and prosecutors may be kept in office until they reach the age of 70. After turning 65 years old, magistrates shall only be kept in office with the annual approval of the corresponding section of the Superior Council of Magistracy or of the head of the institution, according to the case.

(2) The reinstatement in the position of judge or prosecutor of the former magistrates released from office by retirement is made without competition in the courts or, as the case may be, in the prosecutors' offices attached to them where they have the right to function according to their professional rank at the time of retirement. Re-employment is done only at courts or prosecutors' offices that cannot function normally due to the large number of vacancies or other objective reasons and only if the magistrate has been released from office in the last 3 years prior to re-employment. During the re-employment period, the amount of the service pension is reduced by 85%. The provisions of this paragraph shall apply accordingly to the other staff referred to in paragraph (1).

(3) Re-employment in office shall be carried out in compliance with the jurisdiction laid down by law for appointment in those offices.

(4) Upon removal from office, the personnel maintained in office according to paragraph (1) or re-employed according to paragraph (2), as the case may be, have the right to request the recalculation of the service pension, taking into account the period worked from the date of the retirement decision until the date of dismissal by decree of the President of Romania, under the conditions of Article 211 paragraph (2), by reference to the function held and to the calculation basis from this last date.

Art. 217 - Judges, prosecutors, assistant-magistrates, as well as legal professionals treated as judges and prosecutors who have been removed from office by means of retirement may cumulate the service pension with income earned from a professional activity, regardless of the level of said income.

Art. 218 - (1) The judge and the prosecutor must complete his/her work by the date when he/she is removed from office by means of retirement.

(2) To this end, the judge, prosecutor, assistant-magistrate or legal professionals treated as judges and prosecutors intending to request removal from office by way of retirement shall be held to notify in this respect the president of the court/head of the prosecutor's office or of the institution and the Superior Council of Magistracy, in writing, at least 90 days prior to the date laid down in his/her application as being the date on which he/she was removed from office by way of retirement. The president of the court or the head of the prosecutor's office/institution shall take the necessary steps to ensure that, by the time when he/she is removed from office by way of retirement, the judge or the prosecutor has concluded his/her ongoing work.

Art. 219 - With a view to applying the provisions of this Law concerning service pensions, Implementing Rules approved by Government Decision, upon the proposal of the Ministry of Justice, may also be issued.

Art. 220 - (1) For outstanding merits in their activity, judges and prosecutors may be awarded the "Judicial Merit" Diploma.

(2) The "Judicial Merit" Diploma shall be granted by the President of Romania, upon the proposal of the plenum of the Superior Council of Magistracy.

(3) The design and manufacturing of the diploma shall be established by the Minister of Justice, with the approval of the Plenum of the Superior Council of Magistracy.

Art. 221 - (1) For the duration of their term in office, legal professionals within the Ministry of Justice, the Public Ministry, the Superior Council of Magistracy, the National Institute of Forensic Expertise and the National Institute of Magistracy shall enjoy stability and shall be equated to judges and prosecutors, including with respect to sitting the entrance examination, the capacity examination and the rank promotion examination, the assessment of their professional activity, professional training, with the provisions laid down in this Law applying accordingly.

(2) The provisions laid down in this Law with respect to career, incompatibilities and interdictions, rights and duties of judges and prosecutors, as well as irregularities and disciplinary sanctions of judges and prosecutors shall duly apply to the personnel laid down in paragraph (1) as well.

(3) The administrative acts provided by law with respect to the personnel laid down in paragraph (1) shall be issued by the head of the institution wherein the person is employed.

Art. 222 - (1) Judges, prosecutors, assistant-magistrates and legal professionals treated as judges and prosecutors are under the obligation to submit themselves to a psychological evaluation every five years.

(2) Psychological evaluation committees shall be set up by decision of the corresponding Section of the Superior Council of Magistracy or of the head of the institution and they shall include a psychologist from each of the following: the Superior Council of Magistracy, the High Court of Cassation and Justice or the courts of appeal, the Prosecutor's Office attached to the High Court of Cassation and Justice or the prosecutor's offices attached to the courts of appeal, the Judicial Inspection or the National Institute of Magistracy or from the Ledger of Romanian Licensed Psychologists, certified under the law. The results of the psychological exam shall take the form of a report including the psychological profile of each person, the rating 'Recommendable' or 'Not recommendable', as well as the recommendations laid down in paragraph (3).

(3) If, following the psychological evaluation, the judge, prosecutor, assistant-magistrate or legal professionals treated as judges and prosecutors receive the rating 'Not recommendable', the evaluation committee shall notify the corresponding section of the Superior Council of Magistracy or the head of the institution and shall recommend that a specialised medical exam be performed, pursuant to the law, and/or that the person follows a psychological counselling programme for no more than six months, after which the person shall be subjected to a new psychological evaluation, under the terms laid down in this Article.

(4) The psychological evaluation/re-evaluation procedure, including the payment to the committee members and the carrying out of the psychological counselling programme shall be established by decision of the corresponding section of the Superior Council of Magistracy or by order of the head of the institution, respectively.

Art. 223 - (1) Judges and prosecutors shall be held to abstain from any acts or actions that may compromise their dignity in office and in society.

(2) The relationships that judges and prosecutors have within the workplace and in society shall be based on respect and good faith.

Art. 224 - (1) Judges and prosecutors shall be held to conduct their work within the given time limits and to settle cases within a reasonable time limit, depending on their complexity, as well as to observe the secrets of their trade.

(2) The judge and the assistant magistrate shall be obliged to keep in secret the deliberations and votes he/she took part, including after the cessation of his/her term in office.

Art. 225 - (1) During hearings, judges and prosecutors shall observe proper attire within the court where they are serving.

(2) Proper attire shall be established by Government Decision, with approval from the Superior Council of Magistracy, and shall be provided free of charge.

Art. 226 - Judges, prosecutors, assistant magistrates and and the legal professionals treated as judges and prosecutors shall be obliged to submit the asset disclosure and the declaration of financial interests, under the terms and upon the deadlines set forth by law.

Chapter II Incompatibilities and interdictions

Art. 227 - (1) The office of judge, prosecutor, assistant-magistrate and legal professionals treated as legal professionals shall be incompatible with any other public or private position, with the exception of teaching positions within the higher education system, as defined by the legislation in force, and teaching positions within the National Institute of Magistracy and the National School of Clerks.

(2) Persons exercising the offices laid down in paragraph (1) shall be held to abstain from any activity that entails the existence of a conflict between their personal interests and public interest, such that it may influence the impartial and unbiased fulfilment of their duties set forth by the Constitution or by other normative acts.

(3) With respect to their statute of magistrates, judges and prosecutors, including those who have the capacity of an elected member of the Superior Council of Magistracy, are not dignitaries and cannot be part at the same time of the judicial authority and the executive or the legislative powers.

Art. 228 - (1) Judges, prosecutors, assistant-magistrates, legal professionals treated as such, auxiliary specialized personnel and the personnel connex to the specialized personnel of the courts and prosecutors' offices cannot be operative agents, including working undercover, being informants or collaborating with any intelligence service.

(2) Failure to observe the provisions laid down in paragraph (1) shall lead to removal from office, including from the office of judge or prosecutor.

(3) The persons laid down in paragraph (1) shall submit a holograph statement on honour annually, in accordance with criminal law, attesting to the fact that they have not been and are not operative agents, including undercover agents, informants or collaborators with any intelligence service. The statements shall be submitted and archived with the Human Resources Department.

(4) Intelligence services are prohibited from recruiting the persons referred to in paragraph (1) as operative agents, including working undercover, informers or collaborators. Violation of this prohibition is a crime against the independence of the Judiciary and is punishable by imprisonment from 5 to 10 years. If the crime is committed by an officer holding a leading position or at his/her instigation, the limits of the punishment are increased by half. The attempt is punished.

(5) The truthfulness of the information provided in the statements laid down in paragraph (3) shall be checked on an individual basis for each statement by the Supreme Council of National Defence, annually, either ex officio or whenever notified by the Ministry of Justice, the Plenum, the Sections of the Superior Council of Magistracy, or the concerned judge or prosecutor.

(5) The results of checks finding a failure to observe the incompatibility laid down in paragraph (1) shall be presented in a report and communicated to the Superior Council of Magistracy, to the Ministry of Justice, to the person concerned by the checks as well as, upon request, to anyone.

(6) The Supreme Council of National Defence Act laid down in paragraph (6) may be challenged at the competent Contentious Administrative Court within three months from the date on which it was known, by anyone justifying a legitimate interest, in accordance with the law.

Art. 229 - (1) Prior to being appointed in office, judges, prosecutors, assistant-magistrates and legal professionals treated as legal professionals treated as judges and prosecutors who were at least 16 years old on 1 January 1990 shall have to submit an authentic statement on honour, pursuant to criminal law, concerning their membership or lack thereof, as agents or collaborators of state security bodies, as political police, in accordance with the law.

(2) The persons laid down in paragraph (1) who, by the date when this Law enters into force, have not submitted the statement laid down in paragraph (1), shall be obliged to do so not later than 30 days from this date.

(3) The National Council for the Study of 'Securitate' Archives shall check the statements laid down in paragraphs (1) and (2). The results of the checks shall be notified to the Superior Council of Magistracy and to the Ministry of Justice, where applicable, and shall be attached to the professional records.

(4) If, following the checks performed by the National Council for the Study of 'Securitate' Archives, it is found that the person was an agent or collaborator of state security bodies, as a member of the political police, that person can no longer be appointed into office or, if he/she has already been appointed, shall be removed from office.

(5) The legal provisions on access to one's own record and to the disclosure of the intelligence service as political police shall apply accordingly.

Art. 230 - Judges, prosecutors, assistant-magistrates and the personnel treated as legal professionals treated as judges and prosecutors shall be obliged to submit annual holograph statements on honour mentioning whether their spouse, relatives or relations by marriage up to the fourth degree inclusively exercise a legal office or perform a legal activity or activities of criminal investigation, as well as their workplace. The statements shall be registered and filed in the professional record.

Art. 231 - (1) Judges, prosecutors, assistant-magistrates and legal professionals treated as legal professionals treated as judges and prosecutors shall be forbidden from:

- a) performing commercial activities, either directly or through intermediaries;
- b) performing arbitration activities in civil, commercial or other litigations;
- c) being associates or to members in management, administration or control bodies of companies, credit or financial institutions, insurance/reinsurance companies, national companies or autonomous administrations;
- d) being members of an economic interest group.

(2) In the event of acquiring, by means of inheritance, the capacity of associates or shareholders within companies, credit or financial institutions, insurance/reinsurance companies, national companies, national enterprises or autonomous administrations, magistrates, assistant-magistrates and legal professionals treated as legal professionals treated as judges and prosecutors shall be required to take the necessary measures so that said capacity ceases within no more than a year from the date when it was actually acquired.

(3) By exception from the provisions of paragraph (1) letter (c), judges and prosecutors assistant magistrates and legal staff assimilated to judges and prosecutors may be shareholders or associates pursuant to the Law on mass privatisation.

Art. 232 - Judges, prosecutors, assistant-magistrates and legal professionals treated as legal professionals treated as judges and prosecutors cannot be part of political parties or political groups, nor are they allowed to perform or to participate in activities of a political

nature. When exercising their attributions, they shall be held to refrain from expressing or showing their political opinions in any manner whatsoever.

Art. 233 - (1) Judges and prosecutors may not publicly express their opinion regarding ongoing trials or regarding cases with respect to which the prosecutor's office has been notified.

(2) Judges and prosecutors may not give written or verbal counselling in litigations, even if those trials are pending before courts or prosecutors' offices other than those where they work, and may not perform any other activity that is performed by attorneys, in accordance with the law.

(3) Judges and prosecutors shall be allowed to plead, in accordance with the conditions laid down by law, only in their personal cases, in those of their ascendants and descendants, of spouses, as well as in those of persons placed under their trust or guardianship. Nevertheless, even in such situations, judges and prosecutors shall not use their capacity in order to influence the ruling given by the court or by the prosecutor's office and they shall avoid giving the appearance that they could influence the ruling in any way.

Art. 234 - (1) Judges, prosecutors, assistant-magistrates and legal professionals treated as judges and prosecutors may participate in the drafting of publications, may write articles, specialised studies, literary, artistic or scientific works, may participate in audiovisual broadcasts, except for those of a political nature and may express their views on public policy or legislative initiatives in the field of justice or on other non-political matters of public interest.

(2) Judges, prosecutors, assistant-magistrates and legal professionals treated as judges and prosecutors may be members of examination committees or of committees for drafting laws, internal or international documents and may have the quality of expert in projects with external financing in the field of justice.

(3) The activity undertaken by judges and prosecutors and by the legal professionals treated as judges and prosecutors as trainers within the National Institute of Magistracy or the National School of Clerks of Court, or as members of committees for contests/exams organised within the justice system may be conducted, mainly, outside of the normal work hours within the court/prosecutor's office/institution or without affecting the activity carried out within the court, the prosecutor's office or the institution concerned. For these reasons, the judge or prosecutor may be absent from the court or prosecutor's office, with the approval of the president of the court or of the head of the prosecutor's office, for no more than 30 days over the course of a calendar year.

TITLE IV

Assistant-magistrates within the High Court of Cassation and Justice

CHAPTER I

General provisions

Art. 235 - (1) The first-assistant-magistrate, the chief assistant-magistrates and the assistant-magistrates shall enjoy stability.

(2) The provisions of this law regarding the career, the rights and duties of judges and prosecutors, their incompatibilities and interdictions, and the continuous professional training shall be applied accordingly to the assistant - magistrates from the High Court of Cassation and Justice.

(3) The administrative acts laid down by law with respect to the career of assistant-magistrates of the High Court of Cassation and Justice shall be issued by the President of the High Court of Cassation and Justice.

(4) Assistant-magistrates from the High Court of Cassation and Justice shall be employed according to three classes, as follows:

a) if it is the person's first appointment within the High Court of Cassation and Justice, they shall hold third class;

b) assistant-magistrates having at least three years' length of service in the office of assistant-magistrate may be employed as second class;

c) assistant-magistrates having at least six years' length of service in the office of assistant-magistrate may be employed as first class.

Art. 236 - (1) Third class assistant-magistrates from the High Court of Cassation and Justice shall be appointed in office by the President of the High Court of Cassation and Justice, following a contest.

(2) The promotion of assistant-magistrates to the next class shall be carried out by the President of the High Court of Cassation and Justice on the basis of the minimum seniority provided by the law and of an evaluation of the professional activity.

(3) Judges at appeal courts, tribunals, specialized tribunals and judges and prosecutors from the prosecutors' offices attached to them may be appointed without competition or seconded to the position of assistant magistrate at the High Court of Cassation and Justice.

CHAPTER II

The competition for appointment as grade III assistant-magistrate within the High Court of Cassation and Justice

Art. 237 - Assistant-magistrate vacancies within the High Court of Cassation and Justice shall be filled by means of a competition organised by the High Court of Cassation and Justice.

Art. 238 - (1) Any persons who meet the terms laid down in Article 5 paragraph (3) may submit applications for the competition for the offices of assistant-magistrate within the High Court of Cassation and Justice and who have a seniority of at least 5 years in offices of legal specialty provided by Article 63 paragraph (1).

(2) The seniority requirement must be met on the expiry date of the application submission period.

Art. 239 - (1) The date, the location, the procedure for the contest for third class assistant-magistrate positions, the schedule, the registration fee, the positions put out for competition, as well as the standardised application form (including the candidate's choice of section or department within the High Court of Cassation and Justice) shall be determined by order of the President of the High Court of Cassation and Justice, upon the proposal of the specialised department of the High Court. The list of vacancies, the subjects and bibliography for the contest shall be established by the President of the High Court, upon the proposal of the Leading Board of the High Court of Cassation and Justice. The subject matter and the bibliography of the competition are determined according to the specialisation of each section.

(2) The information laid down in paragraph (1) shall be published on the website of the High Court of Cassation and Justice at least 60 days prior to the date set for the competition.

(3) Applications for the competition shall be submitted to the High Court of Cassation and Justice, within 20 days from the date when the information laid down in paragraph (1) was published.

(4) The amount of the registration fee shall be determined depending on the necessary expenses for organising the competition. The registration fee shall be reimbursed in the event of objective situations preventing a candidate from participating in the competition which occurred before the he/she took the first test of the competition.

Art. 240 - (1) The specialised department of the High Court of Cassation and Justice shall check whether the requirements laid down by law are met.

(2) The findings of the checks laid down in paragraph (1) shall be published on the website of the High Court of Cassation and Justice no later than 25 days prior to the date when the competition is to take place.

(3) Candidates who are rejected following the checks may challenge the results within 48 hours from the time when the list is published on the website of the High Court of Cassation and Justice, before the Leading Board of the High Court of Cassation and Justice. The complaints shall be settled within five days from the expiry of the deadline for submissions. The decision shall be communicated within the same time frame.

(4) Following the decision of the Leading Board, the final list of candidates who meet the conditions for participation in the competition shall be drawn up and shall be made public through the means laid down in paragraph (2).

Art. 241 - (1) The committee responsible for setting the tests and marking the papers and the complaints committee shall be appointed by decision of the Leading Board of the High Court of Cassation and Justice. Each committee shall have a president.

(2) The committees referred to in paragraph (1) shall be made up of judges from the High Court of Cassation and Justice, and appointment to these committees shall be made on the basis of prior written consent.

(3) Persons having their spouse, relatives or relations by marriage, including up to the fourth degree, among the candidates may not be appointed to the committees. All members of the committees shall fill out statements to this end.

(4) Should the incompatibility referred to in paragraph (3) arise after the appointment of the members of the committees, the member concerned shall be obliged to withdraw and immediately notify the president of the committee of the situation, so that they may be replaced.

(5) Substitute members shall also be appointed in the committees referred to in paragraph (2) and shall automatically replace, in the order laid down by the Leading Board, those members of the committee who, for justified reasons, are unable to perform their duties. The replacement shall be carried out by the chairperson of the committee to which the person belongs.

(6) The duties of the committees, of the presidents and of their members shall be set out in the Regulation concerning the competition for filling the vacancies of first magistrate-assistant, magistrate-assistant chief and magistrate-assistant within the High Court of Cassation and Justice.

Art. 242 - Within the commission charged with preparing the exam tasks and with grading the papers there shall be sub-committees for each respective area of expertise of the sections/departments within the High Court of Cassation and Justice where the vacancies

are. Those committees shall prepare the exam tasks for the multiple-choice test intended to check the candidates' theoretical knowledge and the written practical test.

Art. 243 - (1) The competition shall consist of two written tests: a multiple-choice test intended to check the candidates' theoretical knowledge and a written practical test.

(2) The multiple-choice test meant to check theoretical knowledge shall cover the following sets of subjects, depending on the profile:

a) civil law (the section-specific subject) and civil procedural law, for vacant positions of assistant-magistrate within Civil Section I;

b) criminal law and procedural criminal law, for vacancies of assistant-magistrate within the Criminal Section;

c) civil law (the section-specific subject) and civil procedural law, for vacant positions of assistant-magistrate within Civil Section II;

d) administrative, financial and fiscal law and civil procedural law, for vacancies of assistant-magistrate within the Contentious Administrative and Fiscal Section;

e) the case law of the European Court of Human Rights and the case law of the Court of Justice of the European Union, regardless of the profile;

(3) The multiple-choice test meant to check theoretical knowledge comprises 50 questions covering the subjects set out in paragraph (2).

(4) In the multiple-choice test meant to check theoretical knowledge each correct answer receives 0.2 points within the grading system from 0 to 10.

(5) The written practical test consists of drawing up a reasoning for a court decision.

(6) When drawing up the exam tasks for both written tests, the case law of the High Court of Cassation and Justice and that of the Constitutional Court shall be taken into account.

(7) For vacancies for assistant magistrates in other specialised departments of the High Court of Cassation and Justice, the multiple choice test shall take place for two subjects matters, determined by the leading board of the High Court of Cassation and Justice and indicated in the competition notice, as well as for the group of subject matters referred to in paragraph (2) letter (e).

(8) The two subject matters shall be determined taking into account the specific nature of the work of the department and the duties specific to the post to be filled, from among those indicated in paragraph (2), as well as from among the following areas: constitutional law, public international law, communication or language skills.

(9) The written practical test consists of a paper relating to the specific activity of the department and the duties of the post to be filled.

Art. 244 - (1) The grading scales set by the committees charged with preparing the exam tasks shall be displayed at the exam centres, after the end of the final test, together with the task requirements, and shall also be posted on the website of the High Court of Cassation and Justice.

(2) Candidates may object to the grading scale within three days from publication, to be settled by the complaints committee within three days from the expiry of the deadline for submitting objections. The resolutions shall be motivated within three days from the expiry of the deadline for settling objections.

(3) The final grading scales shall be published pursuant to the terms laid down in paragraph (1).

Art. 245 - (1) In the case of the multiple-choice test meant to check theoretical knowledge, the grading and assessment of the papers shall be conducted by means of electronic processing, on the basis of the final grading scales.

(2) Should one or more questions of the multiple-choice test be cancelled following the resolution of the objections to the scale, the points corresponding to the cancelled questions shall be awarded to all candidates.

(3) In the event that, following the settlement of the objections brought forth based on the grading scale, it is ascertained that the correct answer to one of the questions in the multiple-choice test is different from the one indicated in the scale, the scale shall be corrected and only the candidates who chose the correct answer set out in the final scale shall be given the points corresponding to that question.

(4) In the event that, following the settlement of the objections brought forth based on the grading scale, it is ascertained that the answer indicated as the correct one in the initial grading scale is not the only right answer, the score corresponding to that question from the multiple-choice test shall be given for any of the options that were deemed correct in the final grading scale.

Art. 246 - As far as the practical test is concerned, the grading of the written papers shall be carried out by two members of the respective committees charged with preparing the exam tasks and with grading the tests, in accordance with the final assessment and grading scale. The written papers shall be graded from 0 to 10, up to two decimals.

Art. 247 - (1) The results of the competition shall be published on the website of the High Court of Cassation and Justice.

(2) Candidates who are unsatisfied with the results of the competition may bring forth objections within three days after publication, both with respect to the score they obtained in the multiple-choice test to check theoretical knowledge, as well as with regard to the grade obtained in the written practical test.

(3) With a view to settling challenges, the papers shall be resealed and re-numbered and, as far as the written practical test is concerned, the papers shall also be entered in a separate register.

(4) In the written practical test, each paper for which the initial grade was challenged shall be re-graded by two members of the appropriate committee charged with settling challenges, and the grade obtained as a result of the challenges shall be the arithmetic average of the grades given by the two members.

(5) Objections brought with respect to both written tests shall be settled within ten days from the expiry of the time limit set forth in paragraph (2).

(6) The grades awarded following the settlement of the challenges shall be final and cannot be lower than the challenged grades.

Art. 248 - (1) The final grade obtained by the candidate in the competition shall be the arithmetic average of the grades obtained in the two written tests.

(2) In order to fill a vacant position of assistant-magistrate within the High Court of Cassation and Justice, the candidate must obtain at least grade 7 (seven) in each of the two written tests.

(3) The positions shall be filled in the order of the averages obtained, depending on the candidate's choice and within the number of vacant positions to be filled following the competition. The appointment shall only be made within the section or department for which the candidate sat the exam.

Art. 249 - (1) The list with the results of the competition, following the settlement of objections, shall be published on the website of the High Court of Cassation and Justice.

(2) In case there are vacant positions of assistant-magistrate within the sections or, where applicable, within the departments for which positions were made available, the President of the High Court of Cassation and Justice may increase the number of positions to be filled by competition, so that all candidates who obtained equal grades to that of the last candidate who passed as a result of the two written exam tests may be assigned according to sections or, where applicable, to the respective departments.

(3) If there are no vacancies in accordance with paragraph (2), in case of equal averages, the candidates shall be differentiated in order, depending on the grade they obtained in the multiple-choice test meant to check theoretical knowledge, on the greater length of service in the legal field, on whether or not the person holds a PhD in Law, as well as on whether the person has specialised publications.

Art. 250 - (1) The candidates who pass the written tasks shall be subjected to checks with respect to the fulfilment of good repute laid down in Article 5 paragraph (3) letter (c) and shall be scheduled to submit themselves to a medical exam and to psychological testing.

(2) The provisions pertaining to the manner of psychological testing and to checking good repute that were set out for the entrance examination within the National Institute of Magistracy shall also apply accordingly to the competition for the positions of assistant-magistrate.

(3) Candidates who are declared unfit to serve in office from a medical or psychological standpoint, as well as those not having good repute shall be declared as having failed the exam.

Art. 251 - (1) The table containing the final results of the competition shall be validated by the Leading Board of the High Court of Cassation and Justice.

(2) After the competition for the positions of assistant-magistrate within the High Court of Cassation and Justice is declared valid, the President of the High Court of Cassation and Justice shall appoint the candidates who passed the contest into the office of assistant-magistrate.

Art. 252 - Before taking up their duties, assistant magistrates shall take the oath provided for in Article 80 paragraph (1). The provisions of Article 80 paragraphs (2) to (5) shall apply accordingly.

CHAPTER III

The competition for appointment to the office of first assistant-magistrate and for the office of chief assistant-magistrate within the High Court of Cassation and Justice

Art. 253 - (1) The first assistant-magistrate and chief assistant-magistrates shall be appointed by the President of the High Court of Cassation and Justice, following a competition.

(2) The competition laid down in paragraph (1) shall be organised by the High Court of Cassation and Justice, whenever necessary.

(3) The competition consists in the submission of a project on the performance of the duties specific to the senior office for which the person is applying.

(4) Appointment into the offices of first assistant-magistrate and chief assistant-magistrate shall be for a period of 3 years, with the possibility that the person may be reinstated in office, pursuant to this Article.

Art. 254 - (1) The first assistant-magistrate shall be appointed from among chief assistant-magistrates having at least two years' length of service in this office, who received 'Very good' ratings in their last assessment and were not sanctioned on disciplinary grounds over the past three years, unless the disciplinary penalty has been struck off.

(2) Third class chief assistant-magistrates shall be appointed out of the assistant-magistrates having at least three years' length of service in this office, who received 'Very good' ratings in their last assessment and were not sanctioned on disciplinary grounds over the past three years, unless the disciplinary penalty has been struck off.

(3) After a period of two years in office as chief assistant-magistrates, third class chief assistant-magistrates may be promoted to grade II without a competition and, after five more years, to grade I, should they fall within the period of the term of office laid down in Article 253 paragraph (4).

Art. 255 - (1) Assistant-magistrates who were part of intelligence services or who collaborated with them, or those having personal interests which influence or could influence the unbiased and impartial performance of their duties, as laid down by law, cannot be appointed into the offices of first assistant-magistrate and chief assistant-magistrate.

(2) Assistant magistrates who apply for the positions referred to in paragraph (1) shall be required to give a statement on honour, stating that they have not been part of, or collaborated with, the intelligence services, and a statement that they have no personal interest which influences or could influence the unbiased and impartial performance of their duties, as laid down by law.

(3) The National Council for the Study of 'Securitate' Archives and the Supreme Council of National Defence shall verify and communicate, within 15 days of the request of the High Court of Cassation and Justice, whether the assistant-magistrate was a member of intelligence services or collaborated with them.

Art. 256 - The records concerning the vacant position of first assistant-magistrate and the vacant positions of chief assistant-magistrate shall be made public and shall be permanently available on the website of the High Court of Cassation and Justice.

Art. 257 - (1) The time the place of the competition and its calendar, shall be approved by the Leading Board of the High Court of Cassation and Justice and shall be published on the website of the High Court of Cassation and Justice, at least 45 days prior to the date on which the contest is to take place.

(2) Assistant-magistrates shall submit their applications, together with the documents deemed relevant, within ten days from the publication of the date when the competition is to take place.

Art. 258 - (1) The examination committee shall be appointed by decision of the Leading Board of the High Court of Cassation and Justice and shall be composed of three judges from the High Court of Cassation and Justice.

(2) The examination committee shall be presided over by one of the judges.

(3) Members of the Superior Council of Magistracy cannot be part of the examination committee.

Art. 259 - (1) The specialised department of the High Court of Cassation and Justice shall check compliance with the terms laid down by law for registration to take part in the competition.

(2) 25 days prior to the date of the competition, the lists of the candidates whose files have been accepted shall be published on the website of the High Court of Cassation and Justice.

(3) The candidates who are rejected following the checks may bring forth objections within 24 hours from publication, at the Leading Board of the High Court of Cassation and Justice, which are to be settled within three days from the expiry of the submissions period. The results of the settlement of objections shall be published on the website of the High Court of Cassation and Justice.

Art. 260 - (1) The examination of the candidates shall be based on their presentation of a project concerning the performance of duties specific to the office of first assistant-magistrate or chief assistant-magistrate for which they are applying. The project shall be submitted at least seven days prior to the date of the competition.

(2) Candidates shall present the project orally, before the examination committee, which shall give the candidate a grade based on the interview evaluation criteria prepared by the examination committee and published together with the notice of competition.

(3) In order to be declared admitted, the assistant-magistrate must get at least grade 7 (seven).

(4) During the interview, the project regarding the performance of duties specific to the senior position shall be presented and the committee shall check the candidate's managerial and communication skills, essentially targeting his/her capacity for organisation, readiness in decision-making matters, resilience under stress, desire for self-improvement, ability to analyse, to synthesise, ability for foresight, for making strategies and planning for the short, medium and for the long term, capacity for initiative, capacity to quickly adapt, as well as to relate to and communicate with others.

(5) The provisions of Article 161 paragraphs (5), (7) and (8) shall apply accordingly.

Art. 261 - (1) Based on the final grade, the candidate classification table shall be drawn up and shall be published on the website of the High Court of Cassation and Justice.

(2) The office of first assistant-magistrate or that of chief assistant-magistrate shall be taken by the candidate who passed the examination having obtained the top final grade.

(3) In case of a tie, the candidates shall be separated, in order, based on the longest length of service in the office of assistant-magistrate, respectively on the seniority in the functions of specialty provided by art. 63 paragraph (1).

Art. 262 - The Leading Board of the High Court of Cassation and Justice shall validate the result of the competition for appointment into the office of first assistant-magistrate and into the office of chief assistant-magistrate.

Art. 263 - Where work-related interests are concerned, with their written consent, assistant-magistrates may be delegated into the offices of first assistant-magistrate or chief assistant-magistrate by the President of the High Court of Cassation and Justice, for a period not exceeding six months. The delegation of assistant-magistrates may be extended with

their written consent, under the same terms. During delegation, assistant-magistrates shall enjoy all the rights provided by law for the office to which they are delegated.

Art. 264 - (1) The Regulation concerning the competition for filling in the vacant positions of first assistant-magistrate, chief assistant-magistrate and assistant-magistrate, as well as the regulation regarding the evaluation procedure in view of promotion in grade of assistant-magistrates is approved by Order of the President of the High Court of Cassation and Justice.

(2) The regulations laid down in paragraph (1) shall be published in the Official Gazette of Romania, Part I.

TITLE V

The liability of judges and prosecutors

CHAPTER I

General provisions

Art. 265 - Judges and prosecutors shall be civilly, disciplinarily, administratively and criminally liable, in accordance with the law.

Art. 266 - (1) Anyone may notify the Superior Council of Magistracy or the Judicial Inspection, either directly or through the heads of courts of prosecutors' offices, with respect to the unbecoming activity or behaviour of judges or prosecutors, the infringement of professional obligations or their having committed disciplinary misconduct.

(2) The exercise of the right laid down in paragraph (1) cannot concern the rulings handed down by means of court decisions or prosecutor's orders, which are subject to legal remedies.

Art. 267 - (1) Judges and prosecutors may be searched, detained or remanded in custody only with the approval of the Section for Judges or, as the case may be, the Section for Prosecutors of the Superior Council of Magistracy.

(2) The provisions of paragraph (1) are also applied accordingly for the preventive measure of judicial control or judicial control on bail, if the obligation not to exercise the function of judge or prosecutor is to be ordered.

(3) In the event of flagrant offences, judges and prosecutors may be detained and searched in accordance with the law, and the Section for Judges or, where applicable, the Section for Prosecutors shall be notified at once by the body that ordered the taking in custody or the search.

Art. 268 - (1) The State shall bear patrimonial liability for any prejudice caused as a result of miscarriages of justice.

(2) The State's liability shall be established in accordance with the law and it shall not remove the liability of judges and prosecutors who, although no longer in office, have exercised said office in bad faith or with grave negligence, as defined in Article 272.

(3) In the absence of bad faith or of grave negligence, judges and prosecutors shall not be held liable for the rulings that have been handed down.

(4) A miscarriage of justice occurs when:

a) over the course of the proceedings, the performance of certain procedural acts was ordered, severely flouting the legal provisions of substantive and procedural law, by which the person's rights, liberties and legitimate interests were severely infringed upon,

resulting in injury which could not be settled through either ordinary or extraordinary remedies;

b) a final court decision was handed down, in clear violation of the law or the situation of fact resulting from the evidence that was presented in the case, by means of which the rights, liberties and legitimate interests of the person were severely infringed upon, resulting in injury which could not be settled through either ordinary or extraordinary remedies.

(5) A person that, during the course of the proceedings, contributed in any way to committing the miscarriage of justice shall not be entitled to compensation.

(6) The Criminal Procedure Code may regulate specific hypotheses and procedures that could entail State liability and its recourse.

Art. 269 - (1) For compensation of the damage, the injured party may promote an action for damages only against the State, represented by the Ministry of Finance. The court in whose district the plaintiff is domiciled shall have jurisdiction to settle the civil action. The judge or public prosecutor concerned shall immediately be notified by the Ministry of Finance of the claim. In the course of the proceedings, the judge or prosecutor concerned may apply to intervene, in accordance with the Law no. 134/2010, republished, as amended.

(2) Payment by the State of the amounts due as compensation shall be made within maximum six months from the date when the final court decision was handed down.

(3) After being informed of the final court decision handed down in a suit referred to in paragraph (1), the Ministry of Finance shall notify the corresponding section of the Superior Council of Magistracy in order to ascertain whether the miscarriage of justice is the result of the person having exercised the office of judge or prosecutor in bad faith or with grave negligence.

(4) At the request of the corresponding Section of the Superior Council of Magistracy, the Judicial Inspection shall carry out checks with a view to assessing whether the miscarriage of justice is the result of having exercised the office of judge or prosecutor in bad faith or with grave negligence.

(5) The checks laid down in paragraph (4) shall be concluded within 30 days from the notification. The chief-inspector may order the extension of the time limit with no more than 30 days, if there is due cause justifying this measure.

(6) Depending on the capacity of the magistrate concerned, the checks performed by the Judicial Inspection shall be carried out by a committee comprising three judges, judicial inspectors, or three prosecutors, judicial inspectors. In the event that both judges and prosecutors are under scrutiny in the same case, two committees shall be formed, that shall check facts separately, depending on the capacity of the persons under scrutiny.

(7) For the duration of the checks, it shall be mandatory to call the judge and the prosecutor concerned to a hearing. The refusal of the judge or prosecutor under scrutiny to give statements or to submit themselves to hearings shall be ascertained by means of a report and shall not impede the conclusion of checks. The judge or prosecutor concerned shall be entitled to be informed of all documents drawn up as part of the scrutiny process and to request evidence to use in his defence. Inspectors may hear any other persons involved in the case under scrutiny.

(8) The checks shall be concluded by means of a report whereby, based on all the evidence presented, the Judicial Inspection shall ascertain whether the miscarriage of justice was committed by the judge or prosecutor in bad faith or with grave negligence. The report shall be subject to confirmation from the chief-inspector. The chief-inspector may order that the checks be supplemented only once, and on reasonable grounds. The

supplementing shall be carried out by the committee within no more than 30 days from the date when it was ordered by the chief-inspector.

(9) The report shall be communicated to the corresponding section of the Superior Council of Magistracy and to the judge or prosecutor concerned.

(10) After discussing the report drawn up by the Judicial Inspection, the corresponding section of the Superior Council of Magistracy shall hand down the following rulings, within no more than 30 days from the date of the meeting where the report was discussed:

a) it refers back the report to the Judicial Inspection in case the checks are deemed to be incomplete; in this case, the decision must include the facts and circumstances with respect to which the supplementing of the checks is required and the nature of the checks being performed to this end; the supplementing shall be performed within no more than 30 days from the date when it was ordered;

b) it approves the report and ascertains that the miscarriage of justice is the result of having exercised the office of judge or prosecutor in bad faith or with grave negligence;

c) rejects the report on reasonable grounds and states that the judicial error was not committed as a result of the exercise of the function in bad faith or grave negligence.

(11) The decisions adopted pursuant to paragraph (10) points (b) and (c) shall be reasoned within no more than 30 days and shall be notified to the Ministry of Finance within no more than three days from the aforementioned reasoned justification.

(12) The State, through the Ministry of Finance, shall commence the recourse action against the judge or prosecutor if, by means of the decision adopted by the corresponding section of the Superior Council of Magistracy pursuant to paragraph (10), it was ascertained that the miscarriage of justice is the result of having exercised the office of judge or prosecutor in bad faith or with grave negligence.

(13) The time limit for bringing the recourse action is one year from the date when the State paid the due amounts in the form of compensation.

(14) At first instance, the power to settle the recourse action shall fall to the Civil Section within the Court of Appeal from the defendant's place of residence. In the event that the judge or prosecutor against whom the recourse action is brought performs his/her duties within that court or within the prosecutor's office attached to it, the recourse action shall be settled by a neighbouring Court of Appeal, left to the claimant's choice.

(15) Against the decision handed down pursuant to paragraph (14), final appeal may be brought at the respective Section of the High Court of Cassation and Justice.

(16) Judges and prosecutors may conclude a professional indemnity insurance for miscarriages of justice caused by gross negligence in the performance of their duties, in accordance with the law. The insurance shall be fully covered by the judge or prosecutor.

CHAPTER II

The disciplinary liability of magistrates

Art. 270 - (1) Judges, prosecutors, assistant magistrates and legal specialist personnel assimilated to them are disciplinary liable for the culpable commission of disciplinary offenses provided for by law.

(2) Disciplinary liability does not remove criminal or contravention liability for the committed deed, to the extent that service duties were violated. During the criminal trial, the disciplinary procedure for the same act and the same person is suspended.

(3) The disciplinary liability of military judges and prosecutors can only be imposed according to the provisions of this law.

Art. 271 - The following constitute disciplinary infringements:

- a) violation of legal provisions regarding incompatibilities and prohibitions;
- b) unworthy attitudes during work towards colleagues, other staff of the court or prosecutor's office where they work, judicial inspectors, lawyers, experts, witnesses, litigants or representatives of other institutions;
- c) carrying out activities of a political nature or manifesting political beliefs in public or during the service;
- d) the unjustified refusal to receive the requests, conclusions, memoranda or documents submitted by the parties in the process;
- e) unjustified refusal to perform a service duty;
- f) non-compliance by the prosecutor with the orders of the hierarchically superior prosecutor, given in writing and in accordance with the law;
- g) non-compliance, repeatedly, for imputable reasons with the legal provisions regarding the expeditious resolution of cases or repeated delays in the performance of works, for imputable reasons;
- h) non-compliance with the duty to abstain when the judge or prosecutor knows that there is one of the causes provided by law for his abstention, as well as the formulation of repeated and unjustified requests for abstention;
- i) failure to respect the secrecy of the deliberations or the confidentiality of works of this nature, as well as other information of the same nature that he became aware of in the exercise of his duties, except for those of public interest, under the law;
- j) unmotivated absences from work, repeatedly or which directly affect the activity of the court or the prosecutor's office;
- k) interference in the activity of another judge or prosecutor;
- l) unjustified non-compliance with provisions or decisions of an administrative nature ordered in accordance with the law by the head of the court or the prosecutor's office or other obligations of an administrative nature provided for by law or regulations;
- m) using his/her office in order to obtain favourable treatment from authorities or intervening in order to settle certain requests, pretending or accepting to resolve personal or family members' interests, or other persons' interests, other than within the limitations set by the regulated legal framework for all citizens;
- n) non-compliance with the provisions regarding the random distribution of cases;
- o) obstructing the activity of judicial inspectors, by any means;
- p) participating directly or through intermediaries in pyramid-type games, games of chance or investment systems for which the transparency of the funds is not ensured;
- q) failure to draft or sign court decisions or judicial acts of the prosecutor, for imputable reasons, within the terms provided by law;
- r) the use of inappropriate expressions in court decisions or the prosecutor's judicial acts, the total lack of motivation or the motivation clearly contrary to legal reasoning, likely to affect the prestige of justice or the dignity of the position of judge or prosecutor;
- s) exercising the function in bad faith or grave negligence.

Art. 272 - (1) There is bad faith when the judge or prosecutor knowingly violates the rules of substantive or procedural law, seeking to bring harm to a person or accepting that harm is being brought to a person.

(2) There is grave negligence when the judge or prosecutor severely, undoubtedly and inexcusably flouts the rules of substantive or procedural law, through fault of his/her own.

(3) With a view to ascertaining the cases wherein the rules of substantive or procedural law are severely, undoubtedly and inexcusably flouted through fault of the person's own,

the degree of clarity and precision of the flouted rules shall be taken into consideration, as well as the novelty and difficulty of the law matter, in relation with the case law and doctrine in the field, with the severity of the violation, as well as with other objective professional circumstances.

Art. 273 - (1) The disciplinary sanctions that may be applied to magistrates, according to the seriousness of their transgressions, include:

- a) warning;
- b) reduction of the gross monthly indemnity by up to 25% for a period of up to a year;
- c) disciplinary transfer to another court or prosecutor's office, including one of the next lower rank, for an effective period of one to three years;
- d) downgrading in professional grade;
- e) suspension from office for up to six months;
- f) exclusion from magistracy.

(2) The disciplinary sanctions provided for in paragraph (1) shall be applied by the correspondent Section of the Superior Council of Magistracy, in accordance with the law.

(3) Disciplinary sanctions shall be deleted by law in 3 years from the date of enforcement, provided that the judge or prosecutor is not subject to a new disciplinary sanction during this term.

Art. 274 - (1) The provisions concerning judges and prosecutors' disciplinary infringements and sanctions shall also apply accordingly to assistant - magistrates of the High Court of Cassation and Justice, as well as to legal professionals treated as judges and prosecutors, and the procedure for applying disciplinary sanctions is that provided by this law.

Art. 275 - (1) For legal professionals treated as judges and prosecutors, disciplinary sanctions shall be applied by the head of the institution where they are employed, on the proposal of the Disciplinary Committee carrying out the disciplinary investigation of the misconduct. For assistant - magistrates, disciplinary sanctions are applied by the President of the High Court of Cassation and Justice, upon the proposal of the Disciplinary Commission that carries out the disciplinary investigation of the misconduct.

(2) For the legal professionals treated as magistrates, the Disciplinary Commission is constituted at the level of the institution where the staff works and is composed of 5 members: 3 appointed by the management of the institution from among these staff with at least 7 years of service and 2 representatives of these staff, appointed by the joint general assembly of these staff within the institution, by a majority vote of the present members. For subordinate or coordinating institutions where such a committee cannot be set up, the disciplinary investigation may be carried out by the disciplinary committee of the subordinate or coordinating institution.

(3) For the assistant - magistrates, the Disciplinary Commission is made up of five members: three judges appointed by the President of the High Court of Cassation and Justice and two representatives of the assistant - magistrates, appointed by their general assembly, with the vote of the majority of those present.

(4) The substitute members appointed in the same way as the titular members replace the titular members by right, in the event that they are temporarily absent during the disciplinary investigation.

(5) The members of the Disciplinary Committee and the substitute members shall be appointed for a period of four years, with the possibility of being reinstated for a single term, under the same conditions.

(6) The following cannot be part of the Disciplinary Commission, as titular or substitute members:

a) spouses, relatives or relations by marriage, including up to the fourth degree, during the same term;

b) persons who were sanctioned on disciplinary grounds over the past 3 years, unless the disciplinary penalty has been struck off, or who are subject to an ongoing disciplinary inquest; if the inquest begins after appointment into office, the capacity of member ceases, and a new member shall be appointed for the remaining term.

(7) The President of the Disciplinary Committee shall be appointed by secret vote, with a simple majority, from among the committee members.

(8) In the event that the member of the Disciplinary Committee is a spouse, a relative or is related by marriage, including up to the fourth degree, to the person under scrutiny or in the event that he/she has previously ruled with respect to the case under investigation, he/she shall not take part in settling the case in question and shall be duly replaced with one of the substitute members.

(9) The secretarial work of the Disciplinary Board shall be carried out by a secretary and, in his absence, by an alternate secretary appointed by the management of the institution.

Art. 276 - (1) The Disciplinary Committee may be notified by any interested party or ex officio.

(2) The disciplinary notification shall entail the following mentions:

a) the first name, family name, address of the person lodging the application initiating proceedings as well as, where applicable, the office they hold;

b) the first name, family name, office held and department wherein the person against whom the application initiating proceedings was lodged is employed;

c) a description of the act subject to the application initiating proceedings;

d) the legal grounds for the application initiating proceedings and the classification of the act, respectively;

e) indicating the date on which the act was committed, at least by approximation;

f) showing proof underlying the application initiating proceedings;

g) the date and signature of the person lodging the application.

(3) The application initiating proceedings shall be in writing and, to the extent possible, it shall be accompanied by the supporting documents.

(4) The application initiating proceedings shall be closed if it does not include the mentions laid down in paragraph (1), excepting letter e).

Art. 277 - (1) As part of the prior inquiry, the acts and their consequences shall be established, as shall the circumstances wherein they were committed, as well as any other conclusive data which may be taken into consideration in order to qualify the acts as disciplinary transgressions and to ascertain the guilt of the person being investigated or the lack thereof.

(2) Where applicable, the person being investigated shall receive a copy of the application initiating proceedings addressed to the Disciplinary Committee, on pain of nullity.

(3) Summoning and hearing the person being investigated, as well as checking his/her defence, shall be mandatory. The person's hearing must be recorded in writing, on pain of

nullity. The person under investigation may be assisted or represented by an attorney or by another person from within the institution. The refusal of the person concerned to submit themselves for inquiries or to give statements shall be recorded in a report and impede the conclusion of the preliminary inquest.

(4) The person who referred the application initiating proceedings to the Disciplinary Committee may be summoned to submit themselves for a hearing, as may anyone else whose statements are needed in order to settle the case.

(5) The person under investigation or, where applicable, his/her representative or defender shall be entitled to be made aware of all the documents included in the case file and may request that evidence be submitted in his/her defence.

(6) The result of the preliminary inquest shall be recorded in a reasoned report to be submitted by the Disciplinary Committee to the President of the High Court of Cassation and Justice, for assistant - magistrates, respectively to the head of the institution, for the other personnel, within 30 days from the commencement of the inquest.

(7) The work conducted by the Disciplinary Committee shall be recorded in a report to be signed by all its members. The report shall record if the person being investigated did not appear before the Disciplinary Committee.

(8) The decisions of the Disciplinary Commission are adopted in the presence of all members and with the vote of the majority of the members present.

Art. 278 - (1) The solutions ordered by the Disciplinary Committee may be as follows:

a) it may order that the case be closed, on justified grounds, in the event that the legal deadlines are exceeded or if the application initiating proceedings does not contain the elements required by law;

b) it may propose that the head of the institution reject the application initiating proceedings, in the event that the Disciplinary Committee finds that it has no grounds, that the act committed does not constitute a disciplinary infringement, or that the person being investigated is not guilty;

c) it may propose that the application be admitted and that a disciplinary penalty be imposed, in the event that the Disciplinary Committee deems it justified; the proposed sanction shall be proportionate with the severity of the disciplinary infringement that was committed and with its consequences, the causes that led to it being committed, the concrete circumstances wherein the transgression was perpetrated, the degree of guilt, the personal circumstances of the person being investigated, his/her general behaviour at work and the existence of prior disciplinary sanctions in the record of the person under investigation, that have not been struck off.

(2) The measures laid down in paragraph (1) points (b) and (c) shall be ordered by administrative act of the President of the High Court of Cassation and Justice, respectively of the head of the institution, to be drawn up within no more than 20 days from the date of the proposal from the Disciplinary Committee.

(3) In the event that the Disciplinary Committee has indication that the act perpetrated by the person being investigated may be considered a crime, it shall propose the notification of the criminal prosecution authorities.

Art. 279 - To the extent that the President of the High Court of Cassation and Justice, respectively the head of the institution deems it necessary to supplement the preliminary inquest, he/she shall order that additional checks be conducted, and the Disciplinary Committee may, on reasoned grounds, issue a new report or issue a report amending the initial report or maintain the initial report.

Art. 280 - (1) The disciplinary sanction applied cannot be more severe than the one proposed by the Disciplinary Committee.

(2) On pain of absolute nullity, the administrative act laid down in Article 278 paragraph (2) shall necessarily entail the following mentions:

a) the name and surname of the sanctioned person and the description of the act that constitutes a disciplinary offence;

b) the provisions in the legal acts in force that have been flouted by the person being sanctioned;

c) the legal basis underlying the application of the disciplinary sanction;

d) the sanction to be applied;

e) the time limit within which the decision may be challenged and the competent court.

(3) The act laid down in paragraph (1) shall be communicated in writing to the person concerned by the application initiating proceedings and to the author of the application, pursuant to the legal provisions, within no more than ten days from the date of its issuance.

(4) The administrative act of application of the disciplinary sanction can be appealed within 30 days from the communication, to the competent administrative and fiscal court, without going through the preliminary procedure.

(5) The disciplinary sanction is applied within a maximum of 30 days from the completion of the preliminary investigation, but no later than three years from the date of the disciplinary offense.

Art. 281 - (1) The application of a disciplinary sanction to person holding a leading position, other than a warning, shall entail removal from the leading position.

(2) The person removed from a senior office pursuant to paragraph (1) can no longer be appointed into a leading position for a duration of 3 years from the date of application of the disciplinary penalty.

TITLE VI

Transitional and final provisions

Art. 282 - (1) Judges, prosecutors, legal professionals treated as magistrates and assistant-magistrates in office on the date of entry into force of this Law shall be considered to fulfill the terms for the office where they are employed. They shall retain their professional rank and the rights earned pertaining to the professional status and acquired under the law.

(2) The number of mandates for management positions in courts and prosecutor's offices 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.

(3) The persons who benefited from seniority in the magistracy pursuant to Law no. 303/2004 on the statute of judges and prosecutors, republished, as further amendmended and supplemented, keep this seniority.

Art. 283 - (1) The duration of the professional training courses for judicial auditors admitted to the National Institute of Magistracy in 2022 -2024 is 2 years.

(2) During the training period at the National Institute of Magistracy, the judicial auditors provided for in paragraph (1) carry out internships within the courts and prosecutor's offices, in order to know directly the activities carried out by judges, prosecutors and specialized

auxiliary staff. The internships of judicial auditors must have a minimum duration of 3 months in the first year and a minimum of 6 months in the second year.

(3) After the second year of training at the National Institute of Magistracy, judicial auditors admitted to the National Institute of Magistracy in 2022 - 2024 take the psychological test and the graduation exam of the National Institute of Magistracy, according to the provisions of this law.

(4) Graduates of the National Institute of Magistracy who enjoy a good reputation are appointed by the corresponding Section of the Superior Council of Magistracy to the positions of trainee judges or prosecutors, as the case may be, depending on the option expressed, on the basis of the general average, calculated with 3 decimal places, obtained on the basis of the three averages: from the end of each year of study and from the graduation exam of the Institute. If averages are equal, priority is given, in the following order, to candidates who have obtained: the highest final grade in the graduation exam, the highest average of the two years of training at the National Institute of Magistracy, the highest final grade in the entrance exam to the Institute National of the Magistracy, seniority in the positions provided for in Article 63 of the law.

(5) The provisions of this law regarding the initial professional training of judges and prosecutors remain applicable, with the exceptions provided for in this article.

Art. 284 - (1) Contests and exams for which announcements regarding the conduct of the contest or exam were published prior to the entry into force of this law shall be held in accordance with the provisions of the law in force on the date of publication of the announcement.

(2) The provisions of this law do not apply to the procedures for evaluating or occupying positions, other than those provided for in paragraph (1) and no other procedures in progress at the date of its entry into force.

(3) Judges and prosecutors who obtained a professional degree as a result of on-the-spot promotion contests until the date of entry into force of this law maintain this professional degree.

(4) Delegations and secondments in progress at the date of entry into force of this law shall be maintained until the date of expiry of the term for which they were decided.

(5) Until December 31, 2025, the provisions of this law regarding the on-the-spot promotion competition or exam at the courts and prosecutor's offices do not apply. After this date, the number of positions that are put up for competition in order to be promoted on the spot at courts and prosecutor's offices cannot exceed 20% of the total number of vacant positions at each level of courts or, as the case may be, prosecutor's offices.

Art. 285 - (1) The announcements or documents that are published on the internet pages according to this law or are displayed under the conditions of this law must include, obligatorily, the date and time of publication or display of the respective announcement or document.

(2) In the case of announcements or documents that are published, according to this law, on the Internet pages of several institutions, the publication is made, as far as possible, simultaneously. If this is not possible, the deadlines run from the date or, as the case may be, the time of publication of the last announcement/document.

(3) The terms provided by this law are calculated according to the Law no. 134/2010, republished, as amended.

Art. 286 - The transfer of military judges and prosecutors, at the request or as a result of the reduction of positions, is done, depending on the option expressed, to the courts or civil prosecutor's offices where the judge or prosecutor has the right to work, according to his professional rank.

Art. 287 - Judges of the Constitutional Court who, on the date of their appointment, held the position of judge or prosecutor have the right, upon termination of their mandate, to return to their previously held position which is reserved.

Art. 288 - Judges, prosecutors, assistant magistrates and legal specialist personnel assimilated to judges and prosecutors who carry out teaching activities under the law are obliged to have the basic norm at the court, the prosecutor's office or the institution where they work.

Art. 289 - (1) The statute of the assistant - magistrates of the Constitutional Court is regulated by the special law regarding the staff of the Constitutional Court, within a maximum of 90 days from the entry into force of this law.

(2) Until the expiration of the term provided for in paragraph (1), the assistant - magistrates of the Constitutional Court shall enjoy stability, and the provisions of Title III of this law regulating the rights, duties, incompatibilities and interdictions of the assistant - magistrates of the High Court of Cassation and Justice shall apply accordingly to the assistant - magistrates of the Constitutional Court.

(3) The assistant - magistrates of the Constitutional Court carry out their activity under the authority of the President of the Constitutional Court, according to the Regulation on the organization and functioning of the Constitutional Court.

Art. 290 - Judges of the High Court of Cassation and Justice who have served at least 5 years at this court and who have been dismissed for reasons not attributable to them, may choose to become a lawyer or public notary without examination or competition.

Art. 291 - Opinions from the procedures regulated by this law for which their conformity is not stipulated are advisory.

Art. 292 - (1) The provisions of Article 184 paragraph (5) applies 3 years after the entry into force of this law.

(2) Paragraph (2) of Article 210 applies to the rental contracts of service homes concluded after the entry into force of this law.

(3) Article 227 paragraph (3) does not apply to the members of the Superior Council of the Magistracy whose mandate is in progress at the date of entry into force of this law.

Art. 293 - Annexes no. 1 and 2 are an integral part of this law.

Art. 294 - (1) This law enters into force 30 days after its publication in the Official Gazette, Part I.

(2) By way of exception to the provisions of paragraph (1), the provisions of this Law concerning the calculation of seniority without taking into account the period during which the judge or prosecutor has been a justice auditor, in the case of examinations, competitions or selection procedures provided for in this Law, shall enter into force on 1 January 2026. Until that date, the period during which the judge or prosecutor has been a

court auditor shall be taken into account in calculating the seniority provided for in this Law.

(3) Within 90 days from the entry into force of this law, the regulations or other subsequent acts provided for by this law shall be approved.

(4) Until the adoption of the acts provided for in paragraph (3), regulations and subsequent normative acts remain in force to the extent that they do not contravene this law.

(5) On the date of entry into force of this law, the following shall be repealed:

a) Law no. 303/2004 regarding the status of judges and prosecutors, republished in the Official Gazette of Romania, Part I, no. 826 of September 13, 2005, with subsequent amendments and additions;

b) Article 27 paragraph (2¹) from Government Emergency Ordinance no. 27/2006 regarding the salary and other rights of judges, prosecutors and other categories of personnel in the justice system, approved with amendments and additions by Law No. 45/2007, with subsequent amendments and additions;

c) any other contrary provisions.

This draft law was adopted by the Senate in its sitting of 17 October 2022, in compliance with Article 76 paragraph (1) of the Romanian Constitution, republished.

p. PRESIDENT OF THE SENATE

Annex No 1

I. Criteria and indicators for Assessing the Professional Performance of Judges

A. Work efficiency

Article 1 - (1) The efficiency of the work performed by judges shall be assessed based on the following indicators:

(a) clearance rate, calculated solely in relation to newly-received case files (expediency);

(b) the case backlog older than one year/one year and 6 months;

(c) the share of files closed in one year;

(d) draftings, or the case may be, draftings and pronouncements exceeding the legal time limit.

(2) The indicators corresponding to the efficiency criterion will be taken into account according to the workload of the court in the area of specialisation of the judge evaluated, the workload of the judge evaluated, the complexity of cases assigned to him/her and the average effective caseload per country in the same area of specialisation.

(3) When analyzing and awarding scores for the indicators provided in paragraph (1) shall be taken into account the other activities carried out by judges on the basis of provisions of laws and regulations.

(4) The efficiency of the work performed by custodial judges shall be assessed on the basis of the following indicators:

(a) compliance with the time limits for case resolution;

(b) compliance with the legal time limits for drafting rulings and conducting communications laid down by the legal provisions;

(c) carrying out the administrative activities laid down by law, within the legal time limits or, in the absence of such limits, constantly and regularly.

(5) The provisions laid down in paragraphs (2) and (3) shall also apply accordingly with respect to the assessment of the efficiency of the work performed by custodial judges.

(6) The score awarded for the criterion "efficiency of work" shall be reduced accordingly whenever a disciplinary sanction, which has become final during the period under evaluation, has been imposed on the judge under evaluation for one of the following disciplinary offences, unless the disciplinary penalty has been struck off:

(a) repeated and attributable failure to comply with the legal provisions concerning the expeditious resolution of cases or repeated and attributable delay in the performance of work, as referred to in Article 271 letter (g);

b) making repeated and unjustified requests for abstention, provided for in Article 271 letter (h), second thesis;

c) failure to draw up or sign court judgments, for reasons attributable to the person concerned, within the time limits provided for by law, provided for in Article 271 letter (q).

B. Work quality

Article 2 - (1) The quality of the work performed by judges shall be assessed based on the following indicators:

(a) the drafting quality of court decisions;

(b) the number of judgments modified/dismitted/cancelled for imputable reasons, in accordance with the law;

(c) their conduct during the court proceedings and in the exercise of other work-related duties;

(d) the quality of other activities conducted by the judge under assessment;

(2) The quality of the work performed by custodial judges shall be assessed on the basis of the following indicators:

(a) the drafting quality of the minutes they have handed down;

(b) the number of minutes dismissed for attributable reasons when the number of minutes exceeds the national average of minutes dismissed;

(c) conduct in the course of administrative judicial proceedings and other administrative activities;

(d) organising the records concerning the activities performed by the custodial judge;

(3) For the assessment of the indicator referred to in paragraph (1) point a) and paragraph (2) point a), if the assessment of the judgments/minutes handed down shows that they consistently reproduce in full parts the submissions of the parties contained in their applications or the contents of the indictment without summarising them, the score for this indicator shall be reduced accordingly.

(4) For the assessment of the indicator referred to in paragraph 1, point b) and paragraph 2, point b), the following may constitute imputable grounds of illegality arising from the infringement or misapplication of substantive and/or procedural law:

(a) infringement of procedural rules, non-observance of which entails the sanction of nullity;

b) exceeding the powers of the judiciary;

(c) failure to state the reasons for the judgment in full, insertion of contradictory reasons or insertion of reasons unrelated to the nature of the case;

(d) breach of the authority of res judicata;

- (e) infringement or misapplication of substantive rules of law;
 - f) disregarding or ignoring the guidance of the courts of judicial review.
- (5) The Guide for the evaluation of the professional work of judges shall contain concrete examples of aspects of illegality which may constitute imputable grounds within the meaning of paragraph (4).
- (6) The imputable reasons are determined by the judicial review court and will be taken into account in the judge's assessment only if they concern aspects of manifest illegality arising from the violation or misapplication of rules of substantive and/or procedural law, on which there is a uniform practice in the matter. For the purposes of informing the court whose judgment is being appealed, a sheet is drawn up at the court of judicial review, which mentions the imputable/non-accountable nature of the modification/ annulment/quashed.
- (7) The judge whose judgment has been modified/cancelled/quashed for imputable reasons may challenge the imputability by an application to the judicial review court, in which he/she shall state the arguments put forward in detail, within the limits of the issue at stake. The appeal will be examined at the meeting on the analysis of the practice of the judicial review courts and the unification of practice, organised at the level of the relevant section or, where appropriate, of the judicial review court, if there are no sections, in the month immediately following the lodging of the appeal. The decision on the appeal shall be adopted by a majority vote of the present judges, recorded in the minutes of the meeting, and the decision shall be communicated to the judge and, if the appeal is upheld, to the court in which he or she is sitting, for consideration by the evaluation committee.
- (8) The imputable character of the modification/annulment of judgments shall be examined by the evaluation committee when the modification/dismissal index of the evaluated judge exceeds the average index of modification/dismissal calculated for courts of the same level of jurisdiction in the same court of appeal, depending on the court in which the judge concerned is sitting and the subject matter of the judgment, respectively criminal or non-criminal.
- (9) The modification/dismantling index is calculated annually, on the basis of the records held by the courts, by comparing the number of judgments modified/dismantled/quashed on appeals and final appeals in non-criminal matters, respectively in challenges, appeals and appeals for review in criminal matters, with the total number of judgments pronounced in the same reference period. Only judgments by which the court or, as the case may be, the judge of rights and freedoms or the preliminary chamber judge dismisses the case are taken into account. In this respect, the necessary statistical data can be obtained with the assistance of the Superior Council of Magistracy specialised Service.
- (10) The score awarded for the criterion "quality of work" shall be reduced accordingly whenever a disciplinary sanction, which has become final during the period under evaluation, has been imposed on the evaluated judge for one of the following disciplinary infringements, unless the disciplinary penalty has been struck off:
- (a) undignified attitudes toward colleagues, other members of personnel within the court where the person is employed, judicial inspectors, attorneys, experts, witnesses, litigants or representatives from other institutions, provided for in Article 271 letter b);
 - (b) unjustified refusal to receive applications, conclusions, memoranda or documents filed by the parties to a trial, provided for in Article 271 letter d);
 - (c) unjustified refusal to fulfill a work duty, provided for in Article 271 letter e);
 - (d) unjustified absences from work, repeatedly or directly affecting the activity conducted by the court, provided for in Article 271 letter j);

(e) unjustified non-compliance with provisions or decisions of an administrative nature ordered in accordance with the law by the head of the court or other obligations of an administrative nature laid down by law or regulations, provided for in Article 271 letter (l);
(f) failure to comply with the provisions on random case distribution, provided for in Article 271 letter n);

(g) obstructing the activity conducted by judicial inspectors, by any means, provided for in Article 271 letter o);

(h) using inappropriate expressions in the contents of court decisions, or giving a justification that is in clear contradiction with any legal reasoning, such as to bring harm to the prestige of justice or to the dignity of the office of judge, provided for in Article 271 letter r) ;

(i) exercising the function in bad faith or with grave negligence, provided for in Article 271 letter s);

(11) When evaluating the work of judges, their participation as members of committees for the professional evaluation of judges shall also be taken into account.

C. Integrity

Article 3 - The integrity of judges is assessed according to the following indicators: breaches of the Code of Ethics for Judges and Prosecutors, established by final decisions of the Section for Judges of the Superior Council of Magistracy; disciplinary sanctions concerning integrity issues that have become final during the period under evaluation, except in cases where the disciplinary sanction has been struck off; the pronouncement against the evaluated judge of decisions to postpone the application of the penalty, waiver of the application of the penalty, ordered by a final court decision, as well as waiver of the criminal prosecution, confirmed by the preliminary chamber judge, for which the Section for Judges has not proposed the dismissal, under the terms of the law.

(2) For the purposes of paragraph (1), disciplinary sanctions relating to integrity issues shall be disciplinary sanctions for the following disciplinary infringements:

a) the violation of legal provisions pertaining to incompatibilities and interdictions concerning the judges, provided for in Article 271 letter a);

b) carrying out public political activities or expressing their political opinions in public or when exercising their office duties, provided for in Article 271 letter c);

c) failure to comply with the duty to abstain when the judge knows that there is one of the grounds laid down by law for his/her abstention, provided for in Article 271, letter h), thesis l;

d) failure to comply with the secret of deliberation or confidentiality with respect to the work having this nature, as well as other information of the same nature of which the person has been made aware of when exercising his/her work duties, with the exception of public interest ones, pursuant to the law, provided for in Article 271, letter i);

e) involvement in the activity conducted by another judge or prosecutor, provided for in Article 271, letter k);

f) using his/her office in order to obtain favourable treatment from authorities or intervening in order to settle certain requests, pretending or accepting to resolve personal or family members' interests, or other persons' interests, other than within the limitations set by the regulated legal framework for all citizens, provided for in Article 271, letter m);

g) directly participating in pyramid schemes, gambling or investment schemes for which the transparency of funds is not ensured, or doing so through intermediaries, provided for in Article 271, letter p).

(3) Whenever, in the case of the evaluated judge has been pronounced at least one of the solutions provided in paragraph (1), the score awarded for this criterion shall be reduced accordingly.

D. Obligation to engage in continuous training and to attend specialised courses

Article 4 - (1) Analysis of the criterion concerning the continuous training of judges shall take into account the following indicator: willingness to take part in continuous training programmes or in other further training courses, taking part in activities meant to unify the case law and participating in the vocational training of judges, and in the quarterly meetings of custodial judges, as well as the preoccupation for professional development through individual study.

(2) As far as the assessment of this criterion is concerned, the following may also be considered: presenting papers in colloquiums, specialised symposia, having papers and articles published, including contributing to the drafting of case law course books or bulletins, projects and compendiums on legislation, teaching activities, including as an instructor, mentor or person responsible for decentralised continuous training, without failure to carry out one of these activities constituting grounds for a penalty.

II. Criteria and indicators for Assessing the Professional Performance of Prosecutors

A. Work efficiency

Article 5 - (1) The efficiency of the criminal prosecution activity conducted shall be assessed based on the following indicators:

- a) conducting the criminal prosecution within a reasonable time frame, taking into account the complexity of the case and the prosecutor's workload;
- b) taking steps to identify the goods likely to take precautionary measures and taking such measures.

(2) The evaluation indicator provided in paragraph (1) letter a) shall be in relation to the workload of the prosecutor's office in the sector in which the prosecutor conducts his/her work.

(3) As far as ascertaining the complexity of the case is concerned, the following elements shall be considered: difficulties in submitting evidence; the number of parties, of the main parties to the proceedings and of witnesses; the number of crimes being investigated; their nature; the difficulty of questions of law and of fact that require resolution; joining multiple cases, as well as other relevant specific elements.

Article 6 - (1) Efficiency in supervising criminal investigations shall be assessed based on the following indicators:

- (a) the supervision and guidance of law enforcement bodies in the criminal investigation activity, reflected in the periodic and rhythmical checking of the stage and quality of criminal investigation acts performed by law enforcement bodies and following up on the set deadlines, as well as in taking the measures laid down in Article 303 paragraph (3) of the Law no. 135/2010 on the Criminal Procedure Code, as further amended and supplemented;
- (b) conducting procedural acts and resolving cases within a reasonable time frame, taking into account the complexity of the case and the prosecutor's workload.

c) orders given to the criminal investigation bodies to identify assets liable to seizure and the taking of such measures.

(2) The provisions of Article 5 paragraphs (2) and (3) shall apply accordingly.

Article 7 - (1) Efficiency in taking part in court hearings shall be assessed based on the following indicators:

(a) responsiveness in giving statements of grounds for declared appeals, observing the legal and administrative time limits;

(b) timeliness when resolving other matters, specific to judicial activity.

(2) If the activity of the evaluated prosecutor does not concern the indicator provided in paragraph (1) point a), the score related to it is distributed to the other indicator.

Article 8 - (1) The efficiency of the work performed in other sectors shall be ascertained based on the following indicator: responsiveness where the resolution of cases is concerned, observing the legal and administrative time limits.

(2) The indicator for assessing the efficiency of the activity undertaken in other sectors shall be in relation with the prosecutor's workload during the period under assessment and with the workload in the sector wherein the prosecutor conducts his/her work.

Article 9 - (1) With a view to ascertaining the criterion pertaining to the efficiency of the work conducted, the assessment file shall also include the annual submission of the data sheet concerning the prosecutor's workload, filled out by the head registrar in accordance with the information resulting from the ECRIS system; the prosecutor under assessment shall attest to the correctness of the information by means of his/her signature.

(2) Where appropriate, the prosecutor under assessment shall fill out the data sheet concerning complex cases, with his/her signature to be covered by the head of the department or, where applicable, by the head prosecutor of the section, by the head prosecutor of the department, or by the head prosecutor of the office.

(3) The template of the data sheet is established by the Regulation on the evaluation of the professional activity of prosecutors.

B. Work quality

Article 10 - The quality of the criminal prosecution activity shall be ascertained based on the following indicators:

(a) measures and resolutions attributable to the prosecutor, on grounds of illegality existing at the time when the measure was taken or when the solution was ordered by the prosecutor;

(b) the quality of the drafting and reasoning behind the solutions, interpretation of evidence, the quality of the wording and synthesis capacity.

Article 11 - The quality of the activity of supervising criminal investigations shall be ascertained based on the following indicators:

(a) measures and resolutions attributable to the prosecutor, on grounds of illegality existing at the time when the measure was taken or when the solution was ordered by the prosecutor;

(b) the quality of the drafting and reasoning behind the solutions, interpretation of evidence, the quality of the wording and the ability to summarise.

Article 12 - The quality of taking part in court hearings shall be ascertained based on the following indicators:

- (a) drawing up meeting minutes and permanently updating them, exercising one's active role in court hearings and the quality of the conclusions presented during court hearings;
- (b) the quality of the drafting and of the reasoning behind the remedies at law, the accuracy of the legal grounds and the rigour of the statement of facts;
- (c) remedies permitted to the litigants on grounds of illegality, in the cases wherein the prosecutor did not use remedies, remedies that were not declared for reasons attributable to the prosecutor, that withdrawn or rejected on grounds of illegality for reasons attributable to the prosecutor.

Article 13 - The quality of the work performed in other sectors shall be ascertained based on the following indicators:

- (a) the quality of the prepared documentation, the accuracy of the reasoning and the rigour of the wording;
- (b) compliance with the provisions laid down in laws, orders and regulations.

Article 14 - (1) With a view to ascertaining the criterion regarding the quality of the activity conducted, a data sheet filled out by the head registrar and containing the relevant statistical information, as resulting from the analyses and notifications drawn up pursuant to internal regulations and to the orders of the general prosecutor, shall be submitted to the assessment file of the prosecutor annually.

(2) When evaluating the activity of prosecutors, their participation as members of the professional evaluation commissions of magistrates shall also be taken into account.

(3) The template of the data sheet provided in paragraph (1) is established by the Regulation on the evaluation of the professional activity of prosecutors.

Article 15 - If, during the period under assessment, the prosecutor conducts his/her activity in multiple sectors, simultaneously or throughout different periods of time, each of the criteria pertaining to the efficiency and the quality of the activity shall receive a single score of no more than 30 points or, in the event laid down in Article 100 paragraph (5), of no more than 15 points, based on the general appraisal of the activity conducted and taking into account the share of the activity conducted within each sector in the total workload.

C. Integrity

Article 16 - The integrity of prosecutors is assessed according to the following indicators: breaches of the Code of Ethics for Judges and Prosecutors, established by final decisions of the Section for Prosecutors of the Superior Council of Magistracy; disciplinary sanctions concerning integrity issues, which have become final during the period under evaluation, unless the disciplinary sanction has been struck off; decisions to postpone the execution of the sentence, waiver of the execution of the sentence, ordered by a final court decision, as well as waiver of the prosecution, confirmed by the preliminary chamber judge, for which the Prosecutors' Section has not proposed the dismissal of the prosecutor, under the terms of the law.

(2) If at least one of the decisions referred to in paragraph (1) has been handed down in respect of the prosecutor under review, the score for this criterion shall not exceed 24 points.

D. Obligation to engage in continuous training and to attend specialised courses

Article 17 - (1) Upon analysis of the criterion concerning the continuous training of prosecutors, the following indicator shall be considered: willingness to participate in continuous training programmes or in other skills upgrade courses, participating in the vocational training of prosecutors.

(2) As far as ascertaining this criterion is concerned, the following may also be considered: presenting in colloquiums, specialised symposia, having papers and articles published, including contributing to the drafting of case law course books or bulletins, projects and course books of legislation, the person's teaching activity, including that of instructor, of mentor, of person responsible for decentralised continuous training; failure to perform any of these activities shall not constitute grounds for deducting points.

III. Indicators for assessing professional performance of judges in senior positions

Article 18 - (1) The activity conducted by judges in senior positions shall be assessed via the following indicators:

1. capacity for leadership and organisation;
2. capacity for control;
3. decision-making capability and accountability;
4. behaviour and communication.

(2) The assessment of the indicators laid down in paragraph (1) shall be conducted including in relation with the means of implementing and achieving the objectives set through the proposal pertaining to the exercise of duties specific to the senior position, presented by the judge under assessment as a candidate for that position.

Article 19 - The integrity of judges in senior positions shall be ascertained based on the indicators laid down in Article 3 of the Annex.

Article 20 - Upon analysis of the criterion concerning the continuous training of judges in senior positions the indicators laid down in Article 4 of the Annex shall be considered.

Article 21 - If the judge is assessed with respect to both the executive position and the senior position, the assessment report shall provide a single score under the criteria "integrity" and "the obligation of continuous training".

IV. Indicators for assessing professional performance in the case of prosecutors in senior positions

Article 22 - The activity conducted by prosecutors in senior positions shall be assessed via the following indicators:

1. capacity for leadership and organisation;
2. capacity for control;
3. decision-making capability and accountability;
4. behaviour and communication.

Article 23 - The integrity of prosecutors in senior positions shall be ascertained based on the indicators laid down in Article 16 of the Annex.

Article 24 - Upon analysis of the criterion concerning the continuous training of prosecutors in senior positions the indicators laid down in Article 17 of the Annex shall be considered.

Article 25 - If the prosecutor is assessed with respect to both the executive position and the senior position, the assessment report shall provide a single score under the criteria “integrity” and “the obligation of continuous training”.

Annex No 2

Criteria and indicators for assessing the professional activity conducted by legal professionals treated as judges and prosecutors

Ref. No	Criterion	Indicators for scoring the criterion
1.	Efficiency of professional activity	Compliance with the time limits for case resolution; Promptness and timeliness with respect to awarding a solution in cases assigned for that purpose, in relation with their number and complexity; The capacity to solve matters exhibiting a high degree of complexity; Willingness to solve matters in relation with the job description.
2.	Quality of work performed	The drafting quality of the papers: coherent structure, clear reasoning, legal logic, correct and precise wording, capacity for interpreting and enforcing the law, capacity to summarise, clear and concise style, independent/critical thinking; Proof of legal knowledge, depending on the area of expertise and field wherein the person conducts his/her work; - Correct, clear and logical verbal communication; Capacity to accept the errors or shortcomings of one’s own work and to be held accountable for them; The manner of carrying out other activities: participating in various committees, in organising examinations or competitions, conferences, etc.
3.	Integrity	Compliance with the professional Code of ethics; Compliance with the law, with the working rules and procedures laid down for one’s activity, as well as with the legal provisions concerning incompatibilities, interdictions and the conflict of interest; Disciplinary sanctions applied, unless the disciplinary penalty has been struck off; Dignified behaviour, self-control, respectful attitude towards the people one interacts with.
4.	The obligation to engage in continuous training and	Knowing and thoroughly studying the legislation, doctrine and case law in one’s field of work; An interest and willingness for individual training; Taking part in continuous training programmes, including courses for learning new languages or taking a more in-depth approach to languages one is already

	to attend specialised courses	familiar with, courses for learning basic computers skills or courses for more advanced computer users or in other types of professional advancement (seminars, debates, consultations, etc.).
5.	The manner of fulfilling one's managerial duties (where senior positions are concerned)	<p>The capacity to organise activities that are specific to that department, through a balanced and fair assignment of tasks, while also taking into account the person's area of expertise;</p> <p>The authority and decision-making capacity in organising activities that are specific to that department;</p> <p>The capacity to monitor and assess the activity undertaken at the level of the department;</p> <p>The capacity to coordinate and to manage the human resources existing at department level: communication skills, motivating subordinates, identifying their need for professional advancement, being unbiased and impartial when it comes to assessing the work performed by subordinates;</p> <p>The attitude exhibited in one's relationships with subordinates, colleagues, petitioners, other institutions;</p> <p>Mediation, negotiation and conflict resolution skills.</p>