

**EXTRACT FROM THE LAW No. 567 from December 9th, 2004 regarding the status of the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them and of the personnel working within the National Institute of Forensic Expertise**

**Chapter I - General provisions**

**Art. 1** - The present law regulates the status of the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them, as well as of the forensic specialized personnel and of the personnel who hold auxiliary offices of forensic specialty within the National Institute of Forensic Expertise.

**Art. 2** - (1) The work of the specialized auxiliary personnel of the Courts provides support for Judges and Prosecutors in carrying out the act of justice. The competences of this category of personnel and the correct fulfillment of the tasks have an important role in the good performance of the entire activity of the Courts and of the Prosecutor's Offices attached to them.

(2) The activity of carrying out the forensic expertise ordered by the Courts or by the criminal investigation bodies, carried out by the personnel working within the National Institute of Forensic Expertise, is an important factor in increasing the efficiency of the activity of the judicial bodies, in the process of carrying out the justice.

**Art. 3** - (1) The specialized auxiliary personnel work within the auxiliary departments of the Courts and of the Prosecutor's Offices attached to them, organized according to art. 116 - 118 of Law no. 304/2004 regarding the judicial organization, republished, with the subsequent modifications and completions.

(2) The specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them consists of clerks, statistician clerks, documentary clerks, archive clerks, registrar clerks and IT specialists.

(3) The clerk's assembly is composed of clerks with higher education and clerks with secondary education.

(4) The functions of law agent, usher and driver are connected to the specialized auxiliary personnel of the Courts and Prosecutor's Offices.

**Art. 3<sup>1</sup>** - (1) The forensic personnel and the personnel performing auxiliary forensic functions within the National Institute of Forensic Expertise and within the inter-county laboratories of forensic expertise, hereafter referred to as INEC, organized according to the Government Decision no. 368/1998 regarding the establishment of the National Institute of Forensic Expertise - I.N.E.C., with the subsequent modifications.

(2) The forensic personnel are made up of forensic experts and forensic assistants.

(3) The personnel who occupy auxiliary functions of forensic specialty are made up of forensic technicians and secretaries-typists at the forensic expertise laboratory.

**Art. 4** - The personnel listed in art. 3 and 3<sup>1</sup> is obliged, through its entire activity, to respect the rights and liberties of persons, as well as their equality before the law and to ensure a non-discriminatory legal treatment to all the participants in the judicial procedures, regardless of their capacity, to respect the deontological norms of the profession and to participate in continuing vocational training.

## **Chapter II - Recruitment of specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them**

### **Section 1**

#### **Recruitment of clerks**

**Art. 5** - The recruitment of the clerks is usually done through the National School of Clerks.

**Art. 6** - (1) The exam of admission to the National School of Clerks is organized annually, at national level, by the National School of Clerks, under the coordination of the Superior Council of Magistracy.

(2) The number of vacancies is established according to the need of qualified personnel of the Courts and of the Prosecutor's Offices attached to them.

(3) The exam is held separately for the offices of clerks with higher education and clerks with secondary education.

**Art. 7** - The way of organizing and conducting the admission exam is established by regulation, approved by the Superior Council of Magistracy.

### **Section 2**

#### **Recruitment of computer science clerks**

**Art. 8** - (1) The computer science clerks are recruited through an exam for filling the vacant offices.

(2) The exam for filling the vacant offices shall be organized at each Court of Appeal or at each Prosecutor's Office attached to the Court of Appeal or, as the case may be, at the High Court of Cassation and Justice, the Prosecutor's Office attached to the High Court of Cassation and Justice or at the National Anticorruption Directorate, with the support of the Directorate for the Exploitation of Information Technology within the Ministry of Justice, which professionally coordinates the activity of the computer scientists clerks, or of the IT department within the High Court of Cassation and Justice, of the Prosecutor's Office attached to the High Court of Cassation and Justice or the National Anticorruption Directorate, as the case may be.

(3) The exam is carried out according to the regulation approved by the Superior Council of Magistracy, at the proposal of the Ministry of Justice, of the President of the High Court of Cassation and Justice, of the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice and of the National Anticorruption Directorate.

### **Section 3**

#### **Recruitment of archive clerks, registrar clerks and related staff**

**Art. 9** - (1) The archive clerks, registrar clerks and the related staff are recruited through exam for filling the vacant offices.

(2) The exam for filling the vacant offices shall be organized at each Court of Appeal or, as the case may be, at the High Court of Cassation and Justice, the Prosecutor's Office attached to the High Court of Cassation and Justice or at the National Anticorruption Directorate, with the support of the National School of Clerks, according

to the regulation of organization and conduct of the exam, approved by the Superior Council of Magistracy.

**Art. 10** – The archive clerks and registrar clerks who promote the exam referred to in art. 9 will carry out a specialization course of two months within the National School of Clerks.

### **Chapter III - National School of Clerks**

#### **Section 1**

#### **Organization and functioning of the National School of Clerks**

**Art. 11** - (1) The National School of Clerks is a public institution, with legal personality, under the coordination of the Superior Council of Magistracy, which performs the initial training of the clerks and of the other specialized auxiliary personnel within the Courts and the Prosecutor's Offices attached to them, as well as their continuous professional training, according to the law.

(2) The National School of Clerks is not part of the national system of knowledge and education and is not subject to the legal provisions in force regarding the accreditation of the educational institutions and the recognition of diplomas.

(3) The National School of Clerks' headquarter is based in the municipality of Bucharest.

(4) The National School of Clerks may also carry out its activity in the territory, in centers and zonal points of vocational training, organized according to the law.

**Art. 12** - (1) The National School of Clerks is run by the Governing Council, which is made up of 9 members, as follows:

- a) a Judge and a Prosecutor appointed by the Superior Council of Magistracy;
- b) 2 representatives elected from the training staff of the National School of Clerks;
- c) the Director of the National Institute of Magistracy;
- d) a representative of the Directorate for Organizing the Courts and Human Resources within the Superior Council of Magistracy;
- e) 2 representatives of the trainees, one of the trainees with higher education and one of the trainees with secondary education, chosen during the courses;
- f) the Director of the National School of Clerks, who is part of the Council of Directors and presides over its sessions.

(2) The mandate of the members of the Council of Directors is for 4 years, except for the mandate of the representatives of the trainees, who are elected during the studies.

**Art. 13** - The Council of Directors proposes the draft budget and decides on the issues regarding the organization and functioning of the National School of Clerks, at the proposal of the Director of this institution.

**Art. 14** - (1) The National School of Clerks is financed from the state budget, through the budget of the Superior Council of Magistracy, according to the law.

(2) The Director of the National School of Clerks is a tertiary authorizing officer.

**Art. 15** - (1) The maximum number of offices for the National School of Clerks is established by Government decision.

(2) The organizational structure, the office states and the personnel states of the National School of Clerks shall be approved by the Superior Council of Magistracy.

**Art. 16 -** (1) The current management of the National School of Clerks is provided by a Director, 2 Deputy Directors and an Economic Director.

(2) The Director and the Deputy Directors are appointed by the Superior Council of Magistracy from among the training staff who has the capacity of Judge or Prosecutor, for a period of 3 years, with a single possibility of reinvestment.

(3) The Economic Director is recruited through an exam organized by the Superior Council of Magistracy.

**Art. 17 -** The organization and functioning of the National School of Clerks are established by regulation approved by the Superior Council of Magistracy.

**Art. 18 -** (1) The training staff of the National School of Clerks is appointed by the Superior Council of Magistracy from among Judges or Prosecutors, clerks with higher education or other specialists.

(2) The personnel listed in paragraph (1) may be appointed by the Superior Council of Magistracy also by secondment within the National School of Clerks, according to the law.

**Art. 19 -** (1) The remuneration of the management and training personnel is made according to the law on the remuneration of the personnel within the body of the judicial authority.

(2) (...)

**Art. 20 -** (1) The teachers from the higher legal education who hold leading or execution offices within the National School of Clerks are assimilated to the Judges and Prosecutors, during the exercise of the offices.

(2) The clerks with higher education who carry out training activities within the National School of Clerks are appointed according to the corresponding office within the High Court of Cassation and Justice.

## **Section 2**

### **Initial training of specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them**

**Art. 21 -** (1) The initial training takes place differently for the clerks with higher legal education, the clerks with higher education of another specialty and the clerks with secondary education.

(2) For the clerks with higher legal education, the duration of the courses is of 6 months and consists of theoretical training and practical training.

(3) For the clerks with higher education of another specialty or secondary education, the duration of the courses is of one year and includes theoretical training and practical training.

(4) The practical internships are carried out in the Courts and Prosecutor's Offices attached to them.

**Art. 22 -** (1) Upon completing the courses of the National School of Clerks, the trainees will take a final exam.

(2) The average grade of graduation of the National School of Clerks is at least 6.

(3) The trainees who passed the graduation exam of the National School of Clerks shall be issued certificates.

**Art. 23 -** The graduates with certification of the National School of Clerks will be distributed, in the order of the graduation average, on the vacant offices within the



Courts and the Prosecutor's Offices attached to them or, as the case may be, within the High Court of Cassation and Justice, within the Prosecutor's Office attached to the High Court of Cassation and Justice or within the National Anti-Corruption Directorate, for which they participated at the admission exam.

**Art. 24 - (1)** The graduates who have obtained the graduation average at least 7 will be hired in the professional level immediately superior to that of the beginner.

(2) Graduates who have obtained an average of 6 and 7 will be hired as beginners.

(3) The persons hired under the conditions of this article may not be delegated, seconded, transferred and may not be promoted to other Courts or Prosecutor's Offices for at least one year from the appointment in office.

**Art. 25 - (1)** During the studies, the National School of Clerks grants the trainees a monthly student allowance, equal to the gross basic salary for the office of beginner clerk, in relation to the level of the studies completed.

(2) The allowance referred to in paragraph (1) has the nature and legal regime of a wage and is paid from the fund provided in the approved annual budget of the Superior Council of Magistracy.

**Art. 26 - (1)** The period, in which a person had the status of trainee within the National School of Clerks, if he/she passed the graduation exam of the National School of Clerks, constitutes seniority in work and seniority in specialty.

(2) The certificate issued to the graduates of the National School of Clerks constitutes the proving document for the seniority in work.

(3) The period of schooling provided for in the schooling contract shall be assimilated to the seniority in the specialty, in relation to the level of the graduation studies.

**Art. 27 - (1)** The graduates of the National School of Clerks have the obligation to remain 5 years in the institutions of the judicial authority.

(2) If a graduate of the National School of Clerks is released from office before the expiration of the 5-year period, on his/her own initiative or for reasons attributable to him/her, he/she is obliged to reimburse the student allowance and the tuition expenses incurred with his/her formation, proportional to the time remaining until the deadline provided in paragraph (1).

**Art. 28 -** The specialization course provided in art. 10 takes place within the Courts and Prosecutor's Offices attached to them, for which they participated in the exam, under the guidance of the training staff of the National School of Clerks.

### **Section 3**

#### **Continuous vocational training**

**Art. 29 - (1)** The specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them have the obligation to participate at least every 5 years in a form of continuous vocational training, organized by the National School of Clerks.

(2) In the case of computer scientists clerks, the continuous vocational training is carried out by participating, at least once a year, in specialized courses organized by specialized institutions, based on the collaboration agreements concluded with the Courts of Appeal or with the Prosecutor's Offices attached to the Courts of Appeal or, as the case may be, with the High Court of Cassation and Justice, the Prosecutor's Office attached to the High Court of Cassation and Justice or with the National Anticorruption Directorate.

**Art. 30 - (1)** Continuous training is carried out in the form of seminars, training sessions, conferences, work visits, training courses abroad.

(2) The seminars and sessions of continuous training of the clerks who carry out their activity within the Courts and Prosecutor's Offices attached to them are carried out according to an annual programme approved by the Superior Council of Magistracy, which is communicated to all the Courts and Prosecutor's Offices attached to them in December of the previous year.

(3) The clerks will have the opportunity to choose, within the available places, the continuous training activities that interest them.

**Art. 31 - (1)** At the end of each seminar or of each continuous training session, organized according to art. 30, the staff receives a certificate containing the results obtained after the assessment of the information received.

(2) The graduation of any form of continuous training, organized by the National School of Clerks or, as the case may be, by the specialized institutions, constitutes a score which is considered in the annual evaluation of the auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them.

**Art. 32 -** In order to complete the continuous training organized by the National School of Clerks, at the level of each Court and Prosecutor's Office, there will be organized hours of professional training of the auxiliary specialized personnel, quarterly, under the guidance of a Judge or Prosecutor appointed by the Head of each Court, respectively of each Prosecutor's Office attached to it.

**Art. 32 - (1)** The accommodation and meal expenses of the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them, of the trainees and of the training staff of the National School of Clerks, who participate in the activities of continuous vocational training organized by the National School of Clerks, are covered from the budget of this institution.

(2) The maximum limit of the expenses stipulated in paragraph (1) is established by decision of the President of the Superior Council of Magistracy, at the proposal of the National School of Clerks.

(3) The expenses for the transportation of the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them, who participate in the activities of continuous vocational training organized by the National School of Clerks, shall be covered by the budget of the institutions where they perform their main office.

(4) The expenses for the transportation of the trainees and of the training personnel of the National School of Clerks, who participate in the activities of continuous vocational training organized by the National School of Clerks, are covered from the budget of this institution.

(5) The auxiliary specialized personnel of the Courts and of the Prosecutor's Offices attached to them, the trainees, as well as the training staff of the National School of Clerks, who participate in the training activities organized by the National School of Clerks, do not do not receive the daily allowance from the institutions where they perform their main office.

(6) The transportation expenses of the members of the Council of Directors of the National School of Clerks who do not have their domicile in Bucharest shall be covered by the budget of the National School of Clerks.

## **Chapter IV - Appointment, promotion, suspension and dismissal from office of the auxiliary specialized personnel of the Courts and of the Prosecutor's Offices attached to them**

### **Section 1**

#### **Appointment in office**

**Art. 33 - (1)** The person who fulfills the following conditions may be appointed as a Clerk:

- a) has Romanian citizenship, has the domicile in Romania and full legal competence;
- b) has no criminal record, has no fiscal record and enjoys a good reputation;
- c) knows the Romanian language;
- d) is fit, from a medical point of view, for the exercise of the office;
- e) has higher education or specialized studies, computer operating or typing knowledge;
- f) is a graduate of the National School of Clerks.

(2) When one is appointed clerk, in order to fulfill the condition stipulated in paragraph (1) (e), it is necessary to have graduated from legal or higher education. The persons who have higher education of another specialty, other than those listed in paragraph (3) and (4), are considered as those with secondary education from the point of view of the employment.

(3) For the appointment in the office of statistician clerk, for the fulfillment of the condition stipulated in paragraph (1) (e), it is necessary to have graduated from the higher economic education, higher legal education or economic secondary education.

(4) For the appointment in the office of documentary clerk, for the fulfillment of the condition stipulated in paragraph (1) (e), it is necessary to have graduated from the higher legal education, higher public administration or philological education or secondary education.

**Art. 34 -** For the appointment in the office of computer scientist clerk, it is necessary to fulfill the conditions stipulated in art. 33 paragraph (1) (a) - (d) and to have graduated from higher specialized studies.

**Art. 35 -** The offices of computer scientist clerk may be nominated according to the nomenclature of specialized offices provided by law for computer-specialized offices.

**Art. 36 - (1)** If the activity of the Courts or Prosecutor's Offices cannot be carried out under normal conditions due to the large number of vacant offices, the recruitment of the clerks can be carried out by exam to fill the vacant offices. The exam is held at the Courts of Appeal, the Prosecutor's Offices attached to the Courts of Appeal, the High Court of Cassation and Justice, the Prosecutor's Office attached to the High Court of Cassation and Justice and at the National Anticorruption Directorate, according to the regulation approved by the Superior Council of Magistracy.

(2) The temporary vacancies for clerks may be filled by exam organized by the Courts and Prosecutor's Offices referred to in paragraph (1), according to the regulation approved by the Superior Council of Magistracy.

(3) The persons who fulfill the conditions stipulated in art. 33 paragraph (1) (a) - (e) can participate in the exam.

**Art. 37** – The clerks and the computer science clerks are appointed by decision by the Presidents of the Courts of Appeal or, as the case may be, by the Prosecutor Generals of the Prosecutor's Offices attached to them, in whose territorial constituency they are to carry out their activity.

**Art. 38** - (1) The person who has secondary education and fulfills the conditions stipulated in art. 33 paragraph (1) (a) - (d) can be appointed as archivist clerk, registrar clerk, procedural agent, usher or driver.

(2) The appointment in the offices provided in paragraph (1) is made by exam, organized by the Courts of Appeal, Prosecutor's Offices attached to them or, as the case may be, by the High Court of Cassation and Justice, Prosecutor's Office attached to the High Court of Cassation and Justice or by the National Anticorruption Directorate.

(3) The way of organizing and conducting the exam is established by the regulation provided in art. 9 paragraph (2).

**Art. 39** - The archive clerks, the registrar clerks, the procedural agents, the ushers and the drivers are appointed by decision by the Presidents of the Courts of Appeal or, as the case may be, by the Prosecutor Generals of the Prosecutor's Offices attached to them, in whose territorial constituency they are to perform their activity.

**Art. 40** - (1) Before beginning to exercise their office, the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them shall take the oath before the head of the Court or before the Prosecutor's Office attached to it, to which they are appointed.

(2) The provisions of art. 34 of Law no. 303/2004, republished, as subsequently amended, apply accordingly.

**Art. 41** - The computer scientists clerks are subordinated, administratively, to the head of the Court or Prosecutor's Office and, from a professional point of view, to the Directorate for the Exploitation of Information Technology within the Ministry of Justice or, as the case may be, to the corresponding department within The High Court of Cassation and Justice, to the Prosecutor's Office attached to the High Court of Cassation and Justice or to the National Anticorruption Directorate.

## **Section 2**

**The promotion of the specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them**

**Art. 42** - (1) The specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them, hired for the first time after finishing the studies, will work as beginners for a period of 6 months from the appointment, and will be permanently appointed in office by exam, except for the graduates stipulated in art. 24 paragraph (1).

(2) In the case of failure of the final exam, the period provided in paragraph (1) can be extended by another 6 months. Failure to take the final exam for the second time results in dismissal from the office as inadequate from a professional point of view.

**Art. 43** - The promotion in execution offices in the immediately superior office is achieved by contest or examination.

**Art. 44** - (1) The promotion in execution offices in higher professional degrees or levels, within the same Court or Prosecutor's Office, is achieved by exam.

(2) The promotion to higher Courts or Prosecutor's Offices is achieved only by exam, organized within the Courts of Appeal or Prosecutor's Offices attached to them or, as the



case may be, within the High Court of Cassation and Justice, Prosecutor's Office attached to the High Court of Cassation and Justice or within the National Anticorruption Directorate, for the specialized auxiliary personnel of the Courts and the Prosecutor's Offices attached to them, who have at least 3 years of seniority in the office they hold and had the "very good" rating during this period.

(3) The way of organizing and conducting the contest or examination is established by regulation, approved by the Superior Council of Magistracy.

(4) For the promotion in execution offices in the case of computer scientists clerks, when elaborating the regulation referred to in paragraph (3), the proposals of the Minister of Justice, of the President of the High Court of Cassation and Justice and of the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice will also be considered.

**Art. 45 -** (1) The promotion in the leading offices of first clerk, chief clerk, clerk head of section or of chief computer scientist clerk is achieved through an exam in order to verify the professional training and the managerial skills of the candidates. The exam is organized within the Courts of Appeal, Prosecutor's Offices attached to them or, as the case may be, within the High Court of Cassation and Justice, Prosecutor's Office attached to the High Court of Cassation and Justice or within the National Anticorruption Directorate, based on the regulation approved by the Superior Council of Magistracy.

(2) During the exam for the promotion in leading offices of the clerks and computer scientist clerks, the following criteria are considered:

a) a minimum of 3 years of seniority in the office of clerk, respectively of computer scientist clerk. For the clerks with higher legal education, a minimum of 6 months' seniority is required in the office of clerk;

b) special professional activity, evaluated with the "Very good" rating in the past 3 years, respectively 6 months.

**Art. 46 -** (1) The appointment to the office of first clerk, chief clerk, clerk head of section is for a period of 5 years, with the possibility of reinvestment only once, by decision of the President of the Court of Appeal or of the Prosecutor General of the Prosecutor's Office attached to this Court.

(1<sup>1</sup>) If there are no candidates to meet the conditions provided by law to participate in the exam, by derogation from the provisions of paragraph (1), the persons appointed in the offices of first clerk, chief clerk, clerk head of section may be reinvested in office, for another mandate, by decision of the President of the Court of Appeal or of the Prosecutor General of the Prosecutor's Office attached to this Court.

(2) The appointment in the office of chief clerk shall be made for a period of 3 years, with a single possibility of reinvestment, by decision of the President of the Court of Appeal or of the Prosecutor General of the Prosecutor's Office attached to this Court.

(2<sup>1</sup>) If there are no candidates who fulfill the conditions provided by law to participate in the exam, by derogation from the provisions of paragraph (1), the person appointed in the office of chief computer scientist clerk may be reinvested in office for another mandate, by decision of the President of the Court of Appeal or of the Prosecutor General of the Prosecutor's Office attached to this Court.

(3) For the appointment as the chief computer scientist clerk at the High Court of Cassation and Justice, the notice provided in paragraph (2) is not necessary.

(4) At the end of the mandate of the leading office, the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them may hold, under the

conditions provided in art. 45, a leading office within the same Court or within the same Prosecutor's Office or within another Court or Prosecutor's Office or they can return to their original Courts or Prosecutor's Offices or to a Court or Prosecutor's Office where they have the right to work according to the law.

**Art. 47** - The provisions of art. 45 and 46 also apply accordingly for the promotion in the office of chief archivist clerk, within the Courts and Prosecutor's Offices attached to them, where this office is required.

### **Section 3**

#### **The suspension from office of the auxiliary specialized personnel of the Courts and of the Prosecutor's Offices attached to them**

**Art. 48** - (1) The specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them are suspended from office in the following cases:

a)\*) when the criminal proceeding against him/her is initiated by decree or indictment;

\*) The provisions of the letter a) were declared unconstitutional by D.C.C. no. 270/2015 published in the Official Gazette no. 420 of June 12, 2015.

b) when he/she suffers from a mental illness, which prevents him/her from exercising his/her office properly;

c) when he/she commits a serious disciplinary offence, under the conditions of art. 88.

(2) The suspension from office shall be ordered by the President of the Court of Appeal or, as the case may be, by the Prosecutor General of the Prosecutor's Office attached to it, in whose territorial district the person concerned is active. For the specialized auxiliary personnel of the High Court of Cassation and Justice, of the Prosecutor's Office attached to the High Court of Cassation and Justice and of the National Anticorruption Directorate, the suspension from office is ordered by their heads.

(3) During the suspension from office, according to paragraph (1) (a) and (c), the suspended person does not receive the salary rights. This period does not constitute seniority in work and specialty.

**Art. 49** - (1) In the case referred to in art. 48 paragraph (1) (a), the President of the High Court of Cassation and Justice, the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice and of the National Anticorruption Directorate, the President of the Court of Appeal or, as the case may be, the Prosecutor General of the Prosecutor's Office attached to it shall immediately communicate to the person concerned and to the management of the Court or Prosecutor's Office where he/she operates the decision ordering the suspension from office.

(2) If the release from the criminal prosecution, the cessation of the criminal prosecution, the acquittal or the cessation of the criminal case against the person concerned is ordered, the suspension from office ceases, and the person concerned is reinstated in the previous office. The financial rights of which he/she was deprived during the period of suspension from office shall be paid, and his/her seniority in work and specialty for this period shall be recognized.

(3) The provisions of paragraph (2) shall be applied accordingly in the case listed in art. 48 paragraph (1) (c), if the person concerned is found innocent.

**Art. 50 -** (1) In the case referred to in art. 48 paragraph (1) (b), the mental illness is ascertained by a specialized expertise, at the notification of the President of the Court or, as the case may be, of the Head of the Prosecutor's Office, and the suspension from office is ordered for the period of time recommended by the specialized medical committee. The specialized medical committee, as well as the concrete conditions for the evaluation of the persons suffering from a mental illness, are established by common order of the Ministry of Justice and of the Ministry of Health.

(2) After the expiry of the period set out in paragraph (1), the President of the Court of Appeal or, as the case may be, the Prosecutor General of the Prosecutor's Office attached to it, based on a new evaluation, may decide to terminate the suspension and to reinstate the person concerned, to extend it or, if the disease is irreversible, to release her/him from office.

(3) During the suspension, the person concerned shall be paid the social insurance rights for illness, according to the law.

**Art. 51 -** The decision of suspension from office can be appealed to the Labor and Social Insurance Court in whose territorial district the complainant has the domicile.

#### **Section 4**

**The release from office of the auxiliary specialized personnel of the Courts and of the Prosecutor's Offices attached to them**

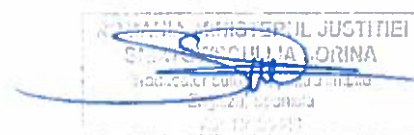
**Art. 52 -** The specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them are released from the execution or leading office in the following cases:

- a) resignation;
- b) retirement, according to the law;
- c) in the case of inadequate professional training or, where appropriate, the inappropriate fulfillment of the specific tasks of the leading office;
- d) non-fulfillment of any of the conditions for the appointment;
- e) as a disciplinary sanction;
- f) the definitive conviction for committing an offence that would prejudice the profession.

**Art. 53 -** (1) The dismissal from office shall be ordered by decision of the Head of the Court or of the Prosecutor's Office attached to it, who ordered the appointment to the office.

(2) For the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them who attended the courses of the National School of Clerks, the decision of release from office provided in paragraph (1) shall be notified to the National School of Clerks, within 30 days of issuance, if the release from office takes place before the 5-year term provided by art. 27 paragraph (1).

(3) For the computer scientist clerks, in the case provided by art. 52 (c), the decision of release from office is issued with the approval of the IT department within the Ministry of Justice or, as the case may be, within the High Court of Cassation and Justice, within the Prosecutor's Office attached to the High Court of Cassation and Justice or within the National Anticorruption Directorate.



**Art. 54** - The decision of release from office provided for the cases mentioned in art. 52 (c) - (f) can be appealed to the Labor and Social Insurance Court in whose territorial district the complainant has his/her domicile.

#### **Chapter V – The delegation, secondment and transfer of the auxiliary specialized personnel of the Courts and of the Prosecutor's Offices attached to them**

**Art. 55** - (1) If a Court or a Prosecutor's Office cannot function normally due to the temporary lack of specialized categories of auxiliary personnel, due to the existence of vacant offices or due to other such causes, the President of the Court of Appeal or the Prosecutor General of the Prosecutor's Office attached to this Court, at the proposal of the Head of the Court or Prosecutor's Office attached to it, may delegate specialized auxiliary personnel from the territorial constituency of the same Court of Appeal or of the same Prosecutor's Office attached to this Court.

(2) The delegation of the auxiliary specialized personnel of the Courts and of the Prosecutor's Offices attached to them can be done for a period of maximum 60 days and can be extended, with the consent of the delegated person, no more than 60 days per year.

(3) The delegation of computer science clerks can be ordered with the prior approval of the specialized Computer Science Department within the Ministry of Justice, respectively of the Prosecutor's Office attached to the High Court of Cassation and Justice.

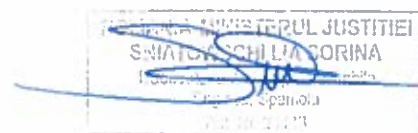
**Art. 56** - (1) The President of the Court of Appeal or, as the case may be, the Prosecutor General of the Prosecutor's Office attached to the Court of Appeal, with the approval of the head of the Court or of the Prosecutor's Office attached to it, may order the secondment of the specialized auxiliary personnel within other Courts or Prosecutor's Offices attached to them, within the Ministry of Justice, the Superior Council of Magistracy or the units subordinated to them or within those under their coordination.

(2) The duration of the secondment cannot exceed one year. Exceptionally, the duration of the secondment may be extended, for objective reasons, every 6 months, under the same conditions.

**Art. 57** - During the delegation and secondment, the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them benefit from all the rights provided by law for the personnel from the budgetary units. When the salary and the other financial rights provided for the office in which the specialized auxiliary personnel are seconded are inferior to those they have at the Court or the Prosecutor's Office attached to it where he/she works, he/she keeps his/her employment salary and the other financial rights of the office that he/she holds.

**Art. 58** - The transfer of the specialized auxiliary personnel between the Courts or the Prosecutor's Offices attached to them is approved at his/her request or at the request of the interested units, by the Presidents of the Courts of Appeal or, as the case may be, by the Prosecutor Generals of the Prosecutor's Offices attached to these Courts.

#### **Chapter VI - The rights and duties of the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them**





## **Section 1**

### **General provisions**

**Art. 59** - The establishment of the rights and duties of the auxiliary personnel is done taking into account their office and role in carrying out the activity of justice, the responsibility and the complexity of each office, the prohibitions and incompatibilities provided by the law for the persons who are hired in public institutions.

## **Section 2**

**The rights of the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them**

**Art. 60** - (1) For the activity carried out, the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them have the right to a salary established in relation to the level of the Court or the Prosecutor's Office, to the office held, to the seniority in work and in the specialty, as well as to other criteria provided by law.

(2) *Abrogated*

(3) The specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them benefit according to the law from basic salaries, seniority, bonuses and other salary rights.

(4) The remuneration of the auxiliary specialized personnel, of the civil servants and of the contractual personnel from the Courts, Prosecutor's Offices attached to them, as well as from the Ministry of Justice, the National Institute of Magistracy and the National School of Clerks is established by special law.

(5) Until the entry into force of the special wage law, the legal provisions regarding the payroll of the personnel mentioned in paragraph (4) shall continue to apply.

**Art. 61** - The specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them are free to associate or to join Trade Union Organizations, as well as local, national or international professional organizations, in order to defend their professional, social and economic interests.

**Art. 62** - (1) The auxiliary specialized personnel of the Courts and of the Prosecutor's Offices attached to them is recognized the right to strike, in accordance with the law, respecting the principles of continuity and celerity of the justice activity.

(2) During the strike, the main services shall be provided, not less than one third of the normal activity, ensuring the participation of the clerks in the Court hearings or, as the case may be, in the criminal prosecution activities for solving the cases with persons arrested in criminal matters and in other matters, for cases regarding the support obligations of any kind, the provision of evidence, the settlement of the presidential ordinance requests, as well as in other cases considered urgent, according to the law, or considered as such by the Court.

**Art. 63** - (1) The specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them have the right to continuously improve their professional training.

(2) During the training of the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them, they benefit from the due salary rights, if the training:

a) is organized at the initiative or in the interest of the Court or Prosecutor's Office where they work;

b) takes place at the initiative of the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them, with the agreement of the President of the Court of Appeal or of the Prosecutor General of the Prosecutor's Office attached to it, in whose territorial circumscription they operate;

c) is organized according to the law by the National School of Clerks, by the regional centers for continuous training, or by other specialized institutions in the country or abroad.

(3) If the training and professional development, in the forms provided in paragraph (2), are organized outside the city where the Court or Prosecutor's Office has its registered office, the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them benefit from the delegation rights, under the conditions of art. 57.

(4) In order to cover the expenses of the training and professional development programmes of the specialized auxiliary personnel, organized under the conditions provided in paragraph (2) (a) and (c), the Courts of Appeal and the Prosecutor's Offices attached to them, as well as, as the case may be, the High Court of Cassation and Justice, the Prosecutor's Office attached to the High Court of Cassation and Justice, the National Anticorruption Directorate and the National School of Clerks have the obligation to include in the annual budget the amounts necessary for these expenses.

(5) The expenses with the meals and accommodation of the personnel participating in the professional training courses, organized under the conditions provided in paragraph (2) (c), are covered by the National School of Clerks, and the transportation costs are covered by the Court or Prosecutor's Office where he/she works.

**Art. 64** - The Courts and the Prosecutor's Offices have the obligation to provide the specialized auxiliary personnel with normal conditions of work and hygiene to ensure their physical and mental health and integrity.

**Art. 65** - (1) The specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them benefit from a paid annual leave of 30 working days.

(2) During the annual leave, the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them, benefit, once a year, of a free round-trip between the place of residence and the place in Romania where they spend their annual leave.

(3) (...)

**Art. 66** - (1) The specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them are entitled to unpaid leaves, for studies or for other events, under the conditions established by the regulation provided in art. 65 paragraph (3).

(2) The specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them shall be entitled to medical leaves, according to the legislation in force.

**Art. 67** - (1) The specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them, in active employment or in retirement, as well as the spouse and the children in his/her care, receive free medical assistance, medicines and

prostheses, in compliance with the legal provisions regarding the payment of the contribution to social health insurance.

(2) The conditions for the free provision of medical care, medicines and prostheses are established by Government decision.

**Art. 67<sup>1</sup>** - (1) The specialized auxiliary personnel within the Courts and the Prosecutor's Offices attached to them have the right to receive company housing if, in the city where they carry out their activity, the spouse or dependent children do not own a house or they were not assigned an accommodation by the local public administration authorities.

(2) The personnel referred to in paragraph (1), who have not received company housing from the main authorizing officers, have the right, under the conditions of paragraph (1), to receive compensation for the difference between the rent that might be established for the company housing, according to the law, and the rent paid according to a rental contract concluded under the conditions of the law. This right does not have a wage character and is not taxable. The compensation is not granted if the rental contract is concluded with 1<sup>st</sup> or 2<sup>nd</sup> degree relatives. In exceptional situations, determined by the lack of an adequate company housing in the city where they operate, the rental contract may have as subject an accommodation located in another locality in the jurisdiction of the same Court of Appeal.

(3) The limit for the rent under the conditions of paragraph (2) is established annually, by locality, according to the limit of the budget allocated for this purpose in the law of the state budget, by common order of the Minister of Justice and Civil Liberties, of the President of the Superior Council of Magistracy, of the President of the High Court of Cassation and Justice, of the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice and of the Chief Prosecutor of the National Anticorruption Directorate.

(4) The persons seconded or transferred to a place other than the place of residence also have the right to company housing according to paragraph (1) or, as the case may be, to the compensation of the rent under the conditions of paragraph (2) and (3), if they, the spouse or the children in their care do not have a personal property in the locality where they are seconded or transferred.

(5) The specialized auxiliary personnel from the Courts and Prosecutor's Offices attached to them, who do not own a house or who have not been granted with company housing under the conditions of paragraph (1) or compensation of the rent under the conditions of paragraph (2) and (3), in the city in which they operate, have the right to deduction of the costs of transportation between the locality where they have the domicile or residence and the locality where the unit is located. In case the transportation is by car, they benefit from the reimbursement of the value of 7.5 liters of fuel per hundred kilometers, for the period in which they actually worked.

(6) The company housing cannot be sold to the specialized auxiliary personnel within the Courts and the Prosecutor's Offices next to them.

(7) In case members of the specialized auxiliary personnel from Courts and Prosecutor's Offices attached to them, including their spouse and dependent children, subsequently to the appointment in office, sell any housing property located in the city where they request to benefit from the rights stipulated at paragraph (1)-(4), they will no longer enjoy these rights.

(8) In case of retirement, the holder of the tenancy agreement and his/her spouse keeps his/her leasehold rights throughout his/her life.

*Art. 68 – Abrogated*

**Art. 68<sup>1</sup>** - (1) The officers of the court, retired before the entry into force of Law no. 188/2000 regarding the officers of the courts, as subsequently amended and supplemented, receive free medical assistance, medicines, and prostheses, in compliance with the legal provisions regarding the payment of the contribution to the social health insurance.

*Art. 68<sup>2</sup> - Abrogated*

*Art. 68<sup>3</sup> - Abrogated*

*Art. 68<sup>4</sup> - Abrogated*

**Art. 68<sup>5</sup>** - (1) The specialized auxiliary personnel of the Courts and of Prosecutor's Offices attached to them referred to in art. 3 paragraph (2), the specialized forensic personnel and the personnel holding auxiliary offices of forensic specialty listed in art. 31, as well as the forensic technicians within the Prosecutor's Offices, with a minimum of 25 years of seniority in the field, can benefit, at the age of 60, of a public service pension, in an amount of 80% of the calculation base represented by the average of the monthly gross basic salaries, including bonuses, corresponding to the last 12 months of activity prior to the month in which the retirement application is submitted.

(2) The specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them, the forensic-specialized personnel and the auxiliary forensic-specialized personnel, as well as the forensic-technical staff within the Prosecutor's Offices, with specialization seniority between 20 and 25 years also benefit of the public service pension referred to in paragraph (1), at the age of 60. In this case the amount of the pension is reduced by 1% from the calculation base listed in paragraph (1) for each year missing from the full seniority in the field.

(3) For each year that exceeds the seniority in the field mentioned in paragraph (1), 1% of the calculation base provided in paragraph (1) is added to the amount of the pension, without the right to exceed it.

(4) The pension shall be granted on request, starting with the month following the one in which the application was registered at the Territorial House of Pensions of the applicant's domicile or residence or, as the case may be, at the competent Sectoral House of Pensions.

(5) The pension for the age limit in the public system is also established along with the amount of the public service pension, according to the legislation in force regarding the public pension system.

(6) If the amount of the service pension calculated according to this law is less than that of the pension from the public pension system, the most profitable amount shall be granted.

(7) Persons who meet the age and seniority conditions stipulated in paragraph (1) only in the office of specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them, of forensic specialized personnel and of personnel who occupy auxiliary offices of forensic specialty, as well as in that of forensic technician within the Prosecutor's Offices, receive a service pension, even if at the time of retirement they had or have another occupation. In this case, the base of calculation of the service pension is represented by the average of the monthly gross basic salaries of the last 12 months previous to the month in which the application for retirement is made,



including bonuses, in percentage, achieved by the specialized auxiliary personnel that is active in identical conditions of office, seniority, grade or stage and level of the Court or of the Prosecutor's Office or of INEC where the applicant worked before the release from the office of specialized auxiliary personnel.

(8) By the provisions of paragraph (7) can benefit only persons who have been released from the office of specialized auxiliary personnel of the Courts, of the Prosecutor's Offices attached to them, of forensic-specialized personnel, of personnel who occupy auxiliary offices of forensic specialty within INEC, as well as of forensic technician within the Prosecutor's Offices, for reasons not attributable to them.

(9) The surviving spouse, the minor children, as well as the adult children, until the completion of the studies, but not older than 26 years, of the specialized personnel of the Courts and of the Prosecutor's Offices attached to them, of the forensic specialized personnel, of the personnel who hold auxiliary offices of forensic specialty, and of the forensic technician within the Prosecutor's Offices benefit from a survivor's pension, under the conditions provided by the legislation on the public pension system, calculated from the service pension on the payroll, or to which the supporter was entitled at the time of death, updated as appropriate.

(10) The public service pension is updated, ex officio, every year, with the average annual inflation rate, definitive indicator, known on January 1<sup>st</sup> of each year in which the update is made, and it is communicated by the National Institute of Statistics. If a lower pension results from the update, the pension on the payroll shall be maintained.

(11) The following are borne by the state budget, through the budget of the Ministry of Labor, Family, Social Protection and Elderly Persons:

a) the part of the public service pension that exceeds the level of the pension in the public pension system, as well as the public service pension for persons who do not fulfill the conditions for receiving the retirement pension in the public pension system;

b) the part of the survivor's pension, calculated from the public service pension, which exceeds the pension in the public pension system, as well as the survivor's pension calculated from the public service pension, for the supporters who do not fulfill the conditions for receiving the retirement pension from the public pension system.

(12) The pension stipulated by this article, except for the pension stipulated in paragraph (9), has the legal regime of a retirement pension.

(13) The elements necessary to establish the pensions stipulated by the present law regarding the seniority in the specialty, the seniority in office and the calculation basis of the pension are evidenced by a document issued by the competent Court, by the Prosecutor's Office attached to it or by INEC, under their responsibility.

(14) The payment of the pension stipulated by this law is made as follows:

a) from the date of release from office, specified in the decision of the Head of the Court, of the Prosecutor's Office attached to it, of the INEC Manager, in the case of the specialized auxiliary personnel of the Courts, of the Prosecutor's Offices attached to them, of the forensic specialization personnel and of the personnel who holds auxiliary functions of forensic specialty, as well as of the forensic technicians within the Prosecutor's Offices, who are active at the time of the application for retirement;

b) from the date of granting the pension, in the situation of the persons mentioned in paragraph (7) and (9).

(15) The provisions of the present law, regarding pensions, are supplemented with those of the legislation on pensions in the public pension system regarding the methods

of establishment and payment, as well as those regarding the modification, suspension, resumption, termination, recovery of the amounts unduly collected, and jurisdiction.

**Art. 69 - (1)** The specialized auxiliary personnel with a continuous seniority in justice of 25 years at the date of retirement or release from office for non-attributable reasons benefit from an allowance equal to 3 basic monthly gross salaries, which are taxed according to the law.

(2) The allowance provided in paragraph (1) shall be granted only once during the activity of specialized auxiliary personnel and shall be recorded in the personal file, according to the law.

(3) The provisions of paragraph (1) and (2) shall also apply in the case of death of the specialized auxiliary personnel in active employment. In this case the allowance is granted to the husband or, as the case may be, to the wife and children who were in the care of the person concerned, at the time of death.

**Art. 70 -** The clerks with higher legal education benefit from seniority in legal specialty, for the period in which they carry out this activity.

**Art. 71 - (1)** The specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them, in active employment, with 25 years, respectively 20 years seniority, can be distinguished with the Diploma for Judicial Merit classes II and III, provided by Law no. 303/2004, for special merits in the activity, exemplary compliance with the service duties and for obtaining, during the entire activity, only the "very good" rating.

(2) The method of proposal and the actual conditions for the award of the Diploma for Judicial Merit classes II and III are established by the regulation approved by the Superior Council of Magistracy.

**Art. 72 -** The clerks to the Court have the right to be provided, free of charge, the appropriate attire for the Court where they operate, according to the law.

**Art. 73 -** In addition to the rights provided by this law, the specialized auxiliary personnel of the Courts and the Prosecutor's Offices attached to them also benefit from other rights provided by the labor law and by the social insurance legislation.

**Art. 74 - (1)** The activity of the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them is evaluated annually by the Head of the Court or by the Prosecutor's Office attached to it in where they carry out their activity, by granting the rating "very good", "good", "satisfactory" and "unsatisfactory".

(2) The annual evaluations and ratings are kept in the personal professional file.

(3) For the computer scientists clerks, the evaluation shall be carried out with the support of the specialized Computer Science Department within the Ministry of Justice or, as the case may be, within the High Court of Cassation and Justice, within the Prosecutor's Office attached to the High Court of Cassation and Justice or within the National Anticorruption Directorate, and are signed by both the President of the Court of Appeal or the Prosecutor General of the Prosecutor's Office attached to this Court, as well as by the Head of the IT Department within the Ministry of Justice, respectively of the High Court of Cassation and Justice, of the Prosecutor's Office attached to the High Court of Cassation and Justice or of the National Anticorruption Directorate.

**Art. 75 - (1)** The evolution of the activity of the personnel from entering the justice system until the release from office is recorded in the professional file approved by the Superior Council of Magistracy, found among the professional files that are drawn up and kept by the Court of Appeal or by the Prosecutor's Office attached to this court, in

whose territorial jurisdiction they carry out their activity or, as the case may be, at the High Court of Cassation and Justice, at the Prosecutor's Office attached to the High Court of Cassation and Justice or at the National Anticorruption Directorate.

(2) The data contained in the professional file are confidential, under the conditions provided by law.

(3) The specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them have access to their own professional file and can obtain copies of the documents from the file.

### **Section 3**

#### **The responsibilities of the specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them**

**Art. 76** - The specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them have the obligation to fulfill their job duties with professionalism, impartiality and celerity, in accordance with the law, and to refrain from any offence that could bring prejudice to natural or legal persons or to the prestige of justice.

**Art. 77** - (1) The office of clerk is incompatible with any other public or private office, except for the teaching offices.

(2) Clerks may not:

- a) carry out commercial activities, directly or through interposed persons;
- b) carry out arbitration activities in civil, commercial or other litigation;
- c) be associates or members in the management, administration or control bodies in civil companies, commercial companies, including banks or other credit institutions, insurance or financial companies, national companies, national companies or autonomous administrations;

d) be a member of an economic interest group.

(3) By derogation from the rule provided in paragraph (2) (c), the clerks may be shareholders or associates as a result of the law on mass privatization.

**Art. 78** - (1) The specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them are obliged to maintain the professional secrecy, the confidentiality of the offences and information that they take note during the performance of their office, regarding ongoing trials or cases brought before the Prosecutor's Office.

(2) The specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them are not allowed to comment or to justify in the press or in audiovisual shows the decisions or settlements made in the files that they took note of in the exercise of their work competences.

**Art. 79** - The specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them are obliged to respect the working hours and to solve the files within the established deadlines.

**Art. 80** - (1) The specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them are obliged to have, during the Court sessions, the proper attire for the Court in which they work.

(2) The dress code is established by Government decision and is ensured according to art. 72.

**Art. 81** - The specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them are obliged to submit, under the conditions and within the terms stipulated by the law, the statement of wealth and the statement of interest.

## **Chapter VII – The liability of the specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them**

**Art. 82** - The specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them shall be liable for civil, disciplinary, administrative and criminal matters, as appropriate, in accordance with the law.

**Art. 83** - The specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them shall be disciplinarily liable for the deviations from the job duties, as well as for the behaviors that harm the interests of the job or the prestige of justice.

**Art. 84** - The following are considered disciplinary offences:

- a) unjustified delay in resolving the files;
- b) unexcused absences from work, as well as the violation of the provisions of the regulations regarding the organization and functioning of the Courts and Prosecutor's Offices attached to them, regarding the working hours;
- c) the interventions or efforts to solve requests regarding the settlement of personal interests, of interests of the members of his/her family or of other persons, as well as any interference in the activity of the Judges or Prosecutors;
- d) irreverent conduct during their activity toward Judges and Prosecutors, colleagues, lawyers, experts, witnesses, litigants or towards any other person with whom they enter into contact;
- e) Failure to observe the requirements of confidentiality as far as confidential cases are concerned;
- f) non-observance of the legal provisions governing the means of communicating to third parties the data and information regarding the activity of the Courts;
- g) events that undermine professional dignity or probity;
- h) the unjustified refusal to fulfill a duty that is incumbent upon him/her according to the law and the regulations regarding the organization and functioning of the Courts and Prosecutor's Offices attached to them or other competences established by the Managing Council of the Courts or Prosecutor's Offices attached to them;
- i) serious negligence or repeated negligence in solving the files;
- j) the violation of the incompatibilities and prohibitions provided by law;
- k) the serious omission to perform the duties incumbent upon him/her according to the law;
- l) non-observance of the provisions of the Code of professional conduct of the specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them.

**Art. 85** - (1) The disciplinary sanctions that can be applied to the specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them, in relation to the gravity of the misconduct, are:

- a) the warning;
- b) the reduction of 5 - 15% of the salary and/or of the management allowance, for a period of 1 - 3 months;
- c) the demotion in professional rank or professional level within the same office, for a period of 1 - 3 months;



- d) the dismissal from the management office;
- e) the disciplinary transfer to another Court or Prosecutor's Office in the territorial constituency of the same Court of Appeal or, as the case may be, of the same Prosecutor's Office attached to the Court of Appeal, for a period of 1 - 3 months;
- f) the exclusion from the profession.

(2) In case of non-observance of the provisions of the Code of professional conduct of the specialized auxiliary personnel of the Courts and Prosecutor's Offices attached to them, the Head of the Court or Prosecutor's Office applying the sanction may order for him/her to attend classes of profession deontology organized by the National School of Clerks, in addition to the disciplinary sanction applied

**Art. 86 - (1)** The sanction provided in art. 85 paragraph (1) (a) is applied by the Head of the Court or Prosecutor's Office where the sanctioned person carries out his/her activity.

(2) The sanctions set out in art. 85 paragraph (1) (b) - (f) are applied by the President of the High Court of Cassation and Justice, by the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice or of the National Anticorruption Directorate or, as the case may be, by the President of the Court of Appeal or by the Prosecutor General of the Prosecutor's Office attached to the Court of Appeal in whose territorial constituency the sanctioned person carries out his/her activity.

**Art. 87 - (1)** If there are indications of a disciplinary offence, the Heads of the Courts or Prosecutor's Offices attached to them, provided in art. 86, will order the preliminary investigation.

(2) The preliminary investigation is mandatory in all cases and it is performed by Judges or Prosecutors appointed by the Leading Council 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 Anticorruption Directorate or, as the case may be, by the President of the Court of Appeal or by the Prosecutor General of the Prosecutor's Office attached to the Court of Appeal. The preliminary investigation shall be concluded with an inspection report.

(3) *Abrogated*

(4) During the preliminary investigation the offences and their consequences, the circumstances in which they were committed, the existence or non-existence of guilt, as well as any conclusive data will be established.

(5) The summoning and hearing of the person concerned and the verification of his/her defenses are mandatory.

(6) The refusal of the person under investigation to make statements or to present himself/herself for investigations shall be recorded in the meeting minutes and does not prevent the completion of the investigation.

**Art. 88 - (1)** During the preliminary investigation, the Head of the Court or of the Prosecutor's Office set out in art. 86 will be able to order the suspension from office of the person concerned based upon the gravity of the offence.

(2) The person under investigation may appeal this measure within 30 days from the date the decision was communicated to The Labor and Social Insurance Tribunal in whose territorial district he/she resides.

**Art. 89 - (1)** The disciplinary sanctions shall be applied within 30 days from the date of registration of the inspection report at the office of the Head of the Court or of the

Prosecutor's Office competent to apply the sanction, but not later than one year from the date the disciplinary offence was committed

(2) The disciplinary sanctions are applied by decision issued in written form, within the term provided in paragraph (1), and are communicated to the sanctioned person no later than 5 days from the date of issue; the decision is effective from the date of communication.

(3) Under the sanction of absolute nullity, the decision must include:

- a) the description of the offence that constitutes a disciplinary offence;
- b) the specification of the provisions of the normative acts in force that were violated by the sanctioned person;
- c) the reasons for which the defenses formulated by the sanctioned person during the preliminary disciplinary investigation were rejected or the reasons for which the person wasn't summoned or heard;
- d) the legal grounds for the application of the disciplinary sanction;
- e) the term for the appeal of the disciplinary sanction;
- f) the competent Court where the disciplinary sanction can be appealed.

(4) The sanction decision may be appealed to The Labor and Social Insurance Tribunal in whose territorial constituency the objector is domiciled within 30 days from the date the sanction decision was communicated.

(5) The appeal formulated according to paragraph (4) shall not suspend the enforcement. At the request of the objector, the Court may order the suspension of the enforcement.

**EXTRACT from DECISION no. 183 of March the 29<sup>th</sup>, 2007 of the Superior Council of Magistracy regarding the approval of the Regulation of the organization and functioning of the National School of Clerks**

**Art. 1** - The Regulation for the organization and functioning of the National School of Clerks, included in the annex that forms an integral part of this decision, is approved.

**Annex**

**REGULATION  
for the organization and functioning of the National School of Clerks**

**Chapter I  
General provisions**

**Art. 1** - The National School of Clerks, hereinafter referred to as **The School**, is organized and operates according to Law no. 567/2004 regarding the status of the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices and of the personnel working within the National Institute of Forensic Expertise, as subsequently amended and supplemented, and according to the provisions of this Regulation.

**Art. 2** - (1) The National School of Clerks is a public institution under the coordination of the Superior Council of Magistracy.

(2) The School has legal personality and its headquarters is located in Bucharest.

(3) The Superior Council of Magistracy may also establish secondary offices of the School in other localities.

(4) The School carries out the initial training of the clerks and of other specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them, as well as their continuous vocational training, according to the law.

**Chapter II  
The organizational structure**

**Art. 3** - The School has the following organizational structure:

- a) the Leading Bodies;
- b) the Initial Vocational Training Department;
- c) the Department of Continuous Vocational Training;
- d) the Training Department of the Trainers;
- e) the Department of International Relations;
- f) the Economic-Financial and Administrative Department.

**Chapter III  
The School administration**

**Art. 4** - (1) The School is run by the Managing Council.

(2) The current management of the School is provided by a Director, 2 Deputy Directors and an Economic Director.

**Art. 5** - (1) The School's Managing Council consists of 9 members, as follows: a Judge and a Prosecutor appointed by the Superior Council of Magistracy, 2 elected



representatives of the School's training staff, the Director of the National Institute of Magistracy, a representative of the Human Resources and Organization Directorate of the Superior Council of Magistracy, 2 elected representatives of the trainees, one among the trainees with higher legal education and one among the trainees with secondary education. In case there are no trainees with secondary education, the 2 representatives of the trainees are chosen from the trainees with legal higher education. The Director of the School is part of the Governing Council.

(2) The mandate of the Managing Council members is of 4 years, except for the mandates of the representatives of the trainees, which are valid for the duration of their studies. (3) The Managing Council shall be summoned by the Director of the School or by one third of the number of its members.

(4) The sessions of the Council are presided over by the Head of the School and in his/her absence, by one of the members of the Council, appointed by him/her.

(5) Representatives of the clerks' unions may attend the sessions of the Managing Council, at its invitation, without voting rights.

**Art. 6 -** (1) The appointment of Judges and Prosecutors in the Managing Council is made by the Superior Council of Magistracy, at the proposal of the School.

(2) No later than 30 days before the expiration of a member's mandate, the School shall post on its website the vacancy of the offices and notify the High Court of Cassation and Justice and to the Prosecutor's Office attached to it, to the National Anticorruption Directorate, to The Directorate for Investigating Organized Crime and Terrorism, as well as to the Courts of Appeal and to the Prosecutor's Offices attached to them.

(3) The interested persons shall submit a letter of intent and their curriculum vitae to the Courts and Prosecutor's Offices mentioned in paragraph (2), within 15 days from the date of the notice's publication on the site.

(4) The Managing Colleges of the Courts and Prosecutor's Offices mentioned in paragraph (2) evaluate the applications and submit a proposal to the School within 5 days from the expiration of the term stipulated in paragraph (3).

**Art. 7 -** (1) The representatives of the training staff within the School are elected during its General Assembly, summoned and chaired by the Director or by one of the Deputy Directors of the School, without the right to vote, with the majority of the votes, according to the procedure established by decision of the Managing Council.

(2) The representatives of the trainees shall be elected by secret vote, in the General Assembly, within a maximum of 30 days from the beginning of the school year. The General Assembly is chaired by the Director or by one of the Deputy Directors of the School, without the right to vote. The decision is taken by the majority of the votes of those present. If the type of studies or the specialization of the trainees are different, one student is chosen for each category.

**Art. 8 -** (1) The Managing Council exercises, according to the law, the following competences:

- a) establishes the study directions of the School;
- b) proposes for approval to the Superior Council of Magistracy the study programs for the courses of initial and continuous vocational training of the clerks and of other categories of specialized auxiliary personnel, organized by the School;



c) proposes to the Superior Council of Magistracy the annual number of trainees of the School, the topic, the bibliography, the calendar, the date and the place of the exam for the School admission;

d) proposes to the Superior Council of Magistracy the appointment of the committees for the admission exam, as well as of the committees for the School graduation examination;

e) proposes to the Superior Council of Magistracy the network of trainers for initial and continuous vocational training;

f) *Abrogated*

g) proposes to the Superior Council of Magistracy the nominations for the appointment of the Judge and Prosecutor in the Managing Council of the School;

h) approves the implementation of the international cooperation programs of the School;

i) proposes the draft budget of the School to the Superior Council of Magistracy;

j) proposes to the Superior Council of Magistracy annually, or when changes occur, the office title list and the organization chart of the School;

k) proposes to the Superior Council of Magistracy the Regulation for the organization and functioning of the National School of Clerks, the Regulation for organizing the admission exam at the National School of Clerks, as well as the strategies regarding the activity of the School.

(2) The Council decides on any other issues regarding the organization and functioning of the School, established by law, regulations or by the Superior Council of Magistracy.

**Art. 9 - (1)** The School's Managing Council carries out its activity in the presence of at least two thirds of the members that compose it and adopts decisions with the majority of the votes of the present members.

(2) In case of parity of votes, the vote of the Director is decisive.

**Art. 10 - (1)** The files of each session are recorded in a minute drawn up by the Secretary of the Managing Council, appointed by the Director.

(2) The decisions and opinions of the Managing Council, as well as the minutes of the sessions shall be signed by the Director of the School.

**Art. 11 - (1)** The Pedagogical Council is a consultative body of the School's Managing Council.

(2) The Director, the Deputy Directors and the trainers of the Initial Vocational Training Department shall be included in the Pedagogical Council.

(3) The Pedagogical Council meets at the initiative of a third of its members or of the School Director and carries out its activity in the presence of the majority of its members.

(4) At the request of the Management Council, the Pedagogical Council makes proposals regarding:

a) the study directions of the School;

b) the educational plan and the analytical programs drawn up for each discipline within the initial vocational training;

c) the means of organizing the initial professional training activity;

d) any other aspects regarding the educational activity of the School.

**Art. 12 - (1)** The Director and the Deputy Directors of the National School of Clerks are appointed by the Superior Council of Magistracy among the training staff who has

the capacity of Judge or Prosecutor, for a term of 3 years, with the possibility of reinvestment only once.

(2) The vacant offices of Director or Deputy Director shall be posted on the websites of the Superior Council of Magistracy and of the National School of Clerks.

(3) The applications for the leading positions provided in paragraph (1) shall be submitted at the registered office of the Superior Council of Magistracy, within 30 days from the date the vacancy was posted, accompanied by the curriculum vitae, by the management plan regarding the exercise of the competences specific to the office, as well as by any other documents considered relevant.

(4) Within 10 days from the expiration of the deadline for submitting the applications, the Human Resources and Organization Directorate of the Superior Council of Magistracy shall draw up a report regarding the fulfillment of the conditions stipulated in paragraph (1).

(5) In order to be appointed, the candidates hold an interview before the Plenum of the Superior Council of Magistracy. The interview consists of the managerial plan's presentation and aims to verify the managerial skills of the candidates, mainly taking into consideration the organizational capacity, the rapid decision capacity, the stress resistance, the self-improvement, the capacity for analysis, synthesis, foresight short, medium and long-term strategy and planning, initiative and ability to adapt quickly. The candidate declared admitted after the interview will be appointed to the leading position by decision of the Plenum of the Superior Council of Magistracy.

(6) The Plenum of the Superior Council of Magistracy may order the delegation of the persons listed in paragraph (1), with their consent, in the offices of Director, respectively Deputy Director, for a period of 3 months, with the possibility of extension, according to the law, until the offices are filled following a competition. The provisions of paragraph (5) apply accordingly.

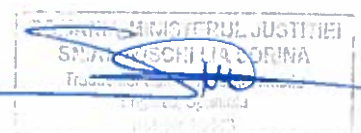
(7) The Judges and Prosecutors appointed or delegated in the leading positions provided in paragraph (1) will be seconded to the National School of Clerks, according to the law.

(8) The Director of the National School of Clerks and his/her deputies may be dismissed by the Superior Council of Magistracy, in accordance with the provisions of article 51 of Law no. 303/2004 regarding the status of Judges and Prosecutors, republished, with subsequent amendments and completions, which are applied accordingly.

(9) The Economic Director is appointed and dismissed from office according to the law.

**Art. 13 - (1)** The School's Director has the following main competences:

- a) ensures the current management of the School's activity;
- b) represents the School before the public institutions and authorities in the country and abroad;
- c) summons the Managing Council usually in monthly sessions or whenever necessary and establishes the draft agenda;
- d) informs the Managing Council about the current activity of the School;
- e) proposes to the Managing Council the composition of the committees for contests and examinations organized by the School;
- f) coordinates the training activity of the trainers;
- g) coordinates the activity of the International Relations Department;



- h) has the capacity of tertiary authorizing officer;
- i) appoints and releases from the execution offices the civil servants and the contract staff of the School;
- j) signs and fulfills the decisions of the School's Managing Council.

(2) The School' Director shall exercise any other competences that are assigned to him/her by law or regulation or established by the Superior Council of Magistracy or by the Managing Council.

**Art. 14 -** (1) The Deputy Directors of the School have the following main competences, which are provided by the job description:

a) coordinate the organization and the carrying out of the initial and continuous vocational training activity of the School;

b) carries out, together with the trainers, and proposes, on an annual basis, the educational plan and the structure of the school year for the initial vocational training and the program for the continuous vocational training to the Managing Council. c) makes proposals to the Director regarding the network of trainers for the Department which he/she coordinates;

d) ensures the compliance with and the fulfillment of the education plan, of the study programs, respectively of the continuous training program;

e) ensures compliance with the rules of internal discipline;

f) coordinates the activity of the trainees during the courses and in the internships;

g) ensures, together with the Director, the recruitment, training and evaluation of the trainers;

h) submits to the Director proposals for the composition of the committees for the contests and examinations organized by the School;

i) ensures the execution of the decisions of the School's Managing Council;

j) ensures, in the absence of the Director, the carrying out of his/her duties.

(2) The Deputy Directors exercise any other competences provided by law or regulations or established by the Superior Council of Magistracy or by the Managing Council, as well as those provided by the Director, according to the law.

**Art. 15 -** (1) The Economic Director of the School has the following main competences:

a) coordinates the activity of the Economic-Financial and Administrative Department;

b) ensures the good functioning of the institution, together with the Deputy Directors;

c) participates in the current activity of the School.

(2) The Economic Director exercises any other competences provided by the law or regulations or established by the Superior Council of Magistracy or by the Governing Council, as well as those ordered by the Director, according to the law.

## **Chapter IV – The Department for Initial Vocational Training**

### **Section 1**

#### **General provisions**

**Art. 16 -** The initial professional training of the auxiliary specialized personnel consists of:



- a) acquiring the theoretical knowledge necessary to perform the activity of clerk, archivist clerk or registrar clerk;
- b) acquiring the practical skills necessary to become a clerk, archivist clerk or registrar clerk;
- c) attending internships in the Courts and Prosecutor's Offices, under the guidance of the School's training staff.

**Art. 17** - The Department for Initial Training of the School performs the following main activities:

- a) organizes, under the coordination of the Superior Council of Magistracy, the competition for admission to the School;
- b) organizes and conducts the initial professional training of clerks according to the education plan;
- c) coordinates the organization and completion of the training period for archivist clerks and registrar clerks.

## **Section 2**

### **Admission and courses**

**Art. 18** - The admission is carried out according to the provisions of the Regulation regarding the admission exam at the National School of Clerks, approved by decision of the Superior Council of Magistracy.

**Art. 18<sup>1</sup>** - (1) The Superior Council of Magistracy may approve the performance of the initial professional training of the clerks, in a specialized way, for the clerks who will perform their activity within the Courts and for the clerks who will perform their activity within the Prosecutor's Offices.

(2) The admitted candidates shall opt for one of the two specializations in the first week of the courses, according to the average grade obtained at the School's admission exam. In case of equal average grades, the differentiation will be made according to the grades obtained in the exam topics, in the following order: Criminal procedure, Civil procedure and Judicial organization.

**Art. 19** - (1) The education plan and the curricula of the disciplines are drawn up annually, taking into account the proposals of the trainers, of the trainees and of the personnel within the Courts and Prosecutor's Offices.

(2) The educational plan and the structure of the School year shall be drawn up by the Deputy Coordinating Director of the Initial Training Department and approved by the Superior Council of Magistracy, at the proposal of the Governing Council.

**Art. 20** - (1) The duration of the Initial Vocational Training courses of the clerks and of the other specialized personnel is of 6 months for the clerks with higher legal studies and of 1 year for the clerks with higher studies of another specialty or with secondary studies.

(2) The duration of the courses constitutes seniority in work and specialty, on the condition of graduating the School.

**Art. 21** - (1) For the good performance of the courses and of the internships, study groups are organized within each series of trainees.

(2) The trainees are registered in the alphabetical catalog of the initial vocational training year.





(3) The catalog includes headings for the averages of the grades obtained in each study topic, as well as for the results obtained in the internship.

**Art. 22 -** (1) During the initial training courses and the internship, the training staff assesses and scores each trainee based on their capacity to assimilate knowledge and acquire skills, as well as other criteria, established for each topic at the proposal of the Deputy Coordinating Director of the Department for Initial Vocational Training, by the Governing Council.

(2) The grading is made with grades from 1.00 (one) to 10.00 (ten).

(3) For grades less than or equal to 1.00 (one), grade 1.00 (one) is granted.

(4) The grades are centralized at the end of each study period and are taken into account when calculating the final graduation average, together with the results of the graduation exams of the School.

(5) The minimum grade for promoting each discipline is 5.00 (five).

(6) The trainee who does not obtain a passing grade in a topic has the right to a single re-examination, the date of this re-examination being set before the end of the courses.

(7) Non-promotion after re-examination entails the expulsion from School, with the payment of the tuition expenses.

**Art. 23 -** (1) During the courses, under the guidance of the training staff and of the Judges and Prosecutors from Courts and Prosecutor's Offices, the trainees carry out internships in the Courts and Prosecutor's Offices attached to them.

(2) The internships consist mainly of performing specific activities of the Registry, including attendance at the Court hearings, as well as performing other works within the other auxiliary compartments.

**Art. 24 -** Periodically, the Governing Council and the Director of the School make an analysis of how the education and practice process is conducted, taking, if necessary, measures to improve the activity.

### **Section 3**

#### **The trainees' rights and obligations**

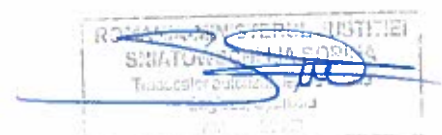
**Art. 25 -** (1) The trainees of the School have, mainly, the following rights:

- a) to benefit from adequate training for the position of clerk;
- b) to use the educational and material sources of the School;
- c) to receive the monthly student allowance, in relation to the level of studies completed;
- d) to benefit from vacations, according to the structure of the school year;
- e) to participate in the elaboration of the School's magazine or of other publications or specialized studies, literary or scientific works or audiovisual programs, except for those with a political character;
- f) to be assigned to clerk offices corresponding to the level of studies, in the order of the graduation averages.

(2) The trainees have any other rights provided by law or regulations.

**Art. 26 -** (1) The trainees of the School have, mainly, the following obligations:

- a) to properly fulfill their duties regarding the vocational training;
- b) to comply with the School regulation and with the library regulation;
- c) to comply with the rules of conduct provided by law;



- d) to respect the schedule set by the School management and to attend the courses;
- e) to sign the schooling contract upon entering the School;
- f) not to disclose nor use the information that they have obtained in this capacity for purposes other than those directly related to the exercise of the profession;
- g) if, according to the law, the files shall be confidential, the trainees have the obligation to keep the respective materials within the premises of the School, of the Court or of the Prosecutor's Office and to allow the materials to be consulted only within the framework provided by law or regulations;
- h) to use the material means and resources that are made available to them according to their destination, exclusively for acquiring professional knowledge and skills.

(2) The trainees have any other obligations provided by law or regulations.

**Art. 27 -** (1) The absences of the trainees shall be recorded by the training personnel and by the trainee coordinators in the attendance sheets and shall be centralized monthly.

(2) For 8 hours of unmotivated absences during a calendar month, the amount of a working day is deducted from the student allowance.

**Art. 28 -** (1) If the trainees are guilty for a deviation from their duties according to the legal or regulatory provisions, they are disciplinary sanctioned.

(2) The disciplinary sanctions that can be applied to the trainees are:

- a) the warning;
- b) the reduction of the allowance by 5 - 15% over a period from 1 to 3 months;
- c) the expulsion from the School, with the reimbursement of the advanced tuition expenses up to the date of expiration.

**Art. 29 -** (1) The sanctions are applied by the Governing Council.

(2) The sanction decision may be appealed to the Administrative and Fiscal Litigation Court.

**Art. 30 -** (1) The application of a disciplinary sanction is mandatorily preceded by the conduct of an investigation regarding the offences that constitute violations of the legal or regulatory provisions.

(2) The preliminary investigation shall be carried out by the person appointed by the Governing Council.

(3) The offences and their consequences, the circumstances in which they were committed, the existence or non-existence of the guilt and any other conclusive data are established during this procedure.

(4) The hearing of the party being investigated and the reviewing of their defense is mandatory. (5) The investigated person has the right to know all the documents of the investigation and to request evidence in defense.

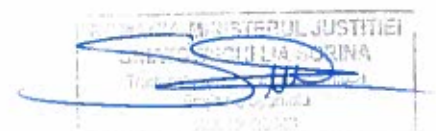
(6) The investigation is concluded by a report in which the result of the findings is recorded.

(7) The decision of the Governing Council shall be motivated and communicated within 10 days of its issuance.

**Art. 31 -** The trainees are liable for the damages caused within the School, as well as for the degradation or loss of the objects entrusted to them.

#### **Section 4**

#### **The National School of Clerks graduation exam**



**Art. 32 -** (1) When graduating from the School, the trainees take an exam which consists mainly of practical exams.

(2) The topics for the graduation exam or the disciplines evaluated throughout the year, as well as the evaluation methods are established by the School's Governing Council.

**Art. 33 -** (1) The examination is held in front of a committee appointed by decision of the Superior Council of Magistracy, at the proposal of the School's Governing Council, consisting of trainers from the Initial Vocational Training Department for each examination discipline.

(2) The grades obtained at the final exams, except for the typing and applied computing exam, may be appealed within 24 hours from the posting.

(3) The evaluation of the exam papers for which the appeals have been formulated is made by the Council of Appeal, composed of trainers from the Initial Vocational Training Department, appointed by the Superior Council of Magistracy under the conditions of paragraph (1).

(3<sup>1</sup>) The grade given by the Council of Appeal is final and cannot be lower than the appealed grade.

(4) In order to graduate from the School, the candidates must obtain at the final exams a minimum grade of 5.00 (five) in each topic

(5) The minimum average to graduate the School is 6.00 (six).

(6) A certificate shall be issued to the graduates of the School.

**Art. 34 -** (1) If a trainee does not pass the graduation exam in the first session, he/she has the right to attend the second session organized by the School.

(1<sup>1</sup>) In the case provided for in paragraph (1) or if the trainee did not take the graduation exam in the first session, he/she does not benefit, until the examination is passed, from the monthly student allowance and from the other rights of the trainees.

(2) The imputable failure to participate in the examination or the rejection of the trainee at the second session shall lead to the loss of the right to be appointed as clerk, with the refund to the School of the expenses of the training program.

**Art. 35 -** (1) The School graduates who have obtained the graduation average of at least 7.00 (seven) are appointed in the professional rank immediately superior to that of the beginner.

(2) The graduates who have obtained an average between 6.00 (six) and 7.00 (seven) are appointed as beginners.

**Art. 36 -** (1) The School graduates have the obligation to remain 5 years within the institutions of the Judicial Authority, otherwise they are obligated to reimburse the School with the expenses of the training program, in an amount proportionate to the time not served.

(2) The provisions of paragraph (1) do not apply if the departure from the justice system is made for reasons not imputable to the graduates.

(3) The provisions of paragraph (1) and (2) also apply if the trainee drops out before completing the courses.

## **Section 5**

### **The initial professional training of the archive clerks and registrar clerks**



**Art. 37 - (1)** The archive clerks and the registrar clerks recruited by competition organized under the conditions of the law for filling vacant offices, perform a specialization period of two months in the Courts or Prosecutor's Offices where they were hired, under the guidance and control of the training staff of the School and of a training internship tutor appointed by the Court or by the Prosecutor's Office.

(2) The evaluation of this training internship is carried out by the training internship tutors within the School, together with the training internship tutors within the Courts or Prosecutor's Offices.

## **Section 6**

### **The competences of the execution personnel of the Initial Vocational Training Department**

**Art. 38 - (1)** The training personnel of the Initial Vocational Training Department has mainly the following competences:

- a) makes proposals to the Deputy Coordinating Director on the topics, bibliography and duration of the courses for each class;
- b) participates, under the coordination of the Superior Council of Magistracy, in organizing and conducting the School admission examination;
- c) compiles, together with the external collaborators, the curricula of the disciplines that will be taught during the initial training;
- d) draws up, under the guidance and control of the Deputy Director or of the person appointed for each discipline, the didactic materials and ensure their printing;
- e) provides for the periodic performance of the chair sessions and facilitate the collaboration among their members;
- f) draws up the schedule, in compliance with the curriculum plan and with the study programs;
- g) draws up annually the alphabetical catalog and performs the distribution of the trainees by groups;
- h) draws up monthly the record of class attendance, in order to grant the allowance;
- i) draws up monthly the record of the courses, in order to pay the external collaborators;
- j) provides for the organization and carrying out of the student evaluation activity;
- k) provides for the record of the grades given to the trainees for the courses, for the practical internship, for the periodic exams and for the final exams;
- l) makes proposals to the Deputy Coordinating Director regarding the examination disciplines, the subject and the date for organizing the School graduation exam;
- m) provides for, together with the Superior Council of Magistracy, the distribution of the trainees of each class, according to the final ranking and according to their options;
- n) collaborates, under the guidance and control of the Deputy Coordinating Director, with the Training of Trainers Department in order to select, train and evaluate the trainers from the initial professional training;
- o) provides for the application of the rules of internal discipline;





p) provides for, in collaboration with the Courts and Prosecutor's Offices, the performance of the internship program for the archive clerks and registrar clerks, as well as their evaluation;

q) formulates the proposals regarding the need for requisites and services for the initial professional training activity;

r) formulates the budget proposals for the initial vocational training based on the number of trainers, on the education plan, and on the number of trainees.

(2) The training staff shall exercise any other competences by order of the Deputy Coordinating Director of the Initial Vocational Training Department, according to the law.

**Art. 39 - (1)** The auxiliary personnel of the Initial Vocational Training Department has the following main competences:

a) performs the administrative activities necessary for the good conduct of the initial professional training activity, under the guidance and control of the Deputy Director or of the person appointed by him/her;

b) performs the schedule and the attendance sheet for the trainers and trainees, under the guidance and control of the Deputy Director or of the person appointed by him/her;

c) provides for the multiplication of the materials for the initial vocational training;

d) provides for the archiving of the documents received or elaborated by the Initial Vocational Training Department;

e) receives, distributes and writes the correspondence of the Initial Vocational Training Department;

f) draws up the catalogues and other records necessary for the educational activities, the attendance and the graduation of the courses, under the guidance and control of the Deputy Director or of the person appointed by him/her;

g) *Abrogated*

h) communicates to the other departments the necessary data and documents in order to fulfill their competences.

(2) The auxiliary staff exercises any other competences by order of the Deputy Coordinating Director of the Initial Vocational Training Department, according to the law.

## **Chapter V - Continuous Vocational Training Department**

### **Section 1**

#### **General provisions**

**Art. 40 -** The continuous vocational training is organized according to the specific activity of the clerks and of the other categories of specialized auxiliary personnel and consists of:

a) consolidation of the knowledge acquired in the School and in the Courts and Prosecutor's Offices;

b) updating the knowledge in relation to the legislative changes, to the evolution of the technical equipment in the Courts and Prosecutor's Offices, as well as in relation to the established competences.

**Art. 41 -** The Continuous Vocational Training Department of the School carries out the following main activities:

a) organizes and conducts the continuous vocational training of the clerks and of other specialized auxiliary personnel, according to the continuous training program;

b) organizes and conducts the training of the specialized auxiliary personnel of the Courts and Prosecutor's Offices, recruited through the exam for direct tenure.

## **Section 2**

### **The performance of the activity of continuous vocational training**

**Art. 42 -** (1) The program of continuous vocational training shall be drawn up by the Deputy Coordinating Director of the Continuous Vocational Training Department, by consulting the Judges, the Prosecutors and the clerks of the Courts and of the Prosecutor's Offices, the trainees and the trainers of the School.

(2) The continuous training program is approved by the Superior Council of Magistracy, at the proposal of the Governing Council.

**Art. 43 –** The clerks and the other specialized auxiliary personnel are required to carry out continuous training courses at least once every 5 years, according to the schedule made by the Court or Prosecutor's Office, based on the options expressed.

**Art. 44 -** The clerks and the other specialized auxiliary personnel opt for one or more of the proposed themes, at the end of each calendar year, according to the program communicated to them by the School.

**Art. 45 –** The continuous vocational training is organized in seminars, training sessions, including in the form of distance learning (eLearning), conferences, work visits and training courses abroad.

**Art. 46 -** (1) The continuous vocational training courses shall be organized within the registered office of the School or within the registered offices of the Courts and Prosecutor's Offices, within the training centers in the country subordinated to the Ministry of Justice, to the Public Ministry, to the Superior Council of Magistracy or to other public institutions, as well as in other appropriate places , in accordance with the law.

(2) The School may also appoint a continuous training coordinator in each of the training centers in the country, chosen from among the trainers of the School, who has the task of preparing, coordinating and moderating the continuous training courses.

**Art. 47 -** (1) The School verifies, through the continuous training coordinator, the presence of the participants during the entire courses.

(2) Any resignations from the clerks and from the other specialized auxiliary personnel shall be motivated and shall be sent to the registered office of the School, within a reasonable time.

**Art. 48 -** (1) At the end of each course, the participants receive certificates in which the results obtained at the evaluation of the accumulated knowledge are recorded.

(2) The specialized auxiliary personnel participating in the continuous training courses as trainer or trainee shall be considered delegated in the line of duty throughout the courses, benefiting from the rights provided by the legal provisions.

(3) The continuous vocational training of the auxiliary specialized personnel is performed from budgetary funds included in the budgets of the School and of the Courts and of the Prosecutor's Offices, as well as from funds from international cooperation programs.

**Art. 49** - The school supports the activity of continuous vocational training of the auxiliary staff, organized within the Courts and Prosecutor's Offices, by providing documentary materials and training the trainers.

### **Section 3**

#### **The competences of the execution personnel within the Continuing Vocational Training Department**

**Art. 50** - (1) The training personnel of the Continuing Vocational Training Department has the following main competences:

- a) submits to the Deputy Managing Director the proposals regarding the program of continuous vocational training of the clerks and of other specialized auxiliary personnel;
- b) submits to the Deputy Coordinating Director the proposals regarding the location in which the seminars of continuous vocational training shall take place, depending on the number of participants and the Court or Prosecutor's Office where they operate;
- c) draws up, together with the external collaborators, the course materials that will be taught in each seminar and ensure their multiplication;
- d) draws up, under the guidance and control of the Deputy Coordinating Director and together with the collaborating trainers, the agenda of the continuing vocational training seminars that they coordinate;
- e) keeps in touch with the external collaborators and facilitate the collaboration between them;
- f) permanently updates the database of the trainers from the continuous training and ensure the selection of the collaborating trainers who participate in the continuous training seminars;
- g) provides, under the guidance and coordination of the Deputy Director, the teaching unit in the training centers and at the headquarters of the Courts and Prosecutor's Offices;
- h) coordinates the continuous training activity in the training centers and at the headquarters of the Courts and Prosecutor's Offices;
- i) draws up the situation of the seminars in order to grant the remuneration for the external collaborators;
- j) ensures the evaluation of the participants in the continuous training courses;
- k) ensures the records of the persons, of the courses' attendance, of the catalogs for the trainees recruited by admission examination, who benefit from training within the training centers;
- l) collaborate, under the guidance and control of the Deputy Coordinating Director, with the Training of Trainers Department for the selection, training and evaluation of the trainers within the continuous vocational training;
- m) collaborates, under the guidance and control of the Deputy Coordinating Director, with the Department of International Relations;
- n) formulates the proposals regarding the need for supplies and services useful for the continuous vocational training activity;
- o) formulates the budget proposals based on the number of trainers, the hours of seminars in the continuous training program, the costs of the continuous training activities from the training centers and from the registered offices of the Courts and Prosecutor's Offices.

(2) The training personnel shall exercise any other competences by order of the Deputy Coordinating Director of the Continuous Training Department, according to the law.

**Art. 51 - (1)** The auxiliary personnel of the Continuous Vocational Training Department mainly has the following competences:

a) prepares the performance of the seminars, draw up the correspondence with the Courts and Prosecutor's Offices, with the trainers and with the participants;

b) keeps the records of the continuous vocational training activity provided in the continuous training program approved by the Superior Council of Magistracy;

c) ensures the accommodation reservations for the participants in the seminars of continuous professional training;

d) keeps track of the results obtained by the participants in the seminar evaluations;

e) *Abrogated*

f) ensures the multiplication of the materials for the continuous vocational training, as well as their transmission in electronic format;

g) ensures the management of the library within the training centers;

h) ensures the preparation of databases, of monthly, quarterly and annual statistics regarding the participation in the continuous training courses;

i) *Abrogated*

(2) The auxiliary personnel exercise any other competences by order of the Deputy Coordinating Director of the Continuous Vocational Training Department, according to the law.

## **Chapter VI - Training of Trainers Department**

**Art. 52 - (1)** The Training of Trainers Department recruits, trains and evaluates the trainers, according to the strategy and to the Statute of the training personnel within the National School of Clerks, hereinafter referred to as the **statute**, approved by the Superior Council of Magistracy.

(2) The training of trainers is carried out with the help of trainers with experience and good results in the didactic activity.

**Art. 53 -** The need for trainers is established by the Governing Council, by consulting the Deputy Managing Directors of the Initial and Continuing Professional Training Departments.

**Art. 54 - (1)** The selection of the candidates who announce their intention to become trainers within the School shall be made according to a public and transparent procedure, with the application of objective criteria, according to the statute approved by the Superior Council of Magistracy.

(2) The list of the selected candidates is approved by the Superior Council of Magistracy, at the proposal of the Governing Council.

(3) Exceptionally, in compliance with the procedure established by the statute, the Governing Council may decide to use other specialists than those on the list of trainers in the training activity. This situation will be communicated immediately for approval to the Superior Council of Magistracy.

**Art. 55 - (1)** The trainers of the School can benefit from training in the field of pedagogical techniques and from specialized training, carried out through seminars, conferences, internships and working visits at similar institutions from abroad.



(2) At the end of each training seminar, each trainer receives a participation certificate.

**Art. 56** - The records of the trainers and of their activity is kept by the departments in which they operate.

## **Chapter VII – The Department of International Relations**

**Art. 57** - The School implements programs with external financing and develops cooperative relations with external partners, such as schools or institutions for training the specialized auxiliary personnel from the justice system, international institutions and bodies, diplomatic representations in Romania, in order to strengthen the institutional capacity and to improve its activity.

**Art. 58** - Depending on their specific nature, the international programs are approved by the Superior Council of Magistracy or by other institutions qualified according to the relevant procedures, at the proposal of the School's Governing Council.

**Art. 59** - 1) The competences of The Department of International Relations are:

a) it represents the institution in the relations with the external partners, within the limit of the mandate granted by the Director;

b) it identifies the potential external partners, as well as the fields and practical modalities of bilateral cooperation, in order to extend the cooperation relations with them;

c) it identifies the areas of intervention in which the elaboration of international projects is required, as well as the sources of external financing;

d) it draws up with the collaboration of the specialized departments and under the coordination of the School Director the technical documentation specific to the bilateral cooperation projects and to the projects with external financing;

e) it participates in tender procedures for the selection of the contractors and for the evaluation of the offers in the projects with external financing;

f) it ensures, coordinates and monitors the implementation activities of the bilateral cooperation projects, as well as of the projects with external financing, by participating in summits and sessions with foreign and Romanian partners, maintains the correspondence and the translation of the documents related to these projects;

g) it keeps the general records of the distribution and use of the goods acquired in the projects with external financing, according to the destination and purpose of the program;

h) it draws up status reports, reports and databases for the bilateral cooperation projects and for the projects with external financing implemented for the benefit of the School;

i) it exercises the competences for the temporary missions abroad.

(2) The Department of International Relations fulfills any other competences regarding international cooperation, provided by law or entrusted by the management of the School.

## **Chapter VIII – The Economic Financial and Administrative Department**

**Art. 60** - Within the Economic Financial and Administrative Department operate:

a) The Financial-Accounting Compartment;

- b) The Procurement Compartment;
- c) The Office for Human Resources, Documentation and Professional Development;
- d) The Secretariat, Protocol and Administrative Compartment;

**Art. 61 - (1)** The Financial-Accounting Compartment has the following competences:

- a) it ensures and is responsible for the good performance of the financial-accounting activity;
- b) it organizes the activity of preventive financial control;
- c) it makes the payments, by the signature of the Economic Director, and in his/her absence, of his/her substitute;
- d) it performs the payment of the salary rights and of the allowances based on the attendance documents drawn up by the departments assigned with these tasks;
- e) it organizes and is responsible for carrying out the financial planning files, drawing up the files regarding the revenues and expenses of the School, the register plan, required by the Superior Council of Magistracy, or, as the case may be, by the Ministry of Public Finance;
- f) it substantiates the fund for salaries and the staffing schedule, as well as other financial-accounting files and it ensures the control of the management and the inventory of the patrimony of the School;
- g) it keeps the records and the administrative files regarding the financial-accounting activity;
- h) it verifies the financial documents received and draws up the accounting notes for the economic-financial operations from the activity of the School;
- i) it organizes the activity of the cashier in accordance with the legal provisions, ensuring that all cash payments are made, as well as the current operations with the financing banks;
- j) it keeps the accounting records of the materials used for the activity of the School, based on the technical-operative records.

(2) The compartment fulfills any other financial-accounting competences entrusted by the management of the School, according to the law.

**Art. 62 - (1)** The Procurement Department has the following main competences:

- a) it draws up the procurement plan for goods, services or works based on the requests made by the functional compartments of the School and submits them for approval to the Director of the School;
- b) it follows the permanent updating of the procurement plan;
- c) it ensures the supply of the School with the material goods necessary to carry out the activity in good conditions, according to the established procedure;
- d) it ensures the contracting of the services and of the works necessary for the proper functioning of the School;
- e) it keeps records of the contracts and it monitors their performance;
- f) it organizes the activity of the warehouse and it ensures the storage in good conditions of the materials.

(2) The compartment exercises any other competences by order of the School management, according to the law.

**Art. 63 - (1)** The Office for Human Resources, Documentation and Vocational Development has the following competences:

- a) it elaborates the staffing schedule draft and the personnel schedule draft;

- b) it draws up and substantiates the proposals for supplementing the number of offices, for transforming or modifying their levels;
- c) it is responsible for compliance with the conditions required by the law for the employment of the school staff;
- d) it creates and manages the professional files of the employees of the School and it ensures their confidentiality;
- e) it receives and solves the correspondence regarding the rights arising from the execution of the labor relations;
- f) it ensures the updating of the personnel records, with the modifications that intervene in their statute;
- g) it elaborates the job descriptions, the evaluation sheets and the reports for the hired personnel;
- h) *Abrogated*
- i) it elaborates and drafts the decisions for hiring, evaluating, promoting and terminating the employment of the personnel;
- j) it draws up the monthly attendance sheet in order to pay the money rights;
- k) it elaborates the draft of the Regulation for the organization and functioning of the National School of Clerks regarding the competences of The Office of Human Resources, Documentation and Professional Development, the draft of the Regulation for organizing and conducting the National School of Clerks admission exam;
- l) it fulfills the competences regarding the organization of competitions for the selection and recruitment of the contract staff and of the civil servants;
- m) it elaborates and drafts the individual employment contracts and it is responsible for performing the necessary operations in the general register of employees;
- n) *Abrogated*
- o) it draws up the training contracts for the trainees, it keeps the records of the trainees by year of study , it writes and completes the enrollment register, it elaborates and keeps the records of the certificates and of the registration sheets that are issued to the School graduates and it keeps the trainees' files;
- p) it ensures the management of the human resources information for the employees, training staff, trainees and trainers of the School;
- q) it provides the identification cards for the employed, seconded staff, as well as for the trainees of the School;
- r) it issues, by signature of the management, certificates for the trainees and for the personnel;
- s) it keeps records of the decisions of the Superior Council of Magistracy regarding the School and its activity;
- t) it ensures the permanent updating of the information on the School's website, the publication of announcements regarding the statements of wealth and interests for its employees, as well as for the seconded personnel, it ensures the publication of the announcements regarding the vacancies in the structure of the School and of the announcements regarding the competitions organized by Courts and Prosecutor's Offices;
- u) it manages the library and publications stocks, the information and technical means available to the School;
- v) it proposes the professional development programs to be followed by the employees in order to make their activity more efficient and it monitors their progress.





g) it carries out the measures established to ensure the working conditions in the School, the security of the building, the security of the goods and the fire protection;

h) it takes care of the administrative-household activity of the School, ensuring the good maintenance of the buildings, installations, furniture and other inventory items.

(2) The compartment fulfills any other competences entrusted by the management of the School, according to the law.

**Art. 65** - The competences and responsibilities of each employee are established by the job description, which is drafted under the coordination of the School management.

## **Chapter IX - The personnel of the National School of Clerks**

### **Section 1**

#### **General provisions**

**Art. 66** - The School personnel and organization chart is approved by the Superior Council of Magistracy.

**Art. 67** - The School operation personnel is composed of:

- a) the training personnel;
- b) civil servants;
- c) contract personnel.

**Art. 68** - (1) The School training personnel is composed of:

a) the School technical personnel, recruited among Judges, Prosecutors and clerks with higher education or among other specialists, including by secondment within the School, according to the provisions of the law;

b) School external collaborators/trainers, recruited among Judges, Prosecutors, clerks with higher education, university teachers or among other Romanian or foreign specialists.

(2) The School external collaborators are paid according to the number of hours worked, according to the law.

(3) The School training personnel has the obligation to ensure the development of the initial and continuous training programs for the clerks and for other specialized auxiliary personnel, of the internships, in accordance with the School activity schedule and with the curricula, of the training programs for the trainers, as well as the development of the international programs of the School.

### **Section 2**

#### **Civil servants (...)**

### **Section 3**

#### **Contract personnel (...)**

### **Section 4**

#### **The rights and obligations of the National School of Clerks' personnel**

**Art. 96** - The School's personnel has the following rights:

- a) to carry out their activity under appropriate working conditions;
- b) to benefit from the salary rights established by the law;
- c) to benefit from the holidays provided by law;

d) to participate in professional training activities organized by the School or by specialized institutions;

e) to benefit from all other rights specific to each category of personnel, according to the law.

**Art. 97** - The School's personnel have the following obligations:

a) to comply with the established work program;

b) to know the competences of their department, the nature and purpose of the activity of the institution, as well as the tasks that are incumbent upon them in order to carry them out properly;

c) to efficiently and timely perform all tasks within office hours

d) to improve their professional training, in order to perform their tasks with a high level of quality;

e) to be concerned about the good management and about the preservation in proper conditions of the goods that are in the administration of the School;

f) to comply with the legal provisions regarding the confidential information, documents, or data that are not intended for public access;

g) to respect the norms of labor protection, labor security, as well as the other norms regarding the security of goods and persons.

## **Section 5**

### **The evaluation of the National School of Clerks personnel**

**Art. 98** - (1) In order to verify the fulfillment of the competence and performance criteria, the School personnel have to pass an annual evaluation regarding the efficiency, the quality of work, the integrity, the obligation of continuous vocational training. For the personnel appointed in leading offices, the evaluation concerns also the way of performing the managerial competences.

(2) The evaluation of the School training personnel is performed according to the evaluation indicators and to the evaluation procedure established by the statute approved by the Superior Council of Magistracy.

(3) The evaluation of the School personnel that have the status of public servants or contract personnel is performed according to the legal provisions regarding these categories of personnel.

**Art. 99** - The evaluation indicators, established according to the criteria mentioned in art. 98, are approved by the School Governing Council.

**Art. 100** - (1) The evaluation of the personnel is done by committees set up by decision of the Governing Council.

(2) As a result of the evaluation report of the professional activity, one of the following qualifications may be granted: "very good", "good", "satisfactory" or "unsatisfactory".

(3) The operating personnel dissatisfied with the qualification granted may appeal to the Governing Council within 30 days from the communication of the results. The appeal is settled within 30 days after its registration.

(4) The qualification granted by the Governing Council is final.

**Art. 101** - The persons who, after the evaluation, receive the "unsatisfactory" qualification are released from office due to professional incapacity.

## **Section 6**

## **The disciplinary liability of the National School of Clerks' personnel**

**Art. 102 -** (1) The National School of Clerks' personnel shall be liable to disciplinary action for misconduct on duty.

(2) The following are considered disciplinary violations:

- a) unexcused absences from work, as well as violation of working time provisions;
- b) systematic delay in carrying out their duties;
- c) unjustified refusal to fulfill the duties provided by law, by regulations or established by the School management;
- d) failure to respect the confidentiality of the files classified as such;
- e) serious negligence or repeated negligence in performing their duties;
- f) manifestations that undermine professional dignity or probity;
- g) violation of the prohibitions and incompatibilities provided by law;
- h) interference for the settlement of requests, claiming or accepting the resolution of personal interests or of family members or of other persons, other than those within the legal framework.

**Art. 103 -** The disciplinary sanctions that can be applied in relation to the gravity of the misconducts are:

- a) the written warning;
- b) the reduction of the allowance or of the salary of the employee by 5 - 15% over a period from 1 to 3 months;
- c) dismissal from office or disciplinary dismissal of the employment contract.

**Art. 104 -** (1) The disciplinary sanctions shall be applied by the School Governing Council.

(2) The decision of the Governing Council applying the sanction may be appealed to the competent court within 30 days from its communication.

**Art. 105 -** (1) The application of a disciplinary sanction is mandatorily preceded by the conduct of an investigation of the offences that constitute violations of the legal or regulatory provisions.

(2) The preliminary investigation shall be carried out by the person appointed by the Governing Council. The offences and their consequences, the circumstances in which they were committed, the existence or non-existence of the guilt and any other conclusive data are established during this procedure. The hearing of the person under investigation and the review of his/her defenses are compulsory.

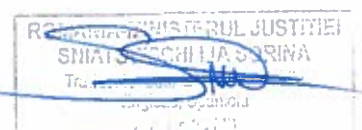
(3) The investigation is concluded by a report recording the result of the findings. The person under investigation has the right to know all the documents of the investigation and he/she has the right to request evidence in defense.

(4) The decision is substantiated and communicated within 10 days of its issuance.

**Art. 106 –** The seconded Judges and Prosecutors can be sanctioned under Law no. 303/2004 regarding the statute of Judges and Prosecutors, republished, with subsequent amendments and completions.

**Art. 107 –** The seconded clerks can be sanctioned under Law no. 567/2004 regarding the status of the specialized auxiliary personnel of the Courts and of the Prosecutor's offices attached to them, with the subsequent modifications and completions.

**Art. 108 –** The civil servants can be sanctioned under Law no. 188/1999 regarding the status of civil servants, republished, with subsequent amendments and completions.





**DECISION No. 173 of March the 22<sup>nd</sup>, 2007 for the approval of the Regulation regarding the organization and conduct of the National School of Clerks' admission examination**

Pursuant to the provisions of art. 134 paragraph (4) of the Romanian Constitution, republished, and of art. 23 paragraph (1) of Law no. 317/2004 regarding the Superior Council of Magistracy, republished, with the subsequent modifications, taking into account art. 7 of Law no. 567/2004 regarding the status of the specialized auxiliary personnel of the Courts and of the Prosecutor's Offices attached to them, as subsequently amended and supplemented,

**The Plenum of the Superior Council of Magistracy decides:**

**Art. 1** - The Regulation regarding the organization and conduct of the National School of Clerks admission exam, included in the annex that forms an integral part of this decision, is approved.

**Annex  
REGULATIONS  
regarding the National School of Clerks admission exam**

**Chapter I  
General provisions**

**Art. 1** - The recruitment for the office of clerk is usually done through the National School of Clerks.

**Art. 2** - (1) The admission exam is organized annually, at national level, by the National School of Clerks, under the coordination of the Superior Council of Magistracy.

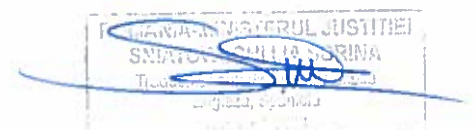
(2) The admission exam is held separately for the offices of clerks with higher legal education and clerks with secondary or other higher education.

**Art. 3** - The persons who fulfill the following conditions have the right to participate in the National School of Clerks admission exam:

- have Romanian citizenship, domicile in Romania and full legal competence;
- have no criminal record, no fiscal record and enjoy a good reputation;
- know the Romanian language;
- are medically fit for exercising the office;
- have higher legal education or secondary education or other higher education, as the case may be.

**Art. 4** - (1) These topics, the bibliography, the date and the calendar of the admission exam are established by decision of the Superior Council of Magistracy, at the proposal of the National School of Clerks.

(2) The number of vacant offices is established according to the need for qualified personnel of the Courts and of the Prosecutor's Offices attached to them, by decision of the Superior Council of Magistracy, at the proposal of the Human Resources and Organization Department, after consulting the National School of Clerks.



**Art. 5** - In order to register for the National School of Clerks admission exam, the candidates will pay a fee established annually by decision of the Superior Council of Magistracy, fee that will be used to organize the exam, consisting of logistics expenses, rental of exam rooms and payment of the examination committee.

## **Chapter II**

### **The registration of the candidates**

**Art. 6** - (1) The date and place of the exam, the topics, the bibliography, the duration of the courses, the number of vacant offices, as well as the amount of the registration fee for the exam, will be displayed at the registered offices of the National School of Clerks and of the Courts, at least 60 days before the date of the exam.

(2) These dates will be published on the websites of the National School of Clerks and of the Superior Council of Magistracy. The announcement of the exam will be published in a daily newspaper.

**Art. 7** - (1) The standard applications for registration are drawn up by the committee organizing the exam and submitted to the Courts, together with the topics and bibliography of the exam.

(2) The registration fee is paid at the cashier of the Court where the registration is made. In order to collect the tax, the Court will use a separate receipt book, different from the one used for the current activity. The receipts are made in three copies, of which the original will be handed over to the candidate. The amounts thus obtained will be transferred to the Superior Council of Magistracy, by payment order.

(3) The exam registration fee shall be refunded to the candidates who have been rejected for not fulfilling the exam participation conditions, as well as to the candidates who withdraw from the exam prior to the displaying of the final lists containing the results of the verification on the fulfillment of the exam conditions. The application for the refund is submitted to the Economic and Administrative Directorate within the Superior Council of Magistracy and it is solved within 30 days from registration.

**Art. 8** - (1) Upon registering, the candidates will receive the form of the standard application, as well as the topics and bibliography established for the exam they participate in.

(2) The registration application shall be accompanied by:

- a) the identity document (copy);
- b) the bachelor certificate or the higher education diploma (copy);
- c) the criminal record certificate;
- d) the fiscal record certificate;
- e) curriculum vitae;
- f) two color photos 2/3 cm;
- g) the medical certificate certifying that they are fit for the office;
- h) the receipt of the exam registration fee.

(3) The person appointed by the President of the Court certifies the copies of the documents provided in paragraph (2) a) and b), by writing "certified true copy".

**Art. 9** - (1) The standard applications for the exam registration, accompanied by the documents provided in art. 8 paragraph (2), shall be submitted, at least 40 days before the date of the exam, to the registered offices of the Presidents of the Courts in whose



territorial jurisdiction the candidates are domiciled. The Examination Committee will fill in the database made available to the Tribunals based on these applications.

(2) The Presidents of the Tribunals shall submit the candidates' files and the database to the Examination Committee, at least 35 days before the date of the exam.

**Art. 10 - (1)** The verification of the candidates' files regarding the fulfillment of the conditions stipulated in art. 3, except the good reputation, is performed by the Examination Committee.

(2) The result of the verification of the registration files shall be published on the website of the National School of Clerks and shall be sent for display at the headquarters of the Tribunals.

(3) The candidates rejected after checking the files may file appeals within 48 hours from the publication of the list on the website of the National School of Clerks.

(4) The appeals shall be settled by the Examination Committee, by definitive decision.

(5) After the settlement of the appeals, the final list of the candidates who fulfill the participation conditions of the exam shall be drawn up, with its publication and display according to the conditions of art. 10 paragraph (2).

### **Chapter III - The Examination Committee**

**Art. 11 -** The methodological coordination of the admission exam is provided by the Superior Council of Magistracy.

**Art. 12 - (1)** The Superior Council of Magistracy appoints: the examination committee, the committee for the elaboration of the exam topics, the grading committee and the committee for solving the complaints.

(2) The persons who have the spouse or relatives up to the fourth grade among the candidates will not be appointed in the committees. All committee members will fill in statements to this effect.

(3) If the incompatibility provided in paragraph (2) appears after the appointment of the committee members, the member concerned has the obligation to withdraw himself/herself from the committee and to communicate this situation immediately to the president of the committee, so that they can be replaced.

**Art. 13 - (1)** The examination committee is constituted by decision of the Plenum of the Superior Council of Magistracy, at the proposal of the Human Resources and Organization Directorate and of the National School of Clerks.

(2) The examination committee is composed of:

- President: The General Secretary of the Superior Council of Magistracy, the Deputy General Secretary, the Director or Deputy Director of the Human Resources and Organization Directorate;

- Vice President: The Director or Deputy Directors of the National School of Clerks, the Director or Deputy Director of the Human Resources and Organization Directorate;

- members: Directors, Heads of Department, Judges and Prosecutors seconded to the Superior Council of Magistracy or to the National School of Clerks, specialized legal personnel assimilated to Judges and Prosecutors of the Superior Council of Magistracy, training personnel of the National School of Clerks, civil servants and contract personnel within the same institutions;

- exam room managers and supervisors, as well as other persons who carry out activities for the good organization of the exam. By exception from the provisions of paragraph (1), these persons are appointed by decision of the president of the examination committee, usually, among the same categories of personnel as the members of the committee.

**Art. 14 - (1)** The examination committee organizes coordinates and supervises the entire admission exam and has the following main competences:

a) sends to the Tribunals the information and the documents regarding the date and place of the exam, the topics, the bibliography, the duration of the courses, the number of vacant offices, the amount of the exam registration fee, as well as the standard application form;

b) verifies the fulfillment of the conditions for registration, centralizes the files of the candidates, draws up and displays the list of the candidates who fulfill the registration conditions, settles the appeals regarding the rejection of the exam registration for condition non-fulfillment and displays the final list of the candidates;

c) controls and guides the actions regarding the organization and conduct of the competition: the identification and, as the case may be, the rental of the adequate locations for the admission exam, the procurement of the necessary supplies, the provision of medical assistance during the exam and the provision of the security necessary to maintain public order in the exam centers, the provision of the accommodation and meal expenses for the committee members;

d) ensures the security of the exam topics and of the written papers, at the headquarters of the committee and during their transport, as well as the order in the exam and examination centers and in the grading centers;

e) ensures the standard stamps for the exam;

f) trains the exam room managers before the exam;

g) takes over the topics for the written papers and the evaluation and scoring scales, by exam disciplines, in separate, sealed envelopes from the committee in charge with the elaboration of the exam topics;

h) ensures the editing and multiplication of the topics;

i) hands over to the exam room managers, the sealed envelopes containing the topics, so that at the start time of the exam they can be opened and distributed in the presence of the candidates;

j) distributes the candidates for the written exam in alphabetical order in the exam rooms, orders the display of the candidate lists on the website of the National School of Clerks, as well as on the doors of the written exam rooms, at least 24 hours before the exam;

k) displays the examination scales in the exam centers 15 minutes before the end of the written exam and ensures their publication on the website of the National School of Clerks;

l) organizes the transport of the written exams from the exam center to the examination center and is responsible for their security;

m) hands over to the president of the committee for the settlement of the appeals, the scale's appeals, in order to establish the definitive scales;

n) hands the written examination papers over to the president of the grading committee and to the president of the committee for the settlement of appeals, for grading and re-examining respectively. o) takes measures for persons unauthorized



by the committee or not provided by this Regulation not to enter in the exam rooms where the written exams are carried out or where the grading committee or the committee for the settlement of the appeals carry out their activity.

- p) calculates the general averages and draws up the final lists;
- q) ensures compliance with the evaluation and rating procedure;
- r) analyzes the performance and the results of the exam and presents the conclusions to the Superior Council of Magistracy;
- s) immediately informs the Superior Council of Magistracy of any special situation whose settlement is not provided for in this Regulation, as well as of any situation that requires the cancellation of certain topics, such as: loss, deterioration or declassification of a topic;
- t) ensures the display and publication of the exam results on the website of the National School of Clerks and their transmission to the Tribunals for display;
- u) submits to the Superior Council of Magistracy all propositions related to the changes of the organization and carrying out of the examination.

(2) The examination committee exercises any other competences necessary for the smooth running of the exam.

**Art. 15 -** (1) The President of the examination committee shall take the necessary measures to fulfill the competences provided in art. 14.

(2) In this respect, the president of the examination committee shall establish the competences for the Vice-President and for the members of the committee, the instructions for the exam room managers and supervisors, as well as the tasks for the Tribunals, for the smooth running of the exam.

**Art. 16 -** (1) The committee for the elaboration of the exam topics, the committee for the grading of the written exam papers and the committee for the settlement of appeals are appointed by decision of the Plenum of the Superior Council of Magistracy, on the proposal of the National School of Clerks.

(2) Each committee consists of at least two members for each exam discipline and a President and consists of Judges, Prosecutors and/or teachers from certified higher legal education.

(3) The same person cannot be part of more than one committee.

(4) The appointment of the members of these committees is performed by written consent, previously expressed.

(5) The committees provided for in paragraph (1) will also include substitute members.

(6) The members of the committees for the elaboration of the exam topics, for the grading and for the settlement of the appeals will sign participation contracts for the payment methods and for the observance of their competences according to the provisions of this Regulation.

**Art. 17 -** The committee for the elaboration of the exam topics exercises the following competences, under the coordination of the president of the committee:

- a) elaborates the exam topics and the examination scales for each competition discipline, separately for the candidates with higher legal education and for those with secondary or higher studies of another specialty;
- b) establishes the exam time, as well as its distribution between the exam disciplines.

**Art. 18 -** The members of the grading committee have the following responsibilities:

- a) grade the exam papers based on the definitive scales;
- b) write the grades for each exam paper in the scoring sheet;

- c) re-grade the exam papers at the request of the president of the committee;
- d) hand over to the president of the committee the corrected exam papers and the scoring records.

**Art. 19** - The president of the grading committee coordinates the activity of the committee he/she leads and has the following main competences:

- a) ensures compliance with the evaluation and grading procedure;
- b) takes over the exam papers from the president of the examination committee and distributes them to the members of the grading committee, together with the definitive scales;
- c) distributes the exam papers for correction, according to the number of correctors;
- d) verifies the scoring register and points out the differences higher than one point between the grades granted by the two correctors, for which they request the re-examination of the exam paper;
- e) writes on the exam papers the final grade, under signature;
- f) unseals the exam papers for each discipline in the presence of the correctors and in the presence of a representative of the examination committee, after entering the grades in the database;
- g) hands over by minute the exam papers to the president or vice-president of the examination committee.

**Art. 20** - The Committee for the settlement of the appeals has the following competences:

- a) solves the appeals of the scale and establish the definitive grading scales;
- b) re-examines the exam papers with the initial grades appealed, based on the definitive scales;
- c) records the final grades in the rating sheet for the appealed exam papers;
- d) reviews the exam papers at the request of the president of the committee;
- e) hands over by minute to the president of the examination committee the reviewed exam papers and the rating sheets.

**Art. 21** - The president of the committee for the settlement of appeals coordinates the activity of the committee he/she leads and has the following main competences:

- a) ensures compliance with the rules for drawing up the definitive scales;
- b) submits to the committee for settlement of appeals the appeals of the scale, in order to establish the definitive scales;
- c) hands over to the president of the grading committee the definitive scales;
- d) ensures compliance with the evaluation and rating procedure;
- e) takes over the appealed exam papers from the president of the examination committee and distributes them to the members of the committee for the settlement of the appeals, together with the definitive scales;
- f) distributes the papers for re-correction, according to the number of correctors;
- g) reviews the scoring records and points out differences higher than one point between the grades given by the two correctors, at which point they requested the re-examination of the examination papers.
- h) writes on the exam papers the final grade, under signature;
- i) unseals the examination papers for each topic in the presence of the examiners and in the presence of a representative of the examination committee, after entering the grades in the database

j) hands over by minute the re-examined exam papers to the president or vice-president of the examination committee.

#### **Chapter IV – The conduct of the exam**

**Art. 22** - The examination of the candidates is done by taking a written exam in the following topics, regardless of the duration of the studies:

1. criminal procedure;
2. civil procedure;
3. judicial organization.

**Art. 22<sup>1</sup>** - (1) The Superior Council of Magistracy can approve the development of the initial vocational training of the clerks, in a specialized way, for the clerks who will perform their activity in the Courts and for the clerks who will carry out their activity within the Prosecutor's Offices.

(2) The options of the candidates admitted for one of the two forms of training will be made in the first week after the beginning of the courses, according to the average grade obtained at the National School of Clerks admission exam.

**Art. 23** - (1) The exam subjects will be elaborated on the day of the exam, multiplied in equal number to the number of candidates, put into separate envelopes, sealed and will be delivered to the president of the examination committee, at least half an hour before the beginning of the written exam.

(2) The envelopes with the exam subjects will be handed over by the president of the organizing committee to each exam room supervisor.

**Art. 24** - (1) Access of the candidates into the examination rooms will be allowed only after each candidate has presented an Identity document at the latest 30 minutes before the beginning of the exam, according to the lists drawn up for each exam room, in which the presence or absence of each candidate will be recorded . After verifying all the candidates' identity, each candidate will keep in view their identity card, until after the submission of the written paper.

(2) Candidates shall not be allowed to have during the exams any kind of papers that could be used to answer the subjects, as well as any electronic means of communication. Violation of this provision results in elimination from the exam.

(3) In order to elaborate their examination written papers, the candidates use only blue ink or paste.

(4) The candidates shall be sited in alphabetical order, according to the displayed lists. Each candidate receives a standard exam paper for each topic, carrying the exam stamp, where he/she writes in capital letters the name and surname and writes legibly the other data on the corner which is to be glued, as well as common sheets, graded with the exam stamp, as scrap paper. The corner of each exam paper will be glued and stamped at the time of submission of the paper, only after the persons supervising the exam room have verified the identity of the candidates and the correct completion of all the data required and after the exam room supervisors have signed inside the area to be sealed.

(5) After verifying the integrity of the envelopes with the exam topics, the supervisors will distribute the exam topics to the candidates, communicating the start time and the end time of the exam.

(6) From the opening of the envelope with the exam topics no candidate can enter the exam room and no candidate can leave the exam room unless he/she gives the written



paper and signs for its submission. Candidates who are not in the exam room at the time of opening the envelope with the exam topics lose the right to sit the exam.

(7) The candidates will not be allowed to leave the exam room during the written exam. In exceptional cases, if a candidate requests to leave the exam room for a period of time, he/she must be accompanied by one of the supervisors, until he/she returns to the exam room.

(8) The members of the contest committee may not leave the exam center and may not communicate externally the exam topics, until the written exam is completed.

**Art. 25 - (1)** The time for the written exam is established by the committee for the elaboration of the exam topics and may not exceed 3 hours, counted from the completion of the distribution to each candidate of the photocopied exam topics. The score awarded and the recommended time for solving each subject, are transmitted to the candidates along with the exam topics.

(2) During the exam, the members of the contest committee and the exam room supervisors may not give the candidates indications regarding the solution of the exam topics and may not change the exam topics. Any doubt on the exam topics is discussed directly with the committee that elaborated the exam topics.

(3) The candidates who want to correct a mistake cut with a horizontal line each line of the wrong passage. If some candidates, for various reasons - numerous corrections and mistakes that could be interpreted as a sign of recognition -, want to transcribe their paper, without exceeding the set time, receive other standard exam papers. This is recorded by the supervisors in the exam room report. The exam papers used initially are canceled on the spot by the exam room supervisor, by writing on them "canceled", under signature, and they are kept under the conditions established for the written papers.

(4) Each candidate shall receive all the necessary standard exam papers and scratch papers.

(5) At the expiration of the time, the candidates submit the papers in their current form, under signature, the extension of the allotted time being prohibited. The last 3 candidates remain in the room until the last paper is handed over.

(6) When handing over the exam papers, the supervisors strike out the unwritten spaces, check the number of pages and write it in the delivery-receipt report that the candidates sign, as well as in the heading on the first page of the exam paper.

(7) The President and a member of the contest committee, after taking the exam papers under signature from the exam room supervisors, mix and number them, and then hand them over, by minute, to the president of the grading committee.

(8) Proven fraud entails removal from the exam. The writing of the candidate's name on the exam paper outside the heading to be sealed and any other distinctive signs that would allow the identification of the paper, as well as the non-observance of the provisions of art. 25 paragraph (2) and paragraph (5) are considered fraud. In these cases, the exam room supervisor records in a minute the offences and the measures taken, and the paper is cancelled with the mention "fraud". The minute is communicated to the contest committee and to the candidate concerned.

(9) A minute is drafted for each exam room.

**Art. 26 - (1)** The correction scales, established by the committee in charge with the elaboration of the exam topics, for each exam topic, are displayed 15 minutes before the conclusion of the written exam, in the exam center. Within 24 hours from the posting, the candidates can file scales' appeals, which are settled by the committee for the



settlement of appeals within 24 hours from the expiry of the term of appeal. The scale established following the settlement of appeals constitutes a definitive grading scale and is posted on the website of the National School of Clerks.

(2) In case of admitting scale appeals, the Plenum of the Superior Council of Magistracy may order the sanctioning of the members of the committee in charge with the elaboration of the exam topics who are responsible for admitting the appeals, if bad faith or serious negligence is found.

(3) The persons mentioned in paragraph (2) may be sanctioned with the cut or non-payment of the monetary rights due for the activity performed; these persons may also be denied to participate in similar committees for up to 3 years.

(4) The sanctions provided in paragraph (3) are applied according to the concrete circumstances and proportional to the consequences produced.

**Art. 27 -** (1) The exam papers are corrected based on the definitive scale established following the resolution of the settlement of scale appeals for each topic of exam.

(2) Each written paper is independently graded by 2 members of the grading committee and evaluated separately with grades from 1 to 10, according to the definitive grading scale. 1 is awarded when the score obtained is less than or equal to this grade. When grading the papers, both the paper's content and the observance of proper grammar and the means of expression will be considered. (3) After the grading is completed, each corrector writes the grade, under signature, in the note of grades. The annotations on the exam papers are forbidden during correction. One grading party does not have access to the other's note of grades.

(4) The president of the committees checks the grades and points out the differences of more than one point between the grades given by the 2 correctors. In this case he/she asks for the re-examination of the exam paper, under the conditions provided in the previous paragraphs.

(5) After the verification mentioned in paragraph (4), the 2 correctors calculate the final grade, which represents the average of the grades obtained, with two decimals, which they write, under signature, in the note of grades.

(6) During the grading of the papers, the corner will not be unsealed, keeping the candidate's name secret. In the presence of all the correctors, the final grade written in the note of grades shall be written on each exam paper followed by the signature of the president. The grades are entered in the database, and the correctors proceed to the opening of the exam papers.

(7) After opening the exam papers, the contest committee proceeds to correlate the numbers of the exam papers with the names of the candidates, centralizes the grades of the 3 exam disciplines and calculates the general average.

(8) After centralizing the grades of the candidates, based on the general average obtained, the contest committee draws up the table with the exam results, which is made public on the website of the National School of Clerks and sends it to the Tribunals for display.

**Art. 28 -** (1) The candidates who are dissatisfied with the grades obtained at the exam may submit appeals to the Tribunals where they have submitted the applications for registration, within 48 hours from the date of publication of the results on the website of the National School of Clerks. These will be sent right after registration, by fax, to the National School of Clerks. After registering the appeals, the contest committee reseals and renumbers the exam papers whose grade is appealed, registering them in a

separate list. These are handed over to the president of the committee for the settlement of appeals.

(2) The appeals shall be settled by the committee for the settlement of the appeals, within a maximum of 5 days from the expiration of the term provided in paragraph (1), under the conditions provided by art. 27 paragraph (1) - (7).

(3) The grades given by the committee for the settlement of appeals are final.

(3<sup>1</sup>) The provisions of art. 26 paragraph (2) - (4) shall also apply to the grading committee.

(4) The table for the classification of the candidates, containing the final results, after the settlement of the disputes, prepared by the contest committee, is made public on the website of the National School of Clerks and is sent to the Tribunals.

(5) In order to be admitted to the National School of Clerks the candidate must have at least an average of 6, but not less than 5 for each exam.

**Art. 29 -** (1) The candidates who fulfill the conditions provided by art. 28 paragraph (5), in the decreasing order of the average grades, within the limit of the number of offices approved, and who enjoy a good reputation are declared admitted. The good reputation is verified by the persons appointed by the President of the Court of Appeal in whose jurisdiction the registration was made, within 15 days from the publishing of the classification table.

(2) If the last admission average is obtained by more candidates than the remaining offices, the Superior Council of Magistracy will decide the suppletion of the offices opened for recruitment, and if this is not possible, the differentiation will be made according to the grades obtained at the exam disciplines, in the order provided by art. 22.

(3) If an admitted candidate drops out before the validation of the exam by the Superior Council of Magistracy, the following candidates from the classification table will be admitted, in order of the average grade, in compliance with the requirements stipulated in art. 29.

**Art. 30 -** Within a maximum of 30 days after the posting of the final results, the contest committee will propose to the Superior Council of Magistracy the validation of the exam results.

## **Chapter V - Final provisions**

**Art. 31 -** The terms provided by this regulation are calculated according to the provisions of art. 181 of Law no. 134/2010 on the Civil Procedure Code, republished, with subsequent amendments and completions.

**Art. 32 -** (1) In cases where this Regulation stipulates that a document is to be displayed at Court premises, the notice will be displayed immediately on or near the Court entrance door.

(2) The Presidents of the Tribunals shall transmit the documents to the First Clerk or to the clerk in charge of the registration activity, to be posted, indicating the period for their display. When displaying and withdrawing the document, the clerk will write down on the document the time and date of the display or withdrawal, signing the document. The clerk shall immediately forward the withdrawn document to the President of the Tribunal.

**Art. 33 - (1)** The candidates' files, the exam papers and the grading scales are kept in the archives of the National School of Clerks.

(2) The results of the verification of the good reputation of the admitted candidates are handed over to the National School of Clerks by the contest committee, in order to attach them to the candidates' files.

**Art. 34 -** The deletion from the website of the National School of Clerks of the information containing personal data of the candidates for the exams organized by the Superior Council of Magistracy through the National School of Clerks is made by order of the School's Director, after the completion of the term of one year from the validation of the exam results, and it is brought to the attention of the Superior Council of Magistracy.