

ACT

of 12 May 2011

on the National Council of the Judiciary

(Journal of Laws of 2016.976 of 5th July 2016)

Chapter 1

General provisions

Article 1. The Act regulates the competencies, method of selecting the members, the structure and proceedings before the National Council of the Judiciary, hereinafter referred to as "Council".

Article 2. The provisions of the Code of administrative procedure do not apply in proceedings before the Council.

Chapter 2

Competencies and structure of the Council

Article 3. 1. The competencies of the Council include:

- 1) review and assessment of candidates for the post of judges of the Supreme Court and common courts, administrative and military courts and for the post of trainee judges;
- 2) presenting to the President of the Republic of Poland motions for appointment of judges of the Supreme Court, common courts, administrative and military courts and the appointment of trainee judges;
- 3) resolving on a set of principles of professional ethics of judges and trainee judges and ensuring their observance;
- 4) passing opinions on the condition of the judiciary and trainee judges;

- 5) expressing opinions on matters concerning the judiciary, judges and trainee judges, brought under its agenda by the President of the Republic of Poland, other public authorities or bodies of judicial self-government;
- 6) giving opinions on draft legislation concerning the judiciary, judges and trainee judges, and presenting proposals in this regard;
- 7) expressing opinion on the program of training as part of the judges' training period, the scope and manner of conducting the judges' training period entry contests and judges' exams;
- 8) expressing opinion on annual schedules of training and professional education of judges, trainee judges and court officers.

2. Moreover, the Council performs other tasks stipulated in Acts, in particular:

- 1) it adopts resolutions regarding applications to the Constitutional Tribunal to examine compliance with the Constitution of the Republic of Poland of normative acts within the scope concerning independence of courts and judges;
- 2) it considers applications for retirement of judges;
- 3) it considers applications of retired judges to return to judicial post;
- 4) appoints the disciplinary proceedings representative for matters regarding judges of common courts and trainee judges and the disciplinary proceedings representative for matters regarding judges of military courts;
- 5) it expresses opinion on appointment and dismissal of presidents and deputy presidents of common courts and military courts;
- 6) *(repealed)*
- 7) it names three members of the Programming Board of the Polish National School of Judiciary and Public Prosecution;
- 8) it expresses opinion on the appointment of the Director of the Polish National School of Judiciary and Public Prosecution.

Article 4. The Council presents information to the Sejm, the Senate and the President of the Republic of Poland, not later than by 31 May of the following year, on the annual activity of the Council as well as postulates concerning current matters and needs of the justice system. No voting is carried out in the Sejm and the Senate on this information.

Article 5. 1. The Council may decree that the following be conducted:

- 1) visitation at the court or its organizational unit;
- 2) inspection at the court;
- 3) inspection of the career of a judge or an trainee judge, whose individual matter is to be addressed by the Council.

2. Actions referred to in section 1 may not interfere with areas in which the judges and trainee judges are independent.

3. The activities referred to in par. 1 may be carried out by members of the Council or by judges delegated to the Council Office on the basis of separate regulations.

Article 6. The Council shall elect the disciplinary proceedings representative for matters concerning judges of common courts and trainee judges after the submission of candidates by the general assembly of judges of courts of appeal and the disciplinary proceedings representative for matters concerning judges of military courts after the submission of candidates by the Assembly of Judges of Military Courts. Article 18 shall apply accordingly.

Article 7. The First President of the Supreme Court, the President of the Supreme Administrative Court and the Minister of Justice are members of the Council for the duration of holding these functions.

Article 8. 1. The person appointed by the President of the Republic of Poland fulfils its functions on the Council without specifying the term of office and can be dismissed at any time.
2. The mandate of the person appointed by the President expires at the latest within three months after the end of the term of office of the President or after the office of the President of the Republic of Poland is vacated.

Article 9. 1. The Sejm appoints four members of the Council from among its Deputies for a period of four years.
2. The Senate appoints two members of the Council from among the senators for a period of four years.
3. Members of the Council appointed by the Sejm and the Senate fulfil their functions until new members are appointed.

Article 10. A judge may hold the function of an appointed member of the Council only for two terms of office.

Article 11. 1. The General Assembly of Judges of the Supreme Court appoints two members of the Council from among the judges of that Court.
2. The General Assembly of Judges of the Supreme Administrative Court, together with the representatives of general meetings of the voivodship administrative courts, appoints two members of the Council from among the judges of administrative courts.
3. The assembly of representatives of assemblies of judges of courts of appeal appoints two members of the Council from among its body.
4. The assembly of representatives of general meetings of circuit courts' judges appoints eight members of the Council from among its body.
5. The Assembly of Judges of Military Courts appoints one member of the Council from among its body.

Article 12. 1. The general meetings of judges of voivodship administrative courts appoint two representatives each from among their members.
2. Elections of the representatives of the general meetings of judges of voivodship administrative courts are held at the latest one month before the expiry of the term of office of the members of the Council appointed from among the judges of administrative courts. The representatives are

appointed for a period of four years.

- Article 13.** 1. Assemblies of judges of courts of appeal elect the representatives of the assemblies of the judges of courts of appeal from among its members in a number equal to one-fifth the number of judges of the court of appeal.
2. The general meetings of circuit courts' judges appoint representatives of the general meetings of circuit courts from among their members in the quantity equal to one fiftieth of the number of the circuit's judges.
3. The representatives referred to in sections 1 and 2 shall be elected no later than one month before the expiry of the term of office of the Council members elected from among the members of common courts. The representatives shall be elected for a term of four years.
4. The Minister of Justice, in concert with the Chairman of the Council, convenes a meeting of the representatives for the purpose of appointing members of the Council. The Chairman of the Council convenes the meeting of the representatives once every two years as well as upon the request of one third of the number of the representatives or upon the request of the Council.
5. Meetings of the representatives evaluate the activities of the members of the Council appointed by them, put forward postulates to the Council concerning its activity and adopt resolutions concerning matters appearing in the activity of common courts.
6. The meeting of the representatives is chaired by the oldest judge. The meetings deliberate in accordance with the regulations adopted by them.

Article 14. 1. The mandate of the appointed member of the Council expires before the term of office is up in the event of:

- 1) death;
 - 2) renunciation of the mandate;
 - 3) expiry of the mandate of the Deputy or Senator;
 - 4) appointment of the judge to another judicial post, except for the appointment of the judge of the district court to the post of the judge of the circuit court, the military judge of the garrison court to the post of the judge of the military circuit court or the judge of the voivodship administrative court to the post of the judge of the Supreme Administrative Court;
 - 5) expiry or termination of the judge's service relationship;
 - 6) when the judge retires or is retired.
2. Renunciation of the mandate in the Council becomes effective the moment the Chairman of the Council is informed about this in writing. The Chairman immediately notifies the body which appointed the member.
3. A new member of the Council should be appointed within two months of the day on which the mandate expires.

Article 15. The Council's bodies are the Chairman and the Praesidium of the Council.

- Article 16.** 1. The Council appoints the Chairman, two deputy chairmen and three members of the Praesidium of the Council from among its body.
2. The term of office of each member of the Praesidium of the Council lasts four years. Members of the Praesidium of the Council cannot fulfil their functions for more than two terms of office.

3. The Praesidium of the Council manages the work of the Council and ensures proper functioning of the Council between the plenary meetings, and, in particular, draws up draft agendas for the Council's plenary meetings.
4. In emergency situations requiring that actions be undertaken between the Council's plenary meetings, the Praesidium of the Council may take actions on its behalf which are reserved for the competencies of the Council, except for dealing with individual matters.
5. Should the Praesidium of the Council take actions in accordance with the procedure stipulated in par. 4, the Chairman presents the matter to the Council during the upcoming plenary meeting.

Article 17. 1. The Chairman represents the Council and organizes its work, and, in particular:

- 1) convenes the meetings of the Council, chairs the meetings and exercises supervision over the course thereof;
- 2) signs the Council's resolutions;
- 3) gives orders to correct evident typographical errors in the Council's resolutions and their justifications;
- 4) tables motions before the Council to re-examine the case;
- 5) performs activities commissioned by the Council.

2. The Deputy chairmen:

- 1) during the Chairman's absence, substitute in for him in performing the activities specified in par. 1 and in Article 16 par. 5;
- 2) perform other activities by proxy of the Chairman.

3. The distribution of the activities referred to in par. 2 between the deputy chairmen is determined by the Chairman who informs the Council about it.

4. Should the Chairman and the deputy chairmen be absent, the meetings of the Council are chaired and the Council's resolutions are signed by the oldest member of the Praesidium of the Council.

Article 18. 1. Should the post of a member of the Praesidium of the Council become vacant, the Council fills in that vacancy during the upcoming meeting.

2. The Chairman, the deputy chairmen and other members of the Praesidium of the Council are appointed separately, with the number of candidates being unlimited.

3. If, during the first ballot, none of the candidates receives the required majority of votes, the candidate who received the least number of votes during the preceding ballot is excluded from each subsequent ballot.

Article 19. 1. The Council appoints permanent committees from among its members:

- 1) the committee for disciplinary responsibility of judges and trainee judges, whose task is to analyse the judgments of the disciplinary courts, to submit to the Council motions for disciplinary actions, to appeal against the decisions of disciplinary courts and disciplinary proceedings representatives and to demand the resumption of disciplinary proceedings;
- 2) budgetary committee, whose task is to annually:

- a) draw up the draft resolution containing a plan of revenues and expenses of the Council and resolutions containing the petitions referred to in Article 178 § 3 of the Act of 27 July 2001 - Law on the organization of common law courts (Journal of Laws No. 98, item 1070, as amended²) and

Article 4 § 4 of the Act of 21 August 1997 - Law on the organization of military courts (Journal of Laws of 2007, No. 226, item 1676, as amended³),

- b) examine the data contained in the declarations of the presidents of courts of appeal and the presidents of military circuit courts concerning their financial status for the purpose of the Council analysing these declarations by 30 June of each year;
 - 3) the committee for visitations and inspection, whose task is to prepare draft resolutions on the visitation of court or its organisational units, court inspection or career inspection regarding a judge or an trainee judge;
 - 4) the committee for professional ethics of judges and trainee judges, whose task is to prepare draft resolutions on the set of principles of professional ethics of judges and trainee judges and to supervise observance thereof.
2. The Council may appoint other issue commissions.

Article 20. 1. The Council deliberates during plenary meetings.

2. The plenary meetings of the Council are convened by the Chairman of the Council on "as needed" basis, at least once every two months. Moreover, the plenary meetings of the Council are convened at the request of at least one third of its members and at the request of the Minister of Justice.

3. The first meeting of the Council after the post of the Chairman becomes vacant is convened by the First President of the Supreme Court, who chairs the meetings until a new Chairman is appointed.

Article 21. 1. In order for the resolutions of the Council to be valid the presence of at least half of the Council's composition is required.

2. The Council adopts resolutions by absolute majority of votes cast in an open ballot. The ballot may be secret at the request of the Council's member.

3. The ballot may be repeated in the event of a breach of the rules of conduct, on the basis of a resolution of the Council adopted at the request of a member of the Council made at the latest on a day stipulated as the deadline for making reservations to the minutes from the meeting.

Article 22. 1. The Council shall lay down specific procedure in the rules, including the use of an information and communication system that supports the procedure for appointment to the post of a judge and an trainee judge referred to in the Act of 27 July 2001 – Law on Common Courts Organisation, hereinafter referred to as the "ICT system".

2. The Council's regulations are subject to notification in the Official Journal of the Republic of Poland "Monitor Polski".

Article 23. The Council uses a seal with the image of the eagle representing the emblem of the Republic of Poland.

Article 24. 1. The Council performs its tasks through the Council Office, hereinafter referred to as "Office".

2. The Office is managed by the Chief appointed and dismissed by the Chairman of the Council after obtaining an opinion from the Praesidium of the Council.

3. The organization and the way the Office operates are defined by the regulations adopted by the Council.
4. The employees of the Office are subject to the regulations concerning civil servants.

Article 25. 1. The Council may designate a member of the Council being a judge, upon his consent, to perform permanent duties in the Office. The designation is made for a specified period of time.

2. The judge delegated to perform duties in the Office is subject to the provisions of Article 78 § 2-4 of the Act of 27 July 2001 - Law on the organization of common law courts. The value of allowances is determined by the Minister of Justice at the Chairman's request.

Article 26. For performing the duties on the Council members of the Council receive:

- 1) allowances for every day of participation in plenary meetings and other work of the Council in the amount equal to 20% of the basis for determining the judge's base salary referred to in Article 91 § 1c of the Act of 27 July 2001 - Law on the organization of common law courts;
- 2) reimbursement of the travel and accommodation expenses on terms stipulated in the regulations issued on the basis of Article 775 § 2 of the Act of 26 June 1974 - The labour code (Journal of Laws of 1998, No. 21, item 94, as amended⁴) in accordance with the rules governing domestic business trips.

Article 27. 1. The operating expenses of the Council shall be covered from the state budget. The Council provides conditions for the work of the disciplinary proceedings representative in matters concerning judges and trainee judges of common courts as well as the disciplinary proceedings representative in matters concerning judges of military courts.

2. The Council's revenues and expenses constitute a separate part of the State Budget.

3. The administrator of the budgetary part corresponding to the Council is the Chairman of the Council.

4. The draft plan of the revenues and expenses adopted by the Council is forwarded by the Chairman of the Council to the minister in charge of the budget for the purpose of being incorporated into the draft budgetary act on the basis of Article 139 par. 2 of the Act of 27 August 2009 on public finance (Journal of Laws No. 157, item 1240, as amended⁵).

Chapter 3

Proceedings before the Council

Article 28. 1. Member of the Council is excluded by virtue of the law from cases:

- 1) which concern him;
- 2) which concern his spouse, relatives or kinsmen in direct line, lateral relatives within the fourth degree of consanguinity and lateral kinsmen within the second degree of consanguinity;
- 3) persons associated with him due to adoption, guardianship or wardship and in cases in which he was or is a proxy.

2. The reasons for the exclusion remain in force after the cessation of marriage, adoption, guardianship or wardship that justifies it.

3. The Council excludes the member at his request or at the request of the person whose case is subject to a review if there is a circumstance of a kind that it could cause a justified doubt as to the member's impartiality in the given case.

Article 29. 1. In individual cases the person whose rights or obligations the Council's resolution is supposed to concern is a party to the proceedings before the Council.

2. The party to the proceedings is informed about the date of the meeting during which his case will be considered.

Article 30. 1. In individual cases, should it be determined that there are documents missing which make it impossible to consider the case, the Chairman orders for them to be supplemented within the required deadline, under the pain of the petition not being reviewed.

2. If personal files are required for the individual case to be considered, the Chairman asks that they be presented to the Council. The competent body or institution is obliged to present the files immediately to the Council.

2a. In individual matters, concerning the appointment to the post of a judge of common court or an trainee judge, the Chairperson of the Council shall request the submission of personal files of a candidate and other documents to the authorities and institutions covered by the ICT system via the ICT system. The candidate's personal files and documents requested by the Chairperson of the Council may be submitted via the ICT system.

Article 31. 1. The Chairman appoints a team whose task is to prepare the individual case to be considered during the Council's meeting. The team is composed of three to five members of the Council.

2. Judges of the court with the activities of which the case is associated and of the court operating in the same judicial district cannot be members of the team.

3. The designated member of the Council may be excluded from the team. The Council decides about the exclusion at the member's request.

Article 32. 1. Correspondence concerning cases being examined by the Council is delivered to the parties to the proceedings against confirmation of receipt.

1a. Letters and other documents in individual matters reviewed by the Council and concerning the appointment to the post of a judge of common court or an trainee judge, as well as Council resolutions adopted in those matters shall be delivered to the candidates via the ICT system. The notifications shall be deemed effective as soon as the candidate logs in to the ICT system or within 14 days of uploading a letter into the ICT system.

2. Resolutions of the Council are delivered in the form of copies authenticated by the Council Office.

3. The case files are available to the parties to the proceedings taking into account the regulations concerning protection of confidential information and protection of personal data. The parties to the proceedings may inspect the case files and make copies or excerpts of such files. Upon a written request the party to the proceedings may receive copies and excerpts of the files confirmed by the Council Office to be true copies of the originals.

Article 33. 1. In individual cases the Council adopts resolutions after a thorough consideration of the case, on the basis of available documentation and clarifications provided by the parties to the proceedings or other parties, if such have been submitted.

2. In justified cases the Council may request that the party to the proceedings appear in person or that it provide written clarifications or supplement the materials required in the case. The provision of Article 30 par. 2 applies accordingly.

3. Explanations of the candidate for the post of a judge of common court or an trainee judge and any supplementary materials may also be submitted via the ICT system.

Article 34. 1. In preparing the candidates to be appointed for the post of a judge or an trainee judge to be reviewed and assessed at the Council meeting, the team assumes a position by an absolute majority of votes in the presence of all its members.

2. The ballot in the cases referred to in par. 1 is open unless the team decides by a majority of votes to hold it in secrecy.

3. The stance of the team in the cases referred to in par. 1 must be justified.

4. The meetings of the team in the cases referred to in par. 1 are minuted.

Article 35. 1. If more than one candidate applied for the position of a judge or an trainee judge, the team drafts a list of recommended candidates.

2. When determining the order of the candidates on the list the team relies, above all, on the assessment of the qualifications of the candidates, and, moreover, takes into account:

1) professional experience, opinions of the superiors, recommendations, publications and other documents attached to the registration card;

2) opinion from the board of a competent court and evaluation of a competent general assembly of judges.

Article 36. 1. In cases where the post of a judge or an trainee judge is applied for by candidates being advocates, legal counsels, notaries, public prosecutors, trainee prosecutors, counsel or senior counsel to or a vice-president of the State Treasury Solicitors' Office, the following bodies or authorities shall be notified about the team meeting: Supreme Bar Council, National Council of Legal Counsels, National Council of Notaries, the National Council of Public Prosecutors at the Prosecutor General's Office, President of the State Treasury Solicitors' Office.

2. In the case referred to in par. 1 the representative of the Supreme Bar Council, the National Council for Legal Counsels, National Council of Notaries, the National Council of Public Prosecutors at the Prosecutor General's Office, the President of the State Treasury Solicitor's Office may participate in the team's meeting with an advisory vote.

Article 37. 1. If more than one candidate has applied for the judicial post, the Council reviews and evaluates all candidatures jointly. In this case the Council adopts a resolution deciding about the submission of the petition to appoint the person to fulfil the office of the judge with respect to all candidates.

1a. If the post of an trainee judge is applied for by more than one candidate, the Council reviews and assesses all submitted candidates jointly. In this case, the Council adopts a resolution regarding the presentation of a motion for appointment to the post of trainee judge in relation to

all candidates.

2. The first and last names of the candidates, the stance of the team and the resolution of the Council, together with its justification, are published in the Public Information Bulletin.

Article 38. 1. The petition to retire the judge should contain a justification.

2. The petition should be accompanied by documents presenting the circumstances constituting the basis for retiring the judge, and, in particular:

1) the ruling of the Social Insurance Institution's certifying physician and of the medical board, if such had been issued;

2) a detailed summary of the periods when the judge did not fulfil his function due to an illness or leave to recover;

3) the medical certificates and rulings concerning the judge's health condition.

3. If consideration of the case calls for specific information, the Council may ask a court expert or several experts or to a competent scientific or scientific research institute for an opinion.

4. The petition to retire the judge due to a change in the organization of courts or change in the boundaries of courts' circuits should be accompanied by documents describing those circumstances, including the clarification of the reasons for not relocating the judge to another court.

Article 39. The petition to reinstate the judge to the judicial post should contain a justification. Appropriate documents should be attached to the petition. Article 38 applies accordingly.

Article 40. 1. The Council decides to commence proceedings or refuses to consider the petition as regards ascertainment of the circumstances stipulated in Article 7 par. 1 items 1-5, par. 2 and par. 3 and in Article 8 par. 1 of the Act of 17 December 1997 amending the Act - Law on the organization of common law courts and certain other acts (Journal of Laws of 1998, No. 98, item 607 and of 2001, No. 98, item 1070) by way of a resolution.

2. A copy of the resolution is sent to the petitioner and the judge concerned or to a member of his family together with a copy of the petition. A copy of the resolution on commencing proceedings is also sent to the organizational unit paying the judge's salary or family remuneration.

3. When delivering a copy of the resolution on commencing proceedings to the judge or a member of his family, the Council advises them about the tenor of Article 7 par. 3 of the Act referred to in par. 1, asking them to provide written clarifications and motions for evidence and sets an appropriate deadline for that purpose.

4. After a futile lapse of the deadline referred to in par. 3, and after the team conducts explanatory proceedings, the Council adopts a resolution ascertaining the circumstances referred to in Article 7 par. 1 items 1-5, par. 2 and par. 3 and in Article 8 par. 1 of the Act referred to in par. 1, or refusing to ascertain them.

Article 41. The Council discontinues proceedings if adoption of the resolution becomes redundant or inadmissible.

Article 42. 1. The Council's resolutions concerning individual cases must be justified.

2. The justification of the resolution is drawn up within one month of its adoption.
3. Resolutions concerning individual matters are delivered to the parties to the proceedings together with the justification and advice on how to lodge an appeal with the Supreme Court.

Article 43. 1. The Council's resolution becomes legally binding if it is not appealable.
2. If the resolution referred to in Article 37 section 1 or 1a has not been appealed against by all participants to the procedure, the resolution becomes legally binding in the part concerning the decision on abstaining from presenting a motion for appointment to the post of a judge or an trainee judge in relation to the participants to the procedure who have not brought an appeal.

Article 44. 1. The party to the proceedings may appeal to the Supreme Court on the grounds of contradiction of the Council's resolution with the law, unless separate regulations stipulate otherwise. The appeal does not apply in cases stipulated in Article 3 par. 2 item 2 of this Act.
2. The appeal is lodged through the Chairman within two weeks of delivery of the resolution together with the justification.
3. The proceedings before the Supreme Court are governed by the provisions of the Act of 17 November 1964 - The code of civil procedure (Journal of Laws No. 43, item 296, as amended⁷) on cassation appeal. The provisions of Article 871 of the Civil code are inapplicable.

Article 45. 1. Should new circumstances be disclosed, the Council may, ex officio or at the request of the party to the proceedings, re-examine the case.
2. In the event that new circumstances concerning a person referred to in the motion for appointment to the post of a judge or an trainee judge, as presented to the President of the Republic Poland, are disclosed, a request for re-examination of a particular matter may also be filed by the President of the Republic of Poland.
3. The Council decides about re-examining the case or refusing to do so by way of a resolution.

Chapter 4

Amendments to the current regulations

Article 46. In the Act of 17 December 1997 amending the Act - Law on the organization of common law courts and certain other acts (Journal of Laws of 1998, No. 98, item 607 and of 2001, No. 98, item 1070) in Article 7 par. 4 shall read:

- "4. The circumstances referred to in par. 1 items 1-5, par. 2 and 3 with respect to the judges or members of their families are ascertained by the National Council of the Judiciary by way of a resolution. The motion to adopt the resolution may be tabled by the Minister of Justice, as well as the person repressed for its activities towards independence or protection of human rights, and should this person pass away - its spouse, siblings or children. The concerned parties can appeal the decision to the administrative court."

Article 47. In the Act of 27 July 2001 - Law on the organization of common law courts (Journal of Laws No. 98, item 1070, as amended⁸) in Article 70 after § 3 section § 3a shall be added, which

reads:

"§ 3a. The judge or the board of a competent court concerned may appeal the ruling of the certifying physician referred to in § 1 and 2 to the medical board of the Social Insurance Institution within 14 days of the day on which this ruling is delivered."

Article 48. In the Act of 25 July 2002 - Law on the organization of administrative courts (Journal of Laws No. 153, item 1269, of 2005, No. 169, item 1417, of 2009, No. 219, item 1706 and of 2010, No. 36, item 196) the following amendments are introduced:

1) in Article 21:

a) § 1 shall read:

"§ 1. The president and vice-president of the court in the voivodship administrative court is appointed by the President of the Supreme Administrative Court from among the judges of the voivodship administrative court or the Supreme Administrative Court after obtaining an opinion from the general meeting of that court.",

b) § 3 and 4 shall read:

"§ 3. Should the general meeting issue a negative opinion about the candidate, the President of the Supreme Administrative Court may appoint him after obtaining a positive opinion from the National Council of the Judiciary. A negative opinion from the National Council of the Judiciary is binding for the President of the Supreme Administrative Court.

§ 4. If, within thirty days of the day on which the President of the Supreme Administrative Court presents his intention to appoint a judge to the post of the president of the court, despite of a negative opinion of the general meeting of that court, the National Council of the Judiciary does not issue an opinion, the opinion shall be considered to be positive.";

2) in Article 21a in § 2 the first sentence shall read:

"The president and vice-president of the court in the voivodship administrative court is dismissed after obtaining an opinion from the general meeting of that court and the National Council of the Judiciary.";

3) § 3 shall be annulled in Article 46.

Article 49. In the Act of 23 November 2002 on the Supreme Court (Journal of Laws No. 240, item 2052, as amended⁹) § 7 in Article 31 shall read:

"§ 7. If the petition to retire the judge was submitted by the Supreme Court Board, that Board may also lodge an appeal."

Chapter 5

Interim and miscellaneous regulations

Article 50. The term of office of the members of the Council and the Praesidium of the Council appointed on the basis of previous regulations lasts until the end of the period for which they have been appointed.

Article 51. The Act of 27 July 2001 on the National Council of the Judiciary (Journal of Laws of 2010, No. 11, item 67) is hereby repealed.

Article 52. This Act comes into force after a lapse of 30 days of it being published.

(Extract)

CONSTITUTION OF THE REPUBLIC OF POLAND

Of 2 April 1997

(Journal of Laws. No. 78, pos.483)

Chapter VIII

COURTS AND TRIBUNALS

Article 173

The courts and tribunals shall constitute a separate power and shall be independent of other branches of power.

Article 174

The courts and tribunals shall pronounce judgments in the name of the Republic of Poland.

COURTS

Article 175

1. The administration of justice in the Republic of Poland shall be implemented by the Supreme Court, the common courts, administrative courts and military courts.
2. Extraordinary courts or summary procedures may be established only during a time of war.

Article 176

1. Court proceedings shall have at least two stages.
2. The organizational structure and jurisdiction as well as procedure of the courts shall be specified by statute.

Article 177

The common courts shall implement the administration of justice concerning all matters save for those statutorily reserved to other courts.

Article 178

1. Judges, within the exercise of their office, shall be independent and subject only to the Constitution and statutes.
2. Judges shall be provided with appropriate conditions for work and granted remuneration consistent with the dignity of their office and the scope of their duties.
3. A judge shall not belong to a political party, a trade union or perform public activities incompatible with the principles of independence of the courts and judges.

Article 179

Judges shall be appointed for an indefinite period by the President of the Republic on the motion of the National Council of the Judiciary.

Article 180

1. Judges shall not be removable.
2. Recall of a judge from office, suspension from office, transfer to another bench or position against his will, may only occur by virtue of a court judgment and only in those instances prescribed in statute.
3. A judge may be retired as a result of illness or infirmity which prevents him discharging the duties of his office. The procedure for doing so, as well as for appealing against such decision, shall be specified by statute.
4. A statute shall establish an age limit beyond which a judge shall proceed to retirement.
5. Where there has been a reorganization of the court system or changes to the boundaries of court districts, a judge may be allocated to another court or retired with maintenance of his full remuneration.

Article 181

A judge shall not, without prior consent granted by a court specified by statute, be held criminally responsible nor deprived of liberty. A judge shall be neither detained nor arrested, except for cases when he has been apprehended in the commission of an offence and in which his detention is necessary for securing the proper course of proceedings. The president of the

competent local court shall be forthwith notified of any such detention and may order an immediate release of the person detained.

Article 182

A statute shall specify the scope of participation by the citizenry in the administration of justice.

Article 183

1. The Supreme Court shall exercise supervision over common and military courts regarding judgments.
2. The Supreme Court shall also perform other activities specified in the Constitution and statutes.
3. The First President of the Supreme Court shall be appointed by the President of the Republic for a 6-year term of office from amongst candidates proposed by the General Assembly of the Judges of the Supreme Court.

Article 184

The Supreme Administrative Court and other administrative courts shall exercise, to the extent specified by statute, control over the performance of public administration. Such control shall also extend to judgments on the conformity to statute of resolutions of organs of local government and normative acts of territorial organs of government administration.

Article 185

The President of the Supreme Administrative Court shall be appointed by the President of the Republic for a 6-year term of office from amongst candidates proposed by the General Assembly of the Judges of the Supreme Administrative Court.

Article 186

1. The National Council of the Judiciary shall safeguard the independence of courts and judges.
2. The National Council of the Judiciary may make application to the Constitutional Tribunal regarding the conformity to the Constitution of normative acts to the extent to which they relate to the independence of courts and judges.

Article 187

1. The National Council of the Judiciary shall be composed as follows:

1. the First President of the Supreme Court, the Minister of Justice, the President of the Supreme Administrative Court and an individual appointed by the President of the Republic;
 2. 15 judges chosen from amongst the judges of the Supreme Court, common courts, administrative courts and military courts;
 3. 4 members chosen by the Sejm from amongst its Deputies and 2 members chosen by the Senate from amongst its Senators.
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2. The National Council of the Judiciary shall choose, from amongst its members, a chairperson and two deputy chairpersons.
 3. The term of office of those chosen as members of the National Council of the Judiciary shall be 4 years.
 4. The organizational structure, the scope of activity and procedures for work of the National Council of the Judiciary, as well as the manner of choosing its members, shall be specified by statute.