

THE ROMANIAN PARLIAMENT

The Chamber of Deputies

The Senate

LAW

on the Superior Council of Magistracy

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-as subsequently amended by Government Emergency Ordinance No.27/29.03.2006 on the remuneration and other rights of magistrates, published in Part I of the Official Journal of Romania no.314/07.04.2006
The Romanian Parliament adopts the present law

CHAPTER I

General provisions

Art. 1 – (1) The Superior Council of Magistracy is the guarantor of the independence of Justice.

(2) The Superior Council of Magistracy is independent and is submitted in its activity only to the law. Members of the Superior Council of Magistracy shall answer before judges and prosecutors for the activity they perform in the exercise of their term of office.

Art. 2 – The Superior Council of Magistracy has legal capacity and its headquarters in the city of Bucharest.

CHAPTER II

The organization of the Superior Council of Magistracy

Section 1

The structure of the Superior Council of Magistracy

Art. 3 – (1) The Superior Council of Magistracy is composed of 19 members, of which:

a) 9 judges and 5 prosecutors, elected within the general assemblies of judges and prosecutors, who shall make up the two sections of the Council, of which one is for judges and one for prosecutors;

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

c) The president of the High Court of Cassation and Justice, as a representative of the Judiciary, the Minister of Justice and the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice, who are *de jure* members of the Council.

Art. 4 – The section for judges in the Superior Council of Magistracy shall be composed of:

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

b) 3 judges from courts of appeal;

c) 2 judges from tribunals;

d) 2 judges from first instance courts.

Art. 5 – The section for prosecutors of the Superior Council of Magistracy shall be composed of:

a) one prosecutor from the Prosecutor's Office attached to the High Court of Cassation and Justice or from the National Anti-Corruption Prosecutor's Department;

b) 1 prosecutor from the prosecutor's offices attached to the courts of appeal;

c) 2 prosecutors from the prosecutor's offices attached to tribunals;

d) 1 prosecutor from the prosecutor's offices attached to first instance courts.

Section 2

The election of the members of the Superior Council of Magistracy

Art. 6 – (1) Judges and prosecutors who are members of the Superior Council of Magistracy, and provided in Article 3 a), shall be elected by the general assemblies of judges or, the case being, of prosecutors.

(2) The date when the first general assemblies of judges and prosecutors are to take place shall be established by the Plenum of the Superior Council of Magistracy, at least 90 days before the expiry of the term of office of its members and shall be published in the Official Journal of Romania, Part III, and on the web page of the Superior Council of Magistracy.

Art. 7 – (1) The members of the Superior Council of Magistracy shall be

elected from the judges and prosecutors appointed by the President of Romania.

(2) Judges and prosecutors may support the applications they submit for election as members of the Superior Council of Magistracy before the collective bodies of judges and prosecutors. The applications by judges and prosecutors may be supported by the collective bodies of judges and prosecutors, as well as by their professional associations.

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

(4) The applications shall be submitted to the Leading board of the High Court of Cassation and Justice, the Leading board of the Prosecutor's Department attached to the High Court of Cassation and Justice, the Leading board of the National Anti-Corruption Prosecutor's Office or to the leading boards of courts of appeal or of the prosecutor's offices attached to these, accompanied by:

a) a curriculum vitae;

b) a project on the main objectives which will be followed by the judges or prosecutors if they are elected in the Superior Council of Magistracy, as well as, the case being, the supporting documents for the candidacy;

c) a statement on one's own responsibility that he or she was not part of the intelligence services before 1990 and did not collaborate with them either;

d) an authentic statement on one's own responsibility according to criminal law, showing that they are not operative employees, including undercover, informers or collaborators of the intelligence services;

e) an updated statement of interests.

(5) Judges and prosecutors who were part of the intelligence services before 1990 or collaborated with them or those who have a personal interest that influences or could influence the objective and unbiased fulfilment of the duties provided by the law may not be elected as members of the Superior Council of Magistracy.

(6) The leading boards of the High Court of Cassation and Justice, of the Prosecutor's Office attached to the High Court of Cassation and Justice, of the National Anti-Corruption Prosecutor's Department, of the courts of appeal and of the prosecutor's offices attached to the courts of appeal shall check the fulfilment of the requirements under paragraphs (1) – (5) by the judges and prosecutors who applied for CSM.

Art. 8 – (1) The judges of the High Court of Cassation and Justice shall elect, in the general assembly, through secret, direct and personal vote, 2 members for the Superior Council of Magistracy, among the judges who submitted their applications.

(2) Prosecutors from the Prosecutor's Office attached to the High Court of Cassation and Justice and prosecutors from the National Anti-Corruption Prosecutor's Department shall elect, within the joint general assembly of prosecutors from these prosecutor's offices, by secret, direct and personal ballot, one member for the Superior Council of Magistracy from the prosecutors who

applied. In these general assemblies, the prosecutors from the territorial structures of these prosecutor's offices shall vote as well.

(3) As members of the Superior Council of Magistracy shall be elected 2 judges from the High Court of Cassation and Justice, one prosecutor from the Prosecutor's Office attached to the High Court of Cassation and Justice or from the National Anti-Corruption Prosecutor's Department, who obtained the majority of votes in the general assemblies.

(4) In the event that one of the candidates fails to obtain the majority of votes, a second ballot shall be held, with the participation of the judges and prosecutors who took the first two positions in the list of candidates. The candidate who obtains the highest number of votes in the second round of elections shall be elected as member of the Superior Council of Magistracy.

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

(2) Candidacies shall be centralised by each category of courts and prosecutor's offices and sent to the courts and prosecutor's offices in the jurisdiction of the court of appeal, accompanied by the documents provided in Article 7 paragraph (4).

(3) The leading board of each court of appeal shall organize its own general assembly, the general assembly of judges from tribunals and specialized tribunals in the jurisdiction of the court of appeal and the general assembly of judges from the courts of first instance within the jurisdiction of the court of appeal.

(4) The Leading board of each prosecutors' office attached to the courts of appeal shall organize its own general assembly, the general assembly of prosecutors from the prosecutors' offices attached to the tribunals and specialized tribunals in the jurisdiction of the court of appeal and the general assembly of prosecutors from the prosecutors' offices attached to the courts of first instance in the jurisdiction of the court of appeal.

Art. 10 – (1) The judges from each court of appeal, the judges from all tribunals and specialized tribunals within the jurisdiction of each court of appeal and the judges from all courts of first instance within the jurisdiction of each court of appeal shall designate each, in the three general assemblies, by secret, direct and personal vote, one candidate for the function as member of the SCM, among the judges who submitted their application.

(2) The prosecutors from each prosecutors' office attached to the courts of appeal, the prosecutors from all prosecutors' offices attached to the tribunals and specialized tribunals in the jurisdiction of each court of appeal and the prosecutors from the prosecutors' offices attached to the courts of first instance within the jurisdiction of each court of appeal shall designate each, in the 3 general assemblies, through secret, direct and personal vote, one candidate for the position of member of the Superior Council of Magistracy, from among the prosecutors who submitted their applications.

(3) Judges and prosecutors who obtained the majority of votes in the

general assemblies in paragraphs (1) and (2) shall be designated in view of applying for the position of member of the Superior Council of Magistracy. Article 8 paragraph (4) shall apply accordingly.

(4) Military judges and military prosecutors shall submit their applications to the Military Court of Appeal in Bucharest or, the case being, the Military Prosecutor's Office attached to the Bucharest Court of Appeal. Paragraphs (1) - (3) shall apply accordingly. The Bucharest Military Territorial Tribunal and the military tribunals, as well as the prosecutor's offices attached to them, shall each designate one candidate who is to be included in the lists provided in Article 11 paragraph (1) c) and e), and respectively d) and f).

(5) The SCM draws up the lists with the judges and prosecutors designated to apply for the position of member of the Superior Council of Magistracy, for categories of courts and prosecutors' offices.

(6) The lists under paragraph (5) and the documents under Article 7 paragraph (4) shall be published on the web page of the Superior Council of Magistracy.

(7) The provisions of art. 8 para (4) shall apply accordingly.

Art. 11 – (1) The lists of judges and of prosecutors who were designated to apply for the position of member of the Superior Council of Magistracy shall be sent to the courts or, the case being, to the prosecutor's offices, by the Superior Council of Magistracy, at least 20 days before the date established for the general assemblies, as follows:

a) the list of 16 candidates from the courts of appeal shall be sent to all the courts of appeal;

b) the list of 16 candidates from the prosecutor's offices attached to courts of appeal shall be sent to all the prosecutor's offices attached to courts of appeal;

c) the list of 16 candidates from tribunals and specialised tribunals shall be sent to all the tribunals and specialised tribunals;

d) the list of 16 candidates from the prosecutor's offices attached to tribunals and specialised tribunals shall be sent to all the prosecutor's offices attached to tribunals and specialised tribunals;

e) the list of 16 candidates from first instance courts shall be sent to all the first instance courts;

f) the list of 16 candidates from prosecutor's offices attached to first instance courts shall be sent to all the prosecutor's offices attached to first instance courts;

(2) The lists under paragraph (1) and the documents in Article 7 paragraph (4) shall be posted at the premises of courts and prosecutor's offices.

Art. 12 – (1) The lists provided for in Article 11 paragraph (1) and the documents in Article 7 paragraph (4) shall be sent by the Superior Council of Magistracy to the courts and prosecutor's offices, together with the voting papers.

(2) The Superior Council of Magistracy shall send each court and each prosecutor's office a number of voting papers bearing the official seal that is

equal to the number of judges and prosecutors in that court or prosecutor's office, with an extra 10%.

(3) The form and the contents of the ballots shall be established by the Plenum of the Superior Council of Magistracy.

(4) The printing of the ballots shall be ensured by the Superior Council of Magistracy.

Art. 13 – (1) In order to elect the members of the Superior Council of Magistracy, at the level of each court and each prosecutor's office, the general assembly of the judges or, as the case may be, of the prosecutors shall be summoned.

(2) Judges from courts of appeal and prosecutors from the prosecutor's offices attached to these, in their general assemblies, shall elect 3 judges from the courts of appeal and 1 prosecutor from the prosecutor's offices attached to these, as members of the Superior Council of Magistracy, by secret, direct and personal ballot.

(3) Judges from tribunals, and specialised tribunals and prosecutors from the prosecutor's offices attached to these shall elect 2 judges from tribunals and specialised tribunals and 2 prosecutors from the prosecutor's offices attached to these, as members of the Superior Council of Magistracy, in their general assemblies, by secret, direct and personal ballot.

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

Art. 14 – (1) In the procedure for the designation of the candidates and the election of the members of the Superior Council of Magistracy, the general assemblies shall be legally constituted in the presence of at least two thirds of the number of judges or, as the case may be, prosecutors in office, including those delegated or seconded from other courts or prosecutors' offices.

(2) The general assemblies are chaired by the magistrate with the longest standing in magistracy, who did not submit his application for the position of member of the Superior Council of Magistracy.

(3) In the procedure of electing the members of the Superior Council of Magistracy, every judge and prosecutor shall vote for a number of candidates that equals the number of members of the Superior Council of Magistracy, which represents the category of courts or prosecutor's offices at the level of which the judge or, the case being, the prosecutor works.

(4) In the event that fewer people than those provided in paragraph (3) have been voted for, the vote shall be null.

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

Art. 15 – (1) The judge or the prosecutor who chaired the general

assembly of judges, together with two judges or prosecutors designated by the general assemblies before the ballot shall:

- a) count the votes;
- b) draw up the official record regarding the course of the elections and the results of the ballot and send it to the Superior Council of Magistracy;
- c) communicate the names of judges or of prosecutors who were designated for applying for the position of member of the Superior Council of Magistracy according to Article 10 paragraph (5) or, where appropriate, compile and send to the Superior Council of Magistracy the list of candidates who enrolled, in the descending order of the number of votes obtained in the general assemblies under Article 8 paragraph (3) and under Article 13 paragraphs (2) - (4).

(2) To fulfil the tasks in paragraph (1), the judge or the prosecutor who presided over the general assembly shall be assisted by 2 judges or, the case being, by 2 prosecutors, designated by the general assemblies, from the judges or prosecutors who did not enter their candidacies.

Art. 16 – (1) The Superior Council of Magistracy centralises the results of the ballot from the jurisdiction of all courts of appeal and of all prosecutors' offices attached to these.

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

- a) 3 judges from courts of appeal, who obtained the highest number of votes nationwide;
- b) 2 judges from tribunals and specialised tribunals, who obtained the highest number of votes nationwide;
- c) 2 judges from first instance courts, who obtained the highest number of votes nationwide;
- d) 1 prosecutor from prosecutor's offices attached to courts of appeal, who obtained the highest number of votes nationwide;
- e) 2 prosecutors from the prosecutor's offices attached to tribunals and specialised tribunals, who obtained the highest number of votes nationwide;
- f) one prosecutor from the prosecutor's offices attached to first instance courts, who obtained the highest number of votes nationwide.

(3) The provisions of Art. 8 paragraph (4) shall accordingly apply.

Art. 17 – (1) The Superior Council of Magistracy shall check the legality of the election proceedings, either *ex officio* or upon notification from any judge or prosecutor.

(2) In view of drafting a notification, judges and prosecutors shall be entitled to check the official records regarding the course of the elections and their results, as well as the ballots.

(3) Any objections relating to the legality of election proceedings may be lodged at the Superior Council of Magistracy within 15 days from the date of the elections.

(4) Objections shall be dealt with by the Plenum of the Superior Council of Magistracy, within 5 days from the notification date. The reasoned decision

to the objection shall be sent to the persons who made the notification.

(5) In case of infringements of the law in the election procedures , the SCM shall order the necessary measures with a view to eliminate them, including repetition of the elections, only at those courts and prosecutors' offices where the infringement of the law had influenced the elections result as a consequence.

Art. 18 – (1) The Superior Council of Magistracy draws up the final list comprising the magistrates elected according to the provisions of art. 8 para. (3) and art. 16 Para (2) and send it to the Permanent Office of the Senate.

(2) Before sending the list to the Permanent Office, the National Council for the Study of Archives of the Intelligence shall check and send, within 15 days from the request by the Superior Council of Magistracy, information on whether the judges and prosecutors elected were part of the intelligence services before 1990 or collaborated with them.

(3) The Permanent Office of the Senate shall forward the list provided for by paragraph (1) to the Juridical, Appointment, Discipline, Immunities and Validation Commission in order to examine whether the legal provisions concerning the election of the SCM members have been observed.

(4) The Senate, in presence of the majority of its members, on the basis of the report delivered by the Juridical, Appointment, Discipline, Immunities and Validation Commission , shall validate the list comprising the magistrates elected as members of the Superior Council of Magistracy. The refusal of validation may occur only in case of infringement of the law in the procedure for the election of the members of the Superior Council of Magistracy and only if this infringement of law has an influence over the result of the elections . Art. 17, paragraph (5) shall accordingly apply.

Art. 19 – (1) In view of electing the two representatives of the civil society in the Superior Council of Magistracy, the professional organisations of jurists, the professional councils of accredited law faculties, the associations and foundations that work to protect human rights, may each propose one candidate to the Permanent Office of the Senate .

(2) Representatives of the civil society may be elected as members of the Superior Council of Magistracy if they fulfil the following requirements:

a) they are specialists in law, with a length of juridical service of at least 7 years;

b) they have a high professional and moral reputation;

c) they were not part of the intelligence services before 1990, did not collaborate with them and do not have a personal interest that influences or could influence their objective and unbiased fulfilment of their duties provided in the law;

d) they are not members of any political parties and they have not held any offices of public dignity within the previous 5 years.

(3) Proposals for applications shall be submitted to the Permanent Office of the Senate, from the 90th day to the 60th day before the expiry of the term of office of members of the Superior Council of Magistracy, together with the

court decision or, the case being, the legal act of setting up, the memorandum of association and the statute of the legal entities under paragraph (1), as well as with their fiscal record.

(4) The timeframe in which the applications are submitted shall be published in the Official Journal of Romania, Part III, and on the website of the Superior Council of Magistracy, 30 days prior the timeframe provided for by paragraph (3) starts to run.

(5) The proposed candidates shall provide the Senate with the documents specified in Article 7 paragraph (4), as well as with their criminal record.

(6) The list of candidates and the documents in Article 7 paragraph (4) shall be published on the internet pages of the Senate and of the Superior Council of Magistracy, within 5 days from the expiry of the period established for their submission.

Art. 20 – (1) The Senate shall elect amongst the candidates provided for by Art. 19 the 2 representatives of the civil society, in accordance with the procedure regulated in the Regulation of the Senate.

(2) Article 18 paragraph (2) shall apply accordingly

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

CHAPTER III

The Functioning of the Superior Council of Magistracy

Art. 22 – (1) Within 15 days from the date of publishing the decisions provided by Art. 21, the President of the High Court of Cassation and Justice shall summon the members of the Superior Council of Magistracy, in the constitutive meeting.

(2) In the constitutive meeting, which shall be chaired by the president of the High Court of Cassation and Justice, the president and the deputy-president of the Superior Council of Magistracy shall be elected.

(3) Within 15 days from the constitutive meeting of the Superior Council of Magistracy, the tasks and the duties of each permanent member shall be established, according to the activity fields.

Art. 23 – (1) The SCM functions as a body with permanent activity. The decisions of the SCM shall be made in Plenum or in Sections, according to the attributions assigned to them.

(2) The activity of members of the Superior Council of Magistracy shall be permanent

(3) The President and Vice-President of the Superior Council of Magistracy shall not exercise the activity as judge or prosecutor. The judges and prosecutors elected as members of the Superior Council of Magistracy shall suspend their activity as judge or prosecutor as regards the participation of

judges in panels and respectively the conducting of the criminal prosecution activity by prosecutors. Upon cessation of their term of office, those who had opted for suspending their activity shall restart their activity as judges or prosecutors.

(4) The elected members of the Superior Council of Magistracy, who are in office on the date of entry into force of the present law, may opt for suspending their activity as judge or prosecutor for the period left until the end of their term of office. The option shall be written and submitted to the President of the Superior Council of Magistracy, within 30 days from the entry into force of the present law.

(5) The leading positions held by the judges and prosecutors elected as members of the Superior Council of Magistracy are suspended *de jure* at the date when the decision of the Senate is published in the Official Journal, Part I. The elected members of the Superior Council of Magistracy who are holding a leading position in courts or prosecutors' offices on the date of entry into force of the present law may opt for suspension from the respective leading position, under the conditions of paragraph (3).

(6) The period during which a judge or a prosecutor is a member of the Superior Council of Magistracy shall constitute length of service in these offices.

Art. 24 – (1) The Superior Council of Magistracy is chaired by a president assisted by one vice-president, both elected from the judges and prosecutors provided in Article 3 a), and they shall be part of different sections, and shall be elected for a non-renewable term of office of one year.

(2) The president and the vice-president of the SCM shall be elected by the Plenum, in the presence of at least 15 members of the Council, with the votes of the majority of the Council's members.

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

- a) he/she shall represent the Superior Council of Magistracy in its internal and international relations;
- b) shall coordinate the activity of the SCM and shall distribute the works for the Plenum and for the sections;
- c) he/she shall chair the sessions of the Plenum of the Superior Council of Magistracy, except for the case when the President of Romania is attending the proceedings;
- d) shall propose to the Plenum the measures to be undertaken with the view to initiate the revocation procedures for the members of the Superior Council of Magistracy and the procedures for filling the vacancies;
- e) he/she shall sign the acts issued by the Plenum of the Superior Council of Magistracy
- f) he/she shall call upon the Constitutional Court to solve the legal disputes of constitutional nature arising between public authorities;
- g) he/she shall designate the members of the Superior Council of

Magistracy who may be consulted for the elaboration of draft normative acts;

h) he/she shall draw up and present, in a public session of the Plenum, the annual report on the activity of the Superior Council of Magistracy to be sent to the courts and prosecutors' offices and made public.

(4) The President of the SCM shall fulfil any other attributions established by law, by the Regulation for the organization and administrative functioning of the Superior Council of Magistracy and the Plenum.

(5) In the absence of the President of the SCM, the attributions provided in para. (3) and (4) shall be exercised by the vice-president.

(6) In case of vacancy of the position of president or vice-president, the Plenum of the Superior Council of Magistracy shall, within one month from the acknowledgement of the vacancy, elect a new president, and respectively deputy-president.

Art. 25 - The President of Romania shall chair, with no right to vote, the sessions of the Plenum of the Superior Council of Magistracy to be attended by him/her.

Art. 26 - (1) The sessions of the SCM sections shall be legally constituted in the presence of majority of the members and shall be chaired by the President and, as the case may be, the Vice-president of the SCM. In their absence, the section members elect a session chairman, with the votes of the majority of the attending members.

(2) The judge or the prosecutor who chairs the session of a section shall sign the decisions and the other documents issued by it.

Art. 27 - (1) The Superior Council of Magistracy shall meet both in general assembly and by sections, upon convocation by the president, the vice-president, or the majority of its members or, the case being, the majority of the section members.

(2) The Plenum of the Superior Council of Magistracy shall work in the presence of at least 15 members, and the sections shall work in the presence of the majority of their members.

(3) The Plenum of the Superior Council of Magistracy and the sections shall make decisions with the vote of the majority of the attending members.

Art. 28 - (1) The president of the High Court of Cassation and Justice shall participate in the sessions of the section for judges, the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice, in the sessions of the section for prosecutors, and the Minister of Justice, in the sessions of both sections.

(2) The president of the High Court of Cassation and Justice, the Minister of Justice and the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice shall not have a right to vote, when the sections are acting as law courts in matters of disciplinary liability.

(3) The representatives of the civil society shall attend only the proceedings of the SCM Plenum.

Art. 29 - (1) The proceedings of the Plenum and of the sections of the Superior Council of Magistracy shall be, as a rule, public. The Plenum or section members shall decide, with the majority of votes, on the situations, when the sessions thereof are not public.

(2) The professional associations of judges and prosecutors may participate in the work of the Plenum of the sections, expressing, when they deem necessary, a point of view on the debated issues, at their own initiative or at the request of the Superior Council of Magistracy.

(3) The agenda of the proceedings of the Plenum and of the sections of the SCM shall be determined by the President or, as the case may be, the vice-president of the Superior Council of Magistracy.

(4) The Superior Council of Magistracy, whether it is in Plenum or in a section, shall make decisions by direct and secret ballot and decisions shall be reasoned.

(5) Decisions of the Plenum that regard the career and rights of judges and prosecutors shall be reasoned within 20 days and communicated immediately.

(6) The decisions in paragraph (5) shall be published in the Official Journal of the Superior Council of Magistracy and on the web page of the Superior Council of Magistracy within 10 days from drafting the decision.

(7) The decisions provided for in paragraph (5) may be appealed on points of law, by any person concerned, within 15 days from communication or from publication, before Section for Administrative and Fiscal Contentious of the High Court of Cassation and Justice.

(8) An appeal on points of law shall suspend the execution of the decision by the Superior Council of Magistracy.

(9) The decision rendered in appeal on points of law in paragraph (7) is irrevocable.

(10) The Agenda shall be published three days before on the web page of the Superior Council of Magistracy. Decisions of the Superior Council of Magistracy shall be published in the Official Journal of the Superior Council of Magistracy and on the web page of the Superior Council of Magistracy.

CHAPTER IV **Attributions of the SCM**

Section 1 **Common provisions**

Art. 30 - (1) The Superior Council of Magistracy is entitled and obliged to take note, even ex officio in order to protect judges and prosecutors against any acts that could affect their independence or impartiality or that could give rise to suspicion with regard to these. Also, the Superior Council of Magistracy shall protect the professional reputation of judges and prosecutors.

(2) A judge or a prosecutor who considers that his or her independence, impartiality or professional reputation are being affected in any manner may complain to the Superior Council of Magistracy, which may, the case being, dispose that the aspects signalled be verified, that the results of verification be published, may notify the competent body to decide upon the measures called for or may dispose any other measure that is appropriate, according to the law.

(3) The Superior Council of Magistracy shall ensure the observance of the law and of the criteria of competence and professional ethics in the course of the professional career of judges and prosecutors.

(4) The prerogatives of the Plenum of the Superior Council of Magistracy and of its sections, regarding to the career of judges and prosecutors, shall be exercised by observing Law No.303/2004 on the statute of judges and prosecutors, as subsequently amended and supplemented and Law No.304/2004 on the organisation of the Judiciary, as subsequently amended and supplemented.

Art. 31 - (1) In exercising its attributions, the SCM may request the Ministry of Justice, the courts and prosecutor's offices, the National Institute of Magistracy, other public authorities and institutions, as well as natural and legal persons, the information or documents deemed necessary.

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

Art. 32 - (1) Where the law requires the *avis conform* (conformity endorsement), the approval or the agreement of the SCM, the opinion issued by the same shall be binding. If the law provides the consultation or *avis* (endorsement) of the SCM, the opinion issued shall not be binding.

(2) Where the law does not provide a specific deadline for the *avis* (endorsements) to be issued by the SCM, such endorsements shall be issued within 30 days from notification of the relevant matter. The exceeding by the SCM of the time limit for the issue of the relevant endorsement shall not affect the validity of the document.

Art. 33 - The Superior Council of Magistracy shall compile and keep the professional records of judges and prosecutors.

Art. 34 – The Superior Council of Magistracy shall coordinate the activity of the National Institute of Magistracy and of the National Court Clerk School.

Section 2

Attributions of the Plenum of the SCM

Art. 35 - (1) The Plenum of the Superior Council of Magistracy shall have the following duties pertaining to the career of judges and prosecutors:

- a) proposing to the President of Romania the appointment and removal from office of judges and prosecutors, except for debutant judges and prosecutors;
- b) appointing debutant judges and debutant prosecutors, based on the results they obtain in the examination of graduation of the National Institute for Magistracy;
- c) ordaining the promotion of judges and prosecutors;
- d) removing debutant judges and debutant prosecutors from office;
- e) proposing to the President of Romania the bestowing of distinctions upon judges and prosecutors, according to the law;
- f) fulfilling any other duties set forth by laws or regulations.

Art. 36 - (1) The Plenum of the Superior Council of Magistracy shall have the following duties as regards the admission to the magistracy, the evaluation, training and examinations of judges and prosecutors:

- a) at the proposal of the Scientific Council of the National Institute for Magistrates, establishing the annual number of auditors of justice for the National Institute for Magistracy, annually approving the date and place of the exam for admission to the National Institute for Magistracy, establishing the subject-matters for the examination for admission to the National Institute for Magistracy and approving the programme of professional training for auditors of justice, issuing endorsements and adopting regulations, in the cases and on the conditions provided in the law;

- b) appointing the commission for the admission exam and the commission for elaboration of the subjects for the admission exam to the National Institute for Magistracy, according to the Regulation on the organisation of the exam for admission to the National Institute for Magistracy;

- c) organising and validating, according to laws and regulations, the capacity exam for judges and prosecutors and approving the programme for the in-service professional training of judges and prosecutors, at the proposition of the Scientific Council of the National Institute for Magistracy, as well as the subject-matters for the activities of in-service professional training organised by courts of appeal and the prosecutor's offices attached to these;

- d) organising and validating, according to laws and regulations, the competitive examinations for appointment of judges and prosecutors to leading position ;

- e) ordaining the organisation of competitive examinations for the promotion of judges and prosecutors;

- f) appointing the commission for the evaluation of the professional activity of judges and prosecutors, according to the law;

- g) appointing and revoking the director and deputy-directors of the National Institute for Magistracy, at the proposal of the Scientific Council of the National Institute for Magistrates, and designating the judges and prosecutors who will be part of the Scientific Council of the National Institute for Magistrates;

- h) approving the organisational structure and the personnel establishments of the National Institute for Magistracy at the proposal of the

Scientific Council of the National Institute for Magistracy;

i) appointing the director and the deputy-directors of the National School for Court Clerks and designating judges and prosecutors as members of the School's Leading board.

j) fulfilling any other duties set forth in laws or regulations.

(2) The Plenum of the Superior Council of Magistracy shall deal with objections lodged by judges and prosecutors against decisions rendered by the sections of the Superior Council of Magistracy, except for those on disciplinary matters.

Art. 37 - The Plenum of the Superior Council of Magistracy shall have the following duties relating to the organisation and operation of courts and prosecutor's offices:

a) convoking the general assemblies of judges and prosecutors, according to the law;

b) approving the measures for supplementing or reducing the number of posts for courts and prosecutor's offices;

c) elaborating its own draft budget, with the consultative endorsement of the Ministry of Public Finance, and issuing the endorsements for the draft budgets of courts and prosecutor's offices;

d) fulfilling any other duties set forth by laws or regulations.

Art. 38 – (1) The Plenum of the Superior Council of Magistracy shall adopt the Deontological Code for Judges and Prosecutors, the Regulation on the organisation and operation of the Superior Council of Magistracy, the Regulation on the proceedings for electing the members of the Superior Council of Magistracy, the Interior Regulations for law courts, as well as other regulations and decisions provided in Law No.303/2004 on the statute of judges and prosecutors and in Law No.304/2004 on the organisation of the Judiciary, .

(2) The Plenum of the Superior Council of Magistracy shall ensure the publication of the Deontological Code for Judges and Prosecutors and the regulations provided in paragraph (1) in the Official Journal of Romania, Part I, and on the web page of the Superior Council of Magistracy.

(3) The Plenum of the SCM shall issue the *avis* (endorsement) for the draft normative acts concerning the activity of the judicial authority.

(4) The Plenum of the SCM shall issue the *avis* (endorsement) for the draft regulations and orders to be approved by the minister of justice, in the cases provided by the law.

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

(6) Every year, the Superior Council of Magistracy shall elaborate a report on the status of the Judiciary and a report on its own activity, which shall be presented to the Joint Chambers of the Romanian Parliament by 15 February the next year and publish in the Official Journal of Romania, Part III, and on the web page of the Superior Council of Magistracy.

Art. 39 - The Plenum of the SCM appoints the secretary general and the personnel with leading functions within the apparatus of the SCM.

Section 3 **Attributions of the SCM sections**

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

a) ordaining delegation of judges and assign secondments of judges and prosecutors , according to the law;

b) appointing judges and prosecutors in leading positions, according to the law and to the regulation;

c) examining recommendations received from the leading board of the High Court of Cassation and Justice on the appointment of judges to this Court;

d) analysing the fulfilment of legal requirements by debutant judges and debutant prosecutors who succeed to the capacity examination, by other jurists who succeed to the examination for admission to the magistracy, by the judges and prosecutors who enrolled for the examination for promotion and by the judges and prosecutors proposed for appointment in leading positions;

e) solving objections against evaluation marks granted by the legally set up boards of evaluation of the professional activity of judges and prosecutors;

f) taking measures to solve notifications received from litigants or from other persons on inappropriate conduct of judges and prosecutors;

g) proposing to the President of Romania the appointment and revocation from office of the president, vice-president of sections and section presidents of the High Court of Cassation and Justice;

h) endorsing the proposal made by the minister of Justice on the appointment and revocation of the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice, of the General Prosecutor of the National Anti-Corruption Prosecutor's Office, of their deputies, of the chief-prosecutors of section within these prosecutor's offices, as well as of the chief prosecutor of the Directorate for Investigation of Offences of Organised Crime and Terrorism and of his deputy;

i) approving the transfer of judges and prosecutors;

j) ordaining the suspension of judges and prosecutors from office;

k) fulfilling any other duties set forth by laws or regulations.

Art. 41 - The sections of the Superior Council of Magistracy shall have the following duties pertaining to the organisation and operation of courts and prosecutor's offices:

a) approving the setting up and closing down of sections in courts of appeal, of courts in the latter's jurisdiction, as well as the setting up of secondary premises of courts , according to the law;

b) approving the proposal of the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice or of the General Prosecutor of the National Anti-Corruption Prosecutor's Department on the

setting up or closing down of sections in prosecutor's offices;

c) endorsing the draft Government decision regarding the list of places that are part of the jurisdictions of first instance courts;

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

e) at the proposal of the presidents of courts of appeal, establishing the number of vice-presidents for the courts of appeal, tribunals and specialised tribunals, as well as the first instance courts where one vice-president works;

f) upon proposition by the Prosecutor General of Romania or by the General Prosecutor of the National Anti-Corruption Prosecutor's Office, the case being, establishing the number of deputies of general prosecutors in prosecutor's offices attached to courts of appeal and of prime-prosecutors in prosecutor's offices attached to tribunals, as well as prosecutor's offices attached to first instance courts , where prime-prosecutors are assisted by deputies;

g) fulfilling any other duties set forth by laws or regulations.

Art. 42 – (1) The section for judges of the SCM shall approve the search, the temporary detention or the arrest of judges and assistant-magistrates.

(2) The section for prosecutors of the SCM shall approve the search, the temporary detention or the arrest of prosecutors.

(3) The provisions of paragraphs (1) and (2) on searches and custody shall not apply in case of flagrant offence.

Art. 43 – The Judges Section of the SCM appoints and promotes the assistant magistrates of the High Court of Cassation and Justice, according to the law.

Section 4

Attributions of the SCM in the matter of disciplinary liability of magistrates

Art. 44 - (1) The Superior Council of Magistracy shall fulfil, through its sections, the role of law court in the field of disciplinary liability of judges and prosecutors, for the acts provided in Law No.303/2004 on the statute of judges and prosecutors.

(2) The Judges' Section acts as a disciplinary court also for the assistant magistrates of the High Court of Cassation and Justice.

Art. 45 – (1) Disciplinary action shall be exercised by the disciplinary boards of the Superior Council of Magistracy, composed of one member of the section for judges and 2 inspectors from the service of judicial inspection for judges and, respectively, one member of the section for prosecutors and 2 inspectors from the service of judicial inspection for prosecutors .

(2) The section for judges and the section for prosecutors within the Superior Council of Magistracy shall appoint every year the members of the commission provided in paragraph (1). The disciplinary boards may not have

the same members for two consecutive years.

(3) The members *de jure* of the Superior Council of Magistracy, the president and the vice-president may not be appointed in the disciplinary commissions.

(4) The disciplinary commissions may be notified about disciplinary transgressions committed by judges and prosecutors, by any person concerned, or may act *ex officio*.

(5) Any notification about the inappropriate activity of judges and prosecutors that is erroneously directed towards courts or prosecutor's offices shall be forwarded to the disciplinary commissions within 5 days from their registration.

Art. 46 – (1) In order to exercise the disciplinary action it is compulsory to perform the preliminary investigation, which shall be disposed by the holder of this action.

(2) Prior inquiries shall be performed by inspectors from the service of judicial inspection for judges, and respectively from the service of judicial inspection for prosecutors.

(3) A prior inquiry establishes the facts and their consequences, the circumstances in which they were committed, as well as any other conclusive data that can lead to a decision upon the existence or inexistence of guilt. It is obligatory to hear the person concerned and to check the defence brought by the judge or prosecutor who is being investigated. Refusal by the judge or prosecutor under investigation to make statements or to appear for the inquiry shall be included in an official record and shall not prevent the inquiry from being concluded. The judge or prosecutor under investigation is entitled to learn of all the acts of the inquiry and to request evidence for his or her defence.

(4) The result of the prior inquiry shall be forwarded to the disciplinary commissions within 60 days from registration of the notification with the Superior Council of Magistracy, and in the following 20 days the disciplinary commissions shall notify the appropriate section in view of solving the disciplinary action.

(5) In the event that, before notifying the section, the disciplinary commissions finds that additional verifications are required, it shall designate an inspector from the corresponding service of the Judicial Inspection, in view of completing the prior inquiry. The result of the additional verifications shall be forwarded within 30 days to the disciplinary commission. In this case, the time limit of 20 days provided in paragraph (4) shall begin its course from receipt of the result of additional verifications.

(6) If the disciplinary commission finds that the exercising of disciplinary action is not justified, it shall ordain dismissal.

(7) After receiving the result of the preliminary investigation, the holder of the disciplinary action shall call upon the SCM sections with a view to judge the disciplinary sanction.

(8) Disciplinary action may be exercised within one year, the latest, from the date when the infringement was committed.

Art.47 – (1) In the disciplinary proceedings before the sections of the Superior Council of Magistracy, it is mandatory to summon the judge or prosecutor against whom disciplinary action is being exercised. The judge or prosecutor may be represented by another judge or prosecutor or may be assisted or represented by a lawyer.

(2) The judge or prosecutor and, the case being, his or her representative or lawyer are entitled to learn of all the documents of the case and to request presentation of evidence for the defence.

(3) If they find the notification to be well-founded, the sections of the Superior Council of Magistracy shall apply one of the disciplinary sanctions provided in the law, according to the seriousness of the disciplinary offence committed by the judge or prosecutor and to his or her personal circumstances.

Art.48 – The SCM sections shall settle the disciplinary action by means of a decision which shall mainly include the following:

- a) the description of the behaviour which constitutes the disciplinary offence and the legal provisions instruments regulating the offence;
- b) the legal basis used for the application of the sanction;
- c) the grounds on which the defence brought by the judge or prosecutor were dismissed;
- d) the sanction applied and the reasons underlying its application ;
- e) the legal remedy and the deadline during which the decision may be appealed;
- f) the competent court where the relevant decision may be appealed.

Art.49 – (1) The decisions of the sections of the Superior Council of Magistracy rendered on disciplinary action must be drafted within 20 days from their pronouncement and shall be sent at once, to the judge or prosecutor. The communication of such decisions shall be ensured by the General Secretariat of the Superior Council of Magistracy.

(2) The decisions provided in paragraph (1) may be appealed on points of law within 15 days from service. The competence to deal with such appeals belongs to the Panel of 9 judges of the High Court of Cassation and Justice. The Panel of 9 judges may not include the voting members of the Superior Council of Magistracy and the judge who is being sanctioned.

(3) The second appeal (recurs) shall suspend the enforcement of the decision of the SCM section setting the relevant disciplinary sanction

(4) The decision whereby the second appeal (recurs) provided in para. (2) is settled shall be irrevocable.

Art.50 –In the case of expelling a judge or of a prosecutor from magistracy, the irrevocable decision shall be submitted to the President of Romania, in order to issue the decree for the removal from office.

CHAPTER V
Status of the members of the SCM

Art. 51 - (1) The length of the term of office for elected members of the Superior Council of Magistracy shall be 6 years, and the term of office is not renewable. The members of the Superior Council of Magistracy shall hold the statute of dignitary.

(2) The position of representative of the civil society elected as member of the Superior Council of Magistracy is incompatible with the position of member of Parliament, elected local official, public official, sitting judge or prosecutor, active public notary, lawyer, legal adviser or bailiff.

(3) Articles 6 and 7 of Law No.303/2004 shall apply also to members of the Superior Council of Magistracy.

(4) of the term of office as a member of the Superior Council of Magistracy shall cease, the case being, upon expiry of, the term of office by resignation, revocation from office, by failure to solve a state of incompatibility within 15 days from the date of election as member of the Superior Council of Magistracy, non-observance of Article 7 of Law No. 303/2004, inability to exercise duties for a period longer than three months, as well as by death.

(5) The term of office as a member of the Superior Council of Magistracy shall be suspended *de jure*, for the reasons provided in Article 62 of Law No.303/2004, as subsequently amended and supplemented.

Art. 52 - (1) Revocation from the office of elected member of the Superior Council of Magistracy shall be proposed by the president or the vice-president of the Council, or by one third of the members, if the person concerned no longer fulfils the legal requirements for being an elected member of the Superior Council of Magistracy, in case of failure to fulfil or to properly fulfil the duties within the Superior Council of Magistracy or in case of application of any disciplinary sanction.

(2) The Plenum of the Superior Council of Magistracy may, upon notification made according to paragraph (1), ordain revocation from the office of elected member of the Superior Council of Magistracy.

(3) Revocation from the office of president or vice-president shall be proposed by one third of the number of members of the Superior Council of Magistracy. Paragraph (2) shall apply accordingly.

(4) Elected members of the Superior Council of Magistracy shall be revoked also at the request of the majority of general assemblies from the courts or prosecutor's offices that they represent, in case of failure to fulfil or to properly fulfil the duties entrusted through the election as member of the Council. In the general assemblies, decisions shall be made with the vote of two thirds of the number of judges or prosecutors.

(5) In case of the joint general assembly of the Prosecutor's Office attached to the High Court of Cassation and Justice and of the National Anti-corruption Prosecutor's Office, decisions of revocation of the representative of these prosecutor's offices shall be made with the vote of the majority of

prosecutors. In the general assembly shall vote also the prosecutors from the territorial structures of these prosecutor's offices.

(6) Decisions to revoke the representative of the High Court of Cassation and Justice shall be made with the vote of the majority of the judges in the general assembly.

(7) The procedure for revocation may be initiated by any general assembly of a court or prosecutor's office that is represented by the member of the Superior Council of Magistracy whose revocation is being requested, as well as by the professional organisations of judges and prosecutors.

(8) The centralisation of the ballot results is the task of the general assembly that initiated the procedure or the first general assembly to be notified by the professional organisations of judges or prosecutors.

(9) Within 15 days from registration of the notification signed and reasoned by the representatives of the general assemblies in paragraph (4), the Plenum of the Superior Council of Magistracy shall ordain revocation from office of the elected member. Article 55 paragraph (2) shall apply accordingly.

Art. 53 – (1) Elected members of the Superior Council of Magistracy shall be civilly, disciplinarily and criminally liable, according to the law.

(2) Any person may notify the Superior Council of Magistracy, either directly or through the persons in charge of courts or prosecutor's offices, with regard to the inappropriate activity or conduct of one of its elected members, to the violation of professional obligations or to the commission by such a member of a disciplinary offence

(3) The sections of the Superior Council of Magistracy shall fulfil the role of disciplinary court for the elected members of the Council for the acts provided in Article 99 of Law No.303/2004 on the statute of judges and prosecutors.

Art. 54 – (1) In view of exercising disciplinary action, there is mandatory to perform a prior inquiry, which shall be ordained by the Plenum of the Superior Council of Magistracy.

(2) Prior inquiries shall be performed by inspectors from the judicial inspection of the Superior Council of Magistracy.

(3) A prior inquiry establishes the acts and their consequences, the circumstances in which they were committed, as well as any other conclusive data that can lead to a decision upon the existence or inexistence of guilt. It is mandatory to hear the person concerned and to verify his or her defence. Refusal by the person under investigation to make statements or to appear for the inquiry shall be included in an official record and shall not prevent the inquiry from being concluded. The magistrate under investigation is entitled to learn of all the acts of the inquiry and to request evidence for his or her defence.

(4) Within 60 days the designated inspector shall forward the result of the prior inquiry to the disciplinary commission set up according to Article 45. The disciplinary commission shall notify the corresponding section of The Superior Council of Magistracy in view of solving the disciplinary action.

(5) In the event that, before notifying the section, the disciplinary board

finds that additional verifications are required, it shall designate an inspector from the corresponding service of the Judicial Inspection, in view of completing the prior inquiry.

(6) If the disciplinary commission finds that the exercising of disciplinary action is not justified, it shall ordain dismissal.

(7) The member of The Superior Council of Magistracy against whom disciplinary action is being exercised shall not participate as an elected member to the session of the Plenum when disciplinary action is being trialed.

(8) Disciplinary action may be exercised within one year from the date when the offence was committed.”

(9) Articles 47-49 shall apply accordingly.”

Art. 55 - (1) In the event of termination of the term of office as a member of the Superior Council of Magistracy before its expiry date, new elections shall be organised for the vacancy, according to the procedure provided in the law.

(2) Until a new member is elected, the interim membership shall belong to the judge or prosecutor who obtained the following number of votes in the elections held according to Article 8 paragraph (3) or to Article 13 or, the case being, to Article 19.

Art. 56 repealed

Art. 57 - Spouses or relatives or relations by marriage up to the fourth degree inclusively may not be part of The Superior Council of Magistracy, during the same term of office.

CHAPTER VI

The technical administrative apparatus of the SCM

Art. 58 - The SCM has its own technical administrative apparatus.

Art. 59 – (1) The financing of the current and capital expenses of the SCM shall be ensured out of the state budget.

(2) The budgets of the NIM and the National Clerks’ School shall be distinctly included in the budget of the SCM.

(3) The president of the SCM has the quality of main credit chief accountant, quality which may be delegated to the secretary general.

(4) The Ministry of Justice, shall administer the budget for the courts of appeal, tribunals, specialised tribunals and courts of first instance the Minister of Justice being main credit chief accountant.

Art. 60 – (1) The apparatus of The Superior Council of Magistracy shall be run by a secretary general.

(2) The secretary general is appointed and revoked by the Plenum of The Superior Council of Magistracy from the judges and prosecutors with at least 8 years’ length of service in magistracy.

(3) The secretary general of the Superior Council of Magistracy may be assisted by a deputy specialised in management, human resources or financial issues.

(4) The secretary general of The Superior Council of Magistracy shall receive a monthly indemnity equalling that of the secretary general of the Ministry of Justice, which is provided in the Government Emergency Ordinance No.27/2006 on the remuneration and other rights of magistrates, and his deputy shall receive a monthly indemnity equalling that of a deputy secretary general of state within the Ministry of Justice, which is provided in the same normative act.

Art. 61 – (1) Attached to the Plenum of The Superior Council of Magistracy, the Judicial Inspection shall operate, run by a chief inspector.

(2) In the Judicial inspection, a service of judicial inspection for judges and a service of judicial inspection for prosecutors shall operate.

(3) Inspectors within the Judicial Inspection shall be appointed by the Plenum, by competitive examination, from the persons who meet the requirements in Article 60 paragraph (2) and who received the “very good” qualification in their latest evaluation. The position of inspector may be held also by seconded judges or prosecutors.

(4) Inspectors may request to the presidents of courts and the heads of prosecutor's offices in the jurisdiction of another court of appeal than that of the court or prosecutor's office where they are performing a verification, to designate judges or prosecutors, by rotation, who should perform certain acts from those falling under the competence of the Judicial Inspection.

(5) The duties of the Judicial Inspection, its structure, the number and salaries of its inspectors shall all be established by the Plenum of The Superior Council of Magistracy, within the limits of the budget.

Art. 62 - (1) The technical apparatus of the SCM shall be organized in directorates, services and offices.

(2) The organizational structure of the SCM technical apparatus shall be established by means of a Plenum decision, within the limits of the budget.

Art. 63 - (1) The personnel acting within the technical apparatus of the SCM shall be appointed after a contest or exam.

(2) The leading personnel acting within the technical apparatus of the SCM shall be appointed by the Plenum, and the execution personnel by the secretary general.

(3) The offices implying legal background within the technical apparatus of the SCM may be taken also by seconded judges and prosecutors, under the law.

(4) The civil servants and the personnel with labour contracts acting within the technical apparatus of the SCM are remunerated according to the legal provisions applicable to the same categories of personnel acting within the system of the Parliament.

(5) The lists of functions and the lists of personnel shall be approved by

the Plenum of the SCM, within the limits of the budget.

Art. 64 - The attributions of the secretary general and of the personnel acting within the technical apparatus of the SCM, and the organization and functioning of the departments within the own system of the SCM shall be determined by the Regulations on the organization and operation of the SCM.

CHAPTER VII

Transitory and final provisions

Art. 65 - (1) The number of positions required for the operation of the system of the SCM shall be determined by a Plenum decision, within the limits of the budget.

Art. 66 – The personnel from the Ministry of Justice and the Prosecutor’s Office attached to the HCCJ, taken over into the technical-administrative apparatus of the SCM shall be considered as being transferred.

Art. 67 - Within 60 days from the publishing of this law, the Government shall ensure an appropriate office for the SCM.

Art. 68 – On the day when this law comes into force, the name “Centre for Training and Further Training of Clerks and the Other Specialty Auxiliary Personnel” mentioned in the normative acts in effect at this moment shall be replaced by “National Clerks’ School”.

Art. 69 – (1) The protection of the SCM headquarters, the goods and values belonging thereto, the supervision of the access and the maintaining of the internal order necessary for the normal process of the activity in this headquarters shall be ensured, free of charge, by the Romanian Gendarmerie.

(2) The magistrates elected members of the SCM shall enjoy protection, according to the law, under the conditions provided by the protocol concluded between the President of the SCM and the Minister of Administration and Interior.

Art. 70 – (1) The present Law shall come into effect within 90 days from the publishing in the Official Journal of Romania, Part I, except Article 67.

(2) At the day of this law coming into effect, the provisions of TITLE V “The Superior Council of Magistracy” articles 86 – 90 of the Law on judiciary organization no. 92/1992 as republished in the Official Journal of Romania, Part I, no. 259 of September 30, 1997, as later amended and supplemented, and any other provisions to the contrary shall be abrogated.

The following articles II-V from Title XV “The amended and supplemented provisions of Law no 317/2004 regarding The Superior Council of Magistracy ” of Law no. 247/2005, which are not included in the supplemented body of Law 317/2004, are still applied as own provisions of Law no 247/2005

Article II – (1) In case of cessation of the term of office of one of the

judges elected in the current Superior Council of the Magistracy as representative of the courts of appeal, elections shall be held so as to designate the second representative of first instance courts, according to this law.

(2) In case of cessation of the term of office of the representative of the Prosecutor's Office attached to the High Court of Cassation and Justice or of the National Anti-Corruption Prosecutor's Department in the current Superior Council of the Magistracy, elections shall be held so as to designate the second representative of prosecutor's offices attached to tribunals, according to this law.

(3) Within 60 days from the entry into force of this law, The Superior Council of Magistracy shall appoint the deputy to the secretary general, according to Article 60.

Article III - Within 30 days from the entry into force of this law, The Superior Council of Magistracy shall amend the Regulation on its organisation and operation and shall update the Deontological Code for Judges and Prosecutors, which shall be published in the Official Journal, Part I.

Article IV – The disciplinary commissions shall be appointed within 30 days from the entry into force of this law.

Article V – At the date when this law enters into force, all contrary provisions shall be repealed.