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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
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REPUBLIC OF MOLDOVA

**DRAFT LAW ON THE REFORM OF THE SUPREME COURT
OF JUSTICE AND THE PROSECUTOR'S OFFICES**

PARLIAMENT OF THE REPUBLIC OF MOLDOVA

LAW

On the reform of the Supreme Court of Justice and the Prosecutor's Offices

In order to ensure the full impartiality of all the judges of the Supreme Court of Justice, the quality of the act of justice, to restore confidence in justice, as well as to create the premises for an uniform judicial practice and a good functioning of the judicial system and of the Prosecutor's Office,

Parliament adopts this organic Law.

TITLE I

Chapter I

Reorganisation of the Supreme Court of Justice

Art. 1 - (1) The Supreme Court of Justice is reorganized by changing the remit and reducing the number of judges, starting with January 1, 2020.

(2) As of January 1, 2020, a number of 17 judge positions shall be established for the Supreme Court of Justice.

Art. 2 - (1) In order to establish on the basis of the objective criteria of the judges who will work in the Supreme Court of Justice after the reorganization, the judges of the Supreme Court of Justice, including those suspended from office or on leave, are subject to the evaluation by the Evaluation Committee provided in art. 3.

(2) The evaluation of the judges of the Supreme Court of Justice is based on three criteria: integrity and lifestyle, professional activity during the last 10 years and the personal qualities relevant to the position of judge. The indicators and the evaluation methodology are approved by the Evaluation Committee.

(3) The evaluation of the judges of the Supreme Court of Justice will be carried out on the basis of the following principles:

- a) impartial and objective evaluation of each judge;
- b) equal treatment of all the judges;
- c) transparency.

(4) If the judge of the Supreme Court of Justice refuses the evaluation or does not show at the evaluation by the date established by the Evaluation Committee, s/he has the right to resign under the conditions of art. 26 of the Law no. 544/1995 regarding the status of the judge.

Chapter II

Evaluation Committee

Art. 3 - (1) The Evaluation Committee is an ad-hoc and independent body established for the purpose of evaluating and selecting judges who will hold office at the Supreme Court of Justice starting with January 1, 2020.

(2) The Evaluation Committee is composed of 20 members, appointed as follows:

- a) Parliament of the Republic of Moldova - 2 members;
- b) President of the Republic of Moldova - 2 members;

- c) Government of the Republic of Moldova - 2 members;
- d) Superior Council of Magistracy - 2 members;
- e) Superior Council of Prosecutors - 2 members;
- f) The National Platform of Moldova of the Eastern Partnership Civil Society Forum - 4 members;
- g) Minister of Justice, based on the proposals received from the international organizations and development partners of the Republic of Moldova involved in the justice sector reform - 6 foreign experts, who enjoy an irreproachable reputation and have at least 10 years of experience in the field of law, preferably in the field of the judiciary and the prosecutor's office.

(3) The members of the Evaluation Committee appointed according to para (2) letters a) -f) must have an impeccable reputation and have a minimum of 10 years of experience in their field of activity. At least one member appointed by the entities from para (2) letters a) -d) and at least two (2) members designated by the entity from para (2) letter f) must be former judges who had worked for at least 10 years or who are former constitutional judges.

(4) According to para (2) letter a)-f) the following persons cannot be appointed as members of the Evaluation Committee:

- a) members of a political party in the last 3 years;
- b) holders of public office, public office with special status, public dignitaries or persons employed in the office of public dignitaries,
- c) persons whose spouse (wife), parents, children or children's spouses are judges or prosecutors.

(5) In its work, the Evaluation Committee may involve specialists in area it deems necessary for the evaluation, which shall participate in the evaluation without voting rights. Upon request, the National Integrity Authority will delegate an integrity inspector, who will support the Evaluation Committee during the activity by providing information to which s/he has access regarding the evaluated person.

(6) The Evaluation Committee carries out its activity independently in accordance with this law and on the basis of the regulation of the activity of the Evaluation Committee approved by it, which cannot be challenged. Any interference with the work and decision-making process of the Evaluation Committee shall be prohibited.

(7) The members of the Evaluation Committee and the Secretariat of the Committee are obliged to respect the provisions of art. 12 of the Law no. 133/2016 on the declaration of assets and personal interests, as well as to report to the Evaluation Committee any attempt to influence him/her. The Evaluation Board shall settle conflicts of interests under art. 12 of the Law no. 133/2016 and the appeals made by its members or by the person evaluated.

(8) Within 15 days from the date of entry into force of the present Law, the entities from para (2) shall appoint members of the Evaluation Committee, who shall start their function when at least 14 members are appointed.

9. The member of the Evaluation Committee may be revoked by the Evaluation Committee if the actions or behavior of the member of the committee seriously disrupt the activity of the Committee, or seriously affect the reputation of the Committee.

(10) In the event of a vacancy of a member of the Evaluation Committee, the alternate shall be appointed by the same entity whose vacancy emerged, under the provisions of this article, no later than 15 days from the request made by the Evaluation Committee. The vacancy of the position comes in the case of the resignation of the member or his/her unjustified absence from two consecutive meetings of the Evaluation Board.

(11) The Evaluation Committee is headed by a chairman, assisted by a deputy chairman, who are elected by the Evaluation Committee from among its members.

(12) Members of the Evaluation Committee appointed by the entities from para (2) letter a) - f) are remunerated monthly for the period of their service in the Committee with the salary of a judge at the Supreme Court of Justice with over 16 years the seniority as judge.

(13) The Secretariat of the Evaluation Committee is provided by the Ministry of Justice and other people involved by the Committee. The members of the secretariat are required to

communicate to the Evaluation Committee any information that has become known and is important for the evaluation.

(14) State protection is granted to members of the Committee at the request of the Committee or the college.

Art. 4 - (1) The Evaluation Committee consists of two Boards composed of 10 members each. Each Evaluation Board is composed of a member appointed by the President of the Republic of Moldova, one by the Parliament of the Republic of Moldova, one by the Government of the Republic of Moldova, one by the Superior Council of Magistracy, one by the Superior Council of Prosecutors, two by the National Platform of Moldova of Eastern Partnership Civil Society Forum and three by the Minister of Justice, based on the proposals received from the international organizations and development partners of the Republic of Moldova involved in the justice sector reform. The precise composition of the Evaluation Boards is decided by the Evaluation Committee. The chairman and deputy chairman of the Evaluation Committee run one of the two Evaluation Boards.

(2) The evaluation of judges is conducted by one of the Evaluation Boards, based on the criteria prescribed by this Law and the indicators and methodology established in the Regulation of the Evaluation Committee.

(3) The Evaluation Board is deliberative if at least six (6) members attend its meetings.

Chapter III **Evaluation procedure**

Art. 5 - (1) The Evaluation Committee and its secretariat are granted access to any information deemed necessary for the fulfillment of its tasks. To this end, it may take any measures to obtain information, including the collection and verification of information. Any public authority is obliged to make available to the Evaluation Committee any information requested within 7 days.

(2) In order to ensure access to information, the Evaluation Committee will have free and unconditional access to the automated information systems under the management of the National Integrity Authority (e-declaration and e-integrity), the State Tax Service, the Ministry of Internal Affairs (the State Automated Information System SAIS *Registry of administrative offences*, the Border Police SAIS), the Public Service Agency (SAIS *State register of population*, SAIS *State register of transport units*, SAIS *Cadastral of Real Estate*), Integrated Case Management System, Femida Court recording system.

(3) In the framework of the verification of integrity and lifestyle, the Evaluation Committee may accumulate and verify information about assets or assets used regardless of where they are located. The Committee can also verify the assets of the close persons, within the meaning of Law no. 133 of June 16, 2016 on the declaration of assets and personal interests, as well as of other persons who have offered benefits to the evaluated person.

(4) During the information gathering, the Evaluation Board may ask the judge subject to the evaluation and other natural persons information on any matter under evaluation, and may interview/hear any person who can submit relevant data. It is the burden on the person assessed to submit information that will remove the Committee's suspicions about integrity and lifestyle..

(5) Any person may provide to the Evaluation Committee information about the judge under evaluation. Anonymous or state secrecy information is not considered.

(6) The judge subject to the evaluation has access to any information held by the Evaluation Board and which concerns him/her and has the right to submit Additional evidence or clarification on them.

(7) The members of the Evaluation Committee and the members of its secretariat shall sign a commitment to protect personal data to which they will have access in the evaluation process.

Art. 6 - (1) The evaluation is carried out by analyzing all the information by the Evaluation Board and by interviewing the judge. The judge subject to the evaluation shall be given sufficient time to prepare his position and may present any information in defense of his position. He/she is interviewed in a hearing by the Evaluation Board. The college session is public, but audio or video recording of the meeting is allowed only with the college's agreement.

(2) The evaluation is carried out in two stages:

a) integrity and lifestyle assessment;

b) evaluation of professional activity and of personal qualities of the candidates who advance to the stage from letter a).

(3) The Evaluation board decides by vote on the integrity and lifestyle assessment. The judge is deemed to have passed the integrity and lifestyle assessment if at least 2/3 of the voting board members voted for him/her, including at least 2 members appointed by the international organizations and development partners of the Republic of Moldova involved in the justice sector reform.

(4) Evaluation of professional activity and of personal qualities of the candidates is decided by awarding the score in the manner established by the Evaluation Committee's Regulation.

(5) The members of the evaluation college have the right to write a dissenting opinion.

Art. 7 - (1) Following the evaluation of the judge of the Supreme Court of Justice, the Evaluation Board draws up a reasoned report. The evaluation board's report ascertains whether or not the judge has passed the evaluation.

(2) The judges of the Supreme Court of Justice who passed the evaluation continue their activity as judge at the Supreme Court of Justice.

(3) The final report of the Evaluation Board, which states that the judge did not pass the evaluation, constitutes the legal basis for the transfer of the Supreme Court judge to another court.

(4) The report of the Evaluation Board shall be communicated by e-mail to the evaluated judge and Superior Council of Magistracy within 3 days from the moment of issue. The Supreme Court judge in whose respect the Evaluation Board adopted a report establishing judge's failure to pass the evaluation, from the moment s/he was communicated the report, cannot engage in examination of cases and adopting decisions of the Supreme Court of Justice. Until the transfer or resignation, he is paid 50% of the salary.

(5) The result of the evaluation of the judge of the Supreme Court of Justice, as well as the full evaluation report in case of a dissenting opinion, shall be published on the website of the Ministry of Justice.

(6) The report of the Evaluation Board which has raised doubts about the judge's integrity or lifestyle shall be sent to the National Integrity Authority, and the report of the Evaluation Board by which the judge of the Supreme Court of Justice did not pass the evaluation of his/her professional activity or failed to pass the assessment of personal qualities relevant to the position of judge is submitted to the Judicial Inspection. The Evaluation Committee or the Evaluation Board notifies the competent authorities in case there are suspicions of other misconduct committed.

(7) In case the number of judges of the Supreme Court of Justice who promoted the evaluation is greater than 17, there will continue the activity at the Supreme Court of Justice 17 judges with the highest seniority as judge of the Supreme Court of Justice. Article 10 paragraph (2) shall apply accordingly, and the judges of the Supreme Court of Justice who promoted the assessment and were transferred to other courts shall retain their salary as judge of the Supreme Court of Justice.

Chapter IV

Challenging the evaluation report

Art. 8 - (1) The evaluated judge may challenge, within 3 working days from the communication, the evaluation report which states that he/she has not passed the evaluation. The appeal shall be filed at the secretariat of the Evaluation Committee and shall include aspects which have been assessed incorrectly or which have not been sufficiently examined by the Evaluation Board and which are likely to change the conclusion of the Evaluation Board.

(2) The appeal shall be examined by the other Evaluation Board, as a general rule, within a maximum of 14 days from the submission of the appeal. The Evaluation Board that examines the appeal makes its own assessment of the judge, based on the information collected by the initial Evaluation Board and the information submitted later. The provisions of art. 6 paragraph (1) shall apply accordingly.

Art. 9 - (1) Following the appeal review, the Evaluation Board issues a report. The Evaluation Board may change the conclusion of the challenged report if it finds that it has been affected by essential errors or new information has appeared that justifies another conclusion. The provisions of art. 7 paragraphs (4), (6) și (7) shall apply accordingly.

(2) Within 3 days from the communication of the report issued under the requirements of paragraph (1), the evaluated judge may file an appeal against it, which is examined by the Superior Council of Magistracy.

(3) The Superior Council of Magistracy examines in public session the appeal within a maximum of 14 days and may reasonably reject, by a decision adopted by an open vote, the proposal contained in the evaluation report if it finds that the report contains deficiencies or errors that may change the conclusion of the report. The following shall not have the right to vote in the adoption of this decision: judges of the Supreme Court of Justice, members of the Superior Council of Magistracy, President of the Supreme Court of Justice, Prosecutor General and the Minister of Justice. If the Superior Council of Magistracy does not reject the proposal in the evaluation report within 14 days, the President of the Superior Council of Magistracy proposes to the President of the country to transfer the judge or, upon request, his resignation.

(4) The decision of the Superior Council of Magistracy rejecting the proposal of the Evaluation Board shall be sent to the Evaluation Committee no later than 3 days.

(5) The Evaluation Committee shall verify the findings in the decision of the Superior Council of Magistracy and decide whether it upholds/sustains the report of the Evaluation Board or adopts a new report. The Evaluation Committee shall interview the judge concerned in a open hearing. The provisions of art. 6 paragraph (1) and of art. 7 paragraphs (4), (6) and (7) shall apply accordingly.

(6) The proposal from of the Evaluation Committee report adopted according to paragraph (5) cannot be rejected by the Superior Council of Magistracy, which shall issue a decision in line with art. 10 paragraph (2).

Chapter V

Transfer or resignation of judges

Art. 10 - (1) The evaluation report of the judge of the Supreme Court of Justice or the report of the Evaluation Committee issued according to art. 9 paragraph (5) is submitted to the Superior Council of Magistracy.

(2) No later than 14 days after receiving the evaluation report, which has found that the judge of the Supreme Court of Justice did not pass the evaluation, if the report was not challenged in accordance with art. 9 para (2), or after receiving the decision mentioned in art.9 para (5), the Superior Council of Magistracy proposes to the judge the transfer, with his/her consent, to any of the vacant positions of judge in other courts, without holding a competition. The judges choose the vacant positions of judge in which they will be transferred in

descending order of seniority as judge at the Supreme Court of Justice. The judge of the Supreme Court of Justice who refuses the transfer has the right to resign.

(3) The request of transfer or resignation shall be submitted to the Superior Council of Magistracy within 3 days from the date of communicating the evaluation report or the decision referred to in art. 9 para (5). In the event of challenging the Board's report, the request shall be submitted within three (3) days from rejection of the appeal by the Superior Council of Magistracy. An application for resignation may be made at any time..

(4) If the judge of the Supreme Court of Justice does not choose to transfer or resign within the time limit set in paragraph (3), s/he is transferred, without his/her consent, by the Superior Council of Magistracy, to any vacancies as judge in other courts.

(5) If the Superior Council of Magistracy does not adopt the decision on transfer or resignation within 14 days from receiving the request or at the expiry of the deadline established at para (3), the Chair of the Superior Council of Magistracy shall propose to the President of the Republic of Moldova the transfer of the judge or, upon request, his/her resignation.

(6) The decision regarding the transfer or resignation of the judge of the Supreme Court of Justice shall be submitted promptly to the President of the Republic of Moldova or to the Parliament, respectively.

(7) Within 15 days of receiving the proposal of the Superior Council of Magistracy, the President of the Republic of Moldova shall issue a decree regarding the transfer of the judge of the Supreme Court of Justice to another court.

(8) Within 15 days of receiving the proposal of the Superior Council of Magistracy, the Parliament shall adopt a decision regarding the resignation of the judge of the Supreme Court of Justice. If the Parliament does not adopt the decision within 15 days, the Speaker of the Parliament, based on own decision, shall accept the resignation of the judge of the Supreme Court of Justice.

(9) The judge of the Supreme Court of Justice who has resigned after the entry into force of this law and until the evaluation cannot run again, for 10 years, to be appointed as judge.

Chapter VI

Competition for filling the vacancies of judge

Art. 11 - (1) If at the Supreme Court of Justice there remain vacant positions of judge following the evaluation of the judges of the Supreme Court of Justice, by derogation from Law no. 544/1995 regarding the status of the judge, the Evaluation Committee shall announce competition for their filling.

(2) The Evaluation Committee shall announce the competition for the position of judge at the Supreme Court of Justice by posting it on the Ministry of Justice web pages.

(3) The competition is conducted according to the procedure and criteria that were the basis for the evaluation of judges of the Supreme Court of Justice. In addition, candidates are assessed to determine if they have sufficient skills and knowledge to be judges at the Supreme Court of Justice.

(4) In the competition for promotion to the position of judge at the Supreme Court of Justice, judges who have at least 10 years of experience at the time of the expiration of the period for submitting applications for participation in the competition may participate. Judges who have been subjected to evaluation in accordance with this Law are not allowed to participate at the competition.

(5) Candidates for the position of judge are selected by the Evaluation Board if they pass the integrity and lifestyle verification and obtain the minimum score established by the Evaluation Committee for promotion to the position of judge at the Supreme Court of Justice.

Art. 12 - Following the competition, the Evaluation Board draws up a reasoned report regarding each candidate, stating whether or not he/she is selected for promotion to the Supreme Court of Justice. The provisions of art. 8 shall apply accordingly.

Art. 13 - (1) By derogation from Law no. 947/1996 regarding the Superior Council of Magistracy, the evaluation report of the candidate proposed for promotion to the Supreme Court of Justice is presented to the Superior Council of Magistracy, which adopts a decision within 14 days from the receipt of the evaluation report.

(2) The Superior Council of Magistracy may reject the Evaluation Board's proposal if it finds that the report contains flaws or errors that may change the conclusion of the report. The respective decision is submitted to the Evaluation Committee no later than 3 days. If the Superior Council of Magistracy does not adopt the decision on judge's appointment at the Supreme Court of Justice within 14 days from receiving the report, the Chair of the Superior Council of Magistracy shall propose to the Parliament appointment of the judge at the Supreme Court of Justice.

(3) The Evaluation Committee Verifies the findings in the decision of the Superior Council of Magistracy and decides whether it upholds the report of the Evaluation Board or adopts a new report. The Evaluation Committee interviews the concerned judge. The provisions of art. 6 and 7 shall apply accordingly.

(4) The report of the Evaluation Committee adopted according to paragraph (3) cannot be rejected by the Superior Council of Magistracy, which shall issue a decision referred to in paragraph (5).

(5) The Superior Council of Magistracy, based on the report, issued in line with art. 12 or art. 13 paragraph (3), shall adopt a decision on the proposal to appoint the judge to the Supreme Court of Justice and shall submit the decision to the Parliament. The provisions of paragraph (2) shall apply accordingly.

(6) Within 15 days from the date of receiving the proposal of the Superior Council of Magistracy, the Parliament shall appoint the candidate in the position of judge at the Supreme Court of Justice. If the Parliament does not adopt the decision within 15 days, the Speaker of the Parliament on his/her own decision, shall appoint the judge to the Supreme Court of Justice.

(7) In case of finding indisputable evidence of incompatibility of the candidate to the position of judge of the Supreme Court of Justice with the respective position, the Superior Council of Magistracy, within the term indicated in paragraph (6), shall be informed on the basis of an opinion of the specialized Parliamentary Committee.

(8) the Superior Council of Magistracy shall submit to the Evaluation Committee the opinion of the Parliament for review in the manner set forth in art. 9 para (5). The provisions of art. 9 para (5) shall apply accordingly.

(9) The repeated proposal of the same candidate by the Superior Council of Magistracy is mandatory and cannot be rejected by the Parliament. The provisions of art. 10 para (8) shall apply accordingly

Chapter VII

Adopting decisions by the Superior Council of Magistracy

Art. 14 - (1) By derogation from the provisions of art. 24 and 25 of the Law no. 947/1996 on the Superior Council of Magistracy and the Administrative Code of the Republic of Moldova no. 116/2018, the decisions of the Superior Council of Magistracy issued under the requirements of this Law cannot be challenged and are adopted by the vote of 2/3 of its members with voting rights.

(2) In adopting the decisions of the Superior Council of Magistracy according to the present Law, *ex officio* members participate without voting rights.

Art. 15 - The members of the Superior Council of Magistracy, judges at the Supreme Court of Justice do not participate with voting rights in the case of the evaluation of judges of the Supreme Court of Justice, according to the present Law.

Chapter VIII

Evaluation of presidents and vice presidents of courts

Art. 16 - (1) After evaluating the judges of the Supreme Court of Justice in the manner prescribed by this Law, the following shall be subject to evaluation by the Evaluation Committee, according to the same rules:

a) presidents of courts of appeal and of the first instance courts;
b) vice presidents of courts of appeal and of the courts of Chisinau, Balti, Cahul and Comrat.

(2) When evaluating the persons mentioned in para (1), the Evaluation Committee, in addition to the criteria provided in art. (2) paragraph (2), will evaluate their management skills.

TITLE II

Chapter I

Evaluation of prosecutors

Art. 17 - (1) In order to select prosecutors who will work in the Anticorruption Prosecutor's Office after 1 May 2020, prosecutors within the Anticorruption Prosecutor's Office are subject to evaluation by the Evaluation Committee similar to the evaluation procedure provided in TITLE I.

Art. 18 - (1) Ase well, shall be subject to evaluation by the Evaluation Committee the following prosecutors:

a) Prosecutor General and his deputies;
b) chief prosecutors of the subdivisions of the General Prosecutor's Office, the Prosecutor's Office for Combating Organized Crime and Special Cases, district prosecutor's offices, and regional prosecutor's offices;
c) deputies of chief prosecutors of the Prosecutor's Office for Combating Organized Crime and Special Cases, district prosecutor's offices, and regional prosecutor's offices in Chisinau, Balti, Cahul and Comrat.

(2) When evaluating the persons mentioned in para (2), the Evaluation Committee, will evaluate their management skills, in addition to the criteria provided in art. (2) paragraph (2),

Chapter II

Challenging the evaluation report

Art. 19 - (1) The evaluated prosecutor may challenge, within 3 working days from the communication, the evaluation report which states that he/she has not passed the evaluation. The appeal shall be submitted to the secretariat of the Evaluation Committee and shall include aspects which have been assessed incorrectly or which have not been sufficiently reviewed by the Evaluation Board and which are likely to change the Evaluation Board conclusion.

(2) The appeal shall be examined by the other Evaluation Board, at the latest 14 days from the date the appeal was filed. The Evaluation Board examining the appeal shall make its own assessment of the prosecutor, based on the materials collected by the initial Evaluation Board and the materials submitted later on. The concerned prosecutor shall be interviewed in a hearing.

Art. 20 - Following the appeal review, the Evaluation Board shall issue a report. The Evaluation Board may change the conclusion of the challenged report if it finds that it has been affected by substantial errors or if new information has appeared that justifies another conclusion.

Art. 21 - (1) The report of the Evaluation Board in which it was found that the prosecutor did not pass the evaluation is may be challenged by the prosecutor. The provisions of art. 8 and 9 shall apply accordingly.

(2) The Superior Council of Prosecutors, based on the evaluation report issued by college or the Committee, shall adopt within a maximum of 14 days a decision regarding the proposal to dismiss from the position of prosecutor and shall submit the decision to the Prosecutor General.

(3) Within 14 days from the date of reception of the proposal of the Superior Council of Prosecutors, the Prosecutor General shall issue an order of dismissal of the prosecutor.

(4) The prosecutor in respect of which the report of the evaluation board was adopted stating that he/she did not pass the evaluation, from the day the report was communicated, cannot issue documents as a prosecutor. Until the examination of the appeal or resignation, he is paid 50% of the salary.

Chapter III **Filling in vacancies of prosecutor**

Art. 22 - (1) By derogation from the Law no. 3/2016 regarding the Prosecutor's Office, the Evaluation Committee shall select, based on competition, the chief prosecutor of Anti-Corruption Prosecutor's Office, the Prosecutor's Office for Combating Organized Crime and Special Cases as well as their deputies. The Evaluation Committee shall announce a public competition.

(2). The competition is conducted according to the procedure and criteria that were the basis for the evaluation of the judges of the Supreme Court of Justice. The Evaluation Committee shall assess their management skills, in addition to the criteria foreseen in art. 2 para (2)

Art. 23 - (1) By derogation from the Law no. 3/2016 regarding the Prosecutor's Office, the evaluation report of the candidate proposed for the positions mentioned in art. 22 para (1) shall be submitted to the Superior Council of Prosecutors, which shall adopt a decision within 14 days from the receipt of the evaluation report and submits it to the Prosecutor General.

(2) The Superior Council of Prosecutors may reject the Evaluation Board proposal if it finds that the report contains shortcomings or errors that may change the conclusion of the report. The decision rejecting the proposal is submitted to the Evaluation Committee no later than 3 days.

(3) The Evaluation Committee verifies the findings stated in the decision of the Superior Council of Prosecutors and decides whether it upholds the report of the Evaluation Board or adopts a new report. The provisions of art. 9 shall apply accordingly.

(4) The report of the Evaluation Committee adopted in line with paragraph (3) cannot be rejected by the Superior Council of Prosecutors who shall issue a decision as provided in paragraph (5).

(5) The Superior Council of Prosecutors, on the basis of the report issued in accordance with this article, within 14 days shall adopt a decision regarding the appointment of the chief-prosecutor, deputy chief-prosecutor or prosecutor and shall submit it to the Prosecutor General.

(6) Within 15 days from the date receiving the proposal of the Superior Council of Prosecutors, the Prosecutor General shall appoint the candidate in the position of prosecutor.

TITLE III

Chapter I

Amendments to certain regulatory acts

Art. I - Law no. 514/1995 regarding the judicial organization (re-published in the Official Gazette of the Republic of Moldova, 2012, no. 185, art. 620), is amended as follows: paragraph 2, the number "33" is replaced by the number "17";

4. Article 43 shall have the following content:

"Article 43. The Supreme Court of Justice

(1) The Supreme Court of Justice is the only supreme court. It ensures the uniform interpretation and application of the law by the courts.

(2) The composition of the panels is approved by the Plenary of the Supreme Court of Justice, at the proposal of the President of the Supreme Court of Justice, at the beginning of each year. In the event of the impossibility of examining a case by a court panel or there is a danger of violating the reasonable period of examination of a case, the President of the Supreme Court of Justice shall decide on the change of their members, under the conditions of art. 6¹ paragraph (1¹). "

5. It is filled in by art. 43¹ – 43³ with the following content:

"Article 43¹. Duties of the Supreme Court of Justice

Supreme Court:

- a) creates and modifies the reference judicial practice, as well as standardizes the judicial practice of all the courts, through ordinary and extraordinary means of appeal;
- b) examines the cases given within its remit according to the procedural rules;
- c) publishes periodically the summary of the judicial practice;
- d) resolves, in the manner provided by law, conflicts of jurisdiction between the courts;
- e) has other duties provided by law.

Article 43². Duties of the President of the Supreme Court of Justice

(1) The President of the Supreme Court of Justice:

- a) convenes and chairs the sessions of the Plenary of the Supreme Court of Justice;
- b) coordinates and organizes the activity of the Supreme Court of Justice, its units and judges;
- c) proposes annually to the Plenary for approval the composition of the Supreme Court of Justice units;
- d) exercises the duties provided by Article 161 (1) letter. a), g) -m), o) -q);
- e) represents the Supreme Court of Justice or the courts in relations with other authorities and public institutions in the country and abroad
- f) exercises other duties provided by law.

(2) In the absence of the President of the Supreme Court of Justice or vacancy of the office, his /her duties shall be exercised by the Vice-President of the Supreme Court of Justice.

Article 43³. Plenary of the Supreme Court of Justice

(1) The plenary of the Supreme Court of Justice shall be composed of all the judges of the Supreme Court of Justice. Its sessions are chaired by the President of the Supreme Court of Justice.

(2) The plenary of the Supreme Court of Justice shall be convened by the President of the Supreme Court of Justice whenever necessary, but not less often than once per quarter. The President shall convene the Plenary of the Supreme Court of Justice in extraordinary session or at the request of at least 5 judges of the Supreme Court of Justice.

(2) Plenary of the Supreme Court of Justice:

- a) monitors the uniformization of the judicial practice and issues, at the request of the courts, advisory opinions in case of problems related to the application of the law;
- b) adopts the Regulation on the organization and functioning of the Supreme Court of Justice;

c) approves annually and modifies the composition of the Supreme Court of Justice units

d) decides on the specialization of the judicial units, as the case may be;

e) approves the organizational chart of the Supreme Court of Justice and appoints the Head of the secretariat of the Supreme Court of Justice;

f) approves the action plan, the annual activity report to the Supreme Court of Justice, as well as the draft budget of the Supreme Court of Justice for next year;

g) exercises other duties provided by law.

(3) The sitting of the Plenary of the Supreme Court of Justice is deliberative if at least 11 judges attend it. The decisions of the Plenary of the Supreme Court of Justice shall be adopted by a majority of the votes of the judges attending the meeting”.

Article II - Law no. 544/1995 regarding the status of the judge (republished in the Official Gazette of the Republic of Moldova, 2012, no. 185, art. 620), is amended as follows:

1. Article 11 (2) is repealed;

shall be supplemented by paragraphs 6 to 8 with the following content:

"(6) The judges of the Supreme Court of Justice are appointed by Parliament, at the proposal of the Superior Council of Magistracy, within 30 days from the date of registration of the proposal in Parliament, among the judges who have a seniority in the position of judge of at least 10 years.

(7) In case of finding indisputable evidence of incompatibility of the candidate to the position of judge of the Supreme Court of Justice with the respective position, of violation of the legislation by him/her or of violation of the legal procedures for selecting and promoting it, the Superior Council of Magistracy, within the term indicated in paragraph (6), is informed on the basis of an opinion of the Parliament. In case of occurrence of circumstances that require further examination or in case of Parliament's vacation, the Superior Council of Magistracy is notified of the extension of this term by 15 days or until the beginning of the session.

(8) The Parliament shall examine the repeated proposal of the Superior Council of Magistracy within 30 days from the date of its registration in the Parliament. ";

Article III - Law no. 947/1996 regarding the Superior Council of Magistracy (republished in the Official Gazette of the Republic of Moldova no. 15-17 art.65 of 22.01.2013), is amended as follows:

1. In Article 3:

at paragraph 1 the number "12" is replaced by the number "15";

paragraph 3 shall have the following content:

"(3) Three members of the Superior Council of Magistracy from the law professors are appointed by the Parliament, with the vote of the majority of the MPs elected, based on the proposals of the special Committee for the appointment of candidates in the Superior Council of Magistracy, created by the Permanent Bureau of Parliament. The special Committee consists of one member appointed by each parliamentary faction and an equal number of representatives of civil society with at least 10 years' experience in the legal, public administration or journalism field designated by the Permanent Bureau of Parliament. The special Committee organizes a public competition until the expiration of the mandate of the appointed members or within 30 days from the vacancy of the position. The public competition includes at least the analysis of the applications and the hearing of the candidates. The Special Committee draws up reasoned opinions on each candidate selected and proposes their appointment to the Plenary Session. "

shall be supplemented by paragraph 3¹ with the following content:

"(3¹) Three members of the Superior Council of Magistracy from the law professors are appointed as follows: two from the Government and one from the Presidency of the Republic of Moldova, openly and transparently selected following a public competition."

paragraph 4 shall have the following content:

"(4) Six members from among the judges, are elected to the Superior Council of Magistracy by secret vote by the General Assembly of Judges, as follows - three from the first instance courts, two from the courts of appeal and one from the Supreme Court of Justice. Candidates who have accumulated the highest number of votes are considered elected members of the Superior Council of Magistracy. The following judges from the list of

candidates who have accumulated the most votes fill the vacant positions in descending order by the number of votes accumulated. "

shall be supplemented by paragraph 4¹ with the following content:

"(4¹) The Superior Council of Magistracy shall announce, at least 60 days in advance, the date of the General Assembly of Judges at which its members are to be elected. Candidates for the position of member of the Superior Council of Magistracy will submit the participation file, with at least 30 days until the General Assembly of Judges. Applications are submitted only on their own behalf. The list of candidates and the files submitted by them shall be published on the web page of the Superior Council of Magistracy on the day following the expiry of the deadline for submitting the applications. Candidates for the position of member of the Superior Council of Magistracy have the right to carry out a campaign within the judges for promoting himself, and the Superior Council of Magistracy and the presidents of the courts will facilitate this process. Candidates have the right to request a reduction of the workload for organizing their campaign"

2. At Article 4 paragraph (1) point c²) is deleted.

3. At Article 8¹ paragraph (6) is completed in the end with wording: „ and on the official web page of the Superior Council of Magistracy”;

is completed with paragraph (8), that will have the following wording:

„(8) The drafting process of the normative acts of the Superior Council of Magistracy is carried out with respect to law provisions legislației on transparency in the process of decision making.”

4. Article 12 (1) shall be supplemented by letter f) with the following content:

"f) the loss of the capacity of judge of the level of court from which he was elected as a member of the Superior Council of Magistracy."

5. At Article 19 paragraph (4) the wording „and Article 9 of the law of the Supreme Court of Justice” is deleted;

6. At Article 24

paragraph (2) will have the following wording:

„(2) When the Superior Council of Magistracy exercises its powers provided at Article 22 paragraph (4) or examines an issue in closed session, voting takes place in the presence of only members of the Superior Council of Magistracy and of members of its secretariat.”

at paragraph (3) the wording „following deliberation” is deleted.

at paragraph (5) the wording „at deliberation” is replaced with the wording „at adoption of the decision”.

Art. IV - The Code of Criminal Procedure of the Republic of Moldova no. 122/2003 (republished in the Official Gazette of the Republic of Moldova, 2013, no. 248-251, art. 699), with the subsequent amendments and modifications, is amended and supplemented as follows:

1. Article 427 shall have the following content:

"Article 427. Grounds for appeal

(1) The appeal is declared if:

1) the interpretation of the law in the challenged decision is contrary to the uniform case law of the Supreme Court of Justice;

2) by admitting the appeal the case law of the Supreme Court of Justice is changed or strengthened;

3) the defendant was convicted for a fact that is not provided by the criminal law;

4) a late appeal was admitted;

5) there is a cause that removes the criminal liability, or the grounds that excludes the criminal prosecution or causes the criminal prosecution to cease;

6) a more severe punishment was applied than the maximum punishment allowed by law;

7) the judgment is arbitrary or is based decisively on the manifestly unreasonable assessment of the evidence.

(2) The grounds provided for in paragraph (1) may be invoked in the appeal only if they have been explicitly or essentially invoked in the appeal or the violation has occurred in the court of appeal.

(3) The assessment of the evidence given by the first court and the court of appeal is compulsory for the court of appeal, if the ground of appeal constitutes the provision of paragraph (1) section 7). "

2. Article 43² shall have the following content:

"**Article 43²**. Admissibility of the appeal

(1) The court of appeal shall examine the admissibility of the appeal declared against the decision of the court of appeal, without summoning the parties, in the council chamber, on the basis of the materials in the file.

(2) A panel of 3 judges, by reasoned decision, declares the appeal inadmissible if:

- 1) the appeal is not filed by the person mentioned in article 42¹;
- 2) the appeal is late;
- 3) the appeal does not fall within the grounds provided for in art.42⁷;
- 4) the appeal obviously has no chance of success;
- 5) the legal issue invoked in the appeal is not of fundamental importance for the development of the case law. "

(3) The appeal in which art. 42⁷ (1) point 7) cannot be declared inadmissible under (2) section 5).

(4) The decision regarding the inadmissibility of the appeal is irrevocable, it is published on the website of the Supreme Court of Justice and it is communicated to the parties.

(5) If it considers that at the stage of the admissibility examination it may take the decision provided by art. 43⁷, the panel of 3 judges, without issuing a separate conclusion regarding the admissibility of the appeal, makes a decision on the admissibility and soundness of the appeal."

Art. V - The Code of Civil Procedure of the Republic of Moldova no. 225/2003 (republished in the Official Gazette of the Republic of Moldova, 2018, no. 142-148, art. 277), with the subsequent amendments and modifications, is amended and supplemented as follows:

8. Article 42⁷ shall have the following content:

"Article 43². Grounds for the appeal

(1) The appeal is declared if:

- a) the interpretation of the law in the challenged decision is contrary to the uniform case law of the Supreme Court of Justice;
- b) by admitting the appeal the case law of the Supreme Court of Justice is changed;
- c) the settlement of the decision was determined by the violation or the erroneous application of the norms of material law;
- d) the decision concerns the rights of the person who was not appealed;
- e) the decision is arbitrary or is based decisively on the manifestly unreasonable assessment of the evidence.

(2) The grounds mentioned in (1) lit. c) -e) cannot be invoked in the appeal unless they could not be invoked in the appeal or they were rejected or the appeal court failed to rule on them or if the violation took place in the appeal court."

Art. VII - The Administrative Code of the Republic of Moldova no. 116/2018 (published in the Official Gazette of the Republic of Moldova, no. 309-320 art. 466), is amended as follows:

3. After Article 245, Article 245¹ shall be inserted, with the following content:

"Article 245¹. Grounds for the appeal

(1) The appeal is declared if:

- a) the interpretation of the law from the challenged decision or ruling is contrary to the uniform case law of the Supreme Court of Justice;
- b) by admitting the appeal the case law of the Supreme Court of Justice is changed;
- c) the decision or ruling concerns the rights of the person who was not part of the trial;

d) the decision or ruling is arbitrary or is based decisively on the manifestly unreasonable assessment of the evidence.

(2) The grounds mentioned in (1) letter c) and d) can only be invoked in the appeal unless they could not be invoked in the appeal or they were rejected or the court of appeal failed to rule on them or if the violation took place in the court of appeal.

(3) The assessment of the evidence given by the first court and the court of appeal is compulsory for the court of appeal, unless the grounds in (1) lit. d) are invoked "

Chapter II **Final and transitory provisions**

Article VII — (1) This Law shall enter into force on January 1 2020, with the exception of the provisions of Title I Chapter I article 2, of the Title III Chapter I article III section 1 amending the Law No 947/1996 On the Superior Council of the Magistracy at the Article 3 para (1) and (3¹), Article IV, section 2, which will enter into force on the date of their publication in the Official Gazette of the Republic of Moldova;

(2) The Evaluation Commission shall begin its activity in no later than 15 days since the entry into force of the Law and shall cease its activity upon appointment into office by responsible authorities of all persons covered by the Law.

(3) Until December 1, 2019, the Superior Council of Magistracy will distribute 16 positions from the Supreme Court of Justice to other courts. Any pending competition to fill in vacant judge's position at the Supreme Court of Justice shall cease under the Law.

(4) Judges appointed in accordance with Chapter IV of this Law begin their activity at the Supreme Court of Justice on January 1, 2020, unless Parliament sets an earlier date. After January 1, 2020, there will be selected the judicial assistants that will continue their work at the Supreme Court of Justice.

(5) Judicial assistants of the Supreme Court of Justice who were not selected to continue their work at the Supreme Court of Justice will be offered the transfer to another court, in the manner established by the Law no 158/2008 On the civil service and the status of civil servant, or in other vacant positions at the Supreme Court of Justice. In the event judicial assistants at the Supreme Court of Justice do not accept the position offered, they shall be removed from office.

(6) Within 10 days from the entry into force of the Law, the appeal courts shall submit to the Supreme Court of Justice, in line with competences, administrative cases, which have not been settled by that date.

(7) The appeals filed prior to January 1, 2020 will be reviewed based on their merits and in line with the procedure in force at the date of filling the appeals.

(8) The Ministry of Justice, within 15 days after the date of entry into force of this Law, will ensure staff for the secretariat of the Evaluation Committee.

Art. II (1) within three (3) months since the publication of the Law the Government shall:

a) submit to the Parliament proposals regarding the alignment of the legislation to the present Law;

b) bring its regulatory rules in accordance with the present Law.

Art. III – as of January 1, 2020 the Law no 789/1996 On the Supreme Court of Justice (re-published in the Official Gazette of the Republic of Moldova, 2012 issue 185, article 620) shall be abrogated.

Art. IV - Until the legislation is brought in accordance with the present Law, regulatory acts shall to the extent that they are not inconsistent with this Law.

Speaker of the Parliament