

LAW OF THE REPUBLIC OF MOLDOVA ON THE SUPREME COURT OF JUSTICE

No. 789-XIII of 26.03.96

M.O. 32-3/323 (1996)

Parliament adopts this law.

TITLE I

GENERAL PROVISIONS

Article 1. The Supreme Court of Justice – the Supreme Body of Judicial Power

- (1) In the Republic of Moldova justice shall be administered by the Supreme Court of Justice and other courts of law under the Constitution, Law on the Organization of Judiciary, Law on the Status of Judge and other legislative acts.
- (2) The Supreme Court of Justice is the supreme court that ensures the correct and uniform application of legislation by all courts of law, settlement of litigation arisen in the process of applying laws, guarantees the state's responsibility to citizen and citizen's responsibility to the state.
- (3) Through its activity the Supreme Court of Justice shall ensure the principle of the presumption of innocence and principle of the rule of law, contribute to building a state based on the rule of law.
- (4) The Supreme Court of Justice shall be the sole supreme court of law. The headquarters of the Supreme Court of Justice shall be located in municipality of Chisinau.

Article 2. The Responsibilities of the Supreme Court of Justice

The Supreme Court of Justice:

- a) As a court of cassations shall consider the judgments by the appellate courts;
- b) Shall consider recourses in nullification under conditions and reasons provided for by law;
- c) Shall consider in the first instance cases that fall under its competence under law;
- d) Shall notify, *ex officio* or at the proposal of the courts, the Constitutional Court to decide on the constitutionality of legal acts;
- e) Shall generalize the judicial practice, analyze the judicial statistics and provide *ex officio* explanations on the matters of judicial practice. These explanations shall not be related to interpreting laws and obligatory for judges;

- f) Review information provided by the presidents of the lower courts on their administering justice;
- g) Shall provide methodic assistance for judges in connection with application of the legislation;
- h) Shall perform, under the limits of its competence, duties that derive from international treaties that the Republic of Moldova is party to;
- i) Shall perform other functions under law.

Article 3. The Principles of Activity of the Supreme Court of Justice

The Supreme Court of Justice shall perform its activity on the basis of the following principles:

- a) Legality and publicity;
- b) Division of the judicial power from the legislative and executive powers;
- c) Independence of the judicial power;
- d) Preparation and submission of own budget;
- e) Exercising its right to pass legal, reasoned and equitable judgments;
- f) Other principles provided for by Law on the Organization of the Judiciary and Law on the Status of Judge.

TITLE II

THE ORGANIZATION AND ACTIVITY OF THE SUPREME COURT OF JUSTICE

CHAPTER I

THE ORGANIZATION OF THE SUPREME COURT OF JUSTICE

Article 4. Composition of the Supreme Court of Justice

- (1) The Supreme Court of Justice shall be composed of one president, three deputy presidents who simultaneously are presidents of the Civil and Administrative Board, Economic Board and respectively Criminal Board, and 45 judges (of whom three judges simultaneously hold the position of deputy president of the board) who perform their activity in the boards and within Plenum of the Court.
- (2) *excluded by LP306-XVI dated 25.12.08.*
- (3) Each judge of the Supreme Court of Justice shall be assisted by a reviewer, with official university-level legal training, experience of no less than 3 years in the legal profession, who shall be selected on a competition basis.
- (4) The following directions shall function within the Supreme Court of Justice: personnel of the president of the Supreme Court of Justice, direction of generalizing judicial practice and analyzing judicial statistics; direction of tracking legislation and informatics; direction of the office of the court clerk, direction of documentation, and economic and administrative direction.

Article 5. The Scientific Consultative Council

- (1) Under supervision of the Supreme Court of Justice, there shall function the Scientific Consultative Council formed of academics and practitioners in the area of jurisprudence.
- (2) The Regulation of the Scientific Consultative Council shall be approved by the Plenum of the Supreme Court of Justice.

Article 6. The Leadership of the Supreme Court of Justice

The leadership of the Supreme Court of Justice shall be exercised by the president and deputy presidents of the Supreme Court of Justice, who simultaneously shall be presidents of the Civil and Administrative, Economic and Criminal Boards, and by the three deputy presidents of these boards.

Article 7. Responsibilities of the President of the Supreme Court of Justice

- (1) The president of the Supreme Court of Justice shall perform the following responsibilities:
 - a) Convening and chairing the sessions of the Court's Plenum; chairing the panel of judges; ensuring the execution of adopted judgments;
 - b) Appointing members of the Court responsible for developing reports on the cases that are to be examined within the Plenum;
 - c) Proposing job-related obligations of the deputy presidents of the Court – presidents of the boards and deputy presidents of the boards, to the Plenum for approval;
 - d) Coordinating work of extended board of the Court; appointing members of the Court responsible for developing reports on the cases of special complexity that are to be examined in the boards;
 - e) Coordinating work of generalizing judicial practice, analyzing judicial statistics, and providing the Plenum with proposals on the explanatory decisions to be passed;
 - f) Organizing other activities that fall under the competence of the Court;
 - g) Representing the Supreme Court of Justice in relations with other authorities and public institutions both national and international;
 - h) Informing the Superior Council of Magistracy on the vacant positions of members of the Court; approving the list of positions that are to be occupied on the basis of competition;
 - i) Appointing and removing employees of the Court's personnel from position; enforcing their discipline and applying, as the case may be, disciplinary sanctions to them, under law;
 - j) Administrating the financial means of the Court;
 - k) Performing other duties provided for by law.
- 2) The president of the Supreme Court of Justice shall issue orders and decisions.

3) While the president of the court is absent, his/her responsibilities shall be performed by one of the deputy presidents, based on a decision issued by the president of the court.

Article 8. Responsibilities of the Deputy President of the Supreme Court of Justice – the President of Board

The Civil and Administrative Board, Economic Board and Criminal Board shall be each administrated by one president and one deputy president. Each of the presidents shall have the following responsibilities:

- a) Chairing the panel of judges;
- b) Establishing the terms for holding hearings on the cases that fall under competence of the board under law and assigning cases to members of the board; preparing and conducting hearings and ensuring the execution of judgments, controlling the preparation and publication, within the timeframes set by the procedural legislation, of information on cases scheduled for hearing, including the subject matter thereof;
- c) Forming panels of judges and establishing the timelines of their sessions;
- d) *excluded by LP306-XVI dated 25.12.08;*
- e) Informing the president of the Court on the cases of special complexity that require, under law, that members of the Court draw up reports;
- f) Organizing the activity of the board within the limits provided for by law;
- g) Establishing the responsibilities of the employees of the Court's personnel who work with the board and, as the case may be, transferring employees within the board and changing their obligations;
- h) Organizing the work of generalizing the judicial practice and analyzing judicial statistics; presenting the respective results within the board's sessions for debates, and providing the Plenum with proposals on the explanatory decisions to be passed;
- i) Organizing execution of the decisions of the Plenum and president of the Court, under law;
- j) Providing Plenum with information on the activity of the board;
- k) Performing other duties provided for by law.

(2) Distribution of the responsibilities between the president and deputy president of the board shall be carried out by the Plenum at the proposal of the President of the Supreme Court of Justice.

CHAPTER II

MEMBERS OF THE SUPREME COURT OF JUSTICE

Article 9. Appointing President, Deputy Presidents, and Judges of the Supreme Court of Justice to Position

(1) The president of the Supreme Court of Justice, deputy presidents of the Court – chairmen of the boards, deputy chairmen of the boards and judges of the Supreme Court of Justice shall be appointed by Parliament at the proposal of the Superior Council

of Magistracy, within 30 days. The president of the Supreme Court of Justice, deputy presidents of the Court – chairmen of the boards, deputy chairmen of the boards of the Supreme Court of Justice are appointed for a term of 4 years. Should there be established incontestable evidence of the incompatibility of the candidate with the respective position, of breach of legislation by the candidate or breach of legal procedure regarding selection and promotion of the candidate, the Superior Council of Magistracy shall be notified by the Chairman of the Parliament, on the basis of a notification from the Juridical Committee for appointments and immunities, within 30 days from the date of receipt of the proposal. Should there be circumstances that demand further examination or in case of Parliament vacation, the Superior Council of Magistracy shall be notified about prolongation of this term with 15 days or until the beginning of the session.

(2) The Parliament shall examine the repeated proposal of the Superior Council of Magistracy and, within 30 days from the receipt thereof, the Parliament shall adopt a decision on the appointment of the president deputy president of judge of the Supreme Court of Justice.

Article 10. The Duration of the Mandate of Judges of the Supreme Court of Justice

Judges of the Supreme Court of Justice shall hold their positions till they have reached the age threshold of 65 years.

Article 11. Requirements that Judges of the Supreme Court of Justice Have to Meet

In order to be appointed for the position of judge of the Supreme Court of Justice judge has to meet the requirements provided for by Law on the Status of Judge and have a judicial professional experience of no less than 10 years.

CHAPTER III

THE ACTIVITY OF THE SUPREME COURT OF JUSTICE

Article 12. The Boards of the Supreme Court of Justice

- (1) Within the Supreme Court of Justice there shall function the Civil and Administrative Board, Economic Board, Criminal Board, extended board and other boards formed by the Court's Plenum under the categories of cases.
- (2) The Civil and Administrative Board, Economic Board and Criminal Board shall work on a regular basis.
- (3) The extended board shall be formed, as the case may be, in the cases provided for by law.
- (4) The duration of the mandate of other boards shall be established by the Plenum of the Supreme Court of Justice.
- (5) The leadership of the boards, except for the extended board, shall be exercised by the presidents and deputy presidents of the boards.
- (6) The boards shall work through panels of judges, as provided for by law.

Article 13. Composition of the Boards of the Supreme Court of Justice

- (1) The Civil and Administrative Board, Economic Board and Criminal Board shall:
 - a) Consider in the first instance the cases that fall under the competence as provided for by law;
 - b) Consider cassations against judgments of the appellate courts that were passed in first instance and as appeals, as well as judgments of the Supreme Court of Justice, which were passed in first instance;
 - c) Present proposals in the plenary session to adopt explanatory decisions;
 - d) Consider other cases provided for by law.
- (2) The extended board shall consider cassations against the judgments of the Supreme Court of Justice that were passed in first instance, as well as other causes within its jurisdiction under law.

Article 14. Panels of Judges

- (1) The panels of judges shall be formed of 1 judge or 3 judges of the Supreme Court of Justice who are members of the respective board. The president of the Court shall be entitled to replacing the panel of judges, as the case may be, with members of another board.
- (2) The extended board shall be composed as a panel of 5 judges of the Supreme Court of Justice.
- (3) The panel of judges shall be chaired by the president of the Supreme Court of Justice, deputy president of the board or another member of the board appointed by the president of the board.

Article 15. The Plenum of the Supreme Court of Justice

- (1) The Plenum of the Supreme Court of Justice shall perform its activity in the composition of all the judges of the Court and be chaired by the president of the Court, and in his/her absence by one of the presidents of the boards.
- (2) The sessions of the Plenum of the Supreme Court of Justice shall be attended by the Prosecutor General, and upon the examination of general matters – by the Minister of Justice. The Prosecutor General shall obligatorily participate in the sessions of the Plenum in the cases provided for by law.

Article 16. The Competence of the Supreme Court of Justice

The Plenum of the Supreme Court of Justice shall:

- a) Consider cassations in the cases and under conditions provided for by law;

- b) Notify the Constitutional Court *ex officio* or at the proposal of other courts about passing a judgment on the constitutionality of legal acts;
- c) Examine the results of generalized judicial practice and adopt explanatory decisions;
- d) Review information provided by the presidents of the lower courts on their administering justice;
- e) Form, as the case may be, boards, including extended ones, under categories of cases and establish the duration of their activity;
- f) Confirm the compositions of the boards;
- g) Confirm the composition of the Scientific Consultative Council;
- h) *(Letter h) was eliminated by Law no. 263-XV of 06.15.2001)*
- i) Approve the Regulation on the organization and functioning of the Supreme Court of Justice, amend and complete it;
- j) Perform other responsibilities provided for by law.

Article 17. The Sessions of the Plenum of the Supreme Court of Justice

- (1) The Plenum of the Supreme Court of Justice shall be convened whenever it's necessary, but no less than once every quarter. The date of the Plenum's session and matters that are to be examined shall be communicated to members of the Plenum, Prosecutor General and, as the case may be, to the president of the Superior Council of Magistracy, at least 15 days before the date of session.
- (2) The draft decisions of the Plenum of the Supreme Court of Justice and copies of the cassations shall be handed to members of the Plenum, Prosecutor General and, as the case may be, to the president of the Superior Council of Magistracy, at least 10 days before the session.
- (3) The session of the Plenum of the Supreme Court of Justice shall be deliberative if no less than two thirds of the total number of the Court's member attended it.
- (4) The decisions of the Plenum of the Supreme Court of Justice shall be adopted by the majority of the votes of those present. The decisions of the Plenum shall be signed by the president of the Court.

CHAPTER IV

(excluded by LP306-XVI dated 25.12.08)

CHAPTER V

THE SERVICES OF THE SUPREME COURT OF JUSTICE

Article 22. The Apparatus of the President of the Court

The apparatus of the President of the Court shall ensure the activity of the President of the Supreme Court of Justice related to cooperation with other branches of the power,

specialized national and international institutions, academic and research juridical community, mass-media, as well as other duties pertinent to the position of the President of the Court.

Article 22/1. Direction of Generalizing Judicial Practice and Analyzing Judicial Statistics

Direction of generalizing judicial practice and analyzing judicial statistics shall have the following responsibilities:

- a) Ensuring generalization of judicial practice under the approved programs and presenting results of the generalization to the respective boards;
- b) Preparing drafts of the Plenum's explanatory decisions;
- c) Analyzing judicial statistics;
- d) Performing other functions within competence of the direction.

Article 23. Direction of Tracking Legislation and Informatics

The Direction of tracking legislation and informatics shall have the following responsibilities:

- a) Tracking legislation;
- b) Selecting and systematizing judicial practice;
- c) Creating data base on legislation and judicial practice for the entire judicial system;
- d) Ensuring the publication of the "Newsletter of the Supreme Court of Justice";
- e) Ensuring the functioning of the Court's library;
- f) Formulating observations and proposals on the draft laws submitted for examination and approval;
- g) Performing other functions within the competence of the direction.

Article 23/1. Direction of the Office of the Court Clerk

Direction of the office of the court clerk shall be composed of sections the number of which shall be equal with the number of the Court's boards, and have the following responsibilities:

- a) Providing Court with the necessary administrative and legal services;
- b) Assisting boards in performing responsibilities assigned to them;
- c) Acting as an in-between for reports and notifications resulting from the primary consideration of the cassations in the cases that are being under consideration or are to be considered;
- d) Performing other functions under law.

Article 24. The Economic-Administrative Direction

The economic-administrative Direction shall have the following responsibilities:

- a) Preparing the draft of the list of positions in the Court;
- b) Developing the draft of the Court's budget and ensuring its execution;

- c) Performing the financial-accounting activity of the Court;
- d) Providing the Court's with the necessary materials and technical equipment to ensure the Court's proper activity;
- e) Performing other functions within competence of the Direction.

Article 25. Direction of Documentation

The direction of documentation shall have the following responsibilities:

- a) Performing secretariate-related activity of the Plenum and Court's boards;
- b) Ensuring organization of the Plenum's sessions and trials, as well as the activity of translation;
- c) Preparing statistical information on the Plenum's and boards' activity;
- d) Keeping track of all documentation on the personnel-related issues;
- e) Ensuring activity of the Court's archive;
- f) Ensuring the Court's activity related to public relations, hearings and solving citizens' complains;
- g) Ensuring activity of typing, copying and mailing documents;
- h) Performing other functions within competence of the direction.

Article 26. Police in the Supreme Court of Justice

- (1) The Supreme Court of Justice shall have police forces provided for by the Ministry of Interior. These police forces shall perform the functions provided for by Law on the Organization of Judiciary.
- (2) The police personnel shall be established by the Government at the proposal of the President of the Supreme Court of Justice.
- (3) The police personnel of the Supreme Court of Justice shall be subordinated to the president of the court.

Article 27. Financing Activity of the Supreme Court of Justice

- (1) The Supreme Court of Justice shall have its own budget that is an integral part of the state budget.
- (2) The court's budget shall be approved by parliament at the proposal of the Court's Plenum.
- (3) Reducing the costs related to the activity of the Supreme Court of Justice or using resources aimed at ensuring its activity, for the purpose of other necessities shall be accepted only by a decision by Parliament.
- (4) The payment of the salaries of the personnel of the Court's apparatus shall be done in accordance with the legislation in force.
- (5) The President and deputy presidents of the Supreme Court of Justice shall be provided with work-related transportation.

Article 28. The Symbols of Judicial Power

- (1) The courtrooms of the Supreme Court of Justice shall have the image of the State Coat of Arms, and the courtroom of the Plenum – the State Flag and Constitution of the Republic of Moldova.
- (2) While administering the justice, judges of the Supreme Court of Justice shall wear mantles of dark red, as well as badges with the image of the State Coat of Arms. The mantles and badges shall be granted free of charge. The model of these judicial clothes shall be approved by the Court's Plenum.

Article 29. The Seal of the Supreme Court of Justice

The Supreme Court of Justice shall have a seal with the image of the State Coat of Arms and its name.

Article 30. “The Newsletter of the Supreme Court of Justice”

The Supreme Court of Justice shall have its own periodical publication – “The Newsletter of the Supreme Court of Justice”. The expenses for publishing Newsletter shall be provided for in the budget of the Supreme Court of Justice.

TITLE III

FINAL AND TRANZITORY PROVISIONS

Article 31.

- (1) The Supreme Court shall be re-organized into the Supreme Court of Justice under the terms and manner provided for by Law on the Re-organization of Judicial System.
- (2) The Supreme Court shall continue to function in its current composition and consider the cases that fall under its competence under law till the conclusion of the period for creation of a new judicial system, but no later than August 27, 1996.

Article 32.

The re-organization of the Supreme Court into the Supreme Court of Justice shall be carried out under the structure and numerical composition established in the annex that is integral part of this law.

Article 33.

The president, deputy presidents and members of the Supreme Court of Justice shall be appointed by Parliament at the proposal of the Superior Council of Magistracy after the

Supreme Court has been re-organized into the Supreme Court of Justice, but no later than August 27, 1996.

Article 34.

Till the re-organization of the Supreme Court into the Supreme Court of Justice, members of the Supreme Court shall also be subject to the provisions of art. 28 of Law on the Status of Judge, and the advisors of the Supreme Court shall be subject to the provisions of paragraph (6) of the same article. Payments provided for by art. 28 shall be made from January 1, 1996.

Article 35.

This law shall go into effect from the date of its publication.

The President of Parliament

Petru LUCINSCHI

ANNEX to Law on the Supreme Court of Justice

The Structure and Numerical Composition of the Supreme Court of Justice

President – 1

Deputy presidents – presidents of the boards – 3

Deputy presidents of the boards - 3

Judges of the Court – 42

Reviewers of judges – 48

Personnel of the president of the Court - 11

Direction of generalizing judicial practice and analyzing judicial statistics - 13

Direction of tracking legislation and informatics – 11

Direction of the office of court clerk – 15

Direction of documentation - 42

Economic and administrative Direction – 32