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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT LAW

OF THE REPUBLIC OF MOLDOVA

ON DISCIPLINARY LIABILITY OF JUDGES

Parliament adopts this organic law.

CHAPTER I GENERAL PROVISIONS

Article 1. Scope of regulation

This law regulates the grounds for disciplinary liability, categories of disciplinary offenses committed by judges, disciplinary sanctions to be applied, stages of disciplinary proceedings, duties of the institutions involved in disciplinary proceedings, as well as the procedure for examination of offences, decision making, and appeal of decisions on disciplinary cases.

Article 2. Principles of procedure on disciplinary cases of judges

The procedure on disciplinary cases of judges is based on the following principles:

- a) legality;
- b) respect for judicial independence;
- c) fair procedure;
- d) proportionality of the sanction with committed offence;
- e) transparency.

Article 3. Grounds for disciplinary liability

Judges shall be held disciplinary liable for committing a disciplinary offense under this Law. Violation of other normative acts constitute a disciplinary offence only if the violation constitutes a disciplinary offence under article 4 of this Law.

Article 4. Disciplinary offenses

(1) The following constitute a disciplinary offense:

- a) failure to observe the duty to abstain when the judge knows or should know about existence of one of the circumstances provided by law for abstention, as well as making repeated and unjustified statements of abstention in the same case, which has the effect of delaying the consideration of the case;
- b) intentional application, or application with bad faith, or repeated negligence of legislation contrary to uniform judicial practice;
- c) the judge's actions during the judicial procedure that prove to be of serious and obvious professional incompetence;
- d) Interference in the judicial activity of another judge.
- e) illegal interventions or use of judge's position in relation with other authorities, institutions or officials either to solve requests, demanding or accepting to resolve personal interests, or others interests, or to obtain unfair advantages;
- f) breach of the secrecy of deliberation or confidentiality of proceedings with such nature, as well as other confidential information of which she/he has acquainted with in fulfilling the duties, under the law;
- g) breach, due to reasons obviously attributable to the judge, of the timelines for fulfilling the procedural actions, of the deadlines for drafting judgments and of delivering their copies to the trial participants
- h) absence from office, delay, or leaving the office, without objective reasons that affected the work of the court;
- i) breach of legislative imperative norms in the process of justice administration / delivery;
- j) non-fulfillment or delayed fulfillment, attributable to the judge, of a duty, without due reasons;
- k) undignified attitude in justice administration/delivery process towards colleagues, lawyers, experts, witnesses or other trial participants;

- l) violation of the provisions related to incompatibilities and prohibitions concerning judges;
 - m) committing an act with elements of a crime or offense, that was detrimental to the prestige of justice;
 - n) obstruction, by whatever means, of the work carried out by inspector-judges;
 - o) use of inappropriate expressions in the judgments or reasoning of judgments obviously contrary to legal rational, that may affect the prestige of justice or dignity of the position of a judge;
 - p) other actions affecting the honour or professional integrity or reputation / prestige of justice, committed in performance of duties or outside it.
- (2) A disciplinary offence will be committed if a chairmen and deputy chairmen of courts will failure to fulfill the tasks set out in Article 16/1 of the Law no. 514-XIII of 6 July 1995 on judicial organization in case that this failure affected the court's activity.

Article 5. The limitation period (statute for limitation) for judge's disciplinary liability

(1) A judge may be held disciplinary liable within 2 years from the date of committing the disciplinary (offence).

2) Notwithstanding the provisions of par. (1), when from an irrevocable decision of a national or international court it results that a judge has committed a disciplinary offense, the disciplinary sanction shall be applied within 1 year from the date when the national or international judgment became irrevocable, but not later than 5 years from the date when the offence was committed.

Article 6. Disciplinary sanctions

(1) The disciplinary sanctions that should be applied to judges are:

- a) warning;
- b) reprimand;
- c) reduction of salary;
- d) removal from office.

(2) For judges who act as chairmen or deputy chairmen of court, in addition to the sanctions specified in para. (1), the sanction of removal from office of court chairman or deputy chairman can be also applied.

(3) Warning consists in averting a judge with regard to the committed disciplinary offence with the recommendation to observe in the future the legal provisions, as well as warning him/her that upon a new disciplinary offense a heavier penalty will be applied. The warning should be issued in a written form. The warning's validity period is 1 year.

(4) Reprimand consists of critics, expressed in writing, regarding the acts committed by the judge. The reprimand's validity period is 2 years.

(5) Reduction of salary represents a decrease in salary from 15% to 30 % for a period of 3 months to one year, and shall be applied as of the calendar month following the date on which the judgment of the Disciplinary Board remains irrevocable.

(6) Removal from judge's position is the de jure termination of a judge' powers as a result of committing a disciplinary offence. The proposal to remove a judge from the office shall be submitted by the Superior Council of Magistracy, as provided by law.

(7) Removal from the office of court chairman or deputy chairman shall be applied for a disciplinary offenses set out in Art. 4 para. (2) of this Law and constitutes the termination of the term of office of a court chairman or deputy chairman. The proposal to remove from the office of court chairman or deputy chairman should be submitted by the Superior Council of Magistracy, as provided by law.

Article 7. Conditions and consequences of applied disciplinary sanctions

(1) Disciplinary sanctions shall be applied to judges and resigned judges for the offences committed while holding the office.

(2) Disciplinary sanctions shall be applied proportionally to the seriousness of the disciplinary offense committed by the judge and his/her personal circumstances. Seriousness of the disciplinary offense is determined by the nature of the committed action and the consequences produced. The consequences produced should be assessed taking into account both the effects on the people involved in the judicial process in which the offense was committed and the consequences for the image and prestige of judiciary.

(3) Repeated commission of a disciplinary offence is a disciplinary offense that is committed during the validity period of a previous disciplinary sanction, regardless of the type of the disciplinary offense committed. However, this fact constitutes an aggravating circumstance and shall be taken into consideration when applying the disciplinary sanction for this disciplinary offence.

(4) If within the validity period of the disciplinary sanctions provided by art. 6 par. (1) let. a) c) and par. (2) the judge is not subjected to a new disciplinary sanction, it is considered that he was not subjected to a disciplinary sanction.

(5) Throughout the validity period of the disciplinary sanction, the judge cannot be transferred, appointed as court chairman or deputy chairman, or promoted to another court.

(6) In case a disciplinary sanction was applied to the resigned judge in accordance with art.6, para. (1) let. d), he will be deprived of the redundancy indemnity and the pension will be recalculated according to Article 25 para. (3¹) of the Law No. 544-XIII of 20 July 1995 on the Status of Judges.

(7) The judge to whom the sanction of removal from judge's position was applied can not be elected or subsequently appointed for a period of 5 years in any position within the Superior Council of Magistracy and its subordinate bodies, as well as in the National Institute of Justice, both in administrative positions and as a trainer.

(8) A judge who was removed from office of court chairman or deputy chairman may request a promotion to a higher court or an appointment as court chairman or deputy chairman only after the expiry of 2 years from the date of application of the disciplinary sanction of removal from the office of court chairman or deputy chairman.

CHAPTER II DISCIPLINARY BOARD

Article 8. Statute and competences of the Disciplinary Board

(1) The Disciplinary Board is an independent body that examines the disciplinary cases in respect to judges and that applies disciplinary sanctions.

(2) The Disciplinary Board:

- a) creates admissibility panels;
- b) examines the complaints regarding the rejection by the panel of the notification;
- c) examines cases concerning disciplinary responsibility of judges;
- d) applies disciplinary sanctions to judges.

(3) Disciplinary Board's activity is regulated by this Law and the Regulations on Disciplinary Board' activities, approved by the Superior Council of Magistracy.

Article 9. Disciplinary Board's composition and term of office

(1) The Disciplinary Board consists of 5 judges and 4 persons from civil society.

(2) Membership in the Disciplinary Board is incompatible with membership in the Superior Council of Magistracy, in the Board for selection and career of judges, in the Board for performance evaluation of judges, with the position of inspector-judge, as well as with the position of a court chairman or deputy chairman.

(3) Members of the Disciplinary Board coming from civil society should have an irreproachable reputation, authority in the society, at list 7 years experience in the field of law and are obliged to observe the restrictions specified in Article 8. (1). b) and c) and para. (3) of Law no. 544-XIII of 20 July 1995 on the Status of Judges. In order to verify these qualities, the CVs of the candidates participating in the competition will be published on the websites

of the Ministry of Justice and of the Superior Council of Magistracy, at least 15 working days before the day of the competition organization.

(4) The term of office of a member of the Disciplinary Board is 6 years. Board members cannot be elected or appointed for two consecutive terms.

(5) The term of office of a member of the Disciplinary Board is extended de jure until the establishment of a college in a new composition.

Article 10. Election and appointment of the members of the Disciplinary Board

(1) Members of the Disciplinary Board from among judges shall be elected by the General Assembly of Judges, as follows: 2 judges from the Supreme Court of Justice, 2 judges from the Courts of Appeal and 1 judge from the courts. The courts judges can be elected in the Disciplinary Board only if they have at least 6 years work experience as a judge.

(2) The General Assembly of Judges shall elect 5 alternate members by observing the proportionality as set out in para.(1). Alternate members continue the term of office of the member of Disciplinary Board under the occurrence of one of the situations referred to in Article 12 para. (3).

(3) Members of the Disciplinary Board from among civil society representatives, including four alternates, shall be appointed by the Minister of Justice, being selected through public competition. The competition is organized by a committee for selection of candidates which includes representatives appointed by the Superior Council of Magistracy. The numerical and nominal composition of the Commission, its mode of functioning and criteria for selection of candidates are set out in the Regulation on the selection of members of the Disciplinary Board, approved by the Ministry of Justice, after consultation with the Superior Council of Magistracy.

Article 11. Termination of a Disciplinary Board member's term of office

(1) The term of office of a member of the Disciplinary Board may be terminated or cancelled:

- a) on personal demand;
- b) in case of death;
- c) in case of participation in the adoption of a decision in violation of art. 14 para. (1);
- d) in case of being in incompatibility, provided by art.9 para.(2).
- e) upon reasoned proposal of the Disciplinary Board, that was adopted by a vote of 2/3 of its members, in case of failure, without good reason, to fulfill the duties of the member of the Disciplinary Board set out under this law, for at least 3 months.

(2) The reasoned proposal of the Disciplinary Board to revoke the term of office of a member of the Disciplinary Board shall be submitted to the body that appointed or elected that member in order to revoke and replace him/her with another member.

(3) In case of termination or cancelation of the term of office of a member of the Disciplinary Board, its place will be filled by an alternate member.

Article 12. Chairman of the Disciplinary Board

(1) Disciplinary Board Chairman shall be elected by secret ballot of the majority of Board members.

(2) Disciplinary Board Chairman has the following functions:

- a) to organize the Board's activities, and to assign duties among its members;
- b) to distribute randomly the disciplinary cases to the Board members;
- c) to convene Board meetings;
- c) to convene meetings of the Board;
- d) to participate in the examination of the of disciplinary cases;
- e) to preside over sittings of the Board;
- f) to sign decisions and minutes of Board plenary meetings and to take responsibility for their correctness;

g) to resolve other issues related to Board activities.

(3) In case of vacancy of the Board Chairman position or his/her temporary absence, his/her functions shall be exercised by the eldest member of the Board.

(4) In case of termination or cancelation of office of the member of the Disciplinary Board that was elected as Chairman a new president will be elected. Disciplinary Board Chairman may be removed by a reasoned proposal of at least three members of the Disciplinary Board, in case of failure, without reasonable grounds, to fulfill its duties of Chairman of the Disciplinary Board for at least three months.

Article 13. Rights and obligations of Disciplinary Board members

(1) Members of the Disciplinary Board are entitled to receive beforehand the materials submitted to the Board for examination and to study them.

(2) Members of the Disciplinary Board are obliged:

a) to exercise their functions in accordance with the law and the Regulation of the Disciplinary Board;

b) upon a request of the Board Chairman, to prepare materials needed for the meeting;

c) to vote for or against the issues included in the agenda of the meeting;

d) in case of disagreement with decision of the Board, to prepare a motivated option;

e) to observe the confidentiality of received documents and information, under the law.

(3) Judges that are members of Disciplinary Board shall preserve their salary at job place, but having a reduced workload depending on the tasks of their activity in the Disciplinary Board. Board members from among civil society representatives receive, for each attended meeting, an allowance equivalent to one twentieth (1/20) of the salary of a judge in the Supreme Court of Justice.

Article 14. Recusal and abstention of Disciplinary Board members

(1) Disciplinary Board member should abstain from examining a disciplinary case if:

a) there is a family relationship up to the fourth degree inclusive, or affinity up to the third degree inclusive, with the judge in a disciplinary case, or with the person who filed the complaint, their lawyers or representatives;

b) has a direct or indirect personal interest, in the settlement of disciplinary;

c) there are other circumstances that cast doubt on his objectivity and impartiality.

(2) For the same reasons, a judge who is subject of ongoing disciplinary proceedings or a person who submitted the notification may request recusal of a Disciplinary Board member. In case that circumstances referred to in para. (1) appear during the examination of the disciplinary proceedings, the request for recusal or, abstention must be submitted before the withdrawal of the Body in the deliberation room.

(3) Recusal or abstention shall be justified and presented in writing prior to examination of the case by the Disciplinary Board.

(4) The decision on recusal or abstention shall be adopted by a majority vote of Disciplinary Board members present at the meeting and in absence of the member whose recusal or abstention is considered. In case a Member of the Disciplinary Board declared abstention, he/she can not be obliged by the decision of the Board to participate in the examination of the case for which he/she declared abstention.

(5) The recusal or abstention shall not be admitted if as a result of the abstention or recusal it will be impossible to ensure the deliberative meeting of the Board.

Article 15. Modus operandi of the Disciplinary Board

(1) The Disciplinary Board operates in plenary sessions and in meetings of the admissibility panels.

(2) The Board plenary meetings shall be convened as necessary. The date of the meeting shall be announced at least 7 days in advance.

(3) The admissibility panels of the Disciplinary Board shall be convened as needed, depending on the number of notifications, but not less than once a month.

(4) The Disciplinary Board plenary meetings are public, except when they are declared as closed under Art. 34. The meetings are deliberative if attended by at least 6 members of the Disciplinary Board.

(5) Meetings of the admissibility panels are closed. These are deliberative if attended by all those 3 panel members. If a panel member is unable to attend the meeting, the Chairman of the Disciplinary Board shall appoint an ad hoc member through a motivated decision.

(6) The debates within the Disciplinary Board meetings and meetings of admissibility panel shall be recorded in meeting minutes and audio recorded. The audio recording device of the meeting shall be attached to the minutes. The minutes shall be made within 3 working days, being signed by the presiding person and by the Disciplinary Board Secretary.

(7) The secretary of the Disciplinary Board shall ensure the maintenance in electronic format of all Board materials and disciplinary records.

Article 16. Ensuring the Disciplinary Board activity

(1) The organizational and secretarial activity of the Disciplinary Board shall be ensured by the Superior Council of Magistracy.

(2) In the exercise of their duties, members of the Disciplinary Board are entitled to request from the judicial inspection and other institutions all documents and information necessary for the examination of pending disciplinary case.

Article 17. Transparency of Disciplinary Board activity

The Disciplinary Board shall present annually to the Supreme Court of Magistracy an activity report, which subsequently shall be published on its website.

CHAPTER III

Examination procedure of disciplinary cases

Article 18. Stages of disciplinary proceedings

Disciplinary procedure includes the following stages:

- a) filing notifications concerning the actions which may constitute disciplinary offences;
- b) verification of notifications by the Judicial Inspection;
- c) examination of notifications' admissibility for starting disciplinary procedures by the admissibility panel;
- d) examination of disciplinary cases by the Disciplinary Board;
- e) adoption of the decisions on the disciplinary cases.

Section 1

The notification concerning the actions which may constitute disciplinary offences of judges

Article 19. The notification concerning the actions which may constitute disciplinary offences

(1) The notification regarding the committed actions which may constitute disciplinary offenses committed by judges can be submitted by:

- a) any interested person;
- b) members of the Superior Council of Magistracy;
- c) Board for the performance assessment, as provided by paragraph (4) article 23 of Law no. 154 of 5 July 2012 on the selection, performance appraisal and career of judges;

d) Judicial inspection on its own initiative, as a result of checks carried out according to Article 72 of Law no. 947-XIII of 19 July 1996 on the Superior Council of Magistracy.

(2) Those stipulated under par. (1) can submit notifications concerning the actions which have become known to them in exercising their rights or functions or based on the information disseminated by media.

(3) If several notifications refer to the same offense and the same judge, the notifications are merged.

(4) Revocation of notification does not exclude starting or conducting disciplinary proceedings.

Article 20. The requirements on notification's form and content

(1) The notification on judge's actions that may constitute disciplinary offences must include :

- a) identification data and contact information of the notification's author;
- b) name of the judge who is referred to in the notification;
- c) date and place where the actions described in notifications were committed;
- d) brief description of actions that would constitute disciplinary offences;
- e) indication, where appropriate, of evidences that confirm the alleged action or indication of persons who may support the information reported by the notification's author, if they exist at the time of filing the notification.
- f) date and signature of the notification author.

(2) It is considered manifestly unfounded the complaint that contains claims that does not make reference to the disciplinary offense stipulated by art. 4, for which the limitation period provided for in art. 5 has expired, or that are submitted repeatedly without new samples/evidence.

Section 2.

Verification of notifications concerning the actions that may constitute disciplinary offences

Article 21. Registration and distribution of notifications on actions that may constitute disciplinary offences

(1) The notification on actions that may constitute disciplinary offences shall be filed with the secretariat of the Supreme Council of Magistracy. The notification shall be registered and transmitted to the principal inspector-judge not later than in 3 working days from the receipt.

(2) The principal inspector-judge shall distribute, on random basis, the notifications to inspector-judges to verify them. If the inspector-judge, who was assigned with a notification is unable to continue its verification, the principal inspector-judge shall ensure through a reasoned decision the random distribution of the notification to another inspector-judge, who will continue the verification activity. The provisions for the distribution of notices and the rezoned decisions for redistribution of notifications should be attached to the file.

(3) The Judicial Inspection keeps statistical records of all complaints and their verification results, including electronically.

Article 22. Return of the notification concerning the actions that may constitute disciplinary office

(1) If the notification does not meet the requirements regarding its form set out in Article 22, the inspector-judge, within 5 business days from the day the notification was distributed for prior verification, shall return it back to the author indicating the established shortcomings and mentioning the right to file a new notification.

(2) The inspector-judge, who returned the notification, shall forward a copy of the return letter to the principal inspector-judge for information and statistics record.

Article 23. Verification of notification

(1) Verification of notification is a stage which identifies the judge's alleged actions and their consequences, the circumstances in which they were committed, as well as any other relevant data from which it is possible to establish on the existence or nonexistence of elements of the disciplinary offence.

(2) The inspector-judge who was assigned a notification is obliged:

- a) to take all the steps necessary to verify the actions alleged by the author of the notification and determine the existence or non-existence of disciplinary offence' elements;
- b) to require with informing the court chairman the written opinion of the judge referred to in the notification regarding the invoked circumstances;
- c) to create a disciplinary case file that includes the notification on actions that may constitute disciplinary offence, as well as all materials and other evidence obtained within the verification stage.

(3) In the process of verifying the notification, the inspector-judge is entitled:

- a) to make copies of the relevant documents, including from the case files at the examination of which the actions described in notification were allegedly committed;
- b) to request other necessary information from court chairman and other judges of the court in which the judge, referred in the notification, works, as well as from public authorities, persons with responsible positions or private persons;
- c) to request, if necessary, verbal and written explanations from the person who submitted the notification, as well as other additional evidence related to the actions alleged in the notification;
- d) to undertake other measures s/he deems necessary to demonstrate the existence or non-existence of disciplinary offence' elements in the actions indicated in the notification.

Article 24. Time period for verifying the notification

(1) Verification of notification shall be completed within at much 30 working days from the receipt of the notification by the judicial inspection.

(2) The principal inspector-judge may decide on extending the time period for verification by maximum 15 calendar days when there are reasonable grounds justifying the extension informing about this fact the author of notification.

Article 25. Rights and obligations of the judge filed to in the notification within verification stage

(1) The judge is entitled:

- a) to know the notification' contents;
- b) to present written and oral explanations;
- c) to present evidence showing or denying certain facts invoked in the notification or relevant for the notification;
- d) to be assisted by a lawyer or a his representative.

(2) The judge is obliged:

- a) to refrain from hindering in any way the verification initiated by the inspector-judge;
- b) to refrain from contacting in person or through a representative the author of the notification, except in the presence of the inspector-judge.

Article 26. Outcomes of notification's verification

(1) When verification is over, the inspector-judge shall prepare a report on the basis of its, which, together with the disciplinary case file, shall be presented within 3 working days for examination to the admissibility panel of the Disciplinary Board.

(2) The report shall prepared by the inspector-judge contains the brief description of the facts alleged by the author of the notification, the facts identified by inspector-judge, the

evidence presented by author of notification and the evidence collected during the verification by inspector-judge.

(3) The model of report on the outcomes of notification's verification by the inspector-judge shall be approved by the Superior Council of Magistracy on a proposal from Disciplinary Board.

Section 3.

Admissibility examination of notifications to start disciplinary cases

Article 27. Admissibility Panels of the Disciplinary Board

(1) The admissibility panels of the Disciplinary Board verifies the admissibility of the notification on facts that may constitute disciplinary offenses committed by judges and decides on its admissibility or rejection.

(2) The admissibility panels consists of 3 members of the Disciplinary Board appointed by decision of Disciplinary Board. Obligatorily, in the admissibility panel are included two judges and a representative of civil society

(3) The organization of meetings of the admissibility panels of Disciplinary Board is provided in the Regulation on Disciplinary Board.

Article 28. Admissibility examination of the notification

(1) The admissibility panels of the Disciplinary Board shall examine the report and the disciplinary case file submitted by judicial inspection to determine the admissibility or inadmissibility of the notification. The procedure before the admissibility panels is written.

(2) In case of necessity, members of the admissibility panels of the Disciplinary Board may require the judicial inspection for conducting of additional verifications and / or collection of documents or new evidence.

(3) The admissibility panel of the Disciplinary Board decides on:

a) admissibility of the notification and transmission of the disciplinary case for examination to the plenary of the Disciplinary Board, in the event that in the content of the notification, the disciplinary case or the report of inspector-judge results a reasonable suspicion that a disciplinary offense has been committed;

b) rejection of the notification.

(4) Decision on admissibility shall be adopted, whether for admissibility voted at least one member of the admissibility panel of the Disciplinary Board. Decision on rejection of the notification shall be adopted by unanimous vote of the members of panel admissibility of the Disciplinary Board.

(5) Decision on admissibility of notification does not need to be motivated, but should contain references to the act or acts imputed to the judge. The relevant decision, the case file and report of the judicial inspection shall be submitted, within 3 working days, to the Disciplinary Board for examination.

(6) Decision on rejection of the notification shall be mandatorily motivated by stating the circumstances under which the notification was rejected.

(7) The decisions of the admissibility panels of the Disciplinary Board shall be notified to the person who submitted the notification within 7 days from the date of the adoption of the decision.

Article 29. Challenging the decision on rejection of notification

(1) The decisions of admissibility panel of the Disciplinary Board on rejection of notification may be appealed before the plenary of the Disciplinary Board within 15 working days from the date of communicating the decision. The date of communicating the decision is considered the date of its reception by the author of the notification.

(2) The plenary of the Disciplinary Board, in case of challenging the decision on rejection of notification, shall take one of the following solutions:

a) reject the appeal and uphold the decision of the admissibility panels of the Disciplinary Board;

- b) accept the appeal and takeover the disciplinary case for examination.
- (3) Decisions of plenary of the Disciplinary Board adopted under paragraph (2) point a) shall be final and irrevocable, shall not be subject to any appeal and shall enter into force upon adoption.

Section 4.

Case examination by the Disciplinary Board

Article 30. Case assignment

(1) After transmission to and registration of disciplinary case materials by the Disciplinary Board, the Board Chairman randomly assigns the disciplinary cases among Board members, who will be appointed as reporters.

Article 31. Participants in the disciplinary case

(1) The disciplinary case shall be examined with the mandatory summoning of the judge referred in disciplinary case, the representative of judicial inspection and the person who filed the notification.

(2) When examining the disciplinary case the judge and the person who filed the notification may be represented or assisted by a lawyer or other person chosen by judge or the person who filed the notification as a representative.

(3) Repeated absence and in the absence of pleas alleging of the judge or of the person who filed the notification or of their representatives at the meeting of the Disciplinary Board shall not prevent its consideration.

(4) The judicial inspection is represented by the inspector-judge that has verified the notification or another inspector-judge designated by primary inspector-judge. The presence of the representative of the judicial inspection is mandatory.

(5) The Board member appointed reporter or any member of the Disciplinary Board may require hearing of witnesses or to other persons within meeting of examination of disciplinary case.

Article 32. Preparation of the case for examination by Disciplinary Board

(1) The Board member appointed reporter with secretariat Board support, ensures:

- a) preparation of file case for examination at the meeting of the Board;
- b) summoning the parties and other participants in disciplinary case;
- c) drafting of decision of the Disciplinary Board;

(2) The Board member appointed reporter or any other member of the Disciplinary Board may request the inspector-judge to perform additional verifications and/or collection of documents or new evidence if the information in the case file is not complete.

(3) At summoning of the judge referred in the disciplinary case and the person who filed the notification they are informed about the date and venue of the meeting where the case will be examined, about the right to benefit of the services of a lawyer/representative, to get acquainted with the case file materials and to submit new evidence or to submit requests for collecting new evidence.

(4) Members of Disciplinary Board may propose summoning at the Board meeting other persons relevant to the case.

Article 33. Timeline for examining the disciplinary case by the Disciplinary Board

The disciplinary case shall be examined by the Disciplinary Board within 45 days from the date of issuing the decision on notification's admissibility. This period does not include the period during which the judge was on sick leave or vacation and the period of postponing the meeting, where it was postponed,

Article 34. Examination of disciplinary case in the Disciplinary Board

(1) The Disciplinary Board meetings are public, unless the Board decides otherwise, ex officio or upon the request of the judge referred in the disciplinary case, that the case be examined in closed session in the interest of public order or national security, or when necessary to protect the privacy of participants in the disciplinary proceedings.

(2) The chairperson of the meeting announces its opening and reads the Disciplinary Board composition. Before the commencement of the case examination, the parties have the right to declare recusal to Board members, which shall be examined by the plenary of the Disciplinary Board.

(3) Examination of the disciplinary case begins with a presentation of report of the Board member designated as a reporter on the disciplinary case.

(4) In the event that judge or his representative participates in the examination of the case, the hearing of the explanations of the judge or his/her representative is mandatory. During the meeting, the judge has the right to make requests at any time and to give further explanations. The Disciplinary Board may also decide to hear other people, invited both at the judge' proposal or at proposal of the Disciplinary Board, documents and other materials may be studied both from the file and additionally presented by participants in the disciplinary case.

(5) The disciplinary case is examined only within the limits of decision on admissibility adopted under art. 28.

Article 35. Deliberating and adopting the Disciplinary Board decision

(1) Decisions of the Disciplinary Board shall be taken in closed session. Deliberation is secret and is carried out immediately after the meeting at which the disciplinary case was examined.

(2) Decisions of the plenary of the Disciplinary Board shall be adopted by majority vote of present members.

(3) The Board member appointed reporter on the disciplinary case shall read the summary / deciding part of the decision and the Disciplinary Board shall elaborate a reasoned decision within 20 days from the delivery of the decision's summary,. If a Board member has a dissenting opinion from the adopted decision, s/he shall present it in writing, indicating the reasons, and his/her the separated opinion is attached to the case file.

(4) Decisions shall be signed by the chairperson of the meeting and members of the Disciplinary Board who attended the examination of the case. The Board decisions shall be published on the website of the Superior Council of Magistracy within 3 working days from the date of elaborating the reasoned decision.

(5) The scanned copy of the decision shall be sent to participants in the disciplinary case within 3 working days from the date of editing of the reasoned decision.

Article 36. Disciplinary Board decisions on the outcome of disciplinary proceedings examination

(1) The Disciplinary Board may decide on:

- a) finding the disciplinary offence and applying one of disciplinary sanctions according to the list provided for in Article 6.
- b) finding disciplinary offence and stopping disciplinary proceedings, where limitation period for disciplinary liability has expired;
- c) termination of disciplinary proceedings in the event that not been committed a disciplinary offense ;

(2) The Disciplinary Board can additionally make a recommendation to the Superior Council of Magistracy for accomplish the extraordinary assessment of judge's performances if the circumstances and materials demonstrating the need for such assessments

Article 37. Contents of the Disciplinary Board decision on the outcome of disciplinary case examination

(1) Decision of the Disciplinary Board in case of finding disciplinary offence must include:

- a) surname and name of the judge concerned in the decision and the court where s/he works;
- b) surname and name of the notification's author regarding the disciplinary offence;
- c) the number of the case file during the examination of which the disciplinary offence was committed;
- d) date of committing the disciplinary offence;
- e) description of the fact which constitutes disciplinary offence and its legal classification;
- f) legal basis for applying the sanction or stopping the proceedings if the limitation period for holding judge disciplinary liable has expired;
- g) sanction applied and the reasons behind its application;
- h) the way of appeal, time limits and the institution for considering the appeal;
- i) reasons behind the formulation of recommendation on extraordinary evaluation of the judge's performances when such a recommendation was made;
- j) names of Disciplinary Board members present at case examination, the adoption date of decision.

(2) The decision of Disciplinary Board, in case of termination of disciplinary proceedings, has to include the following:

- a) surname and name of the judge concerned in the decision and the court where s/he works;
- b) surname and name of the notification's author regarding the disciplinary offence;
- c) number of the case file during the examination of which the action described in the notification was allegedly committed;
- d) date of committing the act alleged in the notification;
- e) description of the facts alleged in the notification and of the reasons of absence of the disciplinary offence in alleged facts;
- f) description of evidence collected for the case file;
- g) the way of appeal, time limits and the institution for considering the appeal;
- h) reasons behind the formulation of recommendation on extraordinary evaluation of judge's performances when such a recommendation was made;
- i) names of Disciplinary Board members present at case examination;
- j) the adoption date of decision.

(3) Decision of the Disciplinary Board on the outcome of disciplinary proceedings examination shall be signed by the chairperson of the meeting and the secretary of the Disciplinary Board.

Article 38. Submitting the decision on applying the sanction of dismissal from office

(1) The Disciplinary Board decision with regard to applying the sanction of dismissal from office of a court chairman or deputy chairman or dismissal from judge's position shall be submitted to the Superior Council of Magistracy to advance the proposal to the President of RM or Parliament, as appropriate, after the expiry of the term for appeal.

(2) If Disciplinary Board decision with regard to applying the sanction of dismissal from office of a court chairman or deputy chairman or dismissal from judge's position was appealed, this decision becomes final only after the examination according to the procedure laid down in art. 39-40.

Article 39. Challenging the decision of the Disciplinary Board

(1) Disciplinary Board decisions can be appealed to the Superior Council of Magistracy, through the Board, by people who have filed complaints, judicial inspection or the judge concerned in the decision within 15 days of receipt of the copy of the motivated decision. 15 days term is a limitation period. After the expiry of that period, the Disciplinary Board decisions are final.

(2) Appeals shall be examined within 30 days from the date of their registration at the Superior Council of Magistracy.

(3) Date, time and place for examining the appeal shall be communicated in advance to the person who has filed the complaint and the judge concerned.

(4) After considering the appeals, the Superior Council of Magistrates shall decide on:

- a) upholding unchanged the decision of the Disciplinary Board;
- b) accepting the appeal and adopting a new decision. In this case the provisions relating to the examination procedure and content of the Disciplinary Board decision on the outcome of disciplinary case are applicable also for the Superior Council of Magistracy.

Article 40. Challenging decisions of the Superior Council of Magistracy

(1) Decisions of the Superior Council of Magistracy adopted under art. 39 can be challenged by people who have filed the complaint, judicial inspection or judge concerned in the decision, within 20 days from receipt of the reasoned decision to the Supreme Court of Justice.

(2) Requests for appeals are examined by a panel of five judges. Requests for challenging decisions of the Superior Council of Magistracy adopted under art. 39 are examined as a priority. Examination period cannot exceed 30 days.

(3) Decisions of the Supreme Court of Justice adopted under par. (2) of this Article shall be irrevocable and shall enter into force upon adoption.

CHAPTER VI FINAL AND TRANSITORY PROVISIONS

Article 41. Entry into force

(1) This Law shall enter into force on the date of publication, except for the provisions of Articles 9 to 11 that will be enforced when the term of office of the acting members of Disciplinary Board expires.

(2) The provisions of the legislation in force shall apply to the extent they do not contradict this law until these provision are brought into compliance with it..

Article 42. Repeals

The Law no. 950-XIII of July 19, 1996, on the Disciplinary Board and Disciplinary Liability of Judges (republished in the Official Gazette, 2003 no. 182-185, art. 1018) is repealed.

Article 43. Transitional provisions

(1) Before the entry into force of this law, the complaints with regard to disciplinary offences filed with the Superior Council of Magistracy shall be examined in accordance with procedures established by this law.

(2) Complaints with regard to disciplinary offences for which were issued decisions instituting disciplinary proceedings and the cases were forwarded to the Disciplinary Board, are examined according to the procedure established by Law no. 950 -XIII of July 19, 1996, on the Disciplinary Board and Disciplinary Liability of Judges.

(3) Decisions of the Disciplinary Board appealed until the entry into force of this Law shall be examined by the Superior Council of Magistracy according to the procedure in force at the date of appeal.

(4) For the implementation of the provisions of this law, the Superior Council of Magistracy shall adopt normative acts prescribed by law and shall bring its normative acts in accordance with them.

(5) The Government within three months:

- a) shall submit to Parliament proposals to bring the legislation in power in conformity with this Law;
- b) shall bring its normative acts in conformity with this law.

Speaker of Parliament