

**"APPROVED"**

*by the Decision of the Superior Council  
of Prosecutors no. 12-228/16 dated  
14.09.2016*

**and amended by Decisions:**

*no.12-13/17 dated 24.01.2017;*

*no.1-40/2020 dated 28.05.2020;*

*no.1-132/2020 dated 18.12.2020;*

*by the Decision of the Civil Commercial  
and Administrative Litigation Enlarged  
Board of the Supreme Court of Justice  
dated 08.12.2021*

## **REGULATIONS on Organisation and Activity of the Disciplinary and Ethical Board**

### **I. General provisions**

**1.** Regulations on Organisation and Activity of the Disciplinary and Ethical Board (hereinafter - Regulations) set out the duties and organisation of the work of the Disciplinary and Ethics Board.

**2.** The Disciplinary and Ethics Board (hereinafter - Board) is a body subordinate to the Superior Council of Prosecutors and operates in accordance with the provisions of the Constitution of the Republic of Moldova, the Law no.3 of 25 February 2016 on Prosecutor's Office, the Labour Code, these Regulations and other regulatory documents of the self-administrative bodies and the Prosecutor's Office.

**3.** The Board has the task of preventing prosecutors from committing disciplinary misconduct or ethical breaches by establishing facts and circumstances as being, or not, compatible with their standards of conduct.

**4.** The work of the Board shall be conducted based on the principles:

- a) legality;
- b) observance of the prosecutor's decision-making independence;
- c) fairness;
- d) proportionality between the sanction imposed and the seriousness of the disciplinary offence committed;
- e) transparency.

### **II. Composition of the Board and status of its members**

**5.** The Board consists of 7 members, elected for a 4-year term of office in accordance with the provisions of Article 83(1) of Law No. 3/2016. The elected members shall serve until the election of new members.

*Section 5 in the wording of the Decision of the Superior Council of Prosecutors no. 1-40/2020 dated 28.05.2020*

*Section 5 ammended by the Decision of the Superior Council of Prosecutors no. 1-132/2020 dated 18.12.2020*

**6.** *Section 6 repealed by the Decision of the Superior Council of Prosecutors no. 1-*

**7.** The Chairperson of the Board shall be elected by secret ballot from among its members at its first meeting for a term of four years by a majority vote of the members of the Board. The term of office of the Chairperson shall expire on the day of the first meeting of the newly constituted Board. The term of office of the Chairperson shall terminate by resignation or loss of membership of the Board.

*Section 7 amended by the Decision of the Superior Council of Prosecutors no. 1-40/2020 dated 28.05.2020*

**8.** If the Chairperson of the Board is absent, his/her duties shall be exercised by a member elected at the beginning of the meeting by an open vote by a majority of the members present. Nominations for the ad hoc Chairperson of the meeting may be made by any member of the Board.

**9.** Membership of the Board shall cease as appropriate:

- a) on submission of a resignation request;
- b) on expiry of the term of office;
- c) upon suspension or dismissal from the office of prosecutor;
- d) in case of inability to perform his/her duties for more than 4 consecutive months, as determined by the Superior Council of Prosecutors;
- e) in case of becoming a member of another college subordinated to the Superior Council of Prosecutors;
- f) in case of a definitive finding of incompatibility;
- g) in case the document establishing the adoption of an act in violation of the legal provisions on conflict of interest becomes final;
- h) if a final judgment has been delivered finding him/her guilty of an offence;
- i) if one of the circumstances is established which would not have allowed him/her to be elected or appointed as a member of the Board;
- j) in case of death.

**10.** Members of the Board shall have the following rights in the performance of their work:

- a) to propose for consideration at a meeting matters falling within the competence of the Board;
- b) to participate in the examination of matters included in the agenda;
- c) to take cognisance of the material submitted for examination;
- d) to make requests;
- e) to present arguments and submit additional material;
- f) to take note of the minutes of the meetings of the Board;
- g) to give a separate opinion on decisions adopted by the Board;
- h) to perform other actions within the existing regulatory framework.

**11.** Members of the Board shall have the following obligations:

- a) to exercise their duties in accordance with the law, these Regulations and other regulatory documents relevant to the work of the Board;
- b) to participate by voting in the adoption of decisions;
- c) to preserve the secrecy of the deliberations and the confidentiality of the work of the Board.

**12.** Members of the Board, who are representatives of civil society, receive a monthly allowance of 50% of the average salary of members of the Superior Council of Prosecutors elected from among prosecutors.

**13.** Members of the Board elected from among prosecutors shall have their workload reduced during their term of office.

**14.** *Section 14 repealed by the Decision of the Superior Council of Prosecutors no. 1-40/2020 dated 28.05.2020*

**15.** Should a member of the Board cease to hold office before the expiry of the four-year term, the vacancy shall be established by decision of the Council, which shall, by the same decision, appoint the alternate member. The alternate from among the prosecutors shall be determined in accordance with Article 83(2) of Law No. 3/2016. The alternate member shall serve the remainder of the term of office.

*Section 15 in the wording of the Decision of the Superior Council of Prosecutors no. 1-40/2020 dated 28.05.2020*

**16.** In case the complainant or the person against whom the complaint has been lodged is a member of the Disciplinary and Ethics Board, he/she is not entitled to participate in the examination of the disciplinary case.

**17.** A member of the Board may not take part in the examination of an item on the agenda of the meeting if there are circumstances which preclude his/her participation in the examination of the item in question or which would raise doubts as to his/her objectivity. If such circumstances exist, the Board member is obliged to make a declaration of abstention.

**18.** For the same reasons as set out in Section 17, a member of the Board may be objected to by the person whose matter is being examined and by the person who lodged the complaint. The objection must be substantiated and set out in a written or oral request before the investigation of the disciplinary case begins.

**19.** Decisions on recusal and abstentions shall be adopted by a majority vote of the members of the Board present at the meeting, without the participation of the member whose abstention or, as the case may be, recusal is requested, and shall not be subject to appeal. Requests for objection and declarations of abstention shall be dealt with immediately and the operative part of the decision shall be delivered. An objection against the entire composition of the Board shall not be admissible.

### **III. Duties of the Board and its Chairperson**

**20.** The Board, in the performance of its tasks, shall have the following duties:

a) to examine disciplinary cases against prosecutors received from the Inspectorate of Prosecutors and, where appropriate, to impose disciplinary sanctions;

b) to adopt recommendations on the prevention of disciplinary misconduct and the observance of ethics by prosecutors;

c) to formulate individual opinions on incompatibilities of prosecutors or, where appropriate, possible or alleged conflicts of interest, as well as on issues of ethics and professional conduct of prosecutors.

d) to examine the appeals lodged in the order of Article 49(4) of the Law on Prosecutor's Office.

*Section 20 supplemented by point d) by the Decision of the Superior Council of Prosecutors no.12-13/17 dated 24.01.2017*

**21.** The Chairperson of the Board shall have the following duties:

a) to organise the work of the Board and allocate tasks among its members;

b) to assign disciplinary cases to the members of the Board;

c) to convene meetings of the Board, the time and place of the meeting of the Board being determined after consultation with its members;

d) to take part in the examination of disciplinary cases;

- e) to chair the meetings of the Board;
- f) to sign the minutes of the meetings of the Board, individual recommendations and opinions, and to be responsible for their quality;
- g) to prepare and submit the annual report of the Board;
- h) to settle other matters relating to the work of the Board.

**22.** In the exercise of its duties, the Board has the right to request the prosecutors, public authorities and legal persons governed by public law all the documents and information they require for the resolution of disciplinary proceedings. Prosecutors, public authorities and legal persons governed by public law shall be obliged to forward the requested documents and information to the Board within the time limit set by the Board. The members of the Board are obliged to respect, in accordance with the law, the regime of information with limited access that has become known to them.

**23.** The Board submits its annual activity report to the Superior Council of Prosecutors by 20 January, which is placed on the official website of the Superior Council of Prosecutors.

#### **IV. Request for individual opinions**

**24.** Requests for individual opinions with a recommendatory character on potential incompatibilities or conflicts of interest and matters relating to the professional ethics of prosecutors will be accepted by the Board for consideration in writing. In general, individual opinions may be requested by a prosecutor in relation to a future or current situation in which he or she may find himself or herself personally, and may not relate to past situations concerning either himself or herself or a third person. A request for an individual advisory opinion may be lodged with the Chairperson of the Board sufficiently in advance of the occurrence of the event relied upon so as to allow the Board time to consider the matter in a timely manner.

**25.** The request for an individual advisory opinion must include:

- a) a brief and clear description of the facts which raise doubts;
- b) the prosecutor's questions on the potential conflict of interest or incompatibility situation or ethical issue which the prosecutor considers relevant to the facts presented;
- c) citation, where appropriate, of specific provisions of the Code of Ethics and Conduct for Prosecutors or other relevant rules.
- d) confirmation that the subject matter of the opinion is not a dispute and the court should rule on the settlement.

**26.** The Board may consider not to grant a request if:

- a) the matter is pending before the Inspectorate of Prosecutors or the Board;
- b) the matter raised concerns the conduct of a person other than the person who made the request;
- c) the request concerns the interpretation of the law and does not fall within the scope of conflicts of interest, incompatibilities or discipline, ethics or professional conduct of the prosecutor; it is speculative, does not meet the standards of clarity or does not fall within the competence of the Board;
- d) the Board does not have sufficient time to respond to the request.

**27.** The Board may request the prosecutor who made the request to provide additional information to remedy any of the circumstances set out in Section 26.

**28.** Individual opinions of the Board are intended to provide advice and guidance to prosecutors who foresee, may potentially find themselves in, or are in certain situations that may raise questions about compliance with the rules of ethics and professional conduct. The issuing of an advisory opinion does not preclude subsequent consideration of a disciplinary case on the matter raised in the request for the opinion.

**29.** The Board, for the purpose of providing guidelines to other prosecutors who may find themselves in similar situations, may decide to publish individual opinions on the official website of the Superior Council of Prosecutors. In this case, the name of the prosecutor and other information constituting personal data will be excluded from the individual opinion before publication.

## **V. Organisation of the work of the Board**

**30.** The Board shall conduct its work in meetings, which shall be held whenever necessary. The first meeting of the Board shall be convened and chaired by the Chairperson of the Superior Council of Prosecutors.

**31.** Meetings of the Board are deliberative if at least 5 members of the Board are present.

**32.** Board meetings are public.

The Board may decide, on its own initiative or at the request of the prosecutor concerned in the disciplinary case, to examine the case in closed session, in the interests of observing public order or national security, ensuring the principle of confidentiality of criminal proceedings or when it is necessary to protect the privacy of the participants in the disciplinary procedure.

The decision to examine the disciplinary case in closed session shall be adopted by a majority vote of the members present, shall state the reasons on which it is based, shall be recorded in the minutes of the meeting and shall not be subject to appeal.

**33.** The agenda of the meeting of the Board shall be approved by the Chairperson and published 5 working days before the date of the meeting on the official website of the Superior Council of Prosecutors. The agenda may be amended before the beginning of the meeting or, if necessary, during the meeting, on the proposal of the members of the Board, by an open vote of the majority of the members present at the meeting.

**34.** Proposed decisions in disciplinary cases shall be adopted by an open vote of a majority of the elected members of the Board, unless otherwise provided by law.

In the event of a tie vote on the proposed solutions to the case under consideration, the solution more favourable to the person against whom the disciplinary proceedings are being conducted shall take precedence.

**35.** The publication of the decisions of the Board and the minutes of the meetings shall be made in accordance with the principles of confidentiality of criminal proceedings, privacy, protection of personal data and restricted information.

**35<sup>1</sup>.** The decisions of the Board shall be published on the official website of the Superior Council of Prosecutors with the removal of the relevant information:

1) the name and surname of the author of the complaint concerning the commission of the disciplinary offence in the case of a natural person, unless the author of the complaint is a person in a position of responsibility, a public person or a

person in a position of public dignity or the author of the complaint is a public or private legal person;

- 2) surname, first name, place and date of birth of the natural persons;
- 3) their domicile and/or residence;
- 4) telephone number, excluding the work telephone number;
- 5) personal identification number;

- 6) medical insurance number;
- 7) social insurance number;
- 8) number of the criminal case/criminal file;
- 9) bank details;
- 10) car registration number, excluding the service vehicle;
- 11) health data (regardless of illness);
- 12) e-mail address;
- 13) other data according to Law no.133/2011 on Personal Data Protection.

*Section 35<sup>1</sup> introduced by the Decision of the Superior Council of Prosecutors no. 1-132/2020 dated 18.12.2020*

**36.** Meetings of the Board shall be recorded by video/audio, except for the deliberation stage. The video/audio recording of the meeting shall be attached to the minutes of the meeting.

**37.** The minutes of the meeting shall be drawn up within 3 working days, signed by the chairperson of the meeting and the secretary, and shall be placed on the official website of the Superior Council of Prosecutors.

The minutes of the meeting, together with the materials of the disciplinary case, shall be kept in the archives of the Superior Council of Prosecutors.

**38.** The Apparatus of the Superior Council of Prosecutors shall designate the person in charge within the Litigation Section who shall ensure the secretarial work of the Board (hereinafter referred to as the "Secretary of the Board").

*Section 38 in the wording of the Decision of the Superior Council of Prosecutors no. 1-40/2020 dated 28.05.2020*

## **VI. Procedure for the examination of a disciplinary case**

**39.** Disciplinary proceedings are applicable to prosecutors in office and to prosecutors who have terminated their employment.

**40.** The complaint of an act that may constitute a disciplinary offence shall be submitted to the Apparatus of the Superior Council of Prosecutors.

*Section 40 amended by the Decision of the Superior Council of Prosecutors no. 1-40/2020 dated 28.05.2020*

**41.** Disciplinary proceedings start automatically at the time of the complaint and include the following steps:

- a) lodging the complaint about the act which may constitute misconduct;
- b) verification of the complaint by the Inspectorate of Prosecutors, governed by the Regulations of the Inspectorate of Prosecutors;
- c) examination of the disciplinary case by the Board;
- d) adopting a decision on the disciplinary case.

**42.** A complaint concerning an act that may constitute a disciplinary offence committed by a prosecutor may be submitted by:

- a) any interested person;
- b) members of the Superior Council of Prosecutors;
- c) Prosecutors' Performance Appraisal Board, in accordance with Article 31(5) of the Law No. 3 of 25 February 2016 on the Prosecutor's Office;
- d) Inspection of Prosecutors, following the controls conducted.

**43.** Following the examination of the complaint, the Inspectorate of Prosecutors draws up a report on the results of the investigation. If grounds for disciplinary liability are identified, the report, together with the materials in the file, drawn up in accordance with the Inspectorate's Regulations, shall be forwarded to the Board.

**44.** The disciplinary file shall be registered with the Council Apparatus, after which it shall be sent to the Chairperson of the Board for inclusion on the agenda and organisation of the examination of the case.

*Section 44 amended by the Decision of the Superior Council of Prosecutors no. 1-40/2020 dated 28.05.2020*

**45.** The revocation of the complaint does not affect the disciplinary procedure initiated.

**46.** The Chairperson shall designate the member of the Board as rapporteur and, through the Secretary of the Board, shall make available to him/her the disciplinary case file.

*Section 46 amended by the Decision of the Superior Council of Prosecutors no. 1-40/2020 dated 28.05.2020*

**47.** A member of the Board, designated rapporteur, is responsible for:

a) studying the disciplinary file, preparing the report on the disciplinary case at the Board meeting;

b) presenting the case in the Board meeting and proposing the way to settle it, by presenting the report;

c) drafting the decision of the Board.

**48.** Member of the Board designated as rapporteur or any member of the Disciplinary Board may request the Inspectorate of Prosecutors to carry out additional checks and/or collect new documents or evidence if the information in the case file is not complete or sufficient..

**49.** The report drawn up by the member rapporteur on the disciplinary case includes: description of the disciplinary case, the framing of the offence, the applicable regulatory framework, the disciplinary record of the prosecutor, the proposal on the solution of the given case.

**50.** The disciplinary case shall be examined by the Board with the compulsory summons of the prosecutor concerned by the complaint of the act which may constitute disciplinary misconduct, the representative of the Inspectorate of Prosecutors and the person who lodged the complaint.

**51.** In the examination of the disciplinary case, the prosecutor and the person lodging the complaint may be represented or assisted by a lawyer or another person chosen by them as their representative. The representative shall have the rights of the person represented, in so far as they are provided for in the instrument of representation.

**52.** The non-appearance without good reason of the prosecutor or the person who lodged the complaint or of their representatives at the meeting of the Board shall not prevent the disciplinary proceedings from being examined.

**53.** The Inspectorate of Prosecutors is represented by the inspector who carried out the verification of the complaint or by another inspector designated by the Head of the Inspectorate of Prosecutors. The presence of the representative of the Inspectorate of Public Prosecutors is mandatory.

**54.** Witnesses or other persons relevant to the examination of the disciplinary case may be requested to be heard.

**55.** The Board is to adopt the decision on the disciplinary case as a rule no later than 2 months after receipt of the material from the Inspectorate of Prosecutors. Expiry of the two-month period shall not be grounds for termination of the disciplinary procedure.

**56.** The prosecutor concerned in the complaint about the act that may constitute disciplinary misconduct, as well as the author of the complaint, shall be notified, at



least 3 working days before the date of the hearing, of the place, date and time of the examination of the disciplinary case. If it is impossible for good cause to appear, the prosecutor whose disciplinary proceedings are to be examined shall immediately inform the Board or, where appropriate, its secretary, by telephone or other means.

**57.** The Chairperson of the Board announces the opening of the meeting, reads out the composition of the Disciplinary and Ethics Board at the meeting and verifies that the meeting is deliberative, after which the agenda is approved by majority vote. The proceedings of the meeting of the Board shall be recorded in minutes.

**58.** Until the examination of the case has begun, the parties shall have the right to declare requests for recusal of members of the Board.

**59.** The examination of the disciplinary case shall begin with the submission of the report of the member of the Board appointed rapporteur on the case.

**60.** If the prosecutor against whom disciplinary proceedings have been brought or his/her representative participates in the examination of the case, the prosecutor or his/her representative must be heard to explain the case.

**61.** During the hearing, the prosecutor against whom disciplinary proceedings have been brought shall have the right to make requests/demands and to give explanations. The prosecutor who is subject to disciplinary proceedings shall be entitled to refuse to testify against himself/herself. At the decision of the Board, other persons may be heard, invited both on the initiative of the prosecutor against whom disciplinary proceedings have been brought and of the members of the Board. Documents and materials in the file or those submitted additionally by participants in the disciplinary case may also be examined.

**62.** After their hearing, witnesses and persons present at the hearing of the disciplinary case shall be removed from the courtroom in case of hearing information that may affect the principle of confidentiality of criminal proceedings and privacy.

**63.** After hearing the parties to the disciplinary case, the witnesses, other persons, after examining the documents and other materials of the case, the Board shall retire in deliberation for the adoption of the decision on the case.

**64.** The members of the Board are obliged to maintain the secrecy of the deliberations, not to divulge any information obtained in the course of the disciplinary proceedings and not to disclose any opinion expressed during the disciplinary proceedings, except as provided by law.

**65.** Where several disciplinary proceedings are brought against a prosecutor and are being considered at the same time, the Chairperson of the Board If the prosecutor is found guilty of committing two or more disciplinary offences, a penalty shall be imposed for each disciplinary offence separately, and the penalty for concurrent disciplinary offences shall be finally determined by:

a) absorption of the lighter disciplinary sanction by the more serious disciplinary sanction;

b) application of a more serious disciplinary sanction in relation to each disciplinary sanction taken individually.

**66.** The decision shall be pronounced publicly by the Chairperson of the Board. The full decision shall be delivered no later than the date of the next meeting of the Board or at an earlier date.

**67.** Within 3 working days of the decision, it shall be published on the official website of the Superior Council of Prosecutors, under the conditions set out in Section 35/1, and a copy of the Board's decision shall be sent to the participants in the disciplinary case and attached to the personal file of the prosecutor concerned.

*Section 67 amended by the Decision of the Superior Council of Prosecutors no.9 I-*

## **VII. Decisions of the Board on disciplinary cases**

**68.** After examining the disciplinary case, the Board shall adopt one of the following decisions:

- a) finding disciplinary misconduct and imposing a disciplinary penalty;
- b) finding disciplinary misconduct and discontinuing the disciplinary procedure if the time limits for disciplinary proceedings have expired;
- c) on a finding of disciplinary misconduct and discontinuance of disciplinary proceedings, if the prosecutor has terminated his/her employment before the disciplinary case has been decided;
- d) on the termination of disciplinary proceedings, if no disciplinary offence has been committed.

**69.** If the disciplinary procedure has been initiated pursuant to Article 34(4) in conjunction with Article 40(4) of Law No. 3 of 25 February 2016 on Prosecutor's Office, the decision on the disciplinary case shall also provide for the proposal to apply or not the suspension from office.

If a member of the Board has a dissenting opinion on the adopted decision, he/she shall state it in writing, indicating the reasons, and the opinion shall be attached to the file. The dissenting opinion shall not be made public but shall be annexed to the file.

**70.** After examining the disciplinary case, the Board may additionally make a recommendation to the Superior Council of Prosecutors to order an extraordinary performance evaluation of the prosecutor concerned if the circumstances and materials of the case demonstrate the need for a performance evaluation.

**71.** The decisions of the Board shall be issued in writing, shall state the reasons on which they are based, and shall be signed by the Chairperson of the meeting and by the members of the Board who took part in the examination of the case. Decisions shall be signed in manuscript or, where appropriate, by electronic signature.

**72.** Decisions of the Board shall be forwarded to the apparatus of the Superior Council of Prosecutors on the day following the expiry of the time limit for lodging an appeal.

**73.** The decision on the disciplinary case shall consist of the introductory part, the descriptive part, the reasoning part and the operative part.

**74.** The Board's decision in the case of a finding of disciplinary misconduct must contain:

- a) surname and name of the prosecutor concerned in the decision and the subdivision of the prosecutor's office in which he or she is working;
- b) surname and name of the person who made the complaint on disciplinary offence;
- c) number of the file in the process of which the disciplinary offence was committed;
- d) date on which the disciplinary offence was committed;
- e) a description of the deed constituting disciplinary misconduct and its legal classification;
- f) a description of the evidence collected on the file;
- g) legal basis for imposing the sanction or halting the proceedings in the event of expiry of the time-limits for holding the prosecutor liable to disciplinary action;
- h) penalty imposed and the reasons for its imposition;

- i) appeal procedure, time-limits and court competent to examine the appeal;
- j) reasons for the recommendation for an extraordinary performance review of the prosecutor, if such a recommendation has been made;
- k) names of the members of the Board present at the examination of the case;
- l) date of delivery of the judgment.

**75.** The Board's decision in the event of termination of the disciplinary procedure must contain the following:

- a) the surname and name of the prosecutor concerned in the judgment and the subdivision of the prosecutor's office in which he or she works;
- b) surname and name of the person who made the complaint on disciplinary offence;
- c) file number of the case in which the offence described in the complaint was alleged to have been committed;
- d) date on which the alleged offence was committed;
- e) description of the deeds alleged in the complaint and the reasons for the lack of disciplinary misconduct in the alleged deeds;
- f) a description of the evidence collected on the file;
- g) appeal procedure, time-limits and court competent to examine the appeal;
- h) reasons for the recommendation for an extraordinary performance review of the prosecutor, if such a recommendation has been made;
- i) names of the members of the Board present at the examination of the case;
- j) date of delivery of the judgment.

**76.** The decision on the application of the sanction of demotion from office and the decision on the application of the sanction of dismissal from the office of public prosecutor shall be forwarded to the Superior Council of Prosecutors for the submission of the appropriate proposal to the Prosecutor General. The proposal shall be submitted within 2 working days after the deadline for appealing against the decision.

**77.** Depending on the seriousness of the misconduct, the prosecutor may be subject to the following disciplinary sanctions provided for in Article 39 of Law No. 3 of 25 February 2016 on Prosecutor's Office, as follows:

- a) warning;
- b) reprimand;
- c) reduction of salary;
- d) demotion;
- e) dismissal from the position of prosecutor.

## **VII<sup>1</sup> Procedure and decisions taken by the Board as a result of the examination of appeals against decisions to terminate disciplinary proceedings taken by the Inspectorate of Prosecutors**

*Chapter VII<sup>1</sup> (Sections 77<sup>1</sup>-77<sup>7</sup>) introduced by the Decision of the Superior Council of Prosecutors no. 12-13/17 dated 24.01.2017*

**771.** The decision to terminate the disciplinary procedure may be appealed by the complainant, through the Superior Council of Prosecutors, to the Disciplinary and Ethical Board within 10 working days from the date of receipt of the reply from the Inspectorate of Prosecutors.

*Section 77<sup>1</sup> introduced by the Decision of the Superior Council of Prosecutors no. 12-13/17 dated 24.01.2017*

**772.** The appeal against the decision to terminate the disciplinary procedure

shall be included in the agenda of the Disciplinary and Ethics Board.

*Section 77<sup>2</sup> introduced by the Decision of the Superior Council of Prosecutors no. 12-13/17 dated 24.01.2017*

**773.** The person who lodged the appeal shall be summoned by the Secretary of the Board to attend the meeting. The non-appearance of the holder of the objection at the meeting of the Board does not prevent it from being examined.

*Section 77<sup>3</sup> introduced by the Decision of the Superior Council of Prosecutors no. 12-13/17 dated 24.01.2017*

*Section 77<sup>3</sup> amended by the Decision of the Superior Council of Prosecutors no. 1-40/2020 dated 28.05.2020*

**774.** Simultaneously with the summons procedure, the Board will ask the Inspectorate of Prosecutors to make available the materials of the verification of the disciplinary misconduct referral, on which the decision to terminate the disciplinary procedure was based.

*Section 77<sup>4</sup> introduced by the Decision of the Superior Council of Prosecutors no. 12-13/17 dated 24.01.2017*

**775.** The examination of the appeal begins with the hearing of the person who lodged the appeal, followed by the hearing of the opinions of the inspector of the Inspectorate of Prosecutors and of the prosecutor whose disciplinary sanction is sought. The persons invited to the meeting of the Board are entitled to submit documents or, where appropriate, other evidence considered relevant.

*Section 77<sup>5</sup> introduced by the Decision of the Superior Council of Prosecutors no. 12-13/17 dated 24.01.2017*

**776.** In examining the appeal against the decision to terminate the disciplinary procedure issued by the Inspectorate of Prosecutions, the Disciplinary and Ethics Board adopts one of the following remedies:

- 1) to reject the appeal and uphold the contested decision;
- 2) to uphold the appeal and:
  - a) to examine the case on its merits, with the issue of a new decision;
  - b) to refer the disciplinary procedure to the Inspectorate of Prosecutors for further investigation.

*Section 77<sup>6</sup> introduced by the Decision of the Superior Council of Prosecutors no. 12-13/17 dated 24.01.2017*

*Section 77<sup>7</sup> annulled the Decision of the Civil Commercial and Administrative Litigation Enlarged Board of the Supreme Court of Justice dated 08.12.2021*

## **VIII. Appeals against decisions of the Board**

**78.** The decision of the Board on the disciplinary case may be appealed to the Superior Council of Prosecutors, through the Board, by the persons who lodged the complaint, the Inspectorate of Prosecutors or the prosecutor concerned in the decision, within 5 working days from the date of its delivery. The 5-day time limit is a time limit for the lapse of time. On expiry of this period, the Board's decisions become irrevocable.

**79.** Appeals shall be examined within one month from the date of their registration with the Superior Council of Prosecutors.

**80.** The date, time and place of the examination of the appeal shall be notified at least three working days before the date of the hearing to the person who lodged the complaint and to the prosecutor concerned.

**81.** After examining the appeals, the Superior Council of Prosecutors shall adopt one of the following reasoned decisions:

- a) to uphold the decision of the Board unchanged;
- b) to uphold the appeal and adopt a new decision on the disciplinary case. In this case, the provisions on the examination procedure and the content of the Board's decision on the disciplinary case shall also apply to the Superior Council of Prosecutors.

**82.** The decisions of the Superior Council of Prosecutors adopted under Section 81 may be appealed to the Supreme Court of Justice by any person aggrieved in a right of his or her own, within 10 days from the date on which the decision concerned was communicated, according to Article 79 of the Law No. 3 of 25 February 2016 on Prosecutor's Office.

## **IX. Final and transitional provisions**

**83.** Until the launch of the official website of the Superior Council of Prosecutors, all information concerning the work of the Board shall be placed on the official website of the General Prosecutor's Office.

**84.** Disciplinary proceedings pending on the date of entry into force of these Regulations shall continue to be considered in accordance with the provisions of these Regulation.

Actions taken and acts concluded in accordance with the Law No. 294-XVI of 25 December 2008 on the Prosecutor's Office are considered valid. In the part concerning the term of disciplinary liability for acts committed before the entry into force of Law No. 3 of 25 February 2016, the provisions of these Regulations shall apply.

**85.** The minutes of the Board's activities are to be placed on the website in accordance with the rules laid down in the Regulations of the Superior Council of Prosecutors.

**86.** For disciplinary offences committed before 01.08.2016, disciplinary sanctions shall be applied according to Article 39 of Law No. 3 of 25 February 2016 on Prosecutor's Office.

**87.** These Regulations shall enter into force upon their approval by the Superior Council of Prosecutors with the following exceptions:

- rules on the broadcasting, recording and storage of video/audio footage of Board meetings will enter into force once the Board has the necessary equipment;
- Section 12 of the Regulations will enter into force as soon as the Superior Council of Prosecutors has the budget.