



Strasbourg, 20 November 2017

Opinion n° 904 / 2017

CDL-REF(2017)052

Or. ang.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

POLAND

PRESIDENTIAL DRAFT ACT (*)

**ON AMENDING THE ACT
ON THE SUPREME COURT**

() Translation provided by the Polish authorities*

A C T

ON THE SUPREME COURT

Chapter 1

General provisions

Article 1. The Supreme Court shall be a judicial body appointed for the purpose of:

- 1) administering the dispensation of justice by:
 - a) ensuring the lawfulness and uniformity of the case-law of common and military courts by examining appeals and adopting resolutions settling legal issues,
 - b) exercising extraordinary control over court rulings in order to safeguard the rule of law and social justice by examining extraordinary appeals;
- 2) examining disciplinary cases to the extent specified in this Act;
- 3) examining electoral disputes and validating elections to the Sejm and the Senate, to the office of President of the Republic of Poland and to the European Parliament and examining complaints about the validity of a national or constitutional referendum and confirming the validity of a referendum;
- 4) delivering opinions on draft statutes and other normative instruments which are to constitute the basis for the decision-making and the functioning of the courts and on other draft statutes affecting matters within the jurisdiction of the Supreme Court;
- 5) performing other activities provided for by statute.

Article 2. The Supreme Court shall have its seat in Warsaw.

Article 3. 1. The Supreme Court shall be divided into the following Chambers:

- 1) Civil;
- 2) Criminal;

- 3) Labour and Social Security;
- 4) Extraordinary Control and Public Affairs;
- 5) Disciplinary.

Article 4. Having consulted the National Council of the Judiciary, the President of the Republic shall lay down, by means of an ordinance, the Supreme Court's rules of procedure, establishing the total number of posts for Supreme Court judges, including the number of posts for Supreme Court judges in individual chambers, the internal organisation of the Supreme Court, the rules of internal procedure and the detailed job description for judges' assistants, taking into account the need to ensure the smooth and orderly examination of cases and the specific nature of proceedings before the Supreme Court, including the specific nature of disciplinary proceedings, and the need to ensure the lawfulness and uniformity of the case-law of common and military courts.

Article 5. 1. Each year the First President of the Supreme Court shall submit to the President of the Republic of Poland and the National Council of the Judiciary a report on the Supreme Court's activities and any material problems encountered in the course of these activities, including problems arising from case-law. The First President of the Supreme Court shall annex to this report a report from the President of the Supreme Court heading the Supreme Court's Disciplinary Chamber on the Chamber's activities.

2. The First President of the Supreme Court shall also submit the report referred to in paragraph 1 to the Sejm and the Senate. The report shall not be put to vote.

Article 6. 1. The First President of the Supreme Court shall provide the competent authorities with observations on irregularities or gaps in the law that must be remedied in order to ensure the rule of law, social justice and the coherence of the Polish legal system.

2. The President of the Supreme Court responsible for the functioning of the Disciplinary Chamber shall provide the competent authorities with observations on irregularities or gaps in the law the remedying of which could help ensure the proper examination of cases within that Chamber's jurisdiction or reduce the number of breaches of discipline.

Article 7. 1. The minister competent for the public finances shall include in the draft state budget draft estimates of the Supreme Court's income and expenditure, in the wording approved by the College of the Supreme Court.

2. The College of the Supreme Court shall include in the draft estimates of the Supreme Court's income and expenditure the draft estimates of income and expenditure relating to the functioning of the Disciplinary Chamber, in the wording approved by the Assembly of Judges of the Disciplinary Chamber.

3. The amount of expenditure in the draft estimates of income and expenditure relating to the functioning of the Disciplinary Chamber must not exceed 15 % of the average amount of the Supreme Court's expenditure laid down in the budget acts for the three years prior to the budget year.

4. In matters of the execution of the Supreme Court's budget, the First President of the Supreme Court shall enjoy the prerogatives of the minister competent for public finances.

5. In matters of the execution of the Supreme Court's budget relating to the functioning of the Disciplinary Chamber, the prerogatives of the minister competent for public finances shall be exercised by the President of the Supreme Court heading the Disciplinary Chamber.

Article 8. 1. Taking account of the rules on the protection of classified information, the rules on personal data protection and the provisions of other acts, the Supreme Court shall publish without delay its decisions and, after they have been drawn up, the grounds for these decisions, in the Public Information Bulletin on the Supreme Court's website.

2. Regardless of the obligation laid down in paragraph 1, the Supreme Court may publish a collection of its case-law. The title 'Case-law of the Supreme Court', indicating the name of the relevant chamber, shall be protected by law.

Article 9. 1. In matters not governed by this Act, the Common Courts Organisation Act of 27 July 2011 (Journal of Laws 2016, item 2062, as amended¹) shall apply *mutatis mutandis*.

2. In matters not governed by this Act, the Employees of State Offices Act of 16 September 1982 (Journal of Laws 2016, items 1511, 2074 and 2261) shall apply *mutatis mutandis* to Supreme Court employees who are not judges; in matters not regulated by the latter Act either, the Labour Code of 26 June 1974 (Journal of Laws 2016, items 1666, 2138 and 2255; 2017, items 60 and 962) shall apply.

Chapter 2

Supreme Court Bodies

Article 10. The Supreme Court's bodies shall be: the First President of the Supreme Court, the President of the Supreme Court, the General Assembly of Supreme Court Judges, the assembly of judges of a Supreme Court chamber and the College of the Supreme Court.

Article 11. 1. The First President of the Supreme Court shall be appointed by the President of the Republic for a six-year term of office from among five candidates elected by the General Assembly of Supreme Court Judges and may be re-appointed once only. The

¹ Amendments to the consolidated text of this Act were published in Journal of Laws 2016, items 1948, 2103 and 2261; 2017, items 38, 60, 803, 1139, 1452 and ...

person appointed to the post of First President of the Supreme Court may occupy this post only until they retire, they are retired or their service relationship as a Supreme Court judge expires.

2. The General Assembly of Supreme Court Judges shall elect candidates for the post of First President of the Supreme Court from among the active judges of the Supreme Court at least six weeks before the expiry of the First President of the Supreme Court's term of office or no more than 14 days after the day on which the Supreme Court judge occupying the post of First President of the Supreme Court retires, is retired, sees their service relationship terminated or resigns from the post of First President of the Supreme Court.

Article 12. 1. In the case referred to in Article 11(2), the General Assembly of Supreme Court Judges shall be chaired by the First President of the Supreme Court or, if this is impossible or if the First President has been nominated as a candidate, by the most senior President of the Supreme Court. If the most senior President of the Supreme Court has also been nominated as a candidate for the post of First President of the Supreme Court, the General Assembly of Supreme Court Judges shall be chaired by the most senior Supreme Court judge who has not been nominated as a candidate.

2. At least 2/3 of the judges of each chamber must be present in order for the General Assembly of Supreme Court Judges to adopt resolutions on the election of candidates for the post of First President of the Supreme Court. If a resolution was not adopted because the requisite quorum was not present, at least 3/5 of Supreme Court judges must be present at the following meeting to adopt a resolution.

3. Each judge participating in voting may cast only one vote. Voting shall be secret.

4. The candidates for the post of First President of the Supreme Court elected by the General Assembly of Supreme Court Judges shall be the candidates who obtained the highest number of votes. If two or more candidates for the post of First President of the Supreme Court have obtained the same number of votes and, as a result, it is impossible to select five candidates, another vote shall take place with those candidates only. Paragraph 3 shall apply.

5. Immediately after the election of candidates for the post of First President of the Supreme Court, the Chair of the General Assembly of Supreme Court Judges shall send the President of the Republic of Poland the minutes of the meeting indicating the candidates elected and the number of votes cast for each of them.

Article 13. 1. The First President of the Supreme Court shall manage and represent the Supreme Court externally, and in particular:

- 1) appoint and dismiss, at the request of the President of the Supreme Court heading a chamber, the heads of that chamber's divisions;

- 2) represent the Supreme Court before the Constitutional Tribunal or in the work of Sejm and Senate committees or designate another person representing the Supreme Court;
- 3) give opinions and present to the President of the Republic of Poland candidates for the post of President of the Supreme Court elected by the assembly of judges of a Supreme Court chamber;
- 4) give an opinion on requests from people who have reached the age of 65 to continue performing the duties of Supreme Court judge;
- 5) submit the draft report referred to in the first sentence of Article 5(1) to the General Assembly of Supreme Court Judges;
- 6) having consulted the College of the Supreme Court, lay down, by way of an ordinance, the rules of procedure of the Office of the First President of the Supreme Court, the organisation and the scope of activities of court offices and other administrative units of the Supreme Court, the rules of procedure of the Supreme Court's Research and Analysis Bureau and the rules of procedure and remuneration for Supreme Court employees who are not judges;
- 7) perform the tasks laid down in this Act concerning the selection of the Supreme Court's lay judges;
- 8) perform the other activities specified by this Act, the rules of procedure and other normative instruments.

2. If the First President of the Supreme Court is absent, a president of the Supreme Court designated by the First President of the Supreme Court shall deputise for them; if designation is not possible, the president of the Supreme Court with the longest service as a judge shall deputise.

Article 14. 1. A President of the Supreme Court shall be responsible for the functioning of their chamber.

2. A President of the Supreme Court shall be appointed by the President of the Republic of Poland, after the First President of the Supreme Court has been consulted, for a three-year term of office from among three candidates presented by the assembly of judges of a specific chamber and may be re-appointed twice only. A person appointed to the post of President of the Supreme Court may occupy this post only until their service relationship as a Supreme Court judge ends.

3. It shall not be necessary to consult the First President of the Supreme Court on the appointment of the President of the Supreme Court heading the Disciplinary Chamber.

4. Articles 11(2) and 12 shall apply *mutatis mutandis* to candidates for the post of President of the Supreme Court and the election of candidates by an assembly of judges of a Supreme Court chamber.

Article 15. 1. All active Supreme Court judges shall constitute the self-governing body of Supreme Court judges. Judges seconded to perform the activities of Supreme Court judges shall not be members of the self-governing body.

2. The self-governing bodies of Supreme Court judges shall be: the General Assembly of Supreme Court Judges, the assembly of judges of a Supreme Court chamber, the College of the Supreme Court.

Article 16. 1. The remit of the General Assembly of Supreme Court Judges shall include:

- 1) electing five candidates for the post of First President of the Supreme Court and proposing them to the President of the Republic of Poland;
- 2) examining and adopting the draft report of the First President of the Supreme Court's report on the Supreme Court's activities and any material problems encountered in the course of these activities, including problems arising from case-law;
- 3) giving an opinion on candidates for the post of Supreme Court judge;
- 4) examining other matters at the initiative of the First President of the Supreme Court, a President of the Supreme Court, the College of the Supreme Court or at least five Supreme Court judges.
- 5) adopting resolutions on other issues concerning the Supreme Court.

2. Subject to Articles 12(1) and 13(2), the General Assembly of Supreme Court Judges shall be chaired by the First President of the Supreme Court.

3. At least 2/3 of the judges of each chamber must be present in order for the General Assembly of Supreme Court Judges to adopt resolutions. Resolutions shall be passed by a simple majority of votes. Voting shall be secret if at least three judges among the members of the General Assembly of the Supreme Court present at the meeting so request.

Article 17. The First President of the Supreme Court shall invite the President of the Republic of Poland and representatives of other public authorities to take part in a meeting of the General Assembly of Supreme Court Judges convened for the purpose of presenting a report on the Supreme Court's activities and any material problems encountered in the course of these activities, including problems arising from case-law, and the report of the President of the Supreme Court heading the Disciplinary Chamber on the activities of the Chamber.

Article 18. 1. The remit of the assembly of judges of a Supreme Court chamber shall include:

- 1) electing three candidates for the post of the President of the Supreme Court heading that chamber;
- 2) discussing the draft annual report on the chamber's activities and any material problems arising from its case-law and adopting the report;
- 3) giving an opinion on candidates for the post of Supreme Court judge in that chamber;
- 4) giving opinions on candidates for the posts of heads of division proposed by the President of the Supreme Court;
- 5) electing two members and one deputy member to the College of the Supreme Court;
- 6) examining other problems concerning the functioning of a chamber.

2. The President of the Supreme Court heading the chamber shall chair the assembly of judges of a Supreme Court chamber.

3. At least $\frac{2}{3}$ of the judges of a Supreme Court chamber must be present in order for that chamber's assembly of judges to adopt resolutions. Resolutions shall be passed by a simple majority of votes. Voting shall be secret if one of the members of the assembly of judges present at the meeting so requests.

Article 19. 1. As regards the jurisdiction of the Disciplinary Chamber, its internal organisation and internal rules of procedure and the other powers of the First President of the Supreme Court laid down in this Act, the powers of the First President of the Supreme Court laid down in Articles 13(1)(1), 30(1), 35(5), 39(1) and (3), 43(4) and (5), 50(6) and (13) shall be exercised *mutatis mutandis* by the President of the Supreme Court heading the Disciplinary Chamber.

2. The powers laid down in Article 13(1), subparagraphs 2, 4 and 7, Article 34(2) and the second sentence of Article 54(3) shall be exercised by the First President of the Supreme Court in consultation with the President of the Supreme Court heading the Disciplinary Chamber.

Article 20. 1. The College of the Supreme Court shall be composed of: the First President of the Supreme Court, Supreme Court presidents and judges elected by the assemblies of Supreme Court chambers for a period of three years.

2. The First President of the Supreme Court shall chair the College of the Supreme Court.

3. At least 2/3 of the members of the College of the Supreme Court must be present in order for the College to adopt resolutions. Resolutions shall be passed by a simple majority of votes. If the vote is tied, the College's chair shall have the casting vote.

Article 21. 1. The College of the Supreme Court shall draw up opinions on matters relating to the activities of the Supreme Court and cooperate with the First President of the Supreme Court to ensure the proper functioning of the Supreme Court.

2. The College of the Supreme Court shall in particular :

- 1) deliver an opinion on drafts of the instruments referred to in Articles 4, 13(1)(6) and 95(2) and (3);
- 2) deliver an opinion on a request from the First President of the Supreme Court to continue performing the office of Supreme Court judge;
- 3) deliver opinions on candidates for management posts in administrative units of the Supreme Court;
- 4) approve the draft estimates of the Supreme Court's income and expenditure;
- 5) establish the number of the Supreme Court's lay judges;
- 6) elect the Disciplinary Officer of the Supreme Court and their deputy.

Chapter 3

Jurisdiction of Supreme Court chambers

Article 22. The Civil Chamber shall have jurisdiction over cases concerning civil, economic, family and guardianship law, and cases concerning the registration of entrepreneurs and the registration of pledges.

Article 23. The Civil Chamber shall have jurisdiction over cases examined under the Code of Criminal Procedure of 6 June 1997 (Journal of Laws 2016, item 1749, as amended²), the Fiscal Criminal Code of 10 September 1999 (Journal of Laws 2016, item 2137, as amended³), the Code of Procedure for Minor Offences of 24 August 2001 (Journal of Laws 2016, item 1713, as amended⁴), other cases to which the Code of Criminal Procedure applies and cases subject to adjudication by military courts.

Article 24. The Labour and Social Security Chamber shall have jurisdiction over cases concerning labour law, social security, cases concerning claims for remuneration from

² Amendments to the consolidated text of this Act were published in Journal of Laws 2016, items 1948, 2138 and 2261; 2017, items 244, 768, 773, 966, 1139, 1452 and ...

³ Amendments to the consolidated text of this Act were published in Journal of Laws 2016, items 2024 and 2138; 2017, items 88, 379, 528, 648, 768 and 1089.

⁴ Amendments to the consolidated text of this Act were published in Journal of Laws 2016, item 1948; 2017, items 708, 962, 966, 1477, 1543 and ...

the authors of inventions, utility models, industrial models and integrated circuits, registry claims, save for the registration of entrepreneurs and the registration of pledges, and cases concerning the retirement of a Supreme Court judge.

Article 25. The Extraordinary Control and Public Affairs Chamber shall have jurisdiction over the examination of extraordinary appeals, the examination of electoral disputes and disputes about the validity of a national or constitutional referendum and the confirmation of the validity of elections and referendums, other cases of public law, including cases concerning the protection of competition, the regulation of energy, telecommunications and rail transport and cases in which an appeal has been lodged against a decision of the Chair of the National Broadcasting Council, and appeals concerning the excessive duration of proceedings before common and military courts.

Article 26. The Disciplinary Chamber shall have jurisdiction over:

- 1) disciplinary cases involving Supreme Court judges;
- 2) disciplinary cases for which the Supreme Court is competent under the provisions of separate acts;
- 3) appeals concerning the excessive duration of proceedings before the Supreme Court.

Article 27. 1. Where a President of the Supreme Court considers a case to be outside the jurisdiction of the chamber they head, they shall transfer the case to the competent chamber.

2. If the President of the Supreme Court heading the chamber to which a case has been transferred considers the case to be outside their chamber's jurisdiction, they shall ask the First President of the Supreme Court to indicate the competent chamber. The First President of the Supreme Court may refuse to transfer a case to another chamber.

Chapter 4

Establishing, amending and ending a Supreme Court judge's service relationship

Article 28. A judge shall be appointed to the Supreme Court by the President of the Republic of Poland at the request of the National Council of the Judiciary.

Article 29. 1. A person may be appointed to the office of Supreme Court judge if they:

- 1) have only Polish nationality and enjoy full civil and public rights;
- 2) have not been convicted or conditionally discharged of an intentional crime prosecuted by public indictment or an intentional fiscal crime;
- 3) have reached the age of 40;

- 4) are of good character;
- 5) have completed higher education in law in Poland and obtained a Master's degree or foreign qualification recognised in Poland;
- 6) are distinguished by a high level of legal knowledge;
- 7) are fit, as regards their state of health, to perform a judge's duties;
- 8) have at least ten years' professional experience as a judge or prosecutor, as President, deputy president, senior counsel or counsel of the General Counsel's Office to the Republic of Poland or have practised for at least ten years as an advocate, legal adviser or notary public; professional experience or practice shall be calculated cumulatively if a person has occupied different posts or exercised different professions;
- 9) have not served in, worked for or cooperated with the state security bodies referred to in Article 5 of the Act of 18 December 1998 on the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation (Journal of Laws, 2016, items 1575 and ...).

2. The requirements referred to in paragraph 1(8) shall not apply to professors or doctors of law employed at a Polish higher education establishment, the Polish Academy of Sciences or another academic or research establishment.

3. Paragraph 1(9) shall apply to persons born before 1 August 1972.

Article 30. 1. The President of the Republic of Poland, having consulted the First President of the Supreme Court, shall announce the number of vacancies for judges in specific chambers of the Supreme Court in the Official Gazette of the Republic of Poland *Monitor Polski*.

2. Any person satisfying the conditions for the post of Supreme Court judge may submit their application to the National Council of the Judiciary within one month of the announcement referred to in paragraph 1.

3. A person shall apply by submitting the application form for candidates for a vacant post of Supreme Court judge in the chamber specified in the announcement together with - save where the candidate is a judge or a prosecutor - information about the candidate from the National Criminal Register and a certificate confirming that the candidate's state of health enables them to perform a judge's duties.

4. The President of the Republic of Poland shall lay down, by means of an ordinance, a sample application form for candidates for a vacant Supreme Court judge's post, taking into account the need to ensure transparency and efficiency of the selection of a candidate for the post of Supreme Court judge.

Article 31. Persons linked by up to the second degree of kinship, the first degree of affinity or marriage must not be judges of the Supreme Court at the same time.

Article 32. 1. A judge's service relationship shall commence after they are served with their letter of appointment. Refusal to accept the letter of appointment shall be equivalent to resigning from the office of Supreme Court judge.

2. Judges must present themselves for the purpose of taking up their post within 14 days of accepting their letter of appointment.

3. In the event of an unjustified failure to take up the post within the time-limit referred to in paragraph 2, the appointment shall be void; this fact shall be confirmed by the First President of the Supreme Court.

Article 33. 1. Upon appointment, a judge shall swear the following oath before the President of the Republic of Poland:

'I solemnly swear as a Supreme Court judge that I will faithfully serve the Republic of Poland, uphold the law and the rule of law, conscientiously perform a judge's duties, dispense justice in accordance with the law and principles of equity, my conscience and without partiality, preserve the confidentiality of information protected by law and be guided by the principles of integrity and dignity'; and the oath may be ended with the words: 'So help me God'.

2. Refusal to take the oath shall be equivalent to resigning from the office of Supreme Court judge.

Article 34. 1. A judge shall take up a post in the Supreme Court chamber specified by the judge in the application form for candidates referred to in Article 30(3).

2. The First President of the Supreme Court may transfer a judge, with that judge's consent, to a post at another chamber.

3. The First President of the Supreme Court may designate a judge to take part in the examination of a specific case in another chamber or, with the judge's consent, to adjudicate in another chamber for a specific period of time. A judge may be designated, without their consent, to adjudicate in another chamber for a period of no more than six months a year. After the period of their designation to adjudicate in another chamber expires, a judge shall take measures in cases assigned them in that chamber until these cases have been completed. In the case of a Supreme Court judge occupying a post in the Disciplinary Chamber, designation to take part in the examination of a specific case in another chamber or to adjudicate in another chamber for a specific period of time shall require the consent of the President of the Supreme Court heading the Disciplinary Chamber.

Article 35. 1. A judge's service relationship shall end in the event of:

- 1) their death;
- 2) their resignation from the office of Supreme Court judge;
- 3) a final judgment convicting or conditionally discharging them of an intentional crime prosecuted by public indictment or an intentional fiscal crime;
- 4) a final judicial decision imposing a criminal penalty depriving them of their public rights or banning them from holding the post of judge;
- 5) a final disciplinary court decision dismissing them from office;
- 6) the loss of their Polish citizenship;
- 7) the acquisition of the citizenship of a foreign country, unless it is renounced within 30 days after its acquisition;
- 8) their being found to have served in, worked for or cooperated with the state security bodies referred to in Article 5 of the Act of 18 December 1998 on the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation;

2. In the event of the circumstances referred to in paragraph 1(2) to (7), the Supreme Court judge concerned shall immediately notify the President of the Republic of Poland of these circumstances via the First President of the Supreme Court. If the circumstances concern the First President of the Supreme Court, the latter shall notify the President of the Republic of Poland.

3. The President of the Republic of Poland shall determine the date of termination of a Supreme Court judge's service relationship no later than three months after:

- 1) the occurrence of the circumstance referred to in paragraph 1(1);
- 2) being informed that circumstances referred to in paragraph 1(2) to (8) have occurred.

4. The occurrence of the circumstances referred to in paragraph 2:

- 1) first sentence - shall be reported by the First President of the Supreme Court to the National Council of the Judiciary and the President of the Republic of Poland;
- 2) second sentence - shall be reported by the President of the Republic of Poland to the National Council of the Judiciary.

5. Paragraph 1(8) shall apply to persons born before 1 August 1972.

6. In order to establish whether the circumstances specified in paragraph 1(8) apply, the First President of the Supreme Court shall ask the President of the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation to provide a report from the Head of the Institute's Lustration Office on this matter. The request

for a report on the First President of the Supreme Court shall be made by the President of the Republic of Poland.

7. If the report provided confirms the circumstances referred to in paragraph 1(8), the Head of the Lustration Office at the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation shall indicate that the circumstances result from:

- 1) a lustration statement referred to in Article 7 of the Act of 18 October 2006 on the disclosure of information on the documents of the state security organs from the years 1944–1990 and of the contents of those documents (Journal of Laws 2016, items 1721, 1948, 2260 and 2261; 2017, items 1530 and 1600);
- 2) a final judicial ruling of a regional court referred to in Article 17 of the Act of 18 October 2006 on the disclosure of information on the documents of the state security organs from the years 1944–1990 and of the contents of those documents, confirming that the person verified made a false lustration statement referred to in Article 21a(2) of the Act.

8. If the President of the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation or the Head of the Lustration Office becomes aware of the information referred to in paragraph 1(8), they shall immediately notify the First President of the Supreme Court or the President of the Supreme Court heading the Disciplinary Chamber. The provisions of the Act of 18 October 2006 on the disclosure of information on the documents of the state security organs from the years 1944–1990 and of the contents of those documents shall apply *mutatis mutandis*.

9. A Supreme Court judge who has resigned from the office of Supreme Court judge or the status of retired judge shall be entitled to apply for admission to the list of advocates or legal advisers or to be appointed to a post as notary without having to satisfy the requirements laid down for other judges in the Act of 26 May 1982 on advocates (Journal of Laws, 2016, items 1999 and 2261; 2017, item 1139), the Act of 6 July 1982 on legal advisers (Journal of Laws, 2016, items 233, 1579 and 2261; 2017, item 1139) and the Act of 14 February 1991 on notaries (Journal of Laws, 2016, items 1796, 2016, 2175 and 2261).

Article 36. 1. A Supreme Court judge shall retire on the date of reaching the age of 65, unless that judge submits no later than six months and no earlier than 12 months prior to this date a declaration of their intent to continue their service in the post and provides a certificate that they are fit, as regards their state of health, to perform a judge's duties, issued in accordance with the rules specified for a candidate for a judicial post, and provided that the President of the Republic of Poland approves further occupation of the post by the Supreme Court judge. The President of the Republic of Poland may consult the National

Council of the Judiciary before approving the further occupation of a post by a Supreme Court judge.

2. The declaration and certificate referred to in paragraph 1 shall be submitted to the First President of the Supreme Court, who shall immediately forward them to the President of the Republic of Poland together with the First President's opinion. The First President of the Supreme Court shall submit the declaration and certificate with the opinion of the National Council of the Judiciary to the President of the Republic of Poland.

3. If a Supreme Court judge reaches the age referred to in paragraph 1 before the procedure for them to continue occupying their post has been completed, the judge shall remain in their post until that procedure has been completed.

4. The approval referred to in paragraph 1 shall be granted for a period of three years and no more than twice. A judge who has obtained consent to continue occupying the post of Supreme Court judge may retire at any time by submitting a declaration to the First President of the Supreme Court, who shall immediately send it to the President of the Republic of Poland.

5. A Supreme Court judge who is a woman may retire on her 60th birthday, submitting a declaration to the President of the Republic of Poland via the First President of the Supreme Court.

Article 37. 1. A Supreme Court judge shall retire at their request or that of the College of the Supreme Court, if, for reasons of illness or infirmity, they have been found permanently incapable of performing a judge's duties by a Social Insurance Institution medical examiner.

2. A request for the examination of a judge's capacity to perform their duties may be lodged by the judge concerned or by the College of the Supreme Court.

3. A Supreme Court judge may be retired if they have failed, without good reason, to undergo the examination referred to in paragraph 2 at the request of the College of the Supreme Court.

4. In matters relating to the retirement of a judge under paragraphs 1 and 3, the National Council of the Judiciary shall adopt a resolution at the request of the judge or the College of the Supreme Court.

5. Appeals against resolutions of the National Council of the Judiciary in the matters referred to in paragraph 4 may be brought before the Supreme Court.

6. If a request for the retirement of a judge has been brought by the College of the Supreme Court, an appeal may be brought before the College of the Supreme Court.

Article 38. The date on which a Supreme Court judge retires or is retired shall be determined by the President of the Republic of Poland.

Article 39. 1. At the request of the First President of the Supreme Court, the Minister of Justice may, with the consent of the judge concerned, second a common court judge with at least ten years of experience as a judge to perform a judge's duties at the Supreme Court for a fixed term of up to two years.

2. For the duration of their secondment to perform a judge's duties at the Supreme Court, the provisions governing the rights and duties of a Supreme Court judge shall apply to the judge *mutatis mutandis*.

3. At the request of the First President of the Supreme Court, the Minister of Justice may, with the consent of the judge concerned, indefinitely second a common court judge to perform the function of assistant to a Supreme Court judge and other activities at the Supreme Court.

4. A judge seconded to perform the activities referred to in paragraph 1 shall be entitled to remuneration at the basic rate of an appeal court judge.

5. After three months of secondment to perform the activities referred to in paragraph 1, an appeal court judge shall be entitled for the rest of their secondment to be remunerated at the same basic rate as a Supreme Court judge, and a regional court judge shall be entitled to the same remuneration as an appeal court judge, unless their previous remuneration is higher than at the Supreme Court.

6. The rules on remuneration referred to in paragraph 5 shall apply to judges seconded to perform the functions and activities referred to in paragraph 3, save that an appeal court judge shall be entitled to remuneration at the rate immediately above their current rate, except for the remuneration of a Supreme Court judge, while a district court judge shall be entitled to the same remuneration as a regional court judge.

Chapter 5

The rights and duties of a Supreme Court judge

Article 40. 1. A judge shall be obliged to act in accordance with the oath taken.

2. A judge shall be obliged to uphold values relating to the exercise of judicial power and to avoid anything that might compromise the dignity of the office or undermine confidence in its impartiality.

Article 41. 1. A judge shall be obliged to keep secret the facts of a case made known to them in their capacity as judge other than in an open hearing.

2. The duty of secrecy shall continue after their service relationship is terminated.

3. The judge's duty of secrecy shall be waived when a judge is testifying as a witness before a court, unless disclosure is detrimental to the good of the State or a material private interest that is not contrary to the purposes of the dispensation of justice. In such cases, the First President of the Supreme Court may release a judge from their duty of secrecy.

4. Judges shall not be subject to vetting under the rules on the protection of classified information.

Article 42. A judge's working hours shall be determined by their duties.

Article 43. 1. A Supreme Court judge must have no other service relationship or employment relationship, except for:

- 1) employment as a teacher, scholar teacher or scholar at a Polish university within the meaning of the Higher Education Act of 27 July 2005 (Journal of Laws, 2016, item 1842, as amended⁵),
- 2) teaching at the National School of Judiciary and Public Prosecution and on training courses organised by self-governing professional bodies referred to in the Act of 26 May 1982 on advocates, the Act of 6 July 1982 on legal advisers, the Act of 14 February 1991 on notaries and the Act of 29 August 1997 on bailiffs and enforcement (Journal of Laws, 2017, items 1277, 1343 and 1452)

- for a total of no more than 210 teaching hours.

2. A judge shall not be free to take up an activity or gainful occupation other than those laid down in paragraph 1 that would obstruct the performance of a judge's duties, undermine trust in their impartiality or compromise the dignity of the office of judge. The First President of the Supreme Court shall not be free to take up an activity or gainful occupation other than those laid down in paragraph 1.

3. A judge shall not:

- 1) be a member of the management board, supervisory board or audit committee of a commercial law company;
- 2) be a member of a cooperative's management board, supervisory board or audit committee;
- 3) be a member of the management board of a foundation engaging in an economic activity;
- 4) hold more than 10 % of the shares or more than 10 % of the starting capital of a commercial law company;
- 5) engage in an economic activity on a self-employed basis or jointly with others, manage

⁵ Amendments to the consolidated text of this Act were published in Journal of Laws 2016, items 1933, 2169 and 2260; 2017, items 60, 777, 858, 859, 1321, 1428 and 1530.

such an activity or be a representative or agent in the exercise of such an activity.

4. A Supreme Court judge shall notify the First President of the Supreme Court of their intention to take up additional employment referred to in paragraph 1 and any other activity or gainful occupation.

5. The First President of the Supreme Court may oppose the taking-up by a judge of another activity or gainful occupation if they consider that such activities would obstruct the performance of a Supreme Court judge's duties, undermine trust in their impartiality or compromise the dignity of the office of judge.

6. Paragraphs 2 to 5 shall apply *mutatis mutandis* to retired judges of the Supreme Court.

7. The First President of the Supreme Court shall immediately publish on the Supreme Court's website information on the taking-up by a Supreme Court judge of additional employment as referred to in paragraph 1 and any other activity or gainful occupation, indicating the entity at which the judge has taken up the additional employment or other activity or gainful occupation, the nature of the additional employment or other activity or gainful occupation and the amount of time devoted to them.

Article 44. 1. The asset declarations referred to in Article 87 of the Common Courts Organisation Act of 27 July 2001 shall be submitted:

- 1) by Supreme Court judges to the First President of the Supreme Court;
- 2) by the First President of the Supreme Court to the President of the Republic of Poland.

2. The First President of the Supreme Court shall examine the contents of the asset declaration submitted by a Supreme Court judge. The First President of the Supreme Court shall report any irregularities found to the President of the Republic of Poland.

Article 45. 1. A judge may file requests, motions or complaints concerning the office they hold only with the President of the Supreme Court heading the chamber in which that judge adjudicates or the First President of the Supreme Court.

2. In the matters referred to in paragraph 1, a judge shall not have recourse to third institutions or third persons or make these matters public.

3. Disputes arising from or pertaining to a Supreme Court judge's service relationship shall be settled by a labour court.

Article 46. A judge shall immediately notify the First President of the Supreme Court and a President of the Supreme Court responsible for the functioning of the Disciplinary Chamber of any court action in which they are a party or a participant.

Article 47. 1. The base remuneration of a Supreme Court judge shall be 4.13 times the base figure used to determine such remuneration.

2. The base figure used to determine the basic remuneration of Supreme Court judges in a given year shall be the average remuneration in the second quarter of the preceding year published in the Official Gazette of the Republic of Poland *Monitor Polski* by the President of the Central Statistical Office pursuant to Article 20(2) of the Retirement and Other Pensions provided by the Social Insurance Fund Act of 17 December 1998 (Journal of Laws 2017, items 1383 and 1386).

3. If the average remuneration referred to in paragraph 2 is lower than the average remuneration published for the second quarter of the preceding year, the base figure for determining the basic remuneration of judges of the Supreme Court shall remain at its existing level.

4. A judge's remuneration shall be set at the base rate or at the bonus rate. The bonus rate shall be 115 % of the base rate.

5. On taking up their post, a Supreme Court judge shall be remunerated at the base rate. After seven years of service at the Supreme Court, a Supreme Court judge's remuneration shall be increased to the bonus rate.

6. In connection with the function performed, a Supreme Court judge shall be entitled to a post allowance, the amount of which shall be established by applying multiplication factors to the base figure for determining the basic remuneration of judges of the Supreme Court referred to in paragraph 2.

7. The table of multipliers for establishing the amount of post allowances shall be laid down in an annex to this Act.

Article 48. A Supreme Court judge shall be entitled to a length-of-service allowance of 1 % of their basic remuneration for each year of service, up to a maximum of 20 % of that remuneration. The period of a judge's service or employment relationship prior to their appointment as a Supreme Court judge and the duration of their exercise of the profession of advocate, legal adviser or notary public shall apply towards the period determining the amount of the allowance.

Article 49. 1. A judge shall be entitled to the following anniversary bonuses:

- 1) 100 % of their monthly remuneration after 20 years of service;
- 2) 150 % of their monthly remuneration after 25 years of service;
- 3) 200 % of their monthly remuneration after 30 years of service;
- 4) 250 % of their monthly remuneration after 35 years of service;

- 5) 350 % of their monthly remuneration after 40 years of service;
- 6) 400 % of their monthly remuneration after 45 years of service.

2. All previous periods of service and employment, including the duration of their exercise of the profession of advocate, legal adviser or notary public, and other periods counted as work for the purposes of the employee's rights under separate provisions, shall apply towards the period of service entitling a judge to an anniversary bonus.

Article 50. 1. A Supreme Court judge shall be entitled to additional leave of 12 working days a year.

2. At their request, a judge may be granted paid convalescent leave.

3. The convalescent leave may not exceed six months.

4. While absent for reasons of illness, a judge shall each month receive 80 % of their remuneration, but for no longer than one year. Previous interruptions in service for reasons of illness or paid convalescent leave shall count towards this period if the period of active service has not exceeded 30 days. After one year of absence for reasons of illness, a judge shall each month receive 50 % of their remuneration.

5. If a judge's absence is the result of:

- 1) an accident at work or on the way to or from work,
 - 2) an illness during pregnancy,
 - 3) an illness resulting from the specific nature or conditions of a judge's activities,
 - 4) an illness caused by another person's commission of a deliberate crime, attested by the delivery of a judgment by the competent authority, in connection with the performance of a judge's activities,
 - 5) undergoing the medical examinations necessary for potential donors of cells, tissues and organs and undergoing procedures for the taking of cells, tissues and organs,
- the judge shall retain their entitlement to 100 % of their remuneration, but for no longer than one year; the second and third sentences of paragraph 4 shall apply.

6. Where a judge falls ill and the illness is suspected to have been caused by the specific characteristics or conditions of a judge's activity, the First President of the Supreme Court shall refer the judge, at the First President's own motion or at the request of the judge, to a Social Insurance Institution medical examiner. The judge shall be entitled to object to a Social Security Institution medical committee against the medical examiner's decision within 14 days of service of the decision.

7. An illness caused by health stressors at the place of performance of a judge's duties shall be recognised as an illness caused by the specific characteristics or conditions of a judge's activity.

8. The costs of an examination and the issuing of a decision by a medical examiner and a Social Security Institution medical committee shall be covered by the State Treasury from the funds at the disposal of the First President of the Supreme Court.

9. If a judge is unable to perform his duties for other reasons entitling them to receive the benefits specified in the rules on social insurance benefits in cash, they shall be entitled to remuneration in the amount of the social insurance benefits in cash for the period provided for in those rules.

10. The duration of absence for reasons of illness and incapacity to perform the duties referred to in paragraph 9 shall be confirmed by a medical certificate issued in accordance with Articles 55(1) and 55a(7) of the Act of 25 June 1999 on social insurance benefits in cash in the event of sickness or maternity (Journal of Laws 2017, item 1368) or a printout of the medical certificate referred to in Article 55a(6) of that Act, save in the case:

- 1) of undergoing the medical examinations necessary for potential donors of cells, tissues and organs and incapacity to work resulting from the taking of cells, tissues and organs, for which a judge shall present a certificate issued by a doctor on the standard form prescribed in Article 53(3) of the Act of 25 June 1999 on social insurance benefits in cash in the event of sickness or maternity;
- 2) referred to in Article 6(2)(1) of the Act of 25 June 1999 on social insurance benefits in cash in the event of sickness or maternity, for which a judge shall present a decision issued by a competent authority or qualified body under the rules on preventing and combating infections and infectious diseases in humans;
- 3) of maternity leave, for which a judge shall present a medical certificate made out on the standard form specifying, prior to delivery, the expected date of birth and, after delivery, a short-form birth certificate for the child or a copy thereof;
- 4) of the need for the judge to take personal care of their own child or that of their spouse, an adopted child or a fostered child under eight years of age in the event of:
 - a) the unforeseen closure of a crèche, kids' club, preschool or school attended by the child or of the illness of a nanny with whom the parents have concluded the formal agreement referred to in Article 50 of the Care for Children under the Age of Three Act of 4 February 2011 (Journal of Laws 2016, item 157; 2017, items 60 and 1428) or child-minder caring for the child;
 - b) the pregnancy or illness of the judge's spouse or the parent of the judge's child who usually takes care of the child where such pregnancy or illness prevents that spouse

or parent from caring for the child,

- c) the stay of the judge's spouse or the parent of the judge's child who usually takes care of the child in a hospital or other medical facility providing round-the-clock inpatient healthcare,
- for which the judge shall present a declaration.

11. The medical certificate shall be submitted using the computer profile referred to in Article 58(1) of the Act of 25 June 1999 on social insurance benefits in cash in the event of sickness or maternity, under the rules laid down in that Act. The First President of the Supreme Court shall use or create the contributor's computer profile referred to in Article 58(1) of that Act.

12. The printout of the medical certificate referred to in Article 55a(6) of the Act of 25 June 1999 on social insurance benefits in cash in the event of sickness or maternity, the medical certificate referred to in Article 55a(7) of that Act, a certificate made out by a doctor in the standard form in the cases referred to in paragraph 10(1) and (3), the decision, the short-form birth certificate or a copy thereof must be submitted to the First President of the Supreme Court within seven days of receipt.

13. A judge must declare the circumstances referred to in paragraph 10(4) to the First President of the Supreme Court within seven days of their occurring.

14. Where the obligation referred to in paragraphs 12 and 13 is not fulfilled, any absence shall be considered unjustified, unless the failure to provide the certificate, decision, short-form birth certificate or copy thereof or make the declaration occurred for reasons beyond the judge's control.

15. A judge shall be entitled to remuneration for other justified absences.

16. Where employees covered by the social insurance system are entitled to receive benefits irrespective of their right to remuneration, a judge shall be entitled to a cash benefit of an amount equal to the social insurance benefit.

17. Judges may be granted convalescent leave in accordance with the rules laid down in Article 94d-94g of the Common Courts Organisation Act of 27 July 2001.

Article 51. 1. A Supreme Court judge nominated, appointed or elected to perform a function in a state agency, diplomatic or consular service or a body of an international or supranational organisation acting under international agreements ratified by the Republic of Poland shall immediately resign from office.

2. A judge who has resigned from office for the reasons specified in paragraph 1 shall have the right to return to the post of Supreme Court judge, if the interruption in the performance of a judge's duties is no longer than nine years, save where a judge has

performed the functions of judge or prosecutor in international or supranational judicial bodies.

3. In the case referred to in paragraph 2, the National Council of the Judiciary shall, at the initiative of the person in question, submit a request to the President of the Republic of Poland for authorisation to perform the office of Supreme Court judge

4. If the request referred to in paragraph 3 is refused, the person in question shall be entitled to appeal to the Supreme Court.

Article 52. 1. Supreme Court judges who are permanently resident outside Warsaw shall be entitled to free accommodation in Warsaw, reimbursement of travel expenses and a separation from family allowance in accordance with the rules laid down in the provisions issued on the basis of Article 26(2a) of the Employees of State Agencies Act of 16 September 1982.

2. The judge shall not be entitled to the benefits and receivables referred to in paragraph 1 if the distance between the place of permanent residence and Warsaw is no more than 60 kilometres, unless the First President of the Supreme Court considers, at the request of the Supreme Court judge concerned, that it is reasonable due to the scope of responsibilities and commuting conditions.

Article 53. A retiring judge shall be entitled to a single severance payment equal to six months' remuneration.

Article 54. 1. A Supreme Court judge may not be deprived of liberty or be the subject of criminal proceedings without the permission of a disciplinary court. The above shall not apply if a judge is arrested *in flagrante delicto* and their detention is necessary for the proper conduct of proceedings. Pending a resolution allowing criminal proceedings to be brought against a judge only urgent acts may be performed.

2. If a request for permission to bring criminal proceedings against a judge or to remand a judge in custody concerns a judge arrested *in flagrante delicto* or for an offence for which the maximum term of imprisonment is at least eight years, an offence referred to in Article 177(1) of the Criminal Code in conjunction with Article 178(1) of the Criminal Code and in Article 178a(1) or (4) of the Criminal Code and who remains in custody, the disciplinary court shall adopt a resolution on the request no more than 24 hours after its receipt by the disciplinary court. A resolution allowing criminal proceedings to be brought against a judge or a judge to be remanded in custody shall be enforceable immediately.

3. The First President of the Supreme Court and the President of the Supreme Court responsible for the functioning of the Disciplinary Chamber shall be notified of a judge's detention immediately. The First President of the Supreme Court may order that the detainee be released immediately.

4. No more than seven days after the date of service of a resolution refusing consent for criminal proceedings against a judge, the authority or person seeking consent and the disciplinary officer shall be entitled to appeal to the second-instance disciplinary court. The judge in question shall have the same number of days to appeal against a resolution consenting to criminal proceedings against them.

Article 55. A retired Supreme Court judge shall be entitled to emoluments equalling 75 % of the base remuneration and seniority allowance for the last post they occupied. These emoluments shall be indexed on the dates and in the amounts of changes in the base remuneration of serving judges.

Article 56. The Supreme Court may employ judges' assistants. A person with higher legal qualifications may be a judge's assistant.

Article 57. A person whose relationship with a Supreme Court judge would entitle them to refuse to testify under Article 261(1) of the Code of Civil Procedure of 17 November 1964 (Journal of Laws 2016, item 1822, as amended⁶) shall not be employed at the Supreme Court.

Chapter 6

Lay judges of the Supreme Court

Article 58. 1. Lay judges of the Supreme Court shall take part in the examination of extraordinary appeals and the cases referred to in Article 26(1) and (2).

2. A person may be a lay judge of the Supreme Court if they:

- 1) have only Polish nationality and enjoy full civil and civic rights;
- 2) are of good character;
- 3) have reached the age of 40;
- 4) are under 60 years of age on the day of election;
- 5) are fit, as regards their state of health, to perform the duties of a lay judge of the Supreme Court;
- 6) have completed general secondary education or technical secondary education.

Article 59. A person may not be a lay judge of the Supreme Court if they:

- 1) are employed at the Supreme Court, another court or a prosecutor's office;
- 2) are members of bodies against whose decisions court actions may be brought;
- 3) are a lay judge at a common or military court;

⁶ Amendments to the consolidated text of this Act were published in Journal of Laws 2016, items 1823, 1860, 1948, 2138, 2199, 2260 and 2261; 2017, items 67, 85, 187, 768, 933, 1133, 1136, 1452, 1474, 1596 and ...

- 4) are a police officer and work in services involving the prosecution of crimes and minor offences;
- 5) work in central government agencies;
- 6) exercise a profession for which the Supreme Court may be the competent disciplinary court;
- 7) are an advocate or trainee advocate;
- 8) are a legal adviser or trainee legal adviser;
- 9) are a notary or trainee notary;
- 10) are a cleric;
- 11) are a soldier in active military service;
- 12) are an officer of the Prison Service;
- 13) are a deputy, senator or member of a municipal, district or provincial council;
- 14) have served in, worked for or cooperated with the state security bodies referred to in Article 5 of the Act of 18 December 1998 on the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation.

Article 60. 1. The number of lay judges of the Supreme Court shall be established by the College of the Supreme Court.

2. Lay judges shall be elected to the Supreme Court by the Senate of the Republic of Poland in a secret vote.

3. The term of office of lay judges of the Supreme Court shall run for four calendar years after the year in which they were elected. The function of a lay judge of the Supreme Court elected during the term of office shall terminate on expiry of the general term of office of lay judges of the Supreme Court.

4. After the term of office expires, a lay judge of the Supreme Court may take part only in examining a case initiated earlier with their participation, until the case is closed.

5. The election of lay judges to the Supreme Court shall take place no later than in October of the calendar year in which the term of office of the previous lay judges of the Supreme Court expires.

Article 61. 1. Candidates to be lay judges of the Supreme Court shall be nominated to the Marshal of the Senate of the Republic of Poland. The First President of the Supreme Court shall communicate the number of lay judges of the Supreme Court to the Marshal of the Senate of the Republic of Poland at least 30 days before the expiry of the time-limit for nominating candidates.

2. Candidates to be lay judges of the Supreme Court may be nominated by associations, other social and professional organisations registered under separate provisions, with the exception of political parties, and at least 100 citizens eligible to vote by 30 June of the final year of the term of office.

3. The Marshal of the Senate of the Republic of Poland shall seek reports on candidates to be lay judges of the Supreme Court from the Commander-in-Chief of the Police. The report on a candidate to be a lay judge of the Supreme Court shall be obtained and drawn up in accordance with the rules laid down for candidates for the post of judge at a common court.

4. Detailed arrangements for handling documents submitted to the Marshal of the Senate of the Republic of Poland when nominating candidates to be lay judges of the Supreme Court shall be laid down in the Senate's Rules of Procedure.

5. The Marshal of the Senate of the Republic of Poland shall lay down, by means of an order, the model for nomination papers for candidates to be lay judges of the Supreme Court and the means of obtaining them. The order of the Marshal of the Senate of the Republic of Poland shall be published in the Official Gazette of the Republic of Poland *Monitor Polski*.

Article 62. 1. The Marshal of the Senate of the Republic of Poland shall immediately send the list of elected lay judges of the Supreme Court and the documents referred to in Article 61(4) to the First President of the Supreme Court.

2. The First President of the Supreme Court shall notify the lay judges of the Supreme Court of their election and have them take the following oath:

'I solemnly swear as a lay judge of the Supreme Court that I will faithfully serve the Republic of Poland, uphold the law and the rule of law, conscientiously perform a lay judge's duties, adjudicate in accordance with the law and principles of equity, my conscience and without partiality, preserve the confidentiality of information protected by law and be guided by the principles of integrity and dignity'; and the oath may be ended with the words: 'So help me God'.

3. Refusal to take the above oath shall be equivalent to resigning from the office of lay judge of the Supreme Court.

4. After the oath has been taken, the First President of the Supreme Court shall enter the lay judge of the Supreme Court on the list of lay judges of the Supreme Court who may be designated to adjudicate and issue the lay judge with a service card.

5. The First President of the Supreme Court shall organise training for lay judges of the Supreme Court on the extraordinary appeal and disciplinary proceedings. A lay judge of the Supreme Court shall be obliged to attend the training.

Article 63. 1. The function of a lay judge of the Supreme Court shall be terminated if they are finally convicted of an intentional crime prosecuted by public indictment or an intentional fiscal crime or if they are found to have served in, worked for or cooperated with the state security bodies referred to in Article 5 of the Act of 18 December 1998 on the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation. The Marshal of the Senate of the Republic of Poland shall determine the termination of the function for this reason and notify the First President of the Supreme Court thereof.

2. Article 35(5) to (8) shall apply *mutatis mutandis* to lay judges of the Supreme Court.

Article 64. A lay judge of the Supreme Court shall not be assigned to perform duties if:

- 1) circumstances emerge that would have prevented their election;
- 2) proceedings are initiated for the dismissal of the lay judge of the Supreme Court, pending the adoption by the Senate of the Republic of Poland of a resolution on dismissal;
- 3) proceedings are initiated against the lay judge of the Supreme Court for an intentional crime prosecuted by public indictment or an intentional fiscal crime, pending a final judgment in the case.

Article 65. If necessary, especially if there is a reduction in the number of lay judges of the Supreme Court during their term of office, the Senate of the Republic of Poland, at the motion of the First President of the Supreme Court, shall conduct by-elections. Article 61 shall apply *mutatis mutandis*.

Article 66. 1. Lay judges of the Supreme Court shall adjudicate independently and be subject only to the Constitution and statutes.

2. A lay judge of the Supreme Court shall not chair a hearing or deliberations or perform a judge's activities outside a hearing, unless the law provides otherwise.

Article 67. 1. A lay judge of the Supreme Court may be assigned to take part in hearings up to 20 days a year. The number of days may be increased by the First President of the Supreme Court only for important reasons, and in particular if it is necessary to complete a hearing in which that lay judge of the Supreme Court is participating.

2. A lay judge of the Supreme Court shall receive financial compensation for the time spent on their activities at the court, namely: taking part in a hearing or session, taking part

in deliberations on a judgment, drafting grounds, attending compulsory training courses organised by the First President of the Supreme Court or attending meetings of the Lay Council of the Supreme Court, if they have been elected to that Council.

3. The amount of compensation for lay judges of the Supreme Court taking part in the examination of cases at the Supreme Court shall amount to 1.9 % of the base figure for determining the basic remuneration of judges of the Supreme Court referred to in Article 47(1) to (3) per day of performance of the duties of a lay judge of the Supreme Court.

Article 68. Lay judges resident outside Warsaw shall be entitled to a daily allowance and the reimbursement of travel and overnight accommodation expenses in accordance with the rules laid down for judges of the common courts.

Article 69. 1. Lay judges of the Supreme Court shall elect from among their members a Lay Council of the Supreme Court, its chair and deputies.

2. The tasks of the Lay Council of the Supreme Court shall in particular include raising awareness of the work of lay judges of the Supreme Court and representing them and promoting the educational work of lay judges of the Supreme Court in society.

3. The President of the Republic of Poland shall lay down, by means of an ordinance, the method for the election, the composition and organisational structure, rules of procedure and specific tasks of the Lay Council of the Supreme Court, taking account of the mandatory nature of the Lay Council of the Supreme Court as the self-governing body representing lay judges of the Supreme Court, the scope of cooperation with the First President of the Supreme Court and the President of the Supreme Court heading the Disciplinary Chamber, the need to include in its structure a chair and deputies and the definition of their tasks.

Article 70. In cases not regulated by this chapter, the provisions of Part IV, Chapter 7 of the Common Courts Organisation Act of 27 July 2001 concerning lay judges shall apply *mutatis mutandis* to lay judges of the Supreme Court.

Chapter 7

Disciplinary liability

Article 71 1. A Supreme Court judge shall bear disciplinary liability for misconduct in service and for compromising the dignity of their office.

2. A judge shall also be liable to disciplinary proceedings for their conduct before they took up office, if they failed to discharge the duties of State office or showed themselves to be unsuitable for the office of judge.

3. For minor offences, a judge shall be liable only to disciplinary proceedings.

4. A judge may agree to be held liable under criminal law for the offence referred to in Chapter XI of the Code of Administrative Offences of 20 May 1971 (Journal of Laws 2015, items 1094, 1485, 1634 and 1707; 2017, item 966). Acceptance by the judge of a penalty notice or payment of a fine, when a penalty notice in absentia is issued as referred to in Article 98(1)(3) of the Code of Procedure for Minor Offences of 24 August 2001 shall be deemed to constitute consent.

5. Where a judge accepts being held liable under criminal law as provided for in paragraph 4, they shall be relieved of disciplinary liability.

Article 72 1. The disciplinary court for disciplinary cases against Supreme Court judges shall be:

- 1) in the first instance, the Supreme Court, adjudicating by a bench of two judges of the Disciplinary Chamber and one lay judge of the Supreme Court;
- 2) in the second instance, the Supreme Court, adjudicating by a bench of three judges of the Disciplinary Chamber and two lay judges of the Supreme Court.

2. Lay judges of the Supreme Court ruling on disciplinary cases shall be appointed on a case-by-case basis by the First President of the Supreme Court.

Article 73 The Disciplinary Officer of the Supreme Court and their deputy shall be elected by the College of the Supreme Court for a period of four years.

Article 74 1. The disciplinary penalties shall be as follows:

- 1) a warning;
- 2) a reprimand;
- 3) reduction of a judge's basic remuneration by 5 % to 50 % for a period of six months to two years;
- 4) dismissal from the function occupied,
- 5) a judge's removal from office.

2. The court shall publish a final disciplinary judgment by posting it on the Supreme Court's website. If required for the purpose of protecting legitimate interests of persons concerned, the operative part of the judgment shall be published without particulars identifying a natural person or other person.

3. The court shall send the final disciplinary judgment to the President of the Republic of Poland.

4. The imposition of the disciplinary penalty referred to in paragraph 1(2) to (4) shall disqualify a judge from sitting in the College of the Supreme Court, adjudicating in a

disciplinary court and performing their function in the Supreme Court for five years. The First President of the Supreme Court shall designate a judge occupying a post in the Disciplinary Chamber on whom the disciplinary penalty referred to in the first sentence has been imposed to adjudicate in another chamber for a period of five years.

5. The imposition of the disciplinary penalty referred to in paragraph 1(5) shall disqualify a person from re-appointment to the office of judge.

6. In the case of disciplinary misconduct or a minor offence, the disciplinary court may waive the imposition of a penalty.

Article 75 1. The Disciplinary Officer of the Supreme Court shall conduct investigation activities at the request of the First President of the Supreme Court, the President of the Supreme Court heading the Disciplinary Chamber, the College of the Supreme Court, the Prosecutor-General, the National Prosecutor, or on their own initiative, after conducting a preliminary investigation of the circumstances necessary to establish the elements of misconduct and obtaining the judge's explanations, unless it is impossible to obtain them. The investigation activities must be conducted within 30 days of the first action being taken by the Disciplinary Officer of the Supreme Court.

2. After the investigation activities have been carried out, if there are grounds for initiating disciplinary proceedings, the Disciplinary Officer of the Supreme Court shall initiate disciplinary proceedings and present the judge with written charges. After the charges have been presented, the defendant shall have 14 days to submit explanations and requests for evidence to be taken.

3. On expiry of the time-limit referred to in paragraph 2, and - if necessary - after further evidence has been taken, the Disciplinary Officer of the Supreme Court shall submit a request for the disciplinary case to be examined by a disciplinary court of first instance. The request should include the precise indication of the act that is the subject matter of proceedings, a list of evidence supporting the request and a statement of the grounds.

4. If the Disciplinary Officer of the Supreme Court does not find any grounds for initiating disciplinary proceedings at the request of the authorised entity, they shall issue a decision refusing to initiate such proceedings. A copy of the decision shall be delivered to the authorities referred to in paragraph 1 and to the President of the Republic of Poland. Each of the authorities referred to in paragraph 1 may complain to the disciplinary court of first instance within 30 days of service of the decision .

5. If the Disciplinary Officer of the Supreme Court does not find any grounds for filing a request for a disciplinary case to be examined, they shall issue a decision discontinuing disciplinary proceedings. A copy of the decision shall be delivered to the defendant, to the authorities referred to in paragraph 1 and to the President of the Republic of Poland. Each of

the authorities referred to in paragraph 1 may complain to the disciplinary court of first instance within 30 days of service of the decision .

6. The complaint should be examined within 14 days of the date of its submission to the court. If the contested decision is repealed, the disciplinary court's instructions as to further proceedings shall be binding on the Disciplinary Officer of the Supreme Court.

7. Disciplinary rulings shall not be subject to appeal in cassation.

8. The President of the Republic may appoint, from among Supreme Court judges, common court judges or military court judges, an Extraordinary Disciplinary Officer to conduct a specific case concerning a Supreme Court judge. The appointment of an Extraordinary Disciplinary Officer shall be equivalent to requesting that investigation activities be initiated. The Extraordinary Disciplinary Officer may initiate disciplinary proceedings or join pending proceedings. The appointment of an Extraordinary Disciplinary Officer shall cause the exclusion of the Disciplinary Officer of the Supreme Court or their deputy from taking action in the case. Paragraphs 1 to 6 shall apply *mutatis mutandis* to action undertaken by the Extraordinary Disciplinary Officer. The function of the Extraordinary Disciplinary Officer shall expire as soon as a ruling refusing to initiate disciplinary proceedings, discontinuing disciplinary proceedings or closing disciplinary proceedings becomes final.

Chapter 8

Proceedings before the Supreme Court

Article 76 Unless this Act provides otherwise, the Supreme Court shall adjudicate by a bench of three judges.

Article 77 1. The President of the Supreme Court heading a specific chamber shall assign cases and appoint a bench.

2. Cases shall be examined in chronological order, save where there are specific provisions to the contrary. In particularly justified circumstances, the President of the Supreme Court may order cases to be heard in non-chronological order.

Article 78 A Supreme Court bench shall not include more than one judge seconded to perform a judge's duties at the Supreme Court. The seconded judge shall not preside over the adjudicating bench.

Article 79 If, when hearing an appeal in cassation or another appeal, the Supreme Court has serious doubts as to the interpretation of the law underpinning its ruling, it may adjourn the hearing and refer the legal issue for settlement by a bench of seven judges.

Article 80 1. If there are discrepancies between the interpretation of the law underpinning rulings in the case-law of the common courts, military courts or the Supreme

Court, the First President of the Supreme Court may, with a view to ensuring the uniformity of case-law, request their settlement by the Supreme Court in a bench of seven judges or another appropriate configuration.

2. The request referred to in paragraph 1 may also be lodged by the Prosecutor-General, the Ombudsman and, to the extent of their competence, by the President of the General Counsel to the Republic of Poland, the Children's Ombudsman, the Ombudsman for Patients' Rights, the President of the Social Dialogue Council, the President of the Financial Supervision Authority and the Financial Ombudsman.

Article 81 A decision referring a legal issue and a resolution of the Supreme Court must be accompanied by a written statement of the grounds.

Article 82 1. The Prosecutor-General shall be notified of sessions of the entire Supreme Court bench or the bench of a chamber or joint chambers.

2. Defenders and counsel in the person of advocates and legal advisers and persons authorised to prepare appeals in cassation in civil matters shall also be notified of a Supreme Court session designated to settle a legal issue.

3. The session may be attended by a prosecutor from the National Prosecutor's Office or from another organisational entity of a prosecutor's office seconded to carry out actions at the National Prosecutor's Office and designated by the Prosecutor-General or their deputy to take part in sessions instead of the Prosecutor-General.

4. Failure on the part of the persons referred to in paragraphs 1 to 3 to attend the session shall not cause proceedings to be suspended provided that proper notification has been given.

5. A President of the Supreme Court may oblige the authorities informed of the session to submit, before the session, written motions concerning the tenor of the settlement of the issue referred.

Article 83 1. If a Supreme Court bench considers that the issue submitted requires clarification and that the discrepancies need to be settled, it shall adopt a resolution, otherwise it shall refuse to adopt a resolution or, if taking a resolution has become irrelevant, it shall discontinue the proceedings.

2. If a bench of a chamber considers it justified from the point of view of judicial practice, the gravity of the doubts or the protection of the rights and freedoms of persons and citizens, it may refer the legal issue or the motion for a resolution to the entire Supreme Court bench.

Article 84 1. Upon their adoption, resolutions of the entire Supreme Court bench, of a joint bench of chambers or of the bench of an entire chamber shall become legal principles. A bench of seven judges may invest a resolution with the force of a legal principle.

2. Resolutions which are invested with the force of a legal principle shall be published together with an explanatory memorandum in the Public Information Bulletin on the Supreme Court website.

Article 85 1. If any Supreme Court bench intends to depart from a legal principle, it shall refer the legal issue to the entire bench of a chamber for settlement.

2. A departure from a legal principle adopted by a chamber, by joint chambers or by the entire bench of the Supreme Court shall require a new settlement in the form of a resolution of the relevant chamber, joint chambers or the full bench of the Supreme Court.

3. If a bench of one Supreme Court chamber intends to depart from a legal principle adopted by another chamber, settlement shall take the form of a resolution of both chambers. Chambers may refer a legal issue for examination by the full bench of the Supreme Court.

Article 86 1. An extraordinary appeal may be lodged against any final ruling closing proceedings in the case if this is necessary to ensure the rule of law and social justice and:

- 1) the ruling violates the principles or the rights and freedoms of persons and citizens enshrined in the Constitution;
 - 2) the ruling is a flagrant breach of the law on the grounds of misinterpretation or misapplication;
 - 3) there is an obvious contradiction between the court's findings and the evidence collected;
- and the ruling cannot be repealed or amended by way of other extraordinary remedies.

2. An extraordinary appeal may be lodged by the Prosecutor-General, the Ombudsman, a group of at least 30 deputies or 20 senators, and, to the extent of their competence, by the President of the General Counsel to the Republic of Poland, the Children's Ombudsman, the Ombudsman for Patients' Rights and the President of the Financial Supervision Authority and the Financial Ombudsman. An extraordinary appeal by a group of deputies or senators shall be lodged by the Marshal of the Sejm or the Marshal of the Senate who, in addition to the representative appointed by the group of deputies or senators, may authorise an official of the Chancellery of the Sejm or the Chancellery of the Senate, an advocate (*'adwokat'*) or a legal adviser (*'radca prawny'*) to support the appeal.

3. Extraordinary appeals shall be lodged no more than five years after the contested ruling becomes final. Extraordinary appeals to the detriment of the defendant which are

lodged more than six months after the ruling becomes final or the appeal in cassation shall be deemed inadmissible.

Article 87 1. On behalf of the same party, an extraordinary appeal may be lodged only once against a given ruling.

2. An extraordinary appeal may not be based on pleas which were examined in cassation or in cases referred to the Supreme Court for review.

3. Extraordinary appeals against a judgment establishing the nullity of a marriage, annulling a marriage or pronouncing a divorce shall be inadmissible if one or both of the parties remarries after the ruling becomes final.

Article 88. 1. If an extraordinary appeal is upheld, the Supreme Court shall repeal the contested ruling and, in the light of the results of the hearing, issue a ruling on the merits of the case or refer the case back to the court with jurisdiction, if necessary also repealing the ruling of the court of first instance, or discontinue the proceedings. The Supreme Court shall dismiss an extraordinary appeal if it finds no grounds for repealing the contested ruling.

2. If, when examining an extraordinary appeal, the Supreme Court finds that the reason why the ruling violates the principles or the rights and freedoms of persons and citizens enshrined in the Constitution is that the Act is incompatible with the Constitution, it shall submit a legal question to the Constitutional Tribunal. The Supreme Court may stay proceedings *ex officio* if the resolution of the case depends on the outcome of the proceedings pending before the Constitutional Court.

Article 89 The Supreme Court may demand that a statement of grounds be drawn up where the contested ruling contains none.

Article 90 1. If the First President of the Supreme Court or the President of the Supreme Court deems it necessary to do so in order to protect the principles or the rights and freedoms of persons and citizens enshrined in the Constitution, particularly when examining an extraordinary appeal, it may appoint a party to act as public interest spokesman and, more specifically, a person who complies with the requirements to hold office as a Supreme Court judge. The public interest spokesman shall aim to put constitutional principles into practice, in particular the common good, social justice and the protection of human dignity through the application of the rights and freedoms of persons and citizens.

2. The public interest spokesman shall be notified of the Supreme Court session in the case for which they have been appointed. The public interest spokesman may make representations in writing, attend the session and express their opinion.

Article 91 1. Extraordinary appeals shall be heard by the Supreme Court, adjudicating by a bench of two Supreme Court judges forming part of the Extraordinary Control and Public Affairs Chamber and one lay judge of the Supreme Court.

2. If the extraordinary appeal concerns a Supreme Court ruling, the case shall be heard by the Supreme Court, adjudicating by a bench of five Supreme Court judges forming part of the Extraordinary Control and Public Affairs Chamber and two lay judges of the Supreme Court.

3. If the Supreme Court bench referred to in paragraph 1 or 2 intends to depart from a legal principle adopted by a Supreme Court chamber, it shall refer the legal issue for settlement:

- 1) to the entire bench of the Extraordinary Control and Public Affairs Chamber - if it intends to depart from a legal principle adopted by the bench of the Extraordinary Control and Public Affairs Chamber, settlement shall take the form of a resolution by the entire bench of the Chamber;
- 2) to the Extraordinary Control and Public Affairs Chamber and to the chamber which adopted the legal principle - if it intends to depart from a legal principle adopted by the bench of a chamber other than the Extraordinary Control and Public Affairs Chamber, settlement shall take the form of a resolution by the entire bench of both chambers;

4. In the case referred to in paragraph 3(2) the second sentence of Article 85(3) shall apply *mutatis mutandis*.

Article 92 In cases not caught by this Act, extraordinary appeal proceedings shall be governed *mutatis mutandis* by the provisions of the Code of Civil Procedure of 17 November 1964 on appeals in cassation, with the exception of Article 398(2)⁴.

Article 93 1. At the motion of the Prosecutor-General, the Supreme Court shall annul a final ruling in a case which, owing to the person or the subject matter, was outside the jurisdiction of the Polish courts or inadmissible at the time the ruling was issued, if such ruling cannot be repealed under the procedure provided for in the acts on judicial proceedings.

2. The motion referred to in paragraph 1 must satisfy the requirements laid down for procedural documents and contain:

- 1) a reference to the ruling against which it is filed, indicating the scope of the appeal;
- 2) the basis for the motion and its grounds;
- 3) the demonstration that the annulment of the contested ruling is not possible under the relevant act on court proceedings;
- 4) a motion for the annulment of the contested decision and, if the ruling was issued by the

court of second instance, a motion for the annulment of the preceding ruling of the court of first instance.

3. In addition to copies for service on the parties to the case, the Prosecutor-General shall annex to the motion two copies for the files of the Supreme Court.

4. The Supreme Court shall examine the motion *in camera*, unless the Prosecutor-General has asked for the motion to be examined at a hearing or there are other compelling reasons for doing so.

5. After examining the matter, the Supreme Court shall reject the motion or annul the contested ruling. Where a motion is granted, if a ruling was issued by a court of second instance, the Supreme Court shall also annul the preceding ruling of the court of first instance.

6. The decision of the Supreme Court and the grounds shall be served on the Prosecutor-General and the parties or participants in the proceedings in which the contested ruling was issued.

7. In cases not governed by this Article, proceedings for the annulment of a ruling shall be governed *mutatis mutandis* by the provisions of the Code of Civil Procedure of 17 November 1964 concerning appeals in cassation or of the Code of Criminal Procedure 6 June 1997 concerning cassation.

Article 94 1. If the Supreme Court discovers an obvious breach of the law when examining a case, regardless of its other prerogatives, it shall issue a finding of error to the relevant court. Before issuing a finding of error, it must inform the judge or judges on the bench of the adjudicating court that they have seven days in which they may submit written explanations. The detection of an error and the issue of a finding of error shall not affect the outcome of the case.

2. The Supreme Court shall notify the president of the relevant court of the finding of error.

3. Whenever a finding of error is issued, the Supreme Court may file a request for a disciplinary case to be examined by a disciplinary court. The Supreme Court shall be the disciplinary court of first instance.

Chapter 9

The Office of the First President of the Supreme Court, the Office of the President of the Supreme Court responsible for the functioning of the Disciplinary Chamber and the Supreme Court's Research and Analysis Bureau

Article 95. 1. The Office of the First President of the Supreme Court, the Office of the President of the Supreme Court heading the Disciplinary Chamber and the Supreme Court's Research and Analysis Bureau shall operate in the Supreme Court.

2. The rules of procedure for the Office of the First President of the Supreme Court and the Supreme Court's Research and Analysis Bureau shall be set by the First President of the Supreme Court after consultations with the College of the Supreme Court.

3. The rules of procedure for the Office of the President of the Supreme Court heading the Disciplinary Chamber shall be set by the President of the Chamber after consultations with the College of the Supreme Court.

Article 96 1. The Office of the First President of the Supreme Court shall perform tasks connected with the performance of the First President of the Supreme Court's activities in relation to the functioning of the Supreme Court, in particular financial, personnel and administrative tasks.

2. The Office of the First President of the Supreme Court shall be managed by the Head of the Office of the First President of the Supreme Court, who shall be appointed and dismissed by the First President of the Supreme Court.

Article 97 1. The Office of the President of the Supreme Court heading the Disciplinary Chamber shall perform tasks connected with the performance by the President of the Chamber of activities in relation to the functioning of the Chamber, in particular financial, personnel and administrative matters.

2. The Office of the President of the Supreme Court heading the Disciplinary Chamber shall be managed by the Head of the Office of the President of the Supreme Court heading the Disciplinary Chamber, who shall be appointed and dismissed by the President of the Chamber.

Article 98. 1. The Supreme Court's Research and Analysis Bureau shall in particular perform tasks connected with the performance by the First President of the Supreme Court and the Supreme Court of functions involved in ensuring the lawfulness and uniformity of the case-law of common and military courts and assessing the coherence and uniformity of the law applied by the courts, including in the field of disciplinary case-law.

2. The Supreme Court's Research and Analysis Bureau shall be managed by the Director of the Supreme Court's Research and Analysis Bureau, who shall be appointed and dismissed by the First President of the Supreme Court.

Article 99 1. Activities in matters of labour law shall be performed by the First President of the Supreme Court or a person authorised by them.

2. Activities in matters of labour law with respect to persons serving in the Office of the President of the Supreme Court heading the Disciplinary Chamber shall be performed by the President of the Chamber or a person authorised by them.

Article 100 1. The remuneration of the Head of the Office of the First President of the Supreme Court shall be fixed in accordance with the provisions on the remuneration of senior state officials applicable to a state secretary.

2. The remuneration of the Head of the Office of the President of the Supreme Court heading the Disciplinary Chamber shall be fixed in accordance with the provisions on the remuneration of senior state officials applicable to a state secretary.

3. The remuneration of members of the Supreme Court's Research and Analysis Bureau who are not judges shall be equal to the basic remuneration of a court of appeal judge at the base rate; such remuneration shall be increased by the amount of the obligatory social insurance premium payable by an employee.

4. The persons referred to in paragraph 3 may take up additional employment or another activity or gainful occupation only with the consent of the First President of the Supreme Court. Consent may be withdrawn at any time.

5. By virtue of their function, a member of the Supreme Court's Research and Analysis Bureau shall be entitled to a post allowance.

6. The President of the Republic of Poland shall specify, by means of an ordinance, the rates of the post allowance for members of the Supreme Court's Research and Analysis Bureau, taking into consideration the nature and scope of related tasks.

Chapter 10

Amendments to other binding instruments and transitional and final provisions

Article 101. Article 626¹¹(2) and (3) of the Code of Civil Procedure of 17 November 1964 (Journal of Laws, 2016, item 1822 as amended⁷) is replaced by the following:

' 2. In the event of an appeal in cassation or an extraordinary appeal as referred to in Article 86 of the Supreme Court Act of ../../.. (Journal of Laws, item ...) being filed, notice of an appeal in cassation or an extraordinary appeal shall be given automatically immediately after the interested party provides notification that they are filing an appeal in cassation or an extraordinary appeal.

⁷ Amendments to the consolidated text of this Act were published in Journal of Laws 2016, items 1823, 1860, 1948, 2138, 2199, 2260 and 2261; 2017, items 67, 85, 187, 768, 933, 1133, 1136, 1452, 1474 and 1596.

3. Article 626⁷ shall apply *mutatis mutandis* to notice of an appeal, an appeal in cassation and an extraordinary appeal as referred to in Article 86 of the Supreme Court Act of/..’.

Article 102 The Code of Criminal Procedure of 6 June 1997 (Journal of Laws, 2016, item 1749 as amended⁸) is amended as follows:

1) Article 652(3) is replaced by the following:

‘3) the Supreme Court.’;

2) in Article 655:

a) in paragraph 1, the introduction to the list is replaced by the following:

‘The Supreme Court shall hear.’,

b) paragraph 2 is replaced by the following:

‘2. The provisions of Articles 39 and 439(1)(3) shall apply *mutatis mutandis* to Supreme Court rulings on matters subject to adjudication by military courts.’;

3) Article 672a is repealed;

4) Article 673 is replaced by the following:

‘Article 673. A decision on the re-opening of proceedings shall be issued by a bench of three judges of a regional military court or, in cases concluded with a ruling of such court or the Supreme Court, by the Supreme Court.’.

Article 103 The Military Courts Organisation Act of 21 August 1997 (Journal of Laws 2016, items 358, 2103 and 2261; 2017, item 1452) is amended as follows:

1) in Article 10:

a) in paragraph 3, subparagraph 5 is repealed,

b) paragraph 5 is replaced by the following:

‘5. Voting shall be secret in the matters referred to in paragraph 3(1)(3) and also if at least one of the members of the Assembly present so requests.’;

2) in Article 15(3b), the first sentence is replaced by the following:

‘In the case provided for in paragraph 3a, the disciplinary court shall issue a ruling, having heard the Disciplinary Officer of Military Court Judges and the judge, unless it is impossible.’;

3) the following Article 21a is added after Article 21:

⁸ Amendments to the consolidated text of this Act were published in Journal of Laws 2016, items 1948, 2138 and 2261; 2017, items 244, 768, 773, 966, 1139 and 1452.

‘Article 21a. A judge is required to perform the activities related to the duties entrusted to them of a disciplinary court judge at a regional military court.’;

4) In Article 22:

a) in paragraph 1, subparagraph 1 is replaced by the following:

‘1) shall be exclusively a Polish citizen and enjoy full civil and full public rights and must not have been convicted for an intentional crime prosecuted by public indictment or an intentional fiscal crime.’;

b) in paragraph 3, the introduction to the list is replaced by the following:

‘The requirements specified in paragraph 1(5) and(6) shall not apply.’;

5) in Article 30:

a) the following paragraph 1a is added after paragraph 1:

‘1a. If a motion for criminal proceedings to be brought against a judge or for their remand in custody refers to a judge who was arrested *in flagrante delicto* or an offence subject to imprisonment of up to at least 8 years, an offence referred to in Article 177(1) of the Criminal Code in conjunction with Article 178(1) of the Criminal Code and in Article 178a(1) or (4) of the Criminal Code and who remains in custody, the disciplinary court shall adopt a resolution on the motion no later than within 24 hours of its receipt by the disciplinary court. A resolution allowing criminal proceedings to be brought against a judge or for their remand in custody shall be enforceable immediately.’,

b) the first sentence of paragraph 6 is replaced by the following:

‘6. No more than seven days after the date of service of a resolution refusing consent for criminal proceedings to be brought against a judge, the authority or person seeking consent and the Disciplinary Officer for Military Court Judges shall be entitled to file a complaint with the second-instance disciplinary court.’;

6) Article 34(1) is replaced by the following:

‘1. A final judgment of the disciplinary court concerning a judge’s removal from office and a final court ruling imposing a punitive measure depriving them of their public rights or banning them from holding the post of judge shall, *ipso jure*, result in the loss of office and post of judge; the service relationship of the judge shall expire when the ruling or judgment becomes final.’;

7) in Article 39, the following paragraphs 3a and 3b are added after paragraph 3:

‘3 a. The penalty specified in paragraph 1(4) shall consist in changing the place of service of a judge:

- 1) in the case of a garrison military court judge - to a garrison military court with its seat located in another region of the regional military court;
- 2) in the case of a regional military court judge - to another regional military court.

The region or court shall be specified by the disciplinary court in its judgment.

3b. If specifying the place of service pursuant to paragraph 3a(1) would be counterproductive in the light of the specific circumstances of the judge on whom the penalty was imposed, the disciplinary court may specify a new place of service in a court within the same region of the regional military court.’;

8) in Article 39a:

a) paragraph 1 is replaced by the following:

‘1. Disciplinary cases of military court judges shall be heard:

1) in the first instance:

- a) by disciplinary courts at regional military courts by a bench of three military court judges,
- b) by the Supreme Court by a bench of two judges of the Disciplinary Chamber and one lay judge at the Supreme Court for cases of disciplinary misconduct that satisfy the criteria of an intentional crime prosecuted by public indictment or an intentional fiscal offence or in cases in which the Supreme Court requested that a disciplinary case be examined and a finding of error be issued;

2) in the second instance, the Supreme Court, adjudicating by a bench of two judges of the Disciplinary Chamber and one lay judge at the Supreme Court.’,

b) paragraph 2 is replaced by the following:

‘2. The disciplinary court in the region in which the judge who is subject to disciplinary proceedings is performing their service shall be excluded from hearing disciplinary cases for which the disciplinary court at the regional military court referred to in paragraph 1(1)(a) is competent.’,

c) paragraph 3 is repealed,

d) paragraph 4 is replaced by the following:

‘4. If due to the exclusion of judges, the case cannot be examined in a given disciplinary court and it is impossible to forward the case to another equivalent disciplinary court, the President of the Supreme Court heading the Disciplinary

Chamber shall forward the case for examination to the relevant disciplinary court established for common court judges.';

9) the following Articles 39b to 39d shall be added after Article 39a:

'Article 39b. 1. The Minister for Justice, having consulted the National Council of the Judiciary, shall entrust duties of a disciplinary court judge at a regional military court to a military court judge with at least ten years of experience in a judge's post.

2. The performance of duties of a disciplinary court judge at a regional military court shall be independent of the performance of duties related to the place of service of the judge.

3. The term of office of a disciplinary court judge at a regional military court shall be six years.

4. After the term of office expires, a military court judge at a regional military court may take part in examining a case initiated earlier with their participation, until the case is closed.

5. The term of office of a disciplinary court judge at a regional military court shall expire before its end in the event of:

- 1) termination or expiry of the judge's service relationship;
- 2) retirement of the judge;
- 3) a disciplinary penalty as specified in subparagraphs 2 to 4 of Article 39(1) being imposed on the judge.

Article 39c. 1. The president of a disciplinary court at a regional military court shall be appointed from among disciplinary court judges by the President of the Supreme Court heading the Disciplinary Chamber. The term of office of a disciplinary court president at a regional military court shall be three years.

2. The disciplinary court president at a regional military court may be dismissed by the President of the Supreme Court heading the Disciplinary Chamber during their term of office if:

- 1) they seriously or persistently fail to fulfil their official duties;
- 2) other reasons render their remaining in office incompatible with the interest of the judiciary;
- 3) they resign from office.

3. In the event of a disciplinary court president at a regional military court being absent, their duties shall be performed by the most senior disciplinary court judge at the regional military court.

4. The president of the regional military court shall ensure adequate facilities and technical conditions and administrative and financial support for the disciplinary court at the regional military court.

Article 39d. The Minister of Justice in agreement with the Minister for National Defence shall specify, by means of an ordinance, the number of judges in disciplinary courts at regional military courts, taking into consideration organisational aspects and the need to ensure efficient proceedings in disciplinary cases.';

10) Article 40 is replaced by the following:

'Article 40. 1. Cases before disciplinary courts concerning judges of regional military courts, as well as presidents or deputy presidents of garrison military courts, shall be prosecuted by the Disciplinary Officer for Military Court Judges, and cases concerning other judges shall be prosecuted by the Deputy Disciplinary Officer for Military Court Judges.

2. The Disciplinary Officer for Military Court Judges and the Deputy Disciplinary Officer for Military Court Judges shall be appointed for a four-year term of office by the Minister of Justice after consultations with the Minister for National Defence and the National Council of the Judiciary.

3. If the Minister for National Defence and the National Council of the Judiciary fail to provide their opinion within 30 days of the Minister for Justice's declaration of intent to appoint the Disciplinary Officer for Military Court Judges and the Deputy Disciplinary Officer for Military Court Judges, the Minister of Justice shall appoint them without such opinions.

4. The Disciplinary Officer for Military Court Judges and the Deputy Disciplinary Officer for Military Court Judges shall perform their duties at the National Council of the Judiciary, which will provide them with administrative support by creating a separate organisational unit within the Council's office.

5. The Disciplinary Officer for Military Court Judges and the Deputy Disciplinary Officer for Military Court Judges shall perform their duties until persons are appointed to these functions for another term of office.

6. The defendant may appoint a defence counsel from among military court judges, public prosecutors, advocates or legal advisers.';

11) the following Articles 40a and 40b shall be added after Article 40:

‘Article 40a. Unless the Act stipulates otherwise, the provisions concerning the Disciplinary Officer for Military Court Judges shall apply *mutatis mutandis* to the Deputy Disciplinary Officer for Military Court Judges and to the Disciplinary Officer of the Minister for Justice.

Article 40b. 1. The Minister of Justice may appoint the Disciplinary Officer of the Minister of Justice for the purpose of conducting a specific case relating to a military court judge. The appointment of the Disciplinary Officer of the Minister of Justice shall cause the exclusion of another officer from taking action in the case.

2. The Disciplinary Officer of the Minister of Justice shall be appointed from among military court judges or common court judges.

3. The Disciplinary Officer of the Minister of Justice may initiate proceedings upon a request of the Minister of Justice or join pending proceedings.

4. The appointment of the Disciplinary Officer of the Minister of Justice shall be equivalent to requesting that investigation proceedings or disciplinary proceedings be initiated.

5. The function of the Disciplinary Officer of the Minister of Justice shall expire as soon as a ruling refusing to initiate disciplinary proceedings, discontinuing disciplinary proceedings or closing disciplinary proceedings becomes final. The expiry of the function of the Disciplinary Officer of the Minister of Justice shall not preclude the Minister of Justice subsequently appointing an officer again for the same case.’

12) In Article 41:

a) paragraph 1 is replaced by the following:

‘1. The Disciplinary Officer for Military Court Judges shall take disciplinary action at the request of the National Council of the Judiciary, the Minister for Justice, the Minister for National Defence, the presidents of the military courts with jurisdiction, the college and at their own initiative, after first establishing that the disciplinary misconduct criteria were satisfied. The Disciplinary Officer for Military Court Judges shall be bound in investigation proceedings by the instructions of the authorised authority. The investigation should be conducted within 30 days of its being initiated by the Disciplinary Officer for Military Court Judges.’,

b) paragraphs 2 to 5 are repealed;

13) Article 41a(3) is replaced by the following:

‘3. Appeals against a judgment issued by the disciplinary court of first instance and against decisions and instructions that make it impossible to hand down a judgment may be lodged by the defendant, the Disciplinary Officer for Military Court

Judges, the National Council of the Judiciary, the Minister of Justice and the Minister for National Defence, on whom a copy of the ruling is served.';

14) the following Article 41aa is added after Article 41a:

'Article 41aa. 1. The disciplinary court may issue a summary judgment if, on the basis of the evidence collected by the Disciplinary Officer for Military Court Judges, it decides that the circumstances of the offence and fault of the defendant are beyond doubt and it is sufficient to impose the penalties specified in subparagraphs 1 to 3 of Article 39(1).

2. A summary judgment shall be given by the disciplinary court adjudicating by a one-judge bench.

3. The penalty referred to in Article 39(1)(2a) shall be imposed, by means of a summary judgment, in an amount equivalent to 5 % to 10 % of remuneration for a period from six months to one year.

4. The summary judgment may be objected to by the defendant, the Disciplinary Officer for Military Court Judges, the National Council of the Judiciary, the Minister of Justice and the Minister for National Defence.

5. The objection shall be filed with the disciplinary court which gave the summary judgment within the final time limit of seven days from the day of service thereof.

15) the following Article 41d is added after Article 41c:

'Article 41d. The Minister of Justice may oversee the activities of the first-instance disciplinary court.';

16) Article 42 is replaced by the following:

'Article 42. 1. A copy of the final judgment sentencing to a disciplinary penalty and a copy of the final judgment referred to in Article 39(5) shall be added to the personal file of the person sentenced.

2. Five years after the judgment imposing the penalty referred to in subparagraphs 1 to 4 of Article 39 (1) and the judgment specified in Article 39(5) become final, the Minister of Justice in agreement with the Minister for National Defence shall order that the copy of the judgment be removed from the personal file, unless another conviction has been handed down against the individual concerned within the same period. In such circumstances, it shall be possible only to remove copies of all judgments from the judge's personal file at the same time.

3. The court president responsible for keeping the personal file of the judge shall notify the Minister of Justice immediately of the circumstances referred to in the first sentence of paragraph 2.'

17) Article 58(1)(8) is replaced by the following:

'8) in the event of punishment by a final disciplinary ruling;';

18) in Article 70(1):

a) the introduction to the list is replaced by the following:

'1. In respect of military courts, judge's assistants and lay judges, the following provisions shall apply *mutatis mutandis*: Article 4, Article 5, Article 8, Article 20a, Article 22b(2), Article 37(8), Article 37e(1) and (3), Article 40, Articles 41a to 41d, Article 42, Articles 44 to 52, Article 53(1) to (3), Article 54, Article 57(1) and (7)) (first and second sentence), Article 58(1), (3) to 4a and (5) and (6), Article 60, Article 65, Article 66, Article 69(1) to (2a), Article 70, Article 71, Articles 73 to 75, Article 77(2) to (2b), (3a), (4), (6) and (7), Article 78(1) to (4), Article 78a(1) to (3) and (6), Article 79, Article 80(2d) to (2h) and (4), Article 82a, Article 83, Article 84(3), Article 85, Article 86, Article 89, Article 90, Article 91(1), (1c) to (2), (6), (7) and (9) to (12), Article 91a, Article 92, Article 93, Article 94 (1), (3) and (4), Article 95, Article 98(1) and (2), Article 99, Article 100(1) to (4), Article 101(2) to (4), Article 102, Articles 104 to 106, Article 108, Articles 109a to 109b, Article 111, Article 113(2) to (4), Articles 113a and 113b, Article 114(2) to (13), Articles 115 and 115a, Articles 115c to 118, Articles 120 to 122, Articles 125 to 128, Article 130, Article 131, Article 133, Article 133a, Article 147(3), Article 156, Article 159(1) subparagraphs 5 and 6, Article 167, Article 169, Article 170(3) and Articles 171 to 174 of the Act referred to in Article 32a(1), as well as the provisions issued pursuant to Article 41(2), Article 41e, Article 57(9), Article 78(5), Article 78a(7), Article 91(8) and Article 148(3) of the Act, however:'

b) subparagraph 7 is replaced by the following:

'7) the vacant judicial posts referred to in Article 20a(1) to (2a) of the Act shall be filled taking into consideration the personnel requirements of the military judiciary;'

Article 104 In Article 51 of the Act of 18 December 1998 on the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation (Journal of Laws, 2016, item 1575):

1) paragraphs 2 and 3 are replaced by the following:

'2. Disciplinary cases of the Institute's prosecutors shall be heard:

- 1) in the first instance:
 - a) by the Institute's Disciplinary Court by a bench of three members,
 - b) by the Supreme Court by a bench of two judges of the Disciplinary Chamber and one lay judge at the Supreme Court for cases of disciplinary misconduct that satisfy the criteria of an intentional crime prosecuted by public indictment or an intentional tax offence in cases for which the request was filed by the Supreme Court;
- 2) in the second instance, the Supreme Court, adjudicating by a bench of two judges of the Disciplinary Chamber and one lay judge of the Supreme Court.

3. Members of the disciplinary court at the Institute of National Remembrance shall be elected, in the number decided by the Institute, for a period of four years, by the assembly of prosecutors of the Chief Commission from among the Institute's prosecutors. The first-instance disciplinary court shall appoint its chairperson from among its members.';

- 2) The following paragraphs 6-11 are inserted after paragraph 5

'6. The Minister of Justice may appoint the Disciplinary Officer of the Minister of Justice for the purpose of conducting a specific case relating to a prosecutor of the Institute. The appointment of the Disciplinary Officer of the Minister of Justice shall cause the exclusion of another officer from taking action in the case.

7. The Disciplinary Officer of the Minister of Justice is appointed from among public prosecutors specified on a case-by-case basis by the National Prosecutor. In justified circumstances, in particular in the event of death or prolonged obstacles to performing the duties of the Disciplinary Officer of the Minister for Justice, the Minister of Justice shall appoint as replacement another public prosecutor from among the public prosecutors specified by the National Prosecutor.

8. The Disciplinary Officer of the Minister of Justice may initiate proceedings upon a request of the Minister of Justice or join pending proceedings.

9. The appointment of the Disciplinary Officer of the Minister of Justice shall be equivalent to requesting that investigation proceedings or disciplinary proceedings be initiated.

10. The function of the Disciplinary Officer of the Minister of Justice shall expire as soon as a ruling refusing to initiate disciplinary proceedings, discontinuing disciplinary proceedings or closing disciplinary proceedings becomes final. The expiry of the function of the Disciplinary Officer of the Minister of Justice shall not preclude the Minister of Justice subsequently appointing an officer again for the same case.

11. The Minister of Justice may oversee the activities of the disciplinary court, point out errors and demand explanations and the correction of the errors' effects; these activities must not encroach on an area in which disciplinary court members are independent.'

Article 105 The Military Courts (Structure) Act of 27 July 2001 (Journal of Laws 2016, items 2062, as amended⁹⁾) is amended as follows:

1) in Article 41b, the following paragraphs 3a and 3b are added after paragraph 3:

'3 a. The authority competent to examine a complaint concerning the activities of a deputy disciplinary officer of an appeal court or a deputy disciplinary officer of a regional court shall be the Disciplinary Officer for Ordinary Court Judges, and the authority competent to examine a complaint concerning the Disciplinary Officer for Ordinary Court Judges shall be the National Council of the Judiciary.

3b. The authority competent to examine a complaint concerning the activities of the Disciplinary Officer of the Minister of Justice shall be the Minister for Justice.';

2) Article 41d is replaced by the following:

'Article 41d. The complaint, to the extent it includes a request to hold a judge or an assistant judge ('*asesor sądowy*') responsible under disciplinary liability, shall be forwarded immediately to the competent disciplinary officer. Having first established the circumstances raised in the complaint, the officer may undertake investigation activities on their own initiative. The disciplinary officer shall notify the complainant and the authority that forwarded the complaint of the manner in which the complaint will be handled. In the event of disciplinary proceedings being instituted and a request being submitted to the disciplinary court for a disciplinary case to be examined, the disciplinary officer shall notify the complainant of such actions. Article 114(9), (11) and (13) shall not apply.';

3) Article 61(1)(1) is replaced by the following:

'1) shall be exclusively a Polish citizen and enjoy full civil and full public rights and shall have not been convicted for an intentional crime prosecuted by public indictment or an intentional fiscal crime.';

4) Article 68(2) is replaced by the following:

'2. A final judgment of the disciplinary court concerning a judge's removal from office and a final court ruling imposing a criminal penalty depriving them of their public rights or banning them from holding the post of judge shall, *ipso jure*, result in the loss

^{3b}. ¹⁰⁾ Amendments to the consolidated text of this Act were published in Journal of Laws 2016, items 1948, 2103 and 2261; 2017, items 38, 60, 803, 1139 and 1452.

of office and post of judge; the service relationship of the judge shall expire when the ruling or judgment becomes final.’;

5) Article 77(1)(3) is replaced by the following:

‘3) in the Supreme Court - at the motion of the First President of the Supreme Court.’;

6) In Article 80:

a) paragraph 2d is replaced by the following:

‘2d. The disciplinary court shall examine a request for criminal proceedings to be brought against a judge within 14 days of its receipt by the disciplinary court.’;

b) the following paragraph 2da is added after paragraph 2d:

‘2da. If a motion for criminal proceedings or for remand in custody refers to a judge who was arrested in flagrante delicto or an offence subject to imprisonment of up to at least 8 years, an offence referred to in Article 177(1) of the Criminal Code in conjunction with Article 178(1) of the Criminal Code and in Article 178a(1) or (4) of the Criminal Code and who remains in custody, the disciplinary court shall adopt a resolution on the motion within 24 hours of its receipt by the disciplinary court. A resolution allowing criminal proceedings to be brought against a judge or for their remand in custody shall be enforceable immediately.’;

c) paragraph 2e is replaced by the following:

‘2e. Before issuing a resolution, the disciplinary court shall hear the disciplinary officer, the judge, a representative of the authority or the person who filed the motion, if present. Failure to appear on their part or on the part of the defence counsel shall not be an obstacle to considering the motion.’;

7) in Article 81, the following paragraph 3a is added after paragraph 3:

‘4. Where a judge accepts being held liable under criminal law as provided for in paragraph 3, they shall be relieved of disciplinary liability.’

8) the following Article 82c is added after Article 82b:

‘Article 82c. A judge is required to perform the activities relating to the duties entrusted to them of a disciplinary court judge at an appeal court.’;

9) In Article 86:

a) paragraph 1 is replaced by the following:

‘1. A judge may take up no additional employment, save as a teacher, scholar teacher or scholar, except:

1. employment as a teacher, scholar teacher or scholar at a Polish

university within the meaning of the Higher Education Act of 27 July 2005,

2. teaching at the National School of Judiciary and Public Prosecution and on training courses organised by the self-governing professional bodies referred to in the Advocates Act of 26 May 1982, the Legal Advisers Act of 6 July 1982, the Notaries Act of 14 February 1991 and the Bailiffs and Enforcement Act of 29 August 1997 (Journal of Laws, 2017, items 1277, 1343 and 1452)

- for a total of no more than 210 teaching hours.’,

b) paragraphs 4 and 5 are replaced by the following:

‘4. An appeal court judge and a regional court judge shall notify the presidents of relevant courts of their intention to take up additional employment as referred to in paragraph 1 or another activity or gainful occupation, including teaching hours other than exercised within the post specified in paragraph 1, at least 14 days prior to the commencement of such additional employment, activity or gainful occupation. A district court judge shall submit the notification referred to in the first sentence to the president of the relevant regional court.

5. The president of the relevant court, in the case of a judge, may object to the taking-up or performing of such additional employment as referred to in paragraph 1 if they decide that performing such employment would obstruct the performance of the judge’s duties, undermine trust in their impartiality or compromise the dignity of the office of judge.

c) the following paragraph 5a is added after paragraph 5:

‘5 a. If the notification of the intention to take up additional employment as referred to in paragraph 1, and of the intention to take up another activity or gainful occupation, is submitted after the expiry of the time-limit referred to in paragraph 4, the judge may take up additional employment, another activity or gainful occupation only if the authority referred to in paragraph 5 gave its consent to this.’,

d) the following paragraph 7 is added:

‘7. The president of the competent court shall immediately publish in the Public Information Bulletin on the website of the competent court information to the effect that the judge has taken up the additional employment referred to in paragraph 1 or other activity or gainful occupation, indicating the entity at which the judge has taken up the additional employment or other activity or gainful occupation, the nature of the additional employment or other activity or gainful occupation and the amount of time devoted to them.’;

10) Article 91 a(6) is replaced by the following:

‘6. The period of employment referred to in paragraph 3 shall be extended by three years if, during that period, a disciplinary penalty other than a warning, a finding of error issued three times under the procedure referred to in Article 40 or a notice issued three times under the procedure referred to in Article 37(4) is imposed on the judge.’;

11) in Article 104(3), the following subparagraph 2a is added after subparagraph 2:

‘2a) reduction of a judge's basic remuneration by 5 % to 50 % for a period of six months to two years.’;

12) in Article 106zd:

a) the following paragraph 6 a is added after paragraph 6:

‘6 a. If a motion for criminal proceedings or for remand in custody refers to an assistant judge who was arrested in flagrante delicto or an offence subject to imprisonment of up to at least 8 years, an offence referred to in Article 177(1) of the Criminal Code in conjunction with Article 178(1) of the Criminal Code and in Article 178a(1) or (4) of the Criminal Code and who remains in custody, the disciplinary court shall adopt a resolution on the motion within 24 hours of its receipt by the disciplinary court. A resolution allowing criminal proceedings to be brought against an assistant judge or for their remand in custody shall be enforceable immediately.’,

b) paragraph 7 is replaced by the following:

‘7. Before issuing a resolution, the disciplinary court shall hear the disciplinary officer, the assistant judge, a representative of the authority or the person who filed the motion, if present. Failure to appear on their part or on the part of the defence counsel shall not be an obstacle to considering the motion.’;

13) In Article 108:

a) paragraph 3 is repealed,

b) the following paragraph 5 is added after paragraph 4:

‘5. Time-barring for disciplinary cases shall be suspended for the period of disciplinary proceedings, starting from the date on which a motion is filed with the disciplinary court to the date on which the disciplinary proceedings are finally closed. This does not apply to any case where the subject matter of the motion is disciplinary liability of a judge for a minor offence or minor tax offence.’;

14) In Article 109:

a) paragraph 2 is deleted;

b) the following paragraphs 3a and 3b are added after paragraph 3:

‘3 a. The penalty specified in paragraph 1(4) shall consist in changing the place of service of a judge:

- 1) to a district court located in another appeal court jurisdiction - in the case of a district court judge;
- 2) to a regional court located in another appeal court jurisdiction - in the case of a regional court judge;
- 3) to another appeal court - in the case of an appeal court judge.

The region, appeal court jurisdiction or court shall be specified by the disciplinary court in its judgment.

3b. If specifying the place of service pursuant to paragraph 3a(1) or (2) would be counterproductive in the light of the specific circumstances of the judge on whom the penalty was imposed, the disciplinary court may specify a new place of service in a court within the same appeal court jurisdiction.’;

15) the following Articles 109a and 109b are added after Article 109:

‘Article 109a. 1. A final judgment of the disciplinary court convicting the defendant shall be made public.

2. The disciplinary court may refrain from publishing the judgment if this is necessary in order to safeguard legitimate private interest or if publishing the judgment is not necessary for the purpose of the disciplinary proceedings.

3. A final judgment of the disciplinary court acquitting the defendant judge shall be published at that judge’s request filed with the disciplinary court of first instance within 14 days after the judgment becomes final.

4. The disciplinary court shall publish the judgment by posting it on the Supreme Court’s website. The operative part of the judgment shall be published without the personal data of a natural person or other person if that is necessary for the purpose of protecting the legitimate interests of persons concerned.

Article 109b. Information about a final transfer of a judge to another place of service and about the judge’s removal from office shall be published by the Minister of Justice in the Official Gazette of the Republic of Poland *Monitor Polski*.’;

16) in Article 110:

a) paragraph 1 is replaced by the following:

‘1. Disciplinary cases of judges shall be heard:

1) in the first instance:

- a) by disciplinary courts at appeal courts by a bench of three judges;
- b) by the Supreme Court by a bench of two judges of the Disciplinary Chamber and one lay judge of the Supreme Court for cases in the matter of disciplinary misconduct that satisfies the criteria of an intentional crime prosecuted by public indictment or an intentional fiscal offence or in cases in which the Supreme Court has requested that a disciplinary case be examined and a finding of error be issued;

2) in the second instance, by the Supreme Court, adjudicating by a bench of two judges of the Disciplinary Chamber and one lay judge of the Supreme Court.’,

b) paragraph 3 is replaced by the following:

‘3. The disciplinary court in the region in which the judge who is subject to disciplinary proceedings performs their service shall be excluded from hearing cases referred to in paragraph 1(1)(a). The disciplinary court competent to hear the case shall be specified by the President of the Supreme Court heading the Disciplinary Chamber at the request of the disciplinary officer’,

c) paragraph 4 is repealed;

17) the following Articles 110a to 110c are added after Article 110:

‘Article 110a. 1. The Minister for Justice, having consulted the National Council of the Judiciary, shall entrust the duties of a disciplinary court judge at an appeal court to a common court judge with at least 10 years of experience as a judge.

2. The performance of the duties of a disciplinary court judge at an appeal court shall be independent of the performance of duties related to the place of service of the judge.

3. The term of office of a disciplinary court judge at an appeal court shall be six years.

4. After the term of office expires, a disciplinary court judge at an appeal court may still take part in examining cases initiated earlier with that judge’s participation, until they are closed.

5. The term of office of a disciplinary court judge at an appeal court shall expire before its end in the event of:

- 1) termination or expiry of the judge’s service relationship;
- 2) retirement of the judge;

3) the imposition on a judge of a disciplinary penalty specified in subparagraphs 2 to 4 of Article 109(1).

Article 110b. 1. The president of a disciplinary court at an appeal court shall be appointed from among disciplinary court judges by the President of the Supreme Court heading the Disciplinary Chamber. The term of office of the president of a disciplinary court shall last three years.

2. The president of a disciplinary court at an appeal court may be dismissed by the President of the Supreme Court heading the Disciplinary Chamber during their term of office if:

- 1) they seriously or persistently fail to fulfil their official duties;
- 2) other reasons render their remaining in office incompatible with the interest of the judiciary;
- 3) they resign from office.

3. In the absence of the president of a disciplinary court at an appeal court, the president's duties shall be performed by the longest-serving judge of the court.

4. The president of the appeal court shall ensure adequate facilities and technical conditions and administrative and financial support for the disciplinary court.

Article 110c. The Minister of Justice shall specify, by means of an ordinance, the number of judges in disciplinary courts at appeal courts, taking into consideration organisational aspects and the need to ensure efficient proceedings in disciplinary cases.';

18) Article 112 is replaced by the following:

'Article 112. 1. The following persons may act as prosecutors before disciplinary courts: the Disciplinary Officer for Common Court Judges and Deputy Disciplinary Officers for Common Court Judges, as well as deputy disciplinary officers at appeal courts and deputy disciplinary officers at regional courts.

2. In cases of appeal court judges and presidents and vice-presidents of appeal courts and regional courts, the following persons may act as prosecutors before disciplinary courts: the Disciplinary Officer for Common Court Judges and Deputy Disciplinary Officers for Common Court Judges. In cases of other regional court judges and presidents and vice-presidents of district courts, the person authorised to act as a prosecutor shall be a deputy disciplinary officer at an appeal court, and in cases of other district court judges and assistant judges, this shall be a deputy disciplinary officer at a regional court.

3. The Disciplinary Officer for Common Court Judges and two Deputy Disciplinary Officers for Common Court Judges shall be appointed by the Minister of Justice for a four-year term of office.

4. The National Council of the Judiciary shall ensure administrative support for the Disciplinary Officer for Common Court Judges and Deputy Disciplinary Officers for Common Court Judges by establishing a separate organisational unit within the Council's Office.

5. The Disciplinary Officer for Common Court Judges, the Deputy Disciplinary Officer for Common Court Judges, the disciplinary officer at the appeal court, the deputy disciplinary officer at the appeal court, the disciplinary officer at the regional court and the deputy disciplinary officer at the regional court shall perform their duties until other persons are appointed to perform these functions in the next term of office.

6. No later than one month prior to the end of the term of office of the deputy disciplinary officer at the regional court, the general assembly of judges of the region shall present to the Disciplinary Officer for Common Court Judges three candidates for the post who received the highest number of votes, selected by the same assembly.

7. Each judge voting on the candidates referred to in paragraph 6 may cast only one vote for a candidate of their choice. The vote shall be taken by secret ballot.

8. If after the vote referred to in paragraph 7 it is impossible, given the division of votes, to select three candidates, another vote is conducted to select a candidate from the candidates who received the equal highest number of votes. The provision of paragraph 7 shall apply.

9. The chair of the general assembly of judges of the region shall present the Disciplinary Officer for Common Court Judges with the minutes of the meeting that indicate the candidates selected for the post of deputy disciplinary officer at the regional court immediately after they are selected.

10. If the term of office of a deputy disciplinary officer at the regional court expires prior to its end, paragraph 6 shall apply *mutatis mutandis*, however, the time-limit for presenting candidates for the post shall be two months from the date of expiry of the term of office. Paragraphs 7 to 9 shall apply.

11. The Disciplinary Officer for Common Court Judges shall appoint one of the candidates presented under the procedure set forth in paragraphs 6 and 10 to perform the function of deputy disciplinary officer at the regional court for a four-year term of office.

12. If the required number of candidates is not presented or if candidates are not presented within the time-limit referred to in paragraphs 6 and 10, the Disciplinary Officer for Common Court Judges shall entrust the duties of the deputy disciplinary officer at the regional court to a judge of their choice.

13. The provisions of paragraphs 6 to 12 shall apply *mutatis mutandis* to the election and appointment of the deputy disciplinary officer at the appeal court.';

19) the following Articles 112 a to 112c are added after Article 112:

'Article 112a. Unless otherwise provided for by law, the provisions concerning the Disciplinary Officer for Common Court Judges shall apply *mutatis mutandis* to Deputy Disciplinary Officers for Common Court Judges, the Disciplinary Officer of the Minister for Justice, the deputy disciplinary officer at the appeal court and the deputy disciplinary officer at the regional court.

Article 112b. 1. The Disciplinary Officer for Common Court Judges and the Deputy Disciplinary Officer for Common Court Judges may take over a case conducted by a deputy disciplinary officer at a regional court or hand over a case to that officer.

2. If a case cannot be conducted by the competent deputy disciplinary officer at the regional court, the Disciplinary Officer for Common Court Judges shall appoint a deputy disciplinary officer from another region to conduct the case.

3. Paragraphs 1 and 2 shall apply *mutatis mutandis* to the deputy disciplinary officer at the appeal court, however, a case may be handed over to a deputy or another deputy may be assigned to the case only from among deputy disciplinary officers at appeal courts.

Article 112c. 1. The Minister of Justice may appoint the Disciplinary Officer of the Minister of Justice for the purpose of conducting a specific case relating to a judge. The appointment of the Disciplinary Officer of the Minister of Justice shall exclude any other officer from taking actions in the case.

2. The Disciplinary Officer of the Minister of Justice shall be appointed from among common court judges or Supreme Court judges.

3. The Disciplinary Officer of the Minister of Justice may initiate proceedings upon the request of the Minister of Justice or join pending proceedings.

4. The appointment of the Disciplinary Officer of the Minister of Justice shall be equivalent to a request for initiating investigation proceedings or disciplinary proceedings.

5. The appointment of the Disciplinary Officer of the Minister of Justice shall expire as soon as a ruling refusing to initiate disciplinary proceedings, discontinuing

disciplinary proceedings or closing disciplinary proceedings becomes final. The expiry of the function of the Disciplinary Officer of the Minister of Justice shall not preclude the Minister of Justice subsequently appointing an officer again for the same case.

20) Article 113 is replaced by the following:

'Article 113. 1. The defendant may appoint a defence counsel from among judges, public prosecutors, advocates or legal advisers.

2. If the defendant is unable to participate in proceedings before the disciplinary court for reasons of illness, the president of the disciplinary court or the disciplinary court shall appoint, at the reasoned request of the defendant, a public defender from among advocates or legal advisers. In the request, the defendant must prove that their health prevents them from taking part in disciplinary proceedings by submitting a medical certificate issued by a court-appointed physician.

3. In exceptional circumstances, when a defendant has failed to submit a request for reasons beyond their control, a public defender may be appointed without the request referred to in paragraph 2.

4. After the reasons for the defendant's inability to take part in disciplinary proceedings cease to apply, the president of the disciplinary court or the disciplinary court shall release the public defender from their duties, unless there are any other circumstances justifying the participation of the public defender in the proceedings.';

21) the following Articles 113a and 113b are added after Article 113:

'Article 113a. Activities related to the appointment of a public defender and their taking up of the defence shall not have a suspensive effect on the course of proceedings.

Article 113b. In cases regulated by this chapter, Article 117(2) of the Code of Criminal Procedure shall not apply, unless the law requires that the participant be informed of the date of a procedural activity and there is no proof that they have been informed of it.';

22) Article 114 is replaced by the following:

'Article 114. 1. The disciplinary officer shall initiate an investigation at the request of the Minister for Justice, the president of the appeal court or the president of the regional court, the college of the appeal court or the college of the regional court, the National Council of the Judiciary, or on their own initiative, after establishing the circumstances necessary to state that the criteria of disciplinary misconduct were satisfied. The investigation must be conducted within 30 days of being initiated by the disciplinary officer.

2. As part of the investigation, the disciplinary officer may request that the judge submit a written statement on the subject matter of the investigation within 14 days of receipt of the request. The disciplinary officer may also accept an oral statement from the judge. The judge's failure to submit the statement shall not have a suspensive effect on the course of proceedings.

3. If, after the investigation has been carried out, there are grounds for initiating disciplinary proceedings, the disciplinary officer shall initiate disciplinary proceedings and draw up the disciplinary charges in writing.

4. Immediately after the disciplinary charges are drawn up, the disciplinary officer shall serve them on the defendant. When serving the charges, the disciplinary officer shall summon the defendant to present written explanations and any evidence within 14 days of service of the disciplinary charges. If this deadline is not satisfied, the disciplinary officer may leave evidence filed after the deadline unexamined, unless the defendant proves that the evidence was not known to them earlier.

5. The disciplinary officer may also, and shall, at the request of the defendant, accept explanations by means of a hearing.

6. Failure to provide explanations within the time-limit specified in paragraph 4 or failure to appear at a hearing on the date set by the disciplinary officer shall not have a suspensive effect on further actions.

7. When serving charges, the disciplinary officer shall request that the President of the Supreme Court heading the Disciplinary Chamber designate a disciplinary court to examine the case at first instance. The President of the Supreme Court heading the Disciplinary Chamber shall assign the case to a court within seven days of receipt of the request.

8. On expiry of the time-limit referred to in paragraph 4, and – if necessary – after taking further evidence, the disciplinary officer shall submit a request to the disciplinary court specified pursuant to paragraph 7 for the disciplinary case to be examined. The request should include the precise designation of the act which is the subject matter of the proceedings, a list of evidence supporting the request and a statement of the grounds.

9. If the disciplinary officer does not find any grounds for initiating disciplinary proceedings at the request of the authorised entity, the disciplinary officer shall issue a decision refusing to initiate proceedings. A copy of the decision shall be served on the entity which requested that proceedings be initiated, the college of the relevant regional court or appeal court, and the defendant. A copy of the decision shall also be served on the Minister for Justice, who may file an objection within 30 days. Filing an objection

shall be equivalent to an obligation to initiate disciplinary proceedings and any instructions of the Minister of Justice regarding further proceedings shall be binding on the disciplinary officer.

10. If disciplinary proceedings gave no grounds for submitting a request to the disciplinary court to examine the disciplinary case, the disciplinary officer shall issue a decision discontinuing the disciplinary proceedings.

11. The defendant, the authority which submitted the request to initiate disciplinary proceedings and the relevant college may appeal to the disciplinary court within seven days of service of the decision referred to in paragraph 10.

12. At the request of the authority entitled to submit an appeal or objection, the disciplinary officer shall immediately send or otherwise make available materials collected during the investigation or disciplinary proceedings.

13. The appeal must be examined within two weeks of its filing with the court.’;

23) Article 115 is replaced by the following:

‘Article 115. 1. The disciplinary court shall examine disciplinary cases at a hearing, unless it is sufficient to examine the case at a session.

2. When serving summons to a hearing, the disciplinary court shall call upon the parties to submit motions for evidence within 14 days of service of the summons.

3. The disciplinary court may leave a motion for evidence filed after the expiry of the time-limit referred to in paragraph 2 unexamined, unless the party proves that the motion could not have been filed within the time-limit for reasons beyond their control.

4. The disciplinary court shall also request that, within the time-limit referred to in paragraph 2, the defendant provide explanations in writing and specify the defence counsel, if appointed. Failure to provide explanations within the time-limit shall not have a suspensive effect on further proceedings.’;

24) the following Articles 115a to 115c are added after Article 115:

‘Article 115a. 1. The unjustified failure of the notified defendant or their defence counsel to appear at a hearing or a session shall not have a suspensive effect on the examination of the case.

2. If the case cannot be examined for reasons of justified absence of the defendant and the defendant has no defence counsel, the disciplinary court shall appoint a public defender and set a time-limit for the defender to become acquainted with case materials.

3. The disciplinary court shall continue the proceedings regardless of the justified absence of the notified defendant or the defendant's defence counsel, unless this runs counter to the interest of the disciplinary proceedings.

Article 115b. 1. The disciplinary court may give a summary judgment if it establishes, on the basis of the material gathered by the disciplinary officer, that the circumstances of the offence and the fault of the defendant are beyond doubt and that it will suffice to impose the penalties laid down in subparagraphs 1 to 3 of Article 109(1).

2. The summary judgment shall be given by the disciplinary court adjudicating by a one-judge bench.

3. The penalty referred to in subparagraph 2a of Article 109(1) shall be imposed, by means of a summary judgment, in the amount of 5 % to 10 % of the remuneration for a period of six months to one year.

4. Objections against the summary judgment may be submitted by the defendant, the disciplinary officer, the National Council of the Judiciary and the Minister for Justice.

5. Objections shall be filed with the disciplinary court which gave the summary judgment within the final time-limit of seven days from the day of service of the judgment.

Article 115c. Evidence obtained for the purpose of criminal proceedings pursuant to the provisions of Articles 168b, 237 or 237a of the Code of Criminal Procedure or as a result of operational surveillance may be used in the course of disciplinary proceedings.';

25) Articles 121 and 122 are replaced by the following:

'Article 121. 1. The defendant, the disciplinary officer, the National Council of the Judiciary and the Minister of Justice may appeal against a judgment issued by the disciplinary court of first instance, as well as against decisions and instructions that make it impossible to hand down a judgment. The appeal shall be filed within 30 days and the time-limit for each entitled party shall start running on the date of service of the ruling or instruction.

2. The appeal shall be examined within two months of the date of its receipt by the disciplinary court of second instance.

3. In appeal proceedings, Article 454 of the Code of Criminal Procedure shall not apply.

4. The court of appeal shall examine the case within the scope of appeal, and, if the appeal measure specifies objections to the decision, also within the scope of those

objections. The court of appeal shall examine the case in a wider scope in circumstances referred to in Articles 435, 439(1) and the first sentence of Article 455 of the Code of Criminal Procedure, or if it finds the ruling to be manifestly unjust.

5. If the disciplinary court of first instance examined a disciplinary case at a session, the court of appeal shall also examine the case at a session, unless it is necessary for the proper examination of the case to take evidence during a hearing directly from the defendant's explanations, witness testimonies, opinions of expert witnesses or other significant evidence.

6. The court of appeal shall examine a disciplinary case at a hearing on the basis of evidence included in the case file, unless it decides that it is necessary for the proper examination of the case to take evidence directly from the defendant's explanations, witness testimonies, opinions of expert witnesses or other significant evidence.

Article 122 1. A judgment of the disciplinary court may not be appealed against in cassation.

2. A judgment of the disciplinary court of second instance may be appealed against to a different bench of the same court if the judgment sentenced the defendant to a disciplinary penalty despite the previous judgment of the disciplinary court of first instance acquitting the defendant or discontinuing the proceedings.

3. The judgment referred to in paragraph 2 shall become final after the time-limit for filing an appeal with a different bench of the disciplinary court of second instance has expired without an appeal having been brought.

4. The time-limit for submitting an appeal against a judgment with a different bench of the disciplinary court of second instance shall be 30 days from the service of the judgment. The provisions concerning the proceedings before the disciplinary court of second instance shall apply *mutatis mutandis* to the appeal proceedings before a different bench of the disciplinary court of second instance.';

26) Article 124 is replaced by the following:

'Article 124. 1. A copy of a final judgment sentencing to a disciplinary penalty and referred to in Article 109(5) shall be added to the personal file of the judge.

2. Five years after the judgment imposing the penalty referred to in Article 109(1)(1-4) becomes final, the Minister of Justice shall order that the copy of the judgment referred to in Article 109(5) be removed from the personal file of the judge, unless another convicting judgment was issued against the penalised person within the same period. In such circumstances, it shall be possible only to remove copies of all judgments from the judge's personal file at the same time.

3. The court president responsible for keeping the personal file of the judge shall notify the Minister of Justice immediately of the circumstances referred to in the first sentence of paragraph 2.’

27) In Article 162

a) paragraph 7 is replaced by the following:

‘7. The cost of the fee for access to information from the National Criminal Register shall be borne by the State Treasury.’,

b) the following paragraph 7a is added after paragraph 7:

‘7a. The cost of the medical test and of issuing a doctor’s certificate shall be borne by the candidate lay judge.’,

c) paragraph 8 is replaced by the following:

‘8. The cost of the fee for issuing an up-to-date extract from the National Court Register or an extract or certificate from another relevant register or record shall be borne by the State Treasury’.

Article 106 The Code of Procedure for Minor Offences of 24 August 2001 (Journal of Laws 2016, items 1713 and 1948, and 2017, items 708, 962, 966) shall be amended as follows:

1) Article 15(3) is replaced by the following:

‘3. In cases in which military courts adjudicated, the powers of a regional court are enjoyed by a regional military court and the powers of an appeal court are enjoyed by the Supreme Court.’;

2) Article 113(4) is replaced by the following:

‘4. In cases for which military courts are competent, a decision to re-open a case shall be made by a regional military court in a session of a one-person bench, and in cases concluded with a ruling of this court, this decision is made by the Supreme Court.’.

Article 107 The Prosecution Act of 28 January 2016 (Journal of Laws, item 177, as amended¹⁰) is amended as follows:

1) In Article 135, paragraphs 10 to 13 are replaced by the following:

‘10. If a motion for criminal proceedings to be brought against a prosecutor or for remand in custody refers to a public prosecutor who was arrested *in flagrante delicto* committing a crime or an offence for which the maximum term of imprisonment is at

¹⁰ Amendments to this Act were published in Journal of Laws 2016, items 1579, 2103, 2149 and 2261; 2017, items 38, 1139 and 1452.

least eight years, an offence referred to in Article 177(1) of the Criminal Code of 6 June 1997 (Journal of Laws 2016, item 1137, as amended¹¹) in conjunction with Article 178(1) of the Criminal Code, and in Article 178a(1) or (4) of the Criminal Code and who remains in custody, a disciplinary court shall adopt a resolution on the motion without delay, no later than within 24 hours of its receipt by the disciplinary court. A resolution allowing criminal proceedings to be brought against a public prosecutor or a prosecutor to be remanded in custody shall be enforceable immediately.

11. The applicant and the disciplinary officer shall be entitled to appeal to the disciplinary court of second instance within seven days from the date of service of a resolution refusing authorisation for criminal proceedings against a public prosecutor or for remand in custody. Within the same time-limit, the public prosecutor shall be entitled to appeal against a resolution authorising criminal proceedings against them or remand in custody.

12. A judge presiding over the bench of a disciplinary court of second instance shall send copies of appeals to the remaining bodies referred to in paragraph 11, which are then entitled to respond to the appeal in writing within seven days from the date of service thereof.

13. The disciplinary court of second instance shall adjudicate in a session with the participation of the applicant, the prosecutor whom the motion concerns, and the disciplinary officer. The parties' failure to appear shall not prevent the case from being heard, unless the court decides otherwise.';

2) Article 142(5) is replaced by the following:

'5. In the case of disciplinary misconduct or a minor offence, the disciplinary court may waive the imposition of a penalty.';

3) Article 145 is replaced by the following:

'Article 145. 1. In matters indicated in this chapter the following bodies shall adjudicate:

1) in the first instance:

- a) the Disciplinary Court at the Office of the Prosecutor-General by a bench of three members,
- b) the Supreme Court by a bench of two judges of the Disciplinary Chamber and one lay judge of the Supreme Court for cases of disciplinary misconduct that satisfies the criteria of an intentional crime prosecuted by public indictment or

¹¹ Amendments to the consolidated text of this Act were published in Journal of Laws 2016, item 2138; 2017, items 244, 768, 773, 952, 966 and 1214.

an intentional tax offence;

2) in the second instance, the Supreme Court, adjudicating by a bench of two judges of the Disciplinary Chamber and one lay judge of the Supreme Court.

2. The president and deputy president of the Disciplinary Court at the Office of the Prosecutor-General shall be appointed by the Prosecutor-General for a four-year term of office from among public prosecutors elected as members of that court.

3. The term of office of the members of the Disciplinary Court at the Office of the Prosecutor-General shall commence on appointment of the president and shall last four years.

4. Members of the Disciplinary Court at the Office of the Prosecutor-General shall be independent in their judgments and shall only be subject to the law.

5. The Disciplinary Court at the Office of the Prosecutor-General may adjudicate in offsite sessions at supra-regional and regional public prosecution offices within the competence of which the defendant is a public prosecutor or, in exceptional circumstances, in another location, unless it is contrary to the interest of the judiciary.';

4) Article 146 is repealed;

5) Article 147 is replaced by the following:

'Article 147. 1. The bench of the Disciplinary Court at the Office of the Prosecutor-General shall be determined by the president on the basis of a list of all members of that court, in the order in which the cases are registered, provided there is at least one public prosecutor in the bench of the Disciplinary Court who adjudicates in an organisational unit of the public prosecutor's office equivalent to the one in which the defendant performed service or discharged duties at the moment the act was committed. A deviation from the order in which the cases are registered is possible solely in the event of illness of a court member or for other material reason, which shall be indicated in the order fixing a hearing or session. A public prosecutor designated by the president of the court shall preside over the bench.

2. A public prosecutor, an assistant public prosecutor or other person designated by the president of the disciplinary court of first instance may be the recorder.';

6) Article 148(5) is replaced by the following:

'5. Information included in case files of disciplinary proceedings concluded with a final judgment shall be subject to disclosure under the rules laid down in the Access to Public Information Act of 6 September 2001.';

7) in Article 149:

- a) paragraph 4 is replaced by the following:

‘4. In the event of an objection, the head public prosecutor referred to in paragraph 3 shall waive the disciplinary warning and notify the public prosecutor that the objection has been allowed, or waive the disciplinary warning and hand over the case to the disciplinary officer for the purpose of undertaking an investigation, or waive the disciplinary warning and hand over the case, via the disciplinary officer, for examination by the disciplinary court.’,

- b) paragraph 6 is replaced by the following:

‘6. In the circumstances laid down in paragraph 4, the disciplinary court shall issue a disciplinary ruling having heard the disciplinary officer and the public prosecutor in respect of whom the disciplinary penalty in the form of a warning was imposed, unless it is impossible to hear them.’,

- c) paragraph 8 is replaced by the following:

‘8. The appeal shall be heard by the disciplinary court of second instance.’;

- 8) in Article 150:

- a) paragraphs 2 to 5 are replaced by the following:

‘2. The head disciplinary judges shall have the right to suspend for the period referred to in paragraph 1. The decision on suspension may be appealed against to the disciplinary court. The ruling of the disciplinary court may not be appealed.

3. In justified circumstances and at the request of the disciplinary officer, the disciplinary court may extend the suspension of a public prosecutor by any further necessary period.

4. Once a motion for hearing a disciplinary case has been lodged with the disciplinary court, decisions on further suspension of a public prosecutor shall be taken by the disciplinary court. The disciplinary court shall determine the duration of the suspension of a public prosecutor.

5. The decisions referred to in paragraphs 3 and 4 are subject to appeal by the parties. The decision referred to in paragraph 3 is also subject to appeal by the head disciplinary judge.’,

- b) paragraphs 6 and 7 are repealed,

- c) paragraph 8 is replaced by the following:

‘8. The head disciplinary judge may waive the suspension of a public prosecutor at any time.’;

9) Article 151(1) is replaced by the following:

'1. In the event of final approval for launching criminal proceedings against a public prosecutor or in the event of an application for incapacitation being lodged with a competent court, the head disciplinary judge may suspend a public prosecutor pending the final judgment concluding the proceedings. The suspension decision may be appealed against to the Disciplinary Court at the Office of the Prosecutor-General. The suspension ruling is not subject to appeal. The head disciplinary judge may waive the suspension at any time.';

10) Article 152(1) is replaced by the following:

'1. If a public prosecutor is suspended, the Disciplinary Court at the Office of the Prosecutor-General may, at the request of the head disciplinary judge, reduce the amount of the public prosecutor's remuneration by 50 % for the period of suspension.';

11) the following Articles 153a and 153b are added after Article 153:

'Article 153a. 1. The Minister of Justice may appoint the Disciplinary Officer of the Minister of Justice for the purpose of conducting a specific case relating to a public prosecutor. The appointment of the Disciplinary Officer of the Minister of Justice shall exclude any other officer from taking action in the case.

2. The Disciplinary Officer of the Minister of Justice is appointed from among public prosecutors specified each time by the National Prosecutor.

3. The Disciplinary Officer of the Minister of Justice may initiate proceedings upon a request of the Minister of Justice or join pending proceedings.

4. The appointment of the Disciplinary Officer of the Minister of Justice shall be equivalent to a request for initiating investigation proceedings or disciplinary proceedings.

5. The appointment of the Disciplinary Officer of the Minister of Justice shall expire as soon as a ruling refusing to initiate disciplinary proceedings, discontinuing disciplinary proceedings or closing disciplinary proceedings becomes final. The expiry of the function of the Disciplinary Officer of the Minister of Justice shall not preclude the Minister of Justice subsequently appointing an officer again for the same case.

Article 153b. The provisions on disciplinary officers shall apply *mutatis mutandis* to the Disciplinary Officer of the Minister for Justice.';

12) in Article 154:

a) paragraph 1 is replaced by the following:

'1. A disciplinary officer shall initiate investigation proceedings at the request of the Prosecutor-General, the competent district or regional public prosecutor, as well as on their own initiative, after conducting a preliminary investigation of the circumstances necessary to establish the elements of disciplinary misconduct and after the public prosecutor submits a written statement or explanations, unless it is not possible to submit them. Whenever investigation proceedings are initiated, the competent officer shall immediately notify the Disciplinary Officer of the Prosecutor-General of that fact. The latter may entrust another officer with continuing the proceedings. Investigation proceedings must be concluded within 30 days after the first action is taken by the disciplinary officer.'

b) paragraphs 3 to 5 are replaced by the following:

'3. The authority which submitted the request to initiate disciplinary proceedings may appeal to the disciplinary court within seven days of service of the decision referred to in paragraph 2. An appeal cannot be made if the Prosecutor-General objected.

4. Upon completion of the activities referred to in paragraph 1, should there be any grounds for initiating disciplinary proceedings, a deputy disciplinary officer shall request that the Prosecutor-General appoint a disciplinary officer from outside the jurisdiction of the public prosecutor subject to investigation proceedings, to conduct disciplinary proceedings. The appointed disciplinary officer shall initiate disciplinary proceedings.

5. With a view to narrowing the group of persons suspected of committing disciplinary misconduct constituting a crime consisting in disclosing information concerning criminal proceedings classified as "confidential", "secret" or "top secret", the disciplinary officer may, in the course of the disciplinary proceedings, appoint an expert to implement technical measures vis-à-vis the public prosecutor who had access to such information, subject to their consent, with a view to controlling unconscious reactions on the part of the body.'

c) Paragraphs 8 to 10 are replaced by the following:

'8. On expiry of the time-limit referred to in paragraph 7, and, if necessary, after taking further evidence, the disciplinary officer shall submit a request for the disciplinary case to be examined by a disciplinary court. The request should include the precise indication of the act that is the subject matter of proceedings, list of evidence supporting the request and statement of the grounds.

9. If the disciplinary officer does not find any grounds for submitting a request for a disciplinary case to be examined, they shall issue a decision

discontinuing disciplinary proceedings. A copy of the order shall be served on the Minister for Justice, the Prosecutor-General, the body requesting disciplinary activities and the defendant.

10. The defendant and the body requesting disciplinary activities may appeal against the decision referred to in paragraph 9 to a disciplinary court within seven days of service of the decision.’,

- d) the following paragraph 10a is added after paragraph 10:

‘10a. In the circumstances referred to in paragraph 3, the Prosecutor-General may file an objection. In the event of an objection being filed, the instructions of the Prosecutor-General as to further proceedings shall be binding on the disciplinary officer. Filing an objection shall be equivalent to the obligation of instituting disciplinary proceedings.’,

- 13) Article 155(1) is replaced by the following:

‘1. On receipt of the request to hear a disciplinary case, the president of the adjudicating bench of the disciplinary court shall schedule a hearing, unless scheduling a session is sufficient.’;

- 14) in Article 156:

- a) paragraph 1 is replaced by the following:

‘1. The defendant may appoint a defence counsel from among public prosecutors, judges, advocates and legal advisers also at the stage of disciplinary proceedings conducted by a disciplinary officer.’;

- b) the following paragraphs 3 to 5 are added after paragraph 2:

‘3. If the defendant is unable to participate in the proceedings before the disciplinary court for reasons of illness, the president of the disciplinary court or the disciplinary court shall appoint, at a reasoned request of the defendant, a public defender from among advocates or legal advisers. In the request, the defendant shall prove, in particular by submitting a certificate issued by a court-appointed physician, that their state of health renders it impossible to participate in the disciplinary proceedings.

4. In exceptional circumstances, when a defendant has failed to submit a request for reasons beyond their control, a public defender may be appointed without the defendant having made a request.

5. After the reasons for the defendant's inability to take part in disciplinary proceedings cease to apply, the president of the disciplinary court or the

disciplinary court shall release the public defender from their obligations, unless there are any other circumstances justifying the participation of the public defender in the proceedings.’;

15) the following Articles 158a and 158b are added after Article 158:

‘Article 158a. 1. The disciplinary court, considering, on the basis of the material gathered by the disciplinary officer, that the circumstances of the act and the fault of the defendant are undisputed and imposing penalties laid down in Article 142(1)(13) will suffice, may give a summary judgment.

2. The summary judgment shall be given by the disciplinary court adjudicating by a one-judge bench.

3. The Prosecutor-General, the defendant and the disciplinary officer may object to the summary judgment.

4. The objection shall be filed with the disciplinary court which gave the summary judgment within the final time limit of seven days from the day of service thereof.

Article 158b. The evidence obtained for the purpose of criminal proceedings pursuant to the provisions of Articles 168b, 237 or 237a of the Code of Criminal Procedure or as a result of operational surveillance may be used in the course of disciplinary proceedings.’;

16) in Article 159 the word ‘judgment’ shall be replaced by the word ‘ruling’;

17) in Article 160:

a) paragraph 1 is replaced by the following:

‘1. The grounds for the ruling of the Disciplinary Court at the Office of the Prosecutor-General shall be drawn up in writing at the request of the Prosecutor-General, the disciplinary officer or the defendant within 21 days of receipt of the ruling. In particularly justified circumstances the president of that court may extend the time-limit for drawing up the grounds by a specific period.’;

b) paragraph 3 is replaced by the following:

‘3. The grounds to the ruling given by the Disciplinary Court at the Prosecutor-General’s Office shall be signed by the judge-rapporteur. In the event of a dissenting opinion, the grounds shall be signed by all the members of the bench.’;

18) the following Article 160a is added after Article 160:

‘Article 160a. 1. A final conviction by the disciplinary court shall be made public.

2. The disciplinary court may refrain from publishing the judgment, if it is unnecessary for the purpose of the disciplinary proceedings or vital in order to safeguard legitimate private interest.

3. A final judgment of the disciplinary court acquitting the defendant public prosecutor shall be published at their request filed with the first-instance disciplinary court within 14 days after the judgment becomes final.

4. The disciplinary court shall publish the judgment by posting it on the Supreme Court's website. If necessary for the purpose of protecting the legitimate interests of the natural or other persons concerned, the operative part of the judgment is published without indicating their personal data.';

19) in Article 162:

a) paragraph 1 is replaced by the following:

'1. The ruling of the first-instance disciplinary court shall be subject to appeal by the Prosecutor-General Office, the National Prosecutor, the defendant and the disciplinary officer. The appeal shall be examined within 2 months of the date of its receipt by the disciplinary court of second instance.';

b) paragraphs 2 to 4 are repealed,

c) paragraph 5 is replaced by the following:

'5. The ruling and the grounds shall be served on the Prosecutor-General's Office whenever grounds have been drawn up.';

20) Article 163 is repealed;

21) The following Article 163a is inserted after Article 163:

'Article 163a. 1. The ruling of a second-instance disciplinary court shall not be subject to appeal in cassation.

2. The ruling of the second-instance disciplinary court shall be subject to an appeal to a different bench of that court if the ruling of the second-instance disciplinary court imposed a disciplinary penalty on the defendant despite the first-instance disciplinary court having delivered a ruling acquitting the defendant or discontinuing the disciplinary proceedings.

3. The time-limit for filing the appeal referred to in paragraph 2 shall be 30 days from the date of service of the ruling. The provisions concerning the proceedings before the second-instance disciplinary court shall apply *mutatis mutandis* to the appeal proceedings before a different bench of the second-instance disciplinary court.

4. The ruling of the second-instance disciplinary court shall become final after the time-limit for filing the appeal referred to in paragraph 2 has expired without an appeal having been lodged.’;

22) in Article 167:

a) paragraph 1 is replaced by the following:

‘1. The president of the first-instance disciplinary court shall immediately send a copy of the final ruling and the grounds to the Prosecutor-General in order to enforce the ruling.’,

b) paragraph 2 is repealed;

23) Article 168 is replaced by the following:

‘Article 168. 1. A copy of the final ruling sentencing to a disciplinary penalty and the ruling referred to in Article 142(5) shall be annexed to the prosecutor’s personal file.

2. After a period of:

- 1) three years from the day on which the ruling imposing the penalty laid down in Article 142 §1(1) or the ruling specified in Article 142 §5 became final
- 2) five years from the day on which the ruling imposing the penalty laid down in Article 142 §1(2-4) became final,

- the Prosecutor-General, at the request of the offender, shall order that the copy of the ruling be removed from their personal file, unless another conviction has been handed down against the offender during that period. If the person penalised was the deputy Prosecutor-General, removal of the copy of the ruling from the personal file shall be ordered by the Prosecutor-General, at the request of the person penalised, unless another ruling convicting the person penalised has been delivered in that period.’;

24) Article 169 is replaced by the following:

‘Article 169. The Prosecutor-General may oversee the activities of the Disciplinary Court at the Prosecutor-General’s Office, point out errors and demand explanations and the correction of the errors’ effects; these activities must not encroach on an area in which disciplinary court members are independent.’;

25) Article 170(2)(3) is replaced by the following:

‘3) where penalties of different kinds are imposed for several cases of misconduct together with the penalty of dismissal from the prosecution service, the penalty shall be imposed as an aggregate penalty.’;

26) Article 171(2) is repealed;

27) Article 188 is replaced by the following:

'Article 188. Repeated complaints or requests concerning matters already determined and indicating no new circumstances shall not be heard; the applicant shall be informed of this fact in the first reply to the complaint or request.'

Article 108. 1. A Supreme Court Judge who reached 65 years of age before the entry into force of this Act or will reach 65 years of age in the three-month period following the entry into force of this Act shall retire on the day following the expiry of a three-month period following the entry into force of this Act, unless they submit within one month of the entry into force of this Act the declaration referred to in Article 36(1) to the President of the Republic of Poland and the President of the Republic of Poland consents to their continuing to occupy the post of Supreme Court judge. Article 36(2) to (4) shall apply *mutatis mutandis*.

2. Within six months of the entry into force of this Act, a Supreme Court judge may retire, submitting a statement to the President of the Republic of Poland via the First President of the Supreme Court.

3. Judges adjudicating in the Military Chamber shall retire on the day of entry into force of this Act.

4. If the circumstances referred to in the first or second sentences of paragraph 1 necessitate the election of the First President of the Supreme Court or a President of the Supreme Court, the President of the Republic of Poland shall entrust the running of the Supreme Court or chamber of the Supreme Court to a Supreme Court judge of their choice until the elected judge takes up their post. The General Assembly of the Supreme Court shall present to the President of the Republic of Poland the candidates referred to in Article 11(1) after at least 2/3 of the number of judges to be appointed to the Supreme Court's individual chambers under the Rules of Procedure of the Supreme Court issued under Article 4 of this Act have been appointed. The assembly of judges of a chamber of the Supreme Court shall present to the President of the Republic of Poland the candidates referred to in Article 14(2) after at least 2/3 of the number of judges to be appointed to that chamber of the Supreme Court under the Rules of Procedure of the Supreme Court issued under Article 4 of this Act have been appointed.

Article 109. 1. If the circumstances referred to in the first or second sentences of Article 108(1) make it necessary to make up the numbers of the College of the Supreme Court, the assembly of judges of the chamber of the Supreme Court concerned shall elect a new member or deputy member to the College. If the circumstances referred to in the first or second sentences of Article 108(1) mean that the number of judges in a chamber will fall below 2/3 of the number of posts for Supreme Court judges laid down in the Rules of

Procedure of the Supreme Court issued under Article 4 of this Act, an election shall immediately be held to bring the number of judges up to at least 2/3 of the number of posts.

2. The chambers of the Supreme Court referred to in subparagraphs 4 and 5 of Article 3(1) of this Act shall elect two members and a deputy member of the College of the Supreme Court immediately after at least 2/3 of the number of judges to be appointed to that chamber of the Supreme Court under the Rules of Procedure of the Supreme Court issued under Article 4 of this Act have been appointed.

Article 110. The first Rules of Procedure issued under Article 4 of this Act shall not require the consultation of the College of the Supreme Court.

Article 111. 1. Judges of the Supreme Court and the First President of the Supreme Court must comply with the requirements referred to in Article 43(1) and (2) within six months of the entry into force of this Act.

2. Failure to comply with the requirement referred to in paragraph 1 shall result in the termination of a Supreme Court judge's service relationship.

Article 112. 1. The Labour, Social Security and Public Affairs Chamber and the Military Chamber shall be abolished on the day of entry into force of this Act.

2. On the day of entry into force of this Act a Labour and Social Security Chamber, an Extraordinary Control and Public Affairs Chamber and a Disciplinary Chamber shall be created

3. Cases being examined by the Military Chamber shall be taken over and conducted by the Criminal Chamber.

Article 113. On the day of entry into force of this Act judges adjudicating in the Labour, Social Security and Public Affairs Chamber shall become judges adjudicating in the Labour and Social Security Chamber.

Article 114. Proceedings concerning an appointment to the post of Supreme Court judge instituted and not completed prior to the date of the entry into force of this Act shall be discontinued, unless the National Council of the Judiciary has submitted a request to the President of the Republic for the judge to be appointed to the office of Supreme Court judge.

Article 115. 1. For a three-year period following this Act's entry into force an extraordinary appeal may be filed against rulings discontinuing proceedings in cases which became final after 17 October 1997. The first sentence of Article 86(3) shall not apply.

2. If five years have elapsed since the contested ruling became final and the ruling has had irreversible legal effects or if warranted by the principles or the rights and freedoms of persons and citizens enshrined in the Constitution, the Supreme Court may confine itself to

confirming that the contested ruling is in breach of the law and indicating the circumstances which led it to issue such a decision.

Article 116. 1. The terms of office of disciplinary officers for common court judges, disciplinary officers for military court judges and their deputies appointed to perform these functions under the Acts amended in Articles 103i and 105, as currently worded, shall expire 30 days after the entry into force of this Act.

2. The disciplinary officers and their deputies referred to in paragraph 1 shall perform their duties until disciplinary officers and their deputies are appointed under the Acts amended in Articles 103i and 105, as amended by this Act.

Article 117. 1. A judge or assistant judge who, on the day of the entry into force of this Act, does not satisfy the condition that they hold exclusively Polish citizenship shall renounce the foreign citizenship within six months of the entry into force of this Act.

2. If the time-limit referred to in paragraph 1 expires without the requisite action having been taken, the service relationship of the judge or assistant judge shall be terminated.

Article 118. Subparagraphs 3 and 8 of Article 35(1) shall apply to persons appointed to the office of Supreme Court judge after the entry into force of this Act.

Article 119. Article 91a(6) of the Act referred to in Article 105, in its existing wording, shall apply to a judge who, prior to the entry into force of this Act, was the subject of a disciplinary penalty or two findings of error issued under the procedure laid down in Article 37(4) of the Act referred to in Article 105 or two findings of error under the procedure provided for in Article 40 of the Act referred to in Article 105 until the effect defined therein ends.

Article 120. The provisions concerning the limitation periods for the punishment of disciplinary misconduct introduced by this Act shall apply to acts committed prior to the entry into force of this Act, unless the limitation period expired prior to the entry into force of this Act.

Article 121. The provisions concerning disciplinary liability introduced by this Act shall apply to acts committed prior to the entry into force of this Act, unless the time-limit for filing an appeal in cassation expired prior to the entry into force of this Act.

Article 122. Disciplinary proceedings conducted under:

- 1) the Advocates Act of 26 May 1982,
- 2) the Legal Advisers Act of 6 July 1982,
- 3) the Notaries Act of 14 February 1991,
- 4) the Military Courts Organisation Act of 21 August 1997,

5) the Act of 18 December 1998 on the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation,

6) the Common Courts Organisation Act of 27 July 2001

- shall be governed by the existing provisions until investigations or proceedings before the current instance are ended.

Article 123. Actions taken in disciplinary proceedings prior to the entry into force of this Act shall remain in force, provided they were taken in compliance with the existing provisions.

Article 124. 1. Disciplinary proceedings ended by a final ruling issued by a disciplinary officer prior to the entry into force of this Act may be re-opened at the request of the Minister of Justice if a crime has been committed in relation to the proceedings and there are reasonable grounds for assuming that it might have affected the substance of the ruling or if new facts or evidence come to light after the ruling was issued.

2. Appeals against decisions dismissing a motion or leaving a motion unexamined may be brought before the disciplinary court of second instance.

3. When revoking a decision referred to in paragraph 2, the disciplinary court shall specify the reasons for revocation and, if necessary, the circumstances that need to be clarified or actions that need to be taken. Such instructions shall be binding on a disciplinary officer.

Article 125. The Prime Minister shall, by means of an ordinance, transfer planned budgetary income and expenditure, including remuneration, from the part of the budget allocated to the common courts and general organisational entities of a public prosecutor's office to the part allocated to the Supreme Court to be used for the functioning of the Supreme Court's new chambers, the appointment of Supreme Court judges to these chambers and the election and functioning of lay judges of the Supreme Court.

Article 126. Without delay and no later than two years after the entry into force of this Act, the Supreme Court shall publish in the Public Information Bulletin on the Supreme Court's website rulings and grounds delivered by the Supreme Court prior to the entry into force of this Act.

Article 127. 1. The Senate of the Republic of Poland shall conduct the election for the first term of office of lay judges of the Supreme Court within three months of the entry into force of this Act.

2. The College of the Supreme Court shall fix the number of lay judges of the Supreme Court within one month of the entry into force of this Act.

3. The First President of the Supreme Court shall communicate the number of lay judges of the Supreme Court to the Marshal of the Senate of the Republic of Poland no later than the day after that number is fixed by the College of the Supreme Court.

4. The first term of office of lay judges of the Supreme Court shall start on the day on which the lay judges of the Supreme Court are sworn in and end on 31 December 2021.

Article 128. 1. Pending the start of the first term of office of lay judges of the Supreme Court the duties of lay judges of the Supreme Court shall be performed by lay judges indicated by the First President of the Supreme Court from among the lay judges of the Warsaw Regional Court and the Warsaw-Praga Regional Court who have declared their readiness to adjudicate in disciplinary cases.

2. The day after this Act's entry into force the President of the Warsaw Regional Court and the President of the Warsaw-Praga Regional Court shall notify lay judges of the Warsaw Regional Court and the Warsaw-Praga Regional Court of the opportunity for them to adjudicate in disciplinary cases at the Supreme Court. Within 30 days of the entry into force of this Act lay judges of the regional courts indicated in the first sentence may declare their readiness to adjudicate in disciplinary cases to the First President of the Supreme Court.

3. When designating the lay judges referred to in paragraph 1, the First President of the Supreme Court shall cooperate with the President of the Warsaw Regional Court and the President of the Warsaw-Praga Regional Court in order to avoid interfering with activities involving these lay judges at, respectively, the Warsaw Regional Court or the Warsaw-Praga Regional Court.

4. Article 62(5) shall apply *mutatis mutandis* to the lay judges referred to in paragraph 1.

5. After the term of office of lay judges of the Supreme Court starts, a lay judge referred to in paragraph 1 may take part only in examining a case initiated earlier with their participation, until the case is closed.

Article 129. Wherever separate provisions refer to:

- 1) the Labour, Social Security and Public Affairs Chamber, this shall be understood as meaning, as applicable, either the Labour and Social Security Chamber or the Extraordinary Control and Public Affairs Chamber of the Supreme Court,
- 2) the Military Chamber of the Supreme Court, this shall be understood as meaning the Criminal Chamber of the Supreme Court.

Article 130. The existing implementing provisions issued pursuant to:

- 1) Article 23 of the Act repealed in Article 131 shall remain in force until the implementing

provisions issued pursuant to Article 4 of this Act enter into force,

- 2) Article 70(5) of the Act repealed in Article 131 shall remain in force until the implementing provisions issued pursuant to Article 100(5) of this Act enter into force,

- but for no longer than 12 months after this Act enters into force.

Article 131. The Supreme Court Act of 23 November 2002 (Journal of Laws 2016, items 1254, 2103 and 2261; 2017, item 38) is hereby repealed.

Article 132. This Act shall enter into force three months after the date of its publication.

Annex to the Act
of 2017 (item ...)

Table of multipliers for establishing the amount of post allowances

Order	Post	Multiplier
1.	First President of the Supreme Court	1.2
2.	President of the Supreme Court	1.0
3.	Head of division, Disciplinary Officer of the Supreme Court, Extraordinary Disciplinary Officer	0.7
4.	Press Officer, deputy head of division, Deputy Disciplinary Officer of the Supreme Court	0.5