

ACT

of 27 July 2001

Law on Common Courts Organisation

(Dz. U. /*Journal of Laws*/ of 12 September 2001)

PART 1

COMMON COURTS

Chapter 1

General Provisions

Art. 1. § 1. Common courts include district courts, regional courts and courts of appeal.

§ 2. Common courts administrate justice within the scope beyond the scope of administrative and military courts and the Supreme Court.

§ 3. Common courts also perform tasks within the scope of legal protection, entrusted thereto by acts.

§ 4. Whenever a reference is made herein to courts, without any more detailed specification, such reference means common courts.

Art. 2. § 1. Tasks within the scope of justice are performed by judges.

§ 2. Tasks within the scope of legal protection in courts are also performed by court referendaries and senior court referendaries. Whenever a reference is made in provisions of other acts to court referendaries, it also includes senior court referendaries.

§ 3. Tasks, referred to in § 1 and 2, may be performed by assistant judges, within the scope of authorisation granted thereto.

Art. 3. Judges form a judicial self-government. Judicial self-government bodies are: general assembly of regional court judges and general assembly of court of appeal judges.

Art. 4. § 1. Citizens participate in administering justice by acting as lay judges in hearing of cases before courts of lower instances, unless acts provide otherwise.

§ 2. When resolving a case lay judges are vested with the same rights as judges.

Art. 5. § 1. The Polish language is the official language before courts.

§ 2. A person who has no sufficient command of the Polish language has the right to act before a court using his/her native language and gratuitously use the help of an interpreter.

§ 3. The court competent to hear a case in the lower instance decides on assigning an interpreter to a person referred to in § 2. A request for assigning an interpreter submitted in the course of a case is recognized by the court of the instance in which the case is pending.

Art. 6. Relatives in lineal kinship or lineal affinity or related by adoption, spouses or siblings shall not be judges or court referendaries in the same court division.

Art. 7. Supervision over courts' activity within the scope of judicial decisions is exercised by the Supreme Court in the course of procedure provided for in acts.

Art. 8. § 1. The purpose of administrative activity of courts is to ensure appropriate conditions for the courts to perform their tasks, referred to in Art. 1§ 2 and 3.

§ 2. Administrative activity of courts falls within the competence of court bodies and officials; tasks within the scope of administrative activity are also performed by judges if provided for in provisions of the law.

Art. 9. Superior authority over the administrative activity of courts is exercised by the Minister of Justice in person and by competent supervising service. Basic tasks within the scope of superior authority over the administrative activity of courts directly related to the administration of justice are performed by judges delegated to the Ministry of Justice in the course of procedure specified in Art. 77.

Chapter 2

Organisation of Courts

Art. 10. § 1. A district court is established for one or more municipalities/communes; in justified situations more than one district court may be established within one municipality/commune.

§ 2. A regional court is established for competence area of at least two district courts, hereinafter referred to as the "court circuit".

§ 3. A court of appeal is established for competence area of at least two court circuits, hereinafter referred to as the "appeal area".

Art. 11. § 1. Courts are divided into divisions.

§ 2. A division is managed by the head of the division, i.e. the president or vice president of the court or another judge.

§ 3. The head of the division in a court of appeal or a regional court is appointed by the president of the court, and in a district court, at a request of the president of the court, by the president of the superior regional court. Prior to the appointment of the head of the division, the president consults with the competent board of the court.

§ 4. Within the same procedure the president of the court dismisses the head of the division.

§ 5. If particular reasons exist, such as the size of the division or volumes of tasks performed therein, the competent president of the court may appoint a deputy head of the division. Provisions of § 2-4 apply accordingly.

Art. 12. § 1. District court is divided into the following divisions:

- 1) civil division - for cases within the scope of Civil Law,
- 2) criminal division - for cases within the scope of Criminal Law, including cases prosecuted as petty offence heard in higher instance,
- 3) family and juvenile division (family court - for cases:
 - a) within the scope of Family and Guardianship Law,
 - b) concerning demoralisation and punishable acts of juveniles,
 - c) concerning treatment of persons addicted to alcohol, intoxicants and psychotropics.
 - d) falling within the competence of guardianship court under separate acts,
- 4) labour division (labour court) - for cases within the scope of Labour Law,
- 5) land and mortgage register division - for keeping land and mortgage registers and for other civil cases within the scope of land and mortgage register proceedings.

§ 2. In a district court having its seat in a city being the seat of a regional court in which a social insurance or labour and social insurance division is established, a social insurance division for cases within the scope of social insurance is established, falling within the competence of district courts within the same circuit, or in the place of a division referred to in § 1 item 4, a labour and social insurance division is established for cases within the scope of Labour Law and social insurance falling within the competence of district courts within the same circuit. In justified circumstances the aforementioned divisions may also be established in another district court.

§ 3. In a district court having its seat in a city being the seat of a regional court, a commercial division or divisions is/are established (commercial court) - for commercial cases and other cases within the scope of commercial and Civil Law, falling within the competence of commercial courts under separate

provisions. In justified circumstances a commercial division may also be established in another district court.

§ 4. Judges having a particular knowledge of labour matters are appointed to decide in units referred to in § 1 item 4, whereas to decide in units referred to in § 2 also judges having a particular knowledge of insurance purposes and needs of insured persons are appointed.

§ 5. Judges having a particular knowledge of commercial issues are appointed to decide in units referred to in § 3.

Art. 13. § 1. Municipal courts being divisions or branch divisions of district courts may be established in the seat or outside the seat of a district court.

§ 2. Municipal courts hear the following types of cases:

- 1) prosecuted as petty offence in the lower instance,
- 2) related to fiscal petty offence and fiscal offence, except cases subject to hearing in the course of ordinary proceedings,
- 3) related to offence prosecuted on private accusation.
- 3a) related to offence subject to hearing in expedited proceedings,
- 4) related to other offences subject to hearing in simplified proceedings,
- 5) civil cases subject to hearing in simplified proceedings, with the exclusion of cases heard in accordance with the European order for payment procedure and related to court deposits and forfeiture of objects.

§ 3. Municipal courts are established and cancelled by the Minister of Justice by regulation. A regulation on the establishment of a municipal court should include the location of its seat, area of jurisdiction within the boundaries of district court jurisdiction and the scope of cases forwarded to be heard by a municipal court, from cases specified in § 2. The number of cases submitted to courts and judicial economy should be taken into consideration at the establishment and cancellation of municipal courts.

Art. 14. The Minister of Justice may, in the course of procedure specified in Art. 13 § 3, establish other branch divisions outside the seat of a district court.

Art. 15. Should a branch division of a district court be cancelled, employees employed therein are transferred to an appropriate court.

Art. 16. § 1. Regional court is divided into the following divisions:

- 1) civil division - to hear civil and family cases in the lower instance and to hear civil cases and cases falling within the competence of family courts in the higher instance, except cases brought against minors related to committing a punishable act if a corrective measure was applied or if a measure of appeal includes a motion for adjudicating a corrective measure,
- 2) criminal division - for cases within the scope of Criminal Law in the lower and higher instances, for cases related to the compliance of vetting statements with the actual state of affairs and for cases heard in the higher instance brought against minors related to committing a punishable act if a corrective measure was applied or if a measure of appeal includes a motion for adjudicating a corrective measure,
- 3) penitentiary and supervision over carrying out criminal decisions division - for penitentiary matters and supervision over judicial enforcement proceedings in cases within the scope of Criminal Law,
- 4) labour division (labour court) - for cases within the scope of Labour Law and social insurance division (social insurance court) - for cases within the scope of social insurance,
- 5) commercial division (commercial court) - for commercial matters.

§ 2. A regional court, to which not many cases within the scope of Labour Law and social insurance are submitted, establishes a labour and social insurance division (labour and social insurance court) instead of separate labour and social insurance divisions.

§ 3. Judges having a particular knowledge of labour matters as well as insurance purposes and needs of insured persons are appointed to decide in organisational units referred to in § 1 item 4 and § 2.

§ 4. Judges having a particular knowledge of commercial issues are appointed to decide in units referred to in § 1 item 5.

§ 5. Furthermore, in the Regional Court in Warsaw the following act as divisions:

- 1) separate organisational unit for matters within the scope of competition protection, energy regulation,

telecommunication and railway transport (competition and consumer protection court),

- 2) separate organisational unit for registry matters entrusted to that court under separate provisions,
- 3) separate organisational unit for matters within the scope of protection of Community trademarks and industrial designs (Community trademarks and industrial designs court).

§ 6. The Minister of Justice indicated, by regulation, the regional court division, which shall hear corrective measures in the course of e-proceedings by writ of payment.

Art. 17. The Minister of Justice may, in the course of procedure specified in Art. 13 § 3, establish and cancel other branch units or branch divisions outside the seat of a regional court.

§ 2. Should a branch unit or division be cancelled, employees employed therein are transferred to an appropriate regional court.

Art. 18. § 1. A court of appeal is divided into the following divisions:

- 1) civil division - for cases, heard in the higher instance, within the scope of Civil, Commercial and Family and Guardianship Law,
- 2) criminal division - for cases, heard in the higher instance, within the scope of Criminal Law and cases related to the compliance of vetting statements with the actual state of affairs,
- 3) labour and social insurance division - for cases, heard in the higher instance, within the scope of Labour Law and social insurance.

§ 2 (repealed).

Art. 19. § 1. Depending on the needs, divisions other than those specified in Art. 12-18 may be established in a court, taking into consideration the type and number of cases brought into the court, the number of judges and the number of courts within the area of jurisdiction, as well as the assurance of proper execution of supervising acts.

§ 2. In cases referred to in § 1 divisions are established and cancelled by the Minister of Justice by regulation.

Art. 20. The Minister of Justice, upon consultation with the National Council of the Judiciary, by regulation:

- 1) establishes and cancels courts and determines seats and areas of jurisdiction thereof,
- 2) has the right to delegate to one regional court the authority to hear cases within the scope of Labour Law or social insurance from the area of jurisdiction of another court circuit within the same area of appellate jurisdiction, and to delegate to one district court the authority to hear cases within the scope of Labour Law from the area of jurisdiction of more than one district court acting within the same court circuit,
- 3) has the right to delegate to one regional court the authority to hear commercial cases from another court circuit within the same area of appellate jurisdiction and establish organisational units for commercial issues (commercial courts) in district courts,
- 3a) has the right to delegate to one regional court the authority to hear cases related to the compliance of vetting statements with the actual state of affairs from the area of jurisdiction of another regional court within the same area of appellate jurisdiction, taking into consideration the number of cases brought into regional courts and judicial economy for vetting proceedings;
- 4) has the right to delegate to one district court the authority to hear cases falling within the competence of family and juvenile division within the area of jurisdiction of more than one district court acting within the same court circuit,
- 5) has the right to delegate to one district court - a commercial court in which a division for bankruptcy and composition cases is established, the authority to hear such cases, if they fall within the competence of other district courts - commercial courts acting within the same court circuit,
- 6) has the right to entrust, taking into consideration the number of cases brought into registry courts and judicial economy for registry proceedings:
 - a) one of the district courts with keeping records, forwarded by acts to competent district courts, for two or more of such courts,
 - b) one of the district courts (commercial courts) with keeping the National Court Register for the area of jurisdiction of two or more such courts or for part of their area of jurisdiction,
- 7) has the right to delegate to one district court the authority to hear cases falling within the competence

of land and mortgage register division within the area of jurisdiction of more than one district court acting within the same court circuit,

- 8) has the right to delegate to one district court the authority to hear cases falling within the competence of municipal courts within the area of jurisdiction of more than one district court acting within the same court circuit,
- 9) has the right to delegate to one district court the authority to hear cases in e-proceedings by writ of payment falling within the competence of other district courts.

Chapter 3

Bodies of Courts

Art. 21. § 1. Bodies of courts are:

- 1) in a district court - the president of the court,
- 2) in the regional court - the president of the court and the board of the regional court,
- 3) in the court of appeal - the president of the court and the board of the court of appeal,
- 4) the director of the court of appeal and the director of the regional court, whereas in a district court, if appointed, the financial manager of the court within areas specified in § 2.

§ 2. Tasks assigned to the manager of a unit under separate provisions within the financial and commercial scope, financial control, management of the State Treasury property and internal audit, within these areas, are performed by the director of a given court, whereas in a district court, by the financial manager of the court, if appointed.

§ 3. The director of the court and the financial manager of the court are subordinated to the president of the court, subject to Art. 177 § 4.

Art. 22. § 1. The president of the court:

- 1) manages and represents the court, with the exception of duties falling within the competence of the director of the court or of the financial manager of the court,
- 2) performs duties within the scope of court administration,
- 3) performs other duties stipulated in the act and in separate provisions,
- 4) is the professional superior of judges of a given court,
- 5) appoints and dismisses judges, upon required consultations, subject to Art. 11 § 3.

§ 1a. The president of the court of appeal determines the allocation of duties in the court of appeal, and the president of the regional court determines the distribution of duties in the regional court and district courts acting within the court circuit by the end of November each year at the latest. It also determines the rules of substitution for judges and court referendaries as well as the rules of assignment of cases to particular judges and court referendaries, unless the act provides otherwise.

§ 2. The president of the court is subject to the Minister of Justice and the president of the superior court within the scope of court administration.

§ 3. The president of the regional court performs court administrative duties with respect to district courts within the area of jurisdiction of the regional court and exercises supervision over the activity of such courts.

§ 4. The president of the court of appeal exercises supervision over the administrative activity of regional courts within the area of jurisdiction of the court of appeal. The president of the court of appeal, in justified circumstances or at the request of the president of the regional court, may also undertake acts within the scope of supervision over the activity of district courts within the area of appellate jurisdiction.

§ 5. The president of the court is substituted by the vice president; should the vice president be absent, the president is substituted by a designated judge.

§ 6. If the president of the court was not appointed, the vice president performs the function thereof. Should more than one vice president be appointed in a court, the function of the president is performed by the vice president designated by the Minister of Justice; if the vice president was not appointed, the function is performed by a judge of this court or of a superior court designated by the Minister of Justice for the period of 6 months. A judge who recently performed the function of the president of the court shall not be designated in the course of the foregoing procedure.

Art. 23. § 1. The president of the court of appeal is appointed by the Minister of Justice from among

judges of the court of appeal, upon consultation with the general assembly of the court of appeal judges.

§ 2. The Minister of Justice presents a candidate for the president to the general assembly for opinion.

§ 3. Should the competent general assembly fail to give an opinion within two months from the date of presenting the candidate thereto, the Minister of Justice has the right to appoint a president of the court of appeal without such an opinion.

§ 4. Should the general assembly issue a negative opinion about the candidate, the Minister of Justice has the right to appoint such a candidate upon receiving a positive opinion of the National Council of the Judiciary. The negative opinion of the National Council of the Judiciary is binding on the Minister of Justice.

§ 5. Should the National Council of the Judiciary, within a month from the date of expressing the intention to appoint the president despite the negative opinion of the general assembly, fail to issue such an opinion, the opinion is deemed positive.

§ 6. The Minister of Justice appoints the vice president from among judges of the court of appeal, at the request of the president of the court of appeal, upon consultation with the board of such court.

§ 7. The Minister of Justice, at the request of the president of the court, determines the number of vice presidents of the court of appeal.

Art. 24. § 1. The president of a regional court is appointed by the Minister of Justice from among judges of the court of appeal or of the regional court, upon consultation with the general assembly of the regional court and with the president of the superior court of appeal.

§ 2. Art. 23 § 2-5 apply to the procedure of appointing the president of a regional court.

§ 3. The Minister of Justice appoints a vice president of the regional court from among judges of the regional court or the court of appeal, at the request of the president of the regional court, upon consultation with the board of such court and with the president of the superior court of appeal.

§ 4. The Minister of Justice, at the request of the president of the court and upon consultation with the president of the superior court of appeal, determines the number of vice presidents of the regional court.

Art. 25. § 1. The president of a district court is appointed by the Minister of Justice from among judges of the regional court or the district court, upon consultation with the general assembly of the superior regional court and with the president of the superior regional court.

§ 2. Art. 23 § 2-5 apply to the procedure of appointing the president of a district court accordingly, whereas the period for issuing the opinion by the board is fourteen days.

§ 3. The Minister of Justice appoints the vice president of a district court from among judges of the district court or the regional court, at the request of the president of the district court, upon consultation with the board of the superior regional court and with the president of the superior regional court.

§ 4. The president of the superior regional court, at the request of the president of a given court, determines the number of vice presidents of the regional court.

Art. 25a. (invalid).

Art. 26. § 1. The president and the vice president of a court of appeal and a regional court are appointed for a six-year term of office, and shall not, directly upon the lapse of the term, be reappointed for the performance of the same function.

§ 2. The president and the vice president of a district court are appointed for a four-year term of office, for two subsequent terms of office at the most.

Art. 27. § 1. The president and the vice president of a court may be dismissed by the Minister of Justice in the course of the term of office:

- 1) in the event of gross failure to fulfil service duties,
- 2) if further performance of the function, for other reasons, cannot be reconciled with the interest of the justice.

§ 2. The president or vice president of a court is dismissed upon consultation with the National Council of the Judiciary. The Minister of Justice notifies the National Council of the Judiciary about the intention to dismiss the president or vice president of a court and provides it with a written statement of grounds, in order to obtain an opinion. In the event referred to in § 1 item 2, a negative opinion of the

National Council of the Judiciary is binding on the Minister of Justice.

§ 3. Should the National Council of the Judiciary, within a month from the date of expressing the intention to dismiss the president or the vice president, fail to issue such an opinion, the opinion is deemed positive.

§ 4. Should the president or the vice president of a court, resign from the function held in the course of the term of office, the Minister of Justice dismisses the president or the vice president without obtaining the opinion referred to in § 2.

Art. 28. § 1. The board of the court of appeal is composed of three to five members, appointed by the general assembly of the court of appeal from among judges of such court, and of the president of the court of appeal. The number of board members from selection is determined by the general assembly of the court of appeal.

§ 2. The president of the court of appeal acts as a chairman of the board of the court of appeal, and if absent, the member of the board who has longest been on service.

§ 3. The term of office of the board of the court of appeal is two years.

§ 4. Resolutions pass if at least 2/3 of the court of appeal board members are present. Resolutions pass if taken by a simple majority of votes; should the number of votes for and votes against be equal, the casting vote is that of the chairman.

§ 5. The board of the court of appeal meets whenever necessary, however, at least once every three months. The president of the court of appeal convenes the meetings of the board of his/her own accord or at the request of 1/3 of the board members.

§ 6. In the event referred to in 29 § 1 item 9 the director of the court of appeal participates in board meetings as a consultant.

Art. 29. § 1. The board of the court of appeal performs tasks specified in the act, in particular:

- 1) at the request of the president of the court of appeal, expresses opinion about the draft of distribution of duties in the court of appeal, the rules of substitution for judges and the rules of assignment of cases to particular judges,
- 2) presents to the general assembly of the court of appeal the opinion about candidates for posts of judges,
- 3) gives an opinion about the candidate for a vice president of the court of appeal,
- 4) gives an opinion about candidates for heads of divisions in the court of appeal, for deputy heads of divisions, inspectors, training manager and for the function or post of spokesperson,
- 5) considers applications resulting from court inspections and vetting procedures,
- 6) considers complaints against the resolution of the president of the court of appeal concerning the refusal to give consent to a judge taking up additional employment,
- 7) selects the deputy of the disciplinary commissioner,
- 8) gives an opinion about personnel matters related to judges,
- 9) gives an opinion about the financial plan draft referred to in Art. 178 § 1,
- 10) gives an opinion about other matters raised by the president of the court of appeal, the National Council of the Judiciary and the Minister of Justice,
- 11) gives consent to the president of the court of appeal delegating a judge of a regional court.
- 12) expresses views in events of the behaviour of judges violating the principles of ethics.

§ 2. (repealed).

Art. 30. § 1. The board of the regional court is composed of four to eight members, appointed by the general assembly of the regional court from among members thereof being judges of regional court, and of the president of the regional court. The number of board members from selection is determined by the general assembly of the regional court.

§ 2. Art. 28 § 2-6 apply to the board of the regional court accordingly.

Art. 31. § 1. The board of the regional court performs tasks specified in the Act, in particular:

- 1) at the request of the president of the regional court, expresses their opinion about the draft of distribution of duties in the regional court and in district courts acting within a court circuit, of the rules of substitution for judges and court referendaries and of the rules of assignment of cases to particular judges and court referendaries,

- 2) presents to the general assembly of the regional court the opinion about candidates for posts of judges in district and regional courts,
- 3) gives opinion about candidates for the vice president of the regional court and for presidents and vice presidents of district courts,
- 4) gives opinion about candidates for heads of divisions in the regional court, for deputy heads of divisions, inspectors, training manager and for the function or post of spokesperson, as well as for the function of heads of divisions and deputy heads of divisions in district courts and gives opinion about the dismissal from the performance of such functions,
- 5) considers applications resulting from court inspections and vetting procedures,
- 6) considers complaints against the resolution of the president of the regional court concerning the refusal to give consent to a judge taking up additional employment,
- 7) selects the deputy of the Disciplinary Commissioner,
- 8) gives opinion about the financial plan draft referred to in Art. 178 § 1,
- 9) gives opinion about other matters raised by the president of the regional court, the president of the court of appeal, the National Council of the Judiciary and the Minister of Justice,
- 10) gives opinion about a candidate for an assistant judge and gives consent to entrust the assistant judge with the performance of judge duties in a district court.
- 11) gives consent to the president of the regional court delegating a judge of the district court or a judge of the regional court.
- 12) expresses views in events of the behaviour of judges violating the principles of ethics.

§ 2. In matters significant to a given district court the board of the regional court may seek opinion of judges of such court, expressed at a meeting of judges.

§ 3. (repealed).

Art. 32. § 1. The Minister of Justice appoints and dismisses accordingly, at the request of the president of a given court of appeal, regional or district court, the director of the court of appeal, the director of the regional court and the financial manager of the district court.

§ 2. The president of a given court, in the request referred to in § 1, presents the Minister of Justice with a candidate for the post, selected as first by open competition.

§ 3. Prior to the appointment of a candidate for the post of director of the court of appeal, the director of the regional court and the financial manager of the district court, the Minister of Justice consults with the National Criminal Record.

§ 4-6. (repealed)

§ 7. Should the appointment of the director of the court or the financial manager referred to in § 1 be refused, the competent president of the court may lodge a request for the appointment for such a post of the next candidate selected by open competition or order another competition.

§ 8. The Minister of Justice has the right to dismiss the director or the financial manager referred to in § 1 also on its own initiative, upon consultation with the president of a given court.

§ 9. The Minister of Justice, if particular reasons exist, such as the size of a court and volumes of tasks performed therein, may appoint the deputy director of the court of appeal, the deputy director of the regional court or the deputy financial manager of the district court. Provisions of § 1-8 apply accordingly.

§ 10. In a court in which no deputy referred to in § 9 was appointed the president of a given court, at the request of the director or the financial manager, upon consent of the Minister of Justice, indicates a person authorised to perform duties of such body within specified time or scope.

§ 11. In a district court in which no financial manager was appointed the Minister of Justice, if particular reasons exist, such as the size of a court and volumes of tasks performed therein, may entrust the director of the regional court within the area of which a given district court acts, with the performance of tasks within the scope of budget planning and implementation and the management of budget resources of the district court.

Art. 32a. §1. Directors and financial manager referred to in Art. 32 § 1, as well as their deputies, are appointed from among candidates who:

- 1) have obtained a master's degree,
- 2) have worked, for at least 5 years, including at least 2 years at a managerial post,
- 3) are Polish citizens and have full capacity to legal acts and enjoy full public rights.
- 4) have not been punished for an offence or a fiscal offence,

- 5) are not deprived of parental authority for reasons of abusing it or gross negligence in the performance of parental duties with respect to a child,
- 6) are not prohibited from performing functions related to the management of public resources, referred to in Art. 31.1 item 4 of the Act of 17 December 2004 on Liability for Breach of Public Finances Discipline (Dz. U. /*Journal of Laws*/ 2005 No 14, item 114 and No 249, item 2104 and 2006 No 79, item 551),
- 7) enjoy unblemished reputation,
- 8) distinguish themselves by theoretical knowledge and experience in the field of public finances, implementation of investments and management of State Treasury property and
- 9) against whom no proceedings related to an offence prosecuted by the public prosecutor or to a fiscal offence is pending.

§ 2. In order to select candidates for posts referred to in Art. 32 § 1 and 9, the president of a given court of appeal, regional court or district court, orders and carries out an open competition.

§ 3. The president of a given court publishes an advertisement concerning the competition for the vacancy of a director or a financial manager of such court in a Polish national journal. The advertisement should include the indication of the post, required qualifications, the list of necessary documents, place and deadline for submitting applications, scope of the competition and criteria of assessment.

§ 4. Information about candidates who applied for participation in the competition constitutes public information within the scope included in the requirements specified in the advertisement concerning the competition.

§ 5. Upon the expiry of the deadline for submitting documents, specified in the advertisement concerning the competition, the president of a given court immediately publishes on the website of a given court and places on the notice board in the seat of a given court the list of candidates who fulfil formal requirements specified in the advertisement. The list includes the name and surname of a candidate as well as the place of his/her residence within the meaning of the provisions of the Civil Code.

§ 6. The competition is conducted by the competition commission established by the president of a given court. Only a person who warrants impartiality when performing such a function in the interest of the court may be a member of the competition commission. The commission is chaired by the president of a given court.

§ 7. A person who is a candidate for the post of director or financial manager, a spouse, a relative or an in-law of the person applying for the post or a person having a legal or factual relationship with a candidate that may raise reasonable doubts as to the impartiality of such a person shall not be appointed to the competition commission.

§ 8. The following are subject to assessment in the course of the competition: qualifications, knowledge, predispositions and abilities necessary for the performance of tasks at the post of director or financial manager of a court.

§ 9. Members of the competition commission shall keep confidential the information concerning persons applying for the post of director or financial manager of a court, obtained in the course of the competition.

§ 10. Upon completion of the competition, the competition commission:

- 1) determines the result of the competition, indicating the order of candidates for the post of director or financial manager of a court or specifying reasons for rejection of a candidate,
- 2) notifies in writing the persons who applied for the post of director or financial manager of a court about the results of the competition and forwards the documentation from the course of the competition to the president of a given court.

§ 11. Upon completion of the competition, the president of a given court provides a person who applied for the post of director or financial manager of the court, upon such person's request, with access to the information concerning his/her individual results.

§ 12. If no candidate is selected the president of a given court orders another competition.

§ 13. The Minister of Justice, by regulation, specifies:

- 1) organisation of and procedure for carrying out the competition,
- 2) the composition of the competition commission,
- 3) assessment criteria for qualifications, knowledge, predispositions and abilities of the person applying for the post of director or financial manager of a court,
- 4) the scope of information provided to a person applying for the post and the manner of provision thereof, taking into consideration the need to ensure impartiality of selection, efficient carrying out of

the competition, comprehensive assessment of qualifications of candidates, common access to the competition and open nature of the work of the competition commission.

Chapter 4

Judicial self-government

Art. 33. § 1. The general assembly of the court of appeal judges consists of judges of the court.

§ 2. The president of the court of appeal is the chairman of the general assembly of the judges of the court of appeal. Should the president of the court be absent, the vice president of the court who has longest been on service performs duties of the chairman.

§ 3. Members of the general assembly of the judges of the court of appeal are obliged to participate in the general assembly meetings. Delegation of a member to perform duties under Art. 77 shall not exempt the member of the general assembly from the aforementioned obligation.

§ 4. Judges not being members of the general assembly of the court of appeal judges may participate in the meeting thereof, without the right to vote and elect.

§ 5. Resolutions of the general assembly of the judges of the court of appeal may be adopted if at least 2/3 of the members of the general assembly are present. Resolutions pass if taken by a simple majority of votes. Voting is secret if concerning the matters referred to in Art. 34 items 1-5, and if requested by at least one of the present members of the general assembly.

§ 6. The general assembly of the judges of the court of appeal meets at least once a year; the president of the court of appeal convenes meetings of the general assembly on his/her own initiative or at the request of the Minister of Justice, board of the court of appeal or 1/5 of the members of the general assembly.

Art. 34. The general assembly of the court of appeal judges performs tasks specified in Acts, and in particular:

- 1) presents the National Council of the Judiciary with candidates for posts of judges of the court of appeal from among persons who received opinions from the board of a competent court,
- 2) selects representatives for the meeting of representatives of general assemblies of courts of appeal,
- 3) gives opinion about candidates for the vice president of the court of appeal,
- 4) selects members of the board of the court of appeal,
- 5) selects a candidate for a disciplinary commissioner,
- 6) hears the information of the president of the court of appeal concerning the activity of courts and expresses opinion within that scope,
- 7) considers reports on the activity of the board of the court of appeal and discusses directions of this operation.

Art. 35. § 1. The general assembly of the judges of the circuit consists of regional court judges and delegates from district courts acting within the area of jurisdiction of the regional court, equal in number to half of the number of regional court judges. Delegates are selected by the meeting of judges of a given district court for the period of two years. The president of the court chairs the meeting. The number of delegates for each district court is determined by the board of the regional court, as far as possible, proportionally to the number of judges in a given court.

§ 2. Should the general assembly of regional court judges established under § 1 be comprised of more than one hundred and fifty members, the functions thereof are performed by the general assembly of representatives.

§ 3. In the event referred to in § 2, representatives are selected in district courts and in the regional court. The number of representatives of all district courts within a circuit corresponds to half of the number of representatives of the regional court. Representatives are selected by the meeting of judges of a given court for the period of two years. The president of the court chairs the meeting. The number of representatives for each court is determined by the board of the regional court, as far as possible, proportionally to the number of judges in a given court.

§ 4. The president of the regional court is the chairman of the general assembly of the regional court judges. Should the president of the court be absent, the vice president of the court who has longest been on service performs duties of the chairman.

§ 5. Members of the general assembly of the regional court judges are obliged to participate in the general assembly meetings. Delegation of a member to perform duties under Art. 77 shall not exempt the member of the general assembly from the aforementioned obligation.

§ 6. Judges not being members of the general assembly of the regional court judges may participate in the meeting thereof, without the right to vote and elect.

§ 7. Resolutions of the general assembly of the regional court judges may be adopted if at least 2/3 of the members of the general assembly are present. Resolutions pass if taken by a simple majority of votes. Voting is secret if concerning the matters referred to in Art. 36 item 1-4 and if requested by at least one of the present members of the general assembly.

§ 8. The general assembly of the regional court judges meets at least once a year; the president of the regional court convenes meetings of the general assembly on his/her own initiative or at the request of the Minister of Justice, the board of the regional court or 1/5 of the members of the general assembly or 1/5 of the judges of a given regional court area.

§ 9. Provisions of § 4-7 and of Art. 36 apply accordingly to general assemblies of representatives.

Art. 36. The general assembly of the judges of the circuit performs tasks specified in Acts, and in particular:

- 1) presents to the National Council of the Judiciary, upon consultation with the board of the court, candidates for the posts of judges,
- 2) selects representatives for the meeting of representatives of general assemblies of judges,
- 3) gives opinion about candidates for the president of the regional court,
- 4) determines the number of and selects members of the board of the regional court,
- 5) hears the information of the president of the regional court concerning the activity of courts out and expresses opinion within that scope,
- 6) considers reports on the activity of the board of the regional court and discusses directions of this operation.

Chapter 5

Supervision over the administrative activity of courts

Art. 37. § 1. Persons appointed to manage courts and supervise the administrative activity of courts have the right to inspect courts acts and request explanations and the removal of irregularities. Tasks within the scope of supervision over administrative activity of courts are performed by presidents of courts in person or by persons designated for that purpose.

§ 2. The Minister of Justice and presidents of courts reverse administrative orders inconsistent with the law.

§ 3. Persons referred to in § 2, may reverse administrative orders that disturb the efficiency of court proceedings or are ineffective for other reasons.

§ 4. Should irregularity in court proceedings efficiency be identified, the Minister of Justice and presidents of courts may make a written comment on the irregularity and request the removal of results of such irregularity. The judge to whom the comment refers may within seven days submit a written reservation to the body that made the comment, which however, shall not exempt the judge from the obligation to remove the results of the irregularity. Provisions of Art. 108 § 1 apply accordingly.

§ 4a. Should a reservation be submitted, the body referred to in § 4 reverses the comment or passes the case to a disciplinary court for hearing.

§ 4b. A copy of a letter including the identification of irregularity and the written comment is enclosed to the judge's personal files.

§ 4c. Upon the lapse of five years from making the written comment, at the request of the judge, the Minister of Justice or the president of a competent court orders the removal of the copy of the letter referred to in § 4b from the personal files of the judge, if during that period no subsequent irregularity was identified in court proceedings efficiency resulting in a written comment or no irregularity provided for in Art. 40 § 1 was identified. In such an event, only simultaneous removal of copies of all letters and rulings referred to in § 4b and Art. 40 § 3 from the personal files of the judge is permissible.

§ 5. The Minister of Justice may make a written comment to the president or the vice president of a court if irregularity is identified in the court management or in supervision over the administrative activity of

courts exercised by the president within his/her authority.

§ 5a. Entitlements referred to in § 5 may also be exercised by the president of the court of appeal towards presidents or vice presidents of regional and district courts acting within the area of appellate jurisdiction and to the president of a regional court towards presidents and vice presidents of district courts acting within the court circuit. Presidents of competent courts notify the Minister of Justice about the written comment.

§ 6. The president of the superior court immediately notifies the president of the competent court about any irregularity in the activity of the court. Should material irregularities in the activity of a court be identified, the president of such court immediately notifies the president of the superior court about such irregularity and the president of the court of appeal notifies the Minister of Justice; at the same time the competent president informs about actions taken with the aim of removing such irregularities.

§ 7. Persons referred to in § 1 may be present at a trial closed to the public.

Art. 38. § 1. Duties within the scope of supervision over the administrative activity of courts include in particular:

- 1) the inspection of a court or some of its organisational units,
- 2) vetting in a court,
- 3) verifying the course and efficiency of proceedings in particular cases,
- 4) inspection of the activity of the secretariat in a court.

§ 2. The inspection covers the entire activity of the court or its organisational unit.

§ 3. Vetting includes selected issues related to the activity of a court.

§ 4. Duties referred to in § 1 item 1-3 may be performed exclusively by judges.

§ 5. The Minister of Justice, upon consultation with the National Council of the Judiciary, specifies, by regulation, detailed procedure for exercising supervision over the administrative activity of courts by bodies and persons designated thereto and distribution of tasks among the presidents of courts.

Art. 39. Duties within the scope of supervision over the administrative activity of courts shall not violate the scope in which judges are independent.

Art. 40. § 1. Should the court of appeal or a regional court as an appellate court identify an obvious violation of provisions at the hearing of a case, notwithstanding other entitlements, the court raises the irregularity to a competent court. The court of appeal or a regional court, prior to raising the irregularity, may request explanations from a judge that presides over the bench adjudicating in the lower instance. The identification of and raising the irregularity shall not influence the resolution of a case.

§ 2. The court of appeal or a regional court notifies the president of a competent court about the raising of the irregularity referred to in § 1, and in the event of more serious irregularities - it also notifies the Minister of Justice.

§ 3. A copy of a ruling of the court of appeal or a regional court as an appellate court, including the fact of raising irregularities, is enclosed to the personal files of a judge.

§ 4. Upon the lapse of five years from raising the irregularity as provided for in § 1, at the request of the judge, the president of a competent court orders the removal of the copy of the ruling referred to in § 3 from personal files of the judge, if during that period no subsequent obvious violation of provisions at the hearing of a case by an appellate court was identified resulting in raising irregularity or no written comment provided for in Art. 37 § 4 was made. In such an event, only simultaneous removal of all letters and provisions referred to in § 3 and Art. 37 § 4b from personal files of the judge is permissible.

Art. 41. § 1. The Minister of Justice, upon consultation with the National Council of the Judiciary, issues, by regulation, internal common courts regulations that specify internal organisation and order of functioning of courts, the order of acts in courts, the order of performance of official duties and performance of tasks by judges holding managerial positions, the course of administrative acts in matters within the competence of courts, acceptable systems and hours of the performance of official duties and particular terms and conditions with respect to providing access to premises to participants of proceedings, witnesses and other persons who stay in courts. At the issuance of a regulation the following shall be taken into consideration: principles of efficiency, principles of reason, principles of economical and fast acting, as well as the need to ensure reliable performance of tasks courts are entrusted with.

§ 2. The Minister of Justice specifies, by regulation, detailed acts of courts with respect to matters

within the scope of international civil and criminal proceedings in international relations, including: certifying documents to be used abroad, procedure of performance of acts related to persons using immunity and diplomacy and consular privileges as well as acts involving participation of such persons, acts related to appearance before courts, procedure for determining nationality, detailed procedure for applying for legal assistance and provision of such assistance to courts and other bodies of foreign countries and detailed procedure for applying for handing over of wanted or convicted persons as well as other forms of cooperation in criminal matters.

Chapter 6

General provisions concerning acts of courts

Art. 42. § 1. Courts issue judgements on behalf of the Republic of Poland.

§ 2. Courts hear and resolve cases in proceedings open to the public.

§ 3. Hearing of a case in proceedings closed to the public or closing of proceedings to the public is allowed only under the provisions of Acts.

Art. 43. § 1. A court may perform acts outside its seat and, if necessary, also outside the area of its jurisdiction if required by the interest of justice or if costs are significantly reduced thereby.

§ 2. The Minister of Justice may order regular sessions of courts outside the seat of a court.

Art. 44. § 1. In events provided for in Acts, courts are obliged to perform particular judicial acts at the request of other courts and other bodies.

§ 2. Courts shall provide judicial assistance also at the request of foreign courts if reciprocity is ensured; request for judicial assistance made by the Minister of Justice is binding on the called court.

§ 3. Courts shall perform acts in taking evidence, within the scope provided for in the provisions on civil proceedings, at the request of bodies adjudicating in cases other than set forth in § 1 and 2, if a request was made by the Minister of Justice.

§ 4. The performance of acts set forth in § 3 should be requested in a district court in the area of jurisdiction of which acts are to be performed.

Art. 45. § 1. A judge may be substituted for in his/her acts by a judge from the same court, as well as by a judge delegated from a court of the same competence or a court directly superior or inferior.

§ 2. Substitution referred to in § 1 may occur under an order of the head of a division or the president of a court, issued at the request of a judge or *ex officio*, in order to ensure the efficiency of proceedings.

Art. 46. § 1. Only one judge from another court may participate in the bench of judges. A judge from the lower instance court shall not preside at the bench. The Minister of Justice may, however, grant the right to a judge of a district court delegated to a regional court, to preside in matters heard by such a court in the lower instance, in the bench of one judge and two lay judges or in the bench of one judge.

§ 2. Persons referred to in Art. 6 shall not participate in the same bench.

Art. 47. § 1. The president of a court may designate an additional judge to a trial if it is probable that the trial continue for a long time. If necessary, two additional judges may be designated; in such an event the order in which they would enter the council and voting should be indicated.

§ 2. An additional judge participates in a council and in voting if one of the judges may not participate in the bench.

Art. 48. § 1. The presiding judge may admonish a person who violates the authority, peace or order of judicial acts, and upon an ineffective admonition may expel such a person from the court room.

§ 2. The court may exclude a person participating in a case, only if, despite having been cautioned about legal effects of his/her absence at judicial acts, the person persists in acting in the manner described in § 1.

§ 3. The court may expel the public from a court room if they behave improperly.

Art. 49. § 1. Should the authority, peace or order of judicial acts be violated or the court, other

national authority or persons participating in a case be offended, the court may punish the guilty with a penalty for breach of order in the amount up to PLN 10,000 or with a penalty of imprisonment up to fourteen days; an imprisoned person, including a detainee, may be imposed a penalty stipulated in the provisions on enforcement of the penalty of imprisonment or provisions on enforcement of provisional arrest.

§ 2. Should the act specified in § 1 be committed by a soldier on military service, the court - instead of imposing a penalty - addresses a competent leader of a military unit, who applies measures stipulated in provisions concerning soldiers; this provision applies accordingly to a person who does compulsory military service in civil defence.

Art. 50. § 1. The ruling concerning punishment with a penalty for breach of order shall be enforceable immediately. The ruling is subject to a complaint to a directly superior court, and if issued by the court of appeal, to the Supreme Court. Furthermore, provisions competent in the case in which the penalty for a breach of order was imposed, shall apply to the complaint. Should a complaint be lodged, the court which issued the challenged ruling may stay the enforcement of the penalty for the breach of order.

§ 2. Punishment with a penalty for breach of order shall not evade criminal and disciplinary liability for the same act.

§ 2a. Art. 206 § 1 and 2 of the Executive Penal Code apply accordingly to the enforcement of a fine for breach of order.

§ 3. In the event of a failure to pay the fine for breach of order, the fine is changed to the penalty of imprisonment up to seven days, taking into consideration the type of the misconduct, personal conditions of the punished and the extent of his/her guilt. The ruling is subject to a complaint. The provision of § 1 applies accordingly.

Art. 51. § 1. Instructions to maintain order of the presiding judge and penalties for breach of order imposed by the court shall not apply to judges and lay judges constituting the adjudicating bench and to the public prosecutor, Counsel of the General Public Prosecutor of the State Treasury participating in the case, as well as to persons, to participation of whom the provisions on public prosecutor apply.

§ 2. The penalty of imprisonment referred to in Art. 49 § 1 and in Art. 50 § 3 shall not apply to the defender and attorney in fact, being the attorney at law or attorney at law apprentice, entitled to act before the court under the provisions of the Act of 26 May 1982 - Attorney Law (*Journal of Laws/ Dz. U.* 2002, No 123, item 1058 as amended) or a legal counsel or legal counsel apprentice, entitled to act before the court under the provisions of the Act of 6 July 1982 on Legal Counsels (*Journal of Laws/ Dz. U.* 2002, No 123, item 1059 as amended), participating in a case.

Art. 52. A judge who performs a judicial act by himself/herself has the rights of a presiding judge and the rights of a court under Art. 48-50.

Art. 53. § 1. Files are created for each case within the scope referred to in Art. 1 § 2 and 3. Files may be created and processes also with the application of IT technologies.

§ 2. Case files are kept in a court for the period necessary as regards the type and nature of the case, limitation period, interests of persons participating in proceedings and the significance of materials included in files as sources of information.

§ 3. Upon the limitation period case files are forwarded to appropriate national archives.

§ 4. The Minister of Justice shall specify, by regulation, terms and conditions and the scope of prerequisites specified in § 2 as well as conditions and procedure for keeping and forwarding files, and conditions and procedure for destroying files upon the limitation period.

Art. 54. § 1. No weapon or ammunition, as well as no explosives or other dangerous materials are allowed in court facilities. The aforementioned does not concern persons who perform service duties that require the possession of weapons in court facilities.

§ 2. The president of a court may order the application of measures that ensure safety in court facilities and prevent violation of the prohibition, referred to in § 1. In such an event, the provisions on human and property protection apply to the protection of court facilities and persons staying therein.

PART II

JUDGES

Chapter 1

Status of a judge

Art. 55. § 1. The President of the Republic of Poland, at the request of the National Council of the Judiciary, appoints judges of common courts for the post of judge, within a month from the date of sending such request.

Judges of common courts are appointed for the posts of:

- 1) district court judge,
- 2) regional court judge,
- 3) court of appeal judge.

§ 2a. (repealed).

§ 3. When appointing a judge for the post, the President of the Republic of Poland indicates the place of service (the seat) of a judge. The change of the place of service of a judge may be made without the change of the post in cases and under procedure provided for in Art. 75.

Art. 56. § 1. The Minister of Justice, taking into consideration the reasonable use of common courts personnel and the needs resulting from the distribution of tasks to particular courts, assigns new posts of judges to particular courts.

§ 2. Should a post of judge become vacant, the president of a court, in which the post became vacant, notifies the Minister of Justice about that fact, who based on criteria specified in § 1, assigns the post to the given or to another court, or cancels the post.

§ 3. Each vacancy of a judge is immediately announced by the Minister of Justice in Dziennik Urzędowy Rzeczypospolitej Polskiej "Monitor Polski" (Official Gazette of the Republic of Poland).

§ 4. A vacancy is not announced if the post is to be filled by the transfer of a judge from a court of the same competence.

Art. 57. § 1. A person who is eligible for the post of common court judge referred to in Art. 55 § 2, may apply for one vacant post of judge, within a month from announcement referred to in Art. 56. The candidate completes two copies of the application form for the post of judge and encloses thereto the information about the candidate issued by the National Criminal Record with a relevant certificate confirming the candidate's ability to perform the tasks of a judge, as far as the candidate's health is concerned, subject to Art. 58 § 4a. The applicant born before 1 August 1972 also encloses a statement referred to in Art. 7 section 1 of the Act of 18 October 2006 on Disclosure of Information about Documents of National Security Bodies between 1944-1990 and the Content of Such Documents (*Journal of Laws/Dz. U.* 2007 No 63, item 425, No 83, item 561, No 85, item 571 and No 115, item 789) or the information referred to in Art. 7 section 3a of the Act.

§ 2. The candidate is proposed to the president of a regional court - if the application concerns the posts of a regional court judge or a district court judge or to the president of the court of appeal - if the application concerns the post of court of appeal judge.

§ 2a. If the application was submitted by a person who fails to fulfil the terms and conditions for the post of common court judge referred to in Art. 61 § 1 items 1, 3, 4 and 6, 7, or the application was submitted after the deadline, referred to in § 1, or fails to fulfil the requirements specified herein, the president of the court notifies the applicant about the fact that his/her application will remain unconsidered, specifying the reason. The person whose application remained unconsidered may, within 7 days, submit a written reservation. If the president of a court fails to take the reservation into consideration, he/she immediately forwards the reservation together with the application to the National Council of the Judiciary. The National Council of the Judiciary resolves the matter of the application remaining unconsidered.

§ 3. The president of a court, upon verifying the fulfilment of terms and conditions by a candidate, presents his/her application to the board of the court, together with the evaluation of his/her qualifications, and fixes the date of the general assembly of judges, at which the candidate shall be presented, together with the opinion of the board about the candidate.

§ 4. The president of a court notifies the Minister of Justice about each application for a vacant post of judge by delivering him/her a completed application form.

§ 5. The Minister of Justice, having consulted with the National Council of the Judiciary, specifies, by regulation, the draft of an application form for a vacant post of judge. The application form shall include information concerning the terms and conditions required from candidates for the post of judge under the Act.

§ 6. The Minister of Justice, in agreement with the minister competent over health, having consulted with the National Council of the Judiciary, specifies, by regulation, detailed scope and procedure for examining candidates for the post of judge, including medical and psychological tests, as well as qualifications required from physicians and psychologists entitled to perform such tests and to issue certificates on the ability to perform the duties of a judge.

Art. 58. § 1. If there is more than one application for one vacant post of judge, all applications are considered at the same meeting of the assembly.

§ 2. The general assembly of judges evaluates the candidates by voting and forwards the candidates together with the number of votes gained to the president of the competent court.

§ 3. The president of the court forwards the candidatures evaluated as provided for in § 2, to the National Council of the Judiciary through the Minister of Justice.

§ 4. The Minister of Justice enquires about each candidate for the post of judge at the Police Commander in Chief, subject to § 4a, and then presents the candidatures to the National Council of the Judiciary, expressing an opinion about each of the candidates together with the grounds and forwarding the information issued by the Police Commander in Chief. The information includes the following data, necessary for evaluating the fulfilment of the requirement concerning the integrity of the candidate:

- 1) instances of behaviour indicating violation of legal order by a candidate,
- 2) contacts with criminal environments or groups of social pathology and the nature of such contacts,
- 3) circumstances indicating addiction to alcohol, intoxicants or psychotropics.

§ 4a. Enclosure of information and certificate referred to in Art. 57 § 1, and enquiry referred to in § 4, shall not concern candidates holding the post of common, administrative or military court judge or the post of public prosecutor.

§ 5. When presenting the information, referred to in § 4, the competent Provincial (or Capital City) Police Commander provides the Minister of Justice with all collected materials, used for preparing the information.

§ 6. The Minister of Justice notifies the candidate about the content of the information obtained from the competent Police Commander, not later than upon presenting his/her candidature to the National Council of the Judiciary.

§ 7. The Minister of Justice in agreement with the minister competent over internal affairs specifies, by regulation, a detailed procedure for obtaining and preparing information by the competent Provincial (or Capital City) Police Commander about a candidate for the post of judge, taking into consideration the efficiency of obtaining the information, protection of personal rights of candidates and other rights and freedoms protected under the Constitution.

Art. 59. The Minister of Justice has the right to present the National Council of the Judiciary with a candidate for each vacant post of judge referred to in Art. 55 § 2. Provisions of Art. 58 § 1-3 shall not apply. Art. 57 applies to the information included by a candidate for the post of judge in the application form.

Art. 60. The National Council of the Judiciary considers candidatures for posts of common court judges, applying the procedure specified in a separate Act.

Art. 61. § 1. A district court judge may be a person who:

- 1) is a Polish citizen and enjoys full civil and full public rights,
- 2) is a person of integrity,
- 3) has completed higher education in law in the Republic of Poland and has obtained the title of master (graduate), or has completed higher education in law abroad recognised in the Republic of Poland,
- 4) has the ability to perform duties of a judge, as regards health condition,
- 5) has attained 29 years of age,
- 6) has passed a judicial or prosecutor exam,
- 7) has completed judicial apprenticeship in the Polish National School of Judiciary and Public

Prosecutor's Office or has worked as an assistant prosecutor – for at least three years before applying for the appointment of a judge.

§ 2. The requirements specified in § 1 item 6 and 7 shall not concern the person who prior to the appointment:

- 1) held the post of administrative or military court judge,
- 2) held the position of public prosecutor,
- 3) worked in a Polish university, Polish Academy of Sciences or a research and science institute or other science facility, and holds the academic title of a professor or a Ph. D. in legal sciences degree.
- 4) has worked as an attorney at law, legal counsel or notary - for at least three years,
- 5) has held the post of a president, vice-president, senior counsel or counsel at the General Public Prosecutor of the State Treasury - for at least three years.

§ 3. A person who fulfils the requirements specified in § 1 item 1-6, has completed the general apprenticeship in the Polish National School of Judiciary and Public Prosecutor's Office, notarial apprenticeship, attorney at law apprenticeship or legal counsel apprenticeship and passed a relevant exam and held the full time post of court referendary for at least five years, may be appointed a judge of a district court.

§ 4. A person who fulfils the requirements specified in § 1 item 1-6, has completed the general apprenticeship in the Polish National School of Judiciary and Public Prosecutor's Office, notarial apprenticeship, attorney at law apprenticeship or legal counsel apprenticeship and has passed a relevant exam and held the full time post of an assistant to judge for at least six years, may be appointed a judge of a district court.

§ 5. A person who has held the post of an assistant prosecutor for at least three years or one of posts specified in § 2 item 2-4- within the period of five years before applying for a vacant post of judge, may be appointed a judge of a district court.

§ 6. To the period specified in § 4 the period of full time employment at the post of a court referendary shall be added.

§ 7. In the case of a part time employment, the period referred to in § 3-6 shall be proportionally extended.

Art. 62. A professor or a holder of a post doctoral degree (habilitated doctor) in legal sciences in Polish universities, the Polish Academy of Sciences, or in academic research institutes or other research facilities may be appointed for the post of common court judge, on a part time, at least half of full time, basis.

Art. 63. § 1. A district court judge or a military garrison court judge who has held the post of district court judge or military garrison court judge or the post of public prosecutor for at least four years may be appointed a regional court judge.

§ 1a. Also a public prosecutor who has held the post of public prosecutor or a judge for at least four years may be appointed a regional court judge.

§ 2. Also a person who fulfils the requirements specified in Art. 61 § 1 items 1-4 may be appointed a regional court judge if the person:

- 1) has worked as an attorney at law, legal counsel or notary - for at least six years,
- 1a) has held the post of a president, vice-president, senior counsel or counsel at the General Public Prosecutor of the State Treasury - for at least six years,
- 2) worked at the post of lecturer, lecturer and researcher or researcher at a Polish university, Polish Academy of Sciences, or in an academic research institute or other research facility, having the title of a professor or a post doctoral degree (habilitated doctor) in legal sciences,
- 3) held the post of military judge in a regional court.

§ 3. A person who has worked as or held the post specified in § 2 for the period of three years before appointment may be appointed for the post of regional court judge.

Art. 63a. (repealed).

Art. 64. § 1. A common court and military court judge who has held the post of judge or the post of public prosecutor for at least six years, including at least three years as a regional court judge, military judge in a regional court or regional public prosecutor may be appointed a court of appeal judge.

§ 1a. Also a public prosecutor who has held the post of public prosecutor or a judge for at least six years, including at least three years at the post of regional public prosecutor, a regional military public prosecutor, a regional court judge, military regional court judge or a public prosecutor in an appellate public prosecutor office, or in State Prosecutor Office, General Prosecutor Office, Chief Military Prosecutor Office or a prosecutor of the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation, may be appointed a court of appeal judge.

§ 2. Also a person who fulfils the requirements specified in Art. 61 § 1 items 1-4 may be appointed a court of appeal judge, if the person:

- 1) has worked as an attorney at law, legal counsel or notary - for at least eight years,
- 1a) has held the post of a president, vice-president, senior counsel or counsel at the General Public Prosecutor of the State Treasury - for at least eight years,
- 2) worked at the post of lecturer, lecturer and researcher or researcher at a Polish university, Polish Academy of Sciences, or in an academic research institute or other research facility, having the title of a professor or a post doctoral degree (habilitated doctor) in legal sciences.

§ 3. A person who has worked as or held the post specified in § 2 for the period of three years before appointment, may be appointed for the post of court of appeal judge.

Art. 64a. (repealed).

Art. 65. § 1. Service relationship of a judge becomes effective upon the delivery of the official notification on his/her appointment.

§ 2. A judge should appear for taking his/her first post of judge within fourteen days from receipt of the official notification on his/her appointment.

§ 3. In the event of an unjustified failure to observe the term referred to in § 2, the appointment becomes invalid; such a fact shall be ascertained by the Minister of Justice.

Art. 65a. (repealed).

Art. 65b. (repealed).

Art. 66. At the appointment, a judge makes the solemn affirmation before the President of the Republic of Poland, in accordance with the following formula:

"I affirm solemnly, holding the post of common court judge entrusted to me, to serve faithfully to the Republic of Poland, to guard the law, to perform scrupulously the duties arising from my position, to administer justice, without any bias, according to my conscience and to the rules of law, to keep the State and professional secrets, and to be guided by the principles of dignity and honesty"; the person making this affirmation may finish it by saying the words: "So help me God."

Art. 67. § 1. The president of a regional court keeps for each district court judge and regional court judge, acting in a given court circuit, a separate service specification that includes basic data concerning service and private relationship of a judge within the scope influencing his/her performance of judicial duties. The president of a court of appeal keeps such a specification for court of appeal judges.

§ 2. The Minister of Justice specifies, by regulation, a service specification draft and the manner of keeping thereof, based on personal files of a judge, documents and other information, stating the data included in the specification.

Art. 68. § 1. The service relationship of a judge terminates under the law if the judge resigns. Resignation of a judge becomes effective upon three months from the date of submitting the declaration to the Minister of Justice, unless the Minister of Justice fixes a different date of expiration of the service relationship, at the request of the judge. The Minister of Justice notifies the National Council of the Judiciary and the President of the Republic of Poland about the resignation of a judge.

§ 2. A valid disciplinary court decision on dismissal of a judge from the office and a valid judicial decision to impose on the judge a penalty in the form of depriving him/her of public rights or putting a ban on his/her occupying judicial positions, results under the law, in the loss of the position and post of judge; service relationship of a judge expires upon the decision becoming valid.

§ 3. Service relationship of a judge expires upon the day of loss of Polish nationality by the judge.

Art. 69. § 1. A judge retires upon attaining 65 years of age, unless, not later than six months prior to attaining 65 years of age, he/she declares to the Minister of Justice the will to continue to hold the post and submits a certificate that he/she is able, as regards the condition of health, to perform the duties of a judge issued in accordance with the principles specified for a candidate for a judicial post.

§ 2. A judge retires at his/her request, retaining the right to retirement pay specified in Art. 100 § 2, upon attaining 55 years of age in the case of a woman, provided she has worked at the post of judge or public prosecutor for at least 25 years, and upon attaining 60 years of age in the case of a man, provided he has worked at the post of judge or public prosecutor for at least 30 years.

§ 3. Should a judge submit a declaration and present a certificate referred to in § 1, the judge may occupy the post not longer than until he/she attains 70 years of age. Such a judge has the right to retire at any time by submitting an appropriate declaration to the Minister of Justice.

Art. 70. § 1. A judge retires at his/her request or at the request of a competent board of the court if, due to illness or fall of forces, he/she has been declared to be permanently unable to perform the duties of a judge by an adjudicating doctor of the Social Insurance Institution.

§ 2. A request for retirement and examining the judge's inability to perform his/her duties and for the issuance of a decision may be lodged by the judge or by a competent board of the court. In the case of a judge performing the function of the president of a regional court or the president of the court of appeal the request may be lodged by the Minister of Justice.

§ 3. The adjudicating doctor of the Social Insurance Institution provides the judge concerned and the relevant president of a regional court or the court of appeal with the decision on permanent inability to perform duties of a judge referred to in § 1 and 2, and in the case of a judge performing the function of the president of a regional court or the court of appeal, the decision is also provided to the Minister of Justice.

§ 4. The State Treasury covers the costs of examination and issuance of the decision.

Art. 71. § 1. A judge may be granted retirement upon the request of the board of a competent court if due to illness or paid leave for improvement of health he/she failed to perform service duties for the period of a year. The period includes previous interruptions in the performance of service duties due to an illness or paid leave for improvement of health if the period of service did not exceed thirty days.

§ 2. A judge may be granted the retirement if, without giving the reasons, he/she has not put himself/herself to the examination referred to in Art. 70 § 2, such an examination being requested by the board of the court or the Minister of Justice.

§ 3. Should the courts organisation or boundaries of court circuits be changed, a judge may also be granted the retirement, at the request of the Minister of Justice, if he/she was not transferred to another court.

Art. 72. The Minister of Justice notifies the judge about the termination of the service relationship referred to in Art. 68 § 1 or about the expiry of the service relationship referred to in Art. 68 § 2, or about the retirement under Art. 69.

Art. 73. § 1. Matters concerning granting a judge the retirement referred to in Art. 70 and 71, are resolved by the decision of the National Council of the Judiciary acting upon a request of the judge, the competent board of the court or the Minister of Justice.

§ 2. The decision of the National Council of the Judiciary in matters referred to in Art. 70 and 71 may be appealed against with the Supreme Court.

§ 3. The appeal is lodged by means of the National Council of the Judiciary, within one month following the date of servicing the decision by the appealing party. The right of appeal is vested in the judge and in the president of a competent court, and in the matters contained in the request lodged by the board of a court or by the Minister of Justice, in the board or in the Minister of Justice.

Art. 74. § 1. A judge granted the retirement for reasons referred to in Art. 71 § 3, has the right to return to the post previously held or to a new post of equal competence if the reasons for retirement have ceased.

§ 2. In order to exercise the right referred to in § 1, a judge notifies the intention to return to the post previously held or submits an application for a new post of equal competence to the National Council of the Judiciary, which issues a decision in that case within a month. Should the decision be negative, the

judge has the right to appeal against it with the Supreme Court.

Art. 75. § 1. The transfer of a judge to another post may occur only upon his/her consent.

§ 2. Consent to the transfer to another post is not required in the event:

- 1) of cancellation of the post caused by the change in courts organisation, cancellation of a given court or branch division or a transfer of the seat of a court,
- 2) of inadmissibility of holding the post of judge in a given court as a result of entering into the state of matrimony between judges or creation of family connection, referred to in Art. 6,
- 3) it is required, as regards the authority of the post, under the decision of a disciplinary court, issued at the request of the board of a competent court or of the National Council of the Judiciary,
- 4) of transfer as a result of a disciplinary penalty.

§ 3. The decision about the transfer of a judge in events specified in § 1 and 2 is issued by the Minister of Justice, whereas the transfer of a judge for reasons referred to in § 2 item 1 may occur if the consideration of the application of a judge for a new post is not possible.

§ 4. In the event referred to in § 2 item 1 and 2, the decision of the Minister of Justice may be appealed against with the Supreme Court.

Art. 76. Should a judge be transferred to another city/town/village, he/she is entitled to the reimbursement of transfer costs, with the exception of an event in which the transfer occurred for disciplinary reasons or at the request of the judge. The Minister of Justice, in particularly justified cases, may reimburse the transfer costs to a judge transferred at his/her request.

Art. 77. § 1. The Minister of Justice may delegate a judge, upon his/her consent, to perform the duties of a judge or to perform administrative acts:

- 1) in another court,
 - 2) in the Ministry of Justice or another organisational unit under the authority of the Minister of Justice or supervised thereby,
 - 3) in the Supreme Court - at the request of the First President of the Supreme Court,
 - 4) in an administrative court - at the request of the President of the Chief Administrative Court
- for a specified period not exceeding two years or for an unspecified period.

§ 2. The Minister of Justice may delegate a judge, upon his/her consent, at the request of the National Council of the Judiciary, to perform acts in the Office of the Council.

§ 2a. The Minister of Justice may delegate a judge, upon his/her consent, to perform acts in the Programme Board for Polish National School of Judiciary and Public Prosecutor's Office or to conduct training classes in the school.

§ 3. The Minister of Justice may delegate a judge at his/her request to perform the duties in the international judicial non-governmental organisation.

§ 3a. The Minister of Justice may delegate a judge, upon his/her consent, to perform duties or a specific function abroad, within actions taken by international or supranational organisations and international teams, conducting activity under international agreements, including agreements establishing international organisations, ratified by the Republic of Poland, in accordance with qualifications of the judge, for a specified period, not exceeding four years, with the possibility of re-delegating the judge for another period not exceeding four years.

§ 4. A judge delegated under § 1 item 2, for an unspecified period may be dismissed from delegation, or resign therefrom by giving notice three months in advance. In other events of a judge delegation the dismissal or resignation of a judge occurs without the notice period.

§ 5. A judge delegated to a superior court, upon six months of delegation, is entitled to basic remuneration, at the base rate the judge of such a court is entitled to, for the remaining period of delegation.

§ 6. Should a judge be delegated to a city/town/village other than the city/town/village in which the place of service of a judge is located, not being the place of his/her permanent residence, the delegated judge for the period of delegation, as an employee on a business trip, is entitled to the following amounts due in compensation for inconveniences resulting from the delegation outside the permanent place of service:

- 1) the right to gratuitous accommodation, in conditions corresponding to the authority of the post or reimbursement of the accommodation costs in the place of delegation, in one of the following forms:

- a) the reimbursement of costs actually incurred - in the amount indicated on an invoice,
 - b) a monthly lump sum - in the amount not exceeding 78% of the base for the basic remuneration of a judge, referred to in Art. 91 § 1c,
- 2) the reimbursement of costs of the first travel from the place of permanent residence to the place of delegation, reimbursement of costs of the last travel from the place of delegation to the place of permanent residence and reimbursement of costs of travels to the permanent place of residence and back, not more often than once a week, in the amount not exceeding the amount of railway travel costs, taking into consideration the concession the judge is entitled to with respect to a given means of transport, regardless of the reason for which the judge is entitled to such concession,
 - 3) a lump sum towards the costs of travels by public means of transport, referred to in provisions on the amounts and terms for determining the amounts due to an employee employed in a state or self-governmental unit financed from the budget, for business trips within the area of the country,
 - 4) the allowance, referred to in provisions on the amounts and terms for determining the amounts due to an employee employed in a state or self-governmental unit financed from the budget, for business trips within the area of the country,
 - 5) the reimbursement of costs related to the use of vehicles, constituting the property of an employee, for business purposes, referred to in provisions on terms of determination and way of reimbursement of costs of the use of passenger cars, motorcycles and motorbikes not owned by the employer, for business purposes,
 - 6) the reimbursement of costs of everyday travel to the place of delegation, referred to in § 6b.

§ 6a. Benefits and amounts due, referred to in § 6 items 1 and 2, are not granted if the distance between the place of permanent residence of a judge and the place of delegation does not exceed 60 km, unless the body appointed to manage the unit to which the judge is delegated, at the request of the delegated judge, decides that the everyday travel of the delegated judge to the place of delegation is pointless.

§ 6b. A delegated judge, referred to in § 6a, who is not entitled to benefits and amounts due, referred to in § 6 item 1 and 2, is entitled to the reimbursement of costs of everyday travel to the place of delegation in the amount not exceeding the amount equal to the costs of travel by railway or other means of public transport, taking into consideration the concession the judge is entitled to with respect to a given means of transport, regardless of the reason for which the judge is entitled to such concession,

§ 7. Should a judge be delegated to a court of the same competence, the judge is entitled to a functional supplement of a regional court inspecting judge.

§ 7a. If required by the interest of the justice, in events referred to in § 1 item 1, a judge may be delegated even without his/her consent, for a period not exceeding six months. The delegation of a judge without his/her consent may be repeated not earlier than upon the lapse of three years.

§ 7b. In events referred to in § 1 item 2, a judge may be delegated even without his/her consent, for a period not exceeding three months within a year. The delegation of a judge without his/her consent may be repeated not earlier than upon the lapse of two years.

§ 8. The president of a regional court, upon the consent of the board of the regional court, may delegate a district court judge or a regional court judge to perform duties of a judge within the area of jurisdiction of the same regional court, however, for a period not exceeding one month within a year. The president of the court of appeal, upon the consent of the board of the court of appeal, may delegate a regional court judge to the court of appeal from the area of jurisdiction of a given court of appeal, also for a period not exceeding one month within a year.

Art. 77a. A judge delegated to perform service duties in a city/town/village other than the city/town/village in which the place of service of a judge or place of delegation, referred to in Art. 77 § 1-3a, is located, is entitled to amounts due specified in provisions on the amounts and terms for determining the amounts due to an employee employed in a state or self-governmental unit financed from the budget, for business trips within the area of the country.

Art. 78. § 1. A judge delegated to perform acts in the Ministry of Justice may be entrusted with the duties at official posts, with the exclusion of the post of general director of the office.

§ 1a. Duties referred to in § 1 may be entrusted to a judge delegated to perform acts in the Polish National School of Judiciary and Public Prosecutor's Office.

§ 1b. Only a judge who distinguishes himself/herself by a high level of juridical knowledge and

demonstrates the knowledge of issues within the scope of duties entrusted thereto may be delegated to the Ministry of Justice or the Polish National School of Judiciary and Public Prosecutor's Office.

§ 2. A judge delegated to perform administrative functions in the Ministry of Justice or the Polish National School of Judiciary and Public Prosecutor's Office, as well as to conduct training classes in the Polish National School of Judiciary and Public Prosecutor's Office is entitled to a basic remuneration for the judicial post he/she holds and to a seniority allowance. Within the period of delegation the judge receives a functional supplement, specified in the regulation issued under Art. 91 § 8.

§ 3. Furthermore, within the period of delegation, as regards the nature and scope of tasks performed, a judge may be granted, by the Minister of Justice, a special allowance in the amount not exceeding 40 percent of the total basic remuneration and the functional supplement. The allowance is granted for a specified period, and in individual cases, also for an unspecified period.

§ 4. In particularly justified events such allowance may exceed the amount referred to in § 3.

§ 5. The Minister of Justice, having consulted the National Council of the Judiciary, specifies, by regulation, the procedure and detailed terms and conditions for the delegation of judges to perform duties in the Ministry of Justice, as well as to perform administrative acts and conduct training classes in the Polish National School of Judiciary and Public Prosecutor's Office, the procedure and detailed terms and conditions for the execution of the right to gratuitous accommodation and reimbursement of costs of accommodation in the place of delegation, including the maximum amount of the reimbursement of actual costs and the amount of a monthly lump sum, taking into consideration the possibility of diversifying the amount thereof depending on the place of delegation, as well as the procedure, detailed terms and conditions and the scope of benefits to which employees on business trips and employees temporarily transferred are entitled.

Art. 78a. §1. A judge delegated pursuant to Art. 77 § 3a is entitled to basic remuneration for the judicial post he/she holds and to a seniority allowance, as well as to compensation benefits for accidents at work and for occupational diseases, if the event from which the right to such benefits arises occurred when the judge was performing the duties or the function abroad. Within the period of delegation a judge receives a functional supplement, specified in the regulation issued under Art. 91 § 8.

§ 2. A delegated judge within the period of performance of duties or a function abroad is entitled to the following amounts, paid in Polish or foreign currency:

- 1) foreign supplement for the increased costs related to the performance of duties or a function abroad, determined accordingly to the terms and scope of the performance thereof,
- 2) if entrusted with the performance of duties or a function that require the change of the place of residence for at least one year:
 - a) one-off adaptation supplement,
 - b) the covering of the costs of resettlement travel of the delegated judge and each family member that moves therewith, including their property, regardless of the time of their actual resettlement,
 - c) the covering, once per two years, of the costs of travel of the delegated judge and family members staying with him/her permanently abroad, from the place of delegation to the place of permanent residence for vacation leave and back,
- 3) the reimbursement of travel costs related to the commencement and completion of the performance of duties or a function abroad, of a business trip within the territory of another country outside the place of delegation, and of travel from the place of delegation to the country and back in justified business or fortuitous events,
- 4) the reimbursement of costs of treatment if a judge is delegated to a country not being a Member State of the EU,
- 5) the covering of the costs of residence in the place of delegation up to the amount of documented expenses not exceeding the amount of the determined limit.

§ 3. The sum of the amounts due referred to in § 2 is reduced by the amount of cash received by the delegated judge from the foreign party for covering the costs related to the performance of duties or a function abroad. A delegated judge is not entitled to such amounts due if he/she does not incur costs for covering of which such amounts are allocated.

§ 4. Expenses related to the delegation of judges abroad are covered from the national budget from funds at the disposal of the Minister of Justice.

§ 5. Expenses referred to in § 4 may also be covered, in full or in part, from funds allocated for that purpose by an international organisation, with the disposal of which the Minister of Justice is entrusted.

§ 6. The basic remuneration of a judge and the seniority allowance, a judge at the judicial post held, is entitled to, to which the judge retains the right within the period of delegation to perform duties or a function abroad, are not included in expenses referred to in § 4.

§ 7. The Minister of Justice, having consulted with the National Council of the Judiciary, specifies, by regulation, the procedure, amount and detailed terms and conditions for granting and payment of amounts due referred to in § 2, limits to the amount of which the costs of residence are subject to reimbursement and the currency in which such amounts due are paid, taking into consideration the scope of granting thereof depending on the place of the performance of duties and of a function entrusted to a judge, as well as the need to ensure conditions for appropriate performance thereof and the necessity for covering the increased costs related to the performance of such duties or function abroad and to special circumstances, including fortuitous events.

Art. 79. A judge shall not, quoting the principle of judicial independence, avoid the fulfilment of orders within the scope of administrative acts if, under the provisions of the Act, such acts constitute judicial duties, or of orders concerning the efficiency of court proceedings. He/she may, however, request the order to be issued in writing.

Art. 80. § 1. A judge may not be detained or called to criminal responsibility without the permission of a competent disciplinary court. The foregoing shall not concern detention if a judge was caught red handed, should such detention be necessary to ensure the appropriate course of proceedings. By the time of issuance of a resolution, which permits calling, the judge to criminal responsibility, only acts requiring urgent attention are permitted.

§ 2. The president of the court of appeal having jurisdiction over the place of detention shall be immediately notified about the detention of a judge. The president may order an immediate release of the detained judge. The president of the court of appeal immediately notifies the National Council of the Judiciary, the Minister of Justice and the First President of the Supreme Court about the fact of detention of a judge.

§ 2a. A motion for the permission to call the judge to criminal responsibility, if not lodged by a public prosecutor, should be executed by an attorney at law or a legal counsel being an attorney in fact.

§ 2b. Should the motion for calling the judge to criminal responsibility not correspond to the formal terms of a pleading specified in the Code of Penal Procedure or be obviously groundless, the president of a disciplinary court refuses to accept the motion. Decision on refusal to accept the motion may be appealed against with a disciplinary court competent to consider the motion.

§ 2c. The disciplinary court issues a resolution, which permits calling the judge to criminal responsibility if a reasonable suspicion exists that the judge has committed the offence. The resolution resolves the issue within the scope of permission to call the judge to criminal responsibility and includes the statement of grounds.

§ 2d. The disciplinary court considers the motion for permission to call the judge to criminal responsibility within fourteen days from the date of lodging it to the disciplinary court, subject to Art. 80a § 1.

§ 2e. Prior to the issuance of the resolution, the disciplinary court hears the disciplinary commissioner, as well as the judge, representative of the body or a person who moved for the permission, if such appear. The failure of the foregoing persons to appear shall not withhold the consideration of the motion.

§ 2f. The judge, whom the proceedings concern, has the right to access documents enclosed to the motion. However, when bringing the motion to the disciplinary court, the public prosecutor may reserve that such documents or a part thereof, may not be disclosed to the judge due to the interest of preparatory proceedings.

§ 2g. If the public prosecutor made the reservation referred to in § 2f, the presiding judge of the disciplinary court shall immediately delegate the case to be heard at the session. The disciplinary court may refuse a judge the access to documents enclosed to the motion.

§ 2h. Should a public prosecutor who lodges the motion for permission to call the judge to criminal responsibility at the same time move for permission to provisionally arrest the judge, the resolution, which permits calling the judge to criminal responsibility also includes permission to detain the judge and apply provisional arrest, unless the disciplinary court decides otherwise.

§ 3. (repealed).

§ 4. When deciding in the case referred to in § 1, the disciplinary court may be satisfied with the statement of the judge that he/she moves for the issuance of a resolution on the permission to call him/her to criminal responsibility.

Art. 80a. (invalid).

Art. 80b. (invalid).

Art. 80b. (invalid).

Art. 80b. (invalid).

Art. 81. For committing petty offences a judge is liable only on disciplinary grounds.

Chapter 2

Rights and duties of judges

Art. 82. § 1. A judge shall act in compliance with the judicial oath.

§ 2. A judge should, when on and off service, guard the authority of the post of judge and avoid everything that could bring discredit to the authority of a judge or weaken the confidence in his/her independence.

§ 3. (repealed).

Art. 82a. A judge shall constantly improve his/her professional qualifications, participate in trainings and other forms of professional improvement, the organisation of which is specified under a separate Act.

Art. 82b. A judge, upon its consent, may be entrusted with the obligation of exercising patronage over the course of trainings or apprentices in the Polish National School of Judiciary and Public Prosecutor's Office.

Art. 83. The working hours of a judge are determined in accordance with his/her duties.

Art. 84. § 1. A judge at trials wears an official outfit. The official outfit of a judge at a trial is a gown, and of a presiding judge at a trial - a gown and a chain with an emblem representing the eagle being the Polish National Coat-of-Arms. If required by the provisions on judicial acts, the official outfit also includes a cap.

§ 2. The Minister of Justice, having consulted with the National Council of the Judiciary, specifies, by regulation, the design of the official outfit of judges, taking into consideration the solemn nature of the outfit, appropriate for the authority of the court and for the cultivated tradition.

§ 3. A judge receives a professional ID including his/her post and the place of service. The Minister of Justice specifies, by regulation, the design of professional ID of a judge.

Art. 85. § 1. A judge shall keep confidential the facts of the case which have been made known to him/her as a result of holding the post, in a way other than during an open court trial.

§ 2. The obligation to keep facts confidential survives the term of service relationship of a judge.

§ 3. The judge's obligation to keep facts confidential ceases while he/she is making depositions before a court as a witness, unless disclosing the secret prejudices the interest of the state or a material private interest which coincides with the purposes of the administration of justice. In such a case, the Minister of Justice may exempt the judge from the obligation to keep facts confidential.

§ 4. A person holding the post of judge is not subject to checking proceedings stipulated in the Act of 22 January 1999 on the Protection of Confidential Information (*Journal of Laws*/ Dz. U. No 11, item 95, of 2000, No 12, item 136 and No 39, item 462, of 2001, No 22, item 247, No 27, item 298, No 56, item 580, No 110, item 1189, No 123, item 1353 and No 154, item 1800, of 2002, No 74, item 676, No 89, item 804 and No 153, item 1271 and of 2003 No 17, item 155). Prior to the commencement of the performance of

duties a judge reads provisions on the protection of confidential information and makes a declaration concerning the knowledge thereof. A judge may obtain access to confidential information within the scope necessary to perform his/her service duties at a judicial post, perform his/her function or perform acts entrusted thereto.

Art. 86. § 1. A judge may not undertake additional employment, except that of a lecturer, lecturer and researcher or researcher, in the aggregate number of working hours not exceeding the number of working hours of a full time employee holding such a post, if such employment does not interfere with the performance of the duties of a judge.

§ 2. Neither may a judge take up other jobs or gainful occupations which could interfere with the performance of the duties of a judge, weaken the confidence in his/her independence or prejudice the authority of the office of judge.

§ 3. A judge shall not:

- 1) be a member of a management board, supervisory board or auditing committee of a commercial law company,
- 2) be a member of a management board, supervisory board or auditing committee of a cooperative,
- 3) be a member of a foundation conducting a business activity,
- 4) hold more than 10% shares in a commercial law company or more than 10% of its share capital,
- 5) conduct a business activity on own account or on joint account of other persons, or be a manager, representative or attorney in fact in respect of such business activity.

§ 4. A court of appeal judge and a regional court judge notify the president of a competent court, and the presidents notify the Minister of Justice, about the intention of a judge to undertake additional employment referred to in § 1, or another job or gainful occupation. A district court judge notifies the president of a competent regional court.

§ 5. The president of a competent court with respect to a judge, and the Minister of Justice with respect to the president of a court of appeal and the president of a regional court issue a decision opposing the undertaking of the employment at the post of lecturer, lecturer and researcher or researcher if in his/her opinion undertaking or continuing thereof could interfere with the performance of the duties of a judge, weaken the confidence in his/her independence or prejudice the authority of the office of judge.

§ 6. If the president of a court opposed to a judge undertaking additional employment or a job referred to in § 4, the case, at the request of the judge, is decided by the board of a competent court.

Art. 87. § 1. Judges shall submit property declarations. Property declaration concerns a separate property and the joint property of spouses. The declaration shall include in particular: information about financial reserves, real estates, stock and shares in commercial law companies possessed by a judge, and about the property purchased by a judge or his/her spouse from the State Treasury or other state or self-governmental legal person, subject to sale in tender proceedings.

§ 1a. The declaration referred to in § 1 is submitted in two counterparts.

§ 2. Judges submit the declaration referred to in § 1 to the president of the court of appeal having jurisdiction thereover.

§ 3. A competent board of the court of appeal analyses the content of the declaration referred to in § 1 by 30 June each year and presents the results to the general assembly of the court of appeal judges.

§ 4. Presidents of courts of appeal submit declarations referred to in § 1 to the National Council of the Judiciary, which analyses the content thereof by 30 June each year.

§ 5. The declaration referred to in § 1 is submitted prior to taking the office of judge, and then each year by 31 March, as of 31 December of the previous year, and on the day of leaving the office.

§ 6. Information included in the declaration referred to in § 1 constitutes a professional secret, unless the judge who submitted the declaration agreed in writing to disclose it. In particularly justified cases, the entity entitled, pursuant to § 2 or § 4, to collect the declaration may disclose it despite the lack of consent of the person who submitted the declaration.

§ 1a. The declaration referred to in § 1 is kept for six years.

§ 8. The entity entitled to collect the declaration, pursuant to § 2 or § 4, forwards one copy of the property declaration to the tax office competent over the place of residence of the judge. The competent tax office is entitled to analyse the content of the declaration and to compare it with the content of declarations submitted in previous years and with the content of annual tax returns (PIT). Should the result of the analysis raise justified doubts as to the legitimacy of the source of the property disclosed in the

declaration, the tax office remands the case for applicable proceedings, conducted under separate provisions.

Art. 88. The form specified in the provisions on limitation of conducting business activity by persons performing public functions applies accordingly to the submission of the declaration referred to in Art. 87 § 1.

Art. 89. § 1. A judge may submit, make and lodge requests, motions and complaints in matters related to the office held only along official channels. The judge shall not refer to third institutions or third persons in this regard, nor make the matter in question public.

§ 2. A judge is entitled to resolve matters related to claims from service relationship in court.

Art. 90. A district court judge and a regional court judge shall immediately notify the president of the regional court, and a court of appeal judge and the president of the regional court - the president of the court of appeal, and the president of the court of appeal - the Minister of Justice about becoming a party or a participant of any judicial proceedings.

Art. 91. § 1. The remuneration of judges of courts of the same competence may differ depending on the seniority and functions performed.

§ 1a. (repealed).

§ 1b. (repealed).

§ 1c. The base for calculation of the basic remuneration of a judge in a given calendar year shall be the average remuneration from the second quarter of the previous year announced by the Head of the Central Statistical Office in Dziennik Urzędowy Rzeczypospolitej Polskiej "Monitor Polski" (Official Gazette of the Republic of Poland) under the provisions of Art. 20 item 2 of the Act of 17 December 1998 on Retirement and Disability Pensions from the Social Insurance Fund (Dz.U. /*Journal of Laws*/ 2004 No 39 item 353 as amended) subject to § 1d.

§ 1d. Should the average remuneration referred to in § 1c be lower than the average remuneration announced for the second quarter of the previous year - the base for the basic remuneration of a judge in the previous amount shall be assumed.

§ 2. The basic remuneration of a judge shall be determined in rates, the amount of which is determined applying the multipliers of the base for the basic remuneration of a judge referred to in § 1c. Rates of basic remuneration at particular posts of a judge and the multipliers used for determining the amount of basic remuneration of judges at particular rates are determined in the Annex to the Act. § 2a-5. (repealed).

§ 6. Due to performance of his/her function, a judge is entitled to receive a functional supplement.

§ 7. The remuneration of judges is also diversified by the seniority allowance, equal to, from the beginning of the sixth year of work, 5 percent of basic remuneration and increasing annually by 1 percent, not higher, however, than 20 percent.

§ 8. The Minister of Justice, having consulted the National Council of the Judiciary, specifies, by regulation, functions for which judges shall be entitled to functional supplement and the manner of determining the supplements, taking into consideration the type of function, the size of the organisational unit and the scope of obligations.

§ 9. No social insurance contributions are paid from the remuneration of judges.

§ 10. Should the service relationship of a judge terminate or expire in the manner referred to in Art. 68, a contribution to the Social Insurance Institution is paid, stipulated in the provisions on social insurance, for the term of office within which the judge received remuneration, and within which no social insurance contributions were paid.

§ 11. The social insurance contribution referred to in § 10 is subject to valorisation:

- 1) for the period by 31 December 1998, by the payment increase rate resulting from the increase in average anticipated remuneration, specified annually in the Budget Act, which constitutes the basis for determining resources and limits for remuneration for judges,
- 2) for the period from 1 January 1999, by a valorisation rate specified under the provisions on retirement and disability pensions from the Social Insurance Fund.

§ 12. Art. 19 § 1 of the Act of 13 October 1998 on the Social Insurance System (Dz. U. /*Journal of Laws*/ No 137, item 887 and No 162, item 1118 and 1126, of 1999 No 26, item 228, No 60, item 636, No

72, item 802, No 78, item 875 and No 110, item 1256, of 2000 No 9, item 118, No 95, item 1041, No 104, item 1104 and No 119, item 1249 and of 2001 No 8, item 64, No 27, item 298, No 39, item 459 and No 72, item 748) applies accordingly to the calculation of the amount of contributions due, valorised under § 11 item 2.

Art. 91a. § 1. A judge taking up a post in a district court shall be entitled to basic remuneration at the first rate. A judge taking up a post in a regional court shall be entitled to basic remuneration at the fourth rate, and if when holding a lower judicial post the judge received remuneration at the fourth or fifth rate, he/she shall be entitled to basic remuneration at the rate fifth or sixth accordingly. A judge taking up a post in a court of appeal shall be entitled to basic remuneration at the seventh rate, and if when holding a lower judicial post the judge received remuneration at the seventh or eighth rate, he/she shall be entitled to basic remuneration at the rate eighth or ninth accordingly.

§ 2. If prior to taking up a judicial post a judge held a different, equal post of judge or public prosecutor, he/she shall be entitled to basic remuneration at the rate not lower than the rate, at which he/she received at the post held previously.

§ 3. The basic remuneration of a judge shall be determined at the rate directly higher upon the lapse of 5 subsequent years at a given judicial post.

§ 4. To the period of work at the post of a district court judge the period of the performance of judge duties at the post of an assistant judge shall be added.

§ 5. A judge who at the time of taking up a post in a regional court was entitled to basic remuneration at the fourth rate or fifth rate, as well as a judge who at the time of taking up a post in a court of appeal was entitled to basic remuneration at the seventh rate or eighth rate, to the work period necessary to receive remuneration at a directly higher rate, the work period at the post directly lower, at which the judge was entitled to basic remuneration at the rate third or fourth, sixth or seventh shall be added.

§ 6. The period, referred to in § 3 may be extended by three years if, within such a period, a judge is punished with a disciplinary penalty or an irregularity referred to in Art. 40 has been raised with respect to such a judge twice, or two comments referred to in Art. 37 § 4 were made with respect to the judge.

Art. 92. § 1. A judge is entitled every year to additional leave of:

- 1) six working days - after ten years of work,
- 2) twelve working days - after fifteen years of work,

§ 2. The work period, on which the number of days of additional leave depends, includes the periods of employment in a court or a public prosecutor's office at the posts of: assistant judges, judges and public prosecutors, in General Public Prosecutor of the State Treasury at the post of counsel, as well as periods of doing the profession of an attorney at law, legal counsel or holding an independent post in the public authorities with which a legal practice was connected, or other periods of work if under such employment the employee was entitled to additional leave.

§ 3. A judge is entitled to receive an anniversary gratification in the following amounts:

- 1) 100% of the monthly remuneration – after twenty years of work,
- 2) 150% of the monthly remuneration – after twenty-five years of work,
- 3) 200% of the monthly remuneration – after thirty years of work,
- 4) 250% of the monthly remuneration – after thirty-five years of work,
- 5) 350% of the monthly remuneration – after forty years of work,
- 6) 400% of the monthly remuneration – after forty-five years of work,

§ 4. The period of work entitling to receive an anniversary gratification includes all previous periods of employment and other periods, if under separate provisions such periods are counted towards the period of work constituting the basis of the employee's rights.

§ 5. Provisions on anniversary awards referred to in the provisions on state offices employees apply accordingly to the calculation and payment of the anniversary gratification.

Art. 93. § 1. A judge may take paid leave for improvement of health.

§ 2. The leave for improvement of health shall not exceed six months and shall not be granted if the judge, for the reason of illness, has not performed his/her duties for a year.

§ 3. The leave for improvement of health is granted by the Minister of Justice.

Art. 94. § 1. A judge receives his/her remuneration during the period of absence from work for the

reason of illness, no longer, however, than for a year.

§ 2. In the event a judge is unable to perform work for other reasons entitling him/her to receive the benefits specified in the provisions on pecuniary benefits from the social insurance, he/she is entitled to receive the remuneration in the amount equal to the social insurance pecuniary benefits, for the period as provided for in those provisions.

§ 3. Other justified absences of a judge from work are paid.

§ 4. Where the employees covered by the social insurance are entitled to receive benefits irrespective of their right to receive the remuneration, the judge is entitled to receive a pecuniary benefit in the amount equal to the social insurance benefit.

Art. 94a. § 1. A judge who as a result of an accident at work or an occupational disease suffered a permanent or long-lasting detriment to health is entitled to one-off compensation.

§ 2. Family members of a judge who died as a result of an accident at work or an occupational disease are entitled to one-off compensation. The compensation is also paid in the event of death as a result of an accident at work or an occupational disease of a retired judge who died upon being declared to be permanently unable to perform the duties of a judge as a result of an accident at work or an occupational disease.

§ 3. One-off compensation and the increase thereof, as well as one-off compensation for family members of a judge or a retired judge, are determined in accordance with the principles and in the amount specified in the Act of 30 October 2002 on Social Insurance for Accidents at Work and for Occupational Diseases (*Journal of Laws/ Dz. U.* No 199, item 1673 and No 241, item 2074 and of 2003 No 83, item 760 and No 223, item 2217).

§ 4. Compensation stipulated herein is paid regardless of other benefits specified in the Act.

§ 5. The State Treasury covers the costs of results of accidents at work or occupational diseases, related to dental and vaccination benefits, to which a judge was referred to by an adjudicating doctor of the Social Insurance Institution, at the request of a doctor in charge, and not refunded from the National Health Fund under separate provisions. The State Treasury also covers the costs of orthopaedic devices in the amount of the deductible specified in the provisions on health insurance.

Art. 94b. § 1. The adjudicating doctor of the Social Insurance Institution, in the form of a decision, evaluates the detriment to health and the relation thereof to the accident at work or an occupational disease, and determines the relation of the death of a judge or a retired judge to such an accident or an occupational disease. Costs of examination and issuance of the decision are covered by the State Treasury from the funds at the disposal of the Minister of Justice.

§ 2. The adjudicating doctor of the Social Insurance Institution serves the decision referred to in § 1 on the judge concerned or his/her family members, or on family members of a deceased retired judge and on the president of the court of appeal competent to issue a decision referred to in § 4, or on the Minister of Justice.

§ 3. One-off compensation is paid at the request of a judge, and in the event of death of a judge or a retired judge, at the request of his/her entitled family members. The board of a competent court may also lodge a request for payment of a compensation benefit.

§ 4. One-off compensation benefit is granted or refused to be granted, and the amount thereof is determined, by a decision, as well as paid by:

- 1) the president of a court of appeal - for an accident at work or occupational disease of a district, regional or court of appeal judge,
- 2) the Minister of Justice - for an accident at work or occupational disease of the president of a court of appeal or a judge delegated to perform acts in the Ministry of Justice.

§ 5. The Minister of Justice issues the decision referred to in § 4 within 14 days from the date of:

- 1) the receipt of the decision of the adjudicating doctor,
- 2) establishing the circumstances necessary for issuance of the decision.

§ 6. One-off compensation is paid *ex officio* within 30 days from the date of the issuance of the decision referred to in § 4.

§ 7. The decision referred to in § 4 may be appealed against by a judge or entitled family members of a judge or of a retired judge, with a regional court—labour and social insurance court. Provisions of the Code of Civil Procedure on procedure in matters within the scope of social insurance apply to the foregoing cases.

§ 8. Within the scope not regulated by the Act, provisions concerning employees of the Act referred to in Art. 94a § 3 apply accordingly to accidents at work and occupational diseases of a judge.

Art. 94c. §1. The president of a court, and at his/her request the Social Insurance Institution, are entitled to control the compliance of the use of sick leave by a judge due to illness with the purpose thereof.

§ 2. At the request of the president of a court the Social Insurance Institution is entitled to control the compliance and the grounds for granting sick leave to a judge due to illness.

§ 3. A judge who within the period of the declared inability to work performs work for consideration, including work referred to in Art. 86 § 1 and 2, or who uses the sick leave due to illness in the manner inconsistent with the purpose thereof, loses the right to receive remuneration for the entire period of the sick leave.

§ 4. A judge loses the right to receive remuneration if he/she refuses to undergo medical check up or if he/she fails to deliver medical documentation to the adjudicating doctor of the Social Insurance Institution by the date following the date of the indicated medical check up or upon the lapse of the indicated time limit for the delivery of medical documentation. The president of a court pronounces the loss of remuneration.

§ 5. Costs of control proceedings are covered by the State Treasury from the funds at the disposal of the Minister of Justice.

§ 6. Within the scope concerning the control of the compliance of the use of sick leave with the purpose thereof, control of the correctness of the sick leave and rules governing the loss of remuneration, such rules being referred to in § 1, 2 and 4, provisions on the social insurance pecuniary benefits in the event of an illness and maternity apply accordingly.

Art. 95. § 1. A judge should reside in the city/town/village being the seat of the court in which he/she performs the service.

§ 2. The president of a regional court with respect to a district court judge and a regional court judge, the president of a court of appeal with respect to a judge of such court, and the Minister of Justice with respect to the president of a regional court and the president of a court of appeal, in justified cases, may consent to a judge residing in another city/town/village.

§ 3. Should a judge obtain the consent referred to in § 2 he/she is entitled to the reimbursement of travel costs from the place of residence to the seat of the court, determined with reference to the rules for the calculation of the amounts due to an employee for domestic business trips. Should the change of the place of service result from adjudicating a disciplinary penalty referred to in Art. 109 § 1 item 4 and a decision of a disciplinary court to transfer a judge to another place of service due to the authority of the post, the judge is not entitled to the reimbursement of travel costs.

Art. 96. § 1. A judge may be granted financial support, in the form of a loan, to satisfy his/her residential needs.

§ 2. Funds for the financial support referred to in § 1, will provide up to 6 percent of the annual remuneration fund for judges.

§ 3. The Minister of Justice, in agreement with the minister competent over public finances, specifies, by regulation, the manner of planning and using the funds for satisfaction of residential needs of judges and the terms and conditions of granting financial support referred to in § 1, taking into consideration the judge's own resources, the share of boards of courts in granting financial support and principles of reasonable management of funds, and assuming the principle that should the service relationship of a judge terminate or expire as referred to in Art. 68, the loan is subject to repayment together with interests at the rate applicable to commonly available bank loans.

Art. 97. § 1. Should a judge be conscripted into the non-professional military service, his/her rights and duties are suspended for the period of the service. The judge retains, however, his/her post and the right to remuneration, and the time of military service is included in the period of service relationship at the post of judge.

§ 2. Other special entitlements related to the service relationship of a judge recruited to active military service and exempted from military service are regulated by the provisions of the obligation of common defence of the Republic of Poland or the provisions on military service of professional soldiers.

§ 3. A judge recruited to non-professional military service performs the service in military court bodies.

Art. 98. § 1. A judge applying for the seat of a Sejm deputy or a senator, or for the seat of a town councillor, is granted unpaid leave for the time of the election campaign.

§ 2. A judge who has become appointed, designated or selected to perform a function in a state authority, self-governmental body, 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 his/her office, unless he/she retires.

§ 3. A judge who has resigned from his/her office for reasons specified in § 2 has the right to return to the post previously held if the period for which his/her performance of the duties of a judge has been terminated is no longer than nine years, save when a judge has performed judicial or public prosecutor's functions in international or supranational judicial bodies.

§ 4. In the event as in § 3, the National Council of the Judiciary, on the initiative of the person concerned, submits a request for his/her appointment to perform the duties of a judge to the President of the Republic of Poland, unless such a person fails to fulfil the terms required to be appointed to the post of judge. Upon being appointed to the post, a judge is assigned the post and place of service previously held, regardless of the number of posts in a given court.

§ 5. Should the submission of the request referred to in § 4 be refused, the person concerned is entitled to lodge an appeal with the Supreme Court.

§ 6. Provisions § 2-5 shall not apply to the appointment of a judge to the post of undersecretary of state in the Ministry of Justice. In such an event, a judge is delegated to the Ministry of Justice in accordance with Art. 77 § 1, for the period of performing the function.

Art. 99. A retired judge may use his/her previous title adding the word "retired".

Art. 100. § 1. A judge who has been granted retirement, in the event of a change in courts organisation or change of boundaries of court circuits, by the time he/she attains 65 years of age, is entitled to receive retirement pay in the amount equal to the remuneration he/she received at the previous post.

§ 2. A judge who retires or is granted retirement due to age, illness or fall of forces is entitled to retirement pay equal to 75 percent of the basic remuneration and seniority allowance received at the previous post.

§ 3. The retirement pay referred to in § 1 and 2 shall be increased in accordance with the changes of the basic remuneration of professionally active judges.

§ 4. A retiring judge is entitled to receive a one-off severance pay equal to his/her six-month remuneration, except the case referred to in § 1. In such a case a retired judge receives one-off severance pay at the time he/she attains the years of age specified in § 1.

§ 5. A judge is not entitled to receive retirement or disability pension from the Social Insurance Fund for the post of judge, subject to cases referred to in Art. 91 § 10.

§ 6. In the event of the retirement pay coinciding with the right to receive a retirement or disability pension from the Social Insurance Fund, such a person receives only the retirement pay, subject to § 7.

§ 6a. Should the coincidence of rights referred to in § 6 concern a retiring or retired judge in accordance with § 2, who is a member of an open pension fund, the resources gathered on the account of the open pension fund, the fund shall transfer through Social Insurance Institution to the state budget.

§ 7. Should the coincidence of rights referred to in § 6 concern a retired judge who by the time of retiring had been employed under part-time appointment to a judicial post pursuant to Art. 62, both the retirement pension and the retirement pay are paid, the retirement pay, however, is limited in such a way that the total of the retirement pension and the retirement pay does not exceed the sum of entire retirement pay he/she would be entitled to if he/she was not appointed to perform part-time service.

§ 8. Remuneration for work at the post of judge and the retirement pay granted during retirement constitute revenue that causes the suspension of the right to retirement or disability pension or the reduction thereof, within the meaning of the provisions on retirement and disability pensions from the Social Insurance Fund. The president of a competent court and a judge entitled to receive benefits from the Social Insurance Fund shall notify the pension body about the received remuneration or retirement pay and the amount thereof, in accordance with the terms and on dates specified in the provisions on

retirement and disability pensions from the Social Insurance Fund.

Art. 101. § 1. In the event of the death of a judge, his/her family is entitled to posthumous gratuity in accordance with the principles stipulated in the Labour Code for employees' families.

§ 2. In the event of the death of a judge, a retired judge or a member of his/her family, the person who covered the costs of the funeral is entitled to a pecuniary benefit in the amount and on terms specified for the funeral allowance from social insurance.

§ 3. The provision of § 2 applies accordingly in the event of the death of the person entitled to the family benefit or of a family member of that person.

§ 4. In the event of the right to the benefit referred to in § 2 and 3 coinciding with the right to receive funeral allowance from social insurance, the entitled person receives only one benefit, the one which he/she wishes to choose.

Art. 102. § 1. In the event of the death of a judge or a retired judge, his/her family members who fulfil the terms and conditions required to receive a family pension pursuant to the provisions on retirement and disability pensions from the Social Insurance Fund are entitled to a family benefit in the amount of:

- 1) for one entitled person - 85 percent,
 - 2) for two entitled persons - 90 percent,
 - 3) for three or more entitled persons - 95 percent,
- of the base.

§ 2. The base of the amount of the family benefit a family is entitled to is:

- 1) in the case of the family of a deceased retired judge - the retirement pay to which the deceased retired judge was entitled at the time of death, subject to item 2,
- 2) in the case of the family of a deceased judge or a deceased judge who retired under Art. 100 § 1 - the retirement pay the deceased judge was entitled to at the time of his/her death, pursuant to Art. 100 § 2.

§ 3. To the retirement pay referred to in § 1, Art. 100 § 3 applies accordingly.

§ 4. In the event of the right to a family benefit coinciding with the right to a retirement or disability pension, the entitled person, at his/her request, receives either the family benefit, or retirement pension or disability pension.

§ 5. A supplement for complete orphans in the amount and on terms specified in the provisions on retirement and disability pensions from the Social Insurance Fund may be added to the family benefit.

Art. 103. The Minister of Justice, in agreement with the minister competent over labour, specifies, by regulation, detailed principles, procedure for the determination and payment of retirement pay and family benefits to retired judges and their family members as well as the time for payment of contributions to the Social Insurance Institution referred to in Art. 91 § 10 and 11, taking into consideration, in particular, the necessity to ensure the continuity of relevant sources of income to entitled persons and convenience at the collection of retirement pay and family benefits.

Art. 104. § 1. A retired judge shall maintain the authority as appropriate for the post of judge.

§ 2. A retired judge bears disciplinary responsibility for breach of the authority of the judge upon retiring and breach of the authority of the office of judge when performing the office.

§ 3. The provisions of disciplinary responsibility of judges apply accordingly to the disciplinary responsibility of retired judges, save that instead of penalties stipulated for judges, the disciplinary court adjudicates the penalties of:

- 1) admonition,
- 2) reprimand,
- 3) suspension of pay valorisation for the period from one to three years,
- 4) deprivation of the right to retire and the right to the retirement pay.

§ 4. Conviction of a retired judge with a valid judgement for deprivation of public rights for an offence committed upon retiring, as well as before retiring, or with a valid adjudication of the ban from the office for misconduct committed, including the period before retirement, results in the deprivation of entitlements to retirement and the retirement pay as well as to the family benefit for family members of the judge.

§ 5. In the event the penalty referred to in § 3 item 4 is adjudicated or in events stipulated in § 4, a judge deprived of the right to retire and to the retirement pay or a family member deprived of the right to a

family benefit, acquires the right to a retirement pension or disability pension, provided the person fulfils the requirements specified in the provisions on social insurance.

Art. 105. § 1. Art. 84 § 3, Art. 86 and 96 apply accordingly to retired judges.

§ 2. A retired judge may, however, act as an inspecting judge in a court or in the Ministry of Justice. In such an event, the retired judge is employed under a civil and legal contract, against remuneration, not higher than the maximum rate of the functional supplement for an inspecting judge, plus a social insurance contribution, and if the function is performed in the Ministry of Justice, such remuneration may include the supplement referred to in Art. 78 § 3. Provisions of Art. 77 § 5 and Art. 94a and 94b apply accordingly.

Art. 106. The provisions of Art. 91 § 10 and 11 apply accordingly in the event of the loss of entitlements to retirement and the retirement pay, as referred to in art. 104 § 5.

Chapter 3

Disciplinary Responsibility of Judges

Art. 107. § 1. A judge takes disciplinary responsibility for misconduct in service including a gross violation of the provisions of law and for breach of the authority of the office of judge (disciplinary misconduct).

§ 2. A judge is also takes disciplinary responsibility for his/her conduct before taking his/her post if he/she failed in the duty of a civil servant or appeared to be unworthy to hold a judicial post.

Art. 108. § 1. Disciplinary proceedings may not be initiated upon the lapse of three years from the time of committing the act.

§ 2. Should disciplinary proceedings be initiated prior to the lapse of the term referred to in § 1, the period of disciplinary limitation lapses upon five years from the time of committing the act. However, should the case not be validly closed before the lapse of the term referred to in § 1, the disciplinary court adjudicates about the disciplinary misconduct and discontinues the proceeding with respect to imposing the disciplinary penalty.

§ 3. The period of disciplinary limitation with respect to disciplinary responsibility for an offence lapses at the same time as the period of limitation for offences.

§ 4. However, should the disciplinary misconduct include attributes of an offence, the period of disciplinary limitation may lapse earlier than the period of limitation stipulated in the Penal Code.

Art. 109. § 1. Disciplinary penalties include:

- 1) an admonition,
- 2) a reprimand,
- 3) the dismissal from the function held,
- 4) the transfer to another place of service,
- 5) the dismissal from the office.

§ 2. A court may make a valid disciplinary decision public.

§ 3. A judge penalised as referred to in § 1 item 3 or 4 is deprived for the period of five years of the possibility to be promoted to a higher judicial post, to sit in the board of the court, to adjudicate in the disciplinary court and to perform the lost function .

§ 4. The disciplinary penalty referred to in § 1 item 5 excludes the reinstatement of the person subject to it in the judicial post.

§ 5. In case of a disciplinary misconduct or an offence of lesser gravity, the disciplinary court may refrain from imposing a penalty.

Art. 110. § 1. The following disciplinary courts are set up to hear disciplinary cases against judges:

- 1) in the lower instance - courts of appeal,
- 2) in the higher instance - the Supreme Court.

§ 2. Disciplinary courts are furthermore competent to adjudicate in cases referred to in Art. 37 § 4a, Art. 75 § 2 item 3 and in Art. 80-80c.

§ 3. The disciplinary court having jurisdiction over the circuit where the judge subject to proceedings performs the service is competent to hear cases referred to in § 1 and 2. Should a case concern a court of appeal judge or a regional court judge, another court, indicated at the request of a disciplinary commissioner by the First President of the Supreme Court, is competent to hear the case.

§ 4. Disciplinary courts adjudicate in the bench of three judges. All judges of a given disciplinary court are entitled to adjudicate, with the exception of the president of the court, vice presidents of the court and the disciplinary commissioner.

§ 5. A disciplinary court in the lower instance may adjudicate in off-site sessions in a regional court, within the area of jurisdiction of which the accused holds the post of judge, unless the interest of the justice opposes thereto.

Art. 111. The composition of the disciplinary court is decided by a draw from among the judges of a given court, provided, however, that at least one of the disciplinary court judges permanently adjudicates in criminal cases. The judge who permanently adjudicates in criminal cases and has been on service the longest is the presiding judge of the disciplinary court.

Art. 112. § 1. The disciplinary commissioner is the entitled prosecutor before a disciplinary court, in cases of court of appeal judges, as well as in cases of presidents and vice presidents of regional courts; in all other cases - the entitled prosecutor is the deputy of the disciplinary commissioner.

§ 2. The disciplinary commissioner is selected by the National Council of the Judiciary from among candidates presented by the general assembly of court of appeal judges. The disciplinary commissioner acts at the National Council of the Judiciary. The term of office of the disciplinary commissioner is four years.

§ 3. Assemblies specified in § 2 select from among court of appeal judges one candidate each to perform the function of the disciplinary commissioner and propose the selected candidates to the National Council of the Judiciary, three months before the lapse of the term of office of the previous disciplinary commissioner at the latest or within a month upon the resignation thereof.

§ 4. Boards of courts of appeal select deputies of a disciplinary commissioner for each appeal and boards of regional courts select deputies from among judges of a given court for each circuit. The term of office of deputies of a disciplinary commissioner is two years.

§ 5. Within the scope of conducting explanatory proceedings the disciplinary commissioner and his/her deputies are bound by instructions of an authorised body.

§ 6. The disciplinary commissioner is entitled to take over each case conducted by the deputy disciplinary commissioner if he/she deems it is justified by the interest of the justice.

§ 7. Should a competent deputy of the disciplinary commissioner not be able to conduct a case, the disciplinary commissioner designates a deputy disciplinary commissioner from another circuit to conduct the case.

§ 8. Should any obstacles occur preventing the performance of duties by the disciplinary commissioner, the deputy disciplinary commissioner who has longest been on service takes over the case until the obstacles cease to exist.

§ 9. Provisions on the disciplinary commissioner apply accordingly to the deputies of the disciplinary commissioner.

Art. 113. The accused may appoint a defence counsel from among judges or attorneys at law.

Art. 114. § 1. The disciplinary commissioner acts in this capacity at a relevant request of the Minister of Justice, the president of the court of appeal or of the regional court and the board of the court of appeal or regional court, at the request of the National Council of the Judiciary or on his/her own initiative, upon preliminary clarification of the circumstances indispensable for establishing the attributes of misconduct, and after the judge has made explanations, unless making such explanations is impossible.

§ 2. Upon the proceedings referred to in § 1, there being grounds for instituting disciplinary proceedings, the disciplinary commissioner institutes disciplinary proceedings and provides the judge concerned with written charges. At the same time, with respect to cases referred to in Art. 110 § 3 second sentence, the disciplinary commissioner requests the First President of the Supreme Court for indication of competent disciplinary court to hear the case in the lower instance. The court should be indicated within seven days.

§ 3. After being presented with the charges, within fourteen days, the accused is entitled to make explanations and to apply for hearing the evidence.

§ 4. Upon the lapse of the period referred to in § 3 and, if necessary, after hearing further evidence, the disciplinary commissioner applies to a competent court for hearing the disciplinary case. The motion should specify the committed act being the subject of the proceedings and include the statement of grounds.

§ 5. Should the disciplinary commissioner not find sufficient grounds for instituting the disciplinary proceedings requested by an authorised body, he/she issues a ruling to refuse the institution thereof. The copy of the ruling is served on the body who lodged the motion for initiation of proceedings, on the board of the appropriate regional court or court of appeal and on the accused.

§ 6. Within seven days following the service of the ruling referred to in § 5 or of the ruling to discontinue the disciplinary proceedings, the accused, the body which moved for initiation of disciplinary proceedings and the competent board are entitled to lodge a complaint with the disciplinary court.

§ 7. The complaint should be examined within fourteen days upon the date of lodging thereof.

Art. 115. § 1. Upon lodging the motion for hearing the disciplinary case, the president of the disciplinary court fixes the dates for the trial.

§ 2. The date of the trial shall not be later than a month from the date of lodging the motion.

§ 3. An unjustified failure to appear of the accused or of the defence counsel shall not adjourn the hearing of the case.

Art. 116. § 1. Disciplinary proceedings are open to the public.

§ 2. The disciplinary court may hear the case at a non-public session for reasons of morality, state security and public order as well as for the reason of the protection of private life of the parties or significant private interest.

§ 3. Should the case be heard at a non-public session the disciplinary decision is made public.

Art. 117. If in the course of the trial another instance of misconduct is revealed, in addition to the one included in the motion for hearing the disciplinary case, the court may render a judgement with respect to such misconduct only upon the consent of the disciplinary commissioner and of the accused or his/her defence counsel; should no consent be granted, the disciplinary commissioner conducts separate disciplinary proceedings with respect to such misconduct.

Art. 118. Should the service relationship of a judge expire or terminate in the course of the disciplinary proceedings, the proceedings shall still continue. If the accused undertook employment in a state office, General Public Prosecutor of the State Treasury, an attorney at law office or as a legal counsel or notary, the court sends the judgement to such an office, General Public Prosecutor of the State Treasury, the Chief Council of the Attorneys at Law, the National Council of Legal Counsels or the National Council of Notaries.

Art. 119. Should the misconduct include attributes of an offence, the disciplinary court hears the case *ex officio* within the scope of granting a permission to call the judge to criminal responsibility and issues a resolution referred to in Art. 80 § 1, which shall not discontinue the disciplinary proceedings.

Art. 120. § 1. Upon valid closing of the criminal proceedings against the judge, the court or the public prosecutor sends the files of the case to a competent disciplinary commissioner. If no disciplinary proceedings were initiated, the disciplinary commissioner undertakes disciplinary actions, even if the judgment of acquittal was rendered in the criminal proceedings.

§ 2. If a valid judgement was rendered with respect to the judge, which, pursuant to the Act, resulted in the judge's dismissal from the post, the disciplinary court notifies the Minister of Justice, who orders the dismissal of the judge subject to the penalty, even if the disciplinary judgement convicting the judge to a penalty more lenient than the dismissal from the post had already been executed.

Art. 121. § 1. The accused, the disciplinary commissioner, as well as the National Council of the Judiciary and the Minister of Justice may appeal against the disciplinary court judgements rendered in the lower instance and against decisions and orders closing the procedure to render the judgement.

§ 2. The appeal should be considered within two months from the date of lodging thereof with the disciplinary court of the higher instance.

Art. 122. The judgement of the disciplinary court of the higher instance is not subject to cassation.

Art. 123. § 1. Should the dismissal from the office be adjudicated, and the disciplinary court fail to suspend the performance of service duties by a judge earlier, the judgement results in the suspension of the performance of service duties by the judge and in the reduction of his/her remuneration by 50 percent for the period of suspension. Art. 129 § 3 applies accordingly.

§ 2. The presiding judge of the disciplinary court in the lower instance sends a copy of the valid judgement of the disciplinary court to the National Council of the Judiciary and to the Minister of Justice, as well as to the president of a competent court and the board of such court.

§ 3. The Minister of Justice executes the judgement as regards penalties specified in Art. 109 § 1 items 4 and 5, and the president of the regional court and the president of the court of appeal execute judgement as regards penalties specified in Art. 109 § 1 item 3, with respect to judges of such courts.

Art. 124. § 1. A copy of a valid disciplinary penalty judgement is enclosed to the personal files of the accused.

§ 2. Upon the lapse of five years from the validation of the judgement adjudicating a penalty stipulated in Art. 109 § 1 items 1-4, the Minister of Justice orders the removal of the judgement from the personal files of the judge if within that period no convicting judgement was rendered against the person subject to the penalty. In such an event, only simultaneous removal of copies of all convicting judgements from the personal files of the judge is permissible.

Art. 125. The National Council of the Judiciary, the First President of the Supreme Court and the Minister of Justice may move for resuming the disciplinary proceedings.

Art. 126. § 1. The disciplinary proceedings to the disadvantage of the accused may be resumed if the proceedings were discontinued or the judgement was rendered as a result of an offence or if within five years from the discontinuation or rendering of the judgement, new circumstances or evidences are discovered, which could constitute the grounds for conviction or the imposition of a more severe penalty.

§ 2. The disciplinary proceedings may be resumed for the benefit of the convict also upon his/her death if new circumstances or evidence is discovered, which could constitute grounds for acquittal or imposition of a more lenient penalty.

§ 3. In the event of the death of the convict, the motion for resuming the proceedings may be lodged by his/her spouse, relatives in linear kinship, siblings, an adopter, an adoptee and the disciplinary commissioner.

Art. 127. Resolutions made in the course of disciplinary proceedings require, *ex officio*, a written statement of grounds and shall be served on the parties. Judgements and rulings as well as orders closing the procedure to render a judgement are also served on the National Council of the Judiciary and on the Minister of Justice.

Art. 128. To matters not regulated herein the provisions of the Code of Penal Procedure apply.

Art. 129. § 1. The disciplinary court may suspend a judge in the performance of service duties against whom the disciplinary proceedings or the proceedings for incapacitation have been initiated.

§ 2. Should the disciplinary court issue a resolution permitting to call the judge to criminal responsibility, the judge is suspended in the performance of service duties *ex officio*.

§ 3. The disciplinary court, when suspending a judge in the performance of service duties, reduces his/her remuneration by 25 to 50 percent for the period of the suspension; the foregoing shall not concern persons with respect to whom the proceedings for incapacitation have been initiated.

§ 4. Should the disciplinary proceedings be discontinued or the judge be acquitted, he/she is paid the withheld remuneration.

Art. 130. § 1. If a judge is detained due to being caught red handed when committing an intentional

offence or if due to the type of the act committed by the judge the authority of the court or significant interests of the service require an immediate withdrawal from the performance of service duties, the president of the court or the Minister of Justice may order an immediate break in service duties until the time of the issuance of resolution by the disciplinary court, however, not longer than a month.

§ 2. If the judge referred to in § 1 performs the function of the president of the court, the Minister of Justice orders the break in the performance of service duties.

§ 3. The president of the court or the Minister of Justice notify the disciplinary court about the issuance of the order referred to in § 1 within three days from the date of the issuance thereof, and the court immediately, not later than before the lapse of the term for which the break was ordered, issues a resolution on the suspension of the judge in the performance of service duties or reverses the order concerning the break in the performance of the duties. The disciplinary court, notifies the judge about the session if the court deems it reasonable.

Art. 131. § 1. In cases provided for in Art. 37 § 4a or Art. 75 § 2 item 3 and in the case of the suspension of the judge in the performance of service duties or reversal of the order concerning the break in the performance of duties referred to in Art. 130 § 1 the disciplinary court, upon hearing the disciplinary commissioner out, issues a resolution. The court also hears the judge out if he/she appeared at the session.

§ 2. The National Council of the Judiciary and the board of the court which lodged the motion referred to in Art. 75 § 2 item 3 may complain against the resolution refusing to consider the motion. § 3. A judge may lodge a complaint against the resolution refusing to consider the reservation referred to in Art. 37 § 4a.

§ 4. A judge may lodge a complaint against the resolution concerning the suspension in the performance of service duties, and the disciplinary commissioner may lodge a complaint also against the resolution reversing the order concerning the break in the performance of the duties referred to in Art. 130 § 2; the complaint shall not adjourn the enforcement of the resolution.

§ 5. The complaint is considered by the disciplinary court of the higher instance, and in cases referred to in § 3, by the same disciplinary court in a different bench of the same competence.

Art. 132. The suspension in the performance of service duties ceases at the time of valid closing of the disciplinary proceedings, unless the disciplinary court had reversed it earlier.

Art. 133. Costs of disciplinary proceedings are covered by the State Treasury.

PART III ASSISTANT JUDGES AND JUDICIAL AND PUBLIC PROSECUTOR APPRENTICESHIP

Chapter 1

Assistant Judges

Art. 134. § 1. A person who has completed judicial or public prosecutor apprenticeship or a judicial and public prosecutor apprenticeship in accordance with the terms specified in provisions of the Act of 1 July 2005 on the National Training Centre for the Officials of Common Courts of Law and the Public Prosecutor's Office (Dz. U. *Journal of Laws*/ No 169, item 1410 and No 264, item 2204 and of 2007 No 64, item 433) and who passed a judicial or public prosecutor exam and fulfils the requirements specified in Art. 61 § 1 items 1-4 may be appointed as assistant judge by the Minister of Justice.

§ 2. A person may not, however, be appointed as assistant judge if the period exceeding five years from the time of passing the judicial or public prosecutor exam has lapsed, unless the person held the post or performed the work or occupation referred to in Art. 61 § 2 i 3 for at least three years upon passing the exam.

§ 3. Also a person who fulfils the requirements provided for in Art. 61 § 2 and 3 is eligible to be appointed an assistant judge.

§ 4. A candidate for an assistant judge provides the information about him/her issued by the National Criminal Record, and a certificate that he/she is able, as regard the condition of health, to perform the duties of a judge. Issuance of the certificate and the examination of candidates for assistant judges are

performed applying the same principles as provided for candidates for the post of judge.

§ 4a. The Minister of Justice consults with the National Criminal Record and requests the Police Commander in Chief to send information about the candidate for an assistant judge, including the following data, necessary for evaluating the fulfilment of the requirement concerning the integrity of the candidate:

- 1) instances of behaviour indicating violation of legal order by a candidate,
- 2) contacts with criminal environments or groups of social pathology and the nature of such contacts,
- 3) circumstances indicating addiction to alcohol, intoxicants or psychotropics.

§ 4b. The Minister of Justice in agreement with the Minister competent over internal affairs, specifies, by regulation, a detailed procedure for obtaining and preparing information by the Police Commander in Chief about the candidate for an assistant judge, taking into consideration the efficiency of obtaining the information, protection of personal rights of candidates and other rights and freedoms protected under the Constitution, as well as the need for evaluating the fulfilment of the requirement concerning the integrity of candidates.

§ 5. The Minister of Justice may dismiss an assistant judge, at prior notice, upon the request of the board of the regional court.

Art. 135. § 1. The Minister of Justice may, upon the consent of the board of the regional court, entrust the assistant judge with the performance of judicial duties in a district court for a specified period, not exceeding four years. The period may be extended until the time the assistant judge attains 29 years of age, or until closing of the proceedings referred to in Art. 58 § 4-6.

§ 2. Within the scope of adjudicating assistant judges are independent and are bound only by the Constitution and Acts.

§ 3. An assistant judge who has not been entrusted with the performance of judicial duties is authorised to perform the duties of a court referendary.

§ 4. At taking up the post, the assistant judge makes the solemn affirmation before the Minister of Justice, according to the following formula:

"I affirm solemnly, holding the post of assistant judge entrusted to me, to serve faithfully to the Republic of Poland, to perform scrupulously the official duties, to guard the law, to act in accordance with the principles of dignity and honesty, keep the State and professional secrets, and if entrusted with judicial duties, to administer justice, without any bias, according to my conscience and to the rules of law "; the person taking this affirmation may finish it by saying the words: "So help me God."

§ 5. An assistant judge, for the period of the performance of judicial duties, remains under the care of a judge designated to perform the function of consultant.

§ 6. A judge performing the function of consultant assists the assistant judge, at his/her request, within the scope of judicial work techniques and the performance of court administrative acts. Furthermore, the consultant judge inspects the court sessions presided over by the assistant judge under his/her care and prepares quarterly reports on the function performed.

§ 7. A regional court judge adjudicating in cases, the hearing of which was entrusted to the assistant judge, is designated for the function of consultant.

§ 8. The Minister of Justice, upon consultation with the National Council of the Judiciary, specifies, by regulation, the procedure for performing the function of the consultant.

Art. 136. § 1. The remuneration of an assistant judge is determined as specified in Art. 91 § 1 first sentence, and in accordance with the procedure specified in Art. 91 § 8.

§ 2. Provisions concerning judges, with the exception of Art. 66, Art. 68 § 2, Art. 69-74, Art. 77 § 1-5 and § 7, Art. 91 § 1 and § 2-4 and § 9-11, Art. 94a, Art. 94b, Art. 98 and Art. 102 apply to assistant judges entrusted with the performance of judicial duties.

§ 3. Provisions of Art. 82a apply accordingly to assistant judges.

Chapter 2

Judicial and Public Prosecutor Apprenticeship

Art. 137. The judicial and public prosecutor apprenticeship that prepares the candidates to hold the post of judge, hereinafter referred to as "apprentices", is conducted in accordance with terms specified in

the provisions of the Act referred to in Art. 134 § 1.

Art. 138. (repealed).

Art. 139. The authority as to the merits over the judicial and public prosecutor apprenticeship is exercised by the Minister of Justice.

Art. 140. (repealed).

Chapter 3 (repealed).

Court Apprentices

Art. 141. (repealed).

Art. 142. (repealed).

Art. 143. (repealed).

Art. 144. (repealed).

Art. 145. (repealed).

Art. 145a. (repealed).

Art. 146. (repealed).

Art. 146a. (repealed).

PART IV

COURT REFERENDARIES, COURT PERSONNEL, COURT PROBATION OFFICERS, LAY JUDGES AND COURT AUXILIARY BODIES

Chapter 1

General Provisions

Art. 147. § 1. Court referendaries and senior court referendaries, hereinafter referred to as “referendaries”, are employed in district and regional courts to perform duties specified in Acts, falling within the competence of courts in the scope of legal protection.

§ 2. Court probation officers (family probation officers and probation officers for adults) act in courts, and constitute the probation service and perform duties of educational and rehabilitation and preventive nature as well as other duties specified in special provisions.

§ 3. Officials and other court employees are employed in courts.

§ 4. In courts assistants to judges may be employed.

Art. 148. § 1. The Minister of Justice specifies, by regulation, the organisation and scope of duties for court secretariats and other departments of court administration, as well as the categories of court employees obliged to wear official outfits or identity cards and the terms for assignment thereof.

§ 2. Referendaries and assistant judges are subject to periodical qualification evaluations conducted by the competent president of the court, the evaluations covering the quality and promptness of performance of tasks, compliance with the work discipline and efficiency of making use of working time as well as the progress in professional development.

§ 3. The Minister of Justice may specify, by regulation, detailed principles and the procedure for

conducting periodical qualification evaluations of referendaries and assistants to judges. The resolution shall include the times of evaluations, the manner of their presentation and making them known to persons evaluated and take into consideration the right of persons subject to evaluation to question the evaluations.

Chapter 2

Court Referendaries

Art. 149. § 1. A court referendary may be a person who:

- 1) is a Polish citizen and enjoys full civil and full public rights,
- 2) is a person of integrity,
- 3) has completed higher education in law in Poland and has obtained the title of master (graduate) in law, or has completed higher education in law abroad recognised in Poland,
- 4) has attained 24 years of age,
- 5) has completed the general apprenticeship in the Polish National School of Judiciary and Public Prosecutor's Office, notarial apprenticeship, attorney at law apprenticeship or legal counsel apprenticeship and passed a relevant exam.

§ 2. (repealed).

§ 3. (repealed).

Art. 150. §1. A court referendary who has held the post of court referendary for at least ten years, has not been subject to penalties for disciplinary misconduct, and has received positive periodical qualification evaluations, may be appointed a senior court referendary.

§ 2. The service relationship of the referendary commences, under an appointment, on the date specified in the deed of appointment.

§ 3. Prezes sądu okręgowego, przed wystąpieniem z wnioskiem o mianowanie referendarza sądowego, zasięga informacji z Krajowego Rejestru Karnego oraz zwraca się do właściwego komendanta wojewódzkiego (Stołecznego) Policji o nadesłanie informacji o kandydacie. Informacje o kandydacie do objęcia stanowiska referendarza sądowego uzyskuje się i sporządza na zasadach określonych dla informacji o kandydacie do objęcia stanowiska sędziowskiego.";

The Minister of Justice, at the request of the president of the regional court, appoints and dismisses the referendary. The president of the regional court, prior to requesting for the appointment of the court referendary consults with the National Criminal Record and requests the competent Provincial (or Capital City) Police Commander to send information about a candidate. Information shall be obtained and prepared in accordance with rules on information referring to the candidate to the post of judge.

§ 4. Prior to the commencement of work, the court referendary makes the solemn affirmation before the president of the regional court, according to the following formula:

"I affirm solemnly, holding the post of court referendary entrusted to me, to serve faithfully to the Republic of Poland, to perform scrupulously the official duties, to guard the law, to act in accordance with the principles of dignity and honesty, keep the State and professional secrets." The person taking this affirmation may finish it by saying the words: "So help me God."

Art. 151. § 1. Within the scope of the duties performed, the referendary is independent as to the content of the issued decisions and orders provided for in Acts.

§ 2. Referendaries employed within the area of the same regional court hold a meeting of referendaries of the circuit at least once a year. The meeting is convened by the president of the regional court.

§ 3. The meeting of referendaries of the circuit takes position in all matters that are significant with respect to tasks performed by referendaries, selects a representative for the office term and represents referendaries of the circuit before the regional court bodies. The referendary of the longest seniority is the chairman of the meeting of referendaries of the circuit.

Art. 151a. The Minister of Justice may transfer a referendary at his/her request or upon his/her consent to another place of service.

§ 2. The consent of the referendary to the transfer to another place of service is not required in the event:

- 1) of cancellation of the post caused by the change in courts organisation, cancellation of a given court or division or a transfer of the seat of a court,
- 2) of inadmissibility of holding the post of referendary in a given court as a result of entering into the state of matrimony or creation of affinity connection referred to in Art. 6,
- 3) when it is required as regards the authority of the post, at the request of the board of a competent regional court.

§ 3. Art. 76 applies accordingly to the transfer of the referendary to another place of service.

§ 4. The Minister of Justice may delegate the referendary upon his/her consent:

- 1) to perform the duties of a referendary in another court,
- 2) to perform administrative acts in the Ministry of Justice

for a specified period not exceeding two years or for an unspecified period.

§ 5. If required by the interest of the justice, in events referred to in § 4 item 1, a referendary may be delegated even without his/her consent, for a period not exceeding six months. The delegation of the referendary without his/her consent may be repeated not earlier than upon the lapse of three years.

§ 6. Within the period of delegation, the referendary is entitled to basic remuneration for the post he/she holds and to the seniority allowance. Provisions of Art. 77 § 4 and 6 and Art. 78 § 3 apply accordingly. Should the referendary be delegated to another court without his/her consent or for the period exceeding six months, the referendary is entitled to an allowance in the amount of 10 percent of the basic remuneration.

§ 7. The service relationship with a referendary may be terminated by notice if:

- 1) he/she receives a negative qualification evaluation, confirmed by another negative evaluation, carried out not earlier than upon the lapse of three months,
- 2) the court is cancelled or reorganised, which results in the loss of possibility to further employ the referendary,
- 3) he/she is declared by the adjudicating doctor of the Social Insurance Institution to be permanently unable to perform the duties of a referendary,
- 4) he/she acquires the right to retirement pension,
- 5) he/she is convicted of an offence other than specified in § 13.

§ 8. Should the service relationship with a referendary be terminated under § 7 item 2, within the period between ceasing of the employment in a liquidated or reorganised court and undertaking work or business activity, the referendary is entitled to a pecuniary benefit from the state budget for the period not exceeding 6 months, calculated as a pecuniary equivalent for holiday leave; the referendary who acquired the right to the retirement pension is not entitled to the benefit.

§ 9. A referendary may terminate the service relationship.

§ 10. The notice of termination is three months.

§ 11. The service relationship with a referendary may be terminated by mutual agreement of the parties.

§ 12. Should criminal or disciplinary proceedings be initiated against the referendary, the Minister of Justice may suspend the referendary in the performance of service duties, and reduce his/her remuneration by 25 to 50 percent for the period of the suspension. Should the disciplinary or criminal proceedings be discontinued or the referendary be acquitted, he/she is paid the withheld remuneration.

§ 13. Should the referendary lose Polish nationality or be convicted of committing an intentional offence prosecuted by the public prosecutor or a fiscal offence, the employment relationship with the referendary is terminated without notice. The employment relationship with the referendary may be terminated without notice for reasons specified in Art. 53 of the Labour Code.

Art. 151b. § 1. The basic remuneration of the court referendary amounts to 75 percent of the basic remuneration of a district court judge at the first rate, plus the social insurance contribution due. Upon seven years of work at the post of court referendary, the basic remuneration of the court referendary is increased up to 75 percent of the basic remuneration of a district court judge at the second rate, plus the social insurance contribution due, and upon the following seven years, the remuneration of the court referendary is increased up to 75 percent of the basic remuneration of a district court judge at the third rate, plus the social insurance contribution due.

§ 2. The basic remuneration of a senior court referendary equals 85 percent of the basic

remuneration of a district court judge at the second rate, plus the social insurance contribution due. Upon seven years of work at the post of senior court referendary, the basic remuneration of the senior court referendary is increased up to 85 percent of the basic remuneration of a district court judge at the third rate, plus the social insurance contribution due.

§ 3. Art. 45 § 1, Art. 47, 82a, 87-89, 92, 93 and Art. 97 § 1 and 2 apply to referendaries accordingly.

§ 4. To matters not regulated herein the provisions concerning employees of courts and public prosecutor's office apply accordingly to referendaries.

Art. 151c. A court referendary may take the judicial exam after working three years at the post of the court referendary or assistant to judge. The court referendary submits a request for admittance to the judicial exam to the Head of the Polish National School of Judiciary and Public Prosecutor's Office a month before the exam and pays applicable fee.

Art. 152. § 1. The referendary is disciplinarily responsible for the infringement of duties, including a gross violation of the provisions of law and for breach of the authority of the post.

§ 2. Disciplinary penalties include:

- 1) a reprimand,
- 2) a reprimand with warning,
- 3) a reprimand with reducing the basic remuneration by 10 percent for the period of two years,
- 4) the dismissal from work.

§ 3. Disciplinary proceedings commissions adjudicate in disciplinary cases of referendaries.

§ 4. Presidents of regional courts establish disciplinary proceedings commissions to hear disciplinary cases of referendaries employed in a court circuit in the lower instance.

§ 5. The Minister of Justice establishes disciplinary proceedings commission to hear disciplinary cases of referendaries in the higher instance.

§ 6. Referendaries are appointed to the composition of disciplinary proceedings commissions referred to in § 4 and 5.

§ 7. For misconduct of lesser gravity the referendary bears responsibility for breach of order. An admonition is the penalty for breach of order imposed by the president of the court .

§ 8. Within the scope not regulated in the Act, the provisions on disciplinary and breach of order responsibility of appointed civil servants apply accordingly to the disciplinary and breach of order responsibility of referendaries.

Art. 153. (repealed).

Art. 153a. § 1. At the request of the Head of Polish National School of Judiciary and Public Prosecutor's Office, having consulted the president of a given regional court, the Minister of Justice shall appoint at the post of a court referendary a judicial apprentice delegated to complete a training within the implementation of the judicial apprenticeship scheme.

§ 2. In the case of judicial apprentices completing training at the post of a court referendary, the termination of the employment relationship may occur in the event of:

- 1) deletion from the list of apprentices,
- 2) declaring the apprentice by the adjudicating doctor of the Social Insurance Institution to be permanently unable to perform the duties of a referendary,

§ 3. Should a court be cancelled or reorganised, which results in the loss of possibility to further employ the judicial apprentice completing the training at the post of the court referendary, at the request of the Head of Polish National School of Judiciary and Public Prosecutor's Office having, consulted the president of a given regional court, the Minister of Justice shall transfer the apprentice to another place for the purpose of continuing the training. Provisions of Art. 151a § 4 and 5 shall not apply.

Chapter 3

Court Probation Officers

Art. 154. § 1. Court probation officers perform their duties professionally (professional probation officers) or on the basis of community service (community service probation officers).

§ 2. The terms of organisation of probation service and the performance of duties by court probation officers as well as the status of court probation officers are specified under a separate Act.

Chapter 4

Assistants to Judges

Art. 155. § 1. An assistant to a judge, on his/her own, performs the court administrative acts and acts related to the preparation of judicial cases for hearing.

§ 2. An assistant to a judge may be a person who:

- 1) is a Polish citizen and enjoys full civil and full public rights,
- 2) is a person of integrity,
- 3) has completed higher education in law in Poland and has obtained the title of master (graduate), or has completed higher education in law abroad recognised in Poland,
- 4) has attained 24 years of age,
- 5) has completed the general apprenticeship in the Polish National School of Judiciary and Public Prosecutor's Office or passed judicial or prosecutor exam or completed notarial apprenticeship, attorney at law apprenticeship or legal counsel apprenticeship and passed a relevant exam.

§ 3. The president of the court, prior to the employment of an assistant to a judge, consults the National Criminal Record in order to obtain information about the candidate

§ 3a. (repealed).

§ 4. An assistant to a judge is entitled to the basic remuneration. Furthermore, the provisions of the Act of 18 December 1998 on the Employees of Courts and Public Prosecutor's Office (Dz. U./*Journal of Laws*/ No 162, item 1125) apply to assistants to judges.

§ 5. The Minister of Justice specifies, by regulation, the detailed scope and manner of the performance of duties by assistants to judges, taking into consideration the principles of efficiency, principles of reason, principles of economical and fast acting, as well as ensuring the reliable performance of tasks assistants to judges are entrusted with.

§ 6. The Minister of Justice specifies, by regulation, the amount of remuneration of assistants to judges, taking into consideration the level of remuneration of judges, court referendaries and court officials and the principle of diversifying the remuneration of assistants to judges depending whether they are employed in a district court, a regional court or a court of appeal.

§ 7. An assistant to judge may take the judicial exam after working four years at the post of the assistant to judge or court referendary. The assistant to judge submits a request for admittance to the judicial exam to the Head of the Polish National School of Judiciary and Public Prosecutor's Office a month before the exam and pays applicable fee.

§ 8. Provisions of Art. 82a apply accordingly to assistants to judges.

Art. 155a. § 1. The competent president of the court, specified in Art. 5 of the Act of 18 December 1998 on the Employees of Courts and Public Prosecutor's Office (Dz. U./*Journal of Laws*/ No 162, item 1125 as amended), hereinafter referred to as the "president", organises, by competitions, the enrolment for the post of assistant to judge.

§ 2. The president informs about the competition by placing an advertisement in the place commonly available in the seat of the court, in the labour office competent over the seat of the court, and in the Public Information Bulletin, and may also make it known in other form, in particular by placing an advertisement in the press.

§ 3. The competition is carried out by the competition commission established by the president.

§ 4. The competition aims at verifying the knowledge, predispositions and general abilities of the candidates, necessary to perform the duties of the assistant to a judge.

§ 5. The competition commission, upon the completion of the competition, based on the results thereof, may determine the reserve list of candidates, should the possibility of employing more persons occur or a candidate resign.

§ 6. The condition to apply for the post in a court is submitting, by a person applying for the post of assistant to judge, a representation, that the person is not subject to any proceedings prosecuted by a public prosecutor or proceedings for a fiscal offence.

§ 7. The Minister of Justice specifies, by regulation, the detailed procedure for carrying out the

competitions for the post of assistant to judge, in particular, the composition and procedure of the competition commission, stages and the course of the competition, as well as the scope and manner of providing the information to the candidate, taking into consideration the proper selection of assistant personnel in courts.

Art. 155b. The president of the district court shall employ at the post of the assistant to judge a judicial apprentice delegated to training by the Head of the Polish National School of Judiciary and Public Prosecutor's Office for the term of the training. The provision of Art. 155a shall not apply.

Chapter 5

Officials and other Court Employees

Art. 156. The terms of employment of officials and other court employees as well as their duties are specified by separate provisions.

Chapter 6

Court Experts

Art. 157. § 1. The president of the regional court designates court experts and keeps a list thereof.

§ 2. The Minister of Justice specifies, by regulation, the procedure for designating the court experts, for the performance of their duties, and for the dismissal of court experts from their function. Within the same procedure the Minister of Justice may also specify the detailed principles of appointment and acting of courts expert teams.

Chapter 7

Lay Judges

Art. 158. § 1. A lay judge may be a person who:

- 1) is a Polish citizen and enjoys full civil and full public rights,
- 2) is a person of integrity,
- 3) has attained 30 years of age,
- 4) has been employed or has resided in the place he/she candidates in for at least a year,
- 5) is not older than 70 years,
- 6) has the ability to perform duties of a lay judge, as regards the health condition,
- 7) has completed at least secondary education.

§ 2. (repealed).

Art. 159. § 1. A lay judge may not be a person who:

- 1) is employed in a common court or in another court or in a public prosecutor's office,
- 2) is a member of a body, against the decision of which the initiating of court proceedings may be requested,
- 3) is a police officer or holds a post related to the prosecution of offences or petty offences,
- 4) is an attorney at law or an attorney at law apprentice,
- 5) is a legal counsel or a legal counsel apprentice,
- 6) is a clergyman,
- 7) is a soldier on service,
- 8) is a Prison Service officer,
- 9) is a councillor in a municipality/commune, the council of which selects lay judges.

§ 2. A person may not be a lay judge in more than one court at the same time.

Art. 160. § 1. Councils of municipalities/communes within the jurisdiction of regional and district courts select lay judges to such courts, by secret voting.

§ 2. Municipalities/communes prepare such elections as a committed task within the scope of

government administration.

Art. 161. § 1. The number of lay judges selected by particular councils of municipalities/communes within the area of jurisdiction of the regional court, including the number of lay judges to adjudicate in cases within the scope of the Labour Law, is determined by the board of the regional court; the number of lay judges of particular district courts is determined upon consultation with the presidents of such courts.

§ 2. The president of the regional court notifies particular councils of municipalities/communes about the number of lay judges thirty days before the lapse of the term for proposing candidates at the latest.

Art. 162. § 1. Candidates for lay judges are proposed to councils of municipalities/communes by presidents of courts, trade unions, associations of employers and other organisations registered under the provisions of law, with the exclusion of political parties, and by at least twenty five citizens having the right to vote, residing permanently within a given area, by 30 June of the last year of the term of office.

§ 2. Trade unions and associations of employers propose candidates for lay judges to adjudicate in cases within the scope of Labour Law.

§ 3. The information from the National Criminal Record, a representation of the candidate that he/she is not subject to any criminal proceedings and a medical certificate concerning the health condition are enclosed to the application for a lay judge.

§ 4. (repealed).

§ 5. The Minister of Justice specifies, by regulation, the detailed procedure for proposing candidates for lay judges to councils of municipalities/communes and the draft of the application form, taking into consideration the need to document, by the proposing entities, the fulfilment of requirements specified in the Act by candidates for lay judges, and to ensure the selection of candidates representing highest ethical and intellectual virtues, to enable diligent verification of application and transparency of actions related to proposing the candidates for lay judges, and by specifying the draft of the application form - the need to uniform and facilitate the procedure.

Art. 163. § 1. The elections of lay judges are conducted at the latest in October of the calendar year in which the term of office of previous lay judges expires.

§ 2. Prior to the elections, the council of the municipality/communes establishes a team, which presents its opinion about the proposed candidates at a session of the council, in particular within the scope of fulfilment of requirements specified in the Act.

Art. 164. § 1. The councils of municipalities/communes which selected lay judges send the list of selected lay judges together with the data concerning them to presidents of competent courts, by the end of October at the latest. The councils of municipalities/communes designate lay judges to adjudicate in cases within the scope of Labour Law from among the lay judges entered into the list.

§ 2. The president of the court hands in the notification about the selection to lay judges, who make the solemn affirmation of the formula of the solemn affirmation of judges with appropriate changes.

§ 3. Upon taking the solemn affirmation, the president of the court enters the lay judge into the list of lay judges who may be designated for adjudicating and issues an identification card.

Art. 165. § 1. The term of office of regional and district court lay judges is four calendar years, following the year in which the selection was made. The mandate of an additionally elected lay judge expires, however, together with the expiry of the term of office of all lay judges.

§ 2. Upon the expiry of the term of office a lay judge may participate only in hearing of the case he/she participated in before the expiry of the term until the time the case closes.

Art. 166. § 1. The mandate of a lay judge expires if the lay judge is validly convicted of an offence or a petty offence, including a fiscal offence or a fiscal petty offence. The council of municipality/commune which selected the lay judge ascertains the expiry of the mandate for the aforementioned reason and informs the president of a competent court about that fact.

§ 2. The council of municipality/commune which selected the lay judge may dismiss him/her, at the request of the president of a competent court in the event of:

- 1) (repealed).
- 2) the failure to perform the duties of a lay judge,

- 3) instances of behaviour which harm the authority of the court,
- 4) the inability of a lay judge to perform his/her duties.

§ 3. Before to the lapse of the term of office, the mandate of a lay judge expires on the day of serving on him/her of the notification of the president of the court about the deletion of the lay judge from the list as a result of resignation from the mandate for significant reasons or dismissal of the lay judge by the council of municipality/commune.

Art. 167. § 1. Within the term of office a lay judge is not appointed to perform his/her duties if circumstances are disclosed which would not allow for the selection of the lay judge, or if criminal proceedings are initiated against the lay judge, until the valid resolution of the case.

§ 2. Should a court, a branch unit or a branch division be cancelled, lay judges of such units become lay judges of the courts which assumed the competences of the cancelled units.

Art. 168. If necessary, especially due to the decrease in the number of lay judges during the term of office, the council of municipality/commune, at the request of the president of the regional court, supplements the list, by selecting new lay judges applying the procedure as provided in the Act.

Art. 169. § 1. Within the scope of adjudicating lay judges are independent and bound only by the Constitution and Acts.

§ 2. A lay judge may not preside over a trial or council, or perform duties of a judge outside the trial, unless Acts provide otherwise.

Art. 170. § 1. A lay judge may be designated to participate in trials up to twelve days in a year; the number of days may be increased by the president of the court only for important reasons, in particular in the event when it is necessary to close a trial with the participation of the lay judge,

§ 2. The president of the court designates one lay judge to participate in cases within the scope of the Labour Law from among candidates proposed by the trade union, and as far as possible, one lay judge from among the candidates proposed by the association of employers.

§ 3. At the designation of a lay judge to participate in a trial, his/her employer is notified about that fact.

Art. 171. § 1. The president of the court may designate an additional judge to a trial if it is probable that the trial continues for a long time. If necessary, two additional judges may be designated; in such an event the order in which they would enter the council and voting should be indicated.

§ 2. An additional judge participates in a council and in voting if one of the judges may not participate in the bench.

Art. 172. § 1. The employer of a lay judge shall excuse the lay judge from work for the period of the performance of duties in the court.

§ 2. For the period the lay judge is excused from work, he/she is entitled to receive benefits under the employment relationship, with the exception of the right to receive remuneration.

§ 3. The lay judge receives pecuniary compensation for the period of performance of duties in court.

§ 4. The amount of compensation for lay judges participating in the hearing of cases in common courts, due for one day of the performance of duties of the lay judge, equals 1,9 percent of the base amount for determining the basic remuneration of judge referred to in Art. 91 § 1c.

§ 5. (repealed).

§ 6. The costs of the payment of the compensation referred to in § 3 are covered by the State Treasury.

Art. 173. Lay judges residing outside the seat of the court receive daily allowances and are reimbursed the travel and accommodation costs in accordance with the terms specified within that scope as regards judges.

Art. 174. § 1. The amounts due referred to in Art. 172 § 3 and Art. 173 are granted by the president of a competent court.

§ 2. The decision of the district court judge may be appealed against with the president of the

regional court, and if the decision in the lower instance is issued by the president of the regional court or the president of the court of appeal - with the Minister of Justice.

Art. 175. § 1. Lay judges select a board of lay judges, the chairman thereof and deputies.

§ 2. The tasks of the board of lay judges include, in particular, increasing the level of work of lay judges and representing lay judges as well as stimulating the educational activity of lay judges in the society.

§ 3. The Minister of Justice specifies, by regulation, the procedure for selection, composition and organisational structure, procedure for acting and detailed tasks of the board of lay judges, taking into consideration the obligatory nature of the board of lay judges as a self-government of lay judges in a given court, the scope of cooperation with the president of the court, the need to include the chairman and deputies in the organisation of the board and to specify their tasks.

PART IV

PERSONAL DATA PROCESSING

Art. 175a. § 1. The Minister of Justice processes the personal data of judges, retired judges, court referendaries, assistants to judges, directors and financial managers of courts and the deputies thereof within the scope necessary for proper performance of duties and rights of the employer resulting from the employment relationship or other service relationships.

§ 2. To the processing of the personal data referred to in § 1, the provision of Art. 43 § 1 item 4 of the Act of 29 August 1997 on Personal Data Protection (Dz. U. /*Journal of Laws*/ 2002 No 101, item 926, as amended) applies accordingly.

PART V

FINANCING OF COMMON COURTS ACTIVITY

Chapter 1

Budget of the Judiciary

Art. 176. § 1. Incomes and expenses of common courts constitute a separate part in the state budget.

§ 2. (repealed).

Art. 177. § 1. The Minister of Justice is the disposer of the part of budget allocated to common courts.

§ 2. The director of the court of appeal performs tasks and is responsible for managing the budget of the courts within the area of appellate jurisdiction and exercises control over the financial economy and management of the State Treasury property by such courts.

§ 3. (repealed).

§ 4. Within the scope referred to in § 2, the director of the court of appeal is directly subordinate to the Minister of Justice, the director of the regional court is subordinate to the director of the court of appeal, and the financial manager of the district court is subordinate to the director of a given regional court.

Art. 178. § 1. Drafts of financial plans and financial plans for courts within the area of appellate jurisdiction are drawn up by directors of courts of appeal based on drafts drawn up by directors of regional courts, presidents of district courts or financial managers of district courts, if appointed, in accordance with the principles specified in the provisions on public finances.

§ 2. Directors of courts of appeal submit the drafts referred to in § 1 to the National Council of the Judiciary and to the Minister of Justice.

§ 3. The National Council of the Judiciary within a month from the date of receiving the draft, lodges a request to the Minister of Justice for drafting the common courts incomes and expenses together with its

comments and reservations.

§ 4. The draft of common courts incomes and expenses plans drawn up in accordance with the procedure specified in the provisions of § 1-3 is forwarded by the Minister of Justice to the minister competent over public finances to include the draft to the Budget Act draft, in accordance with the principles specified in Art. 139 par. 2 of the Act of 27 August 2009 on Public Finances (Dz. U. /*Journal of Laws*/ No 157, item 1240).

§ 5. The Minister of Justice is vested with the rights of the minister competent over public finances within the scope of budget implementation in the part allocated to common courts.

Chapter 2

Financial Economy of Courts

Art. 179. § 1. The bodies managing the financial economy of courts of appeal and regional courts are directors of such courts and of district courts - presidents of such courts.

§ 2. Should a financial manager be appointed in a district court, he/she is responsible for the financial economy of a given court.

§ 3. The investment activity of courts is conducted, as regards the court of appeal, by the director of the court of appeal, and as regards the regional court and district courts acting within a given court circuit, by the director of the regional court.

§ 4. The director of the court of appeal may entrust the director of one regional court with the performance of investment tasks of another regional court and of district courts acting within the same court circuit.

§ 5. The Minister of Justice in agreement with the minister competent over the public finances, specifies, by regulation, the detailed principles of financial economy and investment activity management, including:

- 1) the principles of the disposal of funds from the judiciary budget, appointment of disposers of funds and specification of their tasks and competences,
- 2) the principles of and procedure for drawing up of financial plans of courts,
- 3) the principles of and procedure for introducing changes in financial plans of courts,
- 4) making the funds from the budget available,
- 5) bank accounts of courts,
- 6) settlements in interim period upon the end of the budget year,
- 7) the procedure for collection of income and bearing expenses of courts,
- 8) budgetary and financial reporting,
- 9) conducting investment activity of courts

taking into consideration the necessity of proper management of public funds and requirements under the provisions on public finances.

PART VI

AMENDMENTS TO OTHER APPLICABLE PROVISIONS, TRANSITIONAL AND FINAL PROVISIONS

Chapter 1

Amendments to Applicable Provisions

Art. 180. The Act of 17 November 1964 – the Code of Civil Procedure (Dz.U. /*Journal of Laws*/ No 43, item 296, of 1965 No 15, item 113, of 1974 No 27, item 157 and No 39, item 231, of 1975 No 45, item 234, of 1982 No 11, item 82 and No 30, item 210, of 1983 No 5, item 33, of 1984 No 45, item 241 and 242, of 1985 No 20, item 86, of 1987 No 21, item 123, of 1988 No 41, item 324, of 1989 No 4, item 21 and No 33, item 175, of 1990 No 14, item 88, No 34, item 198, No 53, item 306, No 55, item 318 and No 79, item 464, of 1991 No 7, item 24, No 22, item 92 and No 115, item 496, of 1993 No 12, item 53, of 1994 No 105, item 509, of 1995 No 83, item 417, of 1996 No 24, item 110, No 43, item 189, No 73, item 350 and No 149, item 703, of 1997 No 43, item 270, No 54, item 348, No 75, item 471, No 102, item 643, No 117, item 752, No 121, item 769 and 770, No 133, item 882, No 139, item 934, No 140, item 940 and No 141,

item 944, of 1998 No 106, item 668 and No 117, item 757, of 1999 No 52, item 532, of 2000 No 22, item 269 and 271, No 48, item 552 and 554, No 55, item 665, No 73, item 852, No 94, item 1037, No 114, item 1191 and 1193, No 122, item 1314, 1319 and 1322 and of 2001 No 4, item 27, No 49, item 508, No 63, item 635 and No 98, item 1069) is hereby amended as follows:

1) in Art. 461:

a) after § 1 the following 1¹ is added:

"§ 1¹. The following cases fall within the competence of district courts, regardless of the subject of dispute value: cases within the scope of Labour Law for determination of the existence of employment relationship, for recognizing the ineffectiveness of notice of termination of employment, for reinstatement to work and reinstatement of previous terms of employment or, pay together with claims subject to enforcement, and cases for compensation in the event of groundless notice of termination or notice of termination violating the provisions of law and groundless termination of employment relationship or termination violating the provisions of law, as well as cases related to penalties for breach of order and employment certificate and claims related thereto..

b) after § 2¹ the following 2² is added:

"§ 2². Cases where no competence of court may be determined pursuant to the provisions of preceding paragraphs, as well as cases where the insured residing within the territory of the Republic of Poland receives a benefit paid by the special branch of Social Insurance Institution or by Foreign Pension Office indicated by the President of the Institution, fall within the competence of the court within the circuit of which the pension body has its registered office."

2) Art. 477⁸ is replaced by the following wording:

"Art. 477⁸. § 1. Cases within the scope of social insurance, with the exception of cases with respect to which the competence of district courts is reserved, fall within the competence of regional courts.

§ 2. The following cases fall within the competence of district courts:

- 1) for sickness allowance, equalising allowance, attendance allowance, maternity allowance, childbirth allowance, upbringing allowance, funeral allowance and family allowance,
- 2) for rehabilitation benefit,
- 3) for compensation due to an accident at work on a farm, accident on the way to work and on the way back from work, accident at work or occupational disease, accident or occupational disease related to the military service, Police service, service in the Office for State Protection, in the Border Guard, Prison Service, State Fire Service and Customs Service,
- 4) for determining the level of disability,
- 5) for the right to health benefits from universal health insurance,
- 6) for benefits from alimony fund."

Art. 181. The Act of 26 May 1982 – Attorney Law (Dz.U. /*Journal of Laws*/ No 16, item 124 and No 25, item 187, of 1983 No 5, item 33, of 1986 No 42, item 202, of 1990 No 36, item 206, of 1995 No 4, item 17, of 1996 No 77, item 367, of 1997 No 28, item 153, No 75, item 471 and No 141, item 943, of 1998 No 106, item 668, of 1999 No 75, item 853 and of 2000 No 39, item 439 and No 94, item 1037) is hereby amended as follows:

1) Art. 65 item 3 is replaced by the following wording:

"3) has completed higher education in law in Poland and has obtained the title of master (graduate), or has completed higher education in law abroad recognised in Poland,

2) In Art. 66 item 2 in the first sentence the word "university" is replaced by the word "higher".

Art. 182. The Act of 6 July 1982 – on Legal Counsels (Dz.U. /*Journal of Laws*/ No 19, item 145, of 1989 No 33, item 175, of 1996 No 106, item 496, of 1997 No 75, item 471, of 1998 No 106, item 668, of 1999 No 75, item 853 and No 83, item 931 and of 2000 No 48, item 545 and No 94, item 1037) is hereby amended as follows:

1) Art. 24 par. 1 item 1 is replaced by the following wording:

"1) has completed higher education in law in Poland and has obtained the title of master (graduate),

- or has completed higher education in law abroad recognised in Poland,
- 2) In Art. 25 item 3 in the first sentence the word “university” is replaced by the word “higher”.

Art. 183. The Act of 20 September 1984 – on the Supreme Court (Dz.U. /*Journal of Laws*/ of 1994, No 13, item 48, of 1995 No 34, item 163, of 1996 No 77, item 367, of 1997 No 75, item 471, No 98, item 604, No 106, item 679 and No 124, item 782, of 1999 No 75, item 853 and No 110, item 1255 and of 2001 No. 49, item 508) is hereby amended as follows:

- 1) 32 is replaced by the following wording:

“Art. 32. At the appointment, the Supreme Court judge makes the solemn affirmation before the President of the Republic of Poland, according to the following formula:
"I affirm solemnly, holding the post of Supreme Court judge entrusted to me, to serve faithfully to the Republic of Poland, to guard the law, to perform scrupulously the duties arising from my position, to administer justice, without any bias, according to my conscience and to the rules of law, to keep the State and professional secrets, and to be guided by the principles of dignity and honesty"; the person making this affirmation may finish it by saying the words: "So help me God.”;
- 2) Art. 33 is replaced by the following wording:

"Art. 33. 1. A Supreme Court judge retires upon the date of attaining seventy years of age.
2. The Supreme Court judge referred to in par. 1 may retire, at his/her request, upon attaining sixty five years of age.”;
- 3) Art. 34 is replaced by the following wording:

"Art. 34. A valid disciplinary court decision on dismissal of a Supreme Court judge from the office and a valid judicial decision to impose on the Supreme Court judge a penalty in the form of depriving him/her of public rights or putting a ban on his/her occupying judicial posts, results, under the law, in the loss of the post of Supreme Court judge; service relationship of a Supreme Court judge expires upon the decision becoming valid.”;
- 4) in Art. 51:
 - a) par. 1:
 - item 3 the words “dismissal from the post held” are replaced by the words “dismissal from the function performed”,
 - item 4 the words “dismissal from the post held” are replaced by the words “dismissal from the function performed”,
 - b) par. 2 the words “dismissal from the post held” are replaced by the words “dismissal from the function performed” and the words “lost post” are replaced by the words “lost function”;
- 5) Art. 52 is replaced by the following wording:

"Art. 52. 1. The following disciplinary courts are set up to hear disciplinary cases against Supreme Court judges:
 - 1) in the lower instance – the Supreme Court in a bench of three Supreme Court judges,
 - 2) in the higher instance – the Supreme Court in a bench of seven Supreme Court judges.

 2. All Supreme Court judges are entitled to adjudicate as the disciplinary court, except for the First President of the Supreme Court, the Presidents of the Supreme Court, the Disciplinary Commissioner of the Supreme Court and his/her deputies.
 3. The composition of the disciplinary court is determined by the Board of the Supreme Court by a draw from among the Supreme Court judges who have been entered on the list of Supreme Court judges; the disciplinary court is presided by the Supreme Court judge who has longest been on service.
 4. The Supreme Court Disciplinary Commissioner and his/her deputy is elected by the Board of the Supreme Court for the term of four years.”;
- 6) Art. 54 is deleted;
- 7) Art. 62 par. 2 is replaced by the following wording:

"2. In matters specified in Art. 33 par. 1, Art. 39, Art. 43, Art. 45, Art. 46 item 2-5 and Art. 48, provisions on military service of professional soldiers and military provisions apply to Supreme Court judges of the Military Chamber.”

Art. 184. The Act of 18 April 1985 – on Hearing Cases within the Scope of Labour Law and Social Insurance by Courts (Dz.U. /*Journal of Laws*/ No 20, item 85, of 1996 No 24, item 110) Art.1 par. 2 is replaced by the following wording:

"2. Labour courts and labour and social insurance courts referred to in par. 1 hear cases within the scope of social insurance."

Art. 185. The Act of 20 June 1985 – on Public Prosecutor's Office (Dz.U. /*Journal of Laws*/ of 1994, No 19, item 70 and No 105, item 509, of 1995 No 34, item 163, of 1996 No 77, item 367, of 1997 No 90, item 557, No 98, item 604, No 106, item 679, No 117, item 752 and 753, No 124, item 782 and No 141, item 944, of 1998 No 98, item 607, No 155, item 1016 and No 162, item 1123 and 1125, of 1999 No. 60, item 636, No 75, item 853 and No 110, item 1255 and of 2000 No. 48, item 553) is hereby amended as follows:

1) in Art. 11 the current part is marked par. 1 and the following par. 2 is added:

"2. A candidate for the post of public prosecutor provides the information about him/her issued by the National Criminal Record, and a certificate that he/she is able, as regards the condition of health, to perform the duties of the public prosecutor. Issuance of the certificate and the examination of candidates for the posts of public prosecutors are performed under the same principles as provided for candidates for the post of judge.";

2) Art. 14:

a) par.1 is replaced by the following wording:

"1. A public prosecutor may be a person who:

- 1) is a Polish citizen and enjoys full civil and full public rights,
- 2) is a person of integrity,
- 3) has completed higher education in law in Poland and has obtained the title of master (graduate), or has completed higher education in law abroad recognised in Poland,
- 4) has the ability to perform duties of the public prosecutor, as regards the health condition,
- 5) has attained 26 years of age,
- 6) has passed a judicial or a prosecutor's exam,
- 7) has held - for at least one year - the post of assistant public prosecutor or assistant judge, or has been on service in military organisational units of public prosecutor's office for the period stipulated in the provisions on military service of professional soldiers."

b) par. 3 words "par. 1 items 4-6" are replaced by the words " par. 1 item 6 and 7",

c) par. 4 words "par. 1 items 4 and 6" are replaced by the words " par. 1 item 7",

3) in Art. 16 after par. 5 the following par. 5a is added:

"5a. Service relationship of a public prosecutor expires upon the day of loss of the Polish nationality by the public prosecutor.

4) after Art. 16 the following Art. 16a is added:

"Art. 16a. 1. The transfer of the public prosecutor to another place of service may occur only upon his/her consent.

2. The consent to the transfer to another place of service is not required in the event of:
 - 1) cancellation of the post caused by the change in public prosecutor's office organisation, cancellation of a given organisational unit of public prosecutor's office or a transfer of the public prosecutor's office,
 - 2) transfer as a result of a disciplinary penalty.
3. The provision of Art. 11 par. 1 applies accordingly to the transfer referred to in par. 1 and 2";

5) after Art. 17 the following Art. 17a is added:

"Art. 17a. 1. No weapon or ammunition, as well as no explosives or other dangerous materials are allowed in public prosecutor's office facilities. The aforementioned does not concern persons who perform service duties that require the possession of weapons in the facilities.

2. The appellate public prosecutor and the regional public prosecutor may order the application of measures that ensure safety in facilities of organisational units of public prosecutor's office subordinate to him/her and prevent the violation of the prohibition referred to in § 1. In such an event, the provisions on human and property protection apply to the protection of the facilities and persons staying therein.";

- 6) Art. 44 par. 4 is replaced by the following wording:
"4. A public prosecutor applying for the seat of Sejm deputy or senator, or a for the seat of town councillor is granted unpaid leave for the time of the election campaign.";
- 7) Art. 45 par. 4 is replaced by the following wording:
"4. At the appointment, the public prosecutor makes the solemn affirmation before the Public Prosecutor General, according to the following formula:
"I affirm solemnly, holding the post of public prosecutor entrusted to me, to serve faithfully to the Republic of Poland, to guard the law and order, to perform scrupulously the official duties, , keep the State and professional secrets, to act in accordance with the principles of dignity and honesty."; the person making this affirmation may finish it by saying the words: "So help me God." A public prosecutor appointed to another post does not make the solemn affirmation.";
- 8) after Art. 46 the following Art. 46a is added:
"Art. 46a. 1. A public prosecutor receives a professional ID including his/her service post.
2. Provision of par. 1 applies accordingly to a retired public prosecutor.
3. The Minister of Justice specifies, by regulation, the design of the professional ID of the public prosecutor.";
- 9) Art. 49 is replaced by the following wording:
"Art. 49. 1. A public prosecutor may not undertake additional employment, except that of a lecturer, lecturer and researcher or researcher, in the aggregate number of working hours not exceeding the number of working hours of a full time employee holding such a post if such employment does not interfere with the performance of duties of the public prosecutor.
2. Neither may the public prosecutor take up other jobs or gainful occupations which could interfere with the performance of the duties of the public prosecutor, weaken the confidence in his/her independence or prejudice the authority of the office of the public prosecutor.
3. A public prosecutor shall not:
1) be a member of a management board, supervisory board or auditing committee of a commercial law company,
2) be a member of a management board, supervisory board or auditing committee of a cooperative,
3) be a member of a foundation conducting a business activity,
4) hold more than 10% shares in a commercial law company or more than 10% of its share capital,
5) conduct a business activity on own account or on joint account of other persons, or be a manager, a representative or an attorney in fact in respect of such business activity.
4. The appellate public prosecutor and regional public prosecutor notify the competent appellate or regional public prosecutor, and public prosecutors of the National Public Prosecutor's Office, appellate and regional public prosecutors notify the Public Prosecutor General, about the intention to undertake additional employment referred to in § 1 or another job or gainful occupation. The public prosecutor of district public prosecutor's office forwards the notification referred to in the first sentence to the competent regional public prosecutor.
5. The competent appellate public prosecutor with respect to a public prosecutor subordinate to him/her, and the Public Prosecutor General with respect to a public prosecutor of the National Public Prosecutor's Office and with respect to an appellate and regional prosecutor, issue a decision opposing undertaking the employment at the post of -lecturer, lecturer and researcher or researcher if in his/her opinion undertaking or continuing thereof could interfere with the performance of the duties of the public prosecutor, prejudice the authority of the office of the public prosecutor or weaken the confidence in his/her impartiality.
6. Public prosecutors of the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation forward the notification referred to in par. 4 first sentence:
1) public prosecutors of branch Commissions for the Prosecution of Crimes against

- the Polish Nation, hereinafter referred to as «branch commissions» - to the Director of the Chief Commission for the Prosecution of Crimes against the Polish Nation, hereinafter referred to as the «Chief Commission»,
- 2) the Director of the Chief Commission, public prosecutors of the Chief Commission and heads of branch commission - to the Public Prosecutor General.
7. The entitlements referred to in par. 5 are vested in:
- 1) the Director of the Chief Commission - towards the public prosecutors of branch commissions,
 - 2) the Public Prosecutor General - towards the Director of the Chief Commission, public prosecutors of the Chief Commission and heads of branch commissions.”;
- 10) in Art. 49a:
- a) par. 1 the last sentence is deleted,
 - b) par. 2 and 3 are replaced by the following wording:
 2. The declaration referred to in par. 1 is submitted by public prosecutors accordingly to a competent appellate public prosecutor, the regional military public prosecutor or the head of the branch commission, who analyses the data contained therein by 30 June each year.
 3. The National Public Prosecutor, the Chief Military Public Prosecutor, the Director of the Chief Commission, appellate public prosecutors, regional military prosecutors and heads of branch commissions, submit the declaration referred to in par. 1 to the Public Prosecutor General, who analyses the data contained therein by 30 June each year.”;
- 11) Art. 50-53 are replaced by the following wording:
- "Art. 50. 1. The Public Prosecutor General may delegate a public prosecutor to another organisation unit of the public prosecutor's office, to the Ministry of Justice or another organisational unit falling under the authority of the Ministry of Justice or supervised thereby, in accordance with the qualifications of the public prosecutor. A public prosecutor may be delegated for a period exceeding six months within a year only upon his/her consent.
2. The appellate and regional public prosecutor also may order a delegation for a period of up to two months within a year.
 3. A public prosecutor delegated under par. 1 for an unspecified period may be dismissed from delegation, or may resign therefrom by giving notice three months in advance.
 4. A public prosecutor delegated to another organisational unit of the public prosecutor's office other than the National Public Prosecutor's Office, upon three months of delegation, for the remaining period of delegation gains the right to basic remuneration at the basic rate to which a public prosecutor of such unit is entitled, unless he/she is entitled to the second bonus rate at the post he/she holds.
 5. Should the public prosecutor be delegated to a city/town/village other than the city/town/village in which the seat of the organisational unit of the public prosecutor's office being the place of service of the public prosecutor is located and such city/town/village not being the place of his/her permanent residence, the delegated public prosecutor is entitled to gratuitous accommodation or to the reimbursement of accommodation costs in the place of delegation in compensation for inconveniences resulting from the delegation outside the permanent place of service.
 6. A public prosecutor delegated to the Ministry of Justice may be entrusted with the duties at official posts, with the exclusion of the post of general director of the office.
 7. A public prosecutor delegated to the Ministry of Justice is entitled to basic remuneration for the post he/she holds and to the seniority allowance. Within the period of delegation the public prosecutor receives the functional supplement specified in the regulation issued under Art. 62 par. 2.
 8. Furthermore, within the period of delegation, as regards the nature and scope of tasks performed, the public prosecutor may be granted, by the Minister of Justice, a special allowance in the amount not exceeding 40 percent of the total basic remuneration and the functional supplement. The allowance is granted for a specified period, and in individual cases, also for an unspecified period.
 9. In particularly justified events the allowance referred to in par. 8 may exceed the amount specified therein.

10. The Minister of Justice specifies, by regulation, detailed principles of delegation of public prosecutors to the Ministry of Justice and detailed principles concerning other cases of delegation and the scope of additional benefits related to the delegation of public prosecutors outside the permanent place of service, taking into consideration the scope of benefits to which employees on business trips and employees temporarily transferred are entitled.
- "Art. 51. 1. A public prosecutor receives his/her remuneration during the period of absence from work for the reason of illness, no longer, however, than for a year.
2. In the event the public prosecutor is unable to perform work for other reasons, entitling him/her to receive the benefits specified in the provisions on pecuniary benefits from social insurance, he/she is entitled to receive remuneration in the amount equal to the social insurance pecuniary benefits, for the period as provided for in those provisions.
 3. Other justified absences of the public prosecutor from work are paid.
 4. Where the employees covered by social insurance are entitled to receive benefits irrespective of their right to receive the remuneration, the public prosecutor is entitled to receive a pecuniary benefit in the amount equal to the social insurance benefit.
- Art. 52. 1. The public prosecutor is entitled every year to additional leave of:
- 1) six working days - upon ten years of work,
 - 2) twelve working days - upon fifteen years of work,
2. The work period on which the number of days of additional leave depends includes the periods of employment in a public prosecutor's office or in a court at the posts of: public prosecutors and judges, apprentices, assistant judges and public prosecutors, as well as periods of doing the profession of an attorney at law, a legal counsel or holding an independent post in the public authorities, to which a legal practice was related, or other periods of work if under such employment the employee was entitled to the additional leave.
 3. A public prosecutor is entitled to receive an anniversary gratification in the following amounts:
 - 1) 100% of the monthly remuneration – after twenty years of work,
 - 2) 150% of the monthly remuneration – after twenty-five years of work,
 - 3) 200% of the monthly remuneration – after thirty years of work,
 - 4) 250% of the monthly remuneration – after thirty-five years of work,
 - 5) 350% of the monthly remuneration – after forty years of work,
 - 6) 400% of the monthly remuneration – after forty-five years of work,
 4. The period of work entitling to receive the anniversary gratification includes all previous periods of employment and other periods if under separate provisions such periods are counted towards the period of work constituting the basis of the employee's rights.
 5. Provisions on anniversary awards, referred to in the provision on state offices employees, apply accordingly to the calculation and payment of the anniversary gratification.
- Art. 53. 1. A public prosecutor may take paid leave for improvement of health.
2. The leave for improvement of health shall not exceed six months and shall not be granted if the public prosecutor, for the reason of illness, has not performed his/her duties for a year.
 3. The leave for improvement of health is granted by the Public Prosecutor General.”;
- 12) Art. 56 is replaced by the following wording:
- "Art. 56. 1. A public prosecutor should reside in the city/town/village being the seat of the organisational unit of the public prosecutor's office in which he/she performs the service.
2. A superior public prosecutor, in justified cases, may consent to a public prosecutor residing in another city/town/village.
 3. Should a public prosecutor obtain the consent referred to in par. 2 the public prosecutor is entitled to the reimbursement of travel costs from the place of residence to the seat of the organisational unit of the public prosecutor's office.
Should the change of the place of service result from adjudicating a disciplinary penalty referred to in Art. 67 par. 1 item 4. the public prosecutor is not entitled to the

reimbursement of travel costs.”;

13) Art. 58 is replaced by the following wording:

- "Art. 58. 1. A public prosecutor or a retired public prosecutor may be granted financial support, in the form of a loan, to satisfy his/her residential needs.
2. Funds for the financial support referred to in par. 1 shall not be lower than 5 percent of the annual remuneration fund for public prosecutors.
 3. The Minister of Justice, in agreement with the minister competent over public finances, specifies, by regulation, the manner of planning and using the funds for satisfaction of residential needs of public prosecutors and the terms of granting financial support, referred to in par. 1, taking into consideration the public prosecutors' own resources, the share of boards of public prosecutors' office in granting financial support and the principles of reasonable management of funds and assuming the principle that should the service relationship of a public prosecutor expire as referred to in Art. 16, the loan is subject to repayment together with interests at the rate applicable to commonly available bank loans.”;

14) in Art. 62:

a) after par. 1 the following par. 1a-1j are added:

- "1a. The basic remuneration of a public prosecutor at a given post is determined at a base rate, at the first bonus rate or at the second bonus rate. The first bonus rate constitutes 110 percent of the base rate, and the second bonus rate - 125 percent of the base rate for a given public prosecutor's post.
- 1b. The basic remuneration at the base rate shall not be lower than the basic remuneration at the second bonus rate to which a public prosecutor at a post directly subordinate is entitled.
- 1c. Upon taking his/her post, the public prosecutor receives basic remuneration at the base rate. After seven years of work at a given post of public prosecutor, his/her remuneration is increased up to the first bonus rate. Such a period may be extended by three years if the public prosecutor, within such a period, has been punished with a disciplinary penalty or an irregularity referred to in Art. 8 par. 7 has been raised with respect to such a public prosecutor twice, should such irregularity be wilful.
- 1d. After seven years of work at a given post of public prosecutor remunerated at the first bonus rate his/her remuneration is increased up to the second bonus rate. Provision of par. 1c third sentence applies accordingly.
- 1e. The time the public prosecutor did not hold the office of public prosecutor due to repressions for his/her political attitude is added to the time of work at the post of public prosecutor, provided that the public prosecutor returned to the profession not later than by 31 December 1990.
- 1f. Due to performance of his/her function, the public prosecutor is entitled to receive a functional supplement, calculated pro rata to the base amount referred to in par 1. first sentence.
- 1g. A public prosecutor is entitled to the seniority allowance, equal, as from the sixth year of work, to 5 percent of the current basic remuneration of the public prosecutor and increasing annually by 1 percent, no higher, however, than 20 percent of the basic remuneration. After 20 years of work the seniority allowance is paid, regardless of the seniority exceeding that period, in the amount of 20 percent of the current basic remuneration of the public prosecutor.
- 1h. No social insurance contributions are paid from the remuneration of public prosecutors.
- 1i. Should the service relationship of a public prosecutor expire in the manner referred to in Art. 16, a contribution is paid to the Social Insurance Institution, stipulated in the provisions on social insurance, for the term of office within which the public prosecutor received remuneration, and within which no social insurance contributions were paid.
- 1j. The social insurance contribution referred to in par. 1i is subject to valorisation:
- 1) for the period by 31 December 1998 - by the payment increase rate resulting from the increase in average anticipated remuneration, specified annually in the Budget Act, which constitutes the basis for determining resources and limits for the remuneration of judges,
 - 2) for the period from 1 January 1999 - by the valorisation rate specified under the

provision on retirement and disability pensions from the Social Insurance Fund.

- 1k. Art. 19 par. 1 of the Act of 13 October 1998 on the Social Insurance System (*/Journal of Laws/ Dz. U. No 137, item 887 and No 162, item 1118 and 1126, of 1999 No 26, item 228, No 60, item 636, No 72, item 802, No 78, item 875 and No 110, item 1256, of 2000 No 9, item 118, No 95, item 1041, No 104, item 1104 and No 119, item 1249 and of 2001 No 8, item 64, No 27, item 298, No 39, item 459 and No 72, item 748*) applies accordingly to the calculation of the amount of contributions due, valorised under par. 1j item 2.
 - 1l. Provisions of par. 1a-1d do not apply to public prosecutors of the National Public Prosecutor's Office.”;
- b) par. 2 is replaced by the following wording:
 - "2. The Council of Ministers specifies, by regulation, the base rates of basic remuneration of public prosecutors and the rates of functional supplement to which public prosecutors are entitled, taking into consideration, in particular, the principles specified in par. 1-1b and 1f.”;
- 15) Art. 62a and 62b are replaced by the following wording:

"Art. 62a. 1. Art. 69-71, Art. 73 and 74, Art. 76, Art. 85 § 4, Art. 99-102 and Art. 104, subject to par. 2-5, of the Act of 27 July 2001 - Law on Common Courts Organisation (*Dz. U. /Journal of Laws/ No 98, item 1070*) apply accordingly to public prosecutors. The entitlements vested in the National Council of the Judiciary and in the Minister of Justice stipulated in the Act are vested in the Public Prosecutor General with respect to public prosecutors, and entitlements vested in boards and presidents of competent courts, in competent superior public prosecutors.

 2. Public prosecutors of the National Public Prosecutor's Office and public prosecutors of the Chief Commission retire upon the day of attaining seventy years of age.
 3. A public prosecutor referred to in par. 2 may retire, at his/her request, upon attaining sixty-five years of age.
 4. Public prosecutors of military organisational units retire upon the day of attaining sixty years of age.
 5. In the event of the retirement pay coinciding with the right to receive the military retirement or disability pension, the entitled person receives only the benefit which is higher or which he/she chooses.
- Art. 62b. The Minister of Justice, in agreement with the minister competent over labour, specifies, by regulation, the detailed principles of and the procedure for determining and payment of retirement pay and family benefits to retired public prosecutors and their family members as well as the time for payment of contributions to the Social Insurance Institution referred to in Art. 62 par. 1i and 1j, taking into consideration, in particular, the necessity to ensure the continuity of relevant source of income to entitled persons and convenience at the collection of retirement pay and family benefits.
- 16) after Art. 62 b the following 62c is added:

"Art. 62c. In the event of the loss of entitlements to retirement and the retirement pay, as referred to in art. 104 § 5 of the Act referred to in Art. 62a par. 1, Art. 62 par. 1i and 1j and provisions issued under Art. 62b apply accordingly.”;
- 17) In Art. 64 the words “49-51” are replaced by the words “49, 50 and 51”;
- 18) Art. 65 par. 1 is replaced by the following wording:
 - "1. Should a public prosecutor be recruited to non-professional military service, his/her rights and duties are sustained for the period of the service. The public prosecutor, however, retains his/her post and the right to remuneration, and the time of military services is included in the period of service relationship at the post of public prosecutor.
- 19) in Art. 65a:
 - a) par. 1 after the words “international organisations” the words “and supranational organisations” are added, and at the end of the sentence the full stop is replaced by a comma and the words “unless he/she retires” are added.,
 - b) in par. 2 the words "5 years" are replaced by the words "9 years" and the full stop is replaced by a comma, and the words "unless he/she performed judicial or public prosecutor functions in international or supranational judicial bodies" are added.
 - c) par. 3 is replaced by the following wording:
 - "3. In the event stipulated in par. 2, the Public Prosecutor General, at the request of the public

prosecutor who resigned from the post, appoints him/her at the post previously held, regardless of the number of posts in a given common organisational unit of public prosecutor's office, unless he/she fails to fulfil the requirements for the appointment for the post of public prosecutor.”,

d) after par. 3 the following par. 4 is added:

"4. Should the appointment referred to in par. 3 be refused, the person concerned is entitled to lodge a complaint with the Supreme Court.”;

20) in Art. 90, the following second sentence is added:

“Should a need arise within the scope of activity of the public prosecutor’s office, the Minister of Justice may, by regulation, extend the period of public prosecutor apprenticeship up to three years, taking into consideration that the additional time of apprenticeship is to be devoted to the preparation of the apprentices to proper performance of new or extended tasks entrusted to the public prosecutor’s office and to the improvement of the apprentices’ qualifications with respect to the academic and technical progress in preventing and counteracting crime,

21) in Art. 92 at the end the full stop is replaced by a semi-colon and added are the words “the person making this affirmation may finish it by saying the words: «So help me God.»”;

22) In Art. 95 the words “46-51” are replaced by the words “Art. 46 and 46a par. 1”, and the words “Art. 62” are replaced by the words “Art. 62 par. 1, 1g and 2”;

23) in Art. 100 par. 1 at the end the full stop is replaced by a comma and added are the words "with the exclusion of Art. 50 par. 3 and 4, Art. 62 par. 1a-1d and par. 1h-1k, Art. 62a-62c and Art. 65a."

Art. 186. The Act of 24 January 1991 – on Veterans and Victims of War and Post-war Repressions (Dz.U. /*Journal of Laws*/ of 1997, No 142, item 950, of 1998 No 37, item 204, No 106, item 668 and No 162, item 1118, of 1999 No 38, item 360 and No 77, item 862 and of 2000 No. 12, item 136) is hereby amended as follows:

1) in Art. 15:

a) par. 1 after the words “retirement pension or disability pension” the words “or retirement pay and family benefit” are added,

b) after par. 3 the following par. 3¹ is added:

"3¹. In the event of the retirement pay or family benefit coinciding with the right to receive retirement or disability benefit, par. 3 applies accordingly.”;

2) in Art. 20:

a) par. 2 after the words “retired persons, pensioners or disabled persons” the words “and persons receiving the retirement pay or family benefit” are added,

b) par. 3 after the words “retired persons and pensioners or disabled person” the words “and persons receiving the retirement pay or family benefit” are added;

3) Art. 20¹ par. 1 item 1 is replaced by the following wording:

"1) is not entitled to any pension or retirement benefits or to the retirement pay or family benefit.”;

4) in Art. 24 the current part is marked par. 1 and the following par. 2 is added:

"2. The benefits and lump sum which are referred to in par. 1 and to which persons receiving the retirement pay or the family benefit are entitled are paid from the state budget by units competent to make such payments. If, however, such persons are also entitled to pension benefits, the benefits referred to in par. 1 are paid by a competent pension body.”

Art. 187. In the Act of 14 February 1991 – Law on Notarial Profession and Practice (Dz.U. /*Journal of Laws*/ No. 22, item 91, of 1997 No 28, item 153, of 1999 No 101, item 1178, of 2000 No 48, item 551, No 94, item 1037, No 116, item 1216 and No 120, item 1268 and of 2001 No. 63, item 635) Art. 11 item 3 is replaced by the following wording:

"3) has completed higher education in law in Poland and has obtained the title of master (graduate), or has completed higher education in law abroad recognised in Poland.”.

Art. 188. In the Act of 11 May 1995 – on the Chief Administrative Court (Dz.U. /*Journal of Laws*/ No. 74, item 368 and No 104, item 515, of 1997 No 75, item 471, No 106, item 679, No 114, item 739 and No 144, item 971, of 1998 No 162, item 1126, of 1999 No 75, item 853, of 2000 No 2, item 5, No 48, item 552, No 60, item 704 and No 91, item 1008 and of 2001 No. 49, item 508 – 509) after Art. 12c the following Art. 12d and 12e are added:

- "Art. 12d. 1. The Chief Administrative Court is the disciplinary court to hear cases of judges of the Chief Administrative Court, and adjudicates:
- 1) in the lower instance – in a bench of three judges of the Chief Administrative Court,
 - 2) in the higher instance – in a bench of seven judges of the Chief Administrative Court.
2. All judges of the Chief Administrative Court are entitled to adjudicate as the disciplinary court, except for the President and vice presidents of the Chief Administrative Court and the Disciplinary Commissioner of the Chief Administrative Court and his/her deputy.
3. The composition of the disciplinary court is determined by the Board of the Court by a draw from among the judges of the Chief Administrative Court who have been entered on the list of judges; the disciplinary court is presided by the judge who has longest been on service.
4. The Disciplinary Commissioner and his/her deputy are selected from among the judges of the Chief Administrative Court by the Board of the Court for the term of four years.
- Art. 12e. 1. A judge of the Chief Administrative Court retires upon the date of attaining seventy years of age.
2. The judge referred to in par. 1 may retire, at his/her request, upon attaining sixty five years of age."

Art. 189. The Act of 1 August 1997 – on the Constitutional Tribunal (Dz.U. /*Journal of Laws*/ No. 102, item 643 and of 2000 No 48, item 552 and No 53, item 638) is hereby amended as follows:

- 1) in Art. 17, the following par. 1a is added:

"1a. The Office of the Constitutional Tribunal is managed by the head appointed by the General Assembly of Judges of the Constitutional Tribunal at the request of the President of the Tribunal. To the Head of the Office of the Tribunal apply the provisions of the Act of 31 July 1981 on Remuneration of Persons Holding Managerial Civil Servants Posts (Dz. U. /*Journal of Laws*/ No 20, item 101, of 1982 No 31, item 214, of 1985 No 22, item 98 and No 50, item 262, of 1987 No 21, item 123, of 1989 No 34, item 178, of 1991 No 100, item 443, of 1993 No 1, item 1, of 1995 No 34, item 163 and No 142, item 701, of 1996 No 73, item 350, No 89, item 402, No 106, item 496 and No 139, item 647, of 1997 No 75, item 469 and No 133, item 883, of 1998 No 155, item 1016 and No 160, item 1065, of 1999 No 110, item 1255 and of 2000 No 6, item 69 and No 48, item 552) within the scope concerning the Secretary of State..";

- 2) in Art. 27:

- a) item 1, the words ",legal question" are deleted,
- b) item 2, the words ", legal question" are deleted,
- c) the following item 2a is added:

"2a) the court which presented a legal question to the Constitutional Tribunal if it notified its participation in the proceedings initiated as a result of the legal question and designated from among the judges of this court an authorised representative.",.

Art. 190. The Act of 21 August 1997 – Law on Military Courts Organisation (Dz.U. /*Journal of Laws*/ No. 117, item 753, of 1999 No 75, item 853) is hereby amended as follows:

- 1) in Art. 3 § 2 is deleted;

- 2) Art. 4 is replaced by the following wording:

"Art. 4. § 1. The activity of military courts is financed from separate budget funds of the Ministry of National Defence.

§ 2. The Minister of National Defence, as the disposer of the part of the budget, is not entitled to make transfers referred to in Art. 96 of the Act of 26 November 1998 on Public Finances (Dz. U. /*Journal of Laws*/ No 155, item 1014, of 1999 No 38, item 360, No 49, item 485, No 70, item 778 and No 110, item 1255, of 2000 No 6, item 69, No 12, item 136, No 48, item 550, No 95, item 1041, No 119, item 1251 and No 122, item 1315 and of 2001 No. 45, item 497, No 46, item 499 and No 88, item 961) if the aforementioned would result in the decrease of expenses in the chapter of budgetary

- classification of expenses of military courts.
- § 3. The presidents of military courts are the bodies managing the financial economy of such courts.
- § 4. Drafts of financial plans and financial plans for military courts are drawn up by the presidents of such courts in accordance with the principles specified in the provisions on public finances, which the director of the division referred to in Art. 5 § 4, submits to the National Council of the Judiciary, and the Council based on such drafts, lodges a request to the Minister of National Defence for drawing up of incomes and expenses of military courts.
- § 5. Bodies specified in § 4 are bound by assumptions referred to in Art. 82 par. 1 of the Act on Public Finances.
- § 6. The Minister of National Defence, in agreement with the Minister of Justice and the minister competent over the public finances, specifies, by regulation, the detailed principles of planning and management of the financial economy and investment activity of military courts.”;
- 3) in Art. 5:
- a) in § 4 after the words „referred to in § 2” the words „and 3” are added,
- b) § 6 is replaced by the following wording:
- ”§ 6. The Minister of Justice, in agreement with the Minister of National Defence, appoints and dismisses the judges of military regional courts and judges for service posts in the division referred to in § 4.”;
- 4) after Art. 7 the following Art. 7a is added:
- ”Art. 7a. Relatives in lineal kinship or lineal affinity, or related by adoption, spouses and siblings shall not be judges or assistant judges in the same court. “;
- 5) chapter 2 is entitled “Judicial self-government and bodies of courts”;
- 6) Art. 9 is replaced by the following wording:
- ”Art. 9. The General Assembly of Military Court Judges is the body of the judicial self-government.”;
- 7) in Art. 10 § 3, item 4 is deleted;
- 8) after Art. 10 the following Art. 10a is added:
- ”Art. 10a. Military court bodies are:
- 1) in the military regional courts - the president of the court and the board of the military regional court,
- 2) in military garrison courts - the president of the court.”;
- 9) in Art.11 after § 4 the following § 5-8 are added:
- ”§ 5. The Minister of Justice, in agreement with the Minister of National Defence, may dismiss the president or the vice president of the military court in the event of gross failure to perform service duties or if further performance of the function, for other reasons, cannot be reconciled with the interest of the justice.
- § 6. The president or vice president of the military court is dismissed upon consultation with the National Council of the Judiciary. The Minister of Justice, in agreement with the Minister of National Defence, notifies the National Council of the Judiciary about the intention to dismiss the president or the vice president of the military court and provides it with a written statement of grounds, in order to receive an opinion.
- § 7. Should the National Council of the Judiciary, within a month from the date of expressing the intention to dismiss the president or the vice president of the military court, fail to issue such an opinion, the opinion is deemed positive.
- § 8. Should the president of the military court or the vice president resign from the function held in the course of the term of office, the Minister of Justice in agreement with the Minister of National Defence dismisses the president of the military court or the vice president without obtaining the opinion referred to in § 6.”;
- 10) in Art. 13 § 1:
- a) item 3 is replaced by the following wording:
- ”3) giving an opinion on the transfer of the judge to another place of service,”
- b) the following item 5 is added:
- ”5) expressing views in events of the behaviour of judges violating the principles of ethics.”;

- 11) in Art 15:
- a) in § 1 second sentence the full stop is deleted at the end and added are the words „that disturb the efficiency of court proceedings or are ineffective for other reasons.”
 - b) after § 3 the following 4 and 5 are added:
 - "§ 4. The Minister of Justice may make a written comment to the president or the vice president of a military court if irregularity is identified in the court management or in supervision over the administrative activity of military courts exercised by the president within his/her authority..
 - § 5. Entitlements specified in § 4 are vested in the Minister of National Defence with respect to exercising supervision over the active military service of soldiers performing the service in military courts.”;
- 12) in Art. 22 § 1:
- a) item 3 is replaced by the following wording:
 - "3) has completed higher education in law in Poland and has obtained the title of master (graduate), or has completed higher education in law abroad recognised in Poland,
 - b) item 4 is deleted;
 - c) item 6 is replaced by the following wording:
 - "6) has worked at the post of assistant judge in the military court at least for the period of three years,”
 - d) in item 7 the words “26 years of age” are replaced by the words “29 years of age”;
- 13) in Art. 23:
- a) § 1 is replaced by the following wording:
 - "§ 1. The President of the Republic of Poland, at the request of the National Council of the Judiciary, appoints judges of military courts for judicial posts.
 - b) the following § 1a and 1b are added:
 - "§ 1a. Judges of military courts are appointed for the posts of:
 - 1) military garrison court judge,
 - 2) military regional court judge.
 - § 1b. When appointing a judge for the post, the President of the Republic of Poland indicates the place of service (the seat) of the judge.”
 - c) after § 4 the following § 5 is added:
 - "§ 5. Candidates for the posts of judges apply to the director of the divisions, referred to in Art. 5 § 4. The director, prior to presenting the candidates to the assembly, verifies the qualifications of candidates, consults with the competent board and notifies the Minister of Justice and the Minister of National Defence providing them with a completed application form of the candidate.”;
- 14) Art. 24 is replaced by the following wording:
- "Art. 24. § 1. Judges take the posts of:
 - 1) military garrison court judge,
 - 2) military regional court judge,
 - 3) judge of division referred to in Art. 5 § 4,
 - 4) judge in the Supreme Court Military Chamber.
 - § 2. The appointment for the post referred to in § 1 item 4 is specified by separate provisions.
 - § 3. Taking up the post is ascertained by the Minister of National Defence.”;
- 15) Art. 25 is replaced by the following wording:
- "Art. 25. § 1. Judges and lay judges at trials wear official outfits. The official outfit of a judge and a lay judge at a trial is a gown, and of a presiding judge at a trial a gown and a chain with an emblem representing the eagle being the Polish National Coat-of-Arms.
 - § 2. The Minister of Justice, in agreement with the Minister of National Defence, upon consultation with the National Council of the Judiciary, specifies, by regulation, the design of the official outfit of judges, taking into consideration the solemn nature of the outfit, appropriate for the authority of the court and for the cultivated tradition.”;
- 16) Art. 26 § 1 is replaced by the following wording:
- "§ 1. The Minister of Justice, in agreement with the Minister of National Defence, may delegate a

judge for a period not exceeding three months within a calendar year to perform judicial duties or administrative acts in another military or common court or in the division referred to in Art. 5 § 4 and, at the request of the First President of the Supreme Court or the President of the Chief Administrative Court, also to perform duties in the Supreme Court or the Chief Administrative Court respectively.”;

17) Art. 28 § 2 is replaced by the following wording:

“§ 2. Judges submit the declarations referred to in § 1 to the president of the competent military court, who analyses the data contained therein. Judges holding posts in the division referred to in Art. 5 § 4 submit the declarations to the Ministry of Justice, who analyses the data contained therein.”;

18) in Art. 30 after § 5 the following § 6 is added:

“§ 6. Principles specified in § 1 apply also with respect to administrative responsibility.”;

19) Art. 32-35 are replaced by the following wording:

“Art. 32. § 1. The service relationship of a judge terminates under the law if the judge resigns or attains 60 years of age. Resignation of the judge becomes effective upon three months from the date of submitting the declaration to the Minister of Justice, unless the Minister of Justice fixes a different date of expiration of the service relationship, at the request of the judge. The Minister of Justice notifies the President of the Republic of Poland, the National Council of the Judiciary, the Minister of National Defence and the judge about the termination of the service relationship under the law.

§ 2. A judge who resigned from the office is designated, upon his/her consent, to the post previously held or to a new post of the same competence if no legal obstacles exist and if the aforementioned is possible.

§ 3. Should the judge fail to exercise his/her right referred to in § 2 he/she is exempted from the professional military service, even if he/she fails to fulfil the requirements specified in the provisions on the military service of professional soldiers.

§ 4. A judge whose service relationship terminated under the law due to the fact that he/she has attained 60 years of age retires, unless he/she is appointed to the office of common court judge.

§ 5. In the event of the retirement pay coinciding with the right to receive a military retirement or disability pension, the entitled person receives only the benefit which is higher or which he/she chooses.

§ 6. A judge whose service relationship terminated under the law due to the fact that he/she has attained 60 years of age is appointed, at his/her request, in accordance with the procedure specified in the provisions of the Act of 27 July 2001 - Law on Common Courts Organisation (Dz.U. /*Journal of Laws*/ No 98, item 1070), subject to § 7 and 8, for the post of common court judge if no legal obstacles exist and if the aforementioned is possible.

§ 7. In the event stipulated in § 6, the National Council of the Judiciary, on the initiative of the person concerned, presents the President of the Republic of Poland, without consultation with the competent assembly of judges, with a request for the appointment of a military court judge to the office of common court judge.

§ 8. A military court judge is appointed to the office of common court judge in accordance with the procedure referred to in § 6 and 7, as appropriate: a military garrison court judge to the post of district court judge, and a military regional court judge to the post of regional court judge.

§ 9. Should the submission to the President of the Republic of Poland of the request referred to in § 7 be refused, the person concerned is entitled to lodge a complaint with the Supreme Court.

Art. 33. § 1. A judge who has become appointed, designated or selected to perform a function in a state authority, self-governmental body, 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 his/her office.

§ 2. A judge who has resigned from his/her office for reasons specified in § 1 has the right to return to the office of judge and the post previously held if the period for which

his/her performance of the duties of a judge has been terminated is no longer than nine years, save when the judge has performed judicial functions in international or supranational judicial bodies.

§ 3. In the event as in § 2, the National Council of the Judiciary, on the initiative of the person concerned, upon consultation with the Assembly of Military Courts, submits to the President of the Republic of Poland a request for the appointment of the former judge to the office of judge, to the former post and place of service, regardless of the number of judicial posts in a given court, unless such a person fails to fulfil the terms required for the appointment to the post of judge.

§ 4. Should the submission to the President of the Republic of Poland of the request referred to in § 3 be refused, the person concerned is entitled to lodge a complaint with the Supreme Court.

Art. 34. § 1. A valid disciplinary court decision on the dismissal of a judge from the office and a valid judicial decision to impose on the judge a penalty in the form of depriving him/her of public rights or putting a ban on his/her occupying judicial posts, results under the law, in the loss of the office and the post of judge. The service relationship of the judge expires upon the decision becoming valid.

§ 2. The Minister of Justice in agreement with the Minister of National Defence notifies the judge about the expiry of the service relationship referred to in § 1.

Art. 35. § 1. A judge may not be exempted from the professional military service before the termination of the service relationship under the law or before the loss of the post of judge.

§ 2. In the event referred to in § 1 the judge is exempted from the professional military service at the time of termination of the service relationship under the law or at the time of the loss of the post.

§ 3. A judge who has been declared unable to perform professional military service by the decision of the military medical board is appointed, at his/her request, in accordance with the procedure specified in the provisions of the Act referred to in Art. 32 § 6, subject to § 4 and 5, to the office of common court judge if no legal obstacles exist and if the aforementioned is possible.

§ 4. In the event stipulated in § 3 the National Council of the Judiciary, on the initiative of the person concerned, presents the President of the Republic of Poland, without consultation with the competent assembly of judges, with a request for the appointment of a former military court judge to the office of common court judge.

§ 5. A military court judge is appointed to the office of common court judge in accordance with the procedure referred to in § 3 and 4, as provided for in Art. 32 § 8.

§ 6. Should the submission to the President of the Republic of Poland of the request referred to in § 4 be refused, the person concerned is entitled to lodge a complaint with the Supreme Court.”;

20) Art. 39 is replaced by the following wording:

"Art. 39. § 1. Disciplinary penalties include:

- 1) an admonition,
- 2) a reprimand,
- 3) the dismissal from the function held,
- 4) the transfer to another place of service,
- 5) the dismissal from the office.

§ 2. When adjudicating the penalty of the dismissal from the office, disciplinary courts may apply to a competent body for deprivation of the person subject to penalty of the officer rank.

§ 3. The judge subject to a penalty specified in § 1 item 3 or 4 shall not be promoted to a higher judicial service post or to a higher military rank, shall not sit in the board of a military court, adjudicate in a disciplinary court or perform the lost function for the period of five years.

§ 4. The disciplinary penalty referred to in § 1 item 5 excludes the reinstatement of the person subject to it in the judicial post.

§ 5. In the case of disciplinary misconduct or an offence of lesser gravity, the

disciplinary court may refrain from imposing a penalty.”;

21) after Art. 39 the following Art. 39a is added:

"Art. 39a. § 1. The following disciplinary courts are set up to hear disciplinary cases against military court judges:

1) in the lower instance - military regional courts,

2) in the higher instance - the Supreme Court - the Military Chamber.

§ 2. The disciplinary court having jurisdiction over the circuit in which the judge subject to proceedings performs the service is competent to hear cases in disciplinary proceedings and cases referred to in Art. 30 § 1.

§ 3. Disciplinary courts adjudicate in the bench of three judges. All judges of a given disciplinary court are entitled to adjudicate, with the exception of the president of a court, vice presidents of a court and the disciplinary commissioner.”;

22) in Art. 40:

a) § 2 and 3 are replaced by the following wording:

"§ 2. The disciplinary commissioner acts at the National Council of the Judiciary. The term of office of the disciplinary commissioner is four years.

§ 3. The Assembly of Military Court Judges proposes the selected candidates to the National Council of the Judiciary, three months before the lapse of the term of office of the previous disciplinary commissioner at the latest or within a month upon the resignation thereof.”,

b) the following § 4 is added:

"§ 4. The accused may appoint a defence counsel from among military judges or attorneys at law.”;

23) in Art. 41:

a) § 1 is replaced by the following wording:

"§ 1. The disciplinary commissioner acts in this capacity on relevant requests of the National Council of the Judiciary, the Minister of Justice, the Minister of National Defence, the First President of the Supreme Court, the board, presidents of competent military courts and on its own initiative. Within the scope of conducting explanatory proceedings the disciplinary commissioner is bound by instructions of an authorised body.”,

b) in § 2 after the words "disciplinary court" the comma is replaced by a full stop and deleted are the words „including the explanations of the accused.”,

c) after § 2 the following § 3-5 are added:

"§ 3. The proceedings referred to in § 2 having been conducted and there being grounds for instituting disciplinary proceedings, the disciplinary commissioner institutes disciplinary proceedings and provides the judge concerned with written charges.

§ 4. After being provided with the charges, within 14 days, the accused is entitled to make explanations and to apply for hearing the evidence.

§ 5. Upon the lapse of the period referred to in § 4 and, if necessary, after hearing further evidence, the disciplinary commissioner applies to a competent disciplinary court for hearing the disciplinary case. The motion should specify the committed act being the subject of the proceedings and include the statement of grounds.”;

24) after Art. 41 the following Art. 41a-41c are added:

"Art. 41a. § 1. Upon hearing the case, the disciplinary court renders a judgement.

§ 2. Should the misconduct include attributes of an offence, the disciplinary court hears the case *ex officio* as regards granting permission to call the judge to criminal responsibility and issues a decision concerning the permission referred to in Art. 30 § 1, which shall not discontinue the disciplinary proceedings.

Art. 41 b. § 1. The disciplinary court may, *ex officio* or at the request of the disciplinary commissioner, suspend in the performance of service duties the judge against whom criminal proceedings or proceedings for incapacitation or disciplinary proceedings have been initiated.

§ 2. The suspension of the judge in the performance of duties results in the suspension of the service duties under the provisions on the military discipline; the foregoing shall not concern persons with respect to whom the proceedings for incapacitation have been initiated.

§ 3. The suspension in the performance of service duties ceases at the time of valid

closing of the proceedings referred to in § 1, unless the disciplinary court had reversed the suspension earlier.

§ 4. A complaint may be lodged with the court of the higher instance against the resolution within the subject of suspension in the duties of the judge. The complaint shall not adjourn the enforcement of the resolution.

Art. 41c. § 1. The presiding judge of the disciplinary court in the lower instance sends a copy of the valid judgement of the disciplinary court to the National Council of the Judiciary and to the Minister of Justice, the Minister of National Defence as well as to the president of a competent court and the board of such court.

§ 2. The enforcement of the judgement falls within the competence of the Minister of Justice in agreement with the Minister of National Defence.”;

25) Art. 42 § 2 is replaced by the following wording:

"§ 2. Upon the lapse of five years from the validation of the judgement adjudicating a penalty stipulated in Art. 39 § 1 items 1-4, the Minister of Justice in agreement with the Minister of National Defence orders the removal of the copy of the judgement from the personal files of the judge if within that period no convicting judgement was rendered against the person subject to the penalty.”;

26) in Art. 43 after § 2 the following § 2a is added:

"§ 2a. Taking up the post by an assistant judge is ascertained by the Minister of National Defence.”;

27) in Art. 46:

a) § 1 the first sentence is replaced by the following wording:

“Provisions concerning judges, with the exception of art. 33 and subject to art. 70 § 1a apply to assistant judges entrusted with the performance of judicial duties.”,

b) § 2 is replaced by the following wording:

"§ 2. At taking up the post, the assistant judge makes the solemn affirmation before the Minister of Justice, according to the formula specified for assistant judges in the Act referred to in art. 32 § 6.”;

28) in Art. 49 after § 2 the following § 3 is added:

"§ 3. Taking up the post by an apprentice is ascertained by the Minister of National Defence.”;

29) in Art. 50 in § 2 the words "2 years and 6 months" are replaced by the words "3 years";

30) Art. 52 is replaced by the following wording:

"Art. 52. The Minister of Justice in agreement with the Minister of National Defence specifies, by regulation, the procedure for the competition for the post of apprentice, the organisation of the judicial apprenticeship, the scope of the judicial exam, the composition of the exam commission and the manner of appointment thereof, the amount of remuneration and procedure for the conduct of the exam commission.”;

31) Art. 58 item § 1 item 8 is replaced by the following wording:

"8) should the person be found guilty of the violation of the honour and authority of the soldier by a valid disciplinary judgement.”;

32) in Art. 70:

a) § 1 is replaced by the following wording:

"§ 1. To military courts, military court judges and lay judges apply the provisions of Art. 4 and 5, Art. 40, Art. 42, Art. 44-52, Art. 53 § 1-3, Art. 54, Art. 56, Art. 57 § 5, Art. 58 § 1, Art. 60, Art. 65 and 66, Art. 69 § 2, Art. 70 and 71, Art. 73-75, Art. 77 § 2, 5 i 6, Art. 78 § 1-4, Art. 79, 80 § 4, Art. 83, Art. 84 § 3, Art. 85 and 86, Art. 89 and 90, Art. 91 § 1-7 and § 9-12, Art. 92 § 1 i 2, Art. 93, Art. 94 § 1, 3 and 4, Art. 95, Art. 96 § 1 and 2, Art. 98 § 1, Art. 99, Art. 100 § 1-4, Art. 101 § 2-4, Art. 102, Art. 104-106, Art. 108, Art. 111, Art. 114 § 5-7, Art. 115, Art. 116-118, Art. 120-122, Art. 125-128, Art. 130, Art. 133, Art. 135 § 5-7, Art. 147 § 3, Art. 156, Art. 159 § 1 item 5 and 6, Art. 167, Art. 169, Art. 170 § 3, Art. 171, Art. 172 § 1-5, Art. 173 and 174 of the Act referred to in Art. 32 § 6, and the provisions issued under Art. 57 § 5, Art. 78 § 5, Art. 91 § 8, Art. 96 § 3, Art. 103 and Art. 148 and Art. 172 § 6 of the Act, whereas:

1) the duties and entitlements of the Minister of Justice, of the general assembly of judges, the board of the court, presidents of the district courts and regional courts and the president of the disciplinary court, specified in these provisions, are

performed and exercised accordingly by: The Minister of Justice in agreement with the Minister of National Defence, the Assembly of Military Court Judges, the board of the military regional court, the presidents of military courts and the president of the disciplinary court, and the duties and entitlements of the president of the court of appeal within the scope of administrative supervision are performed and exercised by the Minister of Justice through the director of the division referred to in Art. 5 § 4,

- 2) entitlements specified in Art. 92 § 1 of the cited Act are vested in a military judge if the military judge did not acquire the right to additional leave specified in the provisions on the military service of professional soldiers earlier,
- 3) entitlements specified in Art. 172-174 of the cited Act are vested in a judge in the event specified in Art. 61 of this Act.”;

b) after § 1 the following § 1a is added:

“§ 1a. Provisions of Art. 66, Art. 69-71, Art. 74, Art. 75, Art. 77 § 5 and 7 and Art. 91 § 1-4 and § 9-11 of the Act referred to in Art. 32 § 6 do not apply to assistant judges entrusted with the performance of judicial duties.”

Art. 191. The Act of 29 August 1997 on the Enforcement Officers and Enforcement (Dz.U. /*Journal of Laws*/ No 133, item 882, of 1999 No 110, item 1255, of 2000 No 48, item 554, of 2001 No 98, item 1069) in Art. 16 the current part is marked par. 1 and the following par. 2-7 are added:

2. An enforcement officer shall submit property declarations. Property declaration concerns both the separate property and the joint property of spouses. The declaration shall include in particular: information about financial reserves, real estates, stocks and shares in commercial law companies possessed by the enforcement officer, and about the property purchased by such a person or his/her spouse from the State Treasury or another state legal person, municipality/commune or from an intermunicipal association subject to sale in tender proceedings. The declaration should also include data concerning conducting the business activity and performing the function in commercial law companies and cooperatives with the exclusion of the function in the supervisory board of a housing cooperative.
3. An enforcement officer submits the declaration referred to in par. 2 to the president of the court of appeal having jurisdiction thereover.
4. The competent board of the court of appeal analyses the data contained in the declaration, referred to in par. 2 and 3.
5. The declaration, referred to in par. 2 and 3, is submitted prior to taking the post, and then each year by 31 March, as of 31 December of the previous year, and on the day of leaving the post of enforcement officer.
6. Information included in the declaration constitutes a professional secret, unless the enforcement officer who submitted the declaration agreed in writing to disclose it. In particularly justified cases, the entity entitled, pursuant to par. 3 or 4, to collect the declaration may disclose it despite the lack of consent of the person who submitted the declaration. The declaration is kept for six years.
7. The form specified in the provisions on limitation of conducting business activity by persons performing public functions is accordingly applied to the submission of the declaration referred to in par. 2.”

Art. 192. The Act of 17 December 1997 on Amending the Act - Law on Common Courts Organisation and on Amending Certain Other Acts (Dz.U. /*Journal of Laws*/ of 1998, No 98, item 607) in Art. 9 par. 3 is replaced by the following wording:

3. Should a decision be issued stating the circumstances resulting in the loss of entitlements, the person deprived of the right to retirement or to the retirement pay or to the family benefit acquires the right to retirement pension or disability pension if he/she fulfils the terms specified in the provisions on social insurance. In such an event, the contribution to the Social Insurance Institution is paid, stipulated in the provisions on social insurance, for the term of office within which the judge or public prosecutor received remuneration, and from which no social insurance contributions were paid. The provision of Art. 91 § 11 of the Act of 27 July 2001 – Law on Common Courts Organisation (Dz.U. /*Journal of Laws*/ No. 98, item 1017) applies accordingly.“

Art. 193. The Act of 26 November 1998 – on Public Finances (Dz.U. /*Journal of Laws*/ No 155, item 1014, of 1999 No 38, item 360, No 49, item 485, No 70, item 778 and No 110, item 1255, of 2000 No 6, item 69, No 12, item 136, No 48, item 550, No 95, item 1041, No 119, item 1251 and No 122, item 1315 and of 2001 No 45, item 497, No 46, item 499 and No 88, item 961) is hereby amended as follows:

- 1) in Art. 67 par. 4 after the words “managers of the bodies referred to in Art. 83 par. 2” the words “and in the case of common judiciary the Minister of Justice” are added;
- 2) In Art. 83 item 2 before the words “the Supreme Chamber of Control” the words “of common judiciary” are added.”;
- 3) in Art. 105 par. 2 after the words “in Art. 83 par. 2” a comma is added and the words “with the exclusion of common courts.”.

Art. 194. The Act of 3 December 1998 – on the Disciplinary Responsibility of Judges who between 1944-1989 Acted Against the Judicial Independence (Dz.U. /*Journal of Laws*/ of 1999, No 1, item 1) Art. 1 par. 1 is replaced by the following wording:

- "1. To a judge who between 1944-1989 when adjudicating in trials being a form of repression for pro-independence and political activities, for protection of human rights and exercising basic human rights, acted against the judicial independence, the provisions on the limitation period in disciplinary proceedings concerning judges shall not apply until 31 December 2002.

Art. 195. The Act of 18 December 1998 on the Employees of Courts and Public Prosecutor's Office (Dz. U./*Journal of Laws*/ No 162, item 1125) is hereby amended as follows:

- 1) in Art. 4 after par. 2 the following par. 3 is added:
"3. The director of the court of appeal, the director of the regional court and the financial manager of the district court are employed on the basis of appointment.";
- 2) Art. 13 is deleted.

Chapter 2

Transitional and Final Provisions

Art. 196. Courts established under the Act specified in Art. 211 are common courts within the meaning of the Act.

Art. 197. Branch units and branch divisions of regional courts existing on the date of the entry of the Act into force become, respectively, the branch units or branch divisions of relevant regional courts within the meaning of the Act.

Art. 198. § 1. Common court judges as of the date of the entry of the Act into force receive the basic remuneration at the base rate to which a judge on a given post is entitled and the seniority allowance, in accordance with the provisions specified in Art. 91 § 7

§ 2. As of 1 January 2003, judges who have worked at the judicial post for at least seven years receive the basic remuneration at the first bonus rate.

§ 3. As of 1 January 2004, judges who have worked at a given judicial post for at least fourteen years receive the basic remuneration at the second bonus rate.

§ 4. With respect to a judge who, under § 2, received the basic remuneration at the first bonus rate, and upon 1 January 2004 failed to fulfil the condition referred to in § 3, the entire period of work exceeding 7 years at the judicial post held by him/her is counted towards the period required pursuant to Art. 91 § 4 in order for the judge to receive the basic remuneration at the second bonus rate.

§ 5. Provisions § 1-3 apply at the calculation of the remuneration of common court judges in order to determine the retirement pay of military court judges in accordance with the principles specified in Art. 70 § 3 of the Act referred to in Art. 190 introductory sentence.

Art. 199. Supreme Court judges who are eligible to retire on 30 June 1990, under Art. 11 par. 2 of the Act of 20 December 1989 on Amending the Acts - Law on Common Courts Organisation, on the Supreme Court, on the Chief Administrative Court, on the Constitutional Tribunal, on the Military Courts Organisation and the Law on Notarial Profession and Practice (Dz.U. /*Journal of Laws*/ No 73, item 436),

acquire the right to receive the retirement pay calculated on the basis of the remuneration of Supreme Court judges.

Art. 200. § 1. Judges who became eligible for retirement or disability pension before 1 January 1998, and acquired the right to the retirement pay, are deemed to be retired judges within the meaning of the Act, unless they lost the entitlement to the retirement pay.

§ 2. The retirement pay of judges, on the date of the entry of the Act into force, is determined in the amount of 75 percent of the basic remuneration and the seniority allowance which the judge would receive on the date of retiring or being awarded the retirement or disability pension, with reference to the principles specified in Art. 198 § 1.

§ 3. The provisions of Art. 100 § 2-8 apply to former judges who acquired the right to retirement or disability pension before 1 January 1998 if they acquired the right when holding the post of judge. At the determination of the amount of the retirement pay, taken into consideration are the basic remuneration and the seniority allowance which the judge would receive on 1 January 1998, with reference to the provision of § 2.

§ 4. Family benefits of surviving family members of deceased judges or deceased retired judges the right to which came into existence upon 1 January 1999 are increased as of the date of the entry of the Act into force, applying the principles specified in Art. 102.

§ 5. The amount of the retirement pay of former judges referred to in § 3 as well as the amount of family benefits are determined on dates and on principles specified in Art. 198 § 2 and 3, applying the period of work at the last judicial post the judge held on the day of retiring or being awarded the retirement or disability pension, or on the day of the death of the judge, upon which the right to the family benefit arises.

Art. 201. § 1. Terms of offices of presidents and vice presidents of regional courts and courts of appeal that commenced before the date of the entry of the Act into force last six years and start on the date of commencement thereof, unless within six weeks upon the lapse of the period for which they were appointed to perform the function, the competent assembly of judges raises objections. Terms of offices of presidents and vice presidents who hold the same function for the subsequent second term end upon the lapse of the period for which they were appointed.

§ 2. Within three months from the date of the entry of the Act into force, general assemblies of judges shall adjust their composition to the state consistent with the Act. The terms of office of general assemblies of judges end together with the end of the terms of office of the presidents of courts.

§ 3. Within a month from the commencement of the new term of office of general assemblies of judges, the elections of members of board of courts shall be conducted, pursuant to the Act.

§ 4. Hitherto binding provisions apply to judicial apprenticeship and to apprenticeship in the military court as well as to assistant judge training and to assistant judge training in the military court that commenced before the date of the entry of the Act into force. Assistant judges and assistant judges in military courts appointed before the date of the entry of the Act into force may continue to be assistant judges for the period exceeding three years, by the time of attaining the age required in order to be appointed to the post of district court judge or military court judge.

Art. 202. § 1. Within the period by 31 December 2003, the person who fulfils the requirements specified in Art. 61 may be appointed a district court judge, whereas the age required is 28 years, and the required period of work as an assistant judge and an assistant public prosecutor is two years.

§ 2. Within the period referred to in § 1, the person who fulfils the requirements specified in Art. 22 of the Act cited in Art. 190 may be appointed a military court judge, whereas the age required is 28 years, and the required period of work as an assistant judge is two years.

Art. 203. § 1. The Directors, referred to in Art. 21 § 2 shall be employed as from 1 January 2002.

§ 2. By the time directors of courts of appeal, regional courts or financial managers of district courts are employed, the duties thereof shall be performed by the presidents of courts of appeal, regional or district courts respectively.

Art. 204. § 1. To cases of disciplinary misconduct of judges committed before the date of the entry of the Act into force, provisions of the Act apply, with the exception of Art. 108, subject to § 2-5.

§ 2. The Disciplinary Court or the Higher Disciplinary Court established under the provisions of hitherto binding provisions act until closing of the proceedings in cases referred to in § 3 and 4.

§ 3. Hitherto binding provisions apply to cases heard in the lower instance falling within the competence of disciplinary courts that did not end by the date of the entry of the Act into force.

§ 4. The Higher Disciplinary Court in the higher instance adjudicates in cases referred to in § 2 in which measures of appeal were applied, in accordance with hitherto binding provisions.

§ 5. Should a decision be reversed by the Higher Disciplinary Court or the case be reversed to another hearing, the provisions of the Act apply.

§ 6. The Supreme Court keeps the files of disciplinary cases conducted under the hitherto binding provisions.

§ 7. Provisions of § 1-6 apply also to cases of disciplinary misconduct of judges of military courts.

Art. 205. Court referendaries shall receive the remuneration determined under the hitherto binding provisions until 31 December 2002.

Art. 205a. Until 31 December 2004, a person who fulfils the requirements specified in Art. 149 § 1 item 1, 2, 4 and 5, and has completed higher education in administration may be appointed to the post of referendary.

Art. 206. § 1. As from the date of the entry of the Act into force, public prosecutors of common organisational units of public prosecutor's office receive the basic remuneration at the base rate to which a public prosecutor on a given post is entitled, and the seniority allowance, in accordance with the principles specified in Art. 62 par. 1g of the Act referred to in Art. 185 introductory sentence.

§ 2. As of 1 January 2003 public prosecutors who have worked at the post for at least seven years receive the basic remuneration at the first bonus rate.

§ 3. As of 1 January 2004 public prosecutors who have worked at a given post for at least fourteen years receive the basic remuneration at the second bonus rate.

§ 4. With respect to a public prosecutor who, under § 2, received the basic remuneration at the first bonus rate, and upon 1 January 2004 failed to fulfil the condition referred to in § 3, to the period required pursuant to Art. 62 par. 1d of the Act referred to in Art. 185 introductory sentence, in order for the public prosecutor to receive the basic remuneration at the second bonus rate, the entire period of work exceeding 7 years at the public prosecutor post he/she holds is added.

§ 5. Provisions § 1-3 apply at the calculation of the remuneration of public prosecutors of common organisational units of public prosecutor's office in order to determine the retirement pay of public prosecutors of military organisational units of public prosecutor's office in accordance with the principles specified in Art. 116 § 2 of the Act referred to in Art. 185 introductory sentence.

§ 6. The provisions of Art. 200 apply accordingly to public prosecutors, former public prosecutors, the retirement pay and to the family benefit of surviving family members of deceased public prosecutors or deceased retired public prosecutors.

§ 7. The provision of Art. 201 § 4 applies to public prosecutor apprenticeship and assistant public prosecutor training.

Art. 207. § 1. Judges who under hitherto binding provisions obtained the consent of the National Council of the Judiciary to continue to hold the post, despite attaining 65 years of age, retire upon the lapse of the period to which the National Council of the Judiciary consented.

§ 2. The provision of § 1 applies accordingly to public prosecutors who obtained consent to continue to hold the post from the Public Prosecutor General.

§ 3. Provision of Art. 69 § 3 second sentence applies to matters related to granting the consent referred to in § 1 and 2 if such matters were not completed before the entry of the Act into force.

Art. 208. § 1. By the time the Act referred to in Art. 154 § 2 enters into force provisions of § 2-10 apply to court probation officers.

§ 2. A court probation officer may be a person who:

- 1) is a Polish citizen and enjoys full civil and full public rights,
- 2) has not been convicted of an offence,
- 3) has not been deprived of parental authority,

- 4) has attained 24 years of age,
- 5) has completed higher education in law, pedagogy, psychology, sociology or rehabilitation or has completed secondary school education and performed duties within the scope of prevention, rehabilitation or education professionally or on the basis of community service,
- 6) has completed one-year probation officer training,
- 7) has passed the probation officer exam.

§ 3. In particularly justified cases, the Minister of Justice, at the request of the president of the regional court, may exempt the candidate for professional probation officer from the obligation to undergo training and to pass the exam, as well as recognize completion of higher education other than set forth in § 2 item 5 sufficient if the scope of such studies includes knowledge useful at the performance of the function of professional probation officer.

§ 4. The president of the regional court appoints and dismisses the professional probation officer.

§ 5. Art. 89, 92 and 93 apply to professional probation officers accordingly.

§ 6. Basic remuneration of professional probation officers constitutes, as appropriate for the rank of the office, the multiple of average anticipated remuneration in the state budget sector.

§ 7. To matters not regulated herein, the provisions concerning employees of courts and public prosecutor's office apply accordingly to professional probation officers.

§ 8. The Council of Ministers specifies, by regulation, the amount of the remuneration of professional probation officers, taking into consideration the rank of the profession and the scope of employees' duties, as well as the level of remuneration of court employees.

§ 9. The Minister of Justice, by regulation, specifies:

- 1) detailed duties and rights as well as the organisation of work of professional probation officers in the court,
- 2) the scope of the exam, the composition of the exam commission, manner of appointment of members thereof and the conduct of exam commission, taking into consideration the scope of training, written and oral form of the exam, the significance of reasons for fixing the exam at a later date, qualifications of exam commission members, the principle of correctness of the course of the exam and the accuracy of exam evaluations,
- 3) the procedure for appointment and dismissal of community service probation officers and the detailed scope of duties and rights thereof, taking into consideration the community nature of the function performed and the right to receive an equivalent for expenses incurred during the performance thereof.

§ 10. The Minister of Justice in agreement with the minister competent over labour specifies, by regulation, the amount of remuneration of the members of the exam commission referred to in § 9 item 2, taking into consideration the scope and the volume of their work during the exam.

Art. 209. Hitherto binding provisions apply within the scope of planning, adopting and implementing the budget for the year 2002.

Art. 210. By 1 January 2003, municipality courts are entrusted with hearing the cases regarding offences referred to in Art. 178a of the Penal Code.

Art. 211. § 1. The Act of 20 June 1985 – Law on Common Courts Organisation (*Dz.U. /Journal of Laws/* No 1994, No 7, item 25, No 77, item 355, No 91, item 421 and No 105, item 509, of 1995 No 34, item 163 and No 81, item 406, of 1996 No 77, item 367, of 1997 No 75, item 471, No 98, item 604, No 106, item 679, No 117, item 751, 752 and 753, No. 121, item 769, No 124, item 782 and No 133, item 882, of 1998 No 98, item 607, No 160, item 1064 and No 162, item 1118 and 1125, of 1999 No. 20, item 180, No 60, item 636, No 75, item 853, No 83, item 931 and No 110, item 1255 and of 2000 No. 48, item 551, No 50, item 580, No 56, item 678, No 114, item 1193, No 120, item 1268 and No 122, item 1314 and 1319) hereby becomes invalid.

§ 2. Legal acts issued in order to implement the Act referred to in § 1 remain in force, unless such acts be contrary to the Act.

Art. 212. The Act enters into force on 1 October 2001, with the exclusion of:

- 1) Art. 91 § 2a, Art. 151 § 1, Art. 178, Art. 193 and Art. 195 item 2, which enter into force on 1 January 2002,

2) Art. 13 § 2 item 4, Art. 91 § 2, 3 and 4, Art. 176, Art. 177 and Art. 179 § 1-4, which enter into force on 1 January 2003.

ANNEX

ANNEX TO THE ACT OF 27 JULY 2001

Rates of basic remuneration at particular posts of a judge and the multipliers used for determining the amount of basic remuneration of judges

Post	Rate of basic remuneration	Multiplier
District court judge	first	2,05
	second	2,17
	third	2,28
	fourth	2,36
	fifth	2,50
Regional court judge	fourth	2,36
	fifth	2,50
	sixth	2,65
	seventh	2,75
	eight	2,92
Court of appeal judge	seventh	2,75
	eight	2,92
	ninth	3,12
	tenth	3,23