

REPUBLIC OF MOLDOVA

**LAW ON THE STATUS OF JUDGE
No. 544-XIII dated 20.07.95**

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AMENDED BY:

LP306-XVI dated 25.12.08, OM30-33/13.02.09 art.77

LP229-XVI dated 06.11.08, OM208-209/21.11.08 art.768

LP65-XVI dated 27.03.08, OM86-87/16.05.08 art.302

LP273-XVI dated 07.12.07, OM84-85/13.05.08 art.288

LP44-XVI dated 06.03.08, OM76-77/15.04.08 art.251

LP257-XVI dated 29.11.07, OM14-15/22.01.08 art.46, in force as of 01.07.08

LP399-XVI dated 14.12.06, OM39-42/23.03.07 art.169

LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796

LP174-XVI dated 22.07.05, OM107-109/12.08.05 art.533

LP136-XV dated 06.05.04, OM91-95/11.06.04 art.482

LP206-XV dated 29.05.03, OM149/18.07.03 art.598

LP191-XV dated 08.05.03, OM97/31.05.03 art.432

LP140-XV dated 21.03.03, OM67/11.04.03 art.293

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Amended by the Laws of the Republic of Moldova:

- 1) No. 1027-XIII dated 06.12.96 - Official Monitor, 1997, No. 1-2, art. 4;
- 2) No. 1127-XIII dated 21.03.97 - Official Monitor, 1997, No. 25-27, art. 252;
- 3) No. 1592-XIII dated 27.02.98 - Official Monitor, 1998, No. 44-46, art. 326;
- 4) No. 18-XIV dated 14.05.98 - Official Monitor, 1998, No. 60-61, art. 411;
- 5) No. 96-XIV dated 16.07.98 - Official Monitor, 1998, No. 74, art. 505;
- 6) No. 216-XIV dated 12.12.98 - Official Monitor, 1998, No. 119-120, art. 719;
- 7) No. 552-XIV dated 28.07.99 - Official Monitor, 1999, No. 116-117, art. 551;
- 8) No. 789-XIV dated 03.02.00 - Official Monitor, 2000, No. 19-20, art. 110;
- 9) No. 934-XIV dated 14.04.00 - Official Monitor, 2000, No. 70-72, art. 509;
- 10) No. 162-XV dated 17.05.01 - Official Monitor, 2001, No. 63, art. 440;
- 11) No. 366-XV dated 13.07.01 - Official Monitor, 2001, No. 97-99, art. 775;
- 12) No. 373-XV dated 19.07.01 - Official Monitor, 2001, No. 129, art. 926;
- 13) No. 429-XV dated 27.07.01 - Official Monitor, 2001, No. 108-109, art. 828;

- 14) No. 822-XV dated 07.02.02 - Official Monitor, 2002, No. 40-42, art. 250;
15) No. 1099-XV dated 6.06.02 - Official Monitor, 2002, No. 100-101, art. 741.

The Parliament adopts this law.

Chapter I STATUS OF JUDGE

Article 1. The Judge – Bearer of Judicial Power

- (1) The judicial power shall be exercised only by the courts in the person of the judge – the sole bearer of this power.
- (2) The judge is the person constitutionally vested with the authority to dispense justice, which he/she exercises based on the law.
- (3) Judges of the courts shall be independent, impartial, and irremovable, and shall obey only the law.
- (4) Any person, organization, authority, or institution must respect the independence of judges.
[Art.1 amended by LP247-XVI din 21.07.06, OM174-177/10.11.06 art.796]
[Art.1 par.(3) amended by L191/08.05.03, OM97/31.05.03 art. 432]

Article 2. Unity of the Status of Judge

The judges of all the courts, including the investigative judges, shall have one status and be distinguished only by their powers and competence.
[Art.2 amended by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]
[Art. 2 amended by LP206/29.05.03, OM149/18.07.03 art.598]

Chapter II CORPORATE BODY OF MAGISTRATES

Article 3. The Magistrates

Judges of all the courts of the country and of the international courts, including the investigative judges shall have the capacity of a magistrate and shall be members of the corporate body of magistrates.
[Art.3 amended by LP306-XVI dated 25.12.08, OM30-33/13.02.09 art.77]
[Art.3 amended by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]
[Art. 3 amended by LP206 dated 29.05.03, OM149/18.07.03 art.598]
[Art.4 excluded by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

Article 5. Experience in Magistracy

- (1) Experience in magistracy shall be the period of time within which a person exercised the functions set forth in art. 3.
[Art.5 in version of LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

[Art. 5 par.(1) amended by LP206 dated 29.05.03, OM149/18.07.03 art.598]

Chapter III

NOMINATION OF THE CANDIDATE FOR THE OFFICE OF JUDGE. APPOINTMENT OF JUDGES

Article 6. Requirements to the Candidates for the Office of Judge

(1) The candidate for the office of judge shall have the exclusive citizenship of the Republic of Moldova, domicile in its territory, and meet the following requirements:

[Art.6 par.(1) amended by LP273-XVI dated 07.12.07, OM84-85/13.05.08 art.288]

- a) has the legal capacity;
- b) is the bachelor of law;

[Art.6 par.(1), letter b) amended by LP273-XVI dated 07.12.07, OM84-85/13.05.08 art.288]

- c) graduated from the National Institute of Justice;

[Art.6 par.(1), letter c) in version of LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796; shall become effective upon graduation of the National Institute of Justice by the first graduates]

- d) does not have criminal records and enjoys a good reputation;
- e) speaks the official state language;
- f) from the medical point of view is able to exercise the respective duties, according to the health medical certificate issued by the specialized commission of the Ministry of Health and Social Protection.

[Art.6 par.1), letter f) amended by LP273-XVI dated 07.12.07, OM84-85/13.05.08 art.288]

[Art.6 par.(1), letter f) in version of LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796; shall become effective upon graduation of the National Institute of Justice by the first graduates]

(2) By derogation from the provisions of par. (1) letter c), to the office of judge may aspire the person who worked for at least the last 5 years as a deputy, member of the Court of Accounts, law professor at the accredited higher education institutions, prosecutor, investigator, criminal investigation officer, attorney, ombudsman, notary, legal consultant, assistant to the judge, judicial enforcement officer, consultant (councilor) of the court, or court secretary, and the person who held the positions of legal profession within the personnel of the Constitutional Court, Superior Council of Magistracy, or public authorities, and who passed the qualification examination of the Qualification Board in line with the law. The number of vacancies available on a competitive basis for these candidates shall be set by the Superior Council of Magistracy and may not exceed 20% of the total number of vacancies during three years.

[Art.6 par.(2) in version of LP247-XVI din 21.07.06, OM174-177/10.11.06 art.796; shall become effective upon graduation of the National Institute of Justice by the first graduates]

(3) A person may aspire to the position of judge of the court of appeal or judge of the Supreme Court of Justice if he/she has work experience of no less than 6 years, and respectively 10 years, as a judge.

[Art.6 par.(3) amended by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796; shall become effective upon graduation of the National Institute of Justice by the first graduates]

[Art.7 excluded by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796; shall become effective upon graduation of the National Institute of Justice by the first graduates]

Article 8. Restrictions to the Office of Judge

(1) The judge may not:

- a) hold any other public or private positions except for didactic and scientific activity;
- b) be the deputy in the Parliament or councilor to local public administration authority;
- c) be the member of any parties or other social-political organizations, or conduct activities of political nature, cooperate in activities conflicting with the judge's oath;
- d) practice the entrepreneurial activities;
- e) provide written or oral consultations on litigation-related issues;
- f) conduct any activity related to the performance of his/her official duties in cases implying a conflict between his/her interests and the public interest of dispensing justice, unless the conflict of interests was brought in writing to the notice of the court president, or, as the case may be, conveyed to the Superior Council of Magistracy.

(2) The judge may collaborate with publications specialized in literary, scientific, or social areas, or with audiovisual shows, by which he/she shall be prohibited to express his/her views on the internal policy-related current issues.

(3) The judge shall not be entitled to provide the representatives of mass-media with information on the cases at the stage of hearing in the court, other than via the judge responsible for the relations with mass-media.

[Art.8 amended by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

[Art.8 amended by L191/08.05.03, OM97/31.05.03 art. 432]

Article 9. Competition for the Judge Vacancy

(1) All the judge vacancies shall be filled on a competitive basis. The Superior Council of Magistracy shall ensure the periodical publication in the Official Monitor of the Republic of Moldova of the information on the judge vacancies in the courts.

(2) The competition for the judge vacancies shall be organized by the Superior Council of Magistracy based on the regulation approved by it that shall set forth objective criteria for selection of the best candidates. The date, venue, and the manner of the competition shall be made public at least 90 days prior to the competition date via mass-media or the website.

(3) The graduates of the National Institute of Justice shall participate in the competition for the judge vacancies based on the graduation certificate and the general average grade obtained. The persons having the necessary legal profession experience to aspire to the position of judge shall participate in the competition based on the results of the qualification examination of the Qualification Board in line with the law.

(4) The competition shall be organized for every category of the persons specified in par. (3) as per the number of vacancies distributed by the Superior Council of Magistracy for every category separately.

[Art.9 in version of LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

[Art.9 amended by LP191 dated 08.05.03, OM97/31.05.03 art. 432]

[Art.10, 10¹ excluded by LP191 dated 08.05.03, OM97/31.05.03 art. 432]

Article 10. Registration of the Candidate for the Position of Judge

(1) In order to participate in the competition for the position of judge the candidate shall, within 60 days from the date of publication of the competition date, file a written request with the Superior Council of Magistracy that shall register him/her as a participant in the competition.

(2) In order to participate in the competition the candidate shall submit the following documents:

- a) curriculum vitae;
- b) copy of the diploma;
- c) certificate of graduation of the National Institute of Justice (if available);
- d) copy of the work record card (if available);
- e) criminal record certificate;
- f) health medical certificate;
- g) income and property declaration;
- h) reference from the last place of employment or studies.

[Art.10 introduced by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

Article 10. Appointment of the Judge

(1) The court judges, including the specialized court judges, the investigative judges and the judges of the courts of appeal shall be appointed from among the candidates selected on a competitive basis by the President of the Republic of Moldova upon the proposal of the Superior Council of Magistracy. The selected candidates meeting the conditions specified in art. 6 shall be first appointed as judges for a 5-year term. Upon expiry of the 5-year term the judges shall be granted life tenure until they reach the age limit of 65.

[Art.11 par.(1) in version of LP247-XVI dated 21.07.06, MO174-177/10.11.06 art.96]

[Art. 11 par.(1) amended by LP206 dated 29.05.03, OM149/18.07.03 art.598]

(2) The judges of the Supreme Court of Justice shall be appointed by the Parliament upon the proposal of the Supreme Council of Magistracy.

(3) The President of the Republic of Moldova may reject once the candidate proposed by the Superior Council of Magistracy to be appointed as a judge for 5 years or until reaching the age limit and only if irrefutable evidence is found confirming the candidate's incompatibility with this position, him/her violating the legislation or the procedures for his/her selection and promotion.

(4) The appointment or reconfirmation of a person as a judge shall be rejected within 30 days from the date of receipt of the proposal. Should there be circumstances requiring an additional examination, the President of the Republic of Moldova shall notify the Superior Council of Magistracy of the extension of the specified term by 15 days.

[Art.11 par. (3-4) in version of LP174-XVI dated 22.07.05, OM107-109/12.08.05 art.533]

[Art.11 par. (4) amended by LP140 dated 21.03.03, OM67/11.04.03 art. 293]

[Art.11 par.(3) and (4) introduced by LP373 dated 19.07.01, OM129/23.10.01 art.926]

5) Upon a repeated proposal of the Superior Council of Magistracy the President of the Republic of Moldova shall issue within 30 days from the date of receipt of the repeated proposal a decree on appointment of the person as a judge for a 5-year term or until reaching the age limit.

[Art.11, par.5 introduced by LP174-XVI dated 22.07.05, OM107-109/12.08.05 art.533]

Article 12. Oath of the Judge

(1) Prior to assuming the office the judge shall be obliged to take the following oath:

“I swear to respect the Constitution and the laws of the country, the human rights and liberties, to honorably, conscientiously and impartially perform my duties”.

[Art.12 par.(1) amended by L191/08.05.03, OM97/31.05.03 art. 432]

(2) The oath shall be made within 10 days from the date of appointment, in a solemn session before the Superior Council of Magistracy, after the act of appointment has been read out.

(3) A protocol on making the oath shall be prepared and signed by the chairman of the Superior Council of Magistracy session and the person who made the oath.

(4) It is not necessary to take oath if a judge is promoted or transferred to another position in another court.

[Art.12 par.(4) amended by L191/08.05.03, OM97/31.05.03 art. 432]

(5) The actions performed by the judge before the oath shall be void.

(6) The judge not meeting the requirements provided by art. 8 shall not be allowed to take the oath.

Article 13. Judges' Evaluation and Qualification Degree

(1) In line with the law the judges shall be evaluated to be granted life tenure until reaching the age limit, to be awarded qualification degrees, to be promoted in a hierarchically higher court, or to be appointed as court president or deputy president, and, periodically, once in 3 years, to be confirmed their qualification degree.

(2) The judge having the highest qualification degree shall not be subject to evaluation.

[Art.13 in version of LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

[Art.13 amended by LP191 dated 08.05.03, MO97/31.05.03 art. 432]

Chapter IV

RIGHTS AND OBLIGATIONS OF JUDGES

[The name of Chapter IV was changed by LP191 dated 08.05.03, OM97/31.05.03 art. 432]

Article 14. Judges' Rights

- (1) In order to dispense justice the judges shall have the authority established by legislation.
- (2) The demands and dispositions of judges related to the performance of judicial activity shall be mandatory to all individuals and legal entities. Failure to comply with them shall imply the liable provided by law.
- (3) The judges shall be entitled to creating and being affiliated to trade unions or other organizations so as to represent their interests, to improve their professional skills, and to defend their status.
- (4) The judge shall have the right to a free continuing training within the limits set by law.
[Art.14 amended by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]
[Art.14 amended by LP191 dated 08.05.03, OM97/31.05.03 art.432]

Article 15. Judges' Obligations

- (1) The judges shall be obliged to strictly execute the legal requirements on dispensing justice, to ensure the protection of the citizens' rights and liberties, their honor and dignity, to protect the interests of the society and the high culture of the judicial activity, and to be impartial.
[Art.15 par.(1) amended by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]
- (2) While exercising their official duties, as well as in their life unrelated to their official capacity, the judges shall have the duty to refrain from any acts, which may discredit justice, compromise the honor and dignity of the magistrate, or to cast doubts on their objectivity.
- (3) The judges shall not have the right to disclose the secret of deliberation and the information obtained in a secret hearing, while the investigative judges shall not have the right to disclose the criminal investigation data.
[Art. 15 par.(3) amended by LP206 dated 29.05.03, OM149/18.07.03 art.598]
- (4) The judges shall be obliged to study and generalize the judicial practice.
[Art.15 par.(4) amended by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]
- (5) The judges shall be obliged to submit the declarations on their income and property in line with the law.
[Art.15 par.(5) in version of LP257-XVI dated 29.11.07, OM14-15/22.01.08 art.46, in force as of 01.07.08]
[Art.15 par.(5) introduced by LP136-XV dated 06.05.04, OM91-95/11.06.04 art.482]
[Par.(5) becomes par.(6) by LP136-XV dated 06.05.04, OM91-95/11.06.04 art.482]
- (6) The magistrate's failure to meet his/her obligations implies the liability provided by law.
[Art.15 amended by L191/08.05.03, OM97/31.05.03 art.432]

Article 16. Judge's Cloth

(1) The judge shall wear during the hearings the cloth provided by law.
[Art.16 amended by LP306-XVI dated 25.12.08, OM30-33/13.02.09 art.77]
[Art. 16 par.(1) amended by L206/29.05.03, OM149/18.07.03 art.598]

(2) The state provides the judges with free cloth.

Chapter V

GUARANTEEING JUDICIAL INDEPENDENCE

Article 17. Ensuring Judicial Independence

The judicial independence shall be ensured by:

- a) the procedure of dispensing justice;
- b) the procedure of appointment, suspension, resignation and dismissal;
- c) the declaration of his/her inviolability;
- d) the secret of deliberations and interdicting the demand to disclose it;
- e) establishing the liability for contempt of court, lack of respect for judges, and interference with a court trial;
- f) allotting proper resources for the functioning of the judiciary, creating the organizational and technical environment favorable for the activity of the courts;
- g) ensuring the judges' material and social needs;
- h) other measures as provided by law.

[Art.17 amended by L191/08.05.03, OM97/31.05.03 art. 432]

Article 18. Judge's Irremovability

(1) While performing his/her official duties the judge of the court shall be irremovable except for the cases provided by art. 25.

(2) His/her authority may be suspended on the basis and in the manner provided by this law.

Article 19. Judge's Inviolability

(1) The personality of the judge shall be inviolable.

(2) The inviolability of the judge shall extend to his/her house and workplace, vehicles and telecommunication means used, his/her correspondence, personal goods, and documents.

(3) The judge may not be held liable for his/her opinions expressed while dispensing justice, as well as for the judgment he/she passed, unless he/she has been found guilty of a criminal abuse by a final sentence.

(4) The criminal investigation may be initiated against a judge only by the Prosecutor General upon the consent of the Superior Council of Magistracy, and the President of the Republic of Moldova or, as the case may be, by the Parliament, in line with the Criminal Procedure Code.

(5) A judge may not be detained, brought by force, arrested, searched, except for flagrant crime cases, or held criminally liable without the consent of the Superior Council of Magistracy and the President of the Republic of Moldova, or, as the case may be, the Parliament.

(6) A judge may be subject to administrative sanctions only by the court and upon the consent of the Superior Council of Magistracy. A judge detained if suspected of an administrative offence shall be immediately released after his/her identity has been established.

[Art.19 amended by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

[Art.19 par.(8) excluded by LP191 dated 08.05.03, OM97/31.05.03 art. 432]

Article 20. Judge's Promotion or Transfer

(1) A judge shall be promoted or transferred for an unlimited term only upon his/her consent and the proposal of the Superior Council of Magistracy, by the President of the Republic of Moldova or, as the case may be, by the Parliament. The promotion shall be carried out on the basis of a competition organized by the Superior Council of Magistracy.

(2) The promotion or transfer of the judge for an unlimited term to the position of a judge suspended, transferred or detached from office, shall be allowed upon his/her consent, by the decision of the Superior Council of Magistracy.

(3) The professional experience and participation in the continuing trainings shall be the major criteria for promoting a judge.

(4) A judge's assignment by the decision of the Superior Council of Magistracy to hear certain categories of cases or to perform the duties of the investigative judge in the same court shall not be construed as a transfer.

(5) The judge applied a disciplinary sanction or who failed the evaluation, and the judge downgraded due to the improper level of professional knowledge, may not be promoted within one year to a hierarchically higher court, to the position of the president or deputy president of the court, to the Qualification Board and the Disciplinary Board.

[Art.20 par.(3)-(5) introduced by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

[Art.20 par.(1) amended by LP191 dated 08.05.03, OM97/31.05.03 art. 432]

Chapter VI

DISCIPLINARY AND PROPERTY LIABILITY OF JUDGES

[The name of Chapter VI amended by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

[The name of Chapter VI amended by L191/08.05.03, OM97/31.05.03 art.432]

Article 21. Disciplinary Liability of Judges

(1) The judges shall be subject to disciplinary liability for failure to perform their official duties, as well as for the conduct injuring the interest of the judicial office and the judicial prestige.

(2) If the presidents (deputy presidents) of the district courts and courts of appeal do not meet the requirements provided by articles 27, 28, 33, 34 of the Law on the Organization of Judiciary, they may be dismissed in the manner provided for their appointment. The president and the deputy presidents of the Supreme Court of Justice shall be dismissed in the same manner for failure to perform the duties set forth in the Law on the Supreme Court of Justice.

[Art.21 amended by L191/08.05.03, OM97/31.05.03 art.432]

Article 21¹. Property Liability of Judges

(1) The state shall bear the property liability for the damage caused by the judicial errors to the fundamental human rights and freedoms guaranteed by the Constitution and the international treaties to which the Republic of Moldova is a party.

(2) To have the caused damage repaired the person shall have the right to file an action against the state represented by the Ministry of Finance.

(3) The liability of the state does not exempt from liability the judges who performed their duties in bad faith or with severe negligence.

(4) Upon repairing the damage based on an irrevocable court judgment the state may file, in line with the law, a counter action against the judge, who due to bad faith or severe negligence committed the judicial error that caused the damage.

(5) The right of the person to be repaired the material damages caused by judicial errors committed in the proceedings other than criminal may be exercised only if the criminal liability of the judge for an act committed by trying the case is stated in advance, by a final court judgment, and that this act could have caused a judicial error.

(6) In the case set forth in par. (4), provided that the fundamental rights and freedoms were violated by a panel including several judges, the action may be filed against all the guilty judges who shall be liable in a solidary manner. The counter action against the judge may be filed only upon the consent of the Superior Council of Magistracy.

[Art.21¹ introduced by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

Article 22. Disciplinary Violations

(1) The following shall be considered disciplinary violations:

- a) violation of the impartiality obligation;
- b) ambiguous interpretation or application of legislation, by intention or due to severe negligence, if this is not justified by the change of the judicial practice;
- c) interfering in the activity of any other judge or influencing in any way the authorities, institutions, or officials to solve certain requests, claiming or consenting to settle the personal interests or the interests of the family members outside the limits of the legal provisions in force;
- d) violating the secret of deliberation or the confidentiality of works of this nature;
- e) public activities of political nature;
- f) violation of the provisions on the random case assignment;

f¹) violation due to unjustified reasons of the terms set for case hearing;

[Art.22 par.(1), letter f¹) introduced by LP44-XVI dated 06.03.08, OM76-77/15.04.08 art.251]

g) violation of the legal provisions on the mandatory submission of the declaration on income and property;

[Art.22 par.(1), letter g) in version of LP257-XVI dated 29.11.07, OM14-15/22.01.08 art.46, in force as of 01.07.08]

h) unjustified refusal to perform an official duty;

h¹) violation of the terms set for editing of the court judgments and transmission of copies thereof to the participants in the proceedings;

[Art.22 par.(1), letter h¹) introduced by LP257-XVI dated 29.11.07, OM14-15/22.01.08 art.46, in force as of 01.07.08]

i) unjustified absences from office, late comings and leaving the office prior to the end of the working hours;

j) while performing the official duties, disrespectful attitude towards the colleagues, attorneys, experts, witnesses, or other participants in the proceedings;

k) permanent violation or severe violation of the judicial ethics;

l) court president's failure to meet the obligation to report to the Superior Council of Magistracy the disciplinary violations of the judges;

m) using the position of judge to gain undue benefits;

n) involvement into extra-judiciary activities without the authorization of the Superior Council of Magistracy;

o) expressing publicly the agreement or disagreement with the judgment of the colleagues in order to interfere in their activity;

p) violation of other provisions related to incompatibilities and the interdictions applied to judges.

[Art.22 par.(1) in version of LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

[Art.22 par.(1) letter f) amended by L191/08.05.03, OM97/31.05.03 art.432]

(2) The cancellation or modification of a judicial decision does not imply liability, if the judge who issued it did not violate the law by intention. Exceptions are the cases when the law was violated by negligence, which consequently caused substantial material or moral damages to the persons.

Article 23. Disciplinary Sanctions

(1) Depending upon the gravity of violations, the disciplinary sanctions shall be the following:

- a) warning;
- b) reprimand;
- c) severe reprimand;
- d) downgrading;
- e) dismissal.

(2) A disciplinary sanction shall be applied within a 6-month term from the date of identifying the disciplinary violation, but no later than within 1 year from the date it has been committed.

Chapter VII
SUSPENSION, TEMPORARY DISMISSAL, DETACHMENT, AND DISMISSAL OF THE
JUDGE

Article 24. Suspension

- (1) A judge may be suspended from office by the decision of the Superior Council of Magistracy, if:
 - a) criminal investigation was initiated against him/her prior to the judgment on the case becoming final;
 - b) the judge is found missing by a final court judgment;
 - c) the judge participates in electoral campaign as a candidate for the public authority or the local public administration authority and is elected to these authorities;
 - d) the judge is granted a maternity leave and the child care leave of up to 3 years.
- (2) In the case provided by par. (1) letter b), the judge's salary shall be paid to his/her family, while in cases provided by letters a), c) and d) the salary shall be paid to the judge in line with the law.
- (3) The suspension of a judge due to the reasons listed in par. (1), except for letter a), does not imply the cancellation of the personal inviolability and material and social guarantees.
- (4) In the case set forth in par. (1) letter a), the suspension of a judge shall be ceased as soon as the judge's innocence is proved and an acquittal or criminal proceedings termination sentence is pronounced, by which the judge shall be reinstated in all his/her previous rights.
- (5) In all the cases set forth in par. (1) letter c) and d), upon expiry of the term for which the judge was suspended, he/she shall be offered the position of the judge he/she had before the suspension or, upon his/her consent, he/she shall be offered any other equivalent judge position.
- (6) The decision on suspension of the judge may be subject to appeal in the Supreme Court of Justice in line with the law.

[Art.24 amended by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

Article 24¹. Temporary Dismissal and Detachment of the Judge

- (1) The judge may be temporarily dismissed by the decision of the Superior Council of Magistracy.
- (2) The judge may be detached from office, upon his/her consent, by the decision of the Superior Council of Magistracy in order to fill a position in the personnel of the Superior Council of Magistracy or the National Institute of Justice for a period of up to 18 months, which may be extended for at least 18 months. The judge selected on a competitive basis as an inspecting judge in the Judicial Inspection under the Superior Council of Magistracy shall be detached for the entire duration of his/her mandate.

[Art.24¹ par.(2) amended by LP229-XVI dated 06.11.08, OM208-209/21.11.08 art.768]

- (3) In order to ensure the activity of the Superior Council of Magistracy the selected judges shall be detached for the duration of the mandate of the member of the Council.

[Art.241 par.(3) in version of LP306-XVI dated 25.12.08, OM30-33/13.02.09 art.77]

[Art.241 par.(3) amended by LP65-XVI dated 27.03.08, OM86-87/16.05.08 art.302]

(3) In cases provided by par. (2), the judge shall be maintained the previous average salary for the entire period of his/her activity in the Judicial Inspection, the personnel of the Superior Council of Magistracy or the National Institute of Justice. In case of the detachment provided in par. (3) the salary of the judge shall be equal to the salary of the judge of the Supreme Court of Justice.

[Art.241 par.(4) amended by LP229-XVI dated 06.11.08, OM208-209/21.11.08 art.768]

(4) The judge detached shall be maintained the status of judge, while the period of his/her activity in the institutions specified in par. (2) and (3) shall be included in his/her length of service as a judge.

(5) Upon expiry of the term for which the judge was detached from office by the decision of the Superior Council of Magistracy, he/she shall be offered the position of the judge he/she held before the detachment or, upon his/her consent, he/she shall be offered any other equivalent position of judge.

[Art.241 in version of LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

Article 25. Dismissal of the Judge

- (1) The body that appointed the judge shall dismiss him/her if :
- a) he/she submitted a resignation request pursuant to art. 26, par. (2);
 - b) he/she submitted a resignation request of his/her own;
 - c) he/she submitted a resignation request due to reaching the retirement age;
 - d) he/she was transferred to another position in line with the law;
 - e) he/she is professionally incapable;
 - f) he/she committed a disciplinary violation mentioned in art. 22, par. (1);
 - g) a final conviction sentence was passed;
 - h) he/she lost the citizenship of the Republic of Moldova;
 - i) he/she violated the provisions of art. 8;
 - j) he/she was recognized disabled by a medical certificate;
 - k) his/her authority expired if not appointed for life tenure (*translator's note: literal translation would be "judge was not appointed until he/she has reached the age limit"*), and if reached the age limit;
 - l) his/her limited legal capacity or legal incapacity was confirmed by a final court judgment.

[Art.25 par.(1), letter m) excluded by LP306-XVI dated 25.12.08, OM30-33/13.02.09 art.77]

[Art.25 par.(1) in version of LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

[Art.25 par.(1) letter h) amended by LP191 dated 08.05.03, OM97/31.05.03 art. 432]

[Art.25 par.(1) letter j) amended by LP191 dated 08.05.03, OM97/31.05.03 art.432]

(2) The proposal to dismiss a judge shall be submitted by the Superior Council of Magistracy to the President of the Republic of Moldova or, as the case may be, to the Parliament.

(3) The procedure of dismissal of a judge and the procedure of appealing against the decision on dismissal shall be established by the legislation.

(4) Should the decision on dismissal be cancelled, the judge shall be reinstated in all his/her previous rights and paid, in the manner set by law, the financial rights he/she was deprived of.

(5) In case of decease of a judge the Superior Council of Magistracy shall announce the vacancy.

[Art.25 par.(5) introduced by LP306-XVI dated 25.12.08, OM30-33/13.02.09 art.77]

Article 26. Judge's Resignation

(1) The judge shall be considered resigned if he/she honorably leaves his/her position, if, while exercising his/her official duties or in his/her social and private life he/she did not commit any acts discrediting justice or compromising the honor and dignity of the judge.

(2) The judge shall be entitled to resignation if he/she files a resignation request, and if his/her length of service as a judge accounts for at least 20 years, and he/she reached the age of 50.

(3) The resigned judge shall keep the title of magistrate, his/her affiliation to the corporate body of magistrates, and the guarantees of the personal inviolability.

(4) The resigned or retired judge shall be paid a non-recurrent resignation allowance equal to the amount resulting from multiplying his/her average monthly salary by the number of years fully worked as a judge. At the same time, the calculation of the non-recurrent resignation allowance for the judge who resigned and returned to the position shall take into account the period of activity as a judge from the date his/her last resignation terminated.

(5) The resigned judge shall be entitled to a service pension or to a monthly life annuity as defined by this law.

(6) If the resigned judge worked as a judge for at least 20 years, he/she shall benefit from a monthly life annuity of 80 %; from 25 to 30 years – of 85 %; from 30 to 35 years – of 90%; from 35 to 40 years – of 95 %; from 40 to more years– of 100 % of the average salary paid for the respective position of the judge, considering the indexation of the salary. The monthly life annuity shall be recalculated considering the amount of salary of an active judge.

[Art.26, par.6 completed by LP1099-XV dated 06.06.02, in force as of 01.01.03]

(7) The resigned judge shall be entitled to work in the area of justice.

[Art.26 par.(9) excluded by LP191 dated 08.05.03, OM97/31.05.03 art. 432]

(8) If the resigned judge performs other functions in the judiciary, he/she shall be paid a monthly life annuity and remunerated according to art. 28.

(9) The judge shall be considered resigned as long as he/she follows the provisions of art. 8, keeps the citizenship of the Republic of Moldova, and does not commit the acts discrediting justice or compromising the honor and dignity of the judge.

(10) If the Superior Council of Magistracy determines that the resigned judge does not meet the requirements provided hereunder, it shall cease the judge's resignation. The judge may file an appeal

against the decision of the Superior Council of Magistracy ceasing his/her resignation with the Supreme Court of Justice within 10 days from the date of receipt of the decision copy.

(13) The judge's resignation shall be also ceased if he/she is repeatedly appointed as a judge.

[Art.26 amended by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

Article 26¹. Maintaining the Authority of the Judge

The authority of the judge transferred, temporarily dismissed, detached, suspended, or dismissed while examining a criminal or civil case at the final stage, shall be maintained until the respective case is tried.

[Art.261 amended by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

Chapter VIII

STATE PROTECTION OF THE JUDGE AND HIS/HER MATERIAL AND SOCIAL SECURITY

Article 27. State Protection of the Judge and His/Her Family Members

(1) The judge, his/her family members and their property shall be under state protection. Upon request of the judge or the president of the court, the law enforcement bodies shall be obliged to take appropriate measures in order to ensure the security of the judge, his/her family members, and the integrity of their goods.

[Art.27 par.(1) amended by LP191 dated 08.05.03, OM97/31.05.03 art.432]

(2) Attempting against judge's life and health, destroying or damaging his/her goods, threatening a judge with death, violence, or damaging his/her goods, defaming or insulting a judge, as well as attempting against his/her close relatives' (parents, wife, husband, children) life and health, shall imply liability set by law. The judge shall be entitled to being provided with security means by the law enforcement bodies.

Article 28. Remuneration of Judge

The court judges shall be paid the salaries under the conditions and in the manner set by Law No. 355-XVI dated December 23, 2005 on System of Labor Remuneration in the Budgetary Sector.

[Art.28 in version of LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

[Art.28 amended by LP191 dated 08.05.03, OM97/31.05.03 art.432]

Article 29. Judge's Vacation

(1) The judge shall be entitled to one annual vacation of 30 calendar days.

(2) If a judge worked in the position of judge for less than 5 years, his/her vacation shall be increased by 2 working days; from 5 to 10 years – by 5 working days; from 10 to 15 years – by 10 working days; for more than 15 years – by 15 working days.

(3) The annual vacation shall be granted to judges by the respective court presidents in line with the annual vacation programs approved by them and coordinated at least two weeks prior to the end of every calendar year with the Superior Council of Magistracy. The court presidents and deputy presidents shall be granted their annual vacation by the Superior Council of Magistracy.

(4) The annual vacation shall be granted to the judge of the Supreme Court of Justice in line with the program approved at least two weeks prior to the end of every calendar year by the Plenum of the Supreme Court of Justice. The President of the Supreme Court of Justice shall be granted the annual vacation by the decision of the Plenum of the Supreme Court of Justice. The Deputy Presidents who are chairpersons of the colleges, the deputy chairpersons of the colleges, and the judges of the Supreme Court of Justice shall be granted their annual vacations by the President of the Supreme Court of Justice.

(5) A judge may be recalled from the annual vacation only upon his/her written consent and in unforeseen circumstances requiring his/her presence in the office. In such a case, the judge shall not be obliged to refund the payment effected for the unused vacation days. The recall from vacation shall be performed in the manner set for granting vacations. In the absence of the president of the district court, court of appeal, or the Supreme Court of Justice, including the acting president, the Superior Council of Magistracy or the Plenum of the Supreme Court of Justice shall recall the judges from vacation.

[Art.29 amended by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

[Art.29 par.(3) amended by LP191/08.05.03, OM97/31.05.03 art.432]

Article 30. Providing Housing to the Judge

(1) Should a judge be not provided with residence or it is necessary to improve the state of his/her dwelling place, or if he/she has not been given the supplementary due area of 15 m², the local public administration authority shall be obliged to provide housing to the judge within no more than 6 months from the date when the abovementioned circumstances arose, taking into account the supplementary due area of 15 m².

(2) Having worked in the position of judge for no less than 10 years, the dwelling shall be transferred free of charge to the private property of the judge.

(3) Should the judge be not provided housing in line with par. (1), he/she shall be entitled to a compensation paid by the institution he/she works at the expenses related to a temporary dwelling space rental (sub-rental). The amount of the compensation shall be equal to the quantum provided by the dwelling space rental (sub-rental) agreement and shall not exceed the tenant's salary.

(4) The family of a deceased judge shall preserve the right to be provided housing on grounds existent at the date of decease.

Article 31. Other Social Guarantees

The judge and the members of his/her family shall benefit from a minimum necessary free medical care and other social guarantees provided by law.

[Art.31 amended by LP191 dated 08.05.03, OM97/31.05.03 art.432]

Article 32. Pensioning

(1) The judge who reached the age of 50 and whose length of service is of no less than 20 calendar years, out of which he/she worked as a judge for at least 12 years and 6 months, shall be entitled to a service pension of 55 % of his/her average salary, while for each complete year worked after 20 years – of 3%, by which the total pension amount shall not exceed 80 % of his/her average salary, considering the indexation. The judge's pension shall be recalculated considering the amount of the salary of an active judge.

[Art. 32 par.1) introduced by LP1099-XV dated 06.06.2002, in force as of 01.01.03]

(2) The provisions of par. (1) shall be also applied to the judges who worked in international courts, considering the average monthly salary of the judge of the Supreme Court of Justice.

(3) The service pension shall be entirely paid to a working judge.

(4) Upon retiring the judge shall have the right to seek employment and to be integrally paid both the pension and the salary.

Article 32¹. Bodies Setting and Paying the Pension

(1) The pensions and the monthly life annuities shall be set and paid by the social security bodies.

(2) The social security bodies shall have the right to exert control over the authenticity of the documents confirming the length of service and the insured income issued by the competent authorities.

Article 32². Source of Financing

Until January 1, 2010 the expenses related to the payment of pensions and monthly life annuities shall be covered from the state budget.

[Art.32¹-32² introduced by LP399-XVI dated 14.12.06, OM39-42/23.03.07 art.169]

Art. 33. State Insurance and Compensation Payments

(1) The judge's life, health and goods shall be subject to mandatory state insurance. The mandatory state insurance of the judge's life and health shall be equal to the amount of his/her 15-year money allowance paid at his/her last place of employment.

(2) The insurance shall be paid in case of:

a) violent death or decease of an active judge, if the decease was caused by bodily injuries or other violent injuries to his/her health, or by a work-related accident – to his/her successors, in the form of a non-recurrent compensation equal to the amount resulting from multiplying the deceased judge's annual average salary by the complete years he/she did not survive and left until the age limit, however, to not less than 15 annual average salaries;

b) mutilation of the judge or other violent injuries caused to his/her health, or mutilation, or other injuries caused to the health of the judge as a result of a work-related accident, which makes it

impossible for him/her to continue his/her professional activity and which caused the loss of the full working capacity – in the form of a non-recurrent compensation equal to the amount of his/her 15-year money allowance;

c) causing bodily injuries to an active judge or other violent injuries to his/her health, or bodily injuries caused by a work-related accident, which did not lead to the loss of the working capacity, but made it impossible for him/her to continue his/her professional activity – in the form of a non-recurrent compensation equal to the amount of his/her one-year money allowance;

d) mutilation of an active judge or other violent injuries caused to his/her health, or mutilation, or other injuries caused to his/her health by a work-related accident making it impossible for him/her to continue his/her professional activity – in the form of a monthly compensation equal to the salary he/she was paid as a judge. The disability pension or other types of pensions established prior or after the loss of the ability to continue the professional activity shall not be included into the calculation of the compensation. The compensation shall also not cover the salary paid to the judge after the injury, and the compensations based on the state insurance;

e) violent death or decease of the judge as a result of bodily injuries or other violent injuries to his/her health, or as a result of a work-related accident – to the members of his/her family who are unable to work and are supported by him/her, in the form of a monthly allowance equal to the difference between their part of the salary of the deceased judge and the pension established for the loss of the breadwinner, by which the lump-sum allowance shall not be considered.

(3) In case of decease of an active judge, his/her family shall be paid a non-recurrent compensation in the amount and under the conditions set in art. 26, par. 4.

(4) In case of decease of an active, resigned or retired judge, his/her family shall be paid a death allowance equal to two average monthly salaries of the judge in the respective position.

(5) The material damage caused in relation to the judge's official functions, by deterioration or destruction of his/her goods, the goods of his/her family members and of his/her close relatives, shall be entirely recovered from the state budget.

Article 34. Judge's Identity Card

(1) The judge shall receive an identity card of a model approved by the President of the Republic of Moldova or, as the case may be, by the Parliament.

(2) The judge's identity card shall be issued by the Superior Council of Magistracy and shall serve as an identity document on the entire territory of the republic.

(3) The provisions of this article shall also apply to resigned and retired judges.

[Art.34 amended by LP247-XVI dated 21.07.06, OM174-177/10.11.06 art.796]

Chapter X FINAL AND TRANSITORY PROVISIONS

Article I

This law shall become effective as of the date of its publication.

Article II

The laws and other normative acts shall remain in force except for the parts contradicting this law.

Article III

(1) It shall be considered that the presidents, deputy presidents and judges of the district, municipal (sector) courts, who were active at the date this law was adopted, meet all the requirements provided for these positions and are irremovable during the period they have been appointed for.

(2) The provisions of this law that are related to compensations shall extend to retired or dismissed judges upon expiry of their powers, provided that their length of service as a judge accounts for at least 15 years.

(3) The provisions of art. 26 and 32 shall apply to the retired judges, irrespective of the date of retirement.

(4) The persons specified in par. (3) shall be paid a monthly life annuity or, as the case may be, a pension paid from the state budget, considering their monthly salary as a judge, and the bonuses provided by art. 28 par. (1). The payments shall be effected at the last place of employment of the judge or at the court in the territorial area of which he/she resides.

Article IV

(1) The Supreme Court of Justice judges transferred due to job-related interests, under the conditions provided by this law, to the positions with a lower salary, shall be maintained their previous salary, increases and bonuses.

(2) The employees of the Superior Court of Justice transferred due to job-related interests to the positions with a lower salary shall benefit from their previous salary during 3 months.

Article V

The Superior Council of Magistracy, until December 1, 1995, shall submit to the Parliament the list of candidates for the office of judges of the Supreme Court of Justice, and to the President of the Republic of Moldova – the list of candidates for the office of judge of the tribunals and the Court of Appeal.

Article VI

The Government, within 3 months from the date of the adoption of this law shall bring its normative acts in compliance with this law.

**CHAIRPERSON OF THE
PARLIAMENT**

Petru Lucinschi

**Chisinau, July 20, 1995
No. 544-XIII**