GUIDELINE OF GOOD PRACTICES on the relationship of the judicial system with the other legal professions, especially lawyers

The project *"TAEJ - Transparency, accessibility and legal education by improving public communication at the level of the judicial system"*,
SIPOCA 454 code/MySMIS 118765 code is co-financed from the European Social Fund, through the Operational Program Administrative Capacity 2014-2020.

BENEFICIARY:
The project is implemented by the Superior Council of Magistracy (leader), in partnership with the National School of Clerks, Judicial Inspection, Prosecutor's Office attached to the High Court of Cassation and Justice, National Institute of Magistracy and Ministry of Justice.

GENERAL OBJECTIVE:
The improvement and the unitary approach of public communication at the level of the judicial system in order to strengthen its image, ensuring a greater transparency inside and outside the system, as well as improving the access to justice by increasing the degree of information, the awareness of the citizens' rights and the development of the legal culture.

EXPECTED RESULTS:
The project aims to achieve the following results:
1. Improved public communication and a unitary approach at the level of the judicial system;
2. High degree of access to justice by facilitating access to information on the judicial system and on the services provided to the citizens;
3. High level of information, awareness of the rights and of the degree of legal education of the public.

TOTAL VALUE OF THE PROJECT:
The total value of the project that is the object of the financing contract is of 29.667.068 lei, out of which 24.915.549,67 lei (83.98%) represent non-reimbursable financing from the European Social Fund, and 4.751.518,33 lei represent the co-financing of the beneficiary and of the partners.

PROJECT START DATE AND END DATE:
The implementation period of the project started on 5.09.2018, for 36 months.

Website: www.sipoca454.csm1909.ro

SUPERIOR COUNCIL OF MAGISTRACY

GUIDELINE OF GOOD PRACTICES ON THE RELATIONSHIP OF THE JUDICIAL SYSTEM WITH THE OTHER LEGAL PROFESSIONS, ESPECIALLY LAWYERS

Adopted by the Decision of the Superior Council of Magistracy no. 287/19.12.2019 and accepted by the National Union of Bars in Romania through the Decision of the Permanent Commission no. 264/16.12.2019 and by the National Union of Judicial Executors through the Decision of the Union Council no. 2310/27.09.2019

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Preamble

In the light of the growth of the complexity of the professional activity in the judicial field and of the increased interaction between the legal professionals, the elaboration of a guideline of good practices is a necessity.

This guideline reaffirms the importance of establishing collaborative relationships, partnerships between the legal professionals, through the understanding of the fundamental role of each of them in the execution of the justice act.

The guideline contains both recommendations that tend to lead to an increased efficiency in the act of justice, as well as detailed proposals in those segments of the activity exposed by the practical interaction between professionals. At the same time, the guideline consolidates the bases of establishing interpersonal relations between the legal professionals, in accordance with the ethical and deontological values specific for each legal profession.

Legal education is a continuous process in which legal professionals are at the same time teachers and trainees. Jurists are models of behavior and attitude, benchmarks for society, therefore the Latin saying "Domus iurisconsulti totium oraculum civitatis" (The legal adviser's house is the oracle of the entire city, Cicero) is always topical.

Honestly identifying the vulnerable points within each component of the justice act, approaching them in a proactive manner, focusing the interprofessional dialogue on the remedies are essential steps to maintaining a balanced professional climate.

Chapter I
Common principles and values of the legal professions

Art. 1 In general the affirmation of the common professional principles and values strengthens the trust between the legal professionals and allows a better understanding of the relationships between them, as well as of the role they play in society, and in particular in the execution of the justice act.

Art. 2 (1) In carrying out the act of justice, legal professionals have an essential role, being partners in ensuring the rule of law and the respect for the fundamental rights and freedoms of the individual, preserving their professional independence, including towards one another.

(2) Judges, prosecutors, lawyers, executors and other legal professionals must behave in such a way that they are perceived as independent when relating with each other.

Art. 3 Legal professions operate according to their own principles and values, as they are regulated in the normative acts and in the deontological codes specific to each profession.

Art. 4 (1) Legal professions embrace common ethical values such as humanism, professionalism, integrity, dignity, good faith, empathic listening and mutual respect.

(2) The respect of the principles and values of one's profession, as well as the constant reaffirmation in the professional practice of the common values represents the guarantee of an efficient, transparent act of justice and of maintaining an optimal climate in the relations between professionals.

Art. 5 The collaboration between legal professions is based on the constructive dialogue in order to ensure a professional, transparent, high quality act of justice, respecting the different roles that the law assigns to each of the participants. Law practitioners are aware that the image of justice and public trust are influenced by the way they interact.

Chapter II
The relations between professionals in the exercise of the professions

Art. 6 (1) The written and verbal language is an essential instrument of legal professions. Judges, prosecutors, lawyers and other legal professionals use this tool to inform, support, argue and persuade. Therefore, good writing skills are an essential component of the toolkit used by legal practitioners.

(2) The act of justice is an integrated and unitary process. Therefore, it is necessary for these characteristics to be reflected as well in the professional language used.

Section 1.
Written communication

Subsection 1.1.
Considerations regarding drafting techniques and editing.
Other aspects of good practice regarding the procedural documents

Art. 7 (1) The procedural documents, in terms of their content are not subject, to other conditions than those resulting from the legal and infralegal procedural provisions.

(2) The efficiency of the act of justice, in what concerns the form, implies the structuring of the procedural documents so as to correspond to the procedural provisions, both in terms of the compulsory elements and of the order of exposition.

(3) The written stage of the procedure is essential in the proper conduct of the cases. According to this reason, this guideline upholds and promotes the idea of a unitary format that will be the basis of the working documents used in the trial.

(4) The harmonization of all documents regarding the font size, font type, spacing or paragraphs and other technical details creates coherence and a common reference point for all legal professionals.

(5) The judge or prosecutor can more easily go over, understand and systematize documents that are prepared on the basis of the same rules, and this aspect can lead in general to a smoother procedure and a more efficient resolution of the cases.

Art. 8 In order to facilitate the written communication it is recommended to use a clear, concise and explicit style, which will reduce the dimensions of the act to its most effective version. It is advisable for the procedural documents to be drafted in a synthetic and structured manner, using an impersonal style.

Art. 9 (1) The drafting technique should allow obtaining a superior graphic quality and ensuring readability. For example, using Times New Roman theme font, size 12 character, with line spacing of 1,5 cm and ensuring the page borders of 2 cm,

mirror setting, are ways of formatting the document that facilitates the reading and the analyses of the specific documents belonging to different procedures.

(2) In the same sense, it is considered appropriate to use the same font and the same characters throughout the text.

Art. 10 The bold, italic and underline formatting options are recommended to be used with caution, respectively only in situations where it is intended to highlight the drafted issues, avoiding the use of two or three options at the same time. For example, bold and underline characters could be used to highlight chapters and sections, to distinguish procedural defenses from the substantive ones, and the italic character would be adequate for quotes, expressions in Latin, etc.

Art. 11 The procedural documents will be drafted using the diacritics specific to the Romanian language.

Art. 12 Writing with capital letters may be used exceptionally, respectively in the situations where the Romanian grammar allows it (for example: for abbreviations).

Art. 13 The pages of the documents will be numbered, preferably, indicating the page number from the total number of pages of the document.

Art. 14 It is proposed to use unprinted white paper and black color for writing. It is useful to place the header, where possible, only on the first page of the document, except for the procedural documents issued by the courts and prosecutor's offices.

Art. 15 From the reading of the procedural documents submitted by the participants in the trial, the magistrate must acquire a clear idea about the object of the case, the reasons and arguments of the parties and any evidence proposals from them.

Art. 16 Repetitions should be avoided, and as far as possible short phrases should be preferred to long and complex sentences, consisting of too many subordinate sentences.

Art. 17 (1) It is necessary that the drafting of the summons follow a logical-legal structure as follows: the names and the identification data of the parties, of their representatives, as the case may be, the object of the summons, the reasoning with matters of fact, the reasoning with matters of law, requests for production of evidence and any attachments. The same logical structure must also be found in the other procedural documents performed during the trial, respecting the specificity of each type of document.

(2) The interrogations formulated in writing must contain clear and concise questions relevant to the resolution of the case.

Art. 18 In order to ensure an optimal size of the procedural document, it is recommended for the document referring to legal texts or judicial practice, except for the procedural documents originating from the court and from the prosecutor, to include annexes regarding the content of these references.

Art. 19 (1) The considerations of the court decision shall include the essential arguments of the parties presented in a synthetic way.

(2) The quality of the court decision mainly depends on its reasoning. The reasoning of the court decision is a matter of essence, of content and not of volume. It must be clear, concise, coherent, and free of ambiguities and contradictions, so as to allow the judge's reasoning to be followed.

Art. 20 (1) In criminal matters, in the specific procedural documents, especially in the indictment, it is recommended for the facts to be described in a supple manner, with a clear indication of all the actions or inactions that are considered to meet the constituent elements of crimes, and for the analysis of the evidence to involve the reasoning of accepting or removing the evidence, without completely copying the

content of the different means of evidence (for example: the minutes containing intercepted and recorded conversations, the statements of the procedural subjects).

(2) It is recommended that the issue in fact be described distinct from the analysis of the evidence, in order to be easily identified.

(3) The evidence supporting the accusation is recommended to be presented in such a way for the judge to know exactly on what evidence the criminal prosecution body builds its accusation. By way of example, the section specifying the persons to be cited may include the precise identification of the persons proposed to be heard, whose statements the prosecutor considered to be fundamental in supporting the accusations.

Art. 21 It is recommended that, where the entitled persons request to consult the file, the prosecutor shall perform due diligence, in accordance with the law, in order to facilitate the effective consultation of the file within the shortest time from the moment of admitting the request for consultation.

Subsection 1.2.
The communication of the procedural documents during the judicial holiday

Art. 22 The communication of the procedural documents is made according to the procedural and regulatory provisions.

Art. 23 During the judicial holiday, in order to ensure the right to defence, when the legal professionals are, usually, on legal leave or during the rest for the recovery of the work capacity, the judge may consider a request to postpone the communication of the court decision, in matters other than the criminal one and in the cases classified by law or considered by the judge as urgent.

Section 2. The relations between professionals within the proceedings. Oral communication and non-verbal communication

Subsection 2.1.
Organizing the court hearing and solving cases in the criminal prosecution stage

Art. 24 It is recommended for the judge to organize the trial court according to the volume of activity and the time required to carry it out in optimal conditions, following the waiting time of the procedural participants for the calling of the case to be as short as possible.

Art. 25 The sitting list will be displayed in written and/or electronic format in the access area in the courtroom.

Art. 26 It is recommended for the court deadlines to be as short as possible, taking into account, however, the time required for carrying out the summons and communications procedures, the load of the court hearings, in compliance with the deadlines provided by law.

Art. 27 The cases that involve urgency or that have to be settled with priority will be scheduled at the beginning of the session or with a preset time.

Art. 28 In criminal matters, the cases with persons in custody will be set at separate hours, with the recommendation to consult the persons responsible for the places of detention or arrest, trying to ensure where possible that in the remaining cases the waiting times do not suffer extensions.

Art. 29 (1) The cases that take place in the council chamber are recommended to be scheduled at the beginning or at the end of the court session or in sessions different from the public ones, setting separate hours, in order to avoid the repeated evacuation of the session rooms.

(2) It is advisable for the management of the courts to provide, as far as possible, separate, effective, functional and sufficient spaces for carrying out the procedures in the council chamber.

(3) It is recommended to implement a management of all the trial courts, so as to allow the judge to know in advance the situation of the trial courts available when setting the trial deadlines.

Art. 30 (1) It is recommended to group the cases by indicative hours, the citations issued indicating the time set for the case.

(2) The trial panels will be scheduled in the trial courts for different time intervals, so that they do not overlap, even if the composition of the trial panels configured for different procedural stages include the same judges.

Art. 31 It is advisable to balance the court hearings from the point of view of the number of cases and their complexity. In the courts where the hearings are held in several stages, it is advisable to establish the court hearing with a reasonable number of cases, including in terms of complexity, in order to respect the start time of the following court hearing.

Art. 32 (1) In order to establish the next trial term and the indicative hours when the cases will be called, apart from the situation of the first trial term, the president of the panel has the possibility to consult during session with the lawyers of the main parties and procedural subjects, as the case may be, with the prosecutor, regarding their availability on the proposed day and time, in compliance with the principle of celerity for the settlement of the cases.

(2) In the event that, for justified reasons, changes occur in the conduct of the court hearing, in the context of the occurrence of unknown circumstances when setting the terms, it is advisable for the president of the trial panel to notify in due time the hearing prosecutor and the lawyers about the changes that occurred before the hearing.

It is necessary for the court to inform, by technical means that ensure celerity, the hearing prosecutor regarding the terms and the hours set for the cases where he/she must participate.

Art. 33 (1) For complex cases (for example: with several witnesses to be heard, with numerous parties, carried out in the videoconferencing system) it is recommended to set a separate time at the end of the hearing or to assign a separate hearing.

(2) It is recommended for the judge not set several cases that require the administration of complex evidence during the same court hearing.

Art. 34 (1) The hearing shall be declared in session at the appointed time properly reflected in the hearing list.

(2) It is useful for the judge to present to the procedural participants the way of organizing the entire court hearing at the beginning of the court hearing, if the specific nature of the hearing imposes it. For example, the existence of the following situations will be communicated: the postponement of the cases that are not in a state of judgment, the appeal of the cases in another order than the one on the list, the appeal of the cases in which the parties are represented or assisted by lawyers or legal advisers.

(3) The president of the panel, as the case may be, will inform at the beginning of the court session the participants in the procedure about the rules of conduct

necessary for the proper performance of the judicial activity. For example, he/she will announce that mobile phones will be switched to silent mode, that no food or beverages will be allowed in the courtroom, or that the parties or witnesses will have their identity documents handy, or that they will answer when called.

Art. 35 (1) The cases with adjournment reasons without discussion cannot be called before the appointed time for calling the case, if neither party is present. At the beginning of the court hearing, the judge is invited to explain to the participants in the case the notion of "*cases in adjournment without discussion*", in order to avoid non-compliant applications in this regard.

(2) Lack of procedure or procedure vitiated; lack of approved evidence (for example, the expert report), if there are no other procedural activities that can be carried out independently; submission of the expert report without observing the legal term; lack of the report prepared by the evidence service; in civil matters, the hypothesis in which the parties request postponement through their consent; in criminal matters, when the defendant in custody who did not ask for judgment by default is not brought before the court, etc. can be considered as reasons for adjournment without discussion, if there is the consent of the participants.

Art. 36 The court must ensure priority to the cases involving lawyers and legal advisors over the cases with parties not assisted by professionals, taking into account in this regard the cases set for the same time and the specificity of the cases.

Art. 37 (1) At the same time, it is recommended for the president of the trial panel to show availability in understanding the different situations arising during or before the court hearing, which may cause changes in the order set for the cases in the hearing list.

(2) Before deciding to take a case with priority, it is appropriate for the president of the trial panel to consult the procedural participants present in the courtroom and who have cases set before the respective case, as well as to inform them about the reason why a case will be called with priority.

(3) The following situations may be grounds for calling the case of the line: if the participant concerned is a person of advanced age or with proven or obvious health problems, respectively a person who is pregnant or who is accompanied by minors; when the lawyer of one party proves that he/she must participate in other cases set on the same day, in other courts or prosecutor's offices, and the delay could affect the good settlement of the other case; the situation in which the procedural participant came to court from other localities.

(4) The request for a case to be taken as a priority shall be addressed by the lawyer, by the prosecutor or by other procedural participants prior to the beginning of a case or after its conclusion, but not during the debates.

(5) In all these cases, the judge shall ensure that the procedural rights of all the participants in the trial are respected.

Art. 38 It is recommended for the lawyer making a request to leave the case at the end of the court hearing or to call it at a certain time during the same court hearing, to inform in advance the other lawyers in the case about this request.

Art. 39 In the criminal prosecution stage, as far as possible, it is recommended for the prosecutor's offices to provide special spaces for conducting the hearings where only the persons involved in that respective case and who have the right to attend the hearing will be present, according to the law.

Art. 40 It is advisable for each prosecutor who carries out supervisory activities or who carries out the criminal prosecution to establish a way to discuss directly with the court user or/and with his/her lawyer on the administrative issues regarding the

files in the criminal prosecution stage in which he/she supervises the investigations carried out by the criminal investigation bodies or in which he/she carries out the criminal investigation directly.

Subsection 2.2.
The communication of the judge and of the prosecutor in the courtroom, as well as the communication of the prosecutor within the criminal prosecution

Art. 41 The judge and the prosecutor show respect towards all the participants in the trial, ensuring an equal treatment, regardless of age, professional training or experience of other legal professionals.

Art. 42 (1) The judge and the prosecutor shall express themselves within bounds and calm, they shall refrain from using ironic or tendentious expressions, behaving in a neutral, polite, simple, impartial manner, with a concise language, without enigmas or irony. It is necessary for the tone used to be balanced, so that it does not constitute a communication barrier or impede the solemnity of the hearing.

(2) It is recommended for the gestures, posture, mimicry, tone used to reflect the balance and interest of the magistrate equally for all the elements of the cases, in order to avoid the apparent lack of impartiality. Gestures that indicate lack of patience or dissatisfaction will be avoided.

(3) The judge and the prosecutor must refrain from making personal remarks related to the quality of defense exercised by the lawyer. This paragraph may not affect the legal obligation of the judge and of the prosecutor to ensure that the party or the procedural subject is effectively defended, when it is mandatory.

(4) It is recommended that the position be firm and allow the judge and the prosecutor to impose respect by their mere presence.

Art. 43 (1) It is recommended for the judge to have an active listening, being able to request the opinions of the professional participants in the case whenever it is in the interest of settling the case. This proposal should not be understood as a limitation of the judge's role in finding the truth, but as a way of exercising it.

(2) Discussions between the members of the trial panel, other than those confined to the case or related to the conduct of the trial hearing, should be avoided.

(3) In order to ensure an effective partnership in carrying out the act of justice, the judge may indicate those matters on which he/she wants the lawyer and, as the case may be, the prosecutor to present his/her opinions.

(4) If further clarification is needed on the case file, it is appropriate for the members of the trial panel to request them when the lawyer has finished expressing his/her point of view, the conclusions or when he/she finalized the plea.

(5) The judge may interrupt the pleadings of the lawyers and prosecutors when he/she needs further clarifications or details regarding the issues being discussed, in a way that does not affect the cursiveness of the speech, when the plea has moved away from the object of the case, respectively when the time previously announced was exceeded.

(6) The president of the panel will ensure the order of the debates and the equality of the procedural weapons also in what concerns the questions asked by the parties or by their representatives, respectively by the prosecutor to the witnesses, to the defendant or to the civil party or to the injured person.

Art. 44 The judge must ensure balance and equidistance between the represented party and the one that is not represented by lawyer, explaining to the latter the procedural rights and obligations, without becoming the defender of the party.

Art. 45 It is recommended that the activity of the judge in the court hearing should not be centered on authority and coercion, on excessive sanction and formalism, but rather, oriented towards a participatory and balanced style. The elements of coercion and sanction have to intervene when other modalities appear to be insufficient.

Art. 46 The attire of the judge and of the prosecutor must be adequate and decent. The proper wearing of the robe has an essential role in the solemnity of the court hearing. The robe will be dressed outside the courtroom, before the trial begins.

Art. 47 The collaboration between the prosecutor and the lawyers of the parties or of the main procedural subjects in the criminal prosecution is based on the understanding of everyone's role in the execution of the act of justice, involving the exercise of the rights and the fulfillment in good faith of the procedural obligations.

Art. 48 (1) It is recommended for the prosecutor to ensure the effective possibility to assist in carrying out the criminal prosecution documents, when there is such a request from the lawyer of the parties or of the main procedural subjects, according to the law, avoiding setting simultaneously several procedural activities carried out in different places in the same case.

(2) In cases where there is a notification in this regard made by the lawyer, it is recommended for the prosecutor to inform him/her sufficiently in advance about the criminal prosecution act, taking into account the specificity and the urgency of the act.

Art. 49 It is recommended for the requests made or for the exceptions raised during the criminal prosecution to be resolved by the prosecutor before the drafting of the indictment or the settlement of the case in another way.

Art. 50 In the complex cases, in which the hearing of several persons is scheduled on the same day, it is recommended for the prosecutor to ensure that the waiting times are as short as possible, without thereby limiting the possibility of the prosecutor to judge the best ways to guarantee the proper conduct of the criminal prosecution.

Subsection 2.3.

The communication of the lawyer in the courtroom, as well as with the prosecutor during the criminal prosecution

Art. 51 The manner of speech of the lawyer in the courtroom, both verbal and non-verbal, will reflect professionalism and respect towards the members of the trial panel, towards other lawyers, towards the prosecutor and the other participants in the trial, contributing to ensuring the solemnity of the hearing.

Art. 52 (1) It is recommended for the lawyer's language to be appropriate to the interlocutors, coherent and clear, including for ensuring the accurate recording of the court hearing.

(2) The gestures and attitudes that betray nervousness, respectively the discussions with other people in the courtroom are to be avoided.

Art. 53 (1) It is recommended for the lawyer to respect the word order given by the president of the trial panel, avoiding the unexpected interventions in the speech of other lawyers, as the case may be, of the prosecutor or of other persons.

(2) The lawyer may ask the president of the trial panel to intervene if he/she considers that the affirmations of another person involved in the case are not related to the object of the case or in other justified situations.

Art. 54 It is recommended for the lawyer to refrain from offensive written or oral statements against magistrates and other procedural participants.

Art. 55 During the court hearing, the lawyer will not use criticism and comments against the person of the magistrate or against the solutions ordered by the court in that hearing, having the possibility to appeal to the remedies provided by law when considering the solutions illegal or unjustified.

Art. 56 (1) The lawyer can contribute to a good organization and conduct of the court hearing by his/her responsible involvement in establishing the days and hours for calling the case, as well as by observing the court's provisions regarding the cases with reasons for adjournment without discussion, respectively when giving priority to cases.

(2) It is recommended for the lawyer to perform due diligence to ensure his/her substitution when he/she cannot attend the court hearing, according to the Statute of the profession.

(3) The request for postponement for lack of defense will be submitted to the file with sufficient time in advance to allow the court to provide the compulsory legal assistance, in order not to delay the settlement of the case.

Art. 57 (1) It is appropriate for the discussions between the client and the lawyer in the courtroom to be limited to the issues arising from the debates.

(2) For the proper conduct of the hearing, the lawyer shall explain to the person he/she represents, outside the courtroom, the rules of conduct specific to the judicial proceedings.

Art. 58 (1) It is advisable for the lawyer to announce in advance the delay in carrying out the acts of criminal prosecution, when he/she has informed the criminal investigation bodies that he/she is going to attend the execution of the act.

(2) In order to fully exercise the right to defence and the right to a fair trial, it is recommended that the notifications about the carrying out of the criminal prosecution acts be submitted to the judicial body that investigates the case.

Art. 59 The attire of the lawyer must be decent and appropriate for the solemnity of the hearing, also involving the use of the robe according to the statutory rules of the profession. The robe will be dressed outside the courtroom.

Subsection 2.4.
Time management in the courtroom

Art. 60 In order to optimize the time management during the trial hearing, flexibility is recommended regarding the reorganization of the trial hearing along the way and the calling of cases with parties present in the courtroom, when there are no other cases that have procedural priority.

Art. 61 Any modification of the schedule that appeared during the court hearing must be announced immediately in the courtroom by the president of the panel.

Art. 62 (1) The rules regarding the granting of the word, respectively the order of the interventions or the setting of a time interval for each speaker, as the case may be, should be announced from the beginning of the aspects on which the word is granted. Unjustified interruptions or the interventions of the procedural participants during the time given to other persons cannot be allowed.

(2) The judge shall grant, upon request, the right to reply, aiming to ensure equality of weapons from a procedural perspective. Interruptions or interventions other than those ordered by the president of the panel are not allowed.

Art. 63 (1) During the debates on the requests for production of evidence, on the exceptions or on the preliminary matters, the lawyers and the prosecutor are invited to consider the elements relevant to the issues discussed in relation to the procedural

stage of the case. One can proceed to the reasonable limitation of the word when justified reasons impose it.

(2) The persons heard before the court may be asked questions in the order provided by law or, as the case may be, set by the president of the trial panel. Questions that have the sole purpose to intimidate or offend the person being heard cannot be addressed.

(3) The questions addressed to the persons heard may be rejected by the president of the trial panel if they are not related to the settlement of the case, if they are repetitive, rhetorical or insulting.

Art. 64 (1) Regarding the time allowed for the arguments on the merits, if there are objective reasons that can justify the limitation of the time given to the lawyer or to another procedural participant, it is recommended for the judge to announce this circumstance right from the beginning of these debates.

(2) During the arguments on the merits, it is advisable that the time interval given be appropriate to the complexity of the case. The setting of the time given may be ordered after consulting the lawyers or the other involved procedural participants.

(3) To the extent possible, the time frame given to each participant for endorsing the arguments on the merits should not be limited to less than 5 minutes.

Subsection 2.5.
The electronic file and the communication by electronic means

Art. 65 The efficiency and celerity of the act of justice can be ensured by fluidizing the interprofessional communication with the help of the electronic means.

Art. 66 In the courts where the electronic file was implemented, before addressing the record office and the archive compartments of the courts with requests to study the files, lawyers and other legal professionals who have the right to access the electronic file are advised to access the electronic file that contains documents issued by the courts or transmitted to the court in electronic format, respectively documents scanned from the case file.

Art. 67 It is useful to create computer programs that allow the online viewing of the order of the court hearings and of the session lists. It is also recommended to implement the online petition program available to the courts and to the prosecutor's offices.

Art. 68 (1) The use of digital and electronic resources may also concern aspects related to the communication of the procedural documents by electronic mail, at the request of the parties or of other procedural participants.

(2) The transmission of the enforcement file by the bailiffs in electronic format should be possible at the request of the court.

Art. 69 In order to promote the use of this alternative means of communication, the courts and prosecutor's offices are recommended to set up an automatic reply, when the e-mail is opened by the registry of the court or of the prosecutor's office.

Subsection 2.6.
Communication by video conference

Art. 70 The procedures carried out in videoconferencing system constitute a quick and pragmatic alternative of the rogatory commission. They can be used in any matter, if the courts and prosecutor's offices have such means.

Art. 71 For the proper conduct of the proceedings, considering that synchronization is essential, it is necessary that the videoconferences be held in separate sessions, with pre-set hours, brought to the notice of all the participants in the procedure.

Art. 72 (1) It is necessary that the legal professionals, participants in the cases using videoconferences, be present at the places and at the hours set by the courts or by the prosecutor's offices, in order not to delay or affect the conduct of the procedure, keeping in mind it involves synchronizing more people in different locations and making technical connections.

(2) In order to ensure the confidentiality of the relations between the lawyer and the client, especially in the hypotheses where the legal assistance is mandatory, it is recommended to ensure the presence of the lawyer, as the case may be, of the interpreter, at the place where the party being heard by videoconference is located.

Section 3.
The relations with the auxiliary compartments within the courts and prosecutor's offices

Subsection 3.1.
Common issues

Art. 73 The auxiliary personnel must be properly trained to have a proper, respectful behavior and to carry out strictly the job activities during the working hours.

Art. 74 It is advisable that the spaces for interaction with the public be accessible, with appropriate display, arranged in suitable rooms, ventilated and equipped with functional furniture.

Art. 75 Means of obtaining feedback from the beneficiaries of the services provided may be used to identify the communication and operating vulnerabilities of the auxiliary compartments.

Art. 76 In order to make the activity of the auxiliary compartments more efficient, lawyers and the litigants must have effective access to alternative technical means of information: portal, functional info kiosks, public information offices, and electronic display panels for the activity in the courtrooms, the electronic file.

Subsection 3.2.
The registry

Art. 77 In order to improve the communication with the registry of the courts and prosecutor's offices, it is necessary for lawyers, judicial executors and other legal professionals to communicate all contact details, especially telephone numbers and e-mail addresses.

Art. 78 In this regard, it is advisable to facilitate the communication of the professionals with the registry through telephone notes or electronic mail.

Art. 79 It is useful for the writ of forced enforcement, respectively for the writ of suspension, to be communicated promptly to the bailiffs at the e-mail addresses indicated by them.

Art. 80 In the courts where the system of the electronic file is implemented, the auxiliary personnel will promptly uploaded in the electronic file the court decisions and the other procedural documents drawn up by the court, the documents submitted by the parties during the court hearing, as well as the evidence administered during the

trial (witness testimony, interrogations, statements of the parties in the criminal case, etc.).

Subsection 3.3.
The record office

Art. 81 The working hours with the public of the record office must be appropriate to the volume of activity specific to the court and to the prosecutor's office in order to minimize the waiting times.

Art. 82 The working hours of the record office could include time exclusively for lawyers, bailiffs, legal advisers and insolvency practitioners.

Art. 83 During the court holidays, the program of the record office should be maintained at an appropriate time interval in order to avoid overcrowding. This will be notified to the public through the court portal.

Art. 84 It may be useful to confirm the receipt of the documents transmitted through the e-mail services by establishing an automatic response mode, as recommended in art. 69.

Art. 85 In the courts where the application of the electronic file is developed, it is necessary that the documents submitted to the record office be scanned as soon as possible.

Subsection 3.4.
The archive

Art. 86 The program with the public of the archive will be appropriate to the activity volume specific to the court to have a reasonable waiting time.

Art. 87 (1) In civil matters, it is recommended to facilitate the study, within the court archive, of the civil files in the regularization phase.

(2) In criminal matters, it is recommended to facilitate the study, within the court archive, of the files in the preliminary chamber stage.

(3) The courts shall make available to the prosecutors of the sessions specially arranged spaces, for the study of the files in the preliminary chamber or in the trial stage, and, where there are no such spaces, they must provide a distinct time interval, sufficient for the prosecutor to study the files at the court archive.

Art. 88 During the court holidays, the working hours with the public of the archive should be set in order to avoid overcrowding. This will be notified to the public through the court portal.

Section 4.
Aspects regarding the lawyer's fee

Subsection 4.1.
The fee of the chosen lawyer

Art. 89 The lawyers are invited to formulate the request to oblige the adverse party to pay the trial costs, specifying the amount and nature of the amounts requested, before the beginning of the arguments on the merits.

Art. 90 (1) When further clarifications are required, it is recommended for the president of the panel to question the request for the trial costs, to interpellate the

lawyer regarding the amount of the fee and to give him/her the opportunity to express his/her legal position.

(2) Also, in complex cases, lawyers may submit expenses notes indicating the amounts requested, their title, the related evidence, as well as the pages containing this evidence.

Art. 91 (1) The reduction of the trial expenses representing the lawyers' fee can be achieved, under the law, as an exception, when there is a clear disproportion between the value of the object of the case, the complexity of the case, the actual activity of the lawyer and the requested fee.

(2) It is recommended that the phrase "clearly disproportionate" contained in the content of the procedural rule be interpreted in its semantic meaning, to be clear to anyone that there is a disproportion that is obvious.

(3) It is advisable for the reduction of the expenses related to the lawyer's fee to not practically lead to the emptying of value of the lawyer's professional performance.

Art. 92 (1) In calculating the amount of the lawyer's fee and its proportionality to the activity of the lawyer in a particular case, the criteria found in the Statute of the lawyer's profession could be considered for establishing the fees, respectively: the time and the volume of work required; the nature, novelty and difficulty of the case; the importance of the interests in the case; notoriety, titles, seniority in work, experience, reputation and the specialization of the lawyer; the co-operation with experts or other specialists, imposed by the nature, object, complexity and difficulty of the case; the advantages and the results obtained for the client's profit as a result of the work performed by the lawyer, etc.

(2) The court will be able to refer to the net income obtained by the lawyer when it decides on a possible reduction, and not only to the gross income mentioned in the supporting documents, considering that often the legal fees also include VAT. (3) In particular, it is important to mention that the fee mentioned in the legal assistance contract and included in the receipt represents a gross cashing from which the lawyer pays not only fiscal costs, but also monthly administrative and professional costs.

Art. 93 In assessing the activity of the lawyer, it is advisable for the court to take into account the less visible activities of the lawyer, such as: legal consultations between terms, the effort to process the information received from the client to be rendered in a clear and legal form, the fulfillment of administrative procedures related to the judicial ones, the waiting time until the case is called.

Art. 94 When the judge proceeds to reduce the trial costs represented by the lawyer's fee, such a decision should be adequately motivated, so as to ensure transparency regarding the criteria applied for this reduction.

Subsection 4.2.
The fee of the lawyer appointed ex officio

Art. 95 As regards the lawyer appointed ex officio, the protocol in force concluded between the Ministry of Justice, the National Union of Bars in Romania and the Prosecutor's Office attached to the High Court of Cassation and Justice shall apply.

Art. 96 In case the lawyer ex officio does not perform the specific professional performance in the procedures in which he/she was appointed, it is proposed that the remedy be the replacement of the lawyer, with the consequence of non-payment of the fee.

Section 5.
Aspects regarding the fee of the officer of the court and other expenses required for enforcement

Art. 97 In compliance with the limits provided by the legislation regarding the minimum and maximum fees for the services provided by the bailiffs, the amount of the bailiff's fee takes into account the specificity of the enforcement activity, as well as the rights, obligations and liability of the bailiffs.

Art. 98 (1) In establishing the expenses necessary for the enforcement and the fee, the bailiff considers elements such as: the time and work load requested, the nature and/or the difficulty of the case, the importance of the interests in question, the co-operation with experts or other specialists, the expenses necessary for the functioning of the office, the expenses specific to the profession and the contributions provided by the normative acts in force, as well as other expenses provided by law or necessary to carry out the enforcement.

Art. 99 In analyzing the amount of the bailiff's fee, the court will take into account the criteria set out in art. 98, as well as the net income obtained by the bailiff, and not the gross amount of the established expenses.

Section 6.
Aspects on public statements

Art. 100 Legal professionals enjoy freedom of expression, ensuring equally the respect of the presumption of innocence, of the right to a fair trial, of the right to privacy, of the presumption that until the dismissal of the litigation the litigious obligations of the parties have no definitive character.

Art. 101 For the purpose of interprofessional collaboration as a partnership and of a constructive dialogue, it is recommended to avoid presenting particular situations or individual dissatisfactions as a general state.

Section 7.
Aspects on the client-lawyer confidentiality

Art. 102 (1) In assessing the representation quality of the lawyer, it will be taken into account the fact that, in accordance with the provisions of the Statute of the profession of lawyer, the lawyer's power of attorney and the delegation of substitution have full probative force until they are forged.

(2) The courts and the prosecutor shall request the submission of the legal assistance contract between the lawyer and the client only exceptionally and for duly justified reasons.

Art. 103 The courts and the prosecutor's offices must provide the persons arrested or detained with adequate spaces that allow guarding and surveillance, in order to consult with the lawyer chosen or appointed ex officio, under confidentiality conditions, before the beginning of the court hearing.

Art. 104 The persons in custody must have the possibility to consult the file together with the lawyer at the headquarters of the courts and prosecutor's offices, in specially arranged places, in legal conditions and with security measures.

Section 8.
The trainees of the legal professions

Art. 105 The trainees represent the future of the legal professions, and for a correct professional training, the start of the practical activity must be accompanied by patience and understanding from the people with long practical experience.

Art. 106 Law professionals are invited to ensure a careful integration of the trainees in the different fields in which they work, taking into account that the interaction with them can be an opportunity for new practical approaches or for refreshing the perspectives.

Art. 107 In the relations with the trainees of the legal professions, it must be taken into account that they are subjected to significant and particular psychological pressures, that of the courtroom, where the interaction with the litigants and with the other participants in the act of justice is inherent and where the procedures are subject to a specific solemnity, as well as to a high workload.

Art. 108 The trainees should be given priority guidance regarding the deontological rules specific to all legal professions, as well as in the sense of giving equal respect and professional courtesy to all the professionals involved in the justice act.

Art. 109 For a good initiation in the practical activity, the persons who carry the administrative responsibility in the legal professions are invited to worry and to take the necessary measures for the guidance of the trainees by experienced professionals.

Art. 110 (1) It is appropriate to organize training courses for the different legal professions, which should also include incidental issues in the legal work regarding communication sciences, psychology, sociology, and rhetoric and argumentation theory.

(2) The essential role of the National Institute for the Training and Improvement of Lawyers and of the National Institute of Magistracy is emphasized, in ensuring the initial vocational training of the trainees in the above-mentioned fields.

Chapter III.
Communication outside the proceedings, but inside the institution, forms of externalization of mutual respect, common communication space (formal or informal)

Art. 111 (1) The present guideline starts from the premise that the informal and collegial relations between legal practitioners serving the accomplishment of justice must be natural.

(2) An open, natural and collegial communication between all legal professionals is encouraged. Such communication allows an open, productive, efficient and positive working atmosphere with a positive impact on the perception of the lawmakers and the quality of the justice act.

Art. 112 The forms of showing respect - greetings, conversations and interactions - within the institution are normal, but it will be considered that it is appropriate to maintain a formal, neutral and professional general framework, even if it is carried out outside the specific proceedings of the courts and prosecutor's offices.

Art. 113 (1) The simple human interaction through the natural answer to the greeting or a handshake must not be considered inappropriate or given a meaning other than good manners.

(2) Having conversations within the institution within reasonable time limits should be considered as an accepted manifestation of collegial relationships between magistrates and the other legal professionals, without any other connotations.

Art. 114 In order to encourage the interactions between the professional categories of the judicial system, common meeting and discussion spaces can be set up in the court premises to be used for socialization, debates of general interest for the profession, study activities, following the model already provided by the existence of such spaces in the premises of the European Court of Human Rights or the Court of Justice of the European Union.

Chapter IV.
The interactions between legal professionals outside the institutional framework

Art. 115 In the context in which the magistrates, lawyers, legal advisers, notaries, bailiffs, insolvency practitioners have a common initial training and are partners in the act of justice, it is natural for them to develop relationships outside the institutional framework. For example, there are many the situations in which the legal professionals can exercise didactic activities in the university environment, they can collaborate in the elaboration of normative acts, specialized scientific works, articles, literary works, respectively, can participate in common sporting activities or they can be involved in extra-professional social events.

Art. 116 In order to guarantee the prestige of the act of justice, it is necessary for the legal professionals to ensure both the impartiality and the appearance of impartiality, by the procedural means provided by law, when the close personal relations between them are of notoriety.

Art. 117 The obligation of reserve of the magistrate which involves a fair balance between private life, freedom of expression, on the one hand, and the need to protect the authority of the act of justice and the rights of others, on the other hand will also be considered.

Chapter V.
Joint interinstitutional activities

Section 1.
Joint professional training in the relationship between magistrates and Lawyers

Art. 118 The mutual knowledge of the legal professions can be encouraged through an initial vocational training common in certain fields, as well as through effective internships in the other legal professions, in order to facilitate the understanding their functioning, right from the beginning of the activity of the professionals.

Art. 119 (1) The common vocational training may also be integrated into the continuous training, with the incorporation of topics, such as: the latest legislative changes in various specializations, aspects of professional deontology, legal writing, interprofessional communication, the use of modern technical means of communication, including the electronic file, the judicial organization and the circuit of the procedural documents in the courts, the access of information that can be found on the court portal, information regarding the composition of the panels, the court

organization chart, the scheduling the court hearings, the court working hours, administrative matters related to the effective access to the court.

(2) Such joint programs must be carried out with a certain periodicity that will ensure the understanding and learning of the mutual mechanisms of organization and functioning of each profession.

Art. 120 It is recommended the common and concurrent participation in the projects regarding the legal education in schools. The purpose of these programs is the formation of a primary legal education among young people, beneficial for both the whole justice system and the society in general.

Art. 121 (1) It is advisable to hold regular professional and administrative meetings between the boards of the courts of appeal, the courts and the prosecutor's offices under them and the boards of the bars.

(2) In this approach, it is appropriate to periodically identify the legal and administrative problems, respectively the communication ones, by appointing persons responsible for this matter. Appropriate solutions will be identified jointly.

Art. 122 It is encouraged the creation of a mechanism to signal the situations of non-unitary practice between bars and prosecutor's offices, on the one hand, and bars and courts, on the other hand, without overlooking the possibility of notifying the ruling councils of the courts of appeal to analyze the opportunity to promote some appeals in the interest of the law.

Art. 123 It is advisable to encourage the real interinstitutional dialogue between the bars and the courts in matters of professional nature through various means, such as the appointment of a bar counselor to attend the sessions of non-unitary practice, the transmission to the courts and prosecutors' offices of the relevant bar decisions relevant for their practice activity etc.

Art. 124 It is recommended the joint organization of conferences, including with international participation, dialogue or interactive conferences, workshops on current legal topics, seminars on legislative changes and on general legal aspects having university professors as guests.

Art. 125 Law professionals are encouraged to participate together with their counterparts from abroad in exchanges of experience.

Such a practice could lead to knowing and implementing in the country mechanisms that have already been proven functional in other legal systems. The mechanisms may aim, for example, to make the interinstitutional and interprofessional communication more efficient.

Art. 126 It may be useful the mutual participation of both the magistrates' representatives and the lawyers' representatives in the review meetings and in the general meetings organized by the courts, prosecutors' offices, bars.

Section 2.
Forms of socialization between magistrates and other legal professions, in an informal framework

Art. 127 It is recommended to organize and participate in common events, in a representative percentage for each profession.

Art. 128 Informal interinstitutional joint activities may also be organized, such as organizing sports competitions or participating with joint teams, periodic organization of social-cultural events and recreational activities.

Art. 129 Online dialogue groups on communication and organization aspects of these types of activities can be set up, having as participants the representatives of the courts, prosecutor's offices and other legal professions.

Section 3.
The relationship with the officers of the court

Art. 130 The body of the bailiffs represents an essential partner in carrying out the act of justice in civil matters. Therefore, it is necessary to set up efficient communication key factors between them and the magistrates, respectively lawyers.

Art. 131 The initial vocational training of the bailiffs should include internships in the courts, prosecutor's offices, respectively in the law firms, internships that allow them to directly interact with the way they operate. In the same sense, it would be necessary for the initial training of magistrates and lawyers to include internships in the offices of the judicial executors or of other forms of organization.

Art. 132 It is proposed for the bailiffs to participate in the continuous vocational training for magistrates and lawyers, and such joint programs could be carried out with a certain periodicity, in order to achieve their stated purpose.

Art. 133 It is recommended the participation of the bailiffs together with magistrates and lawyers in the projects regarding the legal education in schools.

Art. 134 It would be appropriate to periodically debate the legal and communication problems identified by appointing certain persons for this task within each profession. The appropriate solutions would be identified in seminars and joint working sessions.

Art. 135 It is considered necessary to hold regular professional, organizational and administrative meetings between the management of the courts of appeal or of the courts attached to them and the management of the chambers of the bailiffs, as well as the exchange of experience.

Art. 136 It may be useful to have the mutual participation of the representatives of the bailiffs, of the magistrates, respectively of the lawyers in the congresses, review meetings and in the general meetings.

Art. 137 Through their specific forms of organization the bailiffs can signal to the courts the situations of non-unitary practice, without omitting the possibility of notifying the ruling councils of the courts of appeal, in order to promote any appeals in the interest of the law.

Art. 138 It is recommended to organize and participate jointly in conferences, including with international participation, interactive dialog conferences, workshops on current legal issues and legislative changes, as well as on general legal topics.

Art. 139 (1) As regards the communication of the documents in the cases pending before the courts, the communication by means like e-mail, fax or other means that ensure the transmission of the document and the confirmation of its receipt is encouraged.

(2) It is recommended to the courts to communicate to the bailiffs with priority by e-mail the judgments, the decisions, the minutes, in compliance with the provisions regarding the communication of the procedural documents.

(3) During the course of the trial, in order to establish the trial costs it is recommended to the courts to make all efforts, for the party in charge of the payment obligations necessary for the photocopying of the documents requested by the bailiff, to attach to the file the evidence of the payment.

Section 4.
The relationship with other legal professions involved in the act of justice

Art. 140 The role of the other legal professionals - notaries, legal advisers, insolvency practitioners - is also important in carrying out the justice act. This is why it is necessary to create a mechanism for inter-institutional communication that allows real-time fixing of the mutual dysfunctions reported in the professional practice.

Art. 141 The initial vocational training of other legal professions should include internships in the courts, law firms, offices of judicial executors, internships that allow them to directly interact with the way they operate.

Art. 142 It is proposed that these professional categories also participate in the common continuous vocational training with a frequency sufficient to reach the target pursued.

Art. 143 Law professionals are invited together with magistrates, lawyers and executors to support and get involved in the projects regarding the legal education in schools.

Art. 144 The legal professions, through the representative professional bodies, are invited to periodically review the problems of law and those of communication, identifying the appropriate solutions during joint seminars or meetings.

Art. 145 (1) It is proposed the mutual participation of the representatives of notaries, legal advisers, insolvency practitioners, executors, magistrates and lawyers in congresses, review meetings and general meetings, as the case may be.

(2) It is recommended to organize and participate jointly in conferences, including with international participation, interactive dialog conferences, workshops on current legal issues and legislative changes, as well as on general legal issues.

Chapter VI.
Establishing a permanent inter-professional dialogue mechanism and dispute settlement procedures

Art. 146 It is known that in the judicial system the administrative matters or the aspects of non-unitary practice may be the subject of debates during the quarterly meetings organized by sections at the level of the courts of appeal, but this practice is insufficient in relation to the other legal professions.

Art. 147 (1) It is for the benefit of carrying out a qualitative and efficient act of justice the creation of a mechanism of interinstitutional communication that allows the real-time review of the malfunctions reported.

(2) It is recommended to set up interprofessional dialogue groups with the participation of the representatives of the involved institutions to perform a periodic review of the legal problems, as well as of those related to communication and relationships between the members of the legal community from the jurisdiction of each court of appeal.

Art. 148 At national level, it would be useful to develop concrete procedures to prevent inter-professional conflicts and to facilitate the settlement of the existing ones, through a set of main rules to support continuous and open inter-professional communication.

Art. 149 The carrying out of joint interprofessional projects is likely to contribute to the achievement of a legal culture meant to give society confidence in the act of justice.

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