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**JOINT PROGRAMME
BETWEEN THE COUNCIL OF EUROPE AND THE EUROPEAN COMMISSION
ON INCREASED INDEPENDENCE, TRANSPARENCY AND EFFICIENCY
OF THE JUSTICE SYSTEM OF THE REPUBLIC OF MOLDOVA**

Important note:

*This is a working document and not an official or authorized translation.
The translation has been drawn up in the framework of the Joint Programme
between the Council of Europe and the European Commission on increased
independence, transparency and efficiency of the justice system of the Republic of
Moldova.*

Law on the National Institute of Justice
Law No.152-XVI of 08.06.2006

Official Gazette of the Republic of Moldova No. 102-105/484 of 07.07.2006

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The Parliament adopts the present organic law.

Chapter I General Provisions

Article 1. Objective of the Law

The objective of the present law is to establish and to provide for the legal status of the National Institute of Justice, its organizational and functioning principles, the methods of initial and continuous training of judges and prosecutors, as well as of other persons contributing to the well-functioning of justice.

Article 2. Status of the National Institute of the Justice

(1) The National Institute of Justice, hereinafter – *“the Institute”*, is a public institution, which carries out the vocational training of the candidates for judges and prosecutors, the continuous training of judges and prosecutors, as well as of other persons that contribute to the well-functioning of justice.

(2) The Institute has the status of a legal person, manages its own patrimony and enjoys administrative, financial, scientific and pedagogical autonomy.

(3) The financial expenses of the Institute are to be covered from the state budget: Other sources of financing can be allowed if they do not hinder the autonomy of the Institute, and if they are not prohibited by law.

(4) The Institute is not part of the national system of education, and is not subject to the legal regulations of accreditation and licensing of higher educational institutions and those from the sphere of science and innovation.

(5) The Institute operates according to its Statute, approved by the Council of the Institute, hereinafter – *“the Council”*.

(6) The Institute’s headquarters are situated in Chisinau.

Article 3. Institute’s Patrimony

(1) In order to carry out the tasks provided by the present law, the Institute manages a patrimony, consisting of:

- a) goods transferred according to the law in its possession;
- b) goods purchased on the account of the Institute's own means;
- c) the means from the activities undertaken on a contractual basis;

d) donations and sponsorships from individuals and legal entities, national and foreign.

e) other sources allowed by law

(2) The goods of the Institute may be alienated only upon acceptance of the Council, according to the law.

Chapter II

Organization and Functioning of the Institute

Article 4. Functions of the Institute

(1) The main functions of the Institute are:

a) drawing up a national strategy on initial and continuous training of judges, prosecutors and of other persons that contribute to the well-functioning of justice and submit it for approval to the Superior Council of Magistracy – for judges and the General Prosecutors Office – for prosecutors;

b) initial training of candidates for judges and prosecutors;

c) continuous training of acting judges and prosecutors;

d) initial and continuous training of persons that contribute to the well-functioning of justice, in cases provided by law;

(2) The Institute can perform other functions on:

a) organization and conducting of vocational and continuous training for other categories of legal professions on contractual basis ;

b) international cooperation in its fields of activity;

c) drawing up and publication of didactical and other materials drawn up as a result of its activity.

(3) The Institute can carry out other activities required for the performance of its functions.

Article 5. Administrative Bodies of the Institute

The administrative bodies of the Institute are the Council, and Executive Director.

Article 6. The Council

(1) The Council is the supreme administrative body of the Institute.

(2) The Council consists of 13 members:

a) 7 judges, elected by the Superior Council of Magistracy from among judges of different levels;

b) 4 members are designated by the General Prosecutor's Board;

c) 1 member designated by the Minister of Justice,

d) 1 member, titular law professor, designated by the Senate of the State University from Moldova;

(3) The members of the Council are appointed for a four-year term. The mandate of the Council's members may be renewed only once.

(4) The quality of Council's membership ceases at the mandate's expiry, at his request or in the event of his death. The membership may be revoked by the nominating body, in cases of circumstances that exclude the possibility of the member's performing of functions, as well as at 2/3 of the Council's members request, in the event of failure to perform or inappropriate performing of the member's functions.

(5) The Council's chairperson shall be elected through secret ballot from the members of the Council, for the mandate's term. The Council's chairperson may be

recalled at the request of 1/3 of the Council's members. The decision on recalling the Council's chairman shall be adopted through secret ballot with 2/3 of Council's members votes.

(6) One member of the Council will be appointed Secretary.

Article 7. Council's Attributions

(1) The Council exercises the following main competences:

- a) approve the strategy on initial and continuous training as well as the action plan for its implementation;
- b) approves the regulation on the organization of the admission contest to the Institute;
- c) approves yearly but not later than September 1st the syllabuses and the educational curriculum for the initial and continuous training courses;
- d) approves the regulation on the organization of the contests for filling in the vacancies for teaching staff;
- e) organizes the competition and approves the results of the contest for filling in the vacancies for teaching staff;
- f) organizes the competition for filling in the vacancy for executive director position;
- g) appoints and dismisses the Executive Director and the Deputy Executive Director;
- h) approves the number of vacancies proposed within the admission contest for initial training for judges and prosecutors, taking into consideration the real necessities and the available resources;
 - i) examines, approves and submits to the Ministry of Finances the Institute's annual draft budget, according to the legally established procedure;
 - j) authorizes cooperation agreements with similar institutions from abroad and donors contributions;
 - k) approves the salaries of the non permanent teaching staff of the Institute;
 - l) approves the composition of the Admission and Graduation Examination Commission;
 - m) organizes the admission contest in the Institute for initial training for judges and prosecutors;
 - n) approves the results of admission and graduation exams;
 - o) approves the activity annual report of the Institute, submitted by the Institute's Executive Director to the Superior Council of magistracy, General Prosecutor Office and Ministry of Justice for the purpose of keeping them informed on its activity. Publishes and disseminates annual report of activities and financial report;
 - p) approves the functions' establishment and the list of personnel of the Institute;
 - q) approves the Internal Regulations of the Institute.

(2) Under its functions, the Council may also perform other attributions in accordance with the present law.

(3) Decisions under paragraph (1), letters a) d), h), l) can be adopted only after preliminary consultation with Superior Council of Magistracy, General Prosecutor's Office and Ministry of Justice.

Article 8. Council's Meetings

(1) The ordinary meetings of the Council shall be convened once per trimester.

(2) At the request of Council's chairperson or 1/3 of its members the Council is convoked in extraordinary meetings.

(3) Council's meetings are presided over by the Council's chairperson. In his absence, the meeting is presided over by a member appointed by the Council's chairperson, or, eventually, by the member, elected from those present at the meeting.

(4) The Council holds its deliberative meetings if the majority of members are present.

(5) The Executive Director shall attend to all meetings of the Council and has the right of a consultative vote.

(6) At the request of Council's chairperson or 1/3 of its members the Council, representatives of donors and invited experts can attend the meetings of the Council.

(7) The Council's decisions shall be adopted with at least 7 votes and shall be signed by the Council's chairman and secretary. Training Programs devoted to judges and prosecutors should be approved with the majority of the members of the Council among judges and among prosecutors respectively.

(8) The works the Council's meetings are recorded in a minutes, signed by all the members of the Council, present at the meeting.

Article 9. The Executive Director

(1) The Executive Director shall be selected through a contest from among candidates with a degree in law, with highly professional skills and have at least 7 years of working experience in law-related sphere, higher education or scientific research sphere.

(2) The Executive Director shall be appointed by the Council, for a term of 5 years, and his mandate can be renewed

(3) The Executive Director ceases his activity at the mandate's expiry, at his request or in the event of his death. At the proposal of 1/3 of all Council's members the Executive Director can be dismissed by a Council's decision, in cases of lack of performing or inappropriate performing of his functions, ascertaining of insufficient qualification and systematic disciplinary misconducts.

(4) The Executive Director shall ensure the management of the Institute's activity and has the following main attributions:

- a) to represent the Institute in its relations with public authorities, natural and legal persons, domestic or foreign;
- b) to ensure the organizational activity of the Council;
- c) to organize the implementation of Council's decisions;
- d) to draw up the initial and continuous training programs;
- e) to appoint the teaching staff, after approval by the Council of the results of the contest for filling in vacancies;
- f) to approve Institute's internal Regulations;
- g) to ensure the implementation of training programs;
- h) to manage the patrimony of the Institute;
- i) to draw up the Institute's draft budget and submit it to the Council for approval within the terms established by later;
- j) to draw up the draft of the functions' establishment and the list of personnel of the Institute;
- k) to appoint the administrative and technical staff of the Institute;

- l) to sign cooperation agreements with similar authorities from abroad and donors contribution, maintain relations with international bodies in areas within the competence of the Institute, informing previously the Council;
- (5) Annually, not later than July 31, the Executive Director submits to the Council, a report on Institute's activities.
- (6) The Institute shall have a Deputy Director. The Deputy Director shall be appointed and dismissed by the Council, at the Executive Director's proposal.
- (7) Whenever the Executive Director is absent, the Deputy Director ensures the fulfilling of Director's responsibilities.

Article 10. Internal Structure of the Institute

- (1) The structure of the Institute, its functions' establishment and the list of personnel are approved by the Council.
- (2) The Institute's personnel consist of teaching, administrative and technical staff.
- (3) The rules established for the teaching staff of higher education system shall apply to the teaching staff of the Institute whenever special rules are not provided for.
- (4) Judges and prosecutors, if they wish so can be seconded to work within the Institute.
- (5) The rights and duties of the employees of the Institute are provided by the internal Regulations of the Institute and by the regulations of its divisions.

Article 11. Institute's Staff Wage

- (1) The salary of the permanent teaching staff at the Institute, with the exception of seconded persons, shall be established by the Council, according to the rules for the payment of judges from the courts, set up in accordance with the law on salaries of judges.
- (2) The wage of the administrative and technical staff of the Institute shall be performed according to the norms established by the Government for the given staff categories.
- (3) The Council is entitled to decide the payment of a supplement to the basic salary on the account of extra-budgetary means and donations.

Chapter III

Initial Training of Candidates for Judges and Prosecutors

Continuous Training of Judges and Prosecutors

Article 12. Initial Training of Candidates for Judges and Prosecutors

The initial training at the Institute represents the training of persons having a degree in law, and is one of the requirements to be met for the appointment as a judge and, respectively, as a prosecutor.

Article 13. Contest for Admission to the Institute

- (1) Admission within the Institute shall take place on the basis of a contest exclusively, observing the principles of transparency and equality of rights.
- (2) Only those who meet the established requirements for the appointment as judge or, respectively, prosecutor are entitled to participate to the admission contest.
- (3) The admission contest shall be organized by the Executive Director according to the Council's decision.

(4) The date and place of the admission contest shall be announced at least 60 days in advance through mass-media and Internet.

(5) The results of the contest shall be posted up at the Institute's Office and published on the web-sites of the Superior Council of magistracy, General Prosecutor Office and of the Institute.

(6) The results of the competition can be contested, within 3 days term from the moment of posting up, at the Admission Examination Commission. The Commission will solve the contests, within 3 days term, by adopting final decisions.

Article 14. Organization of Initial Training Courses

(1) The initial training courses for the candidates to the position of judge and prosecutor last 18 months, including a theoretical and practical training.

(2) The candidates to the position of judge and prosecutor shall be trained in separate groups. The Council may determine if courses are to be provided in mixed groups.

(3) The courses include theoretical and practical training and are organized according to the study curriculum approved by the Council.

(4) During the courses, the candidates for the position of judge or prosecutor are entitled to a monthly scholarship equal to 50 per cent of the basic salary of a judge of a court.

Article 15. Internships during the initial training

(1) During the period of initial training, the persons that follow the initial training courses at the Institute undertake internships, in accordance with internship programs, under the guidance of a supervisor from the institution where the internship takes place.

(2) The internships shall be undertaken within the courts and the prosecution offices, criminal investigation authorities and lawyers' offices, in order to be acquainted with the activities of judges, prosecutors, criminal investigators, lawyers, clerks and of the auxiliary staff.

Article 16. Disciplinary Liability of the persons who are attending initial training courses

(1) Persons who are attending initial training courses shall be subject to disciplinary liability for deviation from duties stated by the law and Internal Regulation of the Institutes.

(2) The following shall be considered disciplinary deviations:

- a) Carrying on public activities with political character or expressing political opinions within the period of training;
- b) Disrespectful attitude towards colleagues, teaching staff or managing board of the Institute, as well as towards persons with whom he/she has contact within the period of training.
- c) Groundless absence from courses;

(3) Disciplinary sanctions shall be the following:

- a. Admonition;
- b. Diminishing the scholarship with 15% for 1 up to 3 months;
- c. Expelling from Institute;

(4) The sanctions stated by the paragraph 3, letter a) shall be applied by the executive director in written form.

(5) The sanctions stated by the paragraph 3, letter b) and c) shall be applied through Council's decision, after consulting the Superior Council of Magistracy, and respectively General Prosecutor Office.

- (6) In the event of expelling from the Institute, the Council may claim the reimbursement to the Institute's account the scholarship received during the period of initial training.

Article 17. Knowledge Assessment

(1) The level of theoretical knowledge and practical skills of candidates shall be evaluated through a system of marks and/or qualification tests. The individual evaluation records shall be kept for the entire study period and 3 years after graduation.

(2) In the event of a negative evaluation the person who attends the initial training courses can be expelled from the Institute, by Council's decision, at the proposal of the Executive Director and only after consulting Superior Council of Magistracy or respectively General Prosecutor's Office.

(3) The initial training courses are finalized with graduation exams at disciplines established by the Council after coordinating them with Superior Council of Magistracy, and respectively General Prosecutor's Office.

(4) The results of the graduation exams may be contested, within 3 days term from the moment of posting up, at the Graduation Examination Commission. The Commission will solve the contests, within 3 days term, by adopting final decisions.

(5) The person who has attended initial training courses but did not pass the graduation exams may take the exams once again at the next session organized by the Institute.

(6) The Institute graduates shall receive a certificate in which the length of the courses and the average mark received shall be mentioned. On the basis of this certificate the graduates shall participate in the contest for filling in vacancies of judges and respectively prosecutors.

(7) In the event of groundless absence of the candidate from the final exam, or the obtaining of a negative final assessment, the Council may claim the reimbursement to the Institute's account the scholarship received during the period of initial training.

Article 18. Appointment to the position

(1) The graduates from the Institute shall take part to the contest for the vacancies for the position of judge or prosecutor according to the procedure provided for by the Law on the status of judges or the Law on the Prosecutor's office respectively.

(2) The graduates taking part in the contest for the vacancies shall choose, in descending order of their graduation average mark, the positions of judge or prosecutor open for competition.

(3) The graduates who have not passed successfully the contest for available vacancies for the position of judge or prosecutor shall further take part in any open contest for the above mentioned positions during three years after graduation from the Institute. After three years the graduates cannot participate in such contests.

(4) The ungrounded absence of the graduate from the contest for the vacancies for the position of judge or prosecutor, respectively, entail his /her obligation to reimburse to the Institute's account the scholarship received during the period of initial training.

Article 19. Continuous Training of Judges and Prosecutors

(1) The Institute organizes continuous training of judges and prosecutors, according to an annual program. The program is submitted to the Council for

approval, but not later than July of the year preceding the academic year envisaged by it.

(2) The judges and prosecutors have the right to continuous training and may choose from the subjects proposed by the program, but they have the duty to cumulate at least 40 hours annually. The selected subjects shall be communicated to the Institute by the end of October.

(3) The Council can establish compulsory subjects for judges and prosecutors respectively.

Chapter IV Initial and Continuous Training of Court Clerks and Bailiffs

Article 20. Initial Training of Court Clerks and Bailiffs

(1) Court clerks and bailiffs shall attend the initial training courses within the Institute after their appointment.

(2) The initial training courses of court clerks and bailiffs shall last 3 months.

(3) In order to ensure the proper conduct of courses and internships, mixed or separate groups may be organized for the candidates for court clerks and bailiffs.

(4) After finishing the courses of initial training, a capability exam shall be passed.

(5) A negative final assessment or the ungrounded resignation from the position during the first 2 years after the initial training course entails the obligation to reimburse all the expenses made by the Institute during the period of initial training.

Article 21. Continuous Training of Court Clerks and Bailiffs

(1) The institute organizes continuous training of court clerks and bailiffs according to the program approved by the Council after consultations with the Superior Council of magistracy and Ministry of Justice, as case may be.

(2) The court clerks and the bailiffs are obliged to undertake the continuous training courses according to the program approved by the Superior Council of Magistracy and Ministry of Justice.

Chapter V Final and Transitory Provisions

Article 22.

(1) The initial training shall be a compulsory condition for appointment to the position of judge or prosecutor from the moment of approval by the Council of the results of graduation examination of the first trainees of the Institute.

(2) The number of training hours provided by art. 19 (2) shall be compulsory as from January 1st, 2008.

(3) The authorities mentioned in art. 6 (2) shall nominate the members to the Council in two months from the moment of official publication of the present law. During 10 days from the day of designation of all members, the Ministry of Justice shall organize the first session of the Council.

(4) The Council of the Institute shall call a contest for the position of Executive Director of the Institute within 45 days from the moment of nomination of all members of the Council.

(5) The National Institute of Justice shall be operational as of September 1st, 2007

(6) The Government, within a period of up to 6 months:

shall present to the Parliament proposals concerning the harmonization of the legislation with the present law;
shall bring its normative acts in accordance with the present law.

PARLIAMENT'S
CHAIRMAN

Marian Lupu

Chisinau, June 8, 2006
No.152-XVI