

Romania/Consiliul Superior al Magistraturii Румъния/Висш съвет на магистратурата

1. TO WHICH OF THE THREE CLASSIC BRANCHES OF GOVERNMENT DOES THE RESPECTIVE COUNCIL BELONG

The institution of Superior Council of Magistracy is mentioned in Chapter IV "Judicial Authority" of the Romanian Constitution.

2. DURATION OF THE MANDATE OF THE MEMBERS OF THE RESPECTIVE COUNCIL

Article 133 of the **Romanian Constitution** and article 51 of **Law no.317/2004 on Superior Council of Magistracy** state the length of the term of office for elected members of the Superior Council of Magistracy shall be **6 years**, and the term of office is not renewable.

3. POWERS, FUNCTIONS, SERVICES, MISSION OF THE RESPECTIVE COUNCIL

Article 133 of the Romanian Constitution states the Superior Council of Magistracy is the guarantor of the independence of justice.

Superior Council of Magistracy ensures the management of the entire career of magistrates.

According to Article 133 – "Powers" of the Romanian Constitution:

- 1) The Superior Council of Magistracy submits proposals to the President of Romania for the appointment of judges and public prosecutors, juniors excepted, according to the law.
- (2) The Superior Council of Magistracy is competent, through its sections, to sit in judgment on disciplinary proceedings against judges and public prosecutors, subject to its own organic law. The Minister of Justice, the President of the High Court of Cassation and Justice, and the General Prosecutor of the Prosecution Office attached to the High Court of Cassation and Justice shall have no vote in like instances.
- (3) Decisions ruled by the Superior Council of Magistracy in disciplinary proceedings may be appealed against at the High Court of Cassation and Justice.
- (4) The Superior Council of Magistracy shall also discharge other powers as determined under its own organic law, in accomplishing its role as a guarantor for the independence of the judiciary.

According to the Law nr.317/2004 on Superior Council of Magistracy, the institution has the following competencies:

Attributions of the Plenum of the SCM

Art. 35 - (1) The Plenum of the Superior Council of Magistracy shall have the following duties concerning the career of judges and prosecutors:

- a) makes proposals to the President of Romania on the appointment and removal from office of judges and prosecutors, except for the debutant judges and prosecutors;
- b) appoints the debutant judges and prosecutors, based on the results they obtain in the exam of graduation of the National Institute for Magistracy;
- c) decides the promotion of judges and prosecutors;
- d) removes from office the debutant judges and prosecutors;
- e) recommends to the President of Romania the bestowing of distinctions to judges and prosecutors, according to the law;
- f) fulfils any other duties set forth by laws or regulations.

Art. 36 - (1) The Plenum of the Superior Council of Magistracy shall have the following duties concerning the admission into magistracy, evaluation, training and examinations of judges and prosecutors:

a) at the proposal of the Scientific Council of the National Institute for Magistrates, shall establish the annual number of auditors of justice for the National Institute for Magistracy, shall approve annually the date and place of the exam for admission to the National Institute for Magistracy, subject-matters approving the programme of professional training for auditors of justice, shall issue endorsements and adopt regulations, in the cases and on the conditions provided in the law;

b) appoints the commission for the admission exam and the commission for elaboration of the subjects for the admission exam to the National Institute for Magistracy, according to the Regulation on the organisation of the exam for admission to the National Institute for Magistracy;

c) organises and validates, according to laws and regulations, the capacity exam for judges and prosecutors and approving the programme for the in-service professional training of judges and prosecutors, at the proposition of the Scientific Council of the National Institute for Magistracy, as well as the subject-matters for the activities of in-service professional training organised by courts of appeal and the prosecutor's offices attached to these;

d) organises and validates, according to laws and regulations, the competitive exam for judges and prosecutors appointment into leading position;

e) decides on the organisation of the competitive exam for judges and prosecutors promotion;

f) appoints the commission for the evaluation of the professional activity of judges and prosecutors, according to the law;

g) appoints and revoking the director and deputy-directors of the National Institute for Magistracy, at the proposal of the Scientific Council of the National Institute for Magistrates, and designating the judges and prosecutors who will be part of the Scientific Council of the National Institute for Magistrates;

h) approves the organisational structure and the personnel establishments of the National Institute for Magistracy at the proposal of the Scientific Council of the National Institute for Magistracy;

i) appoints the director and the deputy-directors of the National School for Court Clerks and designating judges and prosecutors as members of the School's Leading board.

j) fulfils any other duties set forth in laws or regulations.

(2) The Plenum of the Superior Council of Magistracy shall deal with objections lodged by judges and prosecutors against decisions rendered by the sections of the Superior Council of Magistracy, except for those on disciplinary matters.

Art. 37 - The Plenum of the Superior Council of Magistracy shall have the following attributions concerning the organisation and operation of the courts and prosecutor's offices:

- a) summons the general assemblies of judges and prosecutors, according to the law;
- b) approves the measures for supplementing or reducing the number of posts for courts and prosecutor's offices;
- c) elaborates its own draft budget, with the consultative endorsement of the Ministry of Public Finance, and issuing the endorsements for the draft budgets of courts and prosecutor's offices;
- d) fulfils any other duties set forth by laws or regulations.

Art. 38 - (1) The Plenum of the Superior Council of Magistracy shall adopt the Deontological Code for Judges and Prosecutors, the Regulation on the organisation and operation of the Superior Council of Magistracy, the Regulation on the proceedings for electing the members of the Superior Council of Magistracy, the Interior Regulations for law courts, as well as other regulations and decisions provided in Law no.303/2004 on the statute of judges and prosecutors and in Law no.304/2004 on the organisation of the Judiciary, .

(2) The Plenum of the Superior Council of Magistracy shall ensure the publication of the Deontological Code for Judges and Prosecutors and the regulations provided in paragraph (1) in the Official Journal of Romania, Part I, and on the web page of the Superior Council of Magistracy.

(3) The Plenum of the SCM shall issue the avis (endorsement) for the draft normative acts concerning the activity of the judicial authority.

(4) The Plenum of the SCM shall issue the avis (endorsement) for the draft regulations and orders to be approved by the minister of justice, in the cases provided by the law.

(5) The Plenum of the SCM may notify the Minister of Justice with regard to the necessity to initiate or to amend some normative acts in the field of justice.

(6) Every year, the Superior Council of Magistracy shall elaborate a report on the status of the Judiciary and a report on its own activity, which shall be presented to the Joint Chambers of the Romanian Parliament by 15 February the next year and publish in the Official Journal of Romania, Part III, and on the web page of the Superior Council of Magistracy.

Art. 39 - The Plenum of the SCM appoints the secretary general and the personnel with leading functions within the apparatus of the SCM.

Attributions of the SCM sections

Art. 40 - The sections of the Superior Council of Magistracy shall have the following attributions concerning to the career of judges and prosecutors:

- a) decides the delegation and the secondment of judges and prosecutors, according to the law;
- b) appoints judges and prosecutors in leading positions, according to the law and to the regulation;
- c) examines recommendations received from the leading board of the High Court of Cassation and Justice on the appointment of judges to this Court;
- d) analyses if the debutant judges and prosecutors who succeed to the capacity examination, the other jurists who succeed to the exam for admission into the magistracy, the judges and prosecutors who applied for the promotion exam and the judges and prosecutors proposed for appointment in leading positions fulfil the legal requirements;
- e) solves the objections against the evaluation marks granted by the legally set up boards of evaluation of the professional activity of judges and prosecutors;
- f) takes measures for solving the notifications received from litigants or from other persons on the inappropriate conduct of judges and prosecutors;
- g) proposes to the President of Romania the appointment and revocation from office of the president, vice-president of sections and section presidents of the High Court

of Cassation and Justice;

h) shall endorse the proposal made by the minister of justice on the appointment and revocation of the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice, of the Chief prosecutor of the National Anti-Corruption Department, of their deputies, of the chief-prosecutors of section within these prosecutor's offices, as well as of the chief prosecutor of the Directorate for Investigation of Offences of Organised Crime and Terrorism and of his deputy;

i) approve the transfer of judges and prosecutors;

j) decides on the suspension from office of the judges and prosecutors;

k) fulfils any other duties set forth by laws or regulations.

Art. 41 - The sections of the Superior Council of Magistracy shall have the following duties concerning to the organisation and operation of courts and prosecutor's offices:

a) approves the setting up and closing down of sections in courts of appeal, of courts in the latter's jurisdiction, as well as the setting up of secondary premises of courts, according to the law;

b) approves the proposal of the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice or of the chief prosecutor of the National Anti-Corruption Department on the setting up or closing down of sections in prosecutor's offices;

c) endorses the draft Government decision regarding the list of places that are part of the jurisdictions of first instance courts;

d) establishes the categories of trials or applications to be solved in the city of Bucharest only by certain courts, while observing the substantive competence provided in the law;

e) at the proposal of the presidents of courts of appeal, shall establish the number of vice-presidents for the courts of appeal, tribunals and specialised tribunals, as well as the first instance courts where one vice-president works;

f) upon the proposal of the Prosecutor General of Romania or of the Chief prosecutor of the National Anti-Corruption Department, shall establish the number of deputies of the general prosecutors within prosecutor's offices attached to courts of appeal and of prime-prosecutors within prosecutor's offices attached to tribunals, as well as prosecutor's offices attached to first instance courts, where prime-prosecutors are assisted by deputies;

g) fulfils any other duties set forth by laws or regulations.

Art. 42 - (1) The SCM section for judges shall approve the search, the temporary detention or the arrest of judges and assistant-magistrates.

(2) The section for prosecutors of the SCM shall approve the search, the temporary detention or the arrest of prosecutors.

(3) The provisions of paragraphs (1) and (2) on searches and custody shall not apply in case of flagrant offence.

Art. 43 - The Judges Section of the SCM appoints and promotes the assistant magistrates of the High Court of Cassation and Justice, according to the law.

Attributions of the SCM in the matter of disciplinary liability of magistrates

Art. 44 - (1) The Superior Council of Magistracy shall fulfil, through its sections, the role of law court in the field of disciplinary liability of judges and prosecutors, for the acts provided in Law no.303/2004 on the statute of judges and prosecutors.

(2) The Judges' Section acts as a disciplinary court also for the assistant magistrates of the High Court of Cassation and Justice.

Superior Council of Magistracy ensures the management of the entire career of magistrates.

According to the provisions of Law no.303/2004 on the status of judges and prosecutors, the admission into magistracy shall be made by competitive examination, through the National Institute of Magistracy, with the observance of the transparency and equality principles.

ACCORDING TO THE PROVISIONS OF LAW NO.303/2004 ON THE STATUS OF JUDGES AND PROSECUTORS:

Both initial training in order to fill in the position of judge or public prosecutor and the continuous professional training are developed through National Institute of Magistracy, an institution coordinated by Superior Council of Magistracy.

Judges and prosecutors are promoted only by means of a competitive exam held at a national level, within the limits of vacancies existing at tribunals and courts of appeal or, the case being, at the prosecutor's offices.

The competitive exam for the promotion of judges is held annually or any time considered necessary, by the Superior Council of Magistracy, through the National Institute of Magistracy.

Suspension from the office of judge or prosecutor

A judge or prosecutor may be suspended from office in the following cases:

- a) when criminal action has been initiated against him through ordinance or indictment;
- b) when he suffers from a mental illness that prevents him from properly exercising his office.

Delegation, secondment and transfer

If a first instance court, a tribunal or a specialized tribunal cannot operate normally because of the temporary absence of certain judges, the existence of vacancies or other such causes, the president of the court of appeal that has jurisdiction may, at the proposal of that court's president, delegate judges from other courts within the aforementioned jurisdiction, with their written consent.

The delegation of judges from first instance courts, tribunals and specialized tribunals to the jurisdiction of another court of appeal shall be decided, with their written consent, by the Superior Council of Magistracy at the request of the president of the court of appeal in whose jurisdiction the delegation is requested and with the endorsement of the president of the court of appeal where they work.

The delegation of judges within the courts of appeal shall be decided, with their written consent, by the Superior Council of Magistracy, at the request of the president of the court of appeal.

The delegation into a leading position of judges within the courts of appeal, tribunals, specialized tribunals and first instance courts shall be decided by the Superior Council of Magistracy, with the written consent of the judges, until the office is filled through appointment according to this law.

The delegation into the leading position within the High Court of Cassation and Justice of the judges of this court shall be decided by the Superior Council of Magistracy, with their written consent, at the proposal of the president of the High Court of Cassation and Justice.

Judges may be delegated for a period not exceeding 6 months and the delegation may be extended, with their written consent, for at most 6 months.

The judges and prosecutors shall be removed from office in the following cases:

- a) resignation;
- b) retirement, according to the law;
- c) transfer to another office, according to the law;
- d) professional incapacity;
- e) as a disciplinary sanction;
- f) final conviction of the judge or prosecutor for an offence;
- g) violation of article 7 of Law 303/2004 who provides that judges, prosecutors, assistant-magistrates, judicial specialized personnel assimilated with magistrates and the specialized auxiliary personnel in courts and prosecutor's offices may not be operative employees, including undercover, informers or collaborators of the intelligence services;
- h) failure to meet the requirements provided by Article 14 paragraph (2) a), c) and e) (to be Romanian citizens, with permanent residence in Romania and have full legal capacity, have no criminal and fiscal record and to be able, medically and psychologically, to exercise this office).

The removal from office of the judges and prosecutors shall be decided by decree of the President of Romania, at the proposal of the Superior Council of Magistracy.

The evolution of the career of a judge or prosecutor shall be recorded in a sheet in the professional file, which shall be set up and kept by the Superior Council of Magistracy.

The information of the magistrates' professional files is confidential, according to the provisions of the law.

Judges and prosecutors shall have access to their own professional file and may obtain copies of the file existing documents.

APPOINTMENT OF JUDICIAL EXECUTIVES

Appointment into the offices of president and vice-president in first instance courts, tribunals, specialized tribunals and courts of appeal is possible only through an exam organized by the Superior Council of Magistracy, through the National Institute of Magistracy, any time considered necessary.

Judges who have received the reading "very good" in the last evaluation, who were not sanctioned disciplinarily within the last 3 years and who meet the legal requirements of length of service may sit for the competitive examination.

The exam consists in presenting a project on the exercise of duties that are specific of the leading position and of written tests on management, communication, human resources, and the candidate's ability to take decisions and to assume responsibility, his resistance to stress and of a psychological test.

The appointment of judges who obtained the best result in the competitive exam or, the case being, who succeeded in the exam, into the offices for which they applied, shall be made for a 3 years term of office, which is renewable only once.

The appointment of judges into other leading position shall be made for a 3 years term of office, which is renewable only once, by the Superior Council of Magistracy, at the proposal of the court president.

The appointments as general prosecutor of a prosecutor's office attached to a court of appeal, as prime-prosecutor of the prosecutor's office attached to a tribunal, as prime-prosecutor of the prosecutor's office attached to a tribunal for minors and family or as prime-prosecutor of the prosecutor's office attached to a first instance court and as deputy to the above offices, shall be made only through competitive exam held by the Superior Council of Magistracy, through the National Institute of Magistracy, any time considered necessary.

The prosecutors who have received the reading "very good" in the last evaluation, who were not disciplinarily sanctioned within the last 3 years and who meet the legal requirements of length of service may sit for the competitive exam.

The appointment of prosecutors who obtained the best result in the competitive exam or, the case being, who succeeded in the exam, into the offices for which they applied, shall be for a 3 years term of office, which is renewable only once.

The appointment of into the other leading position in prosecutor's offices shall be made for a 3 years term of office, which is renewable only once, by the Superior Council of Magistracy, at the proposal of the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice. For this appointment into the leading position the recommendation of the person in charge of the prosecutor's office where the prosecutor is to be appointed shall be required.

The General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice, his prime-deputy and deputy, the general prosecutor of the National Anti-Corruption Department, his deputies, the chiefs prosecutors of the section within these prosecutor's offices, as well as the chief prosecutor of the Directorate for Investigation the Offences of Organized Crime and Terrorism and his deputies, shall be appointed by the President of Romania, at the proposal of the Minister of Justice, with the endorsement of the Superior Council of Magistracy, from among the prosecutors having at least 10 years' length of service as judges or prosecutors, for a 3 years term of office which is renewable only once.

One of the means through which Superior Council of Magistracy may consolidate the role of the guarantor of the independence of justice is that of acting for counterattacking the situation of breaching the independence, impartiality or professional reputation of judges and prosecutors.

In exerting the constitutional competence, **Superior Council of Magistracy has, according to article 30 paragraph (1) of Law 317/2004 on SCM, the right and obligation to be self-notified for protecting judges and prosecutors against any act that may affect their independence or impartiality or might arouse suspicion on those. Also, the Council protects the professional reputation of judges and prosecutors.**

In the same time, through Regulation on organization and functioning of SCM it is provided the competence and procedure for **noticing the breach of the Code of Ethics** by judges and prosecutors.

▪ **Noticing the breach of the Code of Ethics provisions**

According to the Romanian legislation, if there are any clues for a breach of the norms of conduct regulated by the Code of Ethics for judges and prosecutors, the Discipline Commission notifies immediately, ex officio, by written indication, the proper Section of the

Council. During the disciplinary investigation, the judge or the prosecutor involved has the right to be heard or to lodge any necessary defence.

Also, Judicial Inspection shall immediately notify the proper Section of the Council, if, from the carried out verification shall result any evidence on breaching the norms of conduct regulated by the Code of Ethics for judges and prosecutors. During the disciplinary investigation, the judge or the prosecutor involved has the right to be heard or to lodge any necessary defence.

If the notification of the Discipline Commission or of the Judicial Inspection is grounded, the Section shall take act, by decision, of the breach of the conduct norms regulated by the code of Ethics for judges and prosecutors.

If the notification is not grounded, the Section of the Council will reject it by passing a decision.

The decision passed by Section of Council may be appealed to the Plenum, within 5 days from communication, and the Decision of Plenum may be appealed to the Section of administrative-contentious and fiscal claims of the High Court of Cassation and Justice.

The decision of Section of Superior Council by which it is noticed a breach of conduct norms regulated by Code of Ethics for judges and prosecutors, after it became irrevocable, it shall be deposited at the professional file of judge or prosecutor and it taken into consideration for the evaluation.

▪ **Defending the independence, impartiality and/or professional reputation of judges and prosecutors**

After receiving a claim from respective judge or prosecutor, Judicial Inspection shall carry out verification, and after its finalization, will present the material resulted from investigation, before drafting the final report, to the judge or prosecutor involved, in order to express an opinion or to provide supplementary evidence and those facts shall be written in a minutes.

After ending verifications, the inspector / team of inspectors shall draft a report presenting in detail all the issues affecting the independence, impartiality and professional reputation of the judge or prosecutor and shall also conclude with proper recommendations.

The report, together with the eventual objections issued by the judge or prosecutor and with the opinion of Judicial Inspection is presented to the Plenum of Superior Council of Magistracy.

The decision adopted by Plenum of Superior Council of Magistracy shall be communicated by Judicial Inspection to the judge/prosecutor who lodged the claim.

If the claim is passed, Plenum of SCM shall dispose the publication of the result of verifications on its own website and the communication of it to other interested persons (judges / prosecutors involved, journalists).

4. CRITERIA FOR NOMINATION AND APPOINTMENT OF THE MEMBERS OF THE RESPECTIVE COUNCIL

- 9 judges and 5 prosecutors, elected within the general assemblies of judges and prosecutors, organized in two sections of the Council, one for judges and one for prosecutors.
- 2 representatives of civil society, professionals of law, having a higher professional and ethical reputation, elected by the Senate;

- the president of High Court of Cassation and Justice, the minister of justice and prosecutor general of the Prosecutors' Office attached to the High Court of Cassation and Justice, who are ex officio members of the Council.

Article 7 of Law no. 317/2004 - paragraph (1) "The members of the Superior Council of Magistracy shall be elected from the judges and prosecutors appointed by the President of Romania".

Paragraph (4) The applications shall be submitted to the Leading board of the High Court of Cassation and Justice, the Leading board of the Prosecutor's Department attached to the High Court of Cassation and Justice, the Leading board of the National Anti-Corruption Department or to the leading boards of courts of appeal or of the prosecutor's offices attached to these, accompanied by:

- a curriculum vitae;
- a project on the main objectives which will be followed by the judges or prosecutors if they are elected in the Superior Council of Magistracy, as well as, the case being, the supporting documents for the candidacy;
- a statement on one's own responsibility that he or she was not part of the intelligence services before 1990 and did not collaborate with them either;
- an authentic statement on one's own responsibility according to criminal law, showing that they are not operative employees, including undercover, informers or collaborators of the intelligence services;
- an updated statement of interests.

Paragraph (5) Judges and prosecutors who were part of the intelligence services before 1990 or collaborated with them or those who have a personal interest that influences or could influence the objective and unbiased fulfilment of the duties provided by the law may not be elected as members of the Superior Council of Magistracy.

Paragraph (6) The leading boards of the High Court of Cassation and Justice, of the Prosecutor's Office attached to the High Court of Cassation and Justice, of the National Anti-Corruption Department, of the courts of appeal and of the prosecutor's offices attached to the courts of appeal shall check the fulfilment of the requirements under paragraphs (1) – (5) by the judges and prosecutors who applied for CSM.

Article 8 – (1) The judges of the High Court of Cassation and Justice shall elect, in the general assembly, through secret, direct and personal vote, 2 members for the Superior Council of Magistracy, among the judges who submitted their applications.

(2) Prosecutors from the Prosecutor's Office attached to the High Court of Cassation and Justice and prosecutors from the National Anti-Corruption Department shall elect, within the joint general assembly of prosecutors from these prosecutor's offices, by secret, direct and personal ballot, one member for the Superior Council of Magistracy from the prosecutors who applied. In these general assemblies, the prosecutors from the territorial structures of these prosecutor's offices shall vote as well.

(3) As members of the Superior Council of Magistracy shall be elected 2 judges from the High Court of Cassation and Justice, one prosecutor from the Prosecutor's Office attached to the High Court of Cassation and Justice or from the National Anti-Corruption Department, who obtained the majority of votes in the general assemblies.

(4) In the event that one of the candidates fails to obtain the majority of votes, a second ballot shall be held, with the participation of the judges and prosecutors who took the first two positions in the list of candidates. The candidate who obtains the highest number of votes in the second round of elections shall be elected as member of the Superior Council of Magistracy.

Article 13 – (1) In order to elect the members of the Superior Council of Magistracy, at the level of each court and each prosecutor's office, the general assembly of the judges or, as the case may be, of the prosecutors shall be summoned.

(2) Judges from courts of appeal and prosecutors from the prosecutor's offices attached to these, in their general assemblies, shall elect 3 judges from the courts of appeal and 1 prosecutor from the prosecutor's offices attached to these, as members of the Superior Council of Magistracy, by secret, direct and personal ballot.

(3) Judges from tribunals, and specialised tribunals and prosecutors from the prosecutor's offices attached to these shall elect 2 judges from tribunals and specialised tribunals and 2 prosecutors from the prosecutor's offices attached to these, as members of the Superior Council of Magistracy, in their general assemblies, by secret, direct and personal ballot.

(4) Judges from first instance courts and prosecutors from the prosecutor's offices attached to first instance courts shall elect 2 judges from first instance courts and one prosecutor from the prosecutor's offices attached to these, as members of the Superior Council of Magistracy, in their general assemblies, by secret, direct and personal ballot.

5. COMPOSITION OF THE RESPECTIVE COUNCIL:

Article 133 of Romanian Constitution and article 3 of Law no.317/2004 on Superior Council of Magistracy state the Council is composed of 19 members, out of which:

a) 9 judges and 5 prosecutors, elected within the general assemblies of judges and prosecutors, who shall make up the two sections of the Council, of which one is for judges and one for prosecutors;

b) 2 representatives of the civil society, specialists in the field of law, who enjoy a high professional and moral reputation, elected by the Senate;

c) the president of the High Court of Cassation and Justice, as a representative of the Judiciary, the Minister of Justice and the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice, who are de jure members of the Council.

6. STAFF:

- Number – 222
- Qualification – magistrates and non-magistrates personnel having medium and higher education

7. STRUCTURE

A picture of the organization of the apparatus of the Council can be seen here

http://www.csm1909.ro/csm/linkuri/09_12_2010_36645_ro.pdf

Plenum – only members of the Council

Section for judges

Section for prosecutors

President

Vice-president

Secretary general

Deputy Secretary General

Judicial Inspection

- Service of inspection for judges
- Service of inspection for prosecutors

Unit for public information and relation with mass-media
Unit for internal public audit
Unit for classified documents
Directorate of human resources and organization
Directorate of economic and administrative
Directorate of legislation, documentation and litigation
Directorate of European affairs, international relations and programmes
Division for relations with public, registry, secretariat and archives
IT office
Protocol unit
Division for synthesis and preparing the sessions of Superior Council of Magistracy
Public procurement unit

8. WHAT DIFFERENT COMMISSIONS DO YOU HAVE AS PART OF THE RESPECTIVE COUNCIL

- Commission no. 1 – Independence of Justice and inter-institutional cooperation
- Commission no.2 – Strengthening and institutional efficiency of Superior Council of Magistracy
- Commission nr.3 – Strengthening the activity and judicial performance of courts and prosecutors offices
- Commission no.4 – Transparency and integrity
- Commission no.5 – Relation with European Union and international bodies
- Commission no.6 – Partnership with civil society

9. IMPORTANT HISTORICAL EVENTS: CREATION OF THE RESPECTIVE COUNCIL, FURTHER CHANGES IN ITS STRUCTURE, FUNCTIONS, ETC.

The Romanian Superior Council of Magistracy **was established on June 1st 1909, under the Law of March 24th 1909** that amended the Law on judicial organization of 1890.

The Council was part of the judiciary, along with courts and Public Ministry, whose "supreme chief" was the minister of justice. Its work was attached to the Ministry of Justice.

The Law - Decree no. 356/1938 on the judicial organization establishes two Councils, both functioning attached to the Ministry of Justice. The first council was established, mainly, High Court of Cassation and Justice" and the second council was established, mainly "to formulate proposals for appointing prosecutors and advisers within the courts of appeal and presidents within tribunals".

After the two councils worked for approximately 10 years, in 1948, the **Law no. 341/1947 on judicial organization** entered into force and provided the return to the initial structure, with only one council.

The Council performed its duties attached to the Ministry of Justice, under the presidency of the minister of justice that convened it "any time it was necessary".

In 1949, after almost forty decades of functioning (June 1st 1909 – April 8th 1949), the Superior Council of Magistracy in Romania **ceased to exist**.

According to the **Constitution of 1991**, the Superior Council of Magistracy is part of the judicial authority (next to the courts and the Public Ministry), consisting of magistrates who were elected by the Chamber of Deputies and the Senate, in common session, for a mandate of 4 years.

For the first time in its long history, the Superior Council of Magistracy became a constitutional body. The constitutional provisions were detailed by the Law **no. 92/1992 on judicial organization**.

In fact, the Superior Council of Magistracy started functioning in this configuration on March 12th 1993.

Law no. 142/1997 formally increased the attributions of the Superior Council of Magistracy, but most of them were exercised at the "recommendation" or "proposal" of the minister of justice (e.g.: proposals for the appointment in leading positions at the Supreme Court; proposals for appointing judges and prosecutors, except for the trainee magistrates; promotion, transfer, suspension and release from office for judges).

The Constitution Revision of 2003 brought fundamental amendments with respect to the role, structure and competencies of the Superior Council of Magistracy in Romania. These provisions were detailed through **Law no. 317/2004 on the Superior Council of Magistracy** that entered into force on October 1st 2004 and was substantially amended in 2005 and 2006.

In its present configuration, the Superior Council of Magistracy started operating on January 11th 2005, for a mandate of 6 years, which ended in January 2011.

Since January 2011, a new set of members of Superior Council of Magistracy began a new term in office.

10. PRESENT AND FUTURE IMPORTANT PROJECTS AND EVENTS OF THE RESPECTIVE COUNCIL

Superior Council of Magistracy currently works for drafting a multi-annual plan for 2011 – 2016.

Among the proposed objectives to be reached are:

- Involvement of SCM in constitutional and legislative consolidation of justice.
- Guaranteeing the independence of the body of magistrates, according to the European standards.
- Enforcing the Resolution on the financial and administrative status of courts and prosecutors' offices attached to courts.
- Assuming the role of representative and spokesperson for the judiciary
- Ensuring a proper financing for the judiciary
- Improving the institutional management
- Fostering the efficiency of the act of justice
- Supporting the means of ADR (Alternative Dispute Resolution)
- Ensuring the link and cooperative functioning of data systems.
- Unification of judicial practice
- Consolidating the fundamental role of Supreme Court for ensuring the interpretation and common application of law.
- Increasing the efficiency of SCM activity
- Increasing the activity of Judicial Inspection
- Improving the system for disciplinary liability of magistrates
- Clarifying the system of material liability of magistrates.

11. HOW IS THE INDEPENDENCE OF THE RESPECTIVE COUNCIL GUARANTEED

According to Law no. 317/2004, Superior Council of Magistracy has and manages its own budget.

One of the means through which Superior Council of Magistracy may consolidate the role of the guarantor of the independence of justice is that of acting for counterattacking the situation of breaching the independence, impartiality or professional reputation of judges and prosecutors.

According to art.134 "Powers" of the Romanian Constitution and to the provisions of Law no. 317/2004, Superior Council of Magistracy is competent, through its sections, to sit in judgment on disciplinary proceedings against judges and public prosecutors, subject to its own organic law. The Minister of Justice, the President of the High Court of Cassation and Justice, and the General Prosecutor of the Prosecution Office attached to the High Court of Cassation and Justice shall have no vote in like instances.

Also, the entire career of magistrates is managed by Superior Council of Magistracy and National Institute of Magistracy, as mentioned above at point 3 of the questionnaire.

12. BUDGET OF THE JUDICIARY:

- What is the amount of the budget for 2011
 - Budget of Prosecutors` Office attached to the High Court of Cassation and Justice – 158.807.127 EUR
 - Budget of Superior Council of Magistracy – 16.691.495 EUR
 - Budget of High Court of Cassation and Justice – 15.459.540 EUR
 - Budget of Ministry of Justice – 559.788.506 EUR (out of which actually allotted for the courts – 283.920.919 EUR)
 - Budget of the National Anti-corruption Directorate - 17.036.551 EUR
- How is it divided for the different allocations
- Who manages the budget

The Ministry of Justice manages the budget for the courts, the Prosecutors` Office manages the budget for the prosecutors` offices, the High Court of Cassation and Justice manages its own budget, Superior Council of Magistracy manages its own budget.

13. PRESENT COMPOSITION OF THE COUNCIL:

- Start/end of the mandate
 - January 2011 – January 2017