

**amending and completing the Law no.303 / 2004 on the status of judges and prosecutors**

**The Romanian Parliament adopts this law**

Art.I- Law no. 303/2004 on the status of judges and prosecutors, republished in the Official Gazette of Romania, Part I, no.826 of 13 September 2005, as subsequently amended and supplemented, shall be amended and completed as follows:

**1. In Article 1, after paragraph (1), a new paragraph (2) shall be inserted, with the following wording:**

"(2) The career of the judge is separate from the career of the prosecutor, the judges being unable to interfere in the career of the prosecutors and the prosecutors in the judges'."

**2. In Article 2, paragraph (3) shall be amended and shall have the following content:**

"(3) Judges are independent and subject only to the law. Judges must be impartial having full freedom in settling the cases brought to justice in accordance with the law and impartially, respecting the equality of arms and the procedural rights of the parties. Judges have to make decisions without any restrictions, influences, pressures, threats or interventions, direct or indirect, from any authority, or even judicial authorities. Decisions on appeals do not fall under these restrictions. The purpose of judges' independence is also to ensure that every person has the fundamental right to have his case heard fairly on the basis of law alone."

**3. In Article 3, paragraph (1) shall be amended and shall have the following content:**

"Art. 3. (1) The prosecutors shall carry out their activity according to the principle of legality, impartiality and hierarchical control, under the authority of the Minister of Justice. "

**4. In Article 3, after paragraph (1), a new paragraph, paragraph (1<sup>1</sup>) shall be inserted, with the following content:**

"(1<sup>1</sup>) Prosecutors are independent in the settlement of the solutions, under the conditions stipulated by the

Law no.304 / 2004, regarding the judicial organization, republished, with the subsequent amendments and completions."

**5. In Article 4, paragraph (2) shall be amended and shall have the following content:**

"(2) Prosecutors and judges must ensure, at all stages of a trial that individual rights and freedoms are guaranteed and that public order is protected."

**6. In Article 4, after paragraph (2), two new paragraphs (3) and (4) are inserted, with the following content:**

"(3) Judges and prosecutors must, as a rule, appear to be independent of each other.

(4) Judges may not refuse to judge on the grounds that the law does not provide, is unclear or incomplete."

**7. In Article 5, paragraphs (1) and (2) are amended and shall have the following content:**

Art. 5- (1) Functions of judge, prosecutor, magistrate-assistant and assistant judge are incompatible with any other public or private functions, with the exception of teaching positions in higher education, respectively university junior lecturer, university lecturer, senior lecturer, associate professor, university professor and consultant university professor, as well as those from the National Institute of Magistracy and the National School of Clerks the teaching and training activities carried out by the vocational training institutions of other legal professions, under the conditions of the law, as well as of the functions that can be filled on the basis of international conventions to which Romania is a party under the law.

(2) Judges and prosecutors shall be obliged to refrain from any activity related to the act of justice in cases involving a conflict between their interests and the public interest in the performance of justice or the defence of the general interests of society. In other situations that go beyond the activity related to the act of justice, the conflict of interests shall be notified, in writing, to the management college of the court or prosecutor's office who appreciates its existence or non-existence. "

**8. In Article 6, after paragraph (2), a new paragraph, paragraph (2<sup>1</sup>) shall be inserted with the following content:**

"(2<sup>1</sup>) Affiliation as a collaborator of the intelligence bodies, as political police, has the effect of releasing him from his office."

**9. Article 7 shall be amended and shall have the following content:**

"Art.7. (1) The judges, the prosecutors, the magistrate-assistants, the specialized legal personnel assimilated to them, the related staff to the specialized staff of the courts and prosecutors' offices cannot be operative workers, including under cover, informants or collaborators of any intelligence service.

(2) The violation of the provisions of paragraph (1) leads to the dismissal of the position, including that of judge or prosecutor.

(3) The persons referred to in paragraph (1) shall fill out annually a handwritten statement on their own responsibility, according to the criminal law, indicating that they were not and are not operative workers, including under cover, informants or collaborators of any intelligence service. Statements are filed and archived at the human resources department.

(4) The intelligence services are forbidden to recruit the persons referred to in paragraph (1) as operative workers, including under cover, informants or collaborators. Violation of this prohibition is a crime

against the independence of the justice and is punished by imprisonment for 5 to 10 years. If the offense is committed by a senior officer or by his instigation, the penalty limits shall be increased by half. The attempt is punished.

(5) The verification of the veracity of the data provided in paragraph (2) shall be done by the Supreme Council of Defence of the country and by the special parliamentary commissions for the control of the activity of the intelligence services, annually, ex officio, or whenever they are notified by the Ministry Justice, Superior Council of Magistracy, the judge or prosecutor concerned. The result of the actual verification has the value of conforming information. Erroneous answer is punishable under the law.

(6) The intelligence services shall be obliged to make available to the parliamentary control committees any data, information or documents necessary for this purpose.

(7) Information concerning the status of judges and prosecutors, judicial organization, organization and functioning of the Superior Council of Magistracy, institutional cooperation between courts and prosecutor's offices, on the one hand, and any other public authority on the other, as well as judicial procedures, constitute information of public interest, except for those for which Law no. 135/2010 on the Criminal Procedure Code, as amended and supplemented, it provides for non-publicity character.

(8) The provisions of Articles 8-12, 33 and 76 of this Law shall also apply to magistrate-assistants."

**10. In Article 8, paragraph (1), point (c) shall be amended and shall have the following content:**

"(c) to have the shareholder quality or member in the management, administration or control bodies at the companies, credit or financial institutions, insurance or reinsurance undertakings, national companies or self-governing administrations;"

**11. In Article 8, a new paragraph, paragraph (1<sup>a</sup>) shall be inserted after paragraph 1, with the following content:**

"(1<sup>a</sup>) In the event of the acquisition by inheritance of the status of associates or shareholders in companies, credit or financial institutions, insurance / reinsurance companies, national companies, national societies or self-governing administrations, magistrates are obliged to take the necessary measures that quality shall cease within a maximum of one year from the date of its actual acquisition. "

**12. In Article 9, a new paragraph (3) shall be inserted after paragraph (2) with the following content:**

"(3) Judges and prosecutors are obliged, in the exercise of their duties, to refrain from defamatory manifestation or expression, in any way, against the other powers of the state - legislative and executive".

**13. In Article 14, paragraph (2), point e) shall be amended and shall have the following content:**

e) is fit physically and psychologically, to perform the function.

**14. In Article 15, paragraphs (1) to (7) shall be amended and shall have the following content:**

"Art.15. - (1) The admission contest is organized annually at the date and place established by the National Institute of Magistracy, with the approval of the Superior Council of Magistracy. The date, the place, the manner of holding the admission contest and the number of places put on the contest shall be published in the Official Gazette of Romania, Part III, on the website of the Superior Council of Magistracy and of the National Institute of Magistracy, at least 6 months before the date set for the contest.

(2) The Superior Council of Magistracy through the corresponding sections shall determine each year the number of students, separately, for judges and prosecutors, depending on the positions of the vacant judges and prosecutors, as well as those that will be established.

(3) After the publication of the data referred to in paragraph (1), the fulfilment of the condition of good reputation and the condition of being psychologically and physically fit for the performance of the position is checked, for persons expressing their intention to participate in the contest. In view of the psychological evaluation, the person concerned pays a fee, the amount of which is determined by a decision of the Superior Council of Magistracy. The condition of being medically fit is proved by a medical certificate issued by a specialist in occupational medicine at the request of each candidate.

4) The "passed" grade obtained in the psychological evaluation is also valid for the admission contests at the National Institute of Magistracy or for the admission to the magistracy afterwards, if from the date of the psychological evaluation until the date of publication of the announcement of organizing the competition in the Official Gazette of Romania, Part III, have not passed more than 2 years.

(5) Persons who fulfil the condition of good reputation and are psychologically and physically fit for the exercise of their position may enrol in the contest provided in paragraph (1). To enrol in the contest, the candidate pays a fee, the amount of which is set by decision of the Superior Council of Magistracy, depending on the expenses necessary for organizing the contest.

(6) The procedure for organizing and conducting the contest referred to in paragraph (1), including the competition commissions and their establishment, the contest tests and the way of establishing and challenging the results, shall be established by the regulation provided by art. 106 point a).

(7) The results of the contest shall be displayed at the headquarters of the National Institute of Magistracy and shall be published on the website of the Superior Council of Magistracy and of the National Institute of Magistracy. "

**15. In Article 15, paragraph (8) shall be abolished.**

**16. After article 15, a new article, article 15<sup>1</sup>, is introduced with the following content:**

"Art.15<sup>1</sup>.- The admission to the positions of legal specialists assimilated to the judges and prosecutors of the Superior Council of Magistracy and of the coordinated or subordinated institutions, to the Public Ministry, as well as to the Ministry of Justice and to the coordinated or subordinated institutions, is made through the admission contest to the National Institute of Magistracy. Those positions shall be shown separately. "

**17. In Article 16, paragraph (3) shall be amended and shall have the following content:**

"(3) The duration of the professional training courses of the justice auditors is 4 years. After the first year of courses, the auditors will follow six-month practical training sessions at: courts, prosecutors' offices, prisons and law offices. In the last year of internship, trainees will also practice internships at other institutions relevant for professional training. The institutions where the internships will take place and their duration will be determined by the plenum of the Superior Council of Magistracy, at the proposal of the National Institute of Magistracy, for each educational cycle. The internships will be organized on the basis of collaborative protocols between the National Institute of Magistracy and institutions relevant to vocational training. "

**18. In Article 16, after paragraph (3), a new paragraph, paragraph (3<sup>1</sup>) shall be inserted, with the following content:**

"(3<sup>1</sup>) The organization and planning of internships, including the duration of each, shall be established by a regulation approved by the Superior Council of Magistracy, upon proposal by the National Institute of Magistracy."

**19. In Article 16, paragraph (4) shall be amended and shall have the following content:**

"(4) During the practical training sessions, the justice auditors shall assist in all the activities specific to the institutions and professions, under the conditions established by the Regulation for organizing, conducting and evaluating the training sessions provided for in paragraph (5)."

**20. In Article 16, after paragraph (4), a new paragraph (4<sup>1</sup>) shall be inserted, with the following content:**

"(4<sup>1</sup>) At the end of each internship, the practice tutors established by the Regulations on the organization, conduct and evaluation of internships shall carry out an assessment of the capacity of each auditor to serve as a judge or prosecutor.

**21. In Article 16, paragraph (5) shall be amended and shall have the following content:**

"(5) The regulations for organizing, conducting and evaluating the practice traineeships and the professional training program of the auditors of justice are approved by the plenum of the Superior Council of Magistracy, at the proposal of the National Institute of Magistracy."

**22. In Article 17, after paragraph (3), three new paragraphs, paragraphs (3<sup>1</sup>) - (3<sup>3</sup>), shall be inserted, with the following content:**

"(3<sup>1</sup>) Auditors of justice shall receive the payment of the teaching materials, subject to and within the limit of a monthly limit established by the Regulation of the National Institute of Magistracy. Justice auditors shall receive free accommodation in the accommodation spaces of the National Institute of Magistracy within the limits of the available places under the conditions established by the Regulation of the National Institute of Magistracy. Maintenance costs are borne by the Institute.

(3<sup>2</sup>) In the case of exhaustion of the available places in the accommodation places of the National Institute of Magistracy, as well as in the cases where the justice auditors perform their training outside the municipality of Bucharest, they have the right to rent settlement up to a limit to 50% of the amount that would be due, under this title, to the magistrates, according to the law.

(3<sup>3</sup>) Auditors of justice shall receive free of charge medical care, medicines and prostheses, subject to compliance with the statutory provisions on the payment of social security contributions and the payment of maternity, maternal risk and child-raising allowances during holidays concerned. "

**23. In Article 17, paragraph (4) shall be abolished.**

**24. In Article 17, three new articles, art. 17<sup>1</sup>-17<sup>3</sup>, shall be inserted, with the following content:**

"Art.17<sup>1</sup> - The legal provisions on the incompatibilities and interdictions of judges and prosecutors also apply to auditors of justice.

Art. 17<sup>2</sup>. - The auditors of justice have the rights provided by art. 79 para. (3) and art. 80, as well as the duties stipulated in art.90 and art.91 para. (2).

Art.17<sup>3</sup>.- The transport costs of the training personnel of the National Institute of Magistracy who do not have their domicile or residence in Bucharest, who participate in the initial professional training activities organized by the National Institute of Magistracy, shall be borne by the budget of this institution. "

**25. In Article 18, paragraph (2) shall be amended and shall have the following content:**

"(2) There are considered discipline misconducts:

- a) attitudes that violate good morals or public order, irreverent attitudes towards colleagues, training and leadership personnel of the National Institute of Magistracy, as well as to the persons they come into contact with during the traineeship;
- b) unjustified absences from the compulsory activities set out in the training program if they exceed 8 hours in a month;
- (c) the acts referred to in Article 99, point (a), (b), (d), (j), (l), (n) and (q), dispositions which are applied correspondingly."

**26. In Article 18, paragraph (4) is abolished.**

**27. In Article 18, paragraphs (5) and (8) shall be amended and shall have the following content:**

"(5) The sanctions provided in paragraph (3) shall be applied by the Scientific Council of the National Institute of Magistracy after the disciplinary investigation. Disciplinary liability is prescribed within one year of the act.

.....

(8) The disciplinary investigation procedure and the application of disciplinary sanctions shall be established by the Regulation of the National Institute of Magistracy. "

**28. In Article 18, after paragraph (8), three new paragraphs (9) - (11) are inserted, with the following wording:**

"(9) The disciplinary investigation shall be suspended when the trial against the justice auditors was ordered for the same offence.

(10) The criminal investigative body is obliged to communicate immediately to the National Institute of Magistracy the act by which the justice auditor was ordered to trial.

(11) The suspension of the disciplinary investigation shall be ordered by the director of the National Institute of Magistracy and shall operate until the decision pronounced in the case that motivated the suspension has become final. The final decision is immediately communicated to the National Institute of Magistracy. During the suspension of disciplinary investigation, the course of prescription of disciplinary liability is suspended. "

**29. After article 18 a new article, article 18<sup>1</sup> is added, with the following content:**

"Art.18<sup>1</sup>.- (1) During the courses at the National Institute of Magistracy, the auditors of justice must meet the conditions stipulated in Art. 17, para. (2), point (a), (c) and (e).

(2) The failure to fulfil the conditions stipulated in paragraph (1) shall be established by the Scientific Council of the National Institute of Magistracy and shall entail the expulsion, as well as the obligation to restitution of the scholarship and of the professional training expenses, in those situations attributable to the auditors. The Scientific Council is notified by the Director of the National Institute of Magistracy ex officio or at the request of any interested person.

(3) The procedure for verifying the fulfilment of the conditions provided in paragraph (1) shall be established by the Regulation of the National Institute of Magistracy.

(4) The provisions of Article 18, para. (6) shall apply accordingly.

(5) By way of exception to the provisions of paragraph (2), the final conviction of the auditors for a wrongful offense or the postponement of punishment for the same type of offense, as well as the waiver of the criminal prosecution or the waiving of the punishment by a final decision, does not lead to expulsion, if it is appreciated by the Scientific Council that the offense committed does not undermine the dignity of the judicial auditor or the image of the Institute. "

**30. Article 19 shall be amended and shall have the following content:**

"Art.19.- (1) After the completion of the courses at the National Institute of Magistracy, the auditors of justice shall undergo a graduation exam which verifies the acquisition of the knowledge, skills and abilities necessary for the exercise of the position of judge, respectively prosecutor, as well as a psychological test.

(2) A Theoretical and Practical Examination Board will be composed of 7 persons: 5 judges, one lawyer and one university professor appointed by the Judicial Section of the Superior Council of Magistrates between judges or attorneys with at least 12 years of professional experience and, of the law faculties teachers who have attained the university professor degree of at least 5 years. Another board of theoretical and practical examination will consist of 7 persons: 5 prosecutors, one lawyer and one university professor appointed by the Prosecutors' Section of the Superior Council of Magistrates between prosecutors or attorneys with at least 12 years of professional experience and among teachers of law faculties who have attained the university professor degree of at least 5 years.

(3) The psychological examination will be held in front of a board made up of 3 psychologists, who will mark the candidate with "fit" or "unfit".

(4) Against the "unfit" rating, the candidate may appeal within 5 days of display, to be resolved by a panel of 5 psychologists with a different composition than the previous panel. The final "unfit" rating will result in the candidate being declared rejected to the graduate exam of the National Institute of Magistracy.

(5) Justice auditors who do not pass the graduation exam may be presented once again for its passing at the next session organized by the National Institute of Magistracy. If the auditor does not unduly submit to the exam, or does not pass the examination in the second session, he cannot be appointed as a judge or prosecutor and is required to reimburse the scholarship and scholarship expenses, except in the cases provided for in paragraphs (3) and (4).

(6) The composition of the boards referred to in paragraphs (3) and (4) shall be determined by the Section for Judges or the Prosecutor's Section of the Superior Council of Magistracy, as the case may be.

(7) The final graduation mark of the National Institute of Magistracy is composed of the average of the graduation exam referred to in paragraph (1), which will have a weight of 60%, and the average resulting from the evaluations carried out during the studies at the Institute National of Magistracy, which will have a weight of 40%."

**31. Article 20 shall be amended and shall have the following content:**

"Art.20.- (1) The 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 dismissed before the expiration of the 10-year period, on his own initiative or for reasons attributable to him, he is obliged to return the judicial auditor's scholarship and expenses for training carried out with his training, in proportion to the time remaining until the deadline referred to in paragraph (1)."

**32. Article 21 shall be amended and shall have the following content:**

"Art.21- (1) The justice auditors shall choose the places for trainee judges and prosecutors who have been admitted to the competition, and their assignment shall be based on the final graduation note of the National Institute of Magistracy provided for in Article 19 paragraph (7). The options are made before the National Institute of Magistracy, which will forward the table with the distribution proposals made in this way to the corresponding sections of the Superior Council of Magistracy for appointment.

(2) The trainee judges and trainee prosecutors shall be distributed and appointed by the appropriate sections of the Superior Council of Magistracy, on the basis of the options expressed in accordance with paragraph (1).

(3) In the districts of the courts and prosecutor's offices where a national minority has a share of at least 50% of the population, in equal environments, priority shall be given to candidates who know the language of that minority.

(4) The candidate who has not exercised the right to choose the position within the time limit stipulated in paragraph (2) shall be offered a position, ex officio, by the Superior Council of Magistracy. The refusal to accept the proposal is considered a resignation.

(5) In equal environments, the candidate having the domicile within the jurisdiction of the court or Prosecutor's office for which he has opted, or the one who has a longer seniority in magistracy, shall have priority in the election of the position in the following order.

(6) The distribution of positions shall be displayed at the headquarters of the Superior Council of Magistracy, the courts and prosecutors' offices, shall be communicated to the persons concerned and published on the website of the Superior Council of Magistracy.

(7) The period between the passing of the graduation examination and the appointment by the Superior Council of Magistracy as a trainee judge or prosecutor, as well as the period in which a person was a trainee judge or a prosecutor, if he had passed the examination of capacity provided for Article 28, constitutes seniority as a judge or prosecutor.

(8) Trainee judges and trainee prosecutors enjoy stability."

**33. In Article 22, paragraph (1) shall be amended and shall have the following content:**

"Art.22.- (1) The length of the traineeship is 2 years."

**34. In Article 23, paragraph 1 shall be amended and shall have the following content:**

"Art.23.- (1) The judges judge:

- (a) the possession actions, the applications for the registrations and the rectifications in civil status registers;
- b) property disputes related to the payment of a sum of money or the transfer of a good, if the value of the object of the dispute does not exceed 10,000 lei;
- c) complaints against the minutes of finding contraventions and applying contravention sanctions, if the maximum sanctioning sanction stipulated by the law is 10,000 lei;
- d) the low value claims, provided in Art. 1.026 - 1.033 of Law no. 134/2010 on the Civil Procedure Code, republished, as subsequently amended;
- e) applications for the replacement of the contravention penalty with the sanction of performing a community service activity;
- f) requests for abstention and dismissal, as well as requests for revision and appeals for annulment in cases falling within their competence;
- g) the rehabilitation;
- h) finding the intervention of amnesty or pardon;
- i) the offenses provided by the Law no.286 / 2009 on the Criminal Code, as subsequently amended and supplemented, and the special laws for which the criminal proceedings are initiated at the preliminary complaint of the aggrieved party, except for the offenses provided in art. 218 para. (1) and (2), art.219 paragraph (1), art.223, art.226 and 227, as well as art.239-241 of the Law no.286 / 2009, with subsequent amendments and completions, including the complaints against solutions regarding non-prosecution or not-suing, requests for confirmation of solutions for the waiver of criminal prosecution and applications for confirmation of the reopening of criminal prosecution in cases involving such offenses."

**35. In Article 23, after paragraph (1), two new paragraphs (1<sup>1</sup>) and (1<sup>2</sup>) are inserted, with the following wording:**

"(1<sup>1</sup>) The trainee judges shall also assist in court hearings other than those provided for in paragraph (1),

by rotation, to the panel courts of final judges established by the President of the court. In the cases in which he / she assists, the trainee judge produces a consultative report on the case and may draft the decision at the request of the president of the panel.

(12) The manner of participation in such panels shall be determined by decision of the managing board."

**36. In Article 23, paragraph (2) shall be amended and shall have the following content:**

"(2) The trainee prosecutors have the right to make judgments, carry out and sign law and procedural documents, under the coordination of a final prosecutor."

**37. In Article 23, after paragraph (2), two new paragraphs (2<sup>1</sup>) and (2<sup>2</sup>) are inserted, with the following content:**

"(2<sup>1</sup>) The trainee prosecutor issues an advisory opinion that motivates and resolves the work assigned to him by the first prosecutor of the prosecutor's office attached to the court.

"(2<sup>2</sup>) Trainee judges and prosecutors shall not have the right to impose privative or imprisonment measures."

**38. In Article 24, paragraph (2) shall be abolished.**

**39. Article 26 shall be amended and shall have the following content:**

"Art.26.- (1) The capacity examination consists of the support of a written test and of an oral test, respectively the evaluation of the training material, each having equal weights in the final average.

(2) The capacity test will seek to acquire practical skills and aptitudes during the internship period.

(3) The capacity examination is organized at the end of each internship, based on the regulations developed by the corresponding sections of the Superior Council of Magistracy, through the National Institute of Magistracy.

(4) The examination shall be carried out by the boards referred to in Article 28.

(5) The manner of passing the examination, the criteria for its assessment, the procedure and the evaluation criteria of the internship material shall be established by Regulations proposed by the National Institute of Magistracy and approved by the Judicial Section, respectively the Prosecutor's Section of the Superior Council of the Magistracy. "

**40. Article 27 shall be amended and shall have the following content:**

"Art.27.- (1) The date, place and manner of carrying out the capacity examination shall be published in the Official Gazette of Romania, Part III, as well as on the website of the Superior Council of Magistracy and that of the Institute National Magistrates and shall be notified to the courts and prosecutor's offices attached to them, at least 90 days before the date set for the capacity examination.

(2) The applications for enrolment in the capacity examination, accompanied by the traineeships materials and other documents required by the regulations on the capacity examination of the trainee judges, respectively of the trainee prosecutors, shall be submitted to the Superior Council of Magistracy within 60 days of when the date of the exam is published. "

**41. Article 28 shall be amended and shall have the following content:**

"Art.28.- (1) The Judicial Capacity Review Board and the Board for appeal solving shall be composed of judges from the High Court of Cassation and Justice and judges from the Courts of Appeal appointed by decision of the Section for Judges of Superior Council of Magistracy.

(2) The prosecutors' capacity examination board and the appeal board shall be made up of prosecutors from the Prosecutor's Office attached to the High Court of Cassation and Justice and prosecutors from the Prosecutor's Offices attached to the Courts of Appeal appointed by decision of the Section for Prosecutors of the Superior Council of Magistracy.

(3) The competition boards are appointed by decision of the corresponding sections of the Superior Council of Magistracy, at the proposal of the National Institute of Magistracy.

(4) The provisions of art. Article 19 paragraph (5) shall apply accordingly. "

**42. Article 29 shall be amended and shall have the following content:**

"Art.29.- (1) The results of the capacity examination shall be displayed at the headquarters of the National Institute of Magistracy and shall be published on the website of the Superior Council of Magistracy and that of the National Institute of Magistracy.

(2) Appeals regarding each of the two subjects shall be sent to the National Institute of Magistracy, within 72 hours from the display of the results, by the candidates, the courts of appeal or the prosecutor's offices attached to them. Appeals are settled within 3 days. The decision of the appeal panel is final, the provisions of paragraph (4) being applicable accordingly.

(3) The appeal of the oral test shall be settled by the Appeals Board by analysing the audio-video recording of the subject sustained by the candidate.

(4) After drawing up the classification table of candidates, each of the sections of the Superior Council of Magistracy shall validate the capacity examination in the next session following the display of the results.

(5) The sections of the Superior Council of Magistracy may invalidate, in whole or in part, the capacity examination in cases where it finds that the conditions stipulated by the law or regulation on the organization of the examination have not been complied with or that there is evidence of fraud. "

**43. In Article 30, paragraphs 1 and 2 shall be amended and shall have the following content:**

"Art.30.- (1) The trainee judges and prosecutors who do not pass the final examination may be presented once again for its passing at the next session organized by the Superior Council of Magistracy for the candidates in the district of the court of appeal in which they operate.

(2) If the trainee Judge or Prosecutor does not present himself unjustifiably at the examination or does not promote the examination in the second session, he cannot be appointed as a final judge or prosecutor and is obliged to repay the scholarship and the schooling expenses, the provisions of Article 19 paragraph (5) shall apply accordingly. "

**44. In Article 31, paragraphs 3 and 4 are abolished.**

**45. In Article 35, paragraph 1 shall be amended and shall have the following content:**

"Art.35.- (1) In the magistracy there can be appointed, on the basis of a contest, if they fulfil the conditions stipulated in art. 14 paragraph (2), former judges and prosecutors who have ceased their activity for non-imputable reasons, legal specialty staff stipulated in art. 87 para. (1), lawyers, notaries, judiciary assistants, legal advisors, bailiffs with legal higher education, probation officers with legal higher education, judicial police officers with higher legal education, court clerks with legal higher education, persons who have fulfilled legal specialty positions in the apparatus of the Parliament, the Presidential Administration, the Government, the Constitutional Court, the People's Advocate, the Court of Accounts or the Legislative Council, the Institute of Legal Research of the Romanian Academy and the Romanian Institute for Human Rights, the accredited higher education teachers, as well as magistrates-assistants with a seniority of at least 5 years. "

**46. In Article 33, paragraph (2<sup>1</sup>) shall be amended and shall have the following content:**

"(2<sup>1</sup>) The provisions of art. 15 shall apply accordingly. "

**47. In Article 33, paragraphs 11 and 12 are abolished.**

**48. After article 33 a new article, article 33<sup>1</sup>, shall be inserted, with the following content:**

"Art.33<sup>1</sup>.- Persons who have been at least 10 years as judge or prosecutor and magistrate-assistant, who have not had any disciplinary sanction, have only the grading "very well" in all evaluations and have ceased their activity for non-imputable reasons, may be appointed, without contest or examination, to vacant positions of judge or prosecutor, to courts or prosecutors' offices of the same rank as those in which they functioned or to lower courts or prosecutor's offices. "

**49. In Article 35, paragraphs 1 and 2 shall be amended and shall have the following content:**

"Art. 35. - (1) The continuous professional training of judges and prosecutors is the guarantee of independence and impartiality in the exercise of their office. Initial and continuous training is a right and duty for the judge.

(2) Continuous vocational training must take into account the dynamics of the legislative process and consists mainly in the knowledge and deepening of the internal legislation, the European and international documents to which Romania is a party, the jurisprudence of the courts and the Constitutional Court, the jurisprudence of the European Court of Human Rights and the European Court of Justice, comparative law, deontological norms, the multidisciplinary approach of novelty institutions, as well as the knowledge and deepening of foreign languages and computer operation. "

**50. In Article 37<sup>1</sup>, after paragraph (1), a new paragraph (1<sup>1</sup>) shall be inserted, with the following content:**

"(1<sup>1</sup>) The accommodation and meal expenses of foreign judges and prosecutors, trainees or representatives of other foreign training institutions participating, within cooperation programs, in training activities organized by the National Institute of Magistracy may be borne by the budget of this institution. "

**51. In Article 37<sup>1</sup>, paragraph (2) shall be amended and shall have the following content:**

"(2) The maximum limit of the expenditures provided for in paragraphs (1) and (1<sup>1</sup>) shall be established by decision of the president of the Superior Council of Magistracy, at the proposal of the National Institute of Magistracy. The accommodation of the participants under the conditions of paragraphs (1) and (1<sup>1</sup>) may be carried out in the tourist reception facilities within the maximum limit established by decision of the president of the Superior Council of Magistracy, regardless of their classification. "

**52. In Article 38, paragraphs (1<sup>1</sup>) to (1<sup>3</sup>) shall be amended and shall have the following content:**

"(1<sup>1</sup>) The costs of organizing the activities provided for in paragraph (1), including accommodation, meals and transport of training staff and participants, shall be borne by the budget of the court of appeal or, where appropriate, of the Prosecutor's Office attached to the Court of Appeal. In the case of the training personnel of the National Institute of Magistracy who participate, under the Institute's proposal, in this quality, in accordance with the annual program of continuous professional training of judges and prosecutors approved by the Superior Council of Magistracy, for the activities referred to in paragraph (1) regarding accommodation, meals and transportation is covered by the budget of the National Institute of Magistracy.

(1<sup>2</sup>) The maximum limit of the expenditures stipulated in paragraph (1<sup>1</sup>) shall be established by order of the Minister of Justice, respectively of the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice. In the case of the training personnel of the National Institute of Magistracy who participate, under the Institute's proposal, in this quality, in accordance with the annual program of continuous professional training of judges and prosecutors approved by the Superior Council of Magistracy, for the activities referred to in paragraph (1), the limit of the maximum expenditure shall be determined in accordance with the provisions of Article 37<sup>1</sup>, paragraph (2).

(1<sup>3</sup>) The salary costs of the training staff participating in the activities referred to in paragraph (1) shall be borne by the budget of the court of appeal or, where appropriate, of the prosecutor's office attached to the court of appeal. The provisions of art.108 paragraph (3) of Law no.304 / 2004, republished, as subsequently amended and supplemented, shall apply accordingly. In the case of the training staff engaged by payment per hour of the National Institute of Magistracy who, on the proposal of the Institute, participate in this capacity, according to the annual program of continuous professional training of judges and prosecutors approved by the Superior Council of Magistracy, to the activities stipulated in paragraph (1), the salary costs of the training staff shall be borne by the budget of the National Institute of Magistracy. "

**53. Article 39 shall be amended and shall have the following content:**

"Art. 39. - (1) In order to verify the fulfilment of the professional competence and performance criteria, judges and prosecutors are subject to regular evaluation of the quality of the activity, efficiency, integrity and obligation of continuous professional training, and in the case of the judges and prosecutors appointed in leadership functions, and how to perform managerial duties.

(2) In relation to seniority in the position of judge or prosecutor respectively, the assessment shall be carried out as follows:

- a) once every two years, for judges and prosecutors with a seniority between one and 5 years;
- b) every three years, for judges and prosecutors with a seniority between 5 and 10 years;
- c) once every four years, for judges and prosecutors with a seniority between 10 and 15 years;
- d) once every 5 years, for judges and prosecutors with a seniority older than 15 years.

(3) The evaluation provided for in paragraph (1) shall be made by committees set up separately for judges and prosecutors consisting of the president of the court or the head of the prosecutor's office of which the assessed person belongs and 2 or more judges or prosecutors from the court or the hierarchically superior prosecutor's office appointed by the governing board of that court or prosecutor's office, with the same specialization as the judge or prosecutor assessed. The evaluation of the president of the court and of the vice-president is made by a commission consisting of the president of the higher court, the president of the department responsible for the specialization of the assessed judge, as well as a judge from the higher court, appointed by the governing board. The evaluation of the head of the Prosecutor's Office, his deputy and the chief prosecutor of the department is carried out by a commission from the higher hierarchical prosecutor's office, which includes the head of the prosecutor's office, a prosecutor with a leading position corresponding to the specialization of the prosecutor evaluated and another prosecutor appointed by the governing college. The evaluation of the presidents, vice-presidents and section presidents from the courts of appeal or the Military Appeal Court is made by a commission composed of judges from the High Court of Cassation and Justice designated by the governing board of that court and the evaluation of the prosecutors General, Deputy General Prosecutors and Heads of Section from the Prosecutor's Offices attached to the Courts of Appeal or the Prosecutor's Office attached to the Military Appeal Court is made by a commission composed of Prosecutors from the Prosecutor's Office attached to the High Court of Cassation and Justice, nominated by the governing board of this Prosecutor's Office. The evaluation of the president and vice-presidents of the High Court of Cassation and Justice is made by a commission composed of judges, elected members of the Section for Judges of the Superior Council of Magistracy, with at least a court of appeal rank, appointed by the Judicial Section of the Superior Council of Magistracy. The evaluation of the Prosecutor General of the Prosecutor's Office attached to the High

Court of Cassation and Justice and the Chief Prosecutors of the specialized directorates is made up of a commission composed of prosecutors, elected members of the Prosecutor's Section within the Superior Council of Magistracy, with at least a county court rank, appointed by the Prosecutor's Section of the Superior Council of Magistracy.

(4) The Prosecutors' Evaluation Committees at the Prosecutor's Office attached to the High Court of Cassation and Justice, including those within the Directorate for the Investigation of Organized Crime and Terrorism and the National Anticorruption Directorate, shall include the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice or its first deputy or deputy, the Chief Prosecutor of the Directorate for the Investigation of Organized Crime and Terrorism and the Chief Prosecutor of the National Anticorruption Directorate or their deputies, the Chief Prosecutors of the Section, as well as the appointed prosecutors, as the case may be, by the leading college of the Prosecutor's Office attached to the High Court of Cassation and Justice, by the leading college of the National Anticorruption Directorate or by the leading college of the Directorate for the Investigation of Organized Crime and Terrorism.

(5) For the judges and county courts and, respectively, for the prosecutor's offices attached thereto, the commissions provided for in para. (4) shall be constituted by decision of the management board of the court of appeal or of the prosecutor's office attached to it. For the courts of appeal and for the prosecutor's offices attached to them, the evaluation commissions are constituted by a decision of the management board of the High Court of Cassation and Justice. For the High Court of Cassation and Justice, the evaluation committee is constituted by a Judge's Section decision of 3 judges appointed from among the elected members of the Section for judges, with at least a court of appeal rank. For the Prosecutor's Office attached to the High Court of Cassation and Justice, the Evaluation Board is constituted by a decision of the Prosecutor's Section of three prosecutors, appointed from among the elected members of the Prosecutor's Section, at least with a county court rank.

(6) The Regulation on the evaluation of the professional activity of judges and prosecutors shall be approved by decision of each of the respective sections of the Superior Council of Magistracy. "

**54. In Article 40, paragraphs 1, 3 and 4 shall be amended and shall have the following content:**

"Art.40.- (1) By the evaluation report of the professional activity of the judge or prosecutor drawn up by the committees provided for in art. 39 para. (4) or (5), one of the following qualifiers may be awarded: 'very good', 'good', 'satisfactory' or 'unsatisfactory'.

.....  
(3) In the settlement of the appeal, the sections of the Superior Council of Magistracy may request from the head of the court or the prosecutor's office or from the commissions or persons referred to in art.39 paragraphs (4) and (5) any information they deem necessary and the summons of the judge or prosecutor for hearing is mandatory.

(4) The decisions of the sections may be appealed with appeal, at the administrative and fiscal contentious division of the court of appeal, within 15 days from the communication, without going through the preliminary procedure. The court of appeal's decision is final. "

**55. In Article 41, paragraph (3) shall be amended and shall have the following content:**

"(3) The courses referred to in paragraphs (1) and (2) shall be concluded by an examination organized by the Superior Council of Magistracy through the National Institute of Magistracy."

**56. A new chapter, Chapter IV<sup>1</sup>, comprising Article 42<sup>1</sup>, shall be inserted after Article 42, with the following wording:**

"CHAPTER IV<sup>1</sup>  
Periodic psychological evaluation

Art.42<sup>1</sup>.- (1) Judges, prosecutors, magistrate-assistants and legal specialists assimilated to judges and prosecutors shall be subjected every five years to a psychological assessment.

(2) If following the psychological evaluation, the judge, the prosecutor, the assistant magistrate or the legal professional staff assimilated to judges and prosecutors receives the qualification "unfit", he / she is obliged to follow a psychological counselling program lasting up to 6 months, and the judge or prosecutor will be subject to a new assessment.

(3) The psychological evaluation / re-evaluation procedure, including the way of setting up the psychological evaluation commissions, the payment of their members and the conduct of the psychological counselling program shall be established by a decision of the Plenum of the Superior Council of Magistracy. "

**57. Article 43 shall be amended and shall have the following content:**

"Art.43.- The contest for the promotion of judges and prosecutors is organized annually or whenever necessary by the corresponding sections of the Superior Council of Magistracy, through the National Institute of Magistracy."

**58. Article 44 shall be amended and shall have the following content:**

"Art.44.- (1) There can participate in the promotion contest at the immediately higher courts or prosecutor's offices the judges and prosecutors who have had the "very good" rating at the last evaluation, have not had any disciplinary sanction in the last 3 years, have actually been for at least 3 years at the hierarchically inferior court or prosecutor's office to the one they wish to promote and meet the following minimum conditions of seniority:

a) 7 years seniority as a judge or prosecutor for promotion to the office of a judge of a court or specialized court and a prosecutor at the prosecutor's office attached to the tribunal or the prosecutor's office attached to the specialized court;

b) 10 years seniority as a judge or prosecutor, for promotion to the office of a court of appeal and prosecutor at the prosecutor's office next to it;

c) 18 years seniority as a judge or prosecutor, for promotion to the position of prosecutor at the Prosecutor's Office attached to the High Court of Cassation and Justice.

(2) When calculating the minimum seniority for participation in the promotion contest, no account shall be taken of the period during which the judge or prosecutor was a justice auditor.

(3) The Superior Council of Magistracy, through its sections, shall verify fulfilment of the conditions set out in paragraph (1).

(4) The seniority referred to in paragraphs (1) and (2) must be fulfilled by the date of enrolment in the promotion contest.

(5) The Superior Council of Magistracy shall verify through the relevant sections the fulfilment of the conditions provided for in paragraphs (1) to (4). "

**59. Article 45 shall be amended and shall have the following content:**

"Art. 45. - Judges and prosecutors who meet the conditions stipulated in art. 44 may take part in the contest in order to promote on the spot, within the limits of the number of seats approved annually by the corresponding sections of the Superior Council of Magistracy.

**60. In Article 46, paragraphs (3) and (4) shall be amended and shall have the following content:**

"(3) The procedure for conducting the contest, including the way of challenging the results, is stipulated in the Regulation on the organization and running of the contest for the promotion of judges and prosecutors. Cancelling or modifying in any way the response scale set for any of the competition topics, once this scale has been brought to the attention of the candidates, causes the contest to be invalidated and resumed.

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

**61. After Article 46, three new articles are inserted, art. 46<sup>1</sup> to 46<sup>3</sup>, with the following content:**

"Art.46<sup>1</sup>.- (1) Effective promotion of judges and prosecutors shall be carried out only through a competition organized at national level, within the limits of the vacant places in the courts and courts of appeal or, as the case may be, at the prosecutor's offices.

(2) The contest for effective promotion of judges and prosecutors shall be organized annually or whenever necessary by the Superior Council of Magistracy, through the National Institute of Magistracy.

(3) The date, the place, the manner of conducting the competition and the vacancies for which a competition is organized shall be communicated to all judges and prosecutors through the courts of appeal and prosecutors' offices, and shall be published on the website of the Superior Council of Magistracy, the National Institute the Magistrates' Office and the Prosecutor's Office attached to the High Court of Cassation and Justice, at least 30 days before the date of submission of the applications for participation in the competition.

Art. 46<sup>2</sup>. - (1) There can participate in the actual promotion contest at the immediately higher courts and prosecutor's offices the judges and prosecutors who have had the "very good" rating at the last evaluation, have not had any disciplinary sanction in the last 3 years, have obtained the professional grade corresponding to the court or prosecutor's office at which they request the promotion and have actually worked for at least 2 years at the lower court or prosecutor's office, in the case of promotion to the office of a court of appeal, prosecutor at the prosecutor's office attached to it or prosecutor at the Prosecutor's Office attached to the High Court of Cassation and Justice.

(2) The provisions of Article 44, paragraphs (3) and (4) shall apply accordingly.

Art.46<sup>3</sup>.- (1) The effective promotion contest shall consist in supporting a test having as object the evaluation of the activity and conduct of the candidates in the last 3 years.

(2) The procedure for organizing and conducting the contest, including the competition commissions and their constitution, the matters subject to verification as part of the proof provided in paragraph (1) and the way of establishing and challenging the results, shall be established by the Regulation provided by art. 46 para. (4).

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

**62. Article 47 shall be amended and shall have the following content:**

"Art. 47.- Within 30 days from the communication of the results, the Section for Judges or, as the case may be, the Prosecutor's Section of the Superior Council of Magistracy rules, by decision, the promotion of the judges and prosecutors declared admitted."

**63. After Article 47, two new articles are inserted, art. 47<sup>1</sup> and 47<sup>2</sup>, with the following content:**

"Art. 47<sup>1</sup>. - (1) Judges and prosecutors who have effectively promoted execution positions in higher courts or prosecutor's offices may not be delegated, detached or transferred for at least 2 years from the date of promotion.

(2) Judges who have actually promoted to execution positions in higher courts may not be appointed as prosecutors, and prosecutors who have actually promoted executive positions at higher prosecutor's offices may not be appointed as judges for at least two years from the date of promotion.

Art.47<sup>2</sup>.- Promotion of legal specialists assimilated to judges and prosecutors within the Superior Council of Magistracy, the Public Ministry, the Ministry of Justice, as well as their coordinated or subordinated institutions is done through the organized promotion examination for judges and prosecutors, under the law. "

**64. In Article 48, paragraphs (1), (4) - (6) shall be amended and shall have the following content:**

"Art. 48. - (1) The appointment to the positions of president and vice-president in the courts, tribunals, specialized courts and courts of appeal shall be made only by competition or examination, whenever necessary, by the Judges Section of the Superior Council of the Magistracy, through the National Institute of Magistracy.

(4) The contest or exam consists in the presentation of a project regarding the exercise of the specific tasks of the management function and in written tests on management, communication, human resources, the candidate's ability to make decisions and to assume responsibility, the resistance to stress and a psychological test. The contestations regarding each of the competition subjects are sent to the National Institute of Magistracy within 3 days of publication of the results for each subject. Cancelling or modifying in any way the response scale set for any of the competition topics, once this scale has been brought to the attention of the candidates, causes the contest to be invalidated and resumed.

(5) The Examination Board is appointed by the Judges Section of the Superior Council of Magistracy, at the proposal of the National Institute of Magistracy, and consists 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 organization. The commissions will take into consideration the judges who have attended management courses.

(6) The date, the place, as well as the Regulations for organizing the competition or the exam elaborated by the National Institute of Magistracy shall be approved by the Judges Section within the Superior Council of Magistracy and shall be displayed on the website of the National Institute of Magistracy, Ministry of Justice, the Superior Council of Magistracy and at the courts, at least 30 days before the date of its execution. "

**65. In Article 48, after paragraph (6) a new paragraph, paragraph (6<sup>1</sup>) shall be inserted, with the following content**

"(1) The appeal of evaluation shall be settled by the Appeals Board by analysing the audio-video recording of the Candidate's subject."

**66. In Article 48, paragraphs (7) and (9) shall be amended and shall have the following content:**

"(7) The Judges Section of the Superior Council of Magistracy shall validate the result of the contest or the examination and appoint the judges to the managerial positions provided in paragraph (1) within 15 days from the date of the final results. The provisions of Article 21 paragraph (3) shall apply accordingly.

(9) The appointment of the judges in the other senior positions shall be for a period of three years, with the possibility of re-investing only once, by the Judges Section within the Superior Council of Magistracy, at the proposal of the President of the Court. "

**67. In Article 48, after paragraph (9), a new paragraph (9<sup>1</sup>) shall be inserted, with the following content:**

"(9<sup>1</sup>) Judges who have the grade "very good" at the last assessment, have not had any disciplinary

sanction in the last 3 years and meet the seniority conditions stipulated by law may be appointed to the positions of management referred to in paragraph (9).

**68. In Article 48, paragraph 10 shall be amended and shall have the following content:**

"(10) Judges who have been part of the intelligence services or collaborated with them or the judges who have personal interest who influence or could influence the objective and impartial performance of the duties provided by law may not be appointed in management positions."

**69. In Article 49, paragraphs 1 and 5 shall be amended and shall have the following content:**

"Art. 49. - (1) The appointment in the positions of general prosecutor of the prosecutor's office attached to the court of appeal, first prosecutor of the prosecutor's office attached to the tribunal, first prosecutor of the prosecutor's office attached to the juvenile and family tribunal, or first prosecutor of the prosecutor's office attached to the court and their deputies shall be held only through organized competition or examination, whenever necessary, by the Prosecutor's Section of the Superior Council of Magistracy, through the National Institute of Magistracy.

.....  
(5) The Examination Board is appointed by the Prosecutor's Section of the Superior Council of Magistracy, at the proposal of the National Institute of Magistracy, and consists of 2 prosecutors from the Prosecutor's Office attached to the High Court of Cassation and Justice, 2 prosecutors from the prosecutor's offices attached to courts of appeal and 3 specialists in institutional management and organization. When boards are set up, prosecutors who have attended management courses will be mainly taken into consideration."

**70. In Article 49, after paragraph (5), a new paragraph (5<sup>1</sup>) is inserted, with the following content:**

"(5<sup>1</sup>) The provisions of Article 48 paragraph (6<sup>1</sup>) shall apply accordingly."

**71. In Article 49, paragraphs 6, 7 and 9 shall be amended and shall have the following content:**

"(6) The date, place, as well as the Regulations for organizing the competition or the exam elaborated by the National Institute of Magistracy are approved by the Section for Prosecutors of the Superior Council of Magistracy and are displayed on the website of the Prosecutor's Office attached to the High Court of Cassation and Justice, the National Institute of Magistracy, the Superior Council of Magistracy, the Ministry of Justice and at the offices of the prosecutor's offices, at least 30 days before the date of its performance.

(7) The Prosecutor's Section of the Superior Council of Magistracy shall validate the result of the contest or the examination and appoint the prosecutors in the management positions provided in paragraph (1) within 15 days from the date of the final results. The provisions of Article 21 paragraph (3) shall apply accordingly.

.....  
(9) The appointment in the other positions of management at the Prosecutor's Office is made for a period of 3 years, with the possibility of re-investing only one time, by the Prosecutor's Section of the Superior Council of Magistracy, at the proposal of the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice. "

**72. In Article 49, after paragraph (9), a new paragraph (9<sup>1</sup>) shall be inserted, with the following content:**

"(9<sup>1</sup>) Prosecutors who have the "very good" rating at the last assessment have not had any disciplinary

sanction in the last 3 years and meet the seniority conditions prescribed by law may be appointed to the management positions provided in paragraph (9)."

**73. Article 50 shall be amended and shall have the following content:**

"Art.50.- (1) For the appointment to management positions, the following minimum conditions of seniority are required:

a) for the position of president and vice-president of the court, first prosecutor of the prosecutor's office attached to the court and his deputy, 6 years seniority in the position of judge or prosecutor;

b) for the position of president and vice-president of a specialized court or tribunal as well as president of the section of the tribunal, first prosecutor of the prosecutor's office attached to the tribunal or the prosecutor's office attached to the juvenile and family tribunal, his deputy and chief prosecutor of the department the Prosecutor's Office attached to the tribunal or the Prosecutor's Office attached to the Tribunal for Minors and Family, 8 years of service as Judge or 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 prosecutor of the prosecutor's office attached to the court of appeal, 12 years seniority in the position of judge or prosecutor.

(2) The provisions of Article 44 paragraph (2) shall apply accordingly.

(3) In order to participate in the competition or examination for appointment to management positions, the judge or prosecutor must work for at least 2 years at the court or, where appropriate, the prosecutor's office where the management position for which he is applying is vacant. The provisions of this paragraph shall also apply accordingly for the appointment to the management positions provided by art. 48 para. (9) and art. 49 paragraph (9).

(4) By way of derogation from the provisions of paragraph (3), where no candidate is present at two consecutive competitions for appointment to a management position, the next competition or examination organized for appointment to the same seniority position may have judges or, as the case may be, prosecutors from another court or prosecutor's office of the same court of appeal or prosecutor's office attached to the court of appeals district, who have the right to work at the court or prosecutor's office for which they apply.

(5) If, at a court or a prosecutor's office attached to the district where the president, vice-president or president of the section, respectively the first prosecutor or his deputy positions are vacant, no judge or prosecutor fulfils the conditions of seniority provided for by the law for the performance of these functions, does not consent to the delegation or, for objective reasons, no judge or prosecutor from the same court or prosecutor may be delegated, any of the judges or prosecutors serving in another court or prosecutor's office in the same court of appeals may be delegated to that management position.

(6) When calculating the minimum seniority conditions referred to in paragraph (1), no account shall be taken of the period during which the judge or prosecutor was a justice auditor."

**74. In Article 51, paragraphs 1, 2 and 7 shall be amended and shall have the following content:**

"Art.51.- (1) Upon the expiration of the term of office of a managerial position, the judges or the prosecutors may have, under the conditions stipulated in art. 48-50, another position of management at the same court or prosecutor's office, according to the law, either return to execution positions at the courts or prosecutor's offices which they have managed or where they come from.

(2) The dismissal from the management position of the judges is ordered by the Superior Council of Magistracy - the Section for Judges, ex officio or, at the proposal of the general assembly or of the president of the court for the following reasons:

a) if they no longer fulfil one of the conditions required for appointment to the management position;

b) in the event of misconduct of managerial duties regarding efficient organization, behaviour and communication, assuming responsibilities and managerial skills;

c) if one of the disciplinary sanctions is applied.

.....  
(7) The dismissal from the management positions of the prosecutors is ordered by the Superior Council of Magistracy - the Prosecutor's Section, ex officio or, at the proposal of the general assembly or the head of the prosecutor's office for the reasons set out in paragraph (2), which shall apply accordingly."

**75. In Article 51, after paragraph (7), three new paragraphs, paragraphs (8) - (10), shall be inserted, with the following content:**

"(8) Until the completion of the dismissal procedure provided for in paragraphs (3) and (7), the Section for Judges, respectively the Prosecutor's Section of the Superior Council of Magistrates, as the case may be, may order the suspension of the judge or prosecutor from the management position.

(9) The decision shall be motivated within 5 days from the pronouncement and may be challenged with appeal to the High Court of Cassation and Justice - the Administrative and Fiscal Complaints Section, within 5 days from the communication, without carrying out the prior procedure.

(10) Until the appeal has been resolved, the court may order, upon request, to suspend the execution of the suspension decision."

**76. After article 51 a new article, article 51<sup>1</sup>, shall be inserted, with the following content:**

"Art.51<sup>1</sup>.- (1) Suspension in any way of the employment relationship does not suspend the duration of the mandates of the management positions provided in art. 48 and 49.

(2) The impossibility of exercising attributions for more than one year shall result in the termination of the mandates of the management positions provided for in Articles 48 and 49. "

**77. In Article 52, paragraph (3) shall be amended and shall have the following content:**

"(3) The judges who have actually completed at least 3 years of office as judge at the Court of Appeal have obtained the "very good" rating in the last 3 evaluations, have not had any disciplinary sanction in for the past 3 years have an effective seniority of at least 18 years in the office of judge may participate in the promotion contest for the judge at the High Court of Cassation and Justice. The provisions of Article 44 paragraph (2) shall apply accordingly."

**78. In Article 52<sup>1</sup>, paragraph (2), point (b) shall be amended and shall have the following content:**

"b) an interview held before the Judges Section of the Superior Council of Magistracy."

**79. In Article 52<sup>1</sup>, paragraph (2), point (c) is abolished.**

**80. In Article 52<sup>1</sup>, paragraphs 3 to 5 shall be amended and shall have the following content:**

"(3) The competition commissions are appointed by decision of the Section for Judges of the Superior Council of Magistracy, at the proposal of the National Institute of Magistracy.

(4) The competition commissions are made up of judges from the High Court of Cassation and Justice, university professors having a lecturer degree or university professor from law faculties from advanced research universities and education as they are classified according to art. 193 para. (4) point c) of the National Education Law no. 1/2011, as amended and supplemented.

(5) The members of the commissions referred to in paragraph (3) may not have political affiliation at the time the commissions are formed and throughout the duration of the contest."

**81. In Article 52<sup>2</sup>, paragraph 1 shall be amended and shall have the following content:**

"Art.52<sup>2</sup>.- (1) Within the examination provided by art.52<sup>1</sup> paragraph (2) point a), at the request of the competition commissions, the Section for Judges of the Superior Council of Magistracy shall request, through the courts of appeal, court judgments of the last 5 years of activity, as well as the other data necessary for the assessment under this law. "

**82. In Article 52<sup>3</sup>, paragraph 1 shall be amended and shall have the following content:**

"Art.52<sup>3</sup>.- (1) The assessment provided for in Article 52<sup>2</sup> shall have as its object:

- a) verification of analysis and synthesis capacity;
- b) verification of consistency in expression;
- c) verifying the argument in terms of clarity and logic;
- d) verifying compliance with the reasonable time limits for solving cases and drafting judgments "

**83. In Article 52<sup>3</sup>, paragraph 2 shall be abolished.**

**84. Article 52<sup>4</sup> shall be amended and shall have the following content:**

"Art.52<sup>4</sup>.- (1) Within the interview examination, the Section for judges of the Superior Council of Magistracy assesses issues related to the integrity of the candidates and how the candidates relate to values such as the independence of the judiciary and the impartiality of the judges, the motivation of the candidates and their human and social competences.

(2) At the session of the Judges Section of the Superior Council of Magistracy in which the interview is held, a psychologist appointed by the Section for Judges will also take part in the interview, who will be able to ask questions to the candidates for the purpose of assessing the motivation and the human and social competences of them. "

**85. Article 52<sup>6</sup> is abolished**

**86. In Article 52<sup>7</sup>, paragraph 1 shall be amended and shall have the following content:**

"Art.52<sup>7</sup>.- (1) Within 15 days from the communication of the results of the promotion contest to the position of judge at the High Court of Cassation and Justice, the Section for Judges has, by decision, the promotion of the candidates declared admitted."

**87. Article 53 shall be amended and shall have the following content:**

"Art. 53 - (1) The President and Vice-Presidents of the High Court of Cassation and Justice shall be appointed by the President of Romania, upon proposal of the Superior Council of Magistracy - Section for judges, between the judges of the High Court of Cassation and Justice who functioned in this court at least 2 years old and who have not had any disciplinary sanction for the last 3 years.

(2) The President of Romania may not refuse the appointment in the managerial positions referred to in paragraph (1).

(3) The appointment in the positions provided in paragraph (1) shall be for a period of three years, with the possibility of re-investing only once.

(4) The provisions of Article 48 paragraphs (10) - (12) shall apply accordingly.

(5) The judges of the High Court of Cassation and Justice who meet the conditions set out in paragraph (1) may submit their candidacies for the position of president or vice-president of the High Court of Cassation and Justice to the corresponding section of the Superior Council of Magistracy within 30 days from the date on which the office of President or Vice-president position has become vacant.

(6) If the positions of president or vice-president of the High Court of Cassation and Justice become vacant following the expiration of the mandate, the candidature shall be submitted at least 30 days before the expiration of the mandate, but not earlier than 60 days at the time the function is going to become vacant.

(7) The dismissal of the President and the Vice-President of the High Court of Cassation and Justice shall be made by the President of Romania, at the proposal of the Section for Judges of the Superior Council of Magistracy, which may be heard ex officio at the request of one third of the members or at the request of the general meeting of the court, for the reasons set out in Article 51 paragraph (2), which shall apply accordingly.

(8) The provisions of paragraph (2) shall apply accordingly.

(9) The Presidents of the Sections of the High Court of Cassation and Justice shall be appointed by the Judges Section of the Superior Council of Magistracy, at the proposal of the President of the High Court of Cassation and Justice between the judges of the High Court of Cassation and Justice who functioned at that court at least 2 years, and have not had any disciplinary sanction for the last 3 years. The provisions of paragraphs (3) to (6) shall apply accordingly.

(10) The dismissal from the position of the presidents of sections of the High Court of Cassation and Justice is done by the Superior Council of Magistracy- Section for judges, who may be heard ex officio or at the request of the President of the High Court of Cassation and Justice, a third of the number of members or of the general meeting of the court, for the reasons set out in Article 51 paragraph (2), which shall apply accordingly. "

**88. In Article 54, paragraphs 1, 3 and 4 shall be amended and shall have the following content:**

"Art. 54. - (1) The Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice, the first deputy and his deputy, the chief prosecutor of the National Anticorruption Directorate, his deputies, the chief prosecutors of these prosecutor's offices, the Chief Prosecutor of the Directorate for the Investigation of Organized Crime and Terrorism and his deputies are appointed by the President of Romania, at the proposal of the Minister of Justice, with the opinion of the Prosecutors Section of the Superior Council of Magistracy, between the prosecutors who have a minimum of 10 years of service as judge or prosecutor, for a period of three years, with the possibility of re-investing only once.

.....  
(3) The President of Romania may, in justified cases, refuse once the appointment to the management positions provided for in paragraph (1), making the reasons for the refusal known to the public.

(4) The dismissal of the prosecutors from the management positions provided for in paragraph (1) shall be made by the President of Romania, at the proposal of the Minister of Justice, which may be heard ex officio at the request of the general meeting or, as the case may be, of the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice or the General Prosecutor of the National Anticorruption Directorate or the Directorate for the Investigation of Organized Crime and Terrorism, with the opinion of the Section for Prosecutors of the Superior Council of Magistracy, for the reasons set out in Article 51 paragraph (2) which shall apply accordingly. "

**89. In Article 54, after paragraph (4), a new paragraph (5) shall be inserted, with the following content:**

"(5) From the date of termination of the mandate of the management function, the prosecutors referred to in paragraph (1) shall regain the professional grade and the corresponding salary to it previously had or the ones obtained as a result of the promotion, under the law, during the activity within the Prosecutor's Office attached to the High Court of Cassation and Justice, the National Anticorruption Directorate or the Directorate for the Investigation of Organized Crime and Terrorism."

**90. In Article 55, paragraph 1 shall be amended and shall have the following content:**

"Art. 55. - (1) Appointment in other positions of management than those provided by art. 54 within the Prosecutor's Office attached to the High Court of Cassation and Justice, the National Anticorruption Directorate and the Directorate for the Investigation of Organized Crime and Terrorism is done for a period of three years, with the possibility of reinvestment once by the Prosecutors Section of the Superior Council of Magistracy, at the proposal of the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice, the Chief Prosecutor of the National Anticorruption Directorate or the Chief Prosecutor of the Directorate for the Investigation of Organized Crime and Terrorism, as the case may be. "

**91. In Article 55, a new paragraph (1<sup>1</sup>) shall be inserted after paragraph (1), with the following content:**

"(1<sup>1</sup>) Prosecutors who have not had any disciplinary sanction for the past 3 years and have an effective seniority of at least 10 years may be appointed to the management functions provided for in paragraph (1). "

**92. In Article 55, paragraphs 2, 4 and 5 shall be amended and shall have the following content:**

"(2) For appointment to the management positions provided in paragraph (1), it is necessary the recommendation of the head of the section or, as the case may be, the head of the Prosecutor's Office attached to the High Court of Cassation and Justice, the National Anticorruption Directorate or the Directorate for the Investigation of Organized Crime and Terrorism, where the prosecutor is to be appointed.

.....  
(4) The dismissal from the management positions of the prosecutors appointed according paragraph (1) is ruled by the Section of Prosecutors of the Superior Council of Magistracy, ex officio or at the proposal of the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice, of the Prosecutor Head of the National Anticorruption Directorate, the Chief Prosecutor of the Directorate for the Investigation of Organized Crime and Terrorism, or, as the case may be, for the reasons provided for in Article 51 paragraph (2), which shall apply accordingly.

(5) The proposal referred to in paragraph (4) may be made ex officio or at the notice of general meetings or of the heads of sections or, as the case may be, of the Directorate of the Prosecutor's Office attached to the High Court of Cassation and Justice, the National Anticorruption Directorate or the Directorate Investigation of Organized Crime and Terrorism. "

**93. Article 56 shall be amended and shall have the following content:**

"Art 56- Upon the termination of the mandate of the management function provided for in Articles 54 and 55, the prosecutors may take up another position of management at the same prosecutor's office, according to the law, either return to execution positions at the prosecutor's office which they have managed or where they come from. "

**94. In Article 57, paragraph 2 shall be amended and shall have the following content:**

"(2) The delegation of judges from courts, tribunals, specialized courts and courts of appeal to the courts of another court of appeal district shall be ordered, with their written consent, by the Superior Council of Magistracy - Judges Section upon the request of the President the court of appeal in the district of which the delegation is requested and with the opinion of the President of the Court of Appeal where they are acting."

**95. In Article 57, paragraph 3 is abolished.**

**96. In Article 57, paragraphs 4 to 8 and 8<sup>1</sup> are amended and shall have the following content:**

"(4) The delegation to the leading positions of the judges from the courts of appeal, tribunals, specialized courts and courts shall be ordered, with their written consent, by the Superior Council of Magistracy - Judges Section, until the position occupation by appointment under the law.

(5) The delegation in the management positions from the High Court of Cassation and Justice of the judges from this court is ordered by the Superior Council of Magistracy - Judges Section, with their written consent, at the proposal of the President of the High Court of Cassation and Justice.

(6) The delegation of judges may be made for a period not exceeding six months and may be extended, with their written consent, under the same conditions.

(7) In the interests of the service, prosecutors may be delegated, with their written consent, including in management positions, the provisions of paragraphs (1) - (6) being applicable accordingly.

(8) Judges and prosecutors may be delegated only to the courts or prosecutor's offices to which they have the right to operate according to the acquired professional status.

(8<sup>1</sup>) In the interest of the service, the magistrate-assistants may be delegated, with their written consent, to the positions of first magistrate-assistant or chief assistant magistrate by the president of the High Court of Cassation and Justice or the president of the Constitutional Court, after case, for a maximum of 6 months. The delegation of magistrate-assistants may be extended, with their written consent, under the same conditions. During the delegation, magistrate-assistants shall enjoy all the rights provided for by the law for the position in which they are delegated.

**97. In Article 58, paragraph 1 shall be amended and shall have the following content:**

"Art.58.- (1) The appropriate section of the Superior Council of Magistracy may order the detachment of judges and prosecutors, with their written consent, to other courts or prosecutors' offices, the Superior Council of Magistracy, the National Institute of Magistracy, the National School of Clerks, The Ministry of Justice or its subordinate units or other public authorities in any office, including those of public dignity appointed at the request of such institutions, as well as in the institutions of the European Union or international organizations at the request of the Ministry of Justice. "

**98. In Article 58, a new paragraph (1<sup>1</sup>) shall be inserted after paragraph (1), with the following content:**

"(1<sup>1</sup>) The termination of the detachment before the expiry of the period for which it was ordered takes place at the request of the judge or prosecutor or at the request of the institution to which he is detached and is ordered by the appropriate section of the Superior Council of Magistracy.

**99. In Article 58, paragraph 5 shall be amended and shall have the following content:**

"(5) Upon termination of the detachment, the judge or prosecutor shall return to his / her former position. If the detached judge or prosecutor is in the situation referred to in paragraph (6) and has not opted for the position of management or has not expressed any option, the provisions of Article 51 paragraph (1) shall apply accordingly upon termination of the detachment. "

**100. In Article 58, after paragraph (5), three new paragraphs (6) - (8) shall be inserted, with the following wording:**

"(6) If the detached judge or prosecutor occupies a leading position in the courts or prosecutor's offices,

within 6 months of the decision of the corresponding section of the Superior Council of Magistracy by which the detachment has been disposed makes an option for the managerial position or for the position occupied by detachment.

(7) If the detached judge or prosecutor has not opted for the managerial position or has expressed no option, the respective managerial position shall become vacant upon expiry of the term stipulated in paragraph (6). If the judge or prosecutor opts for the previously held position, the detachment shall cease upon the expiry of the period provided for in paragraph (6).

(8) The provisions of paragraphs (6) and (7) shall also apply accordingly if the judge or prosecutor was detached before taking up the management position."

**101. Article 59 shall be amended and shall have the following content:**

"Art.59.- Detachment and delegation cannot be made to higher courts or prosecutors' offices higher than those to which the judge or prosecutor is entitled to function according to the law."

**102. Article 60 shall be amended and shall have the following content:**

"Art. 60. - (1) The transfer of judges and prosecutors from one court to another court or from a prosecutor's office to another prosecutor's office or to a public institution shall be approved at the request of the respective section of the Superior Council of Magistracy, with the advisory opinion of the president of the court or of the chief prosecutor of the appropriate prosecutor's office.

(2) The transfer cannot be made to higher courts or prosecutors' offices higher than those to which the judge or prosecutor has the right to function, according to the law.

(3) The rules governing the transfer procedure shall be established by regulations elaborated by the respective sections of the Superior Council of Magistracy. "

**103. In Article 61, paragraphs (1) and (3) shall be amended and shall have the following content:**

"Art.61.- (1) At the reasoned request, the judges may be appointed as prosecutors to the prosecutor's offices attached to the judges, and the prosecutors in the position of judge at the courts, by a decree of the President of Romania, at the proposal of the Superior Council of Magistracy, subject to the conditions laid down in this law. The proposal for appointment to the position of judge is formulated by the Judges Section of the Superior Council of Magistracy, with the advisory opinion of the prosecutor's office from which it comes, as well as of the court in which he is about to act, and the nomination proposal of the judges in the position of prosecutor is formulated by the Prosecutor's Section of the Superior Council of Magistracy, with the advisory opinion of the court in which he operates and of the prosecutor's office where he is about to activate

.....  
(3) The President of Romania may not refuse the appointment to the positions provided in paragraph (1)."

**104. In Article 62 paragraph (1), point a) shall be amended and shall have the following content:**

"a) when he was sued for committing an offense after the confirmation of the preliminary chamber judge;

**105. In Article 62 paragraph (1), a new point, point a<sup>2</sup>) shall be inserted after point a<sup>1</sup>), with the following wording:**

"a<sup>2</sup>) when the preventive measure of judicial control or judicial control on bail has been taken against him and the judicial body has determined in his duty not to practice the profession in which he has committed the offense;"

**106. In Article 62 paragraph (1), after the point c), two new points d) and e) are inserted, with the following wording:**

d) in the case provided by art.52 paragraph (1) of the Law no.317 / 2004 on the Superior Council of Magistracy, republished;

e) between the date of the decision of the appropriate Section for the application of the disciplinary sanction stipulated in art. 100 point e) and date of dismissal from the function."

**107. In Article 62, paragraph (1<sup>1</sup>) shall be amended and shall have the following content:**

"(1<sup>1</sup>) The judge or prosecutor may be suspended from office if he has been sued for an offense, if it is judged, in the circumstances of the case, to prejudice the prestige of the profession. If the Judge or Prosecutor is deemed to be in office, he may be provisionally forbidden to perform certain duties until the case has been finally settled."

**108. In Article 62, after paragraph (1<sup>1</sup>), two new paragraphs (1<sup>2</sup>) and (1<sup>3</sup>) are inserted, with the following content:**

"(1<sup>2</sup>) A judge or prosecutor who suffers from a condition other than that referred to in paragraph (1) para. (b), which renders him unable to perform his duties, may be suspended from office at his request, or of the management college of the court or of the prosecutor's office. This measure can be ordered only after the expiry of the duration for which the medical leave and the allowances for temporary incapacity for work in the social health insurance system are granted. The condition is determined by a specialized expertise carried out by a specialized medical commission appointed by joint order of the Minister of Justice and the Minister of Health. Suspension from service lasts until recovery. Through the expertise report, the commission sets the deadline for the magistrate to come back to the review.

(1<sup>3</sup>) In special personal circumstances, at the request of the judge or prosecutor, the Section for Judges or, as the case may be, the Prosecutor's Office of the Superior Council of Magistracy may order the suspension of office for a maximum of 3 years if the measure does not affect the proper functioning of the court or prosecutor's office.

**109. In Article 62, paragraphs 2 to 4 are amended and shall have the following content:**

"(2) Suspension from office of judges and prosecutors shall be ordered by the Judges Section or, as the case may be, by the Prosecutor's Section of the Superior Council of Magistracy.

(3) During the suspension period from the office, ordered under the paragraph (1), point a)- a<sup>2</sup>) and point c)- e), paragraph (1<sup>1</sup>) and paragraph (1<sup>3</sup>), the judge and the prosecutor shall not be subject to the provisions concerning the prohibitions and incompatibilities provided for in Articles 5 and 8 and is not paid wage entitlements. During this period, the judge or the prosecutor is paid the social health insurance rights, according to the law. This period is not seniority in work and magistracy.

(4) During the period of suspension ordered under paragraphs (1) point (b) and paragraph (1<sup>2</sup>), an allowance equal to 80% of the net monthly indemnity in the last month of activity before the date the suspension of office is paid and the provisions on the prohibitions and incompatibilities referred to in Articles 5 and 8 are applicable."

**110. In Article 62, after paragraph (4), five new paragraphs, paragraphs (5) - (9), shall be inserted, with the following content:**

"(5) After the expiry of the term referred to in paragraph (1<sup>2</sup>) and the performance of a new expertise by the specialized medical commission appointed by joint order of the Minister of Justice and the Minister of

Health, the appropriate section of the Superior Council of Magistracy may decide to terminate the suspension and reinstatement in the capacity of the judge or prosecutor, the extension or, if the illness is irreversible, proposes dismissal by retirement.

(6) Auditors of justice shall be suspended from the capacity of auditor in the cases provided for in paragraphs (1) point a) and b), paragraphs (1<sup>1</sup>) and (1<sup>2</sup>), which shall apply accordingly. In the case provided for in paragraph (1<sup>1</sup>), the Scientific Council of the Institute may order the suspension of the justice auditor if it considers that the offense undermines the dignity of the auditor's quality or the image of the Institute.

(7) The suspension from the position of auditor of justice shall be ordered by the Scientific Council of the Institute. The decision ordering the suspension, as well as the decision on the termination of the suspension, shall be immediately communicated to the justice auditor; the decision taken is also brought into knowledge of the Superior Council of Magistracy. Upon termination of the suspension, the justice auditor will resume the courses at the Institute at the same stage as they were interrupted.

(8) During the period of suspension ordered for the reasons set out in paragraph (1) point a) and paragraph (1<sup>1</sup>), the auditor of justice shall not benefit from scholarship or other rights of auditors, and this period shall not constitute seniority in magistracy. During the period of suspension ordered pursuant to paragraph (1<sup>1</sup>) and for the reason set out in paragraph (1) point b), the justice auditor shall be paid an indemnity equal to 80% of the scholarship.

(9) In the hypothesis provided for in paragraph (5), if the illness of the auditor is irreversible, the Scientific Council of the Institute shall order his expulsion."

**111. Article 62<sup>1</sup> shall be amended and shall have the following content:**

"Art.62<sup>1</sup>.- (1) The resolution by which the preventive arrest or home arrest was ordered, the resolution or the order by which it was established the obligation not to exercise the profession in which exercise the offense was committed during the judicial control or the judicial control on bail, the indictment ordering the suing, or the ordinance ordering the waiver of criminal prosecution of a judge or prosecutor shall be communicated within 24 hours to the Section for Judges or to the Prosecutor's Section, as the case may be, of the Council Superior Council of Magistracy.

(2) Within three days from the final ruling of a judgment given in a criminal case against a magistrate, the executing court shall communicate to the appropriate section of the Superior Council of Magistracy a copy of the decision."

**112. After Article 62<sup>1</sup>, three new articles, Articles 62<sup>2</sup> - 62<sup>4</sup>, shall be inserted, with the following wording:**

"Art. 62<sup>2</sup>.- (1) The judge or prosecutor may be appointed as a member of the Government.

(2) The Government shall inform the Superior Council of Magistracy of the act of appointment referred to in paragraph (1), to order their suspension.

(3) During the period of suspension from office, ordered pursuant to paragraphs (1) and (2), the provisions on prohibitions and incompatibilities referred to in Articles 5 and 8 shall not apply to judges and prosecutors.

(4) The Superior Council of Magistracy shall take note of the situations referred to in paragraphs (1) and (2).

(5) The period referred to in paragraph (1) shall not constitute seniority in the magistracy, unless the judge or the prosecutor voluntarily suspended acts as minister of justice, but constitutes a length of service.

Art.62<sup>3</sup>.- In the case of judges and prosecutors holding a leading position, the mandate of the management function ceases if the suspension from the position disposed according to Art. 62 para. (1<sup>1</sup>) lasts for more than one year.

Art.62<sup>4</sup>.- At the express request of the judge or prosecutor, a voluntary suspension from the magistracy can be ordered for a maximum of 3 years, with the possibility of extending for another 3 years.

Suspension shall be determined by decision of the corresponding section at the express request of the judge or prosecutor. The competent section has the obligation to rule on the application within a maximum of 15 days from the date of its registration. Voluntary suspension may terminate before the expiry of the period referred to in the section's decision only at the express request of the Judge or Prosecutor concerned. The relevant section has the obligation to discuss the request for termination of the voluntary suspension within a maximum of 15 days from the date of registration. There are no specific incompatibilities and prohibitions during the voluntary suspension."

**113. In Article 63, paragraphs 1 and 2 shall be amended and shall have the following content:**

"Art.63.- (1) The Section for Judges or, as the case may be, the Prosecutor's Section shall immediately notify the Judge or Prosecutor and the management of the court or Prosecutor's Office where the decision to suspend the office is in operation.

(2) If closure, discharge or termination of the criminal proceedings against the judge or prosecutor is ordered or the restitution of the case to the Prosecutor's Office is ordered, the suspension of office shall cease and the suspended judge or prosecutor shall be reinstated in the previous situation, the money entitlements during the period of suspension from the execution position shall be paid or, as the case may be, during the entire mandate of the managerial position which he could not exercise due to suspension or termination of the mandate under the conditions of art. 62<sup>2</sup>. The money to be paid will be increased, indexed and updated, including the legal penalty interest - payment obligations established by order of the Minister of Justice. The judge or prosecutor is recognized the seniority in magistracy and the effective seniority in the position of judge or prosecutor during that period. "

**114. In Article 63, after paragraph (2), a new paragraph (2<sup>1</sup>) shall be inserted, with the following content:**

"(2<sup>1</sup>) Suspension from office shall also cease when the discharge or termination of the criminal proceedings is pronounced in the first instance. In this case, the rights provided for in paragraph (2) shall be granted after the final judgment has been passed on the discharge or termination of the criminal proceedings. "

**115. In Article 63, paragraph (3) shall be abolished.**

**116. Article 64 shall be amended and shall have the following content:**

"Art.64.- (1) In the case referred to in Article 62 paragraph (1) point (b), psychological illness shall be determined by a specialized expertise carried out by a specialized medical commission appointed by joint order of the Minister of Justice and the Minister of Health. At the request of the president of the court or of the head of the prosecutor's office or of the management colleges, the corresponding section of the Superior Council of Magistracy shall order the magistrate's presentation to the specialized expertise.

(2) The suspension from office shall be ordered until recovery, ascertained by specialized medical examination carried out by the medical commission. Through the expertise report, the commission sets the deadline for the magistrate to return to the review.

(3) The provisions of Article 62 paragraph (5) shall apply accordingly.

(4) If the magistrate unjustifiably refuses to submit within the specified time limit to the specialized expertise, the corresponding section of the Superior Council of Magistracy shall order the suspension of his / her office for a period of one year. During the suspension of office for this reason, the judge and the prosecutor are not paid the salary rights and the provisions regarding the prohibitions and incompatibilities stipulated by the law are not applicable. This period does not constitute seniority in office and in the magistracy. Suspension from office shall be terminated by decision of the corresponding

section of the Superior Council of Magistracy, following the presentation of the magistrate to the specialized expertise.

(5) The provisions of paragraphs (1) - (4) shall apply accordingly to the auditors of justice, and the suspension of the auditor quality may be ordered by the Scientific Council of the National Institute of Magistracy. In this case, the suspension shall be ordered until recovery, ascertained by specialized medical examination carried out by the commission stipulated in para. (2), but not more than 2 years from the date of finding the disease by expertise, in which case he shall cease to be an auditor."

**117. After article 64 a new article, article 64<sup>1</sup>, shall be inserted, with the following content:**

"Art.64<sup>1</sup>.- If the judge or prosecutor is appointed to the office of magistrate or other judicial functions in European or international arbitration courts or instances, his employment relationship may be suspended upon request during the respective appointment by decision of the corresponding section of the Superior Council of Magistracy. During this period, the judge or the prosecutor is not paid the salary rights. That period constitutes seniority in position and seniority in magistracy."

**118. In Article 65 paragraph (1), point (f) shall be amended and shall have the following content:**

"f) conviction, postponement of applying the punishment and waiving of applying the punishment, ordered by a final decision, as well as the waiver of the criminal prosecution confirmed by the preliminary chamber judge for an offense detrimental to profession's prestige;"

**119. In Article 65 paragraph (1), point (f<sup>1</sup>) is abolished.**

**120. In Article 65 paragraph (1) points h) and i) shall be amended and shall have the following content:**

"h) failure to present, unjustifiably to the specialized expertise, until the time of suspension from office, ordered according to art.64 paragraph (4);  
i) failure to fulfil the conditions provided for in Article 14 paragraph (2) points a) and e) or of the condition regarding the lack of the criminal record, if in the latter case it is considered that it is not necessary to remain in office;

**121. In Article 65 paragraph (1), a new point (j) is inserted after point (i), with the following wording:**

"j) failure to pass the examination referred to in Article 26."

**122. Article 65 paragraph (1<sup>1</sup>) is abolished.**

**123. In Article 65, paragraphs 2, 4 and 5 shall be amended and shall have the following content:**

"(2) The dismissal from office of judges and prosecutors shall be ordered by a decree of the President of Romania, at the proposal of the Section for Judges or, as the case may be, of the Section for Prosecutors.  
.....

(4) The dismissal from office of the trainee judges and of the trainee prosecutors shall be made by the Judges Section or, as the case may be, by the Prosecutor's Office Section.

(5) If the judge or prosecutor requests the dismissal from office by resignation, the Section for Judges or, as the case may be, the Prosecutor's Section may set a maximum of 30 days from which the resignation becomes effective, if the presence of the judge or the prosecutor is necessary."

**124. In Article 65<sup>1</sup>, paragraphs 2 and 3 shall be amended and shall have the following content:**

"(2) If the judge or prosecutor exercises the remedy provided by law against the decision to dismiss from office or to the decision proposing dismissal, he shall be suspended from office until the final settlement of the case by the competent court.

(3) During the period of suspension, the judge or prosecutor shall not be subject to the provisions concerning the prohibitions and incompatibilities provided for in Articles 5 and 8 and shall not be paid his salary rights. During the same period, the judge or the prosecutor is paid the social health insurance contributions, as the case may be, according to the law. The provisions of Article 63 paragraph (1) shall apply accordingly. "

**125. The title of Chapter VIII is amended and shall have the following content:**

**"CHAPTER VIII**

**Magistrate-assistants of the High Court of Cassation and Justice and of the Constitutional Court"**

**126. In Article 66, paragraphs (1) and (2) shall be amended and shall have the following content:**

"Art. 66. - (1) The first magistrate-assistant, the magistrate-assistant chiefs and the magistrate-assistants shall enjoy stability.

(2) Magistrate-assistants are appointed and promoted on the basis of the Judges Section on a contest basis."

**127. In Article 66, after paragraph (2), a new paragraph (2<sup>1</sup>) shall be inserted with the following content:**

"(2<sup>1</sup>) The magistrate-assistants of the Constitutional Court are appointed and promoted by the Plenum of the Constitutional Court on the basis of a contest. The Examination Board is appointed by the President of the Constitutional Court and consists of 5 Judges of the Court, in the case of the First Magistrate-assistant and the Chief Magistrate-assistants and 3 Judges of the Court in the case of Magistrate-assistants. "

**128. In Article 67, paragraphs (3) and (4) shall be amended and shall have the following content:**

"(3) The III degree magistrate-assistants are appointed, without contest, among judges or prosecutors with seniority in these positions for at least 5 years by supporting an interview with the Judges Section of the Council or the Plenum of the Constitutional Court, as the case may be. After a period of 3 years in this position, the magistrate-assistants can be transferred to the second degree and after another 3 years in the first degree.

4) The third degree magistrate-assistants may also be appointed by contest between lawyers, notaries, legal specialists referred to in art. 87, paragraph (1), academic specialists with legal specialization, as well as among higher education clerks of the courts of appeal, the Constitutional Court and the High Court of Cassation and Justice, with at least 5 years of service in these positions. "

**129. In Article 67, after paragraph (4), two new paragraphs, paragraphs (5) and (6) are inserted, with the following content:**

"(5) The persons who have been at least 10 years as magistrate-assistant, who have not had any disciplinary sanction in the last 3 years, had only the "very good" rating at all evaluations and have ceased their activity for non-imputable reasons, can be appointed without a contest or examination, in the vacant position of magistrate-assistant, with the same degree at the date of dismissal. People who have been part

of, or collaborated with, intelligence services cannot be appointed to this function. The provisions of Article 33 paragraphs (2) to (4) shall apply accordingly.

(6) The appointment in the positions of first-magistrate-assistant and chief-magistrate-assistant shall be done for a period of 3 years, with the possibility of reinvestment under the terms of this article. "

**130. In Article 68 paragraph (1), point (b) shall be amended and shall have the following content:**

"b) participates in the meetings of the United Sections of the High Court of Cassation and Justice and of the Chamber of 5 Judges as a disciplinary body."

**131. In Article 69, point a) shall be amended and shall have the following content:**

"a) attends the hearings of the sections and the Chamber of 5 Judges:"

**132. In Article 70, after paragraph (1), a new paragraph (2) shall be inserted, with the following content:**

"(2) The chief magistrate-assistants and magistrate-assistants who attend the meetings of the United Sections of the High Court of Cassation and Justice shall be appointed by the president of the court."

**133. After Article 72, a new article, article 72<sup>1</sup>, shall be inserted, with the following content:**

"Art.72<sup>1</sup> - The first magistrate-assistant, the chief magistrate-assistants, one of whom is the director of the cabinet of the president of the Constitutional Court, and the magistrate-assistants of the Constitutional Court, operate under the leadership of the President of the Constitutional Court and fulfil, as the case may be, the attributions stipulated by Law no. 4/1992 on the organization and functioning of the Constitutional Court, republished, and by the Regulation on the organization and functioning of the Constitutional Court. "

**134. In Article 73, after paragraph (1) a new paragraph (2) shall be inserted, with the following content:**

"(2) Judges and prosecutors have the right to opt for self-suspension for up to 2 years. This option is taken into account by the corresponding section within the Superior Council of Magistracy. During the suspension, the regime of incompatibilities and prohibitions provided by law is not applicable. "

**135. Article 75 shall be amended and shall have the following content:**

"Art.75 - (1) The appropriate section of the Superior Council of Magistracy has the right, respectively the correlative obligation, to observe ex officio to defend judges and prosecutors against any act of interference in or in connection with the professional activity, which - could affect the independence or impartiality of the judges, namely the impartiality or independence of prosecutors in settling the solutions, according to the Law no. 304/2004, republished, with the ulterior modifications and completions, as well as against any act that would create suspicions about them. The sections of the Superior Council of Magistracy also defend the professional reputation of judges and prosecutors. The reports on the defence of the independence of the judiciary as a whole shall be resolved, upon request or ex officio, by the Plenum of the Superior Council of Magistracy.

(2) Judges or prosecutors who are in one of the situations referred to in paragraph (1) may address the appropriate sections of the Superior Council of Magistracy in order to order the necessary measures, according to the law. "

**136. Article 76 shall be amended and shall have the following content:**

"Art. 76. - Judges and prosecutors are free to organize or join local, national or international professional organizations in order to protect their professional rights and interests, as well as those provided in art. 11 paragraph (3), being members of their governing bodies. "

**137. In Article 77, paragraph (2) shall be amended and shall have the following content:**

"(2) The special protection measures, the conditions and the manner of their realization shall be established by a decision of the Government, at the proposal of the Ministry of Justice, the Superior Council of Magistracy and the Ministry of Internal Affairs."

**138. In Article 77, after paragraph (2) a new paragraph (3) shall be inserted, with the following content:**

"(3) The concrete measures of protection ordered by the competent bodies on a case-by-case basis shall be communicated to the Superior Council of Magistracy immediately, but not later than 48 hours."

**139. In Article 78, paragraph 1 shall be amended and shall have the following content:**

"Art. 78. - (1) The judges and prosecutors, including the retired, shall receive compensation from the budgetary funds of the High Court of Cassation and Justice, of the Ministry of Justice, of the Public Ministry or, in case of military prosecutors, of the Ministry of National Defence, if their life, health or property is affected in the performance of their duties or in connection with them."

**140. In Article 78, after paragraph (2) a new paragraph (3) shall be inserted, with the following content:**

"(3) In the case of the refusal to grant the indemnities stipulated in paragraph (1), their beneficiary may address to the administrative legal department of the court. The action is exempt from the stamp duty."

**141. In Article 79, after paragraph (7), two new paragraphs (8) and (9) are inserted, with the following content:**

"(8) Judges, prosecutors in activity and retired, as well as their spouse and dependent children shall receive free of charge medical care, medicines and prostheses, subject to the legal provisions regarding the payment of the social security contribution.

(9) The conditions for free provision of medical care, medicines and prostheses are established by Government Decision. These rights are not salaried and are not taxed."

**142. In Article 81, paragraph 3 is abolished.**

**143. In Article 82, paragraphs 1 and 2 shall be amended and shall have the following content:**

"Art.82.- (1) Judges, prosecutors, magistrates-assistants of the High Court of Cassation and Justice, assistant magistrates from the Constitutional Court and legal specialists assimilated to judges and prosecutors, as well as former judges and financial prosecutors and account advisers from the judicial department who have performed these functions at the Court of Accounts, with at least 25 years in the position of judge or prosecutor, magistrate-assistant or legal professional staff assimilated to judges and prosecutors, as well as to the position of judge or financial prosecutor or account counsellor in the judicial department of the Court of Accounts may retire on request and benefit upon turning 60 years

old, of service pension in the amount of 80% of the gross monthly indemnity allowance or the gross monthly basic salary after case, and bonuses in the last month of activity before the date of retirement.

(2) Judges, prosecutors, assistant magistrates from the High Court of Justice Cassation and Justice and the Constitutional Court, legal specialists assimilated to judges and prosecutors, as well as former judges and financial prosecutors and account advisers from the judicial department who have exercised these functions at the Court of Accounts may retire on request before turning 60 years old and they benefit from the pension stipulated in paragraph (1), if they have at least a seniority of 25 years in the position of the judge, prosecutor, magistrate- assistant at the High Court of Cassation and Justice and the Constitutional Court or legal professional staff assimilated to judges, as well as in the position of judge at the Constitutional Court, judge or financial prosecutor or account counsellor at legal section of the Court of Accounts. When calculating this seniority, account shall also be taken of periods during which the judge, the prosecutor, the assistant magistrate or the legal professional staff assimilated to judges and prosecutors, as well as the Constitutional Court judge, the judge, the financial prosecutor and the account counsellor at the jurisdiction of the Court of the Accounts served as Minister of Justice under the conditions laid down in Article 62<sup>2</sup>, the profession of lawyer, legal specialists in former State Arbitrations, legal advisers or jurists."

**144. In Article 82, after paragraph (2), two new paragraphs (2<sup>1</sup>) and (2<sup>2</sup>) are inserted, with the following content:**

"(2<sup>1</sup>) If, pursuant to paragraph (2), two special pensions arise, then the magistrate must choose between them, and until reaching the age of 65 the pension cannot be cumulated with the salary.

(2<sup>2</sup>) The pensions referred to in Article 81, respectively, those provided for in this Article may not be cumulated with other special / service allowances."

**145. In Article 82, paragraphs (3) and (5) shall be amended and shall have the following content:**

"(3) By the service pension stipulated in paragraph (1), it can benefit, upon request, before turning 60 years old, the judges, prosecutors and assistant magistrates from the High Court of Cassation and Justice and judges and magistrates assistants from the Constitutional Court, with a seniority of 20 and 25 years only in these positions, in which case the amount of the pension is reduced by 1% of the calculation base provided for in paragraph (1), for each year missing from full age in these functions.

.....  
(5) Persons who meet the conditions of seniority provided for in paragraphs (1) and (3) in the position of judge, prosecutor, magistrate-assistant or legal specialists assimilated to the judges, as well as in the position of judge or financial prosecutor, State Notary or Account Counsellor at the legal section of the Court of Accounts may retire and benefit from, upon turning the age of 60, by service pension even if they have another occupation at the time of retirement. In this case, the pension is set on a basis of calculation equal to the monthly gross indemnity paid by a judge or prosecutor in service, on the same terms of office, seniority and grade of the court or prosecutor's office, and the bonuses had on the date of dismissal or, as the case may be, with the gross monthly gross salary and bonuses in the last month of activity before the date of retirement. Only persons who have been dismissed for non-imputable reasons may benefit from this service pension."

**146. In Article 82, after paragraph (5), two new paragraphs (5<sup>1</sup>) and (5<sup>1</sup>) are inserted, with the following content:**

"(5<sup>1</sup>) The persons who have performed the function of state notary shall benefit from the service pension in the amount and under the conditions provided by the present law. The service pension will be calculated in relation to the earnings obtained by a judge at the court level at the date when the person who performed the function of state notary has applied for the calculation of the service pension.

(5<sup>2</sup>) By the service pension stipulated in the present law also benefit persons who have performed the function of state notary and who, at the date of the entry into force of the Law on Notaries Public and of the notary activity no. 36/1995, had seniority of less than half of the length of service provided for in paragraph (3). In this case, the amount of the service allowance shall be reduced by 1% for each year which is missing from the full age which constitutes the basis of calculation provided for in paragraph (1)."

**147. In Article 82, paragraph (6) shall be amended and shall have the following content:**

"(6) Judges, prosecutors and assistant magistrates from the High Court of Cassation and Justice and the Constitutional Court are entitled to a disability and occupational disease pension in the amount of 80% of the service pension."

**148. In Article 83, paragraphs (1) and (3) shall be amended and shall have the following content:**

"Art. 83. - (1) The judges, prosecutors, assistant magistrates from the High Court of Cassation and Justice, as well as the legal specialists referred to in Article 87 paragraph(1) may be kept in office after the age of retirement age under the law, up to the age of 70. Until the age of 65, the magistrate may choose to remain in office, but after this age, the annual opinion of the Section for Judges or, where applicable, the Prosecutor's Section is required to be maintained in activity.

.....  
(3) The re-appointment as a judge, prosecutor or assistant magistrate shall be made without contest by the appropriate section of the Superior Council of Magistracy, to the courts or, where appropriate, to the prosecutor's offices attached to them, within which they were entitled to work until at the date of retirement and which cannot function normally due to lack of personnel. In this case the appointment to the position of assistant magistrate is made by the Superior Council of Magistracy, and the appointment to the position of judge or prosecutor is made by the President of Romania, at the proposal of the Superior Council of Magistracy. The former judges, prosecutors or assistant magistrates who have been dismissed by retirement according to the present law and for whom the disciplinary sanction of the exclusion from the magistracy has not been established under Law no. 317 / 2004, republished, as subsequently amended may be re-appointed in the function. During re-appointment, the amount of the pension is reduced by 85%. "

**149. In Article 83, paragraphs 1 and 4 shall be amended and shall have the following content:**

"Art. 83<sup>2</sup>. - (1) It does not benefit from the service pension provided in art. 82 and 83<sup>1</sup> and the indemnity provided for in Article 81, the judges, prosecutors, assistant magistrates and legal specialists assimilated to judges and prosecutors who, even after their dismissal, were finally convicted or ordered to postpone the punishment for a corruption offense , an offense assimilated to corruption offenses or offense related to it, as well as one of the offenses covered by Title IV of Law no.286 / 2009, as subsequently amended and supplemented, "Offenses against the Execution of Justice" committed prior to dismissal. These persons receive pension in the public system, according to the law.

.....  
(4) The conviction decision or the order for the postponement of the punishment, which is final, shall be communicated by the executing court of the Superior Council of Magistracy. The Section for Judges or, as the case may be, the Prosecutor's Section will inform the National Pensions House about the occurrence of one of the situations provided for in this Article which has the effect of granting, suspending, terminating or resuming the payment of the service pension or, as the case may be, or the resumption of the procedure for the settlement of the application for the granting of the service pension. Information to the Section for Judges or, where applicable, the Prosecutor's Section includes the elements

necessary for the application of the measure by the territorial pension houses, including the identification data of the person, the legal basis of the measure and the date from which it applies."

**150. After article 83<sup>2</sup> a new article, article 83<sup>3</sup>, shall be inserted, with the following content:**

"Art.83<sup>3</sup>.- It does not benefit from the service pension provided in art. 82 and 83<sup>1</sup> and the indemnity provided in art. 81, judges, prosecutors, assistant magistrates and legal specialists assimilated to judges and prosecutors in respect of which the disciplinary sanction of the exclusion from the magistracy has been established, in accordance with Law no.317 / 2004, republished, with subsequent amendments. These people benefit from a pension in the public system, under the law."

**151. Article 84 shall be amended and shall have the following content:**

"Art. 84. - (1) The surviving spouse of the judge or prosecutor is entitled, at the age of 60 years, to the survivor's pension under the conditions stipulated by the Law no. 263/2010 on the unitary pension system, with subsequent amendments and completions, calculated from the paid service pension or at which the supporter would have been entitled to the date of death, updated as appropriate.

(2) The minor children of the deceased judge or prosecutor, as well as the older children up to the end of the studies, but not more than 26 years old, shall be entitled to the survivor's pension, calculated from the paid pension or to which the deceased supporter would have had the right to the death date, updated, as the case may be, under the conditions of the Law no. 263/2010, with the subsequent amendments and completions, and the percentages stipulated by this law, depending on the number of descendants.

(3) If, at the time of death, the prosecutor or the judge does not fulfil the conditions for granting the service allowance, minors and children up to the end of their studies but not more than 26 years, they shall be entitled to a survivor pension in the amount of 75% of the monthly gross indemnity paid by the deceased supporter in the last month of activity, under the conditions stipulated by Law no. 263/2010, as subsequently amended and supplemented.

**152. In Article 85, paragraph 1 shall be amended and shall have the following content:**

"Art.85.- (1) The part of the service pension which exceeds the level of the pension in the public system, the pension stipulated in art. 82 paragraph (2), art. 83<sup>1</sup> and art.84 paragraph (3), as well as the service pension granted to those who do not meet the age limit provided by the Law no. 263/2010, with the subsequent amendments and completions, shall be borne by the state budget. "

**153. After Article 85, two new articles, 85<sup>1</sup> and 85<sup>2</sup> are introduced, with the following content:**

"Art.85<sup>1</sup> - The provisions of art.82-85 shall apply accordingly to the judges of the Constitutional Court. The period in which the person has served as a judge at the Constitutional Court constitutes seniority as a judge. The period in which, under the conditions of art.62<sup>2</sup> paragraph (5), the position of minister of justice is exercised constitutes seniority in magistracy.

Art. 85<sup>2</sup>. - The provisions of art. 82-85 also applies to assistant magistrates from the High Court of Cassation and Justice and the Constitutional Court. "

**154. Article 86 shall be amended and shall have the following content:**

"Art. 86. - (1) It constitutes seniority in the magistracy, also applicable to the persons referred to in art. 82 para. (1) and (2), the period during which the judge, the prosecutor, the legal professional staff provided under art. 87 para. (1) or the magistrate-assistant has performed the functions of judge, prosecutor, judge at the Constitutional Court, financial judge, financial prosecutor, accountant counsellor in the legal section of the Court of Accounts, auditor of justice, legal specialists provided by art. 87 paragraph (1), assistant magistrate, court clerk with law higher education, lawyer, notary, legal assistant, legal adviser,

legal specialists in the apparatus of the Parliament, the Presidential Administration, the Government, the Constitutional Court, the People's Advocate, the Court of Accounts or the Legislative Council, or a credited higher education legal professor.

(2) It constitutes seniority within the meaning of the present law, the period during which a person has exercised the function of state notary, this seniority being applied to the persons mentioned in art. 82, paragraphs (1) - (5), as well as the former state notaries, even if they have another occupation at the time of retirement. "

**155. Article 95 shall be amended and shall have the following content:**

"Art. 95. - (1) Judges and prosecutors may be searched, detained or arrested only with the approval of the Section for Judges or, as the case may be, of the Prosecutor's Section of the Superior Council of Magistracy.

(2) In the case of a flagrant offense, judges and prosecutors may be detained and subject to search by law, the Section for Judges or, where appropriate, the Prosecutor's Section being immediately informed by the body which ordered the detention or search.

**156. Article 96 shall be amended and shall have the following content:**

"Art. 96. - [.../Users/raluca.erghelegiu/sintact/4.0/cache/Legislatie/temp329148/0086077\\_HTML-#](http://.../Users/raluca.erghelegiu/sintact/4.0/cache/Legislatie/temp329148/0086077_HTML-#) (1) The state is held patrimonial for damages caused by judicial errors.

(2) Judicial error implies the liability of judges and prosecutors only if they have exercised their office in bad faith or serious negligence.

(3) There is a judicial error when the misconduct of a judicial proceeding is determined in the course of the act of justice, and as a result an injury to the legitimate rights or interests of a person occurs.

(4) There is a bad faith when the judge or prosecutor in the exercise of his office knowingly violates the Convention for the Protection of Human Rights and Fundamental Freedoms, the fundamental rights and freedoms set forth in the Romanian Constitution or the rules of substantive or procedural law, causing a judicial error.

(5) There is serious negligence when the judge or prosecutor, in the exercise of his office, by fault, disregards the rules of substantive law or procedural law, causing a judicial error.

(6) The person who in the course of the trial has contributed in any way to the judicial error by the judge or prosecutor is not entitled to compensation.

(7) In order to compensate for the prejudice caused by a judicial error, the aggrieved party may bring an action only against the state, represented by the Ministry of Public Finance, according to the law, to the tribunal in whose district has its domicile or office, as the case may be. Payment by the State of sums due as compensation shall be made within a maximum of one year from the date of delivery of the final judgment.

(8) After the damage caused by a judicial error has been covered by the State, the Ministry of Public Finance shall be obliged to return, by judicial means, against the judge or prosecutor who caused the judicial error. The jurisdiction of the court of first instance lies with the Bucharest Court of Appeal, the provisions of the Civil Procedure Code being fully applicable.

(9) The limitation period of the right of action of the state provided for in paragraph (8) shall be one year from the date on which the damage was fully paid.

(10) The Superior Council of Magistracy may establish conditions, deadlines and procedures for compulsory professional assurance of judges and prosecutors. Compulsory insurance cannot delay, diminish or eliminate liability for a judicial error caused by bad faith or serious negligence. "

**157. In Article 99, points j), n), o), r) and t) shall be amended and shall have the following content:**

j) non-observance of the secrecy of the deliberations or the confidentiality of the works having this character, as well as of other information of the same nature which he / she became aware in the exercise of his / her office, except for those of public interest, under the law, if the act does not constitute an offense;

n) use of the function held to obtain favourable treatment by the authorities or interventions for the settlement of claims, claiming or accepting the resolution of the personal interests or of the family members or of other persons, other than within the legal framework regulated for all citizens, if the offense meets the constitutive elements of a crime;

o) non-compliance with the provisions on random distribution of cases;

r) lack to motivate the prosecutor's court decisions or judicial acts within the time limits provided by the law;

t) the exercise of the position in bad faith or serious negligence, if the act fails to meet the constitutive elements of a crime. Disciplinary sanctions do not remove criminal liability. "

**158. Article 99<sup>1</sup> is abolished.**

**159. In Article 100 paragraph (1), points (b) and (c) shall be amended and shall have the following content:**

b) the reduction of the gross monthly indemnity by up to 25% for a period of up to one year;

c) the disciplinary transfer for an effective period of one year to three years at another court or at another prosecutor's office, even of an immediately inferior degree; "

**160. In Article 100 paragraph (1), a new point, point d<sup>1</sup> is inserted after point (d), with the following wording:**

"d<sup>1</sup>) Professional downgrading;"

**161. In Article 100 after paragraph (1) a new paragraph (2) shall be inserted, with the following content:**

"(2) By way of derogation from the provisions of special laws governing disciplinary liability, the disciplinary sanctions that may be applied for the disciplinary deviations provided for in Article 99 points (b), (d) and (e) of the first sentence may not consist of those provided for in Article 100 points (a) - (d). "

**162. After Article 105 a new article is inserted, art. 105<sup>1</sup>, with the following content:**

"Art.105<sup>1</sup>. For the purposes of this law, judges, prosecutors, assistant magistrates and legal specialists assimilated to judges and prosecutors who have been dismissed for one of the reasons set out in art. 65 paragraph (1) points a) - c) and in respect of which the disciplinary sanction of the exclusion from the magistracy has not been established under the conditions of Law no.317 / 2004, republished, with the subsequent amendments are considered dismissed from their offices for non-imputable reasons."

**163. After Article 107, seven new articles are inserted, art. 108 - 114, with the following content:**

"Art.108 - The provisions of this law are immediately applicable. The option limits provided by this law start to run from the date of its entry into force.

Art. 109. - (1) The provisions of the present law shall not apply to the procedures for occupying the positions of management or execution, including by promotion, or the professional evaluation procedures in progress at the date of its entry into force.

(2) Judges and prosecutors with leading positions who are in the exercise of their second term of office or who have held a leading position during two mandates until the date of entry into force of this law cannot apply for a new term of office, for the same leading position under this law.

Article 110. - Judges and prosecutors who have acquired a higher professional status as a result of the promotion contest until the date of entry into force of this law may be transferred to higher courts and prosecutors' offices.

Art. 111.- The Government's decision provided for in Article 78 paragraph (2) shall be adopted within 90 days from the date of entry into force of this law. In case of non-observance of this term, the provisions of art. 78, paragraph (3) of this Law shall apply accordingly.

Art. 112. - The provisions of art. 16, paragraph (3), art. 19, art. 26 and art. 28 of the present law come into force starting with the school year 2019-2020.

Art.113.- At the date of entry into force of this law, the provisions of Article 2 of Law no. 124/2000 regarding the structure and staff of the Constitutional Court, published in the Official Gazette of Romania, Part I, no.331 of July 17, 2000 are abolished.

Art. 114. - Procedures for promotion in execution positions, including promotion to the position of judge at the High Court of Cassation and Justice or for appointment to leading positions for both judges and prosecutors, initiated until the entry into force of the of the present law are not subject to the provisions of this law. "

**Art.II** - Law no.303 / 2004 on the status of judges and prosecutors, republished in the Official Gazette of Romania, Part I, no.826 of September 13, 2005, as subsequently amended and supplemented, as well as those brought by this law will republish in the Official Gazette of Romania, Part I, giving the texts a new numbering.

**This law was adopted by the Romanian Parliament, in compliance with the provisions of articles 75 and 76 paragraph (1) of the Romanian Constitution, republished.**

**For President of Chamber of Deputies  
Petru Gabriel Viose**

**President of the Senate  
Calin Popescu- Tariceanu**

**Bucharest  
No.**

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I, Dragomir Alina Gabriela, an English and French authorized translator and interpreter under Authorization no. 16561 dated 14.06.2006, issued by the Romanian Ministry of Justice, hereby certify the accuracy of the translation from Romanian into English, that the text submitted has been fully translated without any omissions, and that the contents and meaning of the document have not been misrepresented by translation.

SWORN TRANSLATOR,