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The Legislative Council
The Supreme Court of Justice

L A W
on the setting up,
organisation and functioning
of the Legislative Council

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Organisation and Functioning
REGULATION
of the Legislative Council

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CHAPTER I

The Setting up and Powers of the Legislative Council

Art. 1. – (1) On the date of the coming into force of the present law, the Legislative Council shall be set up, a specialist body of the Parliament, which shall give its advice on the drafts of normative acts with a view of the systematisation, unification and co-ordination of the whole legislation; it shall keep the official record of the legislation of Romania.

(2) The Legislative Council shall have its seat at the Chamber of Deputies.

Art. 2. – (1) The Legislative Council shall have the following powers:

a) to analyse and give its opinion on the bills, legislative proposals and the government's statutory orders and decision drafts having a normative character, with a view of their submission for legislating or enactment, as the case may be;

b) to analyse and give its opinion, at the request of the president of the Parliamentary Committee which debates in substance on amendments submitted to the Committee, and the bills or legislative proposals received by the Committee after their endorsement by one of the Chambers of the Parliament;

c) to carry out directly or to co-ordinate, on the disposition of the Chamber of Deputies or of the Senate,

* The Law No. 75/3 November 1993 – Law on the setting up, organisation and functioning of the Legislative Council – was published in the “Monitorul Oficial” (Official Gazette of Romania), Part I, No. 260 of 5 November 1993.

the elaboration of certain drafts of codes or other laws of a particular complexity;

d) to work out on the disposition of the Chamber of Deputies or of the Senate, or on its own initiative, studies for the systematisation, unification and co-ordination of the legislation and, on this basis, to make proposals to the Parliament or the Government, as the case may be;

e) to examine the conformity of the legislation with the provisions and principles of the Constitution, and to inform the standing bureaus of the Chambers of the Parliament or the Government, as the case may be, about the cases of unconstitutionality established; to present within 12 months at the most from its setting up, proposals for accommodation of the previous legislation with the provisions and principles of the present Constitution;

f) to keep an official record of the legislation and to organise data processing of the record system;

g) to co-ordinate the elaboration and publication of legislative indexes, collections of normative acts, in Romanian and in other languages, and to approve, with a view to publication, from the point of view of the conformity with the official record of the legislation, the collections elaborated by other authorities or natural or legal persons;

h) to preserve one copy of the originals of the passed laws and of their promulgation decrees.

(2) The Legislative Council shall submit to the Parliament yearly the report on its activity.

Art. 3. – (1) The bills and the legislative proposals shall be submitted to the Parliament, for debating, with the advisory opinion of the Legislative Council.

(2) The advisory opinion shall be given within the term established by the Standing Bureau or by the Standing Committee of the Chamber of the Parliament which has requested it. If the advisory opinion is not given in the established term, this fact shall not prevent the development of the legislative proceedings.

(3) The advisory opinion is a consultative one and has as its object:

a) the conformity with the Constitution of the proposed regulation, as well as the nature of the law;

b) the elimination of the contradictions or of the non-correlations between the provisions of the bill or the legislative proposal, and the ensuring of their complete character, the observance of the standards of the legislative technique;

c) the indication of the implications of the new regulation on the legislation in force, through the identification of the legal provisions that, having the same object of regulation, are to be abrogated, amended or unified, as well as through the avoidance of the regulation of certain identical aspects in distinct normative acts.

(4) Within six months as from the coming into force of the law, the Legislative Council shall submit to the standing bureaus of the two Chambers the standards of the legislative technique for the elaboration of the normative acts so that those interested should be able to exercise the right to legislative initiative.

Art. 4. – (1) The drafts for statutory orders and decisions having a normative character shall be submitted to the Government for adoption only under the advisory opinion of the Legislative Council, regarding the legality of the planned measures, and the manner in which the exigencies provided under Article 3, paragraph (3) are achieved, exigencies which shall be applied adequately.

(2) The advisory opinion is a consultative one.

(3) The advisory opinion shall be given within the term requested by the Government, which term cannot be smaller than 10 days in the case of the bills with an ordinary procedure, and of 2 days in the case of bills with an emergency procedure. For the statutory orders provided under Article 114, paragraph (4) of the Constitution, the term is of twenty-four hours.

Art. 5. – (1) In fulfilling its powers, the Legislative Council shall co-operate with the public administrative authorities and with the public specialised institutions, according to the nature of the respective works.

(2) The public administrative authorities and the public specialised institutions are under the obligation to provide for, in the terms and conditions established by the Legislative Council, the information and reference

material requested by it, and to afford the necessary support for carrying out its powers.

CHAPTER II

Organisation of the Legislative Council

Art. 6. – (1) The Legislative Council is composed of the Division of public law, the Division of private law, and the Division of official record of legislation and of documentation.

(2) Each division has in its structure a number of sectors.

(3) The domains of activity of the divisions and sectors, as well as their powers shall be established through the Organisation and Functioning Regulation of the Legislative Council.

(4) The financial and bookkeeping works of the Legislative Council shall be made by the specialized department of the Chamber of Deputies.

Art. 7. – (1) The Legislative Council shall be directed by the president of the Council, and each division, by a division president.

(2) The president of the Legislative Council, and the division presidents shall be appointed by the majority vote of the deputies and senators met in joint session of the two Chambers of the Parliament, on the basis of three proposals made by the standing bureaus, for each office, with the advisory opinion of the joint juridical committees. The president of the Legislative Council and the division presidents shall exercise their powers as from the date of taking, individually, the oath provided under paragraph (3), before the presidents of the two Chambers.

(3) The oath shall have the following contents: “I swear to observe the Constitution and the laws of the country, to defend the interests of Romania, the fundamental rights and liberties of the citizens, and to fulfil with honour and professional conscience the charges incumbent upon me. So help me God!”

(4) The office of president of the Legislative Council shall be assimilated to that of a minister, and the office of division president, to that of a state secretary.

Art. 8. – (1) The president of the Legislative Council shall have the following powers:

a) to represent the Council before the Chamber of Deputies, the Senate and the other public authorities, as well as in the relations with natural and legal persons;

b) to sign the documents of the Council, which may be issued only with his consent;

c) to hire, in accordance with the law, the employees of the Council, excepting those appointed under the terms of the present law;

d) to exercise any other powers which are incumbent upon him, in accordance with the law.

(2) The president shall be a person entitled to authorise expenditure from the budget.

(3) The attributions of the division presidents shall be established by the organisation and functioning regulations of the Legislative Council.

(4) One of the division presidents, appointed by the president of the Council, shall be his deputy by right.

Art. 9. – (1) Each sector of a division shall be directed by one of the counsellors, excepting the research and documentation sector and the secretariat of the Legislative Council, which shall be directed each of them by a director.

(2) The counsellors and the directors shall be appointed by the president of the Council, with the approval of the standing bureaus of the Chambers of the Parliament.

(3) The counsellors and the directors shall exercise their attributions as from the date of taking the oath provided under Article 7, paragraph (3), before the president of the Council and of the division where they are appointed.

(4) Every division president shall be assisted by one of the counsellors provided under paragraph (1), who shall be his deputy by right.

Art. 10. – The Organisation and Functioning Regulation of the Legislative Council, and the list of posts shall be approved in the joint session of the standing bureaus of the two Chambers of the Parliament, with the advisory opinion of the joint juridical committees.

CHAPTER III

Functioning of the Legislative Council

Art. 11. – (1) The legislative proposals made by deputies or senators shall be forwarded to the Legislative Council, for endorsement, by the secretary general of the Chamber where they have been lodged, on the date of registering, and the bills initiated by the Government, or the drafts of statutory orders or decisions of the Government, having a normative character, by its secretary general.

(2) To the bills there shall be attached the documents and information which were used to their elaboration.

(3) The senators and deputies who are authors of legislative proposals, the ministers, state secretaries and state under-secretaries may, of their own accord or at the invitation of the president of the Legislative Council, participate in the examination, in the Council's divisions, of the drafts of normative acts submitted to endorsement. They may be invited by the president of the Legislative Council to the examination, in order to be endorsed, of the drafts of normative acts in their field of activity irrespective of initiators.

Art. 12. – The drafts that constitute the object of the legislative initiative of the citizens shall be submitted for endorsement to the Legislative Council under the legal conditions stipulated by the law for the exercise of such initiative.

Art. 13. – (1) The advisory opinion of the Legislative Council shall be transmitted in a written form, under the president's signature.

(2) The favourable advisory opinions that are not accompanied by objections or proposals shall not be motivated. In the other cases, the advisory opinion shall include the complete motivation of each objection or proposal, and it shall be accompanied by the studies, documents and information they are based upon, those having a historical or comparative law character included, as the case may be.

(3) The advisory opinion cannot include appreciations of a political nature.

(4) The initiators or the authority which solicited the advisory opinion may request the Legislative Council additional explanations or may invite its president or its representative to the debate of the legislative proposals or endorsed bills.

Art. 14. – (1) The drafts of codes and other complex laws, directly elaborated by the Legislative Council or under its guidance shall be accompanied by a detailed report including the main solutions adopted, the results of the substantiation studies entered upon, references to jurisprudence and pertaining comparative law, the possible alternative solutions, measures for the systematisation of the legislation imposed by the adoption of the proposed regulations, as well as any other similar aspects which may be of interest for the debate of the drafts.

(2) The report together with the regulation draft shall be submitted to the Parliament after their approval by the Government.

Art. 15. – (1) The advisory opinions and the other works of the Legislative Council shall be debated in its divisions and sectors.

(2) The manner to work in the Legislative Council's divisions and sectors as well as the relations between them shall be established by the Council's organisation and functioning regulations.

CHAPTER IV

The Staff of the Legislative Council

Art. 16. – (1) In the offices of president of the Legislative Council, division president or counsellor there may be appointed persons who have only the Romanian citizenship and the place of residence in the country, who have graduated from law, who have also a good professional and moral reputation and at least 15 years experience in juridical activities.

(2) For the other offices in the structure of the Legislative Council's machinery, the conditions for appointment shall be established by its Organisation and Functioning Regulation.

(3) The specialist execution offices shall be filled by competitive examination, in the terms of the law. The competitive examination shall be organised by the Appointment and Discipline Committee of the Legislative Council, composed of 3 counsellors appointed by the president of the Legislative Council; the respective committee shall operate in keeping with the rules established through the Organisation and Functioning Regulation.

Art. 17. – (1) The office of president of the Legislative Council, those of division president, of counsellor and expert are incompatible with any other public or private office, except that of academic professorial activity in law.

(2) The staff of the Legislative Council cannot belong to the political parties.

Art. 18. – (1) The offices of president of the Legislative Council, of division president, counsellor or expert shall cease by resignation in case of infringement of the provisions under Article 17, of disfranchisement, a final sentence for perpetration of a criminal offence, or in other situations stipulated by the law, as the case may be.

(2) The cessation of the exercise of offices stipulated under paragraph (1) shall be established by the authorities in front of which those holding these offices have taken the oath.

Art. 19. – (1) The infringement of the provisions of the present law and of the stipulations of the Organisation and Functioning Regulation of the Legislative Council shall involve the responsibility of the culprits and the application of the disciplinary penalties as stipulated by the law for the civil servants.

(2) The president of the Legislative Council and the division presidents shall be interrogated for disciplinary transgressions by the joint juridical committees of the two Chambers, and the disciplinary penalties shall be applied by the standing bureaus of the Chamber of Deputies and of the Senate.

(3) The execution specialist staff of the Council shall be investigated, for the disciplinary transgression committed, by the Appointment and Discipline Committee of the Legislative Council, and the penalties shall be applied by

the president of the Legislative Council, in keeping with the terms of the law and of the Organisation and Functioning Regulation.

Art. 20. – The remuneration of the execution specialist offices in the Legislative Council shall correspond to similar offices in the machinery of the two Chambers of the Parliament.

Art. 21. – For the carrying out of certain works of a particular importance, the president of the Legislative Council may approve the consultation, as external co-workers, of certain experts of a high qualification who shall enjoy the corresponding rights due, in keeping with the law, to the external co-workers of the machinery of the Parliament's Chambers.

CHAPTER V

Final Provisions

Art. 22. – (1) The budget of the Legislative Council is part and parcel of the state budget.

(2) The budget draft shall be drawn up by the Legislative Council, with the Ministry of Finance's advisory opinion.

(3) For the year 1993, the Government shall assign, from the budgetary reserve at its disposal, the funds necessary to the organisation and functioning of the Legislative Council.

Art. 23. – The provisions under Article 3 shall be applied after 30 days from the coming into force of the Organisation and Functioning Regulation of the Legislative Council.

Organisation and Functioning REGULATION of the Legislative Council*

CHAPTER I

General Provisions

Art. 1. – The Legislative Council, as a specialised consultative body of the Romanian Parliament, is organised and operates under the provisions of Law No. 73/1993 and this Regulation.

Art. 2. – This Regulation shall establish, in keeping with Articles 6, 8, 10, 15, 16 and 19 of Law No. 73/1993, the Legislative Council organisational structure, the advisory procedure for draft legislation and regulations, the powers and duties of its divisions and other units, the status of the staff, their powers, rights and duties as well as liabilities in case of infraction of discipline.

Likewise, measures are instituted hereunder for organising the activity aimed to achieve a legislative systematisation, uniformity and coordination, for establishing norms on the organisation of the legislation official record and computerised database as well as for coordinating the preparation and publishing of legislative repertoires and collections of normative acts, in order to ensure the legislative information authenticity.

Art. 3. – The Legislative Council organisation and structure must secure that its powers are fulfilled as provided under Article 2 of Law No. 73/1993.

To discharge the powers established under its organisation and functioning law, the Legislative Council shall mainly pursue the following aims:

1. Within the advisory activity for draft legislation or proposed amendments, it shall examine proposed

* The Organisation and Functioning Regulation of the Legislative Council was approved by the Decision No. 1 of 26 February 1996 of the Standing Bureaus of the Chamber of Deputies and Senate, both of them being published in the “Monitorul Oficial” (Official Gazette of Romania), Part I, No. 43 of 29 February 1996.

regulations in the light of their legal conformity and the drafting technique, their accord with the legislative system, interconnections with, and incidence on other normative acts, as well as of implications that may arise therefrom. Likewise, it shall examine the consistency of proposed norms with the European Union regulations in order to ensure the harmonisation of the Romanian law.

Examination of all bills and legislative proposals shall be made, in principal, in terms of the following legal aspects:

a) consistency of legislative choices contained in that draft with the provisions and principles of the Constitution;

b) correlation with the provisions of the international conventions to which Romania is a party;

c) the nature of the piece of legislation and the level of the normative act under examination as related to the powers established by the Constitution or other laws;

d) elimination of possible contradictions or inconsistencies from the text of that draft;

e) correlation of the draft with the normative acts at a higher level;

f) completeness of the specific regulation contained in that draft in relation to the subject area regulated thereby;

g) implications of the new regulation on the legislation in force and the way in which such are resolved in the draft text, through abrogation, amendments, supplements, as the case may be;

h) avoidance of possible redundancy of such regulations as against other normative acts;

i) the need to concentrate provisions on the same subject matter which are spread in several normative acts, into uniform regulations;

j) appropriate drafting of the text, in what concerns its clear wording, uniform terminology, proper systematisation as well as the observance of other rules of legal drafting and methodology.

2. In order to put into accord the legislation enacted before the Constitution with the provisions and principles contained therein, and to provide for the systematisation, uniformity and coordination of the Romanian law, the Legislative Council shall make an inventory of all existing

legislation so as to establish which legislation is effective, to submit proposals to repeal regulations where such are unconstitutional, or come against the current public order, or have been outdated, and to eliminate all legislative contradictions and inconsistencies.

Furthermore, in order to facilitate the law enforcing process as well as the access to legislation for every individual citizen, the Legislative Council shall forward a program for the codification of legislation to both the Parliament Chambers and the Government, and shall coordinate the operation of codification.

3. In order to modernise, optimise and computerise the legislative process and the legislation, the Legislative Council shall prepare and organise a legislative computerised program that constitutes itself as a national system that is interconnected to similar international systems and serves fundamental institutions in the State.

Art. 4. – In discharging its functions, the Legislative Council shall work together with the public administration authorities and specialised public institutions, as may be required by the nature of the work carried out. These bodies must provide, subject to the law, the information and documents sought by the Legislative Council, within the deadlines and under the terms established by the latter, and render all necessary support.

CHAPTER II

The Legislative Council Organisational Structure

Art. 5. – The Legislative Council is made up of the following divisions: the Division of public law, the Division of private law, and the Division of official record of legislation and of documentation.

The Legislative Council structure also includes the Department for harmonisation of legislation with the European Community regulations, the Legislative Informatics Department, the Secretariat, the Public Relations, Protocol and Press Service, and the Organisation, Human Resources and Litigation Bureau.

Art. 6. – The Legislative Council organisational structure and the roll of positions are provided in Appendixes Nos. 1 and 2 herewith enclosed.

The roll of positions and the internal regulations shall be approved by the president of the Legislative Council.

CHAPTER III

The Legislative Council Leadership

Art. 7. – The Legislative Council is headed by the president, each division being run by a division president.

Art. 8. – One of the division president is appointed by the president of the Legislative Council as his deputy by right.

Art. 9. – In discharging the powers bestowed on him by the law, the president of the Legislative Council shall:

- a) manage all activities performed by the Legislative Council;
- b) submit annual reports on the Legislative Council activity to the Parliament;
- c) represent the Legislative Council before the Chamber of Deputies, the Senate and the other public authorities as well as in relation with legal and natural persons;
- d) sign advisory opinions and other documents of the Legislative Council, that can be issued only with his approval;
- e) convene the joint divisions and submit for their debate those issues as he deems necessary for the advisory activity and for the proper development of the Legislative Council activities;
- f) chair the debates held in the Legislative Council joint divisions and draw the conclusions on the issues so debated upon;
- g) assign work to the divisions and other units in the Legislative Council structure and follow accomplishment thereof;
- h) approve appointment, promotion and dismissal of the staff, other than those provided under Article 7, paragraph (2) of the Law No. 73/1993; grant degrees, merit bonuses and other benefits, subject to legal provisions;
- i) exercise the disciplinary authority, under the terms established by the law and these regulations;
- j) approve the schedule of annual holidays;

k) approve the roll of positions, the salaries and the duties of the Legislative Council staff;

l) exercise the powers of the principal administrator of credits;

m) discharge any other powers devolving on him under the law.

Art. 10. – In discharging the powers related with the internal activities of the Legislative Council, the president shall issue orders.

CHAPTER IV

The Legislative Council Divisions

Section 1

Divisions structure and area of activity

Art. 11. – The Legislative Council divisions are the following:

- the Division of public law no. 1;
- the Division of private law no. 2;
- the Division of official record of legislation and documentation no. 3.

Each division is headed by a president.

The division president is assisted by one of the heads of sectors who is his deputy by right and whose appointment is made by the president of the Legislative Council, on proposal from the respective division president.

Art. 12. – The divisions are composed of sectors which are set up according to criteria related to the nature of the legislation they examine and the activity profile.

Each sector within a division is headed by a counsellor, except the Research and Documentation Sector which is headed by a director.

Art. 13. – The Division of public law activity covers legislation in the following areas:

- constitutional and administrative law;
- criminal law and misdemeanours;
- budgetary, fiscal and monetary legislation;
- education, research, culture and arts;
- religious denominations;
- national defence, public order and national security;

– public international law relations.

Art. 14. – The Division of public law has the following sectors:

1. The Public Authorities and Constitutional Analysis Legislation Sector: this sector provides an analysis from a constitutional viewpoint of all the drafts and amendments to draft legislation submitted to the Legislative Council; it also examines the drafts in fields such as constitutional law, elections, human rights and national minorities rights, the organisation and operation of the central and local public authorities and institutions as well as of the self-governed administrative authorities;

2. The Criminal and Misdemeanour Legislation Sector: regulations in the area of criminal law and criminal procedure, the regime of misdemeanours and penalties for misdemeanours;

3. The Budgetary, Fiscal and Monetary Legislation Sector: regulations on the state budget, the state social security budget and their enforcement; public finance; taxation system; monetary legislation and the currency circulation;

4. The Education, Research, Arts, Culture and Religion Legislation Sector: regulations on the educational system, scientific research and technological development; arts and culture; the legal regime of religious denominations; the legal regime of the media: the press, radio and television stations;

5. The Defence, Public Order and National Security Legislation Sector: regulations on national defence, public order and peace as well as national security of Romania;

6. The International Relations Legislation Sector: regulations on public international law.

Art. 15. – The Division of private law activity covers legislation in the following areas:

- civil law: substantive, procedure and conflict law norms;
- agriculture, forestry and associations;
- commercial and business legislation;
- competition and consumer protection;
- economy, industry and services;
- financial, banking, credit, payments and securities;

- social welfare, labour, social protection and aid;
- health and environmental protection.

Art. 16. – The Division of private law has the following sectors:

1. The Civil Legislation Sector: regulations on civil law, family law, civil procedure law, intellectual property law and private international law;
2. The Agriculture and Associations' Legislation Sector: regulations on agrarian law, forestry law, the regime of associations, trades and liberal professions;
3. The Commercial Legislation Sector: regulations on business operations and entrepreneurs, stock exchange and commodities exchange, bank and financial operations, credits, payments and securities, insurance, credit titles and bonds, regulations on industrial property, competition and business litigation;
4. The Economic and Privatisation Legislation Sector: regulations on the economic reform, privatisation, self-managed public companies, the regime of entrepreneurial activities, industry, transportation and telecommunications, tourism and services;
5. The Labour and Social Security Legislation Sector: regulations on employment relations, employers and trade unions, social protection and aid, social security;
6. The Health, Environment Protection and Consumer Protection Legislation Sector: regulations on health and population issues, youth and sports, environment, consumer protection.

Art. 17. – The Division of official record of legislation and documentation is made up of the following:

1. The Study and Documentation Sector consisting of:
 - a) The Legislative Documentation and Information Service;
 - b) The Study and Analysis Service;
 - c) The Library;
2. The Methodology, Legal Drafting and Legislation Systematisation Sector;
3. The Legislative Publications' Coordination Sector;
4. The Official Record of Legislation Sector.

Art. 18. – The activity areas and principal functions of the Division of official record of legislation and documentation as assigned among its individual sectors are the following:

1. The Study and Documentation Sector:
 - it provides information on the history of regulations under Romanian legislation, the legal doctrine, jurisprudence and, as the case may be, comparative law works from a specific area which is subject to regulation through the draft examined within the advisory process;
 - it organises the reference library by acquiring the necessary stock of national and foreign books;
 - it analyses the publishing plans and makes proposals for the acquisition of publications within the budgeted funds;
 - it prepares reports on the acquisition of necessary publications and submits such for approval by the division president;
 - it ensures acquisition of foreign legislation, mainly that in areas subject to regulation by new legislation;
 - it follows the jurisprudence of the Supreme Court of Justice and the other courts, of the Constitutional Court and the Court of Audit;
 - it makes the inventory, examines, classifies and processes the legislative and doctrinaire information on a national and international level;
 - it prepares studies on regulations given to specific legal institutions as well as legislative documentaries on a specific subject;
 - it makes translations of foreign legislation;
 - it periodically informs the divisions of the books, reviews, other publications as well as foreign legislation that are brought in the library;
 - it prepares a “Legislative Bulletin” on a quarterly basis, which includes information about the Legislative Council activity and studies prepared within its framework, to which end all structures shall be involved;
2. The Methodology, Legal Drafting and Legislation Systematisation Sector:
 - it provides studies on the systematisation, uniformity and coordination of the legislation, in cooperation with the advisory divisions;

– it takes part in the examination of the legislation enacted before the Constitution in order to present its proposals that will harmonise such with the provisions and principles of the Constitution;

– it prepares the legal drafting norms for normative acts, in cooperation with the advisory divisions, with a view to the exercise of the right of legislative initiative by those concerned;

3. The Legislative Publications' Coordination Sector:

– it coordinates the preparation and publishing of legislative repertoires, the publication of codes, collections of normative acts and legislative brochures on specific subjects, in Romanian and foreign languages of international use;

– it examines with a view to publication the repertoires and legislative collections that are prepared by other authorities or legal or natural persons, in terms of their consistency with the official legislation record;

4. The Official Record of Legislation Sector:

– it organises and ensures the receipt and keeping of one original copy, affixed with autograph signatures, from all legislation enacted by Parliament, including the decrees of their promulgation;

– it draws up the effective legislation files and updates such;

– it organises and keeps the official legislation record, and takes measures to implement a computerised record-keeping system, in cooperation with the Legislative Informatics Department;

– it provides the information about the legislative context in which the specific regulations must be integrated, within the advisory activity for draft legislation. In this respect, it determines the connections and legislative implications of a new piece of legislation as related to the existing one, also mentioning the laws that fall under its area of influence and what interference may arise therefrom, it points out the text conflicts, redundancy and, as the case may be, the necessary concentration of spread regulations under one and the same normative act.

Art. 19. – The president of the Legislative Council can change the structure of the sectors as may be necessary to

fulfil current assignments, on the proposal made by the division presidents.

Section 2

The division president's powers and duties

Art. 20. – The division president has the following powers and duties:

A. Common powers and duties

The division president:

a) ensures management of the division, directs and controls its activity according to the legal provisions, this regulation and the instructions taken from the president of the Legislative Council;

b) informs the president of the Legislative Council about the development of current works, with accent on the most significant aspects of the activities carried out in his respective division;

c) assigns tasks to the division staff and approves responsibilities as defined for the individual positions; he redistributes, if necessary, certain tasks and duties to be accomplished by the staff, in order to balance the amount of work;

d) takes measures to fulfil the directions from the president of the Legislative Council and the decisions made by the joint divisions;

e) prepares a report on the division activity, highlighting the significant aspects in matters related to the advisory activity and to the systematisation, unification and coordination of legislation, at the end of every year or at the request of the president of the Legislative Council, when he deems so necessary;

f) takes part in the debate of issues in sessions held by the joint divisions;

g) resolves any other problem related to the good management of his division activity.

B. Specific powers and duties of the advisory divisions

The division president:

a) designates examination panels to give advisory opinion on the draft legislation and appoints a rapporteur for each individual draft;

- b) chairs the advisory meetings of the division;
- c) verifies and approves the final version of the draft advisory opinion to be submitted for endorsement by the president of the Legislative Council.

C. Specific powers and duties of the Division
of official record of legislation and documentation

The division president:

- a) coordinates the activities related to the legislation official record and the computerisation of the record-keeping system;
- b) coordinates and verifies the furnishing of legislative information that is required in the advisory process for the draft legislation, in terms of its legal systematisation, uniformity and coordination;
- c) provides the necessary staff for panels who will work on various studies, as such are provided under the law, with a view to improving the entire body of legislation in terms of its systematisation, uniformity, coordination and conformity with the Constitution;
- d) coordinates and directs the panel who will draw up the norms for the legal drafting of normative acts;
- e) directs the coordination for the preparation and publishing of repertoires and legal publications.

Section 3

The head of sector's powers and duties

Art. 21. – The head of sector is a counsellor whose principal powers and duties are as follows:

- a) he directs the activity carried out in that sector, ensuring that the staff will duly accomplish their duties as such are defined for the respective posts and under instructions from the division president;
- b) he participates in and leads the debate during meetings at the sector level;
- c) he makes proposals in order to improve the quality of the works that are prepared by the panels established as of Article 37 hereunder;
- d) he verifies the quality of the works and approves them before such are taken under consideration in division meetings;

- e) he prepares the list of responsibilities as defined for the individual posts which he submits to the division president for approval;

f) he fulfils other duties assigned to him by the division president.

CHAPTER V

**The Department for Harmonising the Legislation
with the European Community Regulations**

Art. 22. – The Department for harmonising the legislation with the European Community regulations has the following powers and duties:

- a) it analyses the European Union regulations in order to provide specialised assistance for the decision-making bodies within the process of incorporating such into domestic law as well as to harmonise national legislation with the European Community legislation, in cooperation with other similar structures of the Executive;
- b) it is involved in the translation of the European Community legislation into Romanian;
- c) it examines the draft legislation and legislative proposals submitted for the Legislative Council's advisory opinion in terms of their consistency with the European Community regulations;
- d) it provides the legislative information as is necessary for the activity of the parliamentary structures established for European integration purposes.

Art. 23. – The Department for harmonising the legislation with the European Community regulations is run by a head of department who is appointed from among the counsellors.

The duties of the staff are established individually for each post by the head of department and approved by the president of the Legislative Council.

CHAPTER VI

The Legislative Informatics Department

Art. 24. – The Legislative Informatics Department provides the advanced electronic technology for fulfilling the

tasks devolving upon the Legislative Council, by using the most efficient means of legislative and juridical information and being the methodological-operational unit for the computerisation activity.

The Legislative Informatics Department will also provide the necessary connection and interlinking with other computerised information systems in this country or elsewhere.

For these purposes, the activity of this department is oriented towards the following objectives:

- a) the preparation and creation of its own databases;
- b) the organisation of a legal information system for the inventory, data processing giving advisory opinion and use of the information stored in such databases, in cooperation with the sectors of the Division of official record of legislation and documentation;
- c) the operation of the system and its databases in order to ensure a systematised, uniform and coordinated legislation as well as to back up the advisory activity.

Art. 25. – In order to fulfil the objectives indicated under Article 24, the units within this department shall pursue, independently or in conjunction with other structures of the Legislative Council:

1. With regard to the preparation and creation of databases:

- a) to create an effective legislation database;
- b) to create a historical legislation database;
- c) to create a comparative law database;
- d) to create an European Community and international law database.

2. With regard to the computerised data processing:

- a) to render support to the Legislative Council divisions in preparing advisory opinions on the draft legislation and proposed amendments; to furnish, on a regular and efficient basis, the information related to the legislative context. To this end, it will reveal the legislative connections and implications, the interference with other normative acts, the text conflicts and redundancy or the possibility to concentrate spread regulations into one single law;

- b) to make a complex analysis of the legislative data in terms of both form and substance, including the approach to the wording used (from a lexical and grammatical viewpoint) as well as to the logic, classification, legal nature and rationales of the text;

- c) to give juridical validation for the computerised data fed into the system;

- d) to provide a structure and organisation for the inter-legislative informatics system;

- e) to create and use index vocabularies and a Romanian legal thesaurus;

- f) to establish the interface for a computerised system of legal doctrine and jurisprudence, as well as with other partners from abroad;

- g) to provide the internal and external interoperability of the Legislative Council information system through infrastructure, software, on-line services or magnetic support.

3. With regard to the operation of the system:

- a) to create special organisation and operation rules for the Legislative Council informatics system;

- b) to create and operate a computerised follow-up system for the internal structures (inside the system, in the Legislative Council and in the Parliament), domestic (the Government, departments, etc.) and external (cross-border);

- c) to create and codify files concerning legal sources, drafts, their suppositional or actual users as well as usage;

- d) to create and organise a system of codes, passwords and access to the legislative information system;

- e) to organise and operate the secretarial archives of the Legislative Council;

- f) to provide a continuous flow of information and documentation as well as to exchange experience on the legal and computerisation stage of the development of similar systems, in terms of advanced technology and capabilities.

Art. 26. – To fulfil its responsibilities, the Legislative Informatics Department includes in its structure:

- a) the design – systematisation, analysis – data processing and juridical validation of computerised data service;

b) the secretarial management and computerised archives office.

Art. 27. – The Legislative Informatics Department is managed by a head of department who is appointed from among the counsellors.

The duties of the staff of the department are established individually for each post by the head of department and approved by the president of the Legislative Council.

CHAPTER VII

The Legislative Council Advisory Opinion on Draft Legislation

Section 1

Requests for an advisory opinion

Art. 28. – The following categories of drafts shall be submitted for an advisory opinion by the Legislative Council:

I. Bills initiated by the Government:

a) bills that are initiated by the Government, before examination in the Government meeting;

b) bills that are initiated by the Government, after examination and adoption in the Government meeting but prior to tabling such to the Parliament, in case of any changes made by the Government to a draft which has already undergone the advisory opinion;

c) amendments to the bills taken under examination by the parliamentary committee having jurisdiction upon the subject matter, when the respective bill is under consideration in the first Parliament Chamber;

d) bills that are adopted by the first Parliament Chamber then referred for examination by the second Chamber, in case of any changes brought to the previous draft which has already undergone the advisory opinion;

e) amendments to the bills that are taken under examination by the parliamentary committee having jurisdiction on the subject matter, when the respective

bill is under consideration in the second Parliament Chamber.

II. Legislative proposals:

a) legislative proposals from senators and deputies as well as those to be introduced as a civic initiative, after registration with either of the Parliament Chambers;

b) amendments to legislative proposals submitted for examination by the parliamentary committee having jurisdiction on the subject matter, when the respective bill is under consideration in the first Parliament Chamber;

c) legislative proposals that are adopted by the first Parliament Chamber then referred for examination by the second Chamber in case of any changes brought to the previous draft which has already undergone the advisory opinion;

d) amendments to the bills that are taken under examination by the parliamentary committee having jurisdiction on the subject matter, when the respective bill is under consideration in the second Parliament Chamber.

III. Draft Government ordinances:

a) draft ordinances issued under a special enabling law, prior to submission for approval in the Government meeting;

b) draft ordinances stipulated under Article 114 paragraph (4) of the Constitution, prior to submission for approval by the Government.

IV. Draft Government normative decisions:

– drafts of Government normative decisions, prior to submission for approval in the Government meeting.

Art. 29. – A request for advisory opinion can be sought by the following:

a) the secretary general of the Government, for bills stipulated under Article 28, I a) and b) and for draft Government ordinances and normative decisions stipulated under Article 28, III and IV;

b) the secretary general of either Parliament Chamber for bills stipulated under Article 28, I d) and legislative proposals stipulated under Article 28, II a) and c);

c) the chairman of the parliamentary committee having jurisdiction on the subject matter, for amendments to bills and legislative proposals stipulated under Article 28, I c) and e) and II, b) and d).

Art. 30. – The Legislative Council opinion shall be advisory and must be given within the following deadlines:

a) as requested by the Government, which is not less than ten days for draft legislation under ordinary procedure and two days for bills under urgent procedure;

b) twenty-four hours for draft ordinances stipulated under Article 28, III b);

c) as established by the Standing Bureau of either Parliament Chamber that has requested such advisory opinion for the bills stipulated under Article 28, I d), and legislative proposals stipulated under Article 28, II a) and c).

d) as established by the parliamentary committee having jurisdiction on the subject matter, for the amendments stipulated under Article 28, I c) and e).

The development of the legislative procedure will not be hindered when the advisory opinion is not given within such deadline.

Art. 31. – Any draft legislation that is submitted for advisory opinion by the Government must be accompanied by a statement of reasons (an accounting note for Government acts, respectively), which shall indicate the justification of proposed regulations. This statement of reasons or, as the case may be, accounting note will be affixed with the signature of the head of the issuing authority as well as of the heads of ministries and other advisory authorities. In case of divergence, the advisory opinion shall be requested after resolution thereof at the level of the Government. The draft shall also be accompanied by studies or other research work that have stood as a basis for its preparation.

In case of legislative proposals initiated by senators and deputies, the Legislative Council advisory opinion shall be requested after fulfilment of the requirements as provided under Art. 110(1) of the Constitution.

Art. 32. – In case of legislative proposals initiated by citizens as of Art. 73 (1) of the Constitution, the Legislative Council will verify whether the Constitutional Court has ruled a viewpoint concerning the fulfilment of the requirements in connection with this legislative initiative.

Section 2

Advisory procedure

Art. 33. – After a preliminary examination whether legal requirements have been met with a request for advisory opinion the president of the Legislative Council shall decide on the registration of that draft, along with all other enclosed documents.

Art. 34. – The president of the Legislative Council shall then assign the respective draft, through directions, also indicating the division in charge with the examination and advising of that draft legislation as well as the advisory opinion's finishing off deadline.

Art. 35. – When a draft involves regulations that fall under the jurisdiction of both advisory divisions, the advisory activity shall be in joint divisions, according to the Legislative Council president's directions.

Art. 36. – Once the draft has been assigned to either division, a notification will be sent to the Legislation official record and documentation division to examine that draft, in order to fulfil the provisions of Article 38 herein, to the Public authorities legislation and constitutional analysis sector of the Public law division to verify its conformity with the provisions of the Constitution as well as to the Department for harmonising the legislation with the European Community regulations to examine its compatibility with the European legislation.

The notification shall consist of a copy from the draft, the statement of reasons and, as the case may be, the documents enclosed.

Art. 37. – Upon receiving the draft, the division president will designate the examination panel and the rapporteur and fix a deadline for the preparation of a draft advisory opinion to be examined in the division meeting,

according to the importance and the amount of work involved.

The examination panel and the rapporteur will be determined through the directions of the president of the Legislative Council, in the case specified under Article 35.

The rapporteur can invite the initiator's representatives to attend when the draft is examined, in order to let them provide explanations and other information regarding the contents of that draft.

Art. 38. – After examination of the draft and the documentation therewith enclosed by the panel established as of Article 37, any remarks and proposals that may have so arisen shall be discussed upon in the sector to which the respective rapporteur belongs.

The discussion is chaired by the head of the sector.

The content of the report drafted by the Legislation official record and documentation division shall be also taken into consideration when examining the draft, in what concerns the measures to be taken for the systematisation, uniformity and coordination of the legislation, as well as the background of legal doctrine, jurisprudence, legislative information and comparative law, as the case may be, that are necessary for the advisory opinion to be issued; at the same time, the conclusions of the relevant compartments regarding its conformity with the provisions of the Constitution and compatibility with the European Community regulations shall be also taken into consideration.

Art. 39. – Based on the summary of the discussions held, the person who is in charge with a specific paper shall draft a report containing the conclusions of the examination as well as the draft advisory opinion, and submit them for examination in the meeting of that division, to be chaired by the division president. This meeting shall be attended by the examination panel, the heads of sectors and the other counsellors who belong to that division.

Art. 40. – The draft advisory opinion will be finalised according to the conclusions of the discussions held in the division meeting and then submitted to the president of

the Legislative Council for endorsement, after it is signed by the president of the respective division.

Art. 41. – The president of the Legislative Council shall take part in the division meeting, as may be required by the importance and extend of a specific draft submitted for the advisory opinion, and he shall also chair the meeting.

Art. 42. – For discussions upon drafts of considerable importance or involving certain particular aspects, the division presidents can also make proposals to the president of the Legislative Council to invite the senators and the deputies who are the initiators of the respective draft, or the ministers and state secretaries in the specialised bodies of the central public administration with powers and duties in the same area as that where the draft will be applicable. These persons can also participate at their own request.

The president of the Division of official record of legislation and documentation or his representative, and the head of the Department for harmonising the legislation with the European Community regulations shall also take part in the meeting where a draft is taken under discussion, under the terms of par. 1.

Art. 43. – In the case a draft legislation, by the specific nature of the regulations contained therein, has been distributed for examination to the two divisions, the report and the draft advisory opinion that are prepared as of provisions under Article 37 shall be discussed upon in joint divisions.

Art. 44. – The final draft advisory opinion shall be prepared, then submitted to the president of the Legislative Council while taking into consideration the provisions as of Article 40, under the signature of the division presidents.

Art. 45. – If there is any irreconciled divergence between the viewpoints raised by each division that arises from the discussions as provided under Article 43, the discussions shall be resumed under the direction of the president of the Legislative Council, who shall chair the meeting and shall give his own opinion on any points of

divergence; the Legislative Council advisory opinion shall include the conclusions so accepted.

The president of the Division of official record of legislation and documentation and the head of the Department for harmonising the legislation with the European Community regulations shall also take part in the discussion provided under par. 1.

Art. 46. – The president of the Legislative Council can take certain drafts that are complex or likely to raise some points of controversy for discussion in joint divisions. In this event, the final advisory opinion shall be drafted by the president of the Legislative Council, based on the conclusions of such discussions.

The discussions provided hereinabove shall also be attended by the division presidents, sector heads, the rapporteur and by other persons designated by the president of the Legislative Council.

Art. 47. – After endorsement of a draft advisory opinion by the president of the Legislative Council as has been finalised on the basis of the discussions held in a division or in joint divisions, respectively, the Legislative Council advisory opinion shall be sent to the applicant authority, under the president's signature.

Art. 48. – In case that a draft law or legislative proposal is deemed, after examination, to be appropriate in every aspect as provided under Article 3 (1), the advisory opinion shall be a favourable one.

In case that, after examination of a draft law or legislative proposal, the proposed regulation is found to have met, in general, the requirements as of Article 3 (1), but certain supplements, modifications or reformulations are necessary, the advisory opinion shall be favourable and shall contain the remarks and proposals taken for an appropriate and accurate final draft.

In case that a draft law or legislative proposal comes against the provisions and principles of the Constitution, the established order of the state governed by the rule of law or the international treaties to which Romania is a party, or is in conflict with the national legislative system, the advisory opinion shall be a negative one, including the underlying reasons.

Art. 49. – The provisions of Article 48 hereinabove are also applicable in the case of amendments that are submitted for examination by the parliamentary committees as well as Government ordinances or decisions.

An advisory opinion from the Legislative Council must also be negative in case a Government ordinance has been issued to regulate an area that is reserved for organic laws or it has not observed the provisions of such laws or has exceeded boundaries set by the enabling law as well as when a proposed Government decision falls under an area reserved for regulation by a law or when it comes against the provisions of a law or ordinance.

Section 3

The drafting form of advisory opinions

Art. 50. – A favourable advisory opinion that contains no remarks or proposals shall not specify the underlying reasons.

Art. 51. – A negative or favourable advisory opinion that contains remarks and proposals must specify the underlying reasons, so that it should lead to a well-grounded substantiation of the expressed viewpoints.

Art. 52. – The drafting of a favourable advisory opinion that contains remarks and proposals shall be such that its first part indicates the remarks dealing with principles and, subsequently, those related to the text, following the order in which they are grouped under the respective articles.

The remarks and proposed text reformulations shall be presented in the form of a redrafted text as such has been envisaged.

Art. 53. – The remarks dealing with principles may also rest on the legal doctrine, jurisprudence or comparative law, but not political considerations.

Any objections or proposals shall be accompanied by research studies on the matter and, as the case may be, other related documents or information that they are based upon.

Art. 54. – The Legislative Council advisory opinion shall be drafted in three copies as follows: the original shall be

sent to the applicant public authority, the second copy shall be enclosed with the file prepared as of Article 79 herein, and the third shall be kept in a special file of advisory opinions deposited with the Legislative Council Secretariat.

Art. 55. – The initiator or the applicant authority can request supplementary explanations about the content of the advisory opinion or can invite the Council’s president or his representative to the discussion of the legislative proposals or drafts under the advisory opinion.

Art. 56. – Once the draft legislation for which the advisory opinion was issued has been passed, the rapporteur shall prepare a record card indicating whether and how the advisory opinion has been acknowledged by the applicant authority. This record card shall be attached to the file to be deposited in the archives of the Legislative Council.

CHAPTER VIII

Elaboration of Draft Codes and Other Complex Legislation by the Legislative Council or Under Its Coordination

Art. 57. – Subject to Article 2 par. (1) c) of the Law No. 73/1993, the Legislative Council shall directly draft or shall coordinate the elaboration of draft codes or other complex legislation, under the direction of the Chamber of Deputies or the Senate.

Section 1

Direct elaboration of codes or other complex legislation by the Legislative Council

Art. 58. – After receiving the directions provided under Article 57, the president of the Legislative Council shall order the setting up of a commission staffed with specialised personnel from the divisions, according to the nature of the legislation that is envisaged. The commission shall also include other specialists from the Ministry of Justice or from other ministries and central public authorities that are in charge with or interested in the enforcement of the new regulations. Their designation

shall be done on the orders of the head of the ministry or of the public authority where they are employed.

University professors and other specialists from the research institutes or with a prestigious academic experience shall also be invited to participate, as external associates, in the activity of research and elaboration, as may be required by the importance and the nature or the issues that are subject to regulation.

Art. 59. – The elaboration of the draft codes or other complex legislation shall be preceded by a wide-scale comprehensive documentation activity which is materialised in studies showing the need to have new regulations put in place and the foreseeable effects of the legal solutions envisaged.

The research studies and other documentary work shall be taken as the basis for establishing the conception of the new regulations.

Such studies shall include an analysis of the existing legislation in the field which is subject to a new regulation, and mention its flaws or the absence of regulation on that subject matter as well as information about the historical background of the respective regulation in Romanian law and in comparative law, to be taken as guidelines for establishing legislative solutions.

Art. 60. – The conclusions drawn in the research studies, including the guidelines for the overall conception of the new regulation, shall be submitted to the ministries and other interested public authorities, so that they can make a viewpoint.

Art. 61. – Based on the research studies and viewpoints received from the authorities provided under Article 60, some preliminary theses shall be drafted to mirror out the general conception, principles, new orientation and basic solutions of the regulations envisaged.

Art. 62. – Such preliminary theses shall be submitted for endorsement by the Government. After approval, the commission provided under Article 58 shall proceed with drafting the text of the new regulations.

Art. 63. – The draft code or law shall enclose a report as provided under Article 14 par. (1) of the Law

No. 73/1993 and shall be submitted to the Government for discussions and issuing of an adoption decision.

In case this draft has undergone changes as a result of the discussions in the Government meeting, the Government shall request an advisory opinion from the Legislative Council on the respective modifications.

Section 2

Elaboration of codes or other complex legislation under the Legislative Council coordination

Art. 64. – The elaboration of codes and other complex legislation under coordination by the Legislative Council shall be made by a commission that is set up for this purpose and includes representatives of the Legislative Council, who are designated by the Council's president.

Art. 65. – The main solutions envisaged in the draft shall be discussed upon, on a regular basis, by the respective advisory division of the Legislative Council that shall also make proposals and recommendations as may be needed.

Art. 66. – The same procedure as that under Article 63 must be followed, by way of analogy, for the endorsement by the Government of the commission proposals.

Art. 67. – The exercise of legislative initiative by the Government shall be after having a prior advisory opinion from the Legislative Council for the final form of the draft, which was adopted by a decision issued to this effect.

CHAPTER IX

The Legislative Council Secretariat and Other Administrative Offices

Section 1

The Legislative Council Secretariat

Art. 68. – The Legislative Council Secretariat provides for the circulation of the official acts and other documents received or elaborated within the activity of

the Legislative Council as well as for their safe deposit in best conditions.

Likewise, it accomplishes the proper management of assets and ensures the procurement of any supplies and consummables as may be required for the Legislative Council activity.

Art. 69. – The Legislative Council Secretariat is structured into a Technical-administrative service and a General registry and archives office.

Art. 70. – The Legislative Council Secretariat is managed by a director, who has the following main duties:

a) he heads the secretariat offices and takes measures for the proper and timely accomplishment of all tasks devolving on them;

b) he draws up the specification of job description for each post and submits such for approval by the president of the Legislative Council;

c) he keeps the documents and files that are secret or confidential;

d) he takes part in the meetings of the joint divisions held under the president's direction and ensures that all paperwork and decisions are safely deposited;

e) he takes care of the preparation and keeping of the registers that are necessary for the Legislative Council activity;

f) he fulfils other duties that are assigned to him by the president of the Legislative Council.

Art. 71. – The Technical-administrative unit ensures the management of the Legislative Council assets as well as the supply of materials and services as may be needed.

Art. 72. – The financial and accountancy works of the Legislative Council shall be provided for, subject to the law, by the specialised department of the Chamber of Deputies.

Art. 73. – The General registry and archives office provides the specific work that is taken for the registration of the Legislative Council mail, whether received or sent, as well as the deposit and safe-keeping of the files and other documents. The delivery of any document shall be entered in the archives register, that

must inventory its date of registration, type, the number of pages, the delivering unit and the signatures for delivery–reception.

Section 2

The Legislative Council registers

Art. 74. – The Legislative Council keeps the following registers:

- a) the general register of in and out mail;
- b) the general register of files that provides the registration numbers for each advisory opinion;
- c) the advisory opinion register that registers and numbers the advisory opinions sent to the applicants;
- d) the register of the president of the Legislative Council orders, where his orders are registered and numbered, according to the chronological order in which they are issued;
- e) the special register of secret and confidential mail for the registration of documents of this nature;
- f) the archives register.

Art. 75. – The general register of files shall contain the following items:

- a) the number of the file;
- b) the name of the document included in the file;
- c) the reception date;
- d) the advisory opinion applicant's name;
- e) the requested deadline for the advisory opinion;
- f) the division the document is assigned to;
- g) the deadline for handing over the draft advisory opinion;
- h) the reception date of the final advisory opinion from the division;
- i) the type of advisory opinion: affirmative without remarks and proposals, affirmative, with remarks and proposals, or negative;
- j) the date of the dispatch of the final advisory note.

The items a), c), d), and e) of the registers under Art. 74 are established in accordance with the nature of the respective works, at the director of the Legislative Council Secretariat's proposal and are approved by the Legislative Council's president.

Art. 76. – One copy of the registered advisory notes as provided under Art. 74 par. c) shall be included in a special file under a registration number which shall be kept by the director of the Legislative Council Secretariat.

Art. 77. – In order to ensure a record of the works received and achieved, a register of the files that contains the drafts discussed in the divisions shall be created, containing the following items:

- a) the number of the file;
- b) the name of the work;
- c) the reception date at the divisions;
- d) the examination board;
- e) the rapporteur of the work;
- f) the date of discussion in the sector;
- g) the date of discussion in the division or, as the case may be, in the joint divisions' meeting;
- h) the type of the advisory opinion;
- i) the presentation date of the final advisory note;
- j) the registration number of the advisory note;
- k) the date of archives' registration and the reception signature.

Section 3

The files containing the paperworks for giving an advisory opinion

Art. 78. – The files containing the paperworks for giving an advisory opinion on draft legislation are considered confidential.

The files cannot be taken out of the Legislative Council's building, except when the representative of the Legislative Council goes to support the Council's opinion given in the advisory note and in other matters, and, in that case, the files can be taken out with the president of the division's approval.

Art. 79. – The documents that are enclosed in the files receive a registration number and are sewn together and laced up before being deposited in the archives; they are also sealed, and the number of the pages is mentioned on the seal.

The advisory note's files shall also enclose a note which shall specify that the applicant has assimilated the advisory opinion's content, and a copy of the promulgated draft.

The files are deposited in the archives after the above-mentioned note is enclosed.

The files are kept under a number order in the archives.

Art. 80. – All the other works or documents of the Legislative Council, that are finalised or in a passive situation, shall be deposited in the archives.

Section 4

Foreign relations, protocol and press service

Art. 81. – The Foreign relations, protocol and press service provides the international relations activities of the Legislative Council, the translation, ensuring the elaboration and dispatch of the mail related to foreign relations and the achievement of the objectives in this field; it provides the visas and the protocol for travelling abroad, the reception and the accompaniment for foreign delegations in our country at the Legislative Council's invitation.

The Foreign relations, protocol and press service organises the protocol activities of the Legislative Council, press conferences and it drafts the foreign relations' activity schedule for the coming year when the Legislative Council submits the budgetary proposals.

Art. 82. – The staff activities' description of the Foreign relations, protocol and press service is drafted by the head of the office and approved by the Legislative Council's president.

Section 5

Organisation, human resources and litigation office

Art. 83. – The Organisation, human resources and litigation office shall carry out works regarding the staff hiring, issuing of professional cards, keeping the record of the labour books, keeping the inventory of the disciplinary sanctions, the labour contract's termination and other specific services in accordance with the legal

provisions in force; it also represents the interests of the Legislative Council in front of courts.

CHAPTER X

The Legislative Council's Personnel

Section 1

Conditions for appointment

Art. 84. – The conditions for being appointed as president of the Legislative Council, president of a division or as counsellor are those stipulated in Art. 16 (1) of Law No. 73/1993.

Art. 85. – The counsellors and the directors are appointed by the Legislative Council's president, with the approval of the standing bureaus of the Chambers of the Parliament. They shall exercise their powers as from the date of taking, individually, the oath provided under Art. 7(3) of Law 73/1993, in front of the Legislative Council's president and the president of the division where the position is employed.

Art. 86. – The head of the department shall be appointed under the legal conditions of the appointment of counsellors.

The directors are appointed under the legal conditions of the appointment of counsellors, experts or IA experts.

Art. 87. – The appointment conditions of experts and advisers are as follows:

- a) Romanian citizenship, residing in Romania;
- b) full graduate of high education university;
- c) valuable experience in the respective field;
- d) good moral reputation.

Besides the conditions provided under letters a) – d) of the previous paragraph, the expert's position also requires a length of service in the field of at least 5 years, and the adviser's position requires a length of service of 3 years. By the Commission of appointments, and discipline's request, the president of the Legislative Council can reduce up to 3 years the length of service required for the expert, and can employ young graduates, without experience, for the adviser's position, for special cases that are well justified.

Art. 88. – The appointment conditions for the executive specialists – different from those required for counsellors, experts and advisers – as well as for the executive personnel are those required for the similar positions in the Parliament machinery.

Art. 89. – The positions of the Legislative Council’s machinery as of Art. 87 and 88 are won by a legally organised contest.

The contest shall be organised by the Commission of appointments and discipline, which is formed of 3 counsellors, who are appointed by the president of the Legislative Council.

Art. 90. – The Commission of appointments and discipline shall publish the contest’s announcement in a widespread newspaper and shall post at the seat of the Legislative Council the date of the contest, the vacant positions, conditions for appointment and the subject of the contest.

The candidates shall apply for the position with a curriculum vitae.

Art. 91. – The subject of the contest shall be established by the Commission of appointments and discipline, on the proposals of the division president, respectively those of the head of the department in the structure of which the vacant post is situated.

Art. 92. – The contest consists of a written and an oral assignment and a practical assignment, if necessary.

Art. 93. – The grades of the contest are ranged from 1 to 10 and every assignment shall be graded. The qualification grade results from the average of all grades.

Art. 94. – The results of the contest and the grades of the candidates shall be registered by the Commission of appointments and discipline in a report and submitted to the president of the Legislative Council, along with the proposals for appointments.

Art. 95. – The Commission of appointments and discipline can request supplementary information about the professional experience of the applicants, concerning their scientific and specialised activity.

Art. 96. – The president of the Legislative Council shall issue an appointment decision, according to the proposals

of the Commission of appointments and discipline and other related documents resulted from the contest.

Art. 97. – The personnel of the Legislative Council is morally responsible and has to prove their professionalism; they cannot be members of political parties.

Art. 98. – The positions of president of the Legislative Council, president of a division, head of department, counsellor and expert are legally incompatible with any other public or private position, except the positions in the high law education system.

Art. 99. – The appointment in the positions provided under Art. 98 shall cease by resignation, in case of infringement of provisions of Art. 98, withdrawal of election rights, a final sentence for committing an offence or in other situations provided by law, as the case may be.

The authorities or persons, respectively, that were present at the swearing-in of the respective personnel are in charge with the cessation of the exercise of the duties provided under paragraph 1.

Section 2

Salaries and holidays of the personnel

Art. 100. – The salaries of the Legislative Council’s personnel are established according to the roll of positions, in the terms of the law.

Art. 101. – The salaries of the president of the Legislative Council and the presidents of the divisions are established according to the position they occupy by Law No. 73/1993.

Art. 102. – The rules concerning the duration of the holidays, the amount of the holiday allowance, the programming, taking, breaking off and postponing of the holidays, as well as the money compensation of the outstanding holidays shall be established in keeping with Art. 7 under the Law No. 6/1992 on the employees’ paid holidays and other holidays, under the president of the Legislative Council’s direction.

Section 3

Disciplinary responsibility

Art. 103. – The infringement of provisions of the Law No. 73/1993, of the present regulation and of other legal

provisions regarding professional ethics shall involve the responsibility of the guilty ones and the enforcement of disciplinary sanctions.

Art. 104. – In case of committing infractions of discipline, the president of the Legislative Council and the division presidents shall be examined and punished in keeping with the stipulations provided under Art. 19 par. (2) of the Law No. 73/1993.

Art. 105. – The Legislative Council’s staff, different from that stipulated by Art. 104, shall be examined for the infractions of discipline committed by the Commission of appointments and discipline of the Legislative Council and the sanctions are enforced by the president of the Council.

Art. 106. – The disciplinary sanctions applied to those guilty of infractions of discipline are as follows:

- a) warning notice;
- b) from 10 to 15% reduction of salary and bonus for a 3 month period at the most;
- c) demoting of the position or wage bracket for a 3 month period at the most;
- d) dismissal from office.

The dismissal from office is enforced for severe misdemeanours or repeated infringements of professional duties.

Art. 107. – The president of the division or the head of the department requires or personally directs the analysis of evidence of infringement, along with interviewing the accused. The results of the analysis and the circumstances of the infringement are registered in a finding report.

Art. 108. – The Commission of appointments and discipline is informed about the infringement by the president of the division or the head of the department.

Art. 109. – The Commission of appointments and discipline shall analyse the evidence and interview the accused and can also require supplementary evidence.

Art. 110. – In case the Commission of appointments and discipline finds the accused guilty, it proposes the sanction and submits it to the president of the Legislative Council.

Art. 111. – The conclusions of the Commission of appointments and discipline are registered under a form of a decision which is taken with the majority vote of the Commission’s members.

Art. 112. – The Commission of appointments and discipline shall keep a register in which there shall be registered the works received and the decisions adopted. The Commission shall have a secretary who shall be nominated by a decision of the Legislative Council’s president, when the Commission is founded.

Art. 113. – The sanctions are enforced by the president of the Council, according to the degree of the infringement, the current laws and the regulations thereof.

CHAPTER XI External Collaborators

Art. 114. – For carrying out certain works implying a distinct specialisation, the president of the Legislative Council may approve the consultation of some well known specialists as external collaborators. The collaborators shall be employed, as a rule, for the elaboration of studies and other specialised works, as well as within the staff for drafting legislative codes and other extremely complex laws.

Art. 115. – The external collaborators have the same rights that are granted, in keeping with the law, to external collaborators of the Parliament machinery.

Art. 116. – The external collaborators are approved and paid by a decision of the Legislative Council’s president, on the proposal of the presidents of divisions or heads of departments.

Art. 117. – The external collaborators shall follow the duties of the Legislative Council’s personnel in respect of confidentiality of works and discipline, as long as they are employed.

They shall also have an entrance pass that shall be returned at the end of the collaboration.

Art. 118. – The external collaborators’ activity is directed by the president of the division or head of department where they are employed.

Art. 119. – The president of the Legislative Council can nominate temporary counsellors as scientific consultants, chosen from well known specialists having an ample activity in the field of law.

**CHAPTER XII
The Budget**

Art. 120. – The budget of the Legislative Council is part of the state budget.

Art. 121. – The proposals for the budget are drafted by the respective departments of the Legislative Council and are finalised with the support of the Finance and accountancy department of the Chamber of Deputies machinery.

Art. 122. – The budget shall provide the necessary funds for the functioning in good conditions of the activity of the Legislative Council, and it shall specify the covering resources according to the categories of expenses.

Art. 123. – The budget is drafted with the Ministry of Finance’s advisory opinion.

Art. 124. – The expense register for the protocol, travel, endowment with cars, and monthly fuel consumption are established by the decision of the president of the Legislative Council.

**CHAPTER XIII
Final Provisions**

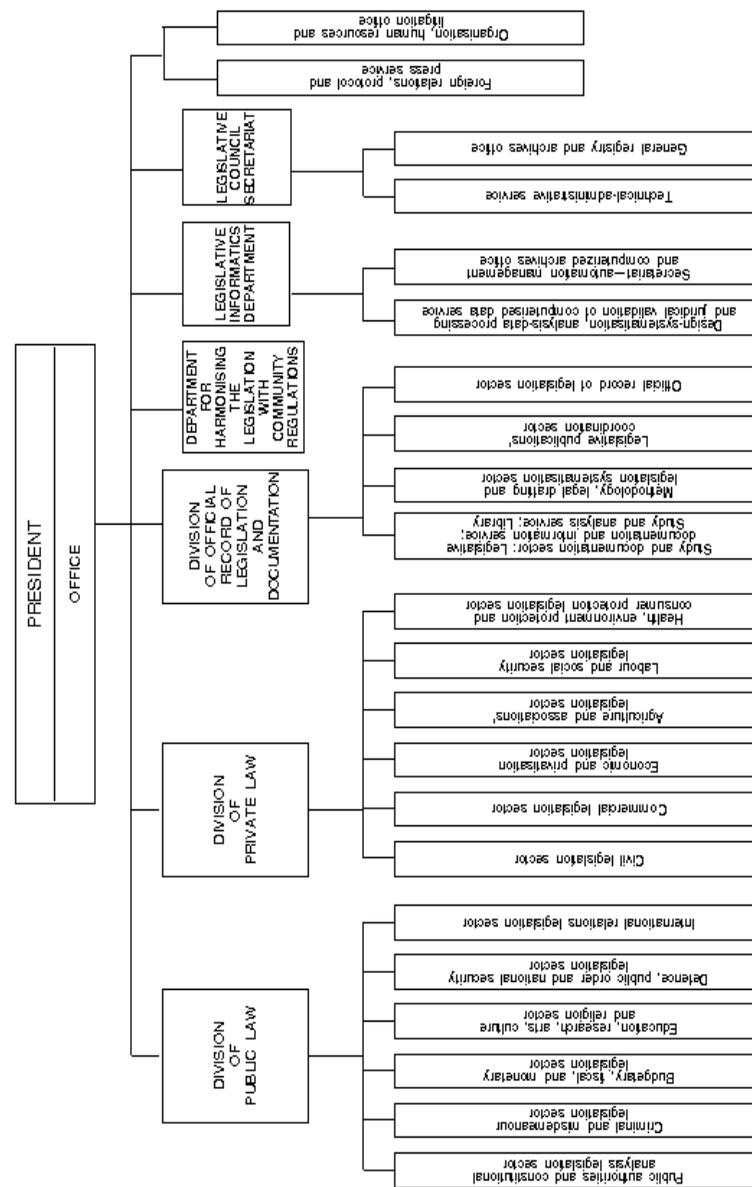
Art. 125. – The Legislative Council shall request the ministers and other institutions of the central public administration to examine the current laws regarding their field of activity considered as being in force, by July 31, 1996, in order to establish the current legislation fund and accomplish the duties of systematisation, uniformity and coordination of the legislation.

Art. 126. – The Legislative Council shall take over, from the current administrators, on a protocol basis, the documentary fund of books, publications and law collections, the files of normative acts, and the archives of the Legislative Council that was founded on the basis of the Law No. 15/1971.

Art. 127. – The present Regulation shall be published in the “Monitorul Oficial” (Official Gazette of Romania).

APPENDIX No. 1

LEGISLATIVE COUNCIL ORGANISATIONAL STRUCTURE



ROLL OF POSITIONS

Remuneration legal basis

1. President of the Legislative Council (minister) – Law No. 40/1991 (annex no. 2, pos. 3)
2. Division president (junior minister) – Law No. 40/1991 (annex no. 2, pos. 4)
3. Head of department – Law No. 53/1991 (annex no. 2, pos. 3)
4. Director, head of sector (the basic position assimilated to the parliamentary counsellor with management allowance) – Law No. 53/1991 (annex no. 3, pos. 1, and annex no. 4, pos.1)
5. Director (the basic position assimilated to the parliamentary expert with management allowance) – Law No. 53/1991 (annex no. 3, pos. 2, and annex no. 4, pos. 1)
6. Director (the basic position assimilated to expert I A degree with management allowance) – Law No. 40/1991 (annex no. 8, pt. I, A pos. 1) and Law No. 53/1991 (annex no. 4, pos. 1)
7. Counsellor (assimilated to the parliamentary counsellor) – Law No. 53/1991 (annex no. 3, pos. 1)
8. Expert (assimilated to the parliamentary expert) – Law No. 53/1991 (annex no. 3, pos. 2)
9. Expert I A degree – Law No. 40/1991 (annex no. 8, pt. 1 A, pos. 1)
10. Consultant (assimilated to the parliamentary consultant) – Law No. 53/1991 (annex no. 3, pos. 3)

11. Principal private secretary (S) – Law No. 53/1991 (annex no. 3, pos. 5)
12. Engineer, economist – Law No. 40/1991 (annex no. 8, pt. IIA, pos. 1)
15. Librarian (S) – Government Decision No. 281/1991 (annex no. 5, pt. II, pos. 13)
14. Reporter (M) – Law No. 40/1991 (annex no. 8, pt. IA, pos. 7)
15. Principal private secretary (M) – Law No. 53/1991 (annex no. 3, pos. 8)
16. Office secretary (M) – Law No. 53/1991 (annex no. 3, pos. 9)
17. Technician, commodity expert – Law No. 40/1991 (annex no. 8, pt. IIA, pos. 6)
18. Secretary-typist (shorthand typist) – Law No. 40/1991 (annex no. 8, pt. IIA, pos. 15)
19. Warehouseman – Law No. 40/1991 (annex no. 8, pt. IIA, pos. 22)
20. Courier – Law No. 40/1991 (annex no. 8, pt. IIA, pos. 25)
21. Barkeeper – Law No. 40/1991 (annex no. 8, pt. IIA, pos. 25)
22. Driver – Law No. 40/1991 (annex no. 8, pt. IIA, pos. 27)
23. Worker (plumber, electrician, locksmith, mechanic, carpenter) – Law No. 40/1991 (annex no. 8, pt. IIA, pos. 28).

LAW

of the Supreme Court of Justice*

TITLE I

General Provisions

Art. 1. – Justice in Romania shall be achieved by the Supreme Court of Justice and the other courts of law, in accordance with the principles and provisions stipulated by the Constitution and the laws of the country.

The Supreme Court of Justice shall aim at the correct and unitary enforcement of the law by all courts of law.

In Romania there is a single Supreme Court of Justice, having its seat in the capital of the country.

Art. 2. – The decisions of the courts of appeal, as well as other judgments established by law are subject to appeal to the Supreme Court of Justice.

Art. 3. – The Supreme Court of Justice shall try the appeals in the interest of the law and the actions for cancellation declared against the decisions and judicial acts, in the conditions and for the reasons established by law.

Art. 4. – The Supreme Court of Justice shall also have a special competence of judging in substance, in all the cases provided by law.

Art. 5. – The Supreme Court of Justice shall inform the Constitutional Court in order to give its verdict on the constitutionality of the laws prior to their promulgation.

* Republished on the grounds of Art. IV of the Law No. 153/1998, published in the “Monitorul Oficial” (Official Gazette of Romania), Part I, No. 267 of 17 July 1998, giving the texts a new numbering.

The Law No. 56 of 9 July 1993 was published in the “Monitorul Oficial” (Official Gazette of Romania), Part I, No. 159 of 13 July 1993, and was modified by the Law No. 79/1996, published in the “Monitorul Oficial” (Official Gazette of Romania), Part I, No. 150 of 17 July 1996, and by the Law No. 142/1997, published in the “Monitorul Oficial” (Official Gazette of Romania), Part I, No. 170 of 25 July 1997.

Art. 6. – The judges of the Supreme Court of Justice shall be independent in their judicial activity and they shall submit only to the law.

TITLE II

Organisation, Management, Functioning and Competence of the Supreme Court of Justice

CHAPTER I

Organisation and Management of the Supreme Court of Justice

Art. 7. – The Supreme Court of Justice shall consist of one president, one vice-president, four division presidents and at the most eighty judges.

The Court shall be organised in four divisions – civil, penal, commercial and administrative actions –, the Panel of 9 judges and the Joint Divisions, each having its own competence.

Art. 8. – The president of the Court, assisted by the vice-president, shall carry out the administrative management of the Supreme Court of Justice.

The president shall represent the Supreme Court of Justice in the internal and international relations.

Art. 9. – Within the Supreme Court of Justice there shall function assistant-magistrates, as established by the organisation chart.

Art. 10. – The Supreme Court of Justice shall also comprise the studies, documentation, informatics, economic and administrative department, the Chancery and the Bureau for foreign relations, with the personnel established by the organisation chart.

Art. 11. – In order to maintain law and order, the Supreme Court of Justice shall have at its disposal, free of charge, a police contingent provided by the Ministry of the Interior. The president of the Court, to whom these cadres are subordinated, shall establish the required police staff.

The security of the seat of the Supreme Court of Justice shall be ensured by troops of the Gendermerie, free of charge.

CHAPTER II

Judges of the Supreme Court of Justice

Art. 12. – The president, vice-president, division presidents and the other judges of the Supreme Court of Justice shall be appointed for a period of six years by decree of the President of Romania, on the proposal of the Superior Council of the Magistrature, made on the recommendation of the Minister of Justice.

In case the mandate of the president, vice-president, division president or of a judge of the Supreme Court of Justice, was terminated before the expiry of the duration for which he had been appointed, another person shall be appointed to the respective post, with the observance of the conditions stipulated by law. The mandate of the president, division president or judge thus appointed shall be terminated at the expiry of the duration of the mandate held by the predecessor he had replaced.

Art. 13. – In order to be appointed at the Supreme Court of Justice, the judges have to fulfil the conditions provided by the Law No. 92/1992 on the judicial organisation, republished, and shall have a seniority in magistrature of at least fifteen years for the president, vice-president and division president, and of at least twelve years for the judges.

In the sense of paragraph 1, seniority in magistrature shall also be considered the period in which a person acted as teacher at the Faculty of Law, researcher at the Academy's Institute for Juridical Research, judge at the Constitutional Court, adviser in the Ministry of Justice, or lawyer.

Art. 14. – The judges shall not exceed, in office, the age of 70 years. By request, they may retire, after reaching the age of 62 years for men, and 57 years for women.

Art. 15. Before coming into office, the judges shall take the following oath before the President of Romania: "I swear to observe the Constitution and the laws of the country, the fundamental rights and liberties of the

citizens, to fulfil my tasks honourably, conscientiously and impartially. So help me God!"

Art. 16. – The president, vice-president, division president and the judges shall be state dignitaries and shall be irremovable for the duration of the mandate.

CHAPTER III

Panels of Judges

Art. 17. – The panels of judges shall consist of three judges from the same division.

If the number of judges necessary to form the panel cannot be ensured, it shall be formed of judges from the other divisions, designated by the president of the Supreme Court of Justice.

Art. 18. – In addition to the panels of judges of the divisions shall also function a panel consisting of nine judges presided over by the vice-president of the Supreme Court of Justice. In the absence of the vice-president, the panel shall be presided over by a division president or by a judge designated for this purpose.

Art. 19. – The president shall preside over the Supreme Court of Justice in Joint Divisions, and in the divisions, over any panel, when he participates in the trial.

In the absence of the president, the sittings he must take part in shall be presided over by the vice-president of the Supreme Court of Justice or by a division president.

The division presidents may preside over any panel of judges, while the other judges shall preside by turns.

Art. 20. – In case the Supreme Court of Justice tries in Joint Divisions, at least three quarters of the number of members in office shall have to participate in the trial. The decision is to be taken only with the majority vote of those present.

CHAPTER IV

Competence of the Divisions of the Supreme Court of Justice, and of the Panel of 9 Judges

Art. 21. – The divisions of the Supreme Court of Justice shall have the following competences:

The Civil Division shall try the appeals:

a) in civil cases, determined by the Code of civil procedure except those given in the competence of other divisions by the present law or by special laws;

b) against the decisions pronounced in labour litigations, in the cases determined by law;

c) in any cases regarding other matters which have not been given in the competence of the other divisions.

The Penal Division shall try the appeals:

a) in penal matters, in the cases determined by the Code of penal procedure, or by special laws;

b) against the decisions pronounced in penal matters by military courts of law.

The Commercial Division shall try the appeals against the decisions pronounced in commercial matters, in the cases determined by law.

The Division for Administrative Actions shall try the appeals:

a) in matters of administrative actions, in the cases determined by law;

b) in matters of expropriation;

c) in fiscal matters, except the litigations which, by special laws, are given in the competence of other courts of law.

Art. 22. – The divisions of the Supreme Court of Justice, in relation to their competence, shall try the actions for cancellation declared against the decisions pronounced by courts of first instance, tribunals and courts of appeal.

Art. 23. – The divisions of the Supreme Court of Justice, in relation to their competence, shall settle:

a) the petitions of transfer for the reasons specified in the codes of procedure;

b) conflicts of competence, in the cases stipulated by law;

c) any other petitions provided by law.

Art. 24. – The Panel of 9 judges shall try the appeals in the cases tried in the first instance by the divisions of the Supreme Court of Justice and the action for cancellation in the cases in which the divisions of the Court passed sentences which remained final by not lodging an appeal, or decisions in the settlement of ordinary appeals.

CHAPTER V Competence of the Supreme Court of Justice in the First Instance

Art. 25. – In the first instance, the Supreme Court of Justice shall try the penal cases and other cases stipulated by law, regarding:

a) the senators, deputies and members of the Government;

b) the marshals, admirals and generals;

c) the judges and assistant-magistrates from the Supreme Court of Justice, the judges from the courts of appeal and the Military Court of Appeal, as well as the public prosecutors from the public prosecutor's offices attached to these courts of law;

d) the judges of the Constitutional Court;

e) the members of the Court of Audit, judges, public prosecutors, and the auditors from this Court;

f) the president of the Legislative Council;

g) the heads of religious cults and the other members of the High Clergy, holding the rank of bishop or its equivalent;

h) other cases provided by law.

Cases in the first instance shall be tried by the Penal Division.

CHAPTER VI Competence of the Supreme Court of Justice in Joint Divisions

Art. 26. – The Supreme Court of Justice shall meet in Joint Divisions in order to:

a) try the actions for cancellation in the cases in which the Panel of 9 judges passed decisions in ordinary appeal;

b) try appeals in the interest of the law;

c) settle, under the conditions of the present law, the notification regarding the change of the jurisprudence of the Supreme Court of Justice;

d) apply to the Constitutional Court for the control of the constitutionality of the laws before their promulgation.

TITLE III Procedure Provisions

Art. 27. – At the divisions of the Supreme Court of Justice, as per the competence of each, the parties may also lodge an appeal against the interlocutory judgments or judicial acts of any kind, which cannot be attacked in any way, while the proceedings have been interrupted in the courts of appeal.

Art. 28. – The appeal submitted to the Supreme Court of Justice shall not adjourn the execution of the judgment, except for the cases provided by law.

Art. 29. – Upon fixing a term for the appeal, the president may designate a judge or an assistant-magistrate to draw up a report on the case, in the lawsuits he considers more complicated.

The report shall be presented by the judge during the sitting before calling upon the parties to speak.

Art. 30. – The appeal in the interest of the law and the action for cancellation may be introduced even if for the same merits the instance had delivered judgment in the appeal declared by the parties.

Art. 31. – In case a division of the Supreme Court of Justice considers it appropriate to revert to its own jurisprudence, the judgment proceedings shall be interrupted, and the Joint Divisions of the Supreme Court of Justice shall be notified, and shall try by summoning the parties in the record the judgment of which had been interrupted. After the Joint Divisions shall have adjudicated on the notification regarding the change of the jurisprudence, the judgment proceedings shall continue.

Art. 32. – The Supreme Court of Justice shall adjourn the judgment in case the exception of unconstitutionality of the law deemed to be applied is raised, and shall notify, according to law, the Constitutional Court, which shall decide on the exception.

The judgment proceedings shall be revived at the Supreme Court of Justice after having received the final decision of the Constitutional Court.

Art. 33. – When the Supreme Court of Justice quashes the attacked decision and orders the re-judgment, it shall

transfer the case for a new judgment to the court whose decision had been quashed.

In the interest of a proper administration of justice, or if the court whose decision had been quashed no longer exists, the case shall be transferred to another court of the same rank.

Art. 34. – In case of a quash and a transfer of case, the decisions lawfully pronounced by the Supreme Court of Justice shall be binding, unless after re-judgment the actual situation does not change.

Art. 35. – In case the Supreme Court of Justice admits the appeal and passes a final decision for the case, this decision shall be enforced by the court of first instance.

The decisions pronounced in the first instance at the Supreme Court of Justice shall be carried out according to the provisions under the Code of Penal Procedure.

TITLE IV Assistant-magistrates

Art. 36. – The prime assistant-magistrate, the chief assistant-magistrates and the assistant-magistrates shall belong to the Body of Magistrates and shall enjoy stability. The general conditions for their appointment shall be the ones required for the office of magistrate, according to Law No. 1992, republished.

Art. 37. – The prime assistant-magistrate shall have the rank of a judge at a court of appeal. He shall be appointed out of the chief assistant-magistrates with a length of service of at least 2 years in that position. After a probation period of 5 years as prime assistant-magistrate, he may be promoted directly to the rank of president at a court of appeal.

The chief assistant-magistrates shall hold the rank of president at a tribunal and shall be appointed out of the assistant-magistrates with a length of service of at least 3 years in that position. After a probation period of 2 years as chief assistant-magistrates, they may be promoted directly to the rank of judge at a court of appeal and, after 5 more years, to the rank of president at a court of appeal.

The assistant-magistrates shall be appointed out of the judges or public prosecutors with a seniority in rank of at least 4 years. After a probation period of 4 years in that position, they may be promoted directly to the rank of president at a tribunal and, after 2 more years, to the rank of judge at a court of appeal.

The president of the Supreme Court of Justice may reduce by one quarter the seniority in the speciality for the assistant-magistrates who achieved special results in their activity.

Art. 38. – The prime assistant-magistrate and the chief assistant-magistrates may also be appointed out of the judges or public prosecutors having the seniority stipulated in Art. 37.

The chief assistant-magistrates and the assistant-magistrates may be also appointed out of the lawyers, legal advisers and the teaching staff from the university law department, for whom seniority shall be established according to the Law No. 92/1992, republished.

Art. 39. – The prime assistant-magistrate shall have the following attributions:

a) to co-ordinate the activity of the assistant-magistrates in the divisions and of the clerks in the Chancery of the Supreme Court of Justice;

b) to participate in the sittings of the Joint Divisions of the Supreme Court of Justice and of the disciplinary panel;

c) to co-ordinate the activity of the Bureau for foreign relations.

Art. 40. – The chief assistant-magistrates shall have the following attributions:

a) to participate in the judgment sittings of the divisions and of the Panel of 9 judges;

b) to distribute the assistant-magistrates who participate in the judgment sittings;

c) to take care of the keeping in proper conditions, of the accounts of the divisions, and of the carrying out, in time, of all the paperworks.

Art. 41. – The assistant-magistrates shall participate in the judgment sittings of the divisions.

Art. 42. – The assistant-magistrates who participate in the judgment sittings of the Supreme Court of Justice shall make a note of the pleadings, draw up the conclusions, participate with an advisory vote in the deliberations, and draw up decisions, in accordance with the distribution made by the president for all the members of the panel of judges.

Art. 43. – The assistant-magistrates shall carry out any other tasks assigned to them by the president of the Supreme Court of Justice, the vice-president or the division president.

TITLE V

Activity of the Public Prosecutor's Office Attached to the Supreme Court of Justice

Art. 44. – The Public Prosecutor General at the Public Prosecutor's Office attached to the Supreme Court of Justice shall participate in the sittings of the Court in Joint Divisions, as well as in any panel of the Court, whenever he deems it necessary.

In case of obstruction, the Public Prosecutor General at the Public Prosecutor's Office attached to the Supreme Court of Justice may delegate one of his deputies to participate in his place in those sittings.

Art. 45. – The public prosecutors at the Public Prosecutor's Office attached to the Supreme Court of Justice shall draw conclusions in the judgment of the appeals in the interest of the law, of the actions for cancellation and of all penal cases, and in the other cases, whenever they participate as main party, when so provided by the law, as well as in case they deem it necessary.

Art. 46. – The public prosecutors shall exercise the ways of appeals and recourses stipulated by law against the decisions of the Supreme Court of Justice.

TITLE VI

Studies, Documentation, Informatics, Economic
and Administrative Department,
the Chancery of the Supreme Court of Justice,
and the Bureau for Foreign Relations

Art. 47. — The studies, documentation, informatics, economic and administrative department shall be managed by a director with the rank of chief assistant-magistrate and shall have the following compartments:

a) studies, documentation and informatics, made of assistant-magistrates, other specialised and auxiliary personnel;

b) economic, financial and administrative, made of specialised personnel, clerks, workers, security and attendant personnel.

Art. 48. — In order to be appointed to the office of director, a seniority of at least 10 years in the magistrature shall be necessary, while for the other assistant-magistrates, a seniority of at least 7 years. The provisions of Art. 36–38 shall be applied accordingly.

The assistant-magistrates in the studies, documentation and informatics compartment shall ensure: the registration of legislation, jurisprudence and doctrine; the selection and summarising of decisions with a view to publishing them in the Bulletin of the Supreme Court of Justice; the studies activity and the operation of the library, as well as any other tasks entrusted by the president of the Court.

Art. 49. — The Chancery of the Supreme Court of Justice shall consist of: prime-clerk of the court, clerks, recorders, typists and other employees provided for in the organisation chart.

The personnel of the Chancery shall be distributed to the divisions, according to the requirements of the post, by the president of the Court, while within the divisions, by the division presidents.

Art. 50. — The Bureau for foreign relations shall be managed by a chief assistant-magistrate and shall employ specialised and auxiliary personnel.

TITLE VII
Judicial Recess

Art. 51. — The annual judicial recess shall be of two months, from July 1 to August 31.

Art. 52. — During the judicial recess, the following matters shall be judged:

a) in penal matters, the cases with prisoners;

b) in all matters, the cases considered to be urgent, according to the law, or appreciated as such by the Supreme Court of Justice.

Art. 53. — During the judicial recess, the president of the Supreme Court of Justice, together with the division presidents, shall designate a number of judges from each division, required to form the panels of judges.

The mode of designating the judges for the recess panels of judges shall be established by regulations.

During the recess, the division presidents shall sit by turns.

Art. 54. — The annual paid holidays of the personnel of the Supreme Court of Justice, established according to the law, shall be taken during the judicial recess.

For well grounded reasons, the president of the Supreme Court of Justice may approve the paid holidays to be taken in another period of the year than that of the judicial recess.

TITLE VIII

Final and Transitory Provisions

Art. 55. — In case the Superior Council of the Magistrature shall act as a disciplinary council for the judges, its proceedings shall be presided over by the president of the Supreme Court of Justice.

Art. 56. — At the end of each year, the Supreme Court of Justice, in Joint Divisions, shall establish the cases calling for the improvement of legislation, and shall transmit them to the Minister of Justice.

Art. 57. — The president of the Supreme Court of Justice may agree that the judges should inform themselves at the seats of the courts of law about the

matters regarding the correct and unitary enforcement of the law, imparting the jurisprudence of the Court, and that they should find out the situations which would justify proposals for the improvement of the legislation.

Art. 58. – The regulations under their Law No. 92/1992, republished, regarding the conditions for the appointment and promotion of magistrates, their rights, obligations and disciplinary conditions, as well as the other provisions which are not contrary to the present law, shall apply accordingly to the Supreme Court of Justice, to the judges and assistant-magistrates of this Court.

The notifications regarding the disciplinary misbehaviours made by the assistant-magistrates shall be settled by a disciplinary board made of 5 judges of the Supreme Court of Justice elected for 4 years. The board shall be presided over by the judge with the greatest seniority in the magistrature at the Court and shall have as secretary, the prime assistant-magistrate.

Against the decisions pronounced by the disciplinary board, a complaint may be lodged at the Panel of 9 judges of the Supreme Court of Justice, as stipulated by the Law No. 92/1992, republished.

The clothes of the judges shall be black in the judgment sittings of the divisions of the Supreme Court of Justice, and mauve in the sittings of the Joint Divisions, while the clothes of the assistant-magistrates shall be black. The clothing shall be provided free of charge.

In the cases in which the appointment, authorisation, petition, information or notification are required for certain measures or activities, by the Law No. 92/1992, republished, these shall be done, for the personnel of the Supreme Court of Justice, by the president.

The disciplinary action against the judges of the Court shall be exercised by the vice-president of the Supreme Court of Justice.

Art. 59. – The president of the Supreme Court of Justice, the vice-president, division presidents and the other judges of this Court cannot be penally or contravenientally prosecuted, or brought to trial, without the authorisation of the President of Romania.

The Ministry of the Interior shall have the obligation, on request, to grant protection to magistrates and their families in the cases in which their life, bodily integrity, or their possessions are threatened.

Art. 60. – The assistant-magistrates cannot be penally or contravenientally prosecuted, or brought to trial without the authorisation of the president of the Supreme Court of Justice.

Art. 61. – The president of the Supreme Court of Justice shall approve the organisation chart of the Court, shall appoint, promote, suspend and dispose the release from office of the Court's personnel, except for the judicial body stipulated in Art. 12, shall direct and supervise the activity of suggestions regarding legislation, of studies and documentation and of publishing the judicial practice of the Court.

Art. 62. – Retired former magistrates may also be appointed to the offices of assistant-magistrates at the Supreme Court of Justice.

The assistant-magistrates appointed in the conditions under par. 1 shall benefit by the full wage corresponding to the office, by the length of service allowance, as well as by the pension rights. On the cessation of their activity, these persons shall be entitled to the recalculation of the pension depending on the additional length of time acquired and the wages received after re-engagement.

Art. 63. – The president, vice-president, division presidents and the judges exercising their mandate on the date of the adoption of the present law, shall be considered to fulfil all the conditions required for the exercise of that office.

After the cessation of the office at the Supreme Court of Justice, caused by the expiry of the period for which he had been appointed, or owing to unimputable reasons, the judge shall preserve the rank acquired in the hierarchy and shall have the right to return to the former post, the reservation of which is compulsory, or he may choose another post in the magistrature or the legal profession.

Art. 64. – The salaries of the personnel of the Supreme Court of Justice shall be established by a specific law,

according to the salaries of the personnel employed by the highest public authority.

Art. 65. – The Supreme Court of Justice shall have its own budget, which shall be a part of the state budget.

The draft budget, with the advisory opinion of the Ministry of Finance, and the budgetary execution, shall be approved with the majority vote of the members of the Joint Divisions of the Supreme Court of Justice. The president shall establish the necessary number of cars in the fleet of cars of the Supreme Court of Justice.

Art. 66. – The provisions of the present law regarding the organisation and functioning of the divisions and working compartments, as well as the disciplinary responsibility shall be completed by a regulation approved by the Joint Divisions of the Supreme Court of Justice.

The regulation shall be published in the “Monitorul Oficial” (Official Gazette of Romania), Part I.*

Art. 67. – The Supreme Court of Justice shall continue to try the cases, according to the competence provided by the laws in force, until the modification of the codes of civil procedure, and of penal procedure respectively, as well as of other laws having provisions with a procedural character.

Art. 68.** – The present law shall come into force on the date of its publishing in the “Monitorul Oficial” (Official Gazette of Romania), Part I, with the exception of articles 2–4, 11***, 21, 22, 25, 26****–31, 37, 38, Title V, Art. 55 and 58, which shall come into force at the same time with the application of all the provisions of the Law No. 92/1992.

Art. 69. – On the date of coming into force of the present law, under the conditions of Art. 68, any contrary provisions shall be abrogated.

* The Organisation and Functioning Regulation of the Supreme Court of Justice was published in the “Monitorul Oficial” (Official Gazette of Romania), Part I, No. 10 of 18 January 1999.

** The articles referred to by Art. 68 are those provided for in the text of the unmodified law.

*** Art. 11 was abrogated by the Law No. 142/1997.

**** Art. 26 was abrogated by the Law No. 153/1998.

Organisation and Functioning REGULATION of the Supreme Court of Justice*

CHAPTER I General Provisions

Art. 1. – The Supreme Court of Justice, hereinafter called the Court shall be organised and shall function on the basis of Art. 125–129 in the Constitution of Romania, of the Law No. 56/1993, with the subsequent modifications, and of the present Regulation.

Art. 2. – By this Regulation, rules shall be established with regard to the organisation and functioning of the Court, within the limits and the observance of the Law No. 56/1993 and of other legal provisions.

Art. 3. – The activity of the Court shall be organised and shall proceed within:

- a) the Joint Divisions, the Panel of 9 judges, and in the 4 divisions – civil, penal, commercial and administrative actions –, each having its own competence;
- b) the body of assistant-magistrates;
- c) the Studies, Documentation, Informatics, Economic and Administrative Department;
- d) the Chancery of the Court;
- e) the Bureau for foreign relations.

Art. 4. – The Court shall be staffed with a president, a vice-president, 4 division presidents, judges, other specialised, supporting and administrative personnel, provided in the organisation chart.

* The Organisation and Functioning Regulation of the Supreme Court of Justice was published in the “Monitorul Oficial” (Official Gazette of Romania), Part I, No. 257 of 2 November 1993.

On the grounds of Art. 67 of the Law No. 56/1993 of the Supreme Court of Justice, the Joint Divisions of the Supreme Court of Justice adopted the present Organisation and Functioning Regulation of the Court, republished in the “Monitorul Oficial” (Official Gazette of Romania), Part I, No. 10 of 18 January 1999.

CHAPTER II
Management of the Court

Art. 5. – The administrative management of the Court shall be exercised by the president of the Court, assisted by the vice-president.

Art. 6. – The president of the Court shall have the following attributions:

a) to represent the Court in its relations with the other public authorities and organisations in the country, as well as in international relations;

b) to submit for debate to the Joint Divisions the matters to be solved and the necessary measures to be taken for the proper performance of the Court's activity;

c) to approve the organisation chart;

d) to submit to the Minister of Justice the list comprising the persons recommended to be appointed as judges of the Court;

e) to appoint, promote, suspend and dispose the removal from office of the assistant-magistrates and the other personnel, except for the body of judges;

f) to control and guide the activity of the division and of the operative apparatus of the Court and to approve the deputing of competences; to exercise directly any of the competences of the division presidents according to the present Regulation;

g) to grant the degrees, ranks, gradations, management allowances, salaries of merit, bonuses and other rights, according to the law;

h) to approve the proposals of distribution and redistribution of the judges, assistant-magistrates, and of the other categories of personnel to the divisions and other compartments of the Court;

i) to manage directly the activity of the Joint Divisions, to fix the terms of judgment and to instruct the carrying out of the necessary proceedings in the cases of their competence, to preside over the sittings and follow up the finalisation of the procedural documents, according to the law;

j) to programme, together with the division presidents, the judges in each division for ensuring the activity of the panels of judges during the judicial recess;

k) to establish, directly or on the proposal of the division president, the assistant-magistrate who shall draw up, according to the law, the report on the case whose judgment in appeal is in the competence of the Court;

l) to authorise the penal or contraventional prosecution or instituting proceedings against the assistant-magistrates;

m) to designate the judges of the Panel of 9 judges in disciplinary matters, as provided by the Law No. 92/1992 on judicial organisation and by the Law No. 56/1993 of the Supreme Court of Justice;

n) to preside over the Supreme Council of the Magistrature acting as a disciplinary council;

o) to designate the judges of the Court who shall participate in the commission for the capacity exam of magistrates, according to the Law No. 92/1992;

p) to designate, by drawing lots, the judges forming the Central Electoral Bureau, according to the Law No. 68/1992;

r) to designate the judges, the substitutes and the secretary of the special commission of control of the fortunes of the dignitaries and of other persons, according to Art. 21 of the Law No. 115/1996;

s) to approve the Norms on protocol expenses, the rights and obligations of the personnel sent in the country or abroad with temporary missions;

ş) to administer the president's fund;

t) to establish the work places and the categories of personnel working in hard conditions, as well as the employees who carry out activities beyond the normal working programme; to approve the increase from which they would benefit according to the law;

ţ) to solve the disputes in connection with the establishing of the allowances, salaries, degrees, ranks, gradations and other rights;

u) is the main official authorised to make payments;

v) to establish the necessary number of cars for the Court and the way they should be used;

x) to establish the necessary police personnel required for maintaining order in the proceeding rooms and in the spaces of access for the public;

y) to take any other measure that was not given by law in the competence of another person.

The dispositions of the president shall be given by order.

Art. 7. – The vice-president of the Court shall have the following competences;

a) to exercise the competences of the president whenever he is absent or on the basis of a disposition;

b) to exercise the disciplinary action under the terms of the law and of the present Regulation;

c) to guide and supervise the activity of proposals regarding the legislation, the studies and documentation, and the publishing of the judicial practice of the Court;

d) to guide and supervise the activity of the studies, documentation and informatics compartment;

e) to organise, control and coordinate the professional study, knowledge of normative documents, the debate of legal matters, the summing up of the decisions of the divisions, their carding, the preparation of periodical publications regarding the jurisprudence of the Court, etc.;

f) to approve the cards containing the attributions of each position;

g) to directly manage the Court's Chancery and the economic-financial and administrative compartment;

h) to select the applications and submit to the president of the Court the taking in of the personnel, except for the positions of judge;

i) to approve the proposals for the annual paid holidays; to approve the paid holidays for the Court's personnel to be taken during other periods than that of the judicial recess;

j) to control the activity of the annual assessment of the assistant-magistrates and of the rest of the personnel;

k) to approve the completion of the retirement files;

l) to control and guide the activities in connection with the guarding of the premises and of the goods of the Court, the defence against fires, labour protection, civilian

protection, defence against disasters, with military matters, etc.;

m) to control and guide the archive activity according to the law.

CHAPTER III Joint Divisions

Art. 8. – The Joint Divisions of the Court shall have the judgment competence, as stipulated by law, as well as the following attributions;

a) to settle, according to the law, the notifications regarding the change in the Court's jurisprudence;

b) to notify, whenever they deem necessary, the Constitutional Court for the control of the constitutionality of a law, before its promulgation;

c) to designate, by secret ballot, the judges of the Court who shall run, according to the law, for the election as members of the Superior Council of the Magistrature;

d) to complete and modify the present Regulation;

e) to debate the problems put up for discussion by the president of the Court and take, or propose, as the case may be, any necessary measures for the proper development of the Court's activity;

f) to approve the budget of the Court;

g) to approve the regulation regarding the taking of paid holidays and of other leaves;

h) to establish the cases in which, annually, proposals of improving the legislation are being submitted to the Minister of Justice;

i) to select the judges who form the disciplinary commission of the assistant-magistrates.

The Joint Divisions shall carry out their attributions with the vote of the majority of the judges present, for the judgment activity, the quorum being, according to the law, of minimum three quarters of the number of the appointed judges.

The decisions for the settlement of the appeals declared in the interest of the law shall be collective acts of the entire Court, and not of one part of the number of

members it consists of. That is why, the judges who have different opinions shall join the majority decision.

The sittings of the Joint Divisions shall be scheduled or convened by the Court's president on his own initiative, at the request of at least a quarter of the number of judges in office or at the request of one of the divisions. The convening shall be done by announcing the agenda, which shall be adopted at the beginning of the sitting.

The assistant-magistrates and other employees of the Court, as well as persons from outside the institution may be invited at the sittings of the Joint Divisions, others than the judgment sittings.

CHAPTER IV Divisions of the Court

Art. 9. – The divisions of the Court shall be staffed with judges, assistant-magistrates, clerks of the court, secretary-clerks of the court, and ushers, distributed by the president of the Court.

Art. 10. – Each division shall be headed by a president, having the following attributions:

a) to organise, control and guide the activity of the division within the limits stipulated by the law and the present Regulation, taking also into account the dispositions of the Court's president or, as the case may be, of the vice-president;

b) to establish the duties of the personnel within the division, according to the card for each position, to carry out, according to the needs of the division, the redistribution of the personnel on the working places and their attributions;

c) to set the terms of judgment in the cases which are in the competence of the division, by ensuring a balanced distribution of the files per judges, and to order the summoning of the parties, the communication of the appeals, as well as the carrying out of any other proceedings, according to the law;

d) to establish the judges forming the panels and to schedule their sittings;

e) to refer to the president of the Court the more special cases with appeals in the division's competence, in which, according to the law, reports are drawn up by the judges or the assistant-magistrates;

f) to preside over the panel of judges, whenever he participates in the judgment activity;

g) to solve the correspondence addressed to the division;

h) to convene the judges of the division and put up for their debate the jurisprudence of the Court, and other matters of general interest, with a view to taking measures for the carrying out of an adequate activity. The assistant-magistrates from the division, as well as guests from other compartments of the Court may participate in the debates. Measures shall be adopted by the vote of the majority of the judges present, including the president, while the assistant-magistrates shall have only an advisory vote;

i) to approve the participation programme of the assistant-magistrates in the judgment sittings;

j) to inform the president of the Court on the events and the aspects in the activity of the division, with a view to knowing them and, whenever the case, to taking the measures stipulated by the law and the present Regulation;

k) to carry out any measure ordered by the Joint Divisions, by the president and the vice-president of the Court, according to the law and the present Regulation.

Art. 11. – At the notification of the panels of judges, the judges of the divisions shall debate each case regarding the change in the jurisprudence and shall decide, with a majority vote, the notification of the Joint Divisions so that these should decide according to Art. 25 letter c) of the Law No. 56/1993. The assistant-magistrates, with an advisory vote, and persons from other compartments of the Court, without the right to vote, may take part in the debates.

The judgment shall continue after the Joint Divisions delivered a decision on the respective notification.

Art. 12. – At the end of each year, the judges of the divisions shall debate the cases calling for an improvement

of the legislation, and the proposals shall be referred to the Joint Divisions in order for them to decide on the notification of the Minister of Justice, in accordance with Art. 56 of the Law No. 56/1993.

CHAPTER V The Panel of 9 Judges

Art. 13. – Besides the panels of judges of the Court's divisions, shall function a panel made of 9 judges, having the judgment competence stipulated by law.

The Panel of 9 judges shall be made out of the ranks of the judges of the Court's divisions, being designated for each sitting by the president of the Court, by mutual agreement with the presidents of the divisions they belong to.

The sittings shall be presided over by the vice-president of the Court, by a division president, or by a judge designated for this purpose.

The chief assistant-magistrate of a division or another assistant-magistrate especially designated shall take part in these sittings.

CHAPTER VI Judges of the Court

Art. 14. – The judges of the Court shall solve the matters within the established term, shall keep the secret of deliberation and shall fulfil all the duties assigned to them in their capacity of magistrates. They shall be obliged to abstain from any acts or deeds of a nature to compromise their dignity in their position and in society.

The participation in the judgment activity shall take place in accordance with the schedule.

In the judgment sittings of the Panel of 9 judges and of the divisions, the judges shall wear the black coloured robe, while in the Joint Divisions' sittings, the mauve coloured robe.

Art. 15. – The abstention of judges from the judgment activity shall be admitted only in the cases provided by law.

Art. 16. – In the cases in which the division president is not a part of panel of judges, the judges shall preside over the sittings by turns.

Art. 17. – In the judgment activity, the judges shall abide by the law and the present Regulation with regard to the preparation of the sittings, drawing up of the reports, deliberation, delivery and drafting of judgments, as well as to the performing of the other contiguous activities.

Art. 18. – Besides the judgment activity, the judges shall accomplish any other duties established by the Joint Divisions, the president and the vice-president of the Court, as well as by the division presidents, as the case may be, in keeping with the law and the present Regulation.

Art. 19. – The president of the panel of judges shall have the following attributions:

a) before the judgment sittings, to follow up the drawing up by the designated judge or assistant-magistrate of the report in the cases provided by law and to take measures, personally or through the assistant-magistrate, for the implementation by the archive and the Clerk's Office, of all the paperworks required for the proper proceeding of the judgment sitting;

b) during the debates:
– to ensure the order and solemnity of the debates, ordering, whenever the case, the removal from the debate room of those who cause disorder, if need be, with the help of police, as well as the interdiction or limitation of the use of sound and image recording apparatus, when he considers that this hinders the normal development of the debates, or when they would be of a nature to trespass the right of the persons involved or to prevent the impartial settlement of the cases;

– to ensure the secret of deliberation, to record the settlements in the minutes and in the book of the sitting, as well as the pronouncement in public sitting at the time established in advance, being forbidden the transmission, under any form, of the result of the deliberation prior to the pronouncement;

c) after the pronouncement of the judgments, to distribute to the judges and the assistant-magistrates for drawing up the judgments delivered, and to follow up that these be motivated in good terms and in the prescribed time, as required by law; simultaneously with the pronouncement of the settlements, by mutual agreement with the other magistrates, to establish the main grounds of the decisions adopted;

– to note briefly in a common record of a division the more important settlements or of principle and the grounds for them, in order to be known by all the members of the division, for the purpose of ensuring a unitary practice in the same matter of law;

– to inform the division president on the more important aspects in the judgment activity, for the purpose of taking the measures provided by law and the present Regulation.

CHAPTER VII Assistant-Magistrates

Art. 20. – Within the framework of the Court shall function a body of assistant-magistrates, in a number and with a structure provided for in the organisation chart approved by the Court's president.

Art. 21. – The distribution per divisions and other compartments of activity of the assistant-magistrates shall be done by the Court's president.

Art. 22. – The prime assistant-magistrate shall be subordinated to the president and vice-president of the Court and shall have the following attributions:

a) to coordinate the activity of the assistant-magistrates in the divisions, the activity of the personnel distributed to the Joint Divisions, the Chancery, the Court and the Bureau for foreign relations, according to the duties mentioned in the card of each position;

b) to take part in the sittings of the Joint Divisions and to draw up, directly and through the designated personnel, all the documents and the preparatory papers, of development, as well as the subsequent ones, and to

draft the decisions assigned to him by the president of the instance;

c) to ensure the centralisation, whenever necessary, of the statistical data and of other information received from the division, regarding the activity of the Court, and to prepare the synthetical papers ordered by the president of the Court;

d) to carry out and prepare any other papers ordered by the president of the Court in connection with its activity.

Art. 23. – The chief assistant-magistrates from the divisions of the Court shall be hierarchically subordinated to the division presidents, and shall have the following attributions:

a) to participate in the judgment sittings of the division and of the Panel of 9 judges;

b) to schedule the participation of the assistant-magistrates of the division in the judgment sittings, to control and guide their activity;

c) to control and guide the activity of the clerks of the court and of the other officials in the division;

d) to take care of the maintaining in good conditions of the records, and of the carrying out, in time, of all the paperwork;

e) to coordinate the activity of collecting the statistical data referring to the division activity, and of drawing up of the papers requested in connection with these data;

f) to preserve the documentary juridical fund of the division.

These dispositions shall apply, similarly, to the chief assistant-magistrate of the Joint Divisions.

Art. 24. – The assistant-magistrates from the Court's divisions shall participate in the judgment sittings and shall carry out any other tasks established hierarchically.

Art. 25. – The assistant-magistrates who participate in the judgment sittings shall also have the following attributions:

a) to draw up the report provided under Art. 6 k), when so ordered by the Court's president, and to read it in the sitting before the parties are given the floor;

d) to prepare the judgment sittings, taking care of the drawing up and posting up, by the archive and the Clerk's Office, of the list of the lawsuits; in drawing up the list, in order of the oldness of the files, the grouping of the cases shall be done in relation to the nature of the ways of attack and by matters, giving priority to the cases with prisoners and to those in whose trial participates the public prosecutor;

c) to follow up the filing, by the archive, of the proofs that the parties have been summoned, and the deeds communicated, of the correspondence, memoranda, written reports and notes, and of any other documents;

d) to verify the regularity of the summoning and of the communications and to ensure the carrying out of all the paperwork ordered by the president;

e) before the entry of the panel judges into the debate room, to ensure the presence of the usher at the door, and the announcement by him of the entry of the instance; after opening of the debates by the president, to announce the cases in the order established according to the list of the lawsuits, to take the call-over of the parties and of the other persons summoned, after which to refer to the way in which the summoning procedure has been carried out, and if all the other measures ordered by the Court have been fulfilled; to refer briefly on the object of the case and the stage reached by the judgment, and, if it is the case, on the name of the judge or of the assistant-magistrate designated as rapporteur;

f) to write down in a numbered and sealed notebook the number of the file, the oral statements of the parties and of the public prosecutor, the measures ordered by the Court, as well as the other aspects deriving from the development of the sitting;

g) to draw up the conclusions of the debates, in accordance with the notes recorded in the notebook;

h) to ensure, for deliberation, the consultation of the necessary normative acts, and to give information regarding the jurisprudence and doctrine under the guidance of the president of the panel of judges;

i) to participate in the deliberation with an advisory vote;

j) to draw up the decisions assigned to them by the president of the panel of judges.

Art. 26. – The files shall be presented to the assistant-magistrate by at least 10 days prior to the day set for the term of judgment, with a view to drawing up the list of the lawsuits to be tried during the sitting in which he is scheduled to participate.

Through the care and under the supervision of the assistant-magistrate there shall be ensured: the transmission of the list containing the lawsuits to the judges of the panel of judges and to the public prosecutor, as soon as it has been drawn up; the posting up of the list containing the lawsuits in the archive, by at least 5 days prior to the term of judgment, and at the door of the debate room by at least one hour before the beginning of the sitting; the completion of the record book by at least 24 hours before the day of the judgment sitting.

Art. 27. – The assistant-magistrate who has taken over the files from the archive for the judgment sitting shall hand back to the archive, under signature, the adjourned files.

Art. 28. – In the judgment sittings, the assistant-magistrates shall wear the black coloured robe.

CHAPTER VIII

The Chancery of the Court

Art. 29. The Chancery of the Court shall consist of prime clerks of the court, clerks of the court, secretary-clerks, procedural agents and ushers, provided for in the organisation chart.

The personnel of the Chancery of the Court shall be distributed to the divisions and other compartments of activity by the Court's president, according to their needs, while within the division, by the division president.

Art. 30. – The personnel distributed to the General Registry of the Court shall have the following attributions:

a) to receive, register and distribute to the Joint Divisions, to the Panel of 9 judges, to the divisions and to

the other compartments the files, letters and the rest of the correspondence;

b) to dispatch the settled files and correspondence, and to administer the stamps.

Within the framework of this activity, there shall be drawn up and kept:

1. general registers, separate ones, for the registration of files, letters and correspondence;

2. dockets for dispatches by post and books for the delivery by messenger of files, letters and correspondence.

Art. 31. – The personnel distributed at the Joint Divisions, at the Panel of 9 judges and at each division of the Court shall have the following attributions:

a) to receive and register the incoming files, to keep a record of them, as well as of their circulation;

b) to draw up the rough copies for the summoning of the parties in the lawsuits, to draw up the summonses and to follow up their dispatching;

c) to put the files at the disposal of the parties and of the lawyers for study;

d) to prepare the files for the judgment sittings and to ensure their circulation within the division, as well as their sending to the instances;

e) to draw up the statistics regarding the judgment activity;

f) to carry out the communications necessary for the carrying into effect of the decisions;

g) to draw up and issue, at the request of the parties, authenticated copies of the judgments and of the certificates;

h) to draw up the correspondence in connection with the files of the divisions;

i) to inform the persons coming to the archives on the data requested from the files in which they are directly interested.

Within this activity, there shall be drawn up and kept:

1. the register in which all the files received by the division shall be entered, in the order of their entry, with columns established for this purpose; under the same number, all the applications submitted subsequently or

the correspondence in connection with the respective case, shall be registered;

2. the alphabetical register in which the parties in the file shall be entered;

3. the information register, in which shall be mentioned, for each file – entered in numerical order –, the first term of judgment and the subsequent terms, the date when the file was taken out of the archive and the person to whom it was handed over, the date of return of the file to the archive, the number and date of the sentence, decision or conclusion, as the case may be, and the settlement in brief;

4. the register of terms of the archive in which shall be entered all the files, in the order of the terms set for judgment;

5. the book of the judgment sitting, in which shall be entered all the files for the respective sitting, in the order of their entry in the roll of cases, the new term of judgment in case of adjournment of the judgment, the decision delivered and its number, as well as the name of the person who drew it up;

6. the register recording the drawing up of the judgments, in which shall be entered, in numerical order, as the case may be, all the sentences, decisions or interlocutory judgments, and shall be noted the circuit of the file, with a view to drawing up, typing, signing of the judgment, as well as the date of the handing over of the file to the archive;

7. the book recording the handing over and receiving, under signature, of the files, in their circuit.

Art. 32. – All the registers and books shall be numbered and initialled, and at the end of each year, official reports of termination shall be drawn up, signed by the president of the Court, and by the prime assistant-magistrate, in the case of the registers of the Joint Divisions, of the Panel 9 judges, of the General Registry, and by the division president and the chief assistant-magistrate, in the case of the registers of the divisions.

Depending on requirements, on the proposal of the prime assistant-magistrate, the president of the Court may

approve the keeping also of other registers than those provided in the present chapter.

Art. 33. – The personnel of the General Registry, and that of the archives shall register the files and the applications on the day of their submitting and shall attach to the applications the envelopes in which they have been received.

The correspondence addressed personally or confidentially to the Court's president, the vice-president, the judges and other persons in a leading position shall be handed over with the envelope unopened.

Art. 34. – The files handed over to the archives of the Joint Divisions, to the Panel of 9 judges and to the archives of the Court's divisions, shall be presented, without delay, to the Court's president, the vice-president or to the division presidents, as the case may be, for setting the terms of judgment and the taking of other measures, according to the law and the present Regulation.

The measures ordered shall be carried out without delay, by drawing up and dispatching the summonses, on the basis of a preliminary draft, by the communication of documents, the drawing up and dispatching of the correspondence and by drafting other paperwork indicated through resolution or established in advance, such as those referring to the statistical registration of the data of the case.

Art. 35. – On the cover of each file, there shall be mentioned the name of the Court (of the Joint Divisions, of the Panel of 9 judges or the competent division), the number given to the file by the Court and other identification data of the case and of the files of other instances, which it includes.

Art. 36. – All the leaves of the file shall be sewn and numbered: after the final settlement, the file shall be laced up and sealed, while on the inner face of the last cover, the number of leaves shall be certified in figures and letters.

Art. 37. – The taking of the files out of the Court's premises shall be forbidden.

Art. 38. – The files shall be put at the disposal of the parties and of journalists accredited to the Court for study, only in the archive, after the identification and taking down of the name and surname of the applicant, by checking the identity papers, procurations or delegations, as well as the integrity of the file on its return.

The programme of access to the archives for the parties, their authorised agents and lawyers shall be approved by the Court's president and posted up in a visible place.

The files shall be kept in the archives in a numerical order or by the terms of judgment.

Art. 39. – The typing of the interlocutory judgment of adjournment of the judgment, as well as of the correspondence shall be done within at most 3 days from the date of the sitting, while the typing of the sentences or decisions, as the case may be, within at most 10 days from the drawing up.

Art. 40. – The files shall be returned to the archives after the drawing up and signing of the interlocutory judgments, sentences or decisions, as the case may be, or after the drawing up of other specific paperwork.

Art. 41. – The settled files, initialled, sealed and with numbered leaves shall be returned to the General Registry by the archives, within at most 3 days, and the Registry shall dispatch the files to the instance they belong to or, as the case may be, to the public prosecutor's office, within at most 48 hours.

Art. 42. – The archives shall preserve one fair copy of the judgments delivered at each division, in special portfolios, in numerical order, by years. In the cases in which the delivery of the judgment was adjourned, the interlocutory judgment in which the debates were recorded shall be attached to the judgment.

Art. 43. – The paperwork and the other duties provided in the present chapter, which are not incumbent on the assistant-magistrate, shall be carried out by the personnel of the division, according to the card of the position.

CHAPTER IX

Studies, Documentation, Informatics, Economic and Administrative Department

Art. 44. – The Studies, Documentation, Informatics, Economic and Administrative Department shall have in its structure several compartments, shall be staffed with specialised and auxiliary personnel, provided in the organisation chart, and shall be headed by a director.

Art. 45. – Within the Studies, Documentation and Informatics Compartment, headed by a chief assistant-magistrate, there shall be ensured:

a) the accounts of the legislation, jurisprudence and doctrine;

b) the selection and summing up of the Court's decisions, with a view to their publication in the Bulletin of the Supreme Court of Justice;

c) the carrying out of studies and the drawing up of reports;

d) the examination, prior to their promulgation, of the laws passed by the two Chambers of the Parliament, with a view to the notification, by the Joint Divisions, of the Constitutional Court, in case there are some unconstitutional provisions;

e) the elaboration of the drafts of normative acts regarding the Court's activity;

f) the examination and formulation of remarks and proposals for the draft bills initiated by other public authorities and sent to the Court for this purpose;

g) the carrying out of other paperwork ordered by the Court's president;

h) the operation of the Court's library, the stock of which shall be entered in the specific records and brought to the knowledge of the judges and the other specialised personnel, as new items are being added.

Art. 46. – Within the Economic, Financial and Administrative Compartment, whose activity is coordinated by a deputy director, there shall be ensured:

a) the elaboration of the draft of the organisation chart of the Court;

b) the elaboration, substantiation and execution of the draft budget of the Court;

c) the drawing up of the financial and accounting paperwork provided by the law;

d) the carrying out of the personnel and remuneration paperwork;

e) the administration of the goods from the Court's patrimony;

f) the activity of supply and transport, and the achievement of other administrative services required for the adequate functioning of the Court: current repairs, cleaning, watch, etc.

Art. 47. – The duties of the Studies, Documentation, Informatics, Economic and Administrative Department shall be established in the card of each position.

CHAPTER X

The Bureau for Foreign Relations

Art. 48. – The Bureau for foreign relations, staffed with the personnel provided in the organisation chart of the Court, shall be headed by a chief assistant-magistrate and shall ensure:

a) the carrying out of the paperwork incumbent on the Court within the framework of international relations;

b) the translation, drawing up, and dispatching of the external correspondence;

c) the obtaining of passports and visas for travelling abroad;

d) the organising of the Court's protocol activities;

e) the reception and accompaniment of foreign and domestic delegations within the programme approved by the Court's president;

f) the organising and proper development of relations with the public, radio, television and social organisations;

g) the examination of the letters addressed to the Court, the drawing up and dispatch of the replies in accordance with the findings and the measures established by the heads of the activity compartments involved;

h) the collaboration with the Studies, Documentation and Informatics Compartment, as well as with the other

compartments of the Court, in matters of organising informatics and of developing this activity in cooperation with units and institutions in our country and from abroad.

Art. 49. – The duties of the personnel in the Bureau for foreign relations shall be established by the cards of the positions.

CHAPTER XI Disciplinary Responsibility

Section I

The disciplinary responsibility of the judges and assistant-magistrates

Art. 50. – The judges and the assistant-magistrates of the Court shall be disciplinarily responsible in accordance with the provisions of the Law No. 92/1992 on judicial organisation and with the provisions of the present Regulation.

Art. 51. – The disciplinary action against the judges shall be exercised by the Court's vice-president, its settlement being incumbent on the Superior Council of the Magistrature, presided over by the Court's president.

The preliminary investigation shall be carried out by the division presidents designated to this end.

Art. 52. – Against the assistant-magistrates, the disciplinary action shall be exercised by the Court's vice-president, with the agreement of the Court's president, and the preliminary investigation shall be carried out by the judges designated for each case in part.

The disciplinary action shall be settled by a disciplinary commission consisting of 5 judges, elected for 4 years by the Joint Divisions of the Supreme Court of Justice.

The disciplinary commission shall be presided over by the judge with the highest rank in office, and in case of equal positions, by the judge with the greatest seniority at the Court or, in case of equal seniority, by the judge with the greatest seniority in the magistrature.

The Joint Divisions of the Court shall elect 3 substitute members for the disciplinary commission, who shall

replace the titular members in case these are prevented from participating in the proceedings of the commission.

The disciplinary commission shall have as secretary the prime assistant-magistrate.

Against the decisions delivered by the disciplinary commission, the Court's president and the sanctioned assistant-magistrate may appeal within 30 days from the communication of the judgment.

The appeal shall be lodged with the disciplinary commission and shall be judged by the Court in a panel formed of 9 judges.

The decision which settles the appeal shall be final and irrevocable.

Art. 53. – The infractions of discipline, the sanctions that may be applied, the procedure of the preliminary investigation and the debates shall be those provided by the Law No. 92/1992.

Section II

The disciplinary responsibility of the personnel of the Chancery of the Court, of the officials of the Studies, Documentation, Informatics, Economic and Administrative Department, and of the Bureau for foreign relations

Art. 54. – The personnel of the Chancery of the Court, the officials of the Studies, Documentation, Informatics, Economic and Administrative Department and those of the Bureau for foreign relations shall answer disciplinarily in the cases in which they fail to carry out their duties provided by the law and the present Regulation, or when they infringe upon one of the obligations incumbent on them.

Art. 55. – The establishing and sanctioning of the disciplinary infractions committed by the officials provided for in the previous article shall be in the competence of the Court's president.

The sanctioned official may lodge a complaint within 10 days after the communication of the order of the Court's president with a commission of litigations consisting of a division president and 2 chief assistant-magistrates, designated by drawing lots. The

commission shall have as secretary an assistant-magistrate.

The commission of litigations shall be constituted for each case in part, and after the settlement it shall cease its activity.

For the infringements established, the following disciplinary sanctions may be applied:

- a) warning;
- b) reduction of the salary and of the management allowance by 10–15 per cent, for a period of at most 3 months;
- c) demotion in office or rank, within the framework of the same profession, for a period of at most 3 months;
- d) removal from office.

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Art. 56. – The judges of the Court, the assistant-magistrates and the other persons employed at the Court shall be forbidden to divulge the data considered to be professional secrets.

Art. 57. – The conditions for the employment and promotion of the Court's personnel shall be provided in the present Regulation.

Art. 58. – The salary of merit shall be granted to those employees of the Court who distinguished themselves in their activity and who had an exemplary conduct within the framework of the institution.

Art. 59. – The attributions of the personnel of the Court's Chancery, and of the other officials and workers shall be established, in detail, in the card of each position, which shall be drawn up by the head of the compartment, approved by the Court's vice-president and notified to the official under signature.

The cards of positions shall be updated whenever modifications appear in the attributions.

Art. 60. – The annual paid holidays shall be carried out during the judicial recess, that is between July 1 – August 31, under the conditions established by the regulations

elaborated according to the law and approved by the Court's Joint Divisions.

Art. 61. – In programming the paid holidays, in the period provided for in Art. 60, shall be ensured the presence of the judges, assistant-magistrates and the rest of the personnel, necessary for the judgment activity of the cases with prisoners in penal matters and, in all the matters, for the cases considered to be urgent according to the law or appreciated as such by the Court.

The president of the Court, together with the division presidents shall establish, beforehand, the number of judges and assistant-magistrates in each division, necessary to form the panels of judges during the judicial recess; their nominal designation shall be done, in case of dispute, by drawing lots.

The personnel necessary for the current activity during the judicial recess, other than the judges and assistant-magistrates, shall be designated by the president of each division, and by the heads of the other work departments of the Court.

Art. 62. – During the month of January of each year, the activity during the previous year of the assistant-magistrates, of the personnel of the Court's Chancery, and of the other officials and workers shall be assessed and marked in accordance with the norms approved by the Court's president.

Art. 63. – The Court's personnel shall be appointed to vacant posts on the basis of recommendations thoroughly accounted for, or by competitive examination, as the case may be.

Art. 64. – The persons appointed to any office shall be subject to a probation period. If at the end of the probation period, established in each case by the Court's president, the person shall prove adequate, the appointment shall be final from the beginning of the probation period. The finalisation shall be granted on the basis of the marks given by the hierarchical chief. After the expiry of this period, if the person fails to carry out the duties incumbent on him or her, he or she shall be transferred to a vacant post, according to training and

competence, or the labour agreement shall cease, as the case may be.

Art. 65. – The Court’s personnel may be promoted in ranks and professional grades, as well as to higher vacant offices, on the basis of the good results in the activity carried out, and of the proven aptitudes confirmed by the hierarchical chiefs.

Art. 66. – The Court’s president may order, from case to case, the promotion to a certain post by competitive examination.

Art. 67. – The provisions of Art. 63–66 shall not apply:

– to the judges, whose appointment is made by the President of Romania, on the proposal of the Superior Council of the Magistrature, according to the law;

– to the assistant-magistrates who are appointed on the basis of interviews, and of the recommendations of the heads of judicial instances, of the public prosecutor’s offices, and who are promoted on the basis of annual marks and of the appreciations of the hierarchical chiefs.

Art. 68. – The present Regulation has been approved by the Joint Divisions of the Court in the sitting of 22 December 1998, and shall come into force on the date of its publication in the Official Gazette of Romania, Part I.

On the same date, shall cease the administration of the Organisation and Functioning Regulation of the Supreme Court of Justice, published in the Official Gazette of Romania, Part I, No. 257 of 2 November 1993, with the modifications brought by the Decision No. 1 of 5 July 1995 of the same Joint Divisions, published in the Official Gazette of Romania, Part I, No. 157 of 20 July 1995.

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