

The Romanian Public Ministry is a public authority, part of the judicial power. Prosecutors together with judges form the body of magistrates.

The activity of the Public Ministry is organized according to the principles of legality, impartiality and hierarchical control.

As regards the relations with other authorities, the Public Ministry is independent and it performs its tasks only under the law and aiming to ensure its observance.

By virtue of the constitutional provisions, prosecutors carry out their activity under the authority of the minister of justice.

Prosecutors do not have legislative competence and cannot undergo any interference from the legislative power. The Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice submits proposals for the amendment of laws to the authorities that may have legislative initiative.

In Romania, prosecutors are selected on a competitive basis. The selection and professional training of prosecutors are provided by the National Institute of Magistracy. Prosecutors are appointed by the President of the country, they enjoy stability and are independent, under the law.

The guarantor of justice independence is the Supreme Council of Magistracy.

Pursuant to the *Law on the Superior Council of Magistracy*:

The Superior Council of Magistracy has the right and duty to appeal also *ex officio* to defend judges and prosecutors against any act that could affect their independence or impartiality or raise suspicions about them. The Superior Council of Magistracy also defends the professional reputation of judges and prosecutors.

A judge or a prosecutor who considers that his or her independence, impartiality or professional reputation are being affected in any manner may complain to the Superior Council of Magistracy, which may, the case being, dispose that the aspects signalled be verified, that the results of verification be published, may notify the competent body to decide upon the measures called for or may dispose any other measure that is appropriate, according to the law."

The provisions in the *Law on judicial organization* are also particularly important:

The orders of the hierarchically superior prosecutor, given in writing and under the law, are binding for the subordinate prosecutors.

In the solutions that they ordain, prosecutors are independent, according to the law. Prosecutors may object with the Superior Council of the Magistracy, within the proceedings for checking the conduct of judges and prosecutors, against any interventions from the hierarchically superior prosecutors, occurring either in the criminal prosecution or in the adoption of a solution.

Solutions adopted by the prosecutor may be invalidated in a reasoned manner by the hierarchically superior prosecutor, when they are deemed as illegal.

Also, the proceedings assigned to a prosecutor may be transferred to another prosecutor only in certain situations, limited by law, the prosecutor having the possibility to object with the Superior Council of Magistracy, in the framework of the

procedure for the verification of the conduct of judges and prosecutors, against such a measure issued by the hierarchically superior prosecutor.

On the other hand, the *Deontological Code for Judges and Prosecutors* sets out the obligation for judges and prosecutors to defend the independence and justice with the possibility to address themselves to the Superior Council of Magistracy for any act that could infringe upon their independence, impartiality or professional reputation.”

The observance of the provisions included in the Deontological Code constitutes a criterion in evaluating the efficiency of the activity, as well as the integrity of judges and prosecutors.

Prosecutors may be relocated by transfer, delegation, secondment or promotion only with their consent. They may be suspended or released from office only in accordance with the law.

Prosecutors are required in the course of all their activity to observe the rule of law, the rights and freedoms of the people, to provide a non-discriminatory legal treatment to all participants in the judicial proceedings, regardless of their quality, to observe the deontological code of prosecutors and judges and to undergo continuous professional training.

The magistrate’s career is almost entirely subject to the appreciation of the Superior Council of Magistracy.

The office of prosecutor as well as that of a judge is incompatible with any other public or private offices, except for the higher education didactic positions as well as those at the National Institute of Magistracy and the National School of Clerks. Prosecutors and judges may participate in the elaboration of publications, may produce articles, specialty studies, literary or scientific works, and may participate in audiovisual programs, except those of a political nature. They may also be members in examination commissions or committees for the elaboration of draft laws, domestic or international documents. Romanian magistrates (judges and prosecutors) may be members of scientific or academic societies, as well as of any other non-profit private law entities.

Judges and prosecutors can not be part of political parties or groups, nor can they perform or participate in political activities. They must refrain from expressing or manifesting in any way their political beliefs in the exercise of their duties.

Both prosecutors and judges are accountable from the civil, disciplinary and criminal point of view, under the law.

The Romanian Parliament has recently adopted a legislative package known as the package on amendments to the laws of justice, namely: the *Law on Judicial Organization*, the *Law on the Statute of Magistrates* and the *Law on the Superior Council of Magistracy*. These draft laws were heavily criticized both by the body of magistrates, professional associations and civil society and received a negative vote from the Superior Council of Magistracy. The Constitutional Court is currently analyzing the complaints relating to the unconstitutionality of some of the provisions therein.”