

GUIDE OF GOOD PRACTICES ON THE RELATIONSHIP OF THE JUDICIAL SYSTEM WITH THE MEDIA

Chapter I. INTRODUCTORY CONSIDERATIONS. PURPOSE. OBJECTIVES

Chapter II. COMMON ETHICAL PRINCIPLES

Chapter III. GENERAL PROVISIONS. COMMUNICATION STRUCTURES AND THE SPOKESPERSON

Chapter IV. RULES APPLICABLE IN THE CRIMINAL TRIAL, IN THE CRIMINAL INVESTIGATION PHASE, IN THE PROCEEDINGS BEFORE THE JUDGE OF RIGHTS AND LIBERTIES, IN THE PROCEDURE OF PRE-TRIAL CHAMBER.

Chapter V. RULES APPLICABLE IN THE CIVIL PROCEEDINGS *LATO SENSU*

Chapter VI. RULES APPLICABLE IN THE DISCIPLINARY PROCEEDINGS CONCERNING THE MAGISTRATES, THE RULES OF CONDUCT REGULATED BY THE DEONTOLOGICAL CODE OF THE JUDGES AND PROSECUTORS AND THE GOOD REPUTATION

Chapter VII. OPERATIONAL CONCEPT. TERM GLOSSARY

Chapter I. INTRODUCTORY CONSIDERATIONS

Section 1. The purpose of the guide

This guide aims to ensure predictable, transparent, accessible, coherent and unitary public communication of the judicial system, which will make possible the public access to information of public interest through the press.

Section 2. Objectives

The courts and prosecutor's offices must allow the media representatives to fulfill their role of informing the public opinion.

The judicial system and the media, equally, have the obligation, when publicly communicating information of general interest aimed at the activity of the courts and prosecutor's offices, not to violate the rights acknowledged by the national and international legislation. Among the values to be protected in public communication are the following:

- protection of private and family life;
- the right to image;
- the non-public character of the criminal prosecution;
- the presumption of innocence;
- the impartiality of the act of justice;
- the protection of personal data, etc.

The first objective of the guide is to indicate the ways in which the judicial system can ensure transparency in the public communication, respecting the mentioned values, but also the procedural norms and the rights provided by the law for the persons involved in the trial.

The second objective of the guide is for it to contribute to the uniformity of the way of communicating the information of public interest by the institutions within the judicial system following the mentioned values, but also on a set of criteria such as:

- the correct information of the public opinion;
- the smooth running of the trial;
- the preservation of the evidence;
- the avoidance of the additional pressure during the procedures, etc.

Section 3. Legal provisions that validate this guide

In the elaboration of this Guide, there have been taken into account national legal provisions regarding fields such as:

- the information of public interest;
- the protection of personal data;
- the right to respect the private and family life;
- the right to image;
- the impartiality of the act of justice;
- the non-public character of the criminal prosecution and the presumption of innocence.

This guide also follows the principles that emerge from the international legal instruments in the mentioned fields, such as:

- Art. 6 paragraphs 1 and 2, art. 8 and art. 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms;
- Recommendation (2002) 2 of the Committee of Ministers of the Council of Europe regarding access to documents;
- Recommendation (2003) 13 of the Committee of Ministers of the Council of Europe regarding the provision of information on criminal trials through media;
- Recommendation (2000) 19 of the Committee of Ministers of the Council of Europe to the Member States, regarding the role of criminal prosecution in the criminal justice system.

Chapter II. COMMON ETHICAL PRINCIPLES

The core values of this Guide which are also the basis of public communication between the courts and prosecutor's offices, on one hand, and the media, on the other, are the following:

- transparency;
- confidence;
- honesty;
- respect for human dignity (and implicitly for private life)
- free access to information;
- accuracy of the information;
- impartiality and independence, both of the judicial system and of the press institutions.

Section 1. Common provisions for the Superior Council of Magistracy, courts and prosecutor's offices

Art. 1 - At the level of the Superior Council of Magistracy, of the courts and of the prosecutor's offices the communication structure operates under the direct subordination of the head of the institution.

Art. 2 - The Superior Council of Magistracy, the courts, respectively the prosecutor's offices, appoint a spokesperson and a substitute for him/her, among the prosecutors, judges, advisers assimilated to the magistrates, as the case may be, or, by competitive examination, a graduate of the journalism faculty or a communication specialist. The spokesperson is usually the head of the communication structure, and in his/her activity may be assisted by one or more communication advisers, employees of the institution, in accordance with the applicable legal or regulatory provisions.

Art. 3 - In general, the spokesperson or his/her substitute is the one who provides data and information of public interest to the media. Judges, specialized auxiliary personnel and related personnel of the courts and prosecutor's offices are not allowed to provide information on the cases brought to the courts or to the prosecutor's offices. The magistrates have the obligation to guide the applicants towards the communication structures.

Art. 4 - The President and the Vice-President of the Superior Council of Magistracy, as well as the presidents of courts and the heads of the prosecutor's offices can issue official statements expressing in the media the position of the institution they represent.

Art. 5 - (1) The persons within the communication structures must be available in any situation during the working hours. In exceptional situations, spokespersons may also be asked to provide information outside the working hours.

(2) The official contact details (name, address, telephone, fax, e-mail) of the spokespersons and of the communication structures from all the courts, prosecutor's offices and the Superior Council of Magistracy are published on the websites of the respective institutions. A centralizing list of this information is displayed on the website of the Superior Council of Magistracy.

Art. 6 - (1) The communication structure/spokesperson receives effective support from all the departments and structures of the institution, in order to carry out specific activities, from which it can request information.

(2) In cases involving an institutional position or reaction to an exceptional situation, the spokesperson/his/her substitute will request express instructions from the head of the institution, which will be followed precisely.

(3) Where information is requested about the activity of the spokesperson himself/herself or information about a case that he or she is handling, this information will be made public by the head of the court /prosecution office or by another person that they designate. The exception to this rule is for the provision of information regarding court hearing dates.

(4) There is no stamp duty for the communication of information or copies of the documents to the media representatives, the latter incurring the expenses of the copy

services according to the provisions of Law no. 544/2001.

Section 2 – The general functions of the communication structure and of the spokesperson

Art. 7 - The communication structure of the Superior Council of Magistracy draws up daily the journal of the central press and communicates it to all the courts and prosecutor's offices through the communication structures at their level. There will be included, as a priority, press articles and audiovisual recordings/transcripts on the judicial system, the cases deferred to justice, the way they are managed, the documentation regarding the quality of the activity of the act of justice and of the magistrates.

Art. 8 - The communication structures within the territorial the courts and prosecutor's offices elaborate, daily, information materials, like press magazine, which are given to the staff of the institution during the morning.

Art. 9 – If articles referring to the activity of some magistrates as well as to the way in which they investigated or managed the resolution of a case are identified in the media, the communication structures/spokesperson informs the president of the court/the head of the prosecutor's office. If aspects related to the competence of the Superior Council of Magistracy are identified, the communication structure/spokesperson within the Council will be also informed.

Art. 10 - (1) The communication structure manages the activity of accreditation of the media representatives at the level of the Superior Council of Magistracy, courts and prosecutor's offices.

(2) The accreditation of the media representatives shall be based on a written, telephonic or verbal request specifying the name and surname of the person and the press institution for which the accreditation is requested, if applicable; the contact details of the person applying for accreditation; a copy of the identity document and of the service card or other similar document. The verbal request addressed by the media representatives will be completed with the documents provided by the provisions of Law no. 544/2001 in order to approve the accreditation.

(3) The accreditations of the representatives of the central press institutions at the communication structure within the Superior Council of Magistracy shall be transmitted to the communication structures in the territory and shall also function at their level. The accreditations of the representatives of the media from the local level, registered at the communication structures from the courts and prosecutor's offices, will be transmitted after settlement and centralized at the level of the Superior Council of Magistracy. Accreditations are granted for one calendar year and are renewed upon request.

(4) The accreditation implies for the prosecutor's offices and courts to send in real time to the media institutions and to their representatives, press releases published on their own websites, invitations for the accredited journalists to conferences, press releases and other public events.

Art. 11 - (1) The communication structure/spokesperson informs completely and without discrimination the media representatives who have requested certain information of public interest. The provision of information of public interest to the media representatives cannot be conditional on their accreditation.

(2) The spokesperson may participate in television or radio broadcasts only with the consent of the head of the court or of the prosecutor's office or of his/her substitute.

Art. 12 - In situations that require the prompt communication of the requested information, it can be provided to the media representatives by e-mail or by using mobile telephone applications that ensure the rapid transmission of the message.

Art. 13 - The media representatives prove their identity, at the request of the communication structure/spokesperson, with their work ID or with a similar document and with their identity card.

Art. 14 - The refusal to grant the accreditation or the withdrawal of the accreditation is done in compliance with the provisions of Law no. 544/2001 and with the implementing rules. The accreditation can be withdrawn or denied only for actions that impede the normal conduct of the activity of the public authority and which do not concern the opinions expressed in the press by the journalist, under the conditions and within the limits of the law.

Section 3 - Recommendations for the communication structures/spokesperson to ensure an efficient communication

Art. 15 - (1) The Superior Council of Magistracy, the courts and the prosecutor's offices publish ex officio the general information provided by Law no. 544/2001, updated, on the official websites of these institutions.

(2) The Superior Council of Magistracy, the courts and the prosecutor's offices communicate ex officio and at request of the media representatives information of public interest regarding or emerging from their activity, through the communication structure/spokesperson, according to the Law no. 544/2001.

(3) The Prosecutor's Office attached to the High Court of Cassation and Justice shall publish ex officio, on the institution's website, the decrees issued by the General Prosecutor representing administrative acts of a normative substance.

Art. 16 - (1) In the case of mass-media materials that use erroneous information in connection with the judicial procedures, the activity of the magistrates involved in them or with the activity of the Superior Council of Magistracy, of the courts and prosecutor's offices, the spokesperson informs the management of the institution that he/she represents. Also, the spokesperson ensures, immediately, the correct information of the public opinion, presenting the real situation and/or expressing the institution's position regarding the reported problems.

(2) To this end, the spokesperson shall act diligently to exercise the right of reply or rectification. At the same time, the spokesperson will request the institution that broadcasted the press material, to provide a broadcast space for expressing the right of reply or the rectification of the data and information.

(3) The request together with the reply or rectification shall be published on the website of the institution which was wronged, and on the website www.infocsm.ro upon request.

Section 4 - The relationship between the communication structures within the institutions of the judicial system

Art. 17 - (1) The communication structures and the spokesperson of the Superior Council of Magistracy, of the courts and of the prosecutor's offices collaborate and consult whenever necessary.

(2) In the case of the courts/prosecutor's offices, if the request for information of public interest made by the media representatives also concerns aspects of the activity of another court and/or of the prosecutor's office, the spokesperson consults with their president and/or spokesperson.

Art. 18 – The information of public interest regarding the activity of the specialized auxiliary personnel and of the related personnel within the courts and prosecutor's offices is made available by the communication structure/spokesperson of the court or prosecutor's office to which they belong. Career information of the same personnel categories is requested from the communication structure/spokesperson from the courts of appeal and from the prosecutor's offices attached to them.

Art. 19 - In case of identifying in the media, at local or national level, some situations with potential impact of the Audiovisual Law no. 504/2002 and of the Decision no. 220/2011 regarding the Code of regulation of the audiovisual content, regarding the person of the magistrates or the activity of the represented court/prosecutor's office, the communication structure/spokesperson will inform the management of the court/prosecutor's office and the communication structure/spokesperson of the Superior Council of Magistracy.

Section 5 - Specific functions of the communication structure/spokesperson of the Superior Council of Magistracy

Art. 20 - (1) The Office of public information and media relations operates under the chairmanship of the President of the Superior Council of Magistracy.

(2) The office of public information and media relations is organized and functions according to the provisions of Law no. 304/2004, republished, as subsequently amended and supplemented, Law no. 303/2004, republished, as subsequently amended and supplemented, Law no. 544/2001 regarding free access to information of public interest, as subsequently amended and supplemented, of the Guide on the relationship between the judicial system and the media, approved by Decision of the Plenary of the Superior Council of Magistracy, as well as of (EU) Regulation 2016/679 on the protection of natural persons with regard to the processing of personal data and regarding the free movement of such data and of revocation of the Directive 95/46/EC (General Data Protection Regulation).

Art. 21 - The communication structure/spokesperson of the Superior Council of Magistracy has the following functions:

- a) responds to the notifications and requests made under Law no. 544/2001, as subsequently amended and supplemented, in connection with its own activity;
- b) informs the President of the Council about the significant aspects concerning justice, disseminated through media, and communicates to the press the official views;
- c) performs, according to the law, public information activities;
- j) draws up and updates annually the Information Bulletin on the free access to public information, according to the law;
- k) carries the information of the public on the activity of the Council, the publication on the website of this information, its updating, including by mentioning the solutions of the courts regarding the acts of the Council, and responds to the press on behalf of the institution, through the spokesperson;

l) carries out the information and documentation regarding the judicial activity from which data and information of public interest could result;

m) monitors the articles in the central press and, with the support of the public information offices of the courts and prosecutor's offices, those in the local press, regarding the reflection of the activity of the Council, of the courts or of the prosecutor's offices, and draws up daily the press review and the synthesis of the press; carries out or participates in the elaboration of studies, evaluations, synthesis works regarding the reflection of the Council's activity in the media; makes forecasts regarding the aspects of the Council activity to be reflected in the media; performs any other public relations and communication activities provided by the Guide on the relationship between the judicial system and the media, approved by Decision of the Plenum of the Superior Council of Magistracy or disposed of by the President of the Council.

- n) communicates to the media representatives information of public interest regarding aspects related to the organization, administration and activity of the Superior Council of Magistracy, about public or professional events organized or coordinated by this institution;
- o) informs ex officio or upon request the representatives of the media about the subjects of national importance and those concerning the judicial system as a whole;
- p) communicates to the media representatives, upon request or ex officio, the public information regarding the career and professional path of the magistrates;
- q) asks the courts and the prosecutor's offices, whenever necessary, punctual data and information for documenting the answers to some complex requests of the press;
- r) enforces through the media the decisions of the Plenum of the Superior Council of Magistracy regarding the defense of the independence of justice, independence, impartiality, professional reputation and image of the magistrates;
- s) informs the media representatives, accredited by the Superior Council of Magistracy, about the decisions by which disciplinary sanctions have been applied under the conditions established in the Regulation of organization and functioning of the Superior Council of Magistracy;
- t) draws up the monthly newsletter of the Superior Council of Magistracy "Infoletter" and ensures its publication and distribution in electronic format to the courts, prosecutor's offices and media representatives accredited by the Superior Council of Magistracy;
- u) proposes to the President of the Superior Council of Magistracy the exercise of the right of reply or rectification, as the case may be, and/or the notification of the National Audiovisual Council, in case of identification in the media of situations under the scope of the Audiovisual Law no. 504/2002 and Decision no. 220/2011 regarding the Code of regulation of the audiovisual content, in relation to the institutions of the judicial system and/or the magistrates within them.
- v) performs any other activities included in particularity of the structure of communication at the request of the president of the Superior Council of Magistracy.

Chapter IV. RULES APPLICABLE IN THE CRIMINAL TRIAL, IN THE CRIMINAL INVESTIGATION PHASE, IN THE PROCEEDINGS BEFORE THE JUDGE OF RIGHTS AND LIBERTIES, IN THE PROCEDURE OF PRE-TRIAL CHAMBER.

Section 1. General rules

Art. 22 - The courts and prosecutor's offices, according to their respective competences, are obliged to ensure the correct and prompt information of the media representatives regarding the activity carried out in accordance with the provisions of Law no. 544/2001, of (EU) 2016/679 Regulation of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of these data and of Law no. 190/2018.

Art. 23 - The communication with the media of the courts and prosecutor's offices is carried out in compliance with the limits established by the normative acts that regulate their activity², as well as by other normative acts that contain provisions regarding the activity carried out by the mentioned institutions³.

Art. 24 - The access of the media representatives to the information resulting from the activity of the courts and prosecutor's offices should be exercised in such a way not to affect the values protected by the law. Therefore, measures are needed from the judicial authorities to ensure a reasonable balance of proportionality between limiting access to public information and defending the protected social values. The judicial authorities will indicate the reasons why an information having this character is exempted from communication.

Section 2. Rules applicable in the criminal investigation phase

Art. 25 - In the communication with the media during the criminal investigation, the Public Ministry must respect the presumption of innocence, the non-public character of the criminal investigation and the non-discriminatory right to information in accordance with the provisions of art. 62 of Law no. 304/2004, republished.

Art. 26 - The rules established in this section aim to respect the presumption of innocence, the non-public character of the criminal investigation, to protect the private and family life, to protect the personal data of the persons involved in judicial proceedings, to avoid disturbing or jeopardizing the good course of the criminal investigation and endangering the safety of the victim, witnesses or members of their families.

Art. 27 - The files set down in the prosecutor's offices cannot be studied by the media representatives. The access of the journalists to the information of public interest regarding the state of the investigations carried out in the case is made by issuing press releases or by communicating information upon request, according to the law.

Art. 28 - (1) The communication of information regarding the state of the investigation to the media representatives can be made only after there is a suspect in the case. If the offence that forms the object of the criminal file presents a high degree of social danger or justifies a special interest for the public, information on the institution of

² Mainly, Law no. 304/2004 regarding the judicial organization, republished, with the subsequent modifications and completions, the Regulation of internal order of the courts, the Regulation of internal order of the prosecutor's offices.

³ Mainly, the Code of Criminal Procedure, the Code of Civil Procedure.

the criminal investigation regarding the offence and the measures in question for identifying the perpetrator or for collecting the evidence can be communicated, except when the communication of this information would endanger the outcome of the investigation.

(2) The information mentioned in par. (1) refer to the following aspects: the criminal investigation has begun; the criminal action was initiated; the measure of detention was taken; the competent court was requested to take/prolong the preventive measures; the criminal investigation was completed; a non-indictment solution was ordered; it was ordered the indictment, the accusation being drafted and submitted to the court.

(3) The press releases or the information communications upon request may also include information regarding the person for whom the measures were ordered; the offence retained; the legal classification of the offence and in essence the reasons that determined the adoption of the solution or the taking of the respective measure.

(4) The name and surname of the person against whom the criminal investigation is carried out, against whom measures were taken during the criminal investigation or against whom the indictment was ordered can be publicly communicated only if the offences for which he/she is criminally investigated affect the ability to exercise the public function, in accordance with the provisions of art. 14 paragraph (1) of Law 544/2001.⁴

(5) The information regarding the existence of a complaint or delation set down by the criminal investigation bodies regarding the possible commission of criminal offences, as well as the data contained by these documents of intimation are not public. Exceptionally, if the author of the complaint publicly announces that this document has been submitted to the criminal investigation body, the respective circumstance can be confirmed or denied by the competent prosecutor's office. In case of intimation of the criminal investigation bodies ex officio, communications can be issued for this purpose with the consent of the case prosecutor.

(6) The communication of the information on the existence of a suspect in the case and of the measures taken against him/her can be done ex officio or at the request of the media representatives, only after the person who has acquired the quality of suspect becomes aware of this quality or, if this is not possible, only after taking the necessary steps to notify him/her.

(7) Access to the categories of information mentioned in par. (1), (2), (3), (4), (5) and (6) may be restricted if the case prosecutor considers well founded that the result of the investigation is jeopardized by their communication.

(8) The information regarding the procedural actions performed during the criminal investigation, such as the hearing of the persons - irrespective of their quality, the seizure of documents and objects, the domiciliary visit or computer searches can be communicated after these activities are performed and if their disclosure does not affect the progress of the criminal investigation, the legal provisions regarding the protection of personal data or the right to image as part of the right to privacy of the persons involved. Public information regarding these judicial activities can be achieved by one of the following methods:

a) by confirming the judicial activities mentioned in this paragraph, at the request of the media representatives;

⁴ To be taken into consideration also the Decision no. 37/2015 delivered by the High Court of Cassation and Justice – The panel for solving some questions de jure

b) by issuing a statement regarding the performance of the judicial activities mentioned in this paragraph;

c) if, by reference to the specific circumstances of a case, it is estimated that informing the public about the judicial activities carried out may affect the progress of the criminal investigation, it will be communicated that, at that time of the investigation, no details can be given, following as soon as the state of the investigations will allow a press release to be issued.

(9) After notifying the court through the indictment, in the case of the offences that present a high degree of social danger or justify a special interest for the public, the prosecutor's offices will issue notices that will inform the public opinion on the issuance of the indictment and the prosecution of the persons for whom investigations were carried out. The names and surnames of the persons will be communicated only under the conditions of par. (4).

(10) If a notice was issued ex officio by the prosecutor's office regarding the institution of the criminal investigation or the launching of the criminal action or the taking of preventive measures during the criminal investigation, for the correct information of the public opinion, an official statement regarding the solution taken in the case will be issued appropriately at the end of the criminal investigation.

(11) Both in the case of information communicated ex officio during the criminal investigation, as well as in the situation of the information provided on request, at the end of the document, the mention that the measures ordered represent a stage of the criminal process, according to the Code of criminal procedure, which do not violate in any way the principle of the presumption of innocence will always be included. Also, the content of the communications will be written, including from a grammatical point of view, in a way that emphasizes that the person concerned benefits from the presumption of innocence and that the situation is to be clarified.

Art. 29 – The media representatives may not be given copies or extracts from the documents regarding the evidence from the files set down by the criminal investigation bodies⁵, nor copies of the audio/video recordings made during the identification and detention procedure of the persons or during the execution of the arrest warrant or of the flagrant or in other procedural moments in the course of the criminal investigation coming from the judicial authorities or stenograms of the interceptions made.

Art. 30 - (1) Upon request, the media representatives may be issued extracts of the indictment, of the agreements for the recognition of the guilt or of the documents by which the following procedural measures have been taken: the institution of the criminal investigation; the continuation of the criminal investigation of the suspect; the initiation of the criminal proceedings; taking preventive measures that fall within the competence of the prosecutor; taking the detention measure; the notification of the competent court to take the measure of house arrest or preventive arrest. The statement will include the factual situation, after ensuring the protection of personal data⁶, the elimination of passages with information which disclosed violate the right to privacy, as well as the

⁵ It is difficult to accept the existence of a legitimate interest in obtaining desparate documents, which removed from the set of evidence administrated, can create appearances that prejudice the interest of the investigation and the rights of the persons involved in these proceedings.

⁶ To be taken into consideration also the Decision no. 37/2015 delivered by the High Court of Cassation and Justice – The panel for solving some questions de jure, regarding the anonymizing technique.

elimination of the information concerning evidence and their analysis. The request is approved by the spokesperson of the prosecutor's office, with the consultation of the case prosecutor, or in his absence, of the head of the prosecutor's office.

(2) From the contents of the extracts mentioned in par. (1) must result the legal classification of the offences for which investigations are carried out and the factual situation held in question. The name and surname of the persons will be communicated only under the conditions of art. 28 paragraph (4).

(3) For the solutions of dismissal or of renunciation to the criminal investigation, copies may be released, upon request, after previously eliminating the personal data, the passages containing information that if disclosed the right to privacy is violated, as well as the passages that refer to the content of some evidence and measures ordered, if by mentioning them, the criminal proceedings in other cases are jeopardized. The request is approved by the spokesperson, with the consultation of the head of the prosecutor's office.

(4) Copies from the electronic devices cannot be released to the media representatives during the criminal investigation.

(5) If, during the trial of some requests made during the criminal investigation, data on the case in the criminal investigation phase have been made public by displaying them on the main page of the websites of the courts, the criminal investigation bodies can confirm, on request, if the data published on the main page of the websites of the courts is for that criminal case.

(6) By exception from the provisions of par. (1) and (4), taking into account the reasons mentioned in art. 46, the media representatives cannot receive copies of the documents and solutions from the files having as object treason (art. 155 Cp.), treason (art. 394 NCP), high treason (art. 398 NCP), treason by helping the enemy (art. 156 Cp.), treason by helping the enemy (art. 396 NCP), treason by disclosure of secrets (art. 157 Cp.), treason by disclosure of state secrets (art. 395 NCP), hostile actions against the state (art. 158 Cp.), hostile actions against the state (art. 399 NCP), espionage (art. 159 Cp.), espionage (art. 400 NCP), attack that jeopardizes the security of the state (art. 160 Cp.), attack that jeopardizes national security (art. 401 NCP), attack against a community (art. 161 Cp.), attack against a community (art. 402 NCP), undermining of state power (art. 162 Cp.), actions against constitutional orders (art. 397 NCP), creation of illegal intelligence structures (art. 409 NCP), diversionary acts (art. 163 Cp.), diversionary acts (art. 403 NCP), undermining the national economy (art. 165 Cp.), propaganda in favor of the totalitarian state (art. 166 Cp.), actions against the constitutional order (art. 166¹ Cp.), plot (art. 167 Cp.), compromising state interests (art. 168 Cp.), compromising state interests (art. 406 NCP), giving false information (art. 168¹ Cp.), giving false information (art. 404 NCP), disclosure of secrets that endanger the security of the state (art. 169 Cp.), disclosure of secrets that endanger national security (art. 407 NCP), non-denunciation (art. 170 Cp.), failure to report offenses against national security (art. 410 NCP), offenses against the representative of a foreign state (art. 171 Cp.), offenses against representatives who have international immunity (art. 408 NCP), rape (art. 197 Cp.), rape (art. 218 NCP), trafficking in underage persons (art. 212 NCP), sexual intercourse with a juvenile (art. 198 Cp.), sexual intercourse with a juvenile (art. 220 NCP), seduction (art. 199 Cp.), sexual perversion (art. 201 Cp.), sexual assault (art. 219 NCP), incest (art. 203 Cp.), incest (art. 377 NCP), sexual corruption (art. 202 Cp.), sexual corruption of juveniles (art. 221 NCP), recruitment of juveniles for sexual purposes (art. 222 NCP), sexual harassment (art. 203¹ Cp.), sexual harassment (art. 223 NCP), venereal contamination

and transmission of the acquired immunodeficiency syndrome (art. 309 Cp), venereal contamination (art. 353 NCP), transmission of the acquired immunodeficiency syndrome (art. 354 NCP), ill treatments applied to underage persons (art. 306 Cp.), ill treatments applied to underage persons (art. 197 NCP), child pornography (art. 18 of Law no. 678/2001), child pornography (art. 374 NCP), crime on adoption (O.U.G. no. 25/1997), crime on adoption (Law no. 273/2004 on the adoption procedure), request on interceptions and audio-video recordings (art. 91¹ and following Cpp), technical supervision (art. 139 NCPP), confirmation of technical supervision (art. 141 NCPP), extension of technical supervision (art. 144 NCPP), preservation of materials resulted from electronic surveillance (art. 146 NCPP), withholding postal deliveries (art. 147 NCPP), surrender of postal deliveries (art. 147 NCPP), search of postal deliveries (art. 147 NCPP), request for transmission of the data retained according to Law no. 82/2012, obtaining electronic communications data (art. 152 NCPP), obtaining financial data (art. 153 NCPP), preservation of data transmission (art. 154 NCPP), request for carrying out searches (art. 100 and following CPC), search (art. 158 NCPP), computer search (art. 168 NCPP), compelling to undergo medical treatment (art. 113 Cp. and art. 162 Cpp), application of medical treatment measure (art. 245 NCPP), cancel medical treatment measure (art. 245 NCPP), obligation to medical treatment, obligation to provisional medical treatment (art. 246 NCPP), cancel of the provisional compulsory medical treatment measure (art. 246 para. (9) NCPP), taking the measure of medical hospitalization (art. 114 Cp. And art. 162 Cpp), medical hospitalization, provisional hospitalization (art. 247 NCPP), cancel of provisional hospitalization (art. 248 para. 11 NCPP), involuntary admission (art. 184 para. (7) NCPP), extension of involuntary admission (art. 184 par. 25 NCPP), cancel of involuntary admission (art. 184 par. (26) NCPP), replacement of medical treatment (art. 431 Cpp), replacement or termination of the obligation to medical treatment (art. 568 NCPP), replacement or termination of the medical admission (art. 434 Cpp), maintenance, replacement or termination of the medical admission measure (art. 571 NCPP), avoidance from medical treatment (art. 309 Cp.), as well as any other offenses provided for by the Criminal Code or by special laws if they affect the morality, the public order or the national security, the interests of the minors or the protection of privacy of the parties in the trial or of other persons.

Section 3 - Rules applicable in the proceedings before the judge of rights and liberties

Art. 31 - Communication with the media during the proceedings in front of the judge of rights and liberties is carried out respecting the specificity of this phase of the criminal trial, which is carried out, in most cases, without the publicity characteristic of the trial.

Art. 32 - (1) The cases pending before the courts, in the proceedings before the judge of rights and liberties, in the council room, cannot be studied by the media representatives, who cannot receive copies of the documents from these cases. On request or ex officio, information may be communicated, respectively communications may be issued regarding the solutions adopted on the preventive measures, the insurance measures, the provisional application of the medical security measures, the measure of involuntary hospitalization and the dispute regarding the duration of the criminal investigation.

Art. 37 - (1) The representatives of the media cannot receive extracts or copies of the documents from the cases registered pending before the preliminary chamber judge. The provisions of art. 33 paragraph (2) shall be applied accordingly.

(2) Upon request, the media representatives can receive an extract of the indictment, the provisions of art. 32 paragraph (1) and (2) being applicable with respect to its contents.

(3) Upon request, the media representatives may receive by e-mail an extract of the minute or may receive a copy of the solutions pronounced by the preliminary chamber judge, ensuring the protection of personal data and eliminating the passages relating to the content of evidence if their presentation or analysis results in information that disclosed violates the right to private life or jeopardizes the trial of the case on the main issue or the resumption of the criminal investigation.

(4) The applications provided in par. (2) and (3) are approved by the court speaker, with the consultation of the preliminary chamber judge to whom the case has been assigned, and in his/her absence with the the president of the court. The refusal to release copies can be justified by the exceptions mentioned in art. 46 and will always be motivated.

Section 5 - Rules applicable in the trial phase of the criminal proceedings

§ 5.1. - The public character of the court hearings, as provided for in the conventions and in the Constitution

Art. 38 - (1) The public character of the court hearings is a fundamental legal principle, provided for in art. 127 of the Romanian Constitution. The principle according to which justice must be accomplished in a public manner is provided also in Article 6 of the European Convention on Human Rights (the Convention).

(2) Any person is entitled to respect for his or her private life and family life, as guaranteed by Article 8 of the Convention. This right must be corroborated with the freedom of expression, including the right of each person to receive and transmit information⁷.

(3) The principles mentioned in par. (1) and (2) have an equal weight. It is the attribute of the court that solves the cause to weight up the importance of the public's free access to the courtroom and the protection of the other rights mentioned in the Convention.

Art. 39 - The basic principle is for the hearings to be accessible to all, including to the press, but the court will consider, where appropriate, whether the public's access to the courtroom should be restricted or prohibited. The president of the panel may establish prohibitions or impose restrictions⁸ based on the specificity of the case brought to trial⁹. If

⁷ Freedom of expression is regulated by art. 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms

⁸ According to art. 6 of the European Convention on Human Rights: "access to the courtroom may be prohibited to the press and the public for the entire duration of the process or for a part of it, in the interests of morality, public order or national security in a democratic society, when the interests of minors or the protection of the private life of the parties so require or to the extent deemed absolutely necessary by the court, when, in special circumstances, publicity would be likely to undermine the interests of the court".

⁹ The factors that may have a role in the decision to restrict or prohibit access to the courtroom are: the right of the parties to private and family life; keeping public order in court; national security; the nature of the court case (criminal, civil or

the president decides to prohibit the access of the public and of the media representatives in the courtroom during the hearing, the reasons for this decision must be always communicated publicly.

Art. 40 - If the persons present exceed the capacity of the courtroom, the president of the panel may also decide to restrict access. It will be taken into account that, regardless of the criterion that will be applied in order to determine which of the non-participants in the trial will attend the court hearing, media representatives should also remain in the courtroom.

§ 5.2. - General rules regarding the presence of the media in court and access during court hearings

Art. 41 - (1) Public hearings are always accessible to journalists without the means of technical recording.

(2) The court hearings are not public when expressly provided for or when the president of the panel has declared the court hearing not public, in compliance with the conditions provided by law.

Art. 42 - (1) The shooting, photographing and audio recording in the courtrooms shall be carried out only with the consent of the president of the panel. The photoreporters and the radio and television teams must request in advance (advisable 24 hours before the hearing), through the information and public relations office within the court, permission regarding access to the courtroom, indicating the cases in which they request the execution of recording.

(2) If they are allowed access to the courtroom, during the hearing, the media representatives may carry out video and audio recordings, with the approval of the president of the panel. The president of the panel decides the extent to which media representatives can carry out recordings of other moments in the hearing.

(3) It is not allowed to broadcast live the court hearings.

(4) It is forbidden to record, capture and disseminate the recordings or the images captured without the approval of the president of the panel, and in case of violation of this interdiction, the National Audiovisual Council will be notified.

(5) Video and audio recordings, as well as photographs shall be taken from a fixed position. The court may impose the condition that they be specially arranged in the room, so to ensure the solemnity of the court session. For the normal conduct of the proceedings, the panel may decide to let in only a limited number of filming teams, in order of requests.

(6) In case the media representatives are not allowed access to the courtroom, the photo-reporters are offered the opportunity to take pictures and the television crews may be allowed to film frames before the beginning of the hearing.

(7) The media representatives can make recordings outside the courtroom, with the consent and in the places assigned by the president of the court, the answer being communicated through the Office of public information and media relations.

administrative case); the right to a fair trial; benefit of the doubt; influence of the parties through the presence of the media, especially the audiovisual media; the interest of the normal functioning of justice; the authority, independence and impartiality of the judge.

§ 5.3. - Specific rules regarding the dissemination of images with the parties, witnesses and other participants in the judicial proceedings

Art. 43 - (1) In the audio and video recordings the parties, the witnesses and the other participants in the trial can appear only with the approval of the panel and if they have not expressed objections in this regard. In criminal cases, the panel will not approve for the accused persons to be filmed, unless the defendant has no objections¹⁰. Also, in criminal cases, the injured persons cannot be filmed without their consent, being, by definition, vulnerable participants in the judicial proceedings¹¹. The shooting of minors is forbidden.

(2) In addition to the protection provided in par. (1), in accordance with the provisions of art. 352 par. (9) of Law no. 135/2010 on the Criminal Procedure Code, with the subsequent amendments and completions, during the trial, the panel may expressly prohibit the publication and dissemination, by written or audiovisual means, of texts, drawings, photographs or images that reveal the identity of the injured person, of the civil party, of the civilly responsible party or of the witnesses. This measure is ordered under the conditions provided in art. 352 par. (3) or (4) of Law no. 135/2010 on the Criminal Procedure Code.

(3) The measure provided in par. (2) is brought to the attention of the public and the media representatives, through the Information and Public Relations Office, which will take the necessary steps to publish on the court's website a release in this regard. The release will include the file number, the term of the measure and the prohibited actions.

(4) If the measure provided for in par. (2) is ordered during the court hearing, the media representatives present in the room are obliged to respect it and not to transmit to other journalists the materials forbidden to be broadcast.

Art. 44 - The filming teams that have received approval can record large frames with the public in the courtroom or in other parts of the court premises, without focusing the camera on a specific person from the public¹². The persons attending the hearing may appear in the video and audio recordings only if they have previously expressed their agreement.

§ 5.4. - Rules regarding the written requests of the media on the information of public interest emerging from trials in criminal proceedings, as well as afterwards

Art. 45 - Cases are tried in public, unless otherwise provided in the law. At this stage, the access of media representatives to information of public interest that emerges from criminal cases is wider than at the stage of prosecution.

¹⁰ The basic principle in criminal law is that a person is considered innocent until his or her guilt is established by a definitive criminal decision (presumption of innocence). If the records during the court hearing from which the identity of the accused can be obtained circulate freely before a conviction is pronounced, this fact would anticipate the ruling that will be pronounced. There is a risk that, if the court has pronounced a solution of acquittal, the person involved to have been already convicted by the public opinion, based on the images transmitted by the media. Therefore, the right to a fair trial is applied in this phase as well.

¹¹ Generally, they offer details of a strictly personal nature during the hearing. Therefore, in order to protect the private and family life of the victims of offences, no records in which they appear against their will can be made.

¹² The public must be able to attend the hearing without the concern that it will be filmed. If people in the public want to talk to the press, they can do it outside the court building.

Art. 46 - The provision of information of public interest on the judicial activity may be restricted in the interest of morality, public order or national security or when required by the interests of the minors or the protection of the privacy of the parties during the trial or of other persons. The right to free access to information of public interest may also be restricted when, in special circumstances, the court considers that publicity would be likely to harm the interests of justice.

Art. 47 - At the request of media representatives, information may be provided about the appointment of the first court hearing date, and of the following dates, about the stage of the trial (court investigation, debates, reinstatement on the docket, pronouncement, etc.), the measures ordered by the court during the hearings (obtainment of an expert report, hearing of parties and witnesses), the solutions pronounced.

Art. 48 - (1) The media representatives can consult the files pending before the courts, following the order of request and the measures to ensure the integrity of the documents and only to the extent that it is possible to make them available. The request is approved by the court spokesperson, with the consultation of the president of the panel or, in his/her absence, with the consultation of the president of the court.

(2) The refusal to consult the file can be justified by the exceptions mentioned in art. 46 and will always be motivated.

(3) During the period between the end of the preliminary chamber procedure and the first term of the court hearing, under the conditions provided in par. (1), the issuing of only one extract of the indictment¹³ will be allowed, the provisions of art. 32 par. (1) and (2) being applicable in respect of its contents. After the first trial term, a copy of the indictment may be issued, subject to protection of personal data, save where the panel of judges decided that the case shall be tried in non-public session.

(4) The files of the cases that have been or are judged in a non-public hearing, as well as those that presume confidentiality, cannot be consulted by the media representatives, who cannot receive copies of the documents and of the decisions pronounced in the respective cases.

Art. 49 - The records of the court referring to court proceedings may be consulted, in observance of the application order and only provided that they may be made available. The special records of the court, which require confidentiality, may not be consulted by mass-media representatives.

Art. 50 - (1) Upon request, copies may be released to mass-media representatives of the documents in the file or of the decisions rendered or excerpts thereof, provided that personal data is protected and sections referring to the contents of evidence are removed, if the release or analysis thereof led to information whose disclosure breaches the right to privacy or jeopardizes the outcome of the judicial investigation. The request is approved by the court spokesperson, with the consultation of the president of the panel or, in his/her absence, with the consultation of the president of the court.¹⁴ The refusal to release copies can be justified by the exceptions mentioned in art. 46 and will always be motivated.

(2) The copies on electronic devices from the criminal cases shall be issued only to the parties or to their representatives, except for the situation in which the court hearing has not been published in whole or in part, or to the prosecutor, with the approval of the

¹³ Such a restriction is imposed because it is possible that the court hearing may be declared non-public, thus eliminating the risk of affecting the normal course of the entire procedure.

¹⁴ To be taken into consideration also the Decision no. 37/2015 delivered by the High Court of Cassation and Justice – The panel for solving some questions de jure, regarding the anonymizing technique

court, under the provisions of the Criminal Procedure Code and the of the Court Procedure.

(3) The media representatives cannot receive copies from the electronic devices from criminal cases.

Art. 51 - For the cases settled definitively the requests for consultation of the file and for the release of copies from it are approved by the spokesperson with the consultation of the president of the court, respectively of the section where the file is filed.

Art. 52 - For the decisions taken, during the trial, for the preventive measures, it may be issued, upon request, copies from which it was removed the personal data; the passages related to the content of evidence if their presentation or analysis results in information that disclosed violates the right to privacy or jeopardizes the outcome of the judicial investigation and the references to the research activities that will be carried out; the names of the witnesses and the injured party. The request is approved by the court speaker, with the consultation of the president of the panel, or in his/her absence, with the consultation of the president of the court.

Art. 53 – Taking into consideration the reasons mentioned in art. art. 46, the media representatives cannot receive copies of the documents and solutions from the files having as object treason (art. 155 Cp.), treason (art. 394 NCP), high treason (art. 398 NCP), treason by helping the enemy (art. 156 Cp.), treason by helping the enemy (art. 396 NCP), treason by disclosure of secrets (art. 157 Cp.), treason by disclosure of state secrets (art. 395 NCP), hostile actions against the state (art. 158 Cp.), hostile actions against the state (art. 399 NCP), espionage (art. 159 Cp.), espionage (art. 400 NCP), attack that jeopardizes the security of the state (art. 160 Cp.), attack that jeopardizes national security (art. 401 NCP), attack against a community (art. 161 Cp.), attack against a community (art. 402 NCP), undermining of state power (art. 162 Cp.), actions against constitutional orders (art. 397 NCP), creation of illegal intelligence structures (art. 409 NCP), diversionary acts (art. 163 Cp.), diversionary acts (art. 403 NCP), undermining the national economy (art. 165 Cp.), propaganda in favor of the totalitarian state (art. 166 Cp.), actions against the constitutional order (art. 166¹ Cp.), plot (art. 167 Cp.), compromising state interests (art. 168 Cp.), compromising state interests (art. 406 NCP), giving false information (art. 168¹ Cp.), giving false information (art. 404 NCP), disclosure of secrets that endanger the security of the state (art. 169 Cp.), disclosure of secrets that endanger national security (art. 407 NCP), non-denunciation (art. 170 Cp.), failure to report offenses against national security (art. 410 NCP), offenses against the representative of a foreign state (art. 171 Cp.), offenses against representatives who have international immunity (art. 408 NCP), rape (art. 197 Cp.), rape (art. 218 NCP), trafficking in underage persons (art. 212 NCP), sexual intercourse with a juvenile (art. 198) Cp.), sexual intercourse with a juvenile (art. 220 NCP), seduction (art. 199 Cp.), sexual perversion (art. 201 Cp.), sexual assault (art. 219 NCP), incest (art. 203 Cp.), incest (art. 377 NCP), sexual corruption (art. 202 Cp.), sexual corruption of juveniles (art. 221 NCP), recruitment of juveniles for sexual purposes (art. 222 NCP). sexual harassment (art. 203¹ Cp.), sexual harassment (art. 223 NCP), venereal contamination and transmission of the acquired immunodeficiency syndrome (art. 309 Cp), venereal contamination (art. 353 NCP), transmission of the acquired immunodeficiency syndrome (art. 354 NCP), ill treatments applied to underage persons (art. 306 Cp.), ill treatments applied to underage persons (art. 197 NCP), child pornography (art. 18 of Law no. 678/2001), child pornography (art. 374 NCP), crime on adoption (O.U.G. no. 25/1997), crime on adoption

(Law no. 273/2004 on the adoption procedure), request on interceptions and audio-video recordings (art. 91¹ and following Cpp), technical supervision (art. 139 NCPP), confirmation of technical supervision (art. 141 NCPP), extension of technical supervision (art. 144 NCPP), preservation of materials resulted from electronic surveillance (art. 146 NCPP), withholding postal deliveries (art. 147 NCPP), surrender of postal deliveries (art. 147 NCPP), search of postal deliveries (art. 147 NCPP), request for transmission of the data retained according to Law no. 82/2012, obtaining electronic communications data (art. 152 NCPP), obtaining financial data (art. 153 NCPP), preservation of data transmission (art. 154 NCPP), request for carrying out searches (art. 100 and following CPC), search (art. 158 NCPP), computer search (art. 168 NCPP), compelling to undergo medical treatment (art. 113 Cp. and art. 162 Cpp), application of medical treatment measure (art. 245 NCPP), cancel medical treatment measure (art. 245 NCPP), obligation to medical treatment, obligation to provisional medical treatment (art. 246 NCPP), cancel of the provisional compulsory medical treatment measure (art. 246 para. (9) NCPP), taking the measure of medical hospitalization (art. 114 Cp. And art. 162 Cpp), medical hospitalization, provisional hospitalization (art. 247 NCPP), cancel of provisional hospitalization (art. 248 para. I I NCPP), involuntary admission (art. 184 para. (7) NCPP), extension of involuntary admission (art. 184 par. 25 NCPP), cancel of involuntary admission (art. 184 par. (26) NCPP), replacement of medical treatment (art. 431 Cpp), replacement or termination of the obligation to medical treatment (art. 568 NCPP), replacement or termination of the medical admission (art. 434 Cpp), maintenance, replacement or termination of the medical admission measure (art. 571 NCPP), avoidance from medical treatment (art. 309 Cp.), as well as any other offenses provided for by the Criminal Code or by special laws if they affect the morality, the public order or the national security, the interests of the minors or the protection of privacy of the parties in the trial or of other persons.

Art. 54 – In order to not harm the reintegration of the convicted persons into the society, after the enforcement of the judgement, no information regarding the previously committed offence will be provided, unless the convicted persons have expressly consented to the disclosure of their identity or this or their offences are again of public interest.

Chapter V. RULES APPLICABLE TO CIVIL PROCEEDINGS *LATO SENSU*

Art. 55 - (1) In the civil trial, since the litigation concerns only the relations between the parties, the public character of the information that results from the court activity is less pronounced and and therefore there is less interest from the public. Due to this it is necessary to justify the civil trial in a definite way. This is why the right to respect for private life and family life may cause more significant restrictions of access by media representatives to such information.

(2) The access to information during the civil proceedings is analyzed concretely, considering the provisions of art. 46 of this Guide.

(3) The copies from the electronic devices from the civil cases shall be made available only to the parties or to their representatives, or to the prosecutor, with the approval of the court, under the conditions of the Civil Procedure Code and of the Internal Regulations of the court.

(4) Copies from the electronic devices from civil trials may not be released to the media representatives.

Art. 56 - (1) In administrative and contraventional cases,, as well as in other cases where there is a public interest, the media representatives can consult, upon request, the files and can obtain copies. The provisions of art. 55 paragraph (2) - (4) apply in addition.

(2) Until the assignation of the first hearing, the media representatives can consult the writ of summons, and no copies of the documents existing in the case file may be released to them.

Art. 57 - Applications relating to the communication of information, access to files, release of copies thereof and access to court sessions shall be settled in observance of the appropriate provisions of Chapter IV, Sections 1 and 5 of this Guide, taking into account the specificity of the civil trial. For the files settled definitively, respectively irrevocably regarding the requests formulated before the entry into force of Law no. 134/2010 on the Civil Procedure Code, the requests for consultation of the file and the release of copies are approved by the spokesperson, with the consultation of the president of the court, respectively with the consultation of the president of the section where the file is filed.

Art. 58 – The media representatives cannot receive copies or extracts of the documents or decisions having as subject order for protection, adoption, paternity challenge, paternity recognition challenge, opening adoption procedure, divorce by agreement, divorce, revealing the identity of the natural parents, marriage annulment, immediate institutional care, institutional care, extension of custody for adoption, recognition of paternity, revocation of custody for adoption, establishment of the home of the minor, determination paternity, paternity denial, civil order - restriction on legal capacity; intellectual property order - patents for inventions, as well as the corresponding objects that result from the regulation of Law no. 287/2009 regarding the Civil Code, republished, with the subsequent amendments and completions and of Law no. 134/2010 on the Civil Procedure Code, with the subsequent amendments and completions.

Chapter VI. RULES APPLICABLE IN THE DISCIPLINARY PROCEEDINGS CONCERNING THE MAGISTRATES, THE RULES OF CONDUCT REGULATED BY THE DEONTOLOGICAL CODE OF THE JUDGES AND PROSECUTORS AND THE GOOD REPUTATION, AS WELL AS OTHER PROCEDURES CARRIED OUT BY THE JUDICIAL INSPECTION

Section 1. Rules applicable in disciplinary proceedings

Art. 59 - The disclosure of information on the disciplinary proceedings concerning the magistrates should not be such as to create the appearance of affecting the independence of the justice.

Art. 60 - (1) The communication ex officio of the information by the Judicial Inspection can be done only when the corresponding section of the Superior Council of Magistracy in charge of the trial of the disciplinary action is notified.

(2) The aspects communicated ex officio, according to par. (1), can only concern the exercising of the disciplinary action, the legal classification text of the offence of the disciplinary action and a synthetic presentation of this offence, mentioning that the

measures ordered represent a stage of the disciplinary proceedings and do not state definitively the guilt of the judge or of the prosecutor that is under disciplinary investigation.

(3) Anonymised copies of the disciplinary actions carried out by the Judicial Inspection may be made available only after the decision pronounced in disciplinary matter remains final.

(4) Prior to notifying the appropriate section of the Council with the trial of the disciplinary action, the communication of information can be made by the Judicial Inspection only at the request of the interested persons, according to the Law no. 544/2001 regarding the free access to information of public interest.

(5) The Superior Council of Magistracy issues communications regarding the disciplinary sanctions applied to the magistrates, after the pronouncement of the sections in disciplinary matter, mentioning that against the pronounced decision the appeal can be carried out, according to the law.

Section 2. Rules applicable in the procedures concerning the violation of the rules of conduct regulated by the Code of Ethics of judges and prosecutors and the verification of the condition of good reputation

Art. 61 - The communication, ex officio, of the information regarding the procedures concerning the violation of the rules of conduct regulated by the Code of ethics of judges and prosecutors and the verification of the condition of good reputation, is made only by the corresponding section of the Superior Council of Magistracy. The provisions of art. 60 apply accordingly.

Section 3. Rules applicable in other procedures carried out by the Judicial Inspection

Art. 62 - (1) Communication ex officio or upon request of copies of the reports prepared by the Judicial Inspection can be made, with the anonymization of the personal data, only after the pronouncement of the plenary or of the sections of the Superior Council of Magistracy.

(2) The provisions of par. (1) regarding the anonymization of personal data apply also if the report of the Judicial Inspection concerns one or more files that are being settled, including regarding the file number.

Chapter VII. OPERATIONAL CONCEPTS. TERM GLOSSARY

Abstention - the situation in which the judge, the prosecutor, the clerk, the expert, the judicial executor, the assistant magistrate or the judicial assistant who is in one of the incompatibility cases provided by law declare this and is replaced if she/he is found that he cannot participate in the trial (for example, he/she is related to one of the parties to the trial).

Abuse of law - the exercise of a right against its economic and social purpose, of the law or of the rules of social conduct, thus violating the rights of another party.

Acquiescence - the manifestation, tacit or express, of the defendant's consent to accept the applicant's claims.

Civil action - the most important legal means of protecting, through judicial obligation, the civil rights violated or the interests defended by law; the possibility of the applicant to obtain the recognition or the realization of his right challenged, violated or not respected by judicial constraint of the defendant or the observation of a right.

Criminal action - the means provided by law by which, the persons who have committed offences are held accountable and punished in court, means set in motion by the indictment provided by law (prosecutor's order or indictment, if the criminal action was not set in motion during the investigation) and which constitutes the means of notifying the court, in view of the trial.

Judicial fine - represents the sanction that is applied by the criminal investigation body by order and by the court, through the conclusion, to the person who, during the trial, has committed a judicial offence from those provided by the procedural law.

Appeal - the ordinary remedy by which all decrees can be appealed, with the exceptions provided by law, being the second degree of jurisdiction over the merits of the case.

Preventive arrest - the preventive measure ordered by the judge under the conditions expressly provided by the Criminal Procedure Code, consisting in depriving a person of liberty before the final resolution of a criminal case, in order to ensure the proper conduct of the criminal trial, to prevent the defendant from circumventing from the criminal investigation or from committing another offence.

Hearing - a procedural act that consists of listening to the parties, the witness, the expert, during the trial in the manner and under the conditions provided by law.

Bail - the amount of money the defendant has to deposit as a guarantee that he will comply with his obligations during the provisional release; in private law it represents the amount of money that must be deposited by one of the parties of the trial, as a guarantee, at the disposal of the court, to cover the possible damages that would result from taking measures, at his request, against the other party.

Rogatory commission - the procedure used for the administration of evidence by a court other than the one investigating the case, as a rule equal in degree or lower in degree, which is closer to the respective means of proof than the court invested with the trial of the case.

Panel - the number of judges provided by law who participate in the trial of certain categories of cases at a certain stage (three judges form the recourse panel, two judges form the appeal panel, one judge usually forms the first instance court).

Guilt - a form of reprehensibility, less serious than the intention, which assumes that the perpetrator did not foresee the result of his offence, though he should or could have foreseen it.

Disjunction - the operation whereby a part of a case is separated from the rest of it, to stand trial separately, either as a procedural sanction of its submission over the time limit, or as a necessity arising from the debates.

Defendant - quality received by the person who committed the offence by starting the criminal action, becoming a party to the trial, with all the consequences related to this quality (procedural rights and obligations).

Intromission - limitation of the exercise of rights, under the conditions provided by law.

Instigator - the person who intentionally causes another person to commit an offence provided by the criminal law.

Judgement in first instance - it is the first procedural phase and it has four stages: the preparatory written stage (the request for trial, the meeting and the counterclaim, the determination of the first trial term, etc.), the trial research stage, the substantive debate stage, the deliberation and pronouncement stage

European arrest warrant - a legal decision issued by one Member State for the arrest and handover by another Member State of a person prosecuted or for the execution of a confinement sentence; an instrument intended for cooperation between judicial authorities in the Member States, by eliminating extradition and is based on the principle of mutual recognition of decisions in criminal matters.

Witness - the person who is aware of a fact or circumstance likely to serve the truth in the trial.

Assistant witness - the person called in a procedural activity to certify the conformity of the records from the summons with those made by the judicial bodies.

Search - An investigative procedure used when a person who was asked to hand over an object or a document, which is related to solving the case, denies their existence or possession and which consists of seeking that evidence.

Appeal - an extraordinary remedy in which the court of appeal, higher in power, verifies the legality of the sentence given in the first court or of the decision delivered in appeal based on the evidence in the case file and on the new documents brought to it.

Challenge - the situation in which the party requests the replacement of the judge or the prosecutor, the clerk, the expert, the judicial executor, the assistant magistrate or the judicial assistant whom he considers incompatible to participate in the trial, knowing

that he/she is in one of the cases provided by law (for example he/she is related to one of the parties to the trial) where his/hers impartiality could be called into question.

Transposition - the institution by which a particular case is taken from the jurisdiction of one court and is given for settlement to another court of the same power, for reasons expressly provided by law (legitimate suspicion or public safety).

Suspect - the person who, from the data and evidence in the case, is thought to have committed an offence provided by the criminal law.