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POLAND

ACT ON THE PUBLIC PROSECUTOR'S OFFICE

Dz.U.2016.177

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| 2016.10.07 | amendment | Dz.U.2016.1579 | Article 127 |
| 2016.12.28 | amendment | Dz.U.2016.2149 | Article 3 |
| 2017.01.01 | amendment | Dz.U.2016.2261 | Article 120 |
| 2017.01.06 | amendment | Dz.U.2016.2103 | Article 7 |
| 2017.06.21 | amendment | Dz.U.2017.1139 | Article 12 |

ACT**Act on the public prosecutor's office**

(Dz. U.¹ of 15 February 2016 r.)

SECTION I**General provisions**

Article 1. § 1. The public prosecutor's office consists of the Public Prosecutor General, the National Public Prosecutor, the Public Prosecutor General's other deputies, and public prosecutors of universal prosecutorial bodies, as well as public prosecutors of the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation, hereafter referred to as the "Institute of National Remembrance".

§ 2. The Public Prosecutor General is the chief prosecutorial body. The office of the Public Prosecutor General is held by the Minister of Justice. The Public Prosecutor General shall meet the requirements referred to in Article 75 § 1 (1)-(3) and (8).

§ 3. Public prosecutors of universal prosecutorial bodies include public prosecutors of the National Public Prosecutor's Office, provincial public prosecutor's offices (*prokuratury regionalne*), regional public prosecutor's offices (*prokuratury okręgowe*) and district public prosecutor's offices (*prokuratury rejonowe*).

§ 4. Public prosecutors of the Institute of National Remembrance include public prosecutors of the Chief Commission for the Prosecution of Crimes against the Polish Nation, hereafter referred to as "the Chief Commission", public prosecutors of branch commissions for the prosecution of crimes against the Polish Nation, hereafter referred to as "branch commissions", public prosecutors of the Vetting Office and public prosecutors of branch vetting offices.

Article 2. The public prosecutor's office executes tasks related to prosecuting crimes, and maintains law and order.

Article 3. § 1. The tasks specified in Article 2 are executed by the Public Prosecutor General, the National Public Prosecutor and the Public Prosecutor General's other deputies, as well as public prosecutors subordinate to them by means of:

- 1) handling or supervising preparatory proceedings in criminal cases and exercising the function of public prosecuting attorney before courts;
- 2) bringing actions in civil cases, as well as submitting motions and participating in court proceedings in civil cases relative to the labour and social security law if the protection of law and order, social interest, or citizens' property or rights requires it;

¹ Dz. U. – *Dziennik Ustaw*, Polish journal of laws (translator's note).

- 3) taking measures provided for by the law, aiming at a correct and uniform application of the law in court and administrative proceedings, in petty crime cases and in other proceedings provided for by the law;
- 4) exercising surveillance over the enforcement of temporary detention decisions and other decisions concerning detention;
- 5) conducting research on crime, fighting crime and crime prevention, as well as cooperating with scientific institutions with regard to research on crime, fighting crime, crime prevention and crime control;
- 6) gathering, processing and analyzing data in IT systems, including personal data acquired from the proceedings handled or supervised pursuant to the law or from the participation in court and administrative proceedings, in petty crime cases or other proceedings provided for by the law, transmitting the data and the analyses' results to competent authorities, including authorities of another country if the law or an international agreement ratified by the Republic of Poland stipulates it;
- 7) appealing to courts against unlawful administrative decisions and participating in court proceedings relative to such decisions' conformity with the law;
- 8) coordinating the activity relative to prosecuting crimes or fiscal offences conducted by other state bodies;
- 9) cooperating with state bodies, state organizational units and social organizations with regard to preventing crime and other violations of law;
- 10) cooperating with the Head of the National Crime Information Centre in so far as it is necessary to the execution of his/her statutory tasks;
- 11) cooperating and participating with regard to measures taken by international or supranational organisations and international teams operating under international agreements, including agreements establishing international organizations, ratified by the Republic of Poland;
- 12) giving opinions on drafts of normative acts;
- 13) cooperating with organizations for public prosecutors or employees of the public prosecutor's office, including co-financing of joint research or training projects;
- 14) taking other actions provided for by laws.

§ 2. In matters subject to the jurisdiction of military courts, the tasks referred to in § 1 are performed by public prosecutors of universal prosecutorial bodies performing duties in the Department for Military Matters and in departments for military matters in regional and district public prosecutor's offices, hereafter referred to as "public prosecutors for military matters".

§ 3. Public prosecutors for military matters perform duties also in matters outside the jurisdiction of military courts.

§ 4. Public prosecutors for military matters who are professional soldiers perform their official duties in case of a deployment or stay of the Armed Forces of the Republic of Poland abroad, in case of a mobilization announcement, proclamation of martial law and during a war pursuant to the provisions of this act and other legal acts.

§ 5. Should it be necessary to ensure an appropriate number of public prosecutors for military matters for performing official duties in the circumstances referred to in § 4, public prosecutors who are reserve officers may be called up to active military service.

§ 6. An order given pursuant to Article 31 § 3 to a public prosecutor who is a professional soldier with regard to active military service performed by him/her is notified immediately to the Public Prosecutor General's Deputy for Military Matters and the head of the prosecutorial body in which the public prosecutor performs his/her official duties.

Article 4. Every public prosecutor administers the acts defined in Article 3 § 1 (1) unless ordered otherwise in duly justified cases by the head of the prosecutorial body or, in case of this head, by the head of a higher organizational body.

Article 5. A public prosecutor can participate in any proceedings conducted by authorities and public administration bodies, courts and tribunals, unless laws stipulate otherwise.

Article 6. A public prosecutor is obliged to administer the acts specified by laws in compliance with the principle of impartiality and equal treatment of all citizens.

Article 7. § 1. When administering the acts specified by laws, a public prosecutor is independent, subject to § 2-6, and Article 8 and Article 9.

§ 2. A public prosecutor is obliged to enforce dispositions, guidelines and orders of a superior public prosecutor.

§ 3. An order concerning the content of an act in court proceedings is given by a superior public prosecutor in writing and, if requested by the public prosecutor, with a statement of reasons. Should there be an obstacle to communicating the order in writing, it is allowed to give the order orally, the superior being nevertheless obliged to confirm it in writing as soon as possible. The order is included in the public prosecutor's own documentation of the case.

§ 4. Should a public prosecutor not agree with an order concerning the content of an act in court proceedings, he/she can request the order to be changed or himself/herself to be excluded from administering the act or from participating in the case. The exclusion is finally adjudicated by the public prosecutor who is the immediate superior of the public prosecutor who has given the order.

§ 5. The request referred to in § 4 is submitted by the public prosecutor in writing with a statement of reasons to the superior who has given the order.

§ 6. Should new circumstances emerge in court proceedings, the public prosecutor makes the decisions related to the further course of the proceedings independently. If the decision may result in a need to incur expenses exceeding the amount specified by the organizational body's head, the public prosecutor may make the decision after obtaining the approval of the organizational body's head.

§ 7. A public prosecutor who has committed:

- 1) substantial misconduct with regard to the efficiency of preparatory proceedings – may be reproved in writing by a superior public prosecutor in accordance with the principles set out in Article 139;
- 2) manifest infringement of the law when conducting a case – is reproached by a superior public prosecutor in accordance with the principles set out in Article 140.

§ 8. Should a manifest and flagrant infringement of the law be found, the superior public prosecutor is obliged to request the initiation of disciplinary proceedings against the public prosecutor who has committed the infringement.

Article 8. § 1. A superior public prosecutor has the right to change or revoke a decision of a subordinate public prosecutor. A change or revocation of a decision must be made in writing and is included in the dossier of the case.

§ 2. A change or revocation of a decision that has been served to the parties, their representatives or defence counsel and other authorised persons may only be made in accordance with the procedure and principles specified by the law.

Article 9. § 1. A superior public prosecutor may entrust subordinate public prosecutors the administration of acts falling under his/her scope of action unless the law reserves a specific act exclusively to his/her competence.

§ 2. A superior public prosecutor may assume the handling of a case handled by subordinate public prosecutors and administer their acts unless the provisions of the law stipulate otherwise.

Article 10. Local government bodies and government administration bodies, as well as other state organizational units, cooperatives and their unions, professional organizations, local government organizations and other social organizations assist the Public Prosecutor General and subordinate public prosecutors in the execution of their tasks.

Article 11. § 1. The Public Prosecutor General presents to the Sejm and Senate a non-secret annual information about the total number of persons with regard to whom a request has

been submitted for ordering supervision and call recording or for operational supervision, indicating the number of persons with regard to whom:

- 1) the court has ordered supervision and call recording or operational supervision,
- 2) the court has refused to order supervision and call recording or operational supervision,
- 3) request for operational supervision has not been approved by the public prosecutor - specifying the number of persons in the listed categories with regard to whom the operational control has been requested by a competent authority.

§ 2. The information referred to in § 1 should be presented to the Sejm and Senate no later than on 30 June of the year following the year concerned.

Article 12. § 1. The Public Prosecutor General, the National Public Prosecutor or other public prosecutors authorised by them may present to public authorities, and to other persons in duly justified cases, the information concerning the Public prosecutor's Office's operations, including the information concerning individual cases, provided that such information may be of importance to the state's security or its correct functioning.

§ 2. The Public Prosecutor General and heads of prosecutorial bodies may transmit information to the media, in person or by authorising another public prosecutor to do so, with regard to preparatory proceedings pending or to the Public prosecutor's Office's operations, with the exception of confidential information, out of consideration for an important public interest.

§ 3. In the cases indicated in § 1 and 2, the approval of the person handling the preparatory proceedings is not required.

§ 4. The State Treasury is liable for all claims resulting from the acts referred to in § 1 and 2. The State Treasury's liability includes the obligation to submit a declaration of an adequate content and of an adequate form, as well as the obligation to pay an amount for a specified social objective.

§ 5. Articles 119-121 of the act of 26 June 1974 – Labour Code (Dz. U. 2014, entry 1502, as amended), hereafter referred to as the "Labour Code", apply accordingly to the liability of persons referred to in § 1 and 2.

SECTION II

Organization of the public prosecutor's office

Chapter 1

The public prosecutor's office's bodies and organizational structure

Article 13. § 1. The Public Prosecutor General is in charge of the Public prosecutor's Office in person or through the National Public Prosecutor and the Public Prosecutor General's other deputies by issuing dispositions, guidelines and orders.

§ 2. The Public Prosecutor General is the superior of public prosecutors of universal prosecutorial bodies and public prosecutors of the Institute of National Remembrance.

§ 3. The Public Prosecutor General's powers and tasks specified in laws may also be exercised and performed by the authorized National Public Prosecutor or the Public Prosecutor General's other deputy. The Public Prosecutor General issues a relevant disposition on that matter.

§ 4. Should the office of the Public Prosecutor General be vacant, or should he/she be temporarily unable to perform the Public Prosecutor General's duties, he/she is replaced by the National Public Prosecutor.

§ 5. The Public Prosecutor General is the administrator of data for the purposes of the act of 29 August 1997 on the protection of personal data (Dz. U. 2015, entries 2135 and 2281) that are gathered and processed in prosecutorial bodies' countrywide computerised systems.

Article 14. § 1. The National Public Prosecutor as the Public Prosecutor General's first deputy, as well as the Public Prosecutor General's other deputies are appointed from among public prosecutors of the National Public Prosecutor's Office and dismissed from their post by the President of the Council of Ministers upon a motion of the Public Prosecutor General. The National Public Prosecutor and the Public Prosecutor General's other deputies are appointed after consulting the President of the Republic of Poland, and dismissed upon his/her approval.

§ 2. One of the Public Prosecutor General's deputies is the Public Prosecutor General's Deputy for Organized Crime and Corruption.

§ 3. One of the Public Prosecutor General's deputies is the Public Prosecutor General's Deputy for Military Matters. The candidate for the post of the Public Prosecutor General's Deputy for Military Matters is agreed upon by the Public Prosecutor General with the Minister of National Defence. The motion for the dismissal of the Public Prosecutor General's Deputy for Military Matters is agreed upon by the Public Prosecutor General with the Minister of National Defence.

§ 4. One of the Public Prosecutor General's deputies is the Director of the Chief Commission, appointed from among public prosecutors of the Institute of National Remembrance. The appointment and dismissal of the Director of the Chief Commission is immediately notified to the President of the Institute of National Remembrance. The Director of the Chief Commission is in charge of the Chief Commission's operations.

§ 5. The Public Prosecutor General's deputies other than those specified in § 2-4 are appointed in a number adequate to ensure a correct execution of the public prosecutor's office's tasks.

Article 15. § 1. A provincial, regional and district public prosecutor is appointed, after presenting his/her candidacy to the relevant public prosecutors' assembly, and dismissed by the Public Prosecutor General upon a motion of the National Public Prosecutor.

§ 2. In a regional public prosecutor's office in which a department for military matters has been established, the public prosecutor in charge of that department is the regional public prosecutor's deputy for military matters. The regional public prosecutor's deputy for military matters is appointed and dismissed by the Public Prosecutor General upon a motion of the Public Prosecutor General's Deputy for Military Matters, after seeking the opinion of the Minister of National Defence.

§ 3. In a district public prosecutor's office in which a department for military matters has been established, the public prosecutor in charge of that department is the district public prosecutor's deputy for military matters. The regional public prosecutor's deputy for military matters is appointed and dismissed by the Public Prosecutor General upon a motion of the Public Prosecutor General's Deputy for Military Matters, after seeking the opinion of the Minister of National Defence.

§ 4. As regards other functions in the public prosecutor's office, public prosecutors are appointed and dismissed from those functions by the National Public Prosecutor or heads of prosecutorial bodies he/she has authorized to do so. As regards functions in organizational units in charge of military matters, with the exception of the National Public Prosecutor's Office, public prosecutors are appointed and dismissed from those functions by the Public Prosecutor General's Deputy for Military Matters or heads of prosecutorial bodies he/she has authorized to do so.

Article 16. Universal prosecutorial bodies are: the National Public Prosecutor's Office, provincial public prosecutor's offices (*prokuratury regionalne*), regional public prosecutor's offices (*prokuratury okręgowe*) and district public prosecutor's offices (*prokuratury rejonowe*).

Article 17. § 1. The National Public Prosecutor's Office provides service to the Public Prosecutor General and to the National Public Prosecutor.

§ 2. The National Public Prosecutor's Office's principal tasks include also ensuring the participation of a public prosecutor in proceedings before the Constitutional Tribunal, the Supreme Court and the Supreme Administrative Court, handling and supervising preparatory

proceedings, exercising instance and service-related supervision over proceedings handled in provincial public prosecutor's offices, coordination of the service-related supervision over preparatory proceedings handled by other prosecutorial bodies, carrying out inspections in provincial public prosecutor's offices, administering acts in relation to legal transactions with other countries and maintaining a central base of legal opinions and a base of the Public Prosecutor General's guidelines and dispositions.

Article 18. § 1. The National Public Prosecutor is in charge of the National Public Prosecutor's Office.

§ 2. The National Public Prosecutor is the superior public prosecutor of public prosecutors of the National Public Prosecutor's Offices and public prosecutors of other universal prosecutorial bodies.

§ 3. Exercising the powers and performing the tasks of the National Public Prosecutor may be entrusted to the National Public Prosecutor's deputy exclusively in the matters related to heading the National Public Prosecutor's Office. The National Public Prosecutor's deputy is appointed and dismissed by the Public Prosecutor General upon a motion of the National Public Prosecutor.

Article 19. § 1. In the National Public Prosecutor's Office, departments and offices are established. Within departments and offices, it is possible to establish, if need be, divisions or other organizational bodies, including branches.

§ 2. One of the departments in the National Public Prosecutor's Office is the Department for Organized Crime and Corruption, which is in charge of matters relative to prosecuting organized crime, the most grievous corruption crimes and crimes of terrorist nature.

§ 3. One of the departments in the National Public Prosecutor's Office is the Department for Military Matters, which is in charge of matters subject to the jurisdiction of military courts.

§ 4. The Division of Internal Affairs is an independent unit in the National Public Prosecutor's Office, in charge of the matters relative to preparatory proceedings concerning the most grievous crimes committed by judges, court assessors, public prosecutors and public prosecutor's assessors, as well as exercising the function of a public prosecuting attorney in those cases before the court. The Division of Internal Affairs is presided over by a chief, who is the superior public prosecutor of the public prosecutors performing their duties in that division.

Article 20. § 1. Branch Divisions of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office are established at provincial public prosecutor's offices.

§ 2. Financial and administrative services to the Branch Divisions of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office are provided by relevant provincial public prosecutor's offices.

§ 3. The principal tasks of a Branch Division of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office include handling and supervising preparatory proceedings in cases relative to prosecuting organized crime, the most grievous corruption crimes and crimes of terrorist nature, as well as exercising the function of the public prosecuting attorney in those cases before the court.

§ 4. It is possible to create sectors in the Branch Divisions of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office.

Article 21. § 1. A Branch Division of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office is presided over by a chief.

§ 2. The chief of a Branch Division of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office is the superior public prosecutor of public prosecutors of the provincial public prosecutor's office, public prosecutors of regional public prosecutor's offices and public prosecutors of district public prosecutor's offices who perform their duties in that division.

§ 3. The Public Prosecutor General's Deputy for Organized Crime and Corruption delegates public prosecutors to administer acts in Branch Divisions of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office.

Article 22. § 1. A provincial public prosecutor's office is established for an area of competence of at least two regional public prosecutor's offices.

§ 2. The principal tasks of a provincial public prosecutor's office include ensuring the public prosecutor's participation in proceedings instituted pursuant to the law before courts of general jurisdiction and provincial administrative courts; handling and supervising preparatory proceedings in cases relative to prosecuting the most grievous financial and economic crimes and tax crimes, and in cases against economic transactions concerning property of great value; exercising supervision over proceedings instituted in regional public prosecutor's offices; as well as carrying out inspections in regional and district public prosecutor's offices.

§ 3. A provincial public prosecutor's office is headed by the provincial public prosecutor.

§ 4. A provincial public prosecutor is the superior public prosecutor of public prosecutors of the provincial public prosecutor's office, public prosecutors of regional public prosecutor's offices and public prosecutors of district public prosecutor's offices in the area of the provincial public prosecutor's office's operations.

§ 5. A provincial public prosecutor's deputy is in charge of the provincial public prosecutor's office to the extent specified by the provincial public prosecutor and to that extent he/she is the superior public prosecutor of public prosecutors of the provincial public prosecutor's office, public prosecutors of regional public prosecutor's offices and public prosecutors of district public prosecutor's offices in the area of the provincial public prosecutor's office's operations.

Article 23. § 1. The regional public prosecutor's office is established for an area of competence of at least two district public prosecutor's offices.

§ 2. The principal tasks of a regional public prosecutor's office include ensuring a public prosecutor's participation in proceedings instituted by virtue of the law before courts of general jurisdiction as well as, in the offices where departments for military matters have been created, before regional military courts; handling and supervising preparatory proceedings in cases relative to grievous penal, financial and tax crimes, as well as, in the offices where departments for military matters have been created, in cases subject to the jurisdiction of regional military courts; exercising supervision over proceedings instituted in district public prosecutor's offices; as well as carrying out inspections in district public prosecutor's offices.

§ 3. A regional public prosecutor's office is headed by the regional public prosecutor.

§ 4. A regional public prosecutor is the superior public prosecutor of public prosecutors of the regional public prosecutor's office and public prosecutors of district public prosecutor's offices in the area of the regional public prosecutor's office's operations.

§ 5. A regional public prosecutor's deputy is in charge of the regional public prosecutor's office to the extent specified by the regional public prosecutor and to that extent he/she is the superior public prosecutor of public prosecutors of the regional public prosecutor's office and public prosecutors of district public prosecutor's offices in the area of the regional public prosecutor's office's operations.

Article 24. § 1. A district public prosecutor's office is established for one or more communes; in justified cases, it is possible to establish more than one district public prosecutor's office within one commune.

§ 2. The principal tasks of a district public prosecutor's office include ensuring a public prosecutor's participation in proceedings instituted pursuant to the law before courts of general jurisdiction, as well as, in the offices where sectors for military matters have been created, before military garrison courts; handling and supervising preparatory proceedings with the exception of cases specified in Article 19 § 4, Article 20 § 3, Article 22 § 2 and Article 23 § 2, as well as, in the offices where sectors for military matters have been created, the cases subject to the jurisdiction of military garrison courts.

§ 3. A district public prosecutor's office is headed by the district public prosecutor.

§ 4. A district public prosecutor is the superior public prosecutor of public prosecutors who administer acts in that body.

§ 5. A district public prosecutor's deputy is in charge of the district public prosecutor's office to the extent specified by the district public prosecutor and to that extent he/she is the superior public prosecutor of public prosecutors administering acts in that body.

Article 25. § 1. In provincial and regional public prosecutor's offices, divisions are created. It is also possible to create sectors, either independent or subordinate to divisions.

§ 2. In district public prosecutor's offices, it is possible to create sectors or sections.

Article 26. § 1. Departments and offices of the National Public Prosecutor's Office are presided over by directors (*dyrektorzy*), divisions of the departments and offices of the National Public Prosecutor's Office and divisions in provincial and regional public prosecutor's offices are presided over by chiefs (*naczelnicy*), and sectors and sections in regional and district public prosecutor's offices, as well as branches of regional and district public prosecutor's offices are presided over by heads (*kierownicy*).

§ 2. In district public prosecutor's offices in which the staff includes no more than 6 public prosecutors, organizational units can be presided over directly by the district public prosecutor or his/her deputy.

§ 3. If need be, directors of departments and offices and chiefs of divisions in the National Public Prosecutor's Office, including the Branch Divisions of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office, can have deputies.

Article 27. Public prosecutors who are professional soldiers or reserve officers have priority with regard to being appointed to posts in organizational units for military matters.

Article 28. § 1. A higher prosecutorial body is:

- 1) for a district public prosecutor's office: the competent regional public prosecutor's office, the provincial public prosecutor's office and the National Public Prosecutor's Office;
- 2) for a regional public prosecutor's office: the competent provincial public prosecutor's office and the National Public Prosecutor's Office;
- 3) for a provincial public prosecutor's office – the National Public Prosecutor's Office;
- 4) for a branch commission – the Chief Commission;
- 5) for a branch vetting office – the Vetting Office.

§ 2. A higher prosecutorial body in cases examined by military courts is:

- 1) for a district public prosecutor's office – the competent regional public prosecutor's office and the National Public Prosecutor's Office;
- 2) for a regional public prosecutor's office – the National Public Prosecutor's Office.

§ 3. A higher body in matters relative to prosecuting organized crime and corruption for Branch Divisions of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office is the Department for Organized Crime and Corruption.

Article 29. § 1. In cases handled in the National Public Prosecutor's Office, the instance supervision is exercised by the Public Prosecutor General, and the service-related supervision is exercised by the National Public Prosecutor.

§ 2. In cases handled by Branch Divisions of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office, the instance supervision is exercised by the Public Prosecutor General, and the service-related supervision is exercised by the Public Prosecutor General's Deputy for Organized Crime and Corruption.

§ 3. In cases subject to the jurisdiction of military courts, instance supervision is exercised by the Public Prosecutor General, and the service-related supervision is exercised by the Public Prosecutor General's Deputy for Military Matters.

§ 4. The Public Prosecutor General may entrust the service-related supervision of individual cases referred to in § 2 and 3 to the National Public Prosecutor.

Article 30. The National Public Prosecutor, as well as a provincial public prosecutor and a district public prosecutor in their respective areas of operations, may order an inspection of a prosecutorial body in order to control the execution of the statutory tasks by that unit in a particular field.

Article 31. § 1. Public prosecutors who are immediate superiors are:

- 1) the Public Prosecutor General – towards the National Public Prosecutor and other Public Prosecutor General's deputies, as well as the National Public Prosecutor's deputy;
- 2) the National Public Prosecutor – towards public prosecutors who administer acts in the National Public Prosecutor's Office, directors of departments of the National Public Prosecutor's Office and provincial public prosecutors;
- 4) the Director of the Department for Organized Crime and Corruption – towards chiefs of Branch Divisions of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office and public prosecutors who administer acts in those branches;
- 5) provincial public prosecutors and regional public prosecutors, as well as their deputies with regard to the tasks assigned to them – towards public prosecutors who administer acts in a given unit and for heads of immediately lower-ranking prosecutorial bodies in the area of a given unit's operations, subject to (6);
- 6) heads of branches of regional public prosecutor's offices and their deputies with regard to the tasks assigned to them – towards public prosecutors who administer acts in a given branch and district public prosecutors in the area of operations of a given branch of the regional public prosecutor's office;
- 7) district public prosecutors and their deputies with regard to the tasks assigned to them – towards public prosecutors of a given district public prosecutor's office;
- 8) heads of branches of district public prosecutor's offices – towards public prosecutors who administer acts at a given branch.

§ 2. The public prosecutor who is in charge of an organizational unit in a prosecutorial body is the service-related superior of public prosecutors who administer acts in this unit.

§ 3. With regard to active military service, public prosecutors for military matters who are professional soldiers are subordinate to the Minister of National Defence.

Article 32. § 1. A public prosecutor who is the immediate superior and a service-related superior ensure a balanced burden of work responsibilities of their subordinate public prosecutors.

§ 2. In case of public prosecutors who are in charge of a function, it is allowed to decrease work responsibilities relative to the execution of tasks referred to in Article 3 § 1 (1), (2) and (7).

Article 33. § 1. A higher-ranking public prosecutor is a public prosecutor in charge of a higher prosecutorial body, as well as a public prosecutor of that body or a public prosecutor delegated to it with regard to the tasks assigned to him/her.

§ 2. With regard to acts administered by a public prosecutor in the National Public Prosecutor's Office or in the Chief Commission, the Public Prosecutor General is a higher-ranking public prosecutor

Article 34. § 1. The right to give orders referred to in Article 7 § 2 and 3 may be exercised by superior public prosecutors and, with regard to tasks assigned to them:

- 1) directors of departments of the National Public Prosecutors' Office – towards their subordinate public prosecutors administering acts in those departments and towards provincial, regional and district public prosecutors;
- 3) chiefs of divisions in departments of the National Public Prosecutor's Office – towards public prosecutors administering acts in those divisions;
- 3) chiefs of divisions and heads of sectors and independent sectors of provincial public prosecutor's offices – towards public prosecutors administering acts in those divisions, sectors and independent sectors, as well as regional and district public prosecutors;

- 4) chiefs of divisions and heads of sectors, independent sectors and branches of regional public prosecutor's offices – towards public prosecutors administering acts in those divisions, sectors, independent sectors and branches, as well as district public prosecutors;
- 5) heads of branches of district public prosecutor's offices – towards public prosecutors administering acts in those branches.

§ 2. The provisions of § 1 (1) and (2) apply accordingly to deputies of directors of the departments of the National Public Prosecutor's Office and deputies of chiefs of divisions in the departments of the National Public Prosecutor's Office.

§ 3. The provisions of Article 7 § 2-6 apply accordingly.

Article 35. § 1. The Minister of Justice, by means of a regulation, establishes and abolishes Branch Divisions of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office, provincial, regional and district public prosecutor's offices, as well as determines their seats and competence areas, out of consideration for an effective fight against crime and ensuring proceedings' efficiency.

§ 2. The Minister of Justice, in consultation with the Minister of National Defence, by means of a regulation, creates and abolishes organizational units for military matters in regional and district public prosecutor's offices, as well as determines their seats and competence areas, out of consideration for an effective fight against crime, ensuring proceedings' efficiency, and the distribution and structure of organizational units of the Armed Forces of the Republic of Poland.

§ 3. The Minister of Justice may specify, by means of a regulation, the competence of universal prosecutorial bodies in cases concerning various types of crimes regardless of where they have been committed, as well as in civil and administrative cases, petty crime cases and other proceedings instituted pursuant to the laws, regardless of the general competence of universal prosecutorial bodies, out of consideration for an effective fight against crime and ensuring proceedings' efficiency.

§ 4. The Minister of Justice, by means of a regulation, may create and abolish branches of provincial, regional and district public prosecutor's offices outside a public prosecutor's office's seat, out of consideration for an effective fight against crime and ensuring proceedings' efficiency.

§ 5. When a branch of a provincial, regional or district public prosecutor's office is abolished, clerks and other employees of the public prosecutor's office, as well as public prosecutor's assistants, become clerks and other employees, as well as assistants of the public prosecutor of a prosecutorial body within which the branch is abolished.

Article 36. § 1. The Minister of Justice determines, by means of a regulation, the rules for the internal operations of universal prosecutorial bodies, specifying:

- 1) the internal organizational structure and tasks of organizational units of:
 - a) the National Public Prosecutor's Office,
 - b) Branch Divisions of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office and provincial public prosecutor's offices,
 - c) other universal prosecutorial bodies,
- 2) the work organization and the work management method,
- 3) persons authorized to allocate budget funds,
- 4) forms and procedures for exercising service-related supervision, including inspections and audits,
- 5) procedure for settling staff matters
- 6) organization of work of collective bodies,
- 7) detailed order of acts administered by a public prosecutor in criminal cases,
- 8) way of executing tasks relative a public prosecutor's participation in civil cases, family-related cases, guardianship-related cases, cases resulting from employment relationship and petty crime cases,
- 9) detailed order of acts administered by a public prosecutor in administrative proceedings and proceedings before administrative courts,

- 10) procedure applied by a public prosecutor in order to prevent violations of the law,
- 11) way of executing the tasks referred to in Article 3 § 4,
- 12) procedure regarding complaints and motions,
- 13) way of maintaining contact with the media

- taking into account the need to ensure the efficacy and efficiency of proceedings in all types of cases handled by a public prosecutor or with his/her participation, including the swiftness and efficacy of action, taking into consideration a public prosecutor's acts functionality and rationality, while at the same time respecting the rights and freedoms guaranteed by law to the persons that a public prosecutor's office's actions concern, as well as, with regard to cases instituted in organizational units for military matters, the specificity of the Armed Forces of the Republic of Poland's organization and functioning based on service-related subordination.

§ 2. The Minister of Justice shall specify, by means of a regulation, the scope of activity of secretariats and other administration sectors in universal prosecutorial bodies, taking into account the specificity of tasks assigned to bodies of various levels and the need to ensure the rational functioning of the public prosecutor's office, as well as the need to relieve public prosecutors and other employees who are responsible for substantial matters of office work to the largest possible extent, and to ensure an efficient flow of information necessary for the public prosecutor's office's operations, as well as, with regard to cases instituted in organizational units for military matters, the specificity of the Armed Forces of the Republic of Poland's organization and functioning based on service-related subordination.

§ 3. The provisions of the regulation referred to in § 1 apply accordingly to the internal operations of the Chief Commission and of branch commissions.

§ 4. The Minister of Justice shall specify, by means of a regulation, the way of executing the public prosecutor's tasks in the context of the supervision of operational and exploratory measures specified in Article 57 § 2, out of particular consideration for ensuring substantial and efficient supervision of grounds for the actual requested measures, ensuring the lawfulness and correctness of initiating and carrying out those measures, as well as the need to respect the fundamental civic rights and freedoms.

§ 5. The Minister of Justice shall specify, by means of a regulation, the way of executing the tasks relative to the public prosecutor's office's cooperation with international or supranational organizations operating under international agreements, including agreements establishing international organizations, ratified by the Republic of Poland, out of consideration for the need for a correct fulfilment of duties specified in those agreements or acts of law stipulated by an international organization which has been set up for the purpose of fighting crime, and in particular for a specification of the way of exchanging information among member states of those organizations and bodies of those organizations, granting requests for legal assistance, protecting the processed personal data and the security of the processed data.

§ 6. The Minister of Justice shall specify, by means of a regulation, the official dress of public prosecutors participating in court hearings, taking into consideration the solemn nature of the dress, adequate to the authority of the court and the established tradition.

Article 37. § 1. The public prosecutor in charge of a universal prosecutorial body determines the body's organizational structure, taking into consideration the need for an effective implementation of tasks.

§ 2. The public prosecutor in charge of a universal prosecutorial body determines the detailed distribution of work responsibilities in that body, taking into consideration the need to ensure a balanced burden of work responsibilities and public prosecutors' professional experience in handling a specific category of cases.

Article 38. § 1. The Public Prosecutor General and the National Public Prosecutor may benefit from the assistance of advisers, including social advisers.

§ 2. Retired public prosecutors and judges may also be advisers. Provisions concerning an objection against the intention to take up additional employment or occupation do not apply.

Article 39. § 1. The public prosecutor in charge of a universal prosecutorial body may entrust the function of a press spokesman to a public prosecutor who administers acts in that body. The Public Prosecutor General can entrust a function of the Public Prosecutor General's press spokesman to a public prosecutor who administers acts in the National Public Prosecutor's Office.

§ 2. The tasks of a press spokesman include in particular:

- 1) transmitting information to the media on pending preparatory proceedings and concerning the Public Prosecutor's Office's operations referred to in Article 12 § 2;
- 2) responding to press articles and radio and television broadcasts, as well as contents spread in other mass-media, concerning the operations of prosecutorial bodies, including sending requests for the publication of a correction and responding to critique and press intervention.

Article 40. § 1. It is forbidden to carry arms and ammunition, as well as explosives and other hazardous materials, into the buildings that house prosecutorial bodies. The ban on carrying arms and ammunition does not apply to public prosecutors and persons performing their official duties requiring them to own arms.

§ 2. The public prosecutor in charge of a prosecutorial body orders the application of measures ensuring the security of the prosecutorial bodies subordinate to him/her and preventing the violation of the ban referred to in § 1. In that case, in order to protect those bodies and persons staying within them, the provisions of the act of 22 August 1997 on the protection of persons and property (Dz. U. 2016, entry 1432) apply, with the exception of cases in which that protection is ensured by virtue of Article 2 (2b) of the act of 9 April 2010 on the Prison Service (Dz. U. 2016, entries 713, 904, 960, 1250 and 2149).

§ 3. Public prosecutors in charge of prosecutorial bodies are obliged to give public prosecutors and other authorized persons the possibility to deposit guns and ammunition under conditions specified by separate regulations for the time of their stay on the public prosecutor's office's premises.

Article 41. Article 53 of the act of 20 June 1997 – the Traffic Act (Dz. U. 2012, entry 1137, as amended) applies to the vehicles of prosecutorial bodies and of the office providing service to the Minister of Justice.

Chapter 2

The Public Prosecutor General's National Council of Public Prosecutors

Article 42. § 1. The Public Prosecutor General's National Council of Public Prosecutors, hereafter referred to as the "National Council of Public Prosecutors", consists of:

- 1) the National Public Prosecutor;
- 2) 4 representatives elected by the meeting of public prosecutors of the National Public Prosecutor's Office, including at least one who administers acts in the Department for Organized Crime and Corruption and one who administers acts in the Department for Military Matters;
- 3) a representative elected by the public prosecutors' assembly of the Institute of National Remembrance,
- 4) representatives elected by public prosecutors' assemblies in provincial public prosecutor's offices – one from each provincial public prosecutor's office;
- 5) 5 public prosecutors appointed by the Public Prosecutor General, including at least one who is retired.

§ 2. Election of public prosecutors belonging to the National Council of Public Prosecutors referred to in § 1 (2) and (4) takes place pursuant to the rules enacted by the public prosecutors' assembly of the National Public Prosecutor's Office and the public prosecutors' assembly in the provincial public prosecutor's office respectively.

§ 3. The National Council of Public Prosecutors is presided over by the Public Prosecutor General.

§ 4. The National Council of Public Prosecutors choose and recall 2 vice-presidents and a secretary from their circle. The vice-presidents of the National Council of Public Prosecutors cannot be in charge of their functions for more than 2 terms of office of the National Council of Public Prosecutors.

§ 5. The National Council of Public Prosecutors' term of office lasts 2 years.

§ 6. The mandate of an elected member of the National Council of Public Prosecutors expires before the end of the term of office in case of:

- 1) death;
- 2) resignation;
- 3) having submitted an untrue vetting declaration, which is confirmed by a final court judgment;
- 4) dismissal by the body who elected the member;
- 5) expiry or termination of the public prosecutor's service relationship.

§ 7. The National Council of Public Prosecutors debate in sessions. The sessions of the National Council of Public Prosecutors are convened by the Public Prosecutor General on his/her own initiative or upon a motion of the National Public Prosecutor or from one third of the Council's members.

§ 8. The costs of operations of the National Council of Public Prosecutors are financed with budget funds allocated to the National Public Prosecutor's Office. The financial and administrative service as well as office service to the National Council of Public Prosecutors are provided by the National Public Prosecutor's Office.

§ 9. The National Council of Public Prosecutors operate by virtue of self-enacted rules.

Article 43. § 1. The National Council of Public Prosecutors guard the public prosecutors' independence.

§ 2. The National Council of Public Prosecutors give opinions on matters raised on their own initiative or presented by the Public Prosecutor General, concerning in particular:

- 1) drafts of normative acts concerning the public prosecutor's office and drafts of the Public Prosecutor General's guidelines;
- 2) state and development of the prosecutorial staff and training orientations for public prosecutors and public prosecutor's assessors;
- 3) periodic assessments of the execution of the public prosecutor's office's tasks;
- 4) orientations for improving public prosecutors' professional skills and the level of their work;
- 5) candidates for the Principal of the National School of Judiciary and Public Prosecution.

§ 3. Moreover, the National Council of Public Prosecutors specify the total number of members of disciplinary courts and indicate the number of members of disciplinary courts elected by the meeting of public prosecutors of the National Public Prosecutor's Office and the public prosecutors' assemblies in provincial public prosecutor's offices.

§ 4. The National Council of Public Prosecutors give opinions on candidacies of members of the Curricular Council of the National School of Judiciary and Public Prosecution proposed by the Public Prosecutor General.

§ 5. The National Council of Public Prosecutors give opinions on requests for permission to continue to hold the position of a public prosecutor after turning 67 years old or reaching the age specified accordingly in Article 69 § 1a of the act of 27 July 2001 – Act on the structure of courts with general jurisdiction (Dz. U. 2015, entry 133, as amended).

Chapter 3

Public prosecutors' self-government

Article 44. § 1. In the National Public Prosecutor's Office, a meeting of public prosecutors operates, composed of public prosecutors of the National Public Prosecutor's Office.

§ 2. The president of the meeting of public prosecutors of the National Public Prosecutor's Office is the National Public Prosecutor.

§ 3. The meeting of public prosecutors of the National Public Prosecutor's Office is convened by the National Public Prosecutor on his/her own initiative or on the initiative of one fifth of public prosecutors of the National Public Prosecutor's Office.

Article 45. The meeting of public prosecutors of the National Public Prosecutor's Office:

- 1) hears out the National Public Prosecutor's notification about the National Public Prosecutor's Office's operations and the public prosecutors' work, and gives an opinion on that matter;
- 2) elects representatives to the National Council of Public prosecutors;
- 3) elects members of disciplinary courts;
- 4) gives opinions on other matters presented by the National Public Prosecutor.

Article 46. § 1. In a provincial public prosecutor's office, an public prosecutors' assembly operates, composed of delegates of public prosecutors of the provincial public prosecutor's office, and delegates of public prosecutors of regional and district public prosecutor's offices operating in the provincial public prosecutor's office's area of operations. The number of delegates of public prosecutors of the provincial public prosecutor's office is equal to one half of the public prosecutors of the provincial public prosecutor's office, and they are elected by the public prosecutors' assembly of the provincial public prosecutor's office. The number of delegates of public prosecutors of regional public prosecutor's offices is equal to one-third of the number of the public prosecutors of the provincial public prosecutor's office, and they are elected by public prosecutors' assemblies of regional public prosecutor's offices and public prosecutors' assemblies of district public prosecutor's offices. The number of delegates of public prosecutors of district public prosecutor's offices is equal to two-thirds of the number of public prosecutors of the provincial public prosecutor's office, and they are elected by public prosecutors' assemblies of district public prosecutor's offices. Delegates are elected for 4 years.

§ 2. If the number of delegates of public prosecutors of the provincial public prosecutor's office, regional public prosecutor's offices or district public prosecutor's offices calculated in accordance with § 1 is not a whole number, it is rounded up to the nearest whole number.

§ 3. The rules for electing the delegates referred to in § 1 are specified by the Public Prosecutor General.

§ 4. The public prosecutors' assembly is presided over by the provincial public prosecutor.

§ 5. The public prosecutors' assembly' session is convened by the provincial public prosecutor on his/her own initiative or on the initiative of the National Public Prosecutor, the board of the provincial public prosecutor's office or one-fifth of the assembly's members' number.

Article 47. The public prosecutors' assembly:

- 1) hears out the provincial public prosecutor's notification about public prosecutor's offices' operations and public prosecutors' work, and gives opinions on that matter;
- 2) elects two-thirds of the number of the provincial public prosecutor's office's board's members;
- 3) elects the representative to the National Council of Public prosecutors;
- 4) elects members of disciplinary courts;
- 5) examines reports on operations of the provincial public prosecutor's office's board;
- 6) gives opinions on other matters presented by the provincial public prosecutor or the provincial public prosecutor's office's board.

Article 48. § 1. A provincial public prosecutor's office's board is composed of 6 or 9 members, two-thirds of whom are elected by the public prosecutors' assembly and one-third of whom are appointed by the provincial public prosecutor from among public prosecutors of the provincial public prosecutor's office, regional and district public prosecutor's offices in the area of operations of the provincial public prosecutor's office.

§ 2. The provincial public prosecutor's office's board is presided over by the provincial public prosecutor.

§ 3. The number of members of the provincial public prosecutor's office's board is determined by the Public Prosecutor General.

§ 4. The term of office of the provincial public prosecutor's office's board lasts 4 years.

§ 5. The sessions of the provincial public prosecutor's office's board are convened by the provincial public prosecutor on his/her own initiative or upon a motion of one-third of the board's members.

Article 49. The provincial public prosecutor's office's board:

- 1) examines motions resulting from inspections and audits;
- 2) gives opinions on candidates for the posts of public prosecutors of provincial and regional public prosecutor's offices;
- 3) gives opinions with regard to the dismissal of a public prosecutor of a provincial or regional public prosecutor's office;
- 4) gives opinions on other matters presented by the provincial public prosecutor.

Article 50. § 1. A regional public prosecutor's office's board is composed of 6 or 9 members, two-thirds of whom are elected by the public prosecutors' assembly of the regional public prosecutor's office and delegates of public prosecutors of district public prosecutor's offices, and one-third of whom are appointed by the regional public prosecutor from among public prosecutors of the regional public prosecutor's office and district public prosecutor's offices in the area of operations of the regional public prosecutor's office.

§ 2. The regional public prosecutor's office's board is presided over by the regional public prosecutor.

§ 3. The number of members of the regional public prosecutor's office's board and the rules for electing the delegates referred to in § 1 are determined by the Public Prosecutor General.

§ 4. The term of office of the regional public prosecutor's office's board lasts 4 years.

§ 5. A session of the regional public prosecutor's office's board is convened by the regional public prosecutor on his/her own initiative or upon a motion of one-third of the board's members.

Article 51. The regional public prosecutor's office's board:

- 1) examines motions resulting from inspections and audits of public prosecutor's offices;
- 2) gives an opinion on candidates for the posts of public prosecutor's assessors and public prosecutors of district public prosecutor's offices;
- 3) gives an opinion with regard to the dismissal of a public prosecutor of a district public prosecutor's office;
- 4) gives opinions on other matters presented by the regional public prosecutor.

Article 52. The meeting of public prosecutors of the National Public Prosecutor's Office, public prosecutors' assemblies and provincial and regional public prosecutor's offices' boards operate under self-enacted rules.

Chapter 4

Financing the public prosecutor's office's operations

Article 53. § 1. The revenues and expenditures of universal prosecutorial bodies constitute a separate part in the national budget.

§ 2. The budget part corresponding to universal prosecutorial bodies is administered by the Public Prosecutor General.

Article 54. Expenditures on training and professional upgrading of the staff of universal prosecutorial bodies provided by the National School of Judiciary and Public Prosecution are financed with the national budget's part administered by the Minister of Justice.

Article 55. § 1. The operations of universal prosecutorial bodies with regard to matters subject to the jurisdiction of military courts, including the remuneration of public prosecutors for military matters and the salary of clerks and other employees in those bodies, are financed with budgetary funds allocated for financing the defence needs of the Republic of Poland within the budget part referred to in Article 53, save for receivables and benefits specified in Article 74 (2) of the act of 11 September 2003 on the military service of professional soldiers (Dz. U. 2014, entry 1414, as amended), which are financed with budgetary funds allocated to financing the defence needs of the Republic of Poland within the budget part administered by the Minister of National Defence.

§ 2. The amount of expenditures on the operations referred to in § 1 is determined by the Minister of National Defence in agreement with the Public Prosecutor General and transmitted by him/her to the budget part referred to in Article 53 at the stage of the preparation of the national budget's draft.

§ 3. The benefits and receivables due to delegating public prosecutors for military matters who are professional soldiers are financed with funds referred to in § 1.

SECTION III

The public prosecutor's office's operations

Chapter 1

Preparatory proceedings

Article 56. § 1. A public prosecutor, in accordance with provisions of laws, initiates and handles preparatory proceedings or orders another authorized body to initiate or handle such proceedings, and subsequently administers the acts of a public prosecuting attorney before the court in such cases, unless the head of a superior prosecutorial body orders otherwise.

§ 2. The public prosecutor's tasks referred to in § 1 may be executed by a team of public prosecutors, appointed by a disposition of the head of a superior prosecutorial body. Such a team can consist of public prosecutors of universal prosecutorial bodies of various levels, as well as officers of other state services.

§ 3. In the course of preparatory proceedings, a public prosecutor takes preventive measures towards the suspects in cases provided for in the laws.

§ 4. Preparatory proceedings can be handled via electronic means. A public prosecutor can file a charge sheet to the court, together with the materials collected during the preparatory proceedings, drawn up in electronic form. Documents drawn up in electronic form are signed by the public prosecutor with the electronic signature. The provisions of Article 68 apply accordingly.

Article 57. § 1. A public prosecutor exercises supervision over preparatory proceedings handled by another body authorized to do so. The public prosecutor's dispositions given in the course of the preparatory proceedings are binding for that body.

§ 2. The Public Prosecutor General, the National Public Prosecutor or a public prosecutor authorized by them exercises control over operational and exploratory activities by inspecting the materials collected in the course of operational control, undercover purchase operation, sting operation relative to handing over or accepting a bribe, or an implicitly supervised delivery, in the conditions stipulated for conveying, storing and providing access to classified information.

§ 3. The Public Prosecutor General can request operational and exploratory activities to be undertaken by competent authorized bodies provided that they remain directly pertinent to the

preparatory proceedings under way. The Public Prosecutor General can inspect the materials collected in the course of such activities.

§ 4. In case of failure to execute the disposition referred to in § 1 or refusal to provide access to the materials referred to in § 2 at the public prosecutor's request, the superior of the responsible officer or of the body's head initiates service-related or disciplinary proceedings.

§ 5. In particularly justified cases, the Public Prosecutor General may, for the needs of preparatory proceedings, declassify or modify the classification of a document or material classified by an authorized body under Article 6 (1) of the act of 5 August 2010 on the protection of classified information (Dz. U. Nr 182, entry 1228, as amended), after seeking that body's opinion and notifying the President of the Council of Ministers about the intention to do so.

Article 58. § 1. Should preparatory proceedings disclose the presence of circumstances encouraging the commission of crimes or hampering their disclosure, a public prosecutor approaches the pertinent body.

§ 2. In his/her approach, the public prosecutor can also request a control, as well as an initiation of proceedings against the guilty with regard to disciplinary, service-related, material or other liability stipulated in the provisions concerning labour relations.

§ 3. The body approached by the public prosecutor is obliged, within 30 days from the date of approach, to notify the public prosecutor about the measures or the position that have been taken, or the way in which the control or proceedings have been ended.

Article 59. § 1. In case of preparatory proceedings' discontinuance, a public prosecutor may, as the case may be, transfer the case to a competent body for the purpose of initiating service-related, disciplinary or petty crime proceedings, or for the purpose of making the case be examined by a competent social or professional organization.

§ 2. The provision of § 1 applies accordingly in case of a refusal to initiate preparatory proceedings, as well as in case of filing the case in court with a charge sheet.

Article 60. § 1. The Public Prosecutor General's guidelines, issued upon a motion of the National Public Prosecutor, concerning the methodology of handling preparatory proceedings, are binding for all bodies authorized to handle preparatory proceedings.

§ 2. Ministers supervising the bodies authorized to handle preparatory proceedings submit annual information to the Public Prosecutor General about those bodies' operations with regard to preparatory proceedings. The Public Prosecutor General submits the minister's information with his/her own opinion to the President of the Council of Ministers.

§ 3. Province governors are obliged to submit the information referred to in § 2 to regional public prosecutors whose area of operations covers the area of the province.

§ 4. The information referred to in § 2 and 3 are submitted by the end of January of the year following the year concerned.

Article 61. § 1. The Public Prosecutor General or the National Public Prosecutor may put forward requests to the state administration's chief and central bodies for measures aiming to streamline their subordinate bodies' operations with regard to preparatory proceedings.

§ 2. The rights referred to in § 1 can be exercised by regional and district public prosecutors towards province governors and local government bodies respectively.

§ 3. The body approached by the public prosecutor is obliged, within 30 days since the date of approach, to notify the public prosecutor about the measures referred to in § 1 that have been taken.

Article 62. In matters subject to the jurisdiction of military courts, Article 60 and Article 61 apply accordingly.

Article 63. § 1. Preparatory proceedings are handled or supervised in district public prosecutor's offices, regional public prosecutor's offices, provincial public prosecutor's offices,

Branch Divisions of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office and in the Division of Internal Affairs, taking into consideration the scope of tasks specified in Article 19 § 4, Article 20 § 3, Article 22 § 2, Article 23 § 2 and Article 24 § 2.

§ 2. Preparatory proceedings in cases with ample evidence, as well as those that are complicated from the factual or legal point of view, may be handled in the National Public Prosecutor's Office or the Chief Commission, regardless of the general competence of universal prosecutorial bodies, only if the Public Prosecutor General decides so by issuing a relevant disposition for that purpose.

§ 3. The disposition referred to in § 2 may also include the appointment of a team of public prosecutors in the National Public Prosecutor's Office or in the Chief Commission for handling preparatory proceedings in a specific case or group of cases.

§ 4. It is possible to appoint officers of other state services to the team of public prosecutors referred to in § 3, as well as to appoint retired public prosecutors or judges as advisers or consultants, without the right to influence the content of procedural measures. The decision on that matter is made by the Public Prosecutor General.

Chapter 2

A public prosecutor's participation in court proceedings and in other proceedings

Article 64. § 1. A public prosecutor administers the acts of a public prosecuting attorney before all courts. He/she can also administer those acts in the cases brought in court by other prosecutors.

§ 2. If the results of court proceedings do not confirm the charge's particulars, the public prosecutor can withdraw the charge sheet, notifying the public prosecutor who is his/her immediate superior about that decision.

Article 65. § 1. The Public Prosecutor General puts forward motions to the President of the Republic of Poland relative to granting pardon to persons sentenced by courts.

§ 2. With regard to motions relative to granting pardon to persons sentenced by military courts, the Public Prosecutor General, when exercising the right referred to in § 1, may seek the opinion of the Public Prosecutor General's Deputy for Military Matters.

Article 66. A public prosecutor makes appeals and moves for legal remedies against court judgments.

Article 67. A public prosecutor's participation in civil or administrative proceedings, in petty crime cases and in other proceedings is specified by laws.

Article 68. § 1. Data for using the electronic signature for the needs of electronic proceedings by writ of payment are granted to a public prosecutor after submitting an adequate request through the competent provincial public prosecutor or the National Public Prosecutor.

§ 2. It is also allowed for a public prosecutor to contact the court in electronic proceedings by writ of payment by using a qualified electronic signature.

§ 3. Public prosecutors' requests for being granted the data referred to in § 1 which are submitted to the competent provincial public prosecutor or to the National Public Prosecutor shall be transmitted to the competent court together with the confirmation of the public prosecutor's employment in the competent public prosecutor's office subordinate to the provincial public prosecutor or in the National Public Prosecutor's Office, respectively. Persons who intend to communicate with the court in the way indicated in § 2 notify the court through the competent provincial public prosecutor or the National Public Prosecutor, providing the data for the verification of the electronic signature.

§ 4. The information referred to in § 3 are transmitted by the competent provincial public prosecutor or the National Public Prosecutor to the court within 14 days from the date of request's submission.

Article 69. § 1. If the protection of law and order so requires, a public prosecutor may request a submission or presentation of dossiers, documents and written explanations to, interrogate witnesses and seek the opinion of experts, as well as conduct a viewing in order to clarify the case.

§ 2. With regard to the activities listed in § 1, the provisions of the act of 14 June 1960 – Code of Administrative Procedure (Dz. U. 2016, entry 23) apply accordingly, whereas in cases of disciplinary proceedings handled by a public prosecutor for military matters against soldiers, the provisions of the act of 9 October 2009 on military discipline (Dz. U. Nr 190, entry 1474, of 2012, entry 1529 and of 2015, entry 1830) apply.

Article 70. If a resolution or a disposition of a local government body or a regulation of a province governor are against the law, a public prosecutor requests the body that has adopted them to amend or revoke them, or requests a competent supervision body to revoke them; in case of a resolution or a disposition of a local government body, a public prosecutor may also approach an administrative court for their annulment.

Chapter 3

Cooperation with regard to fighting and preventing crime

Article 71. § 1. Should substantial circumstances that encourage the commission of crimes be disclosed in the course of measures taken by public prosecutors, the Public Prosecutor General may, upon a motion of the National Public Prosecutor or, in particularly justified cases, *ex officio*, request a competent body to take appropriate measures, e.g. consider the grounds for adopting or amending specific regulations in order to prevent crime.

§ 2. The rights specified in § 1 can also be exercised by provincial, regional and district public prosecutors towards province governors and local bodies of non-consolidated administration, as well as other bodies with local area of operations.

§ 3. The body approached by the Public Prosecutor General or a public prosecutor is obliged, within 30 days since the date of receipt of the request, to notify the Public Prosecutor General or the public prosecutor about the measures referred to in § 1 and 2 that have been taken.

Article 72. § 1. A provincial public prosecutor, a regional public prosecutor or a district public prosecutor, on his/her own initiative or upon a motion of bodies of local government units or from a competent province governor, provide them with information about crime and fighting crime in the province, county or commune (city, quarter), respectively.

§ 2. The Public Prosecutor General's Deputy for Military Matters, a regional public prosecutor's deputy and a district public prosecutor's deputy, in matters subject to the jurisdiction of military courts, on his/her own initiative or upon a motion of the Minister of National Defence or from the bodies authorized by him/her, provide them with information about crime and fighting crime in the structures subordinate to those bodies.

Chapter 4

Supervision over the enforcement of decisions concerning detainment

Article 73. A public prosecutor, within the limits specified by laws, exercises supervision over the enforcement of decisions on temporary detainment and other decisions concerning detainment.

SECTION IV

Public prosecutors

Chapter 1

Appointment and dismissal of a public prosecutor

Article 74. § 1. Public prosecutors of universal prosecutorial bodies are appointed to prosecutorial positions by the Public Prosecutor General upon a motion of the National Public Prosecutor.

§ 2. Before the appointment referred to in § 1, the Public Prosecutor General may seek the opinion of a competent public prosecutor's office's board on the candidate for a prosecutorial position. The competent public prosecutor's office's board gives the opinion to the Public Prosecutor General within 30 days since the date of receipt of the request for an opinion. Should no opinion be given within that deadline, it is assumed that the opinion is positive.

§ 3. The Public Prosecutor General immediately notifies the Minister of National Defence about appointing a public prosecutor for military matters who is a professional soldier.

Article 75. § 1. Only a person who meets the following requirements may be appointed to the position of a public prosecutor:

- 1) he/she is exclusively a Polish citizen and exercises full civil and citizen rights, and has not been finally sentenced for an intentional crime prosecuted by public indictment;
- 2) he/she is of impeccable moral character;
- 3) he/she has graduated in law in Poland and obtained the Master degree, or has graduated in law abroad and his/her education has been recognized in Poland;
- 4) his/her health allows him/her to perform the public prosecutor's duties;
- 5) he/she is at least 26 years old;
- 6) he/she has passed the exam to be a public prosecutor or a judge;
- 7) he/she has held the post of a public prosecutor's assessor or a court assessor for at least a year or has completed a term of service in military prosecutorial bodies laid down in regulations on the military service of professional soldiers;
- 8) he/she did not serve at, work for, nor was a collaborator of the state security bodies listed in Article 5 of the act of 18 December 1998 on the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation (Dz. U. 2016, entry 152), nor was he/she been a judge who, when passing judgments, impaired the dignity of his/her office, acting in defiance of the judiciary's independence, which has been confirmed by a final judgment.

§ 2. The requirements referred to in § 1 (6) and (7) do not apply to:

- 1) professors and associated professors (*doktor habilitowany*) of legal sciences at Polish universities, at the Polish Academy of Sciences, in scientific and research institutes and other scientific institutions;
- 2) judges;
- 3) lawyers, legal advisers and the president, vice-president and counsellor of the Office of Attorney General of the Republic of Poland who have practised that profession or held such an office for at least 3 years.

§ 3. The requirements referred to in § (7) do not apply to notaries.

Article 76. § 1. To be appointed to the position of a public prosecutor of the National Public Prosecutor's Office, one has to meet the requirements for assuming the position of a public prosecutor and have at least 8 years' work experience in the position of a public prosecutor or a judge, including at least 5 years of work as a public prosecutor of an appellate, provincial or regional public prosecutor's office, or as a public prosecutor of the Institute of National Remembrance, a judge of an appellate court or a regional court, or a military regional court, or, for at least 12 years before the appointment, have been working as a lawyer, legal

adviser or notary or have held the office of the president, vice-president and counsellor of the Office of Attorney General of the Republic of Poland.

§ 2. To be appointed to the position of a public prosecutor of a provincial public prosecutor's office, one has to meet the requirements for assuming the position of a public prosecutor and have at least 6 years' work experience in the position of a public prosecutor or a judge, including at least 3 years of work as a public prosecutor of a regional public prosecutor's office or a public prosecutor of the Institute of National Remembrance, a judge of a regional court or a military regional court, or, for at least 10 years before the appointment, have been working as a lawyer, legal adviser or notary or have held the office of the president, vice-president and counsellor of the Office of Attorney General of the Republic of Poland.

§ 3. To be appointed to the position of a public prosecutor of a regional public prosecutor's office, one has to meet the requirements for assuming the position of a public prosecutor and have at least 3 years' work experience in the position of a public prosecutor of a district public prosecutor's office or a public prosecutor of the Institute of National Remembrance, a judge of a district court or a military garrison court, or, for at least 6 years before the appointment, have been working as a lawyer, legal adviser or notary or have held the office of the president, vice-president and counsellor of the Office of Attorney General of the Republic of Poland.

§ 4. The required work experience referred to in § 1-3 does not apply to the persons specified in Article 75 § 2 (1).

§ 5. In particularly justified cases, in order to ensure correct execution of the public prosecutor's office's statutory tasks, the Public Prosecutor General, upon a motion of the National Public Prosecutor, may appoint a public prosecutor to perform duties in the National Public Prosecutor's Office, a provincial public prosecutor's office or a regional public prosecutor's office disregarding the requirements referred to in § 1-3.

Article 77. § 1. A candidate for a prosecutorial position submits:

- 1) an information from the National Criminal Register concerning his/her person;
- 2) a certificate attesting that his/her health allows him/her to perform the public prosecutor's duties.

§ 2. The issuance of the certificate referred to in § 1 (2) and examination of the candidate for a prosecutorial position is subject to the principles concerning a candidate for a judiciary position.

§ 3. A candidate for a prosecutorial position born before 1 August 1972 submits also the declaration referred to in Article 7 (1) of the act of 18 October 2006 on disclosing information about documents of the state security bodies from 1944-1990 and contents of those documents (Dz. U., 2013, entry 1388), or the information referred to in Article 7 (3a) of that act.

§ 4. The submission of the information and the certificate referred to in § 1 is not required of candidates who hold the position of a public prosecutor and the position of a judge.

Article 78. § 1. The National Public Prosecutor seeks information about each candidate for a prosecutorial position from a competent provincial Police commander or the Capital Police Commander. The information about a candidate for a prosecutorial position is obtained and drawn up pursuant to the rules specified for the information about a candidate for a judiciary position. The information is obtained and drawn up on the basis of data contained in computerised police systems.

§ 2. When presenting the information referred to in § 1, the competent Police commander submits to the National Public Prosecutor all collected materials that have been used to draw up the information.

§ 3. Before considering a candidacy, the National Public Prosecutor notifies the candidate for a prosecutorial position about the content of the information obtained from the competent Police commander.

Article 79. § 1. The National Public Prosecutor, after seeking the opinion of the Public Prosecutor General, assigns new prosecutorial and assessor positions to prosecutorial bodies, out of consideration for a rational use of the prosecutorial staff.

§ 2. In case of a vacancy in a prosecutorial or assessor position, the National Public Prosecutor, after seeking the opinion of the Public Prosecutor General, may, out of consideration for a rational use of the prosecutorial staff:

- 1) assign the position to another prosecutorial body;
- 2) transform a prosecutorial position into an assessor position, or an assessor position into a prosecutorial position;
- 3) cancel the position.

Article 80. Should a position of a public prosecutor of a district public prosecutor's office be created or vacated, the Public Prosecutor General makes a decision on selecting the candidate for the first prosecutorial position by means of a competition procedure conducted under Articles 81-90, and in particularly justified cases, he/she appoints to that position the candidate indicated in the National Public Prosecutor's proposal referred to in Article 74 § 1 without conducting the competition procedure.

Article 81. § 1. If a decision is made to select the candidate for the first prosecutorial position by means of a competition procedure, the Public Prosecutor General announces the vacancy in the position of a public prosecutor of a district public prosecutor's office in the Official Journal of the Republic of Poland *Monitor Polski*.

§ 2. Every person who meets the requirements for assuming the position of a public prosecutor of a district public prosecutor's office may apply for one vacant prosecutorial position within one month from the announcement referred to in § 1.

§ 3. The application is made to the regional public prosecutor.

Article 82. § 1. If the application has been made by a person does not meet the requirements for assuming the position of a public prosecutor referred to in Article 75 § 1 (3)-(8), if the application has been made after the deadline referred to in Article 81 § 2, or if it does not contain the documents required under Article 77, the regional public prosecutor notifies the applicant about the decision not to further examine the application, giving the reason. The person whose application has not been further examined may submit a written objection to the National Public Prosecutor within 7 days. If the National Public Prosecutor does not take the objection into consideration, he/she submits it immediately, together with the application, to the Public Prosecutor General. The Public Prosecutor General decides whether to further examine the application.

§ 2. Having determined that the formal requirements of an application submitted within the deadline have been met, and having determined that the candidate meets the requirements to assume the position of a public prosecutor of a district public prosecutor's office, the regional public prosecutor presents the applicant's candidacy to the regional public prosecutor's office's board, together with an assessment of qualifications drawn up by the inspector of the regional public prosecutor's office.

§ 3. The regional public prosecutor presents to the National Public Prosecutor the candidacies that have received positive opinions from the regional public prosecutor's office's board, together with the board's opinion and the assessment of qualifications drawn up by the inspector of the regional public prosecutor's office.

Article 83. § 1. A candidate for a vacant prosecutorial position in a district public prosecutor's office who holds the position of a public prosecutor's assessor attaches to the application a list of references of dossiers of 50 cases in which he/she has handled or supervised preparatory proceedings, drawn up a charge sheet or a remedy act, appeared at court or submitted procedural writs, or administered other acts listed in Article 3 § 1; or, should such cases be fewer, he/she attaches a list of references of dossiers of all such cases.

§ 2. A candidate for a vacant prosecutorial position in a district public prosecutor's office who holds the office of a judge or a court assessor attaches to the application a list of references of dossiers of 50 court cases of various categories, to the examination of which

he/she has contributed; or, should such cases be fewer, he/she attaches a list of references of dossiers of all such cases.

§ 3. A candidate for a vacant prosecutorial position in a district public prosecutor's office who works as a lawyer or a legal adviser, or holds the office of a counsellor of the Office of Attorney General of the Republic of Poland, attaches to the application a list of references of dossiers of 50 court cases of various categories in which he/she has appeared as a legal representative or, if he/she has appeared in a smaller number of cases, a list of references of dossiers of all such cases, indicating the courts in which those cases were or are pending, or copies of all, but no more than 50, legal opinions and other documents drawn up in relation to the application or creation of law; a counsellor of the Office of Attorney General of the Republic of Poland attaches additionally the opinion of a superior.

§ 4. A candidate for a vacant prosecutorial position in a district public prosecutor's office who works as a notary attaches to the application a list of 50 notarial deeds, concerning various categories of cases, or, if he/she has drawn up a smaller number of such deeds, a list of all of them.

§ 5. A candidate for a vacant prosecutorial position in a district public prosecutor's office who holds the academic title of professor or the academic degree of assistant professor (*doktor habilitowany*) of legal sciences attaches to the application a list of publications with, if applicable, reviewers' opinions, copies of legal opinions he/she has drawn up, and a description of achievements with regard to the staff education or scientific contributions.

§ 6. In case of a candidate for a vacant prosecutorial position in a district public prosecutor's office who holds the office of the president of vice-president of the Office of Attorney General of the Republic of Poland, provisions of § 1-5 apply accordingly, depending on the profession practised before being appointed to that office.

§ 7. In case of a candidate for a vacant prosecutorial position in a district public prosecutor's office who has practised more than one of the professions listed in § 1-5, provisions of § 1-6 apply accordingly, but the total number of the listed references of dossiers of cases or copies of legal opinions and other documents referred to in those provisions cannot exceed 100.

§ 8. A candidate may also attach to the application other documents backing up his/her candidacy, and in particular opinions and recommendations.

Article 84. § 1. An assessment of qualifications for a vacant prosecutorial position in a district public prosecutor's office cannot be made by an inspector who is the candidate's spouse, relative or relative by affinity, or who is in a legal or material relationship with the candidate that may raise doubts as to the inspector's impartiality.

§ 2. If more than one candidate has applied for a vacant prosecutorial position in a district public prosecutor's office, the assessment of those candidates' qualifications is made by one inspector, unless it is impossible due to the candidates' number or for other valid reasons. The assessment of qualifications of any candidate cannot be made by an inspector who is any candidate's spouse, relative or relative by affinity, or who is in a legal or material relationship with one of the candidates that may raise doubts as to the inspector's impartiality.

§ 3. The regional public prosecutor communicates the assessment of qualifications to the candidate. Within 14 days from the date of becoming acquainted with the assessment, the candidate has the right to submit written observations on the assessment of qualifications.

§ 4. Observations submitted after the deadline are disregarded without being examined, and the reason for disregarding the observations without being examined is given. The candidate whose observations have been disregarded without being examined may submit a written objection to the National Public Prosecutor within 7 days. If the National Public Prosecutor does not take the objection into consideration, he/she submits it, together with the observations, to the Public Prosecutor General. The Public Prosecutor General makes a decision with regard to disregarding the objection without being examined.

§ 5. Having determined that the observations have been submitted correctly, the regional public prosecutor immediately orders their examination by 3 inspectors appointed pursuant to the rules specified in § 2. The inspector who made the assessment of qualifications cannot

participate in the observations' examinations. Inspectors examine the observations within a deadline of no more than 30 days.

§ 6. Having examined the observations, inspectors either uphold the assessment of the candidate's qualifications concerned by the submitted observations, or make a contrary assessment. The inspectors' views are drawn up in writing with a statement of reasons and served to the candidate.

Article 85. § 1. The assessment of qualifications of a candidate who holds the position of a public prosecutor's assessor includes the correctness, merits and effectiveness of performing the assigned duties, taking into consideration the workload and the executed tasks' complexity, as well as professional qualifications' upgrading and personal culture.

§ 2. The assessment of qualifications referred to in § 1 is made on the basis of an examination of at least 25 dossiers of cases of various categories, selected at random from those referenced in the list referred to in Article 83 § 1, as well as on the basis of data recorded in public prosecutor's offices, including those recorded for statistical purposes.

§ 3. Copies of final judgments imposing a disciplinary penalty or final decisions imposing the disciplinary sanction of admonition contained in the public prosecutor's personal file, as well as copies of a superior public prosecutor's final decisions reproaching a transgression in case of a manifest infringement of the law, are attached to the assessment of the candidate's qualifications referred to in § 1.

Article 86. § 1. The assessment of qualifications of a candidate who holds the position of a judge or a court assessor includes the analysis of efficiency and effectiveness in taking measures and handling proceedings, personal culture, ability to formulate clear and complete statements when passing judgments and giving reasons for them, as well as professional qualifications' upgrading.

§ 2. The assessment of qualifications referred to in § 1 is made on the basis of an examination of at least 25 dossiers of cases of various categories, selected at random from those referenced in the list referred to in Article 83 § 2, as well as on the basis of data recorded in courts, including the data recorded for the purposes of court statistics.

§ 3. Copies of final judgments imposing a disciplinary penalty and reproaches contained in personal files are attached to the assessment of the candidate's qualifications referred to in § 1.

Article 87. § 1. If due to a particular range of activities of a judge or a court assessor, or due to other reasons, it is impossible to examine the number of cases specified in 86 § 2, another number is adopted, giving the reasons.

§ 2. The inspector who makes an assessment of qualifications of a candidate who holds the position of a public prosecutor's assessor, judge or court assessor may also examine dossiers of cases not referenced in the list and request the president of a court or the head of a prosecutorial body to indicate the reference numbers and present the dossiers of such cases.

Article 88. § 1. The assessment of qualifications of a candidate who practises the profession of a lawyer, legal adviser or notary, or holds the office of a counsellor of the Office of Attorney General of the Republic of Poland is made on the basis of an examination of merits, efficiency, reliability and timeliness of the administered acts, or the merits and reliability of legal opinions he/she has drawn up or of other documents drawn up in relation to the application or creation of law, as well as professional qualifications' upgrading and the culture of performing duties, including personal culture and behaviour towards participants in legal proceedings and associates.

§ 2. The assessment of qualifications of a candidate who practises the profession of a lawyer or legal adviser, or holds the office of a counsellor of the Office of Attorney General of the Republic of Poland is made on the basis of an examination of at least 25 dossiers of cases of various categories or legal opinions and other documents drawn up in relation to the application or creation of law, selected at random from those referenced in the list referred to in Article 83 § 3. The provision of Article 87 § 1 applies accordingly. The inspector who makes the

assessment of qualifications may also examine *ex officio* the dossiers of cases in which the candidate appeared as a legal representative in court and which have not been included in the list, as well as request presidents of courts to indicate the reference numbers and present the dossiers of such cases.

§ 3. The assessment of qualifications of a candidate who practises the profession of notary is made on the basis of an examination of at least 25 notarial deeds, concerning various categories of cases, selected at random from those referenced in the list referred to in Article 83 § 4. The provision of Article 87 § 1 applies accordingly. The inspector who makes the assessment of qualifications may also examine *ex officio* notarial deeds or dossiers of lawsuits in which appeals have been examined regarding a refusal to insert an entry or a refusal to administer an act that have not been included in the list, as well as request presidents of courts to indicate the reference numbers and present the dossiers of such cases.

§ 4. A list of final judgments or decisions imposing a disciplinary penalty is attached to the assessment of qualifications of a candidate who practises the profession of a lawyer, legal adviser or notary.

§ 5. Additionally, a list of warnings given by the professional self-government's competent bodies and notifications of a breach of procedural duties made by a court or a public prosecutor is also attached to the assessment of qualifications of a candidate who practises the profession of a lawyer or legal adviser.

§ 6. Protocols of periodic qualification assessments referred to in Article 42 of the act of 8 July 2005 on the Office of Attorney General of the State Treasury (Dz. U. 2013, entry 1150, as amended), as well as copies of final judgments imposing a disciplinary penalty, unless the penalty has been declared null, are attached to the assessment of qualifications of a candidate who holds the position of a counsellor of the Office of Attorney General of the Republic of Poland.

§ 7. Protocols of inspections, controls or assessments carried out under Article 36 of the act of 26 May 1982 – Bar Act (Dz. U. 2015, entry 615, as amended), Article 22¹ of the act of 6 July 1982 on legal advisers (Dz. U. 2015, entry 507, as amended) or Article 44 § 2 of the act of 14 February 1991 – Notaries Act (Dz. U. 2014, entry 164, as amended) are attached to the assessment of qualifications of a candidate who practises the profession of a lawyer, legal adviser or notary.

§ 8. The assessment of qualifications of a candidate who holds the academic title of professor or the academic degree of assistant professor (*doktor habilitowany*) of legal sciences takes into considerations academic achievements, type and quality of publications, reviewers' opinions, as well as quality and reliability of legal opinions or other documents drawn up in relation to the application or creation of law.

§ 9. Copies of final judgments imposing a disciplinary penalty, unless the penalty has been cancelled, are attached to the assessment of the candidate's qualifications referred to in § 8.

Article 89. Provisions of Articles 85-88 apply accordingly to the assessment of a candidate who holds the office of the president of vice-president of the Office of Attorney General of the Republic of Poland, depending on the profession practised before being appointed to that office.

Article 90. § 1. When assessing the qualifications of a candidate for a vacant prosecutorial position in a district public prosecutor's office, one has to take into consideration a personal predisposition to the profession of a public prosecutor, including decision-making and cooperation skills, resistance to stress and observance of professional ethic rules.

§ 2. The Minister of Justice shall specify, by means of a regulation, the detailed procedure and method of assessing the qualifications of a candidate for a vacant prosecutorial position in a district public prosecutor's office, taking into consideration the need to preserve the methodology which takes into account the specificity of the profession the candidate practises or the office he/she holds, as well as the need to adapt it to the scope of examinations and the criteria specified by the law.

Article 91. § 1. A public prosecutor enters into a service relationship at the moment of service of the appointment notification.

§ 2. Unless some other deadline has been set, a public prosecutor should report in order to assume the position within 14 days since the date of receipt of the appointment notification.

§ 3. In case of an unjustified failure to assume the position within the deadline specified in § 2, the appointment is vacated, which is declared by the Public Prosecutor General.

Article 92. § 1. At the appointment, the public prosecutor takes an oath in the presence of the Public Prosecutor General, according to the following formula:

"I swear a solemn oath that in the public prosecutor's position entrusted to me, I shall serve faithfully the Republic of Poland, guard the law and maintain the law and order, diligently perform the duties of my office, keep legally protected secrets, and be guided by the principles of dignity and honesty in my conduct"; the person taking the oath may add the phrase "So help me God" at the end of the formula.

§ 2. A public prosecutor appointed to another prosecutorial position does not take the oath.

Article 93. § 1. The Public Prosecutor General may, upon a motion of the National Public Prosecutor, dismiss a public prosecutor of a universal prosecutorial body or a public prosecutor of the Institute of National Remembrance if the public prosecutor, despite being penalised twice by a disciplinary court with a disciplinary penalty other than an admonition, has committed a service-related misdeed, including a manifest infringement of the law or an impairment of the dignity of the office of public prosecutor; before the dismissal decision, the Public Prosecutor General hears out the public prosecutor's explanations, unless it is impossible, and seeks the opinion of the meeting of public prosecutors of the National Public Prosecutor's Office or the relevant public prosecutors' assembly in a provincial public prosecutor's office.

§ 2. The Public Prosecutor General dismisses the public prosecutor of a universal prosecutorial body who has resigned from the position of a public prosecutor or does not meet the requirements referred to in Article 75 § 1 pkt 8.

§ 3. A public prosecutor's service relationship expires after 3 months from the date of service of the dismissal notification, unless a shorter deadline has been set at the concerned public prosecutor's request.

§ 4. A final judgment of a disciplinary court on dismissal from prosecutorial service and a final court judgment convicting a public prosecutor for an intentional crime prosecuted by public indictment or inflicting a punitive measure on the public prosecutor consisting in a deprivation of public rights, a ban on holding a position of a public prosecutor, demotion or dismissal from professional military service results by operation of law in a loss of the position of a public prosecutor; the public prosecutor's service relationship expires at the moment when the judgment becomes final.

§ 5. Should a disciplinary court judgment on dismissal from prosecutorial service be revoked as a result of cassation, the public prosecutor is appointed to serve in the position he/she held previously, maintaining the continuity of the service relationship and granting the right to the salary for the period when the public prosecutor in reality remained out of service.

§ 6. The service relationship of a public prosecutor expires on the day of losing Polish citizenship or obtaining the citizenship of another country.

Article 94. § 1. A public prosecutor's transfer to another place of service is only possible with his/her consent.

§ 2. The consent of a public prosecutor for his/her transfer to another place of service is not required in case of:

- 1) cancellation of a position resulting from a change in the public prosecutor's office's organization or cancellation of a given prosecutorial body, or transfer of its seat;
- 2) transfer resulting from a disciplinary penalty;
- 3) cancellation or decrease of the number of public prosecutor's posts in a division or sector in charge of matters subject to the jurisdiction of military courts in which a public prosecutor for military matters used to perform service.

§ 3. Transfers referred to in § 1 and 2 are made by the National Public Prosecutor.

Article 95. In case of a public prosecutor's transfer to another place of service, the public prosecutor receives no cash equivalent in lieu of unused holiday leave. The public prosecutor keeps the right to use that leave during the service in the place to which he/she has been transferred.

Chapter 2

Public prosecutors' rights and obligations

Article 96. § 1. A public prosecutor is obliged to follow the public prosecutor's oath.

§ 2. In and out of service, a public prosecutor should guard the authority of his/her office and avoid all things that could impair the public prosecutor's dignity or lessen the trust in his/her impartiality.

Article 97. § 1. During the time of holding his/her position, a public prosecutor cannot belong to a political party nor participate in any political activity.

§ 2. A public prosecutor who runs for the office of the President of the Republic of Poland, a seat in the Sejm or the Senate, or the office of a councillor or a commune administrator (*wójt*, mayor, president of the city) is granted unpaid leave for the duration of the election campaign. The above does not apply to a retired public prosecutor.

§ 3. A public prosecutor may be active in organizations for public prosecutors or employees of the public prosecutor's office, provided that that does not impair the dignity of the office of public prosecutor in other organizations performing a social activity, operating by virtue of other laws.

Article 98. A public prosecutor is obliged to continuously upgrade his/her professional qualifications, for example by participating in training courses and other forms of professional upgrading.

Article 99. The time of work of a public prosecutor is determined by his/her workload.

Article 100. § 1. A public prosecutor receives a professional identity card which specifies his/her official position.

§ 2. The provision of § 1 applies accordingly to a retired public prosecutor.

§ 3. The Public Prosecutor General shall specify, by means of a regulation, the template of a public prosecutor's professional identity card.

Article 101. § 1. In the cases concerning claims resulting from service relationship, a public prosecutor has the right to take legal action in a court with the jurisdiction over staff-related matters.

§ 2. A public prosecutor should first submit requests and complaints related to his/her official position through service-related channels.

§ 3. A public prosecutor should immediately notify his/her superior about court proceedings pending in which he/she appears as a party or a participant in the proceedings.

Article 102. § 1. A public prosecutor is obliged to keep secret the facts of the case which he/she has learned due to his/her position of a public prosecutor during preparatory proceedings, as well as out of an open court hearing.

§ 2. The secrecy obligation persists after the termination of the service relationship.

§ 3. The secrecy obligation comes to an end when a public prosecutor testifies as a witness in preparatory proceedings or before a court, unless the disclosure of a secret poses a threat to the interest of the state or to an important private interest which is not contrary to the purposes of the administration of justice. In such cases, a public prosecutor may be relieved

from the secrecy obligation by the National Public Prosecutor, and the National Public Prosecutor may be relieved by the Public Prosecutor General.

Article 103. § 1. A public prosecutor cannot take up additional employment, with the exception of employment in a didactic, research and didactic, or research position if total working time does not exceed full working time of employees employed in those positions, provided that that employment does not interfere with performing the public prosecutor's duties.

§ 2. Moreover, a public prosecutor cannot take up another occupation or way of making profit which would interfere with performing the public prosecutor's duties, could lessen the trust in his/her impartiality or impair the dignity of the office of public prosecutor.

§ 3. A public prosecutor cannot:

- 1) be a member of a management board, a supervisory board or a board of auditors of a commercial law company;
- 2) be a member of a management board, a supervisory board or a board of auditors of a cooperative;
- 3) be a member of a management board of a foundation running a business;
- 4) hold more than 10% of shares in a commercial law company or hold shares corresponding to more than 10% of the share capital;
- 5) run a business on his/her own account or together with other persons, or manage such business, or be a representative or agent in running such business.

§ 4. Public prosecutors of a district public prosecutor's office and public prosecutors of a regional public prosecutor's office notify the competent regional public prosecutor about their intention to take additional employment, as well as about the intention to take up another occupation or way of making profit, public prosecutors of a provincial public prosecutor's office notify the competent provincial public prosecutor, public prosecutors of the National Public Prosecutor's Office, provincial public prosecutors and regional public prosecutors notify the National Public Prosecutor, and the National Public Prosecutor and the Public Prosecutor General's other deputies notify the Public Prosecutor General.

§ 5. Public prosecutors of the Institute of National Remembrance submit the notification referred to in § 4:

- 1) to the Director of the Chief Commission – public prosecutors of branch commissions;
- 2) to the Director of the Vetting Office – public prosecutors of branch vetting offices;
- 3) to the National Public Prosecutor – the Director of the Chief Commission, public prosecutors of the Chief Commission and chiefs of branch commissions, the Director of the Vetting Office, public prosecutors of the Vetting Office and chiefs of branch vetting offices.

§ 6. If the public prosecutor to whom the notification referred to in § 4 is addressed considers that a public prosecutor's taking up or continuation of an additional employment, another occupation or a way of making profit interferes with performing the public prosecutor's official duties, impairs the dignity of his/her office or lessens the trust in the public prosecutor's impartiality, he/she makes an objection against it within 14 days from the date of receipt of the notification.

§ 7. The provisions of § 1-6 apply to retired public prosecutors.

Article 104. § 1. Public prosecutors are obliged to submit a declaration of their financial standing. The declaration of financial standing covers only individual property and joint property of husband and wife. The declaration should contain in particular the information on financial assets, real estate and shares in commercial law companies, as well as property which has been acquired by means of an auction by that person or his/her spouse from the State Treasury, a local government unit, a union of such units, or a government or local government legal person.

§ 2. The declaration referred to in § 1 is submitted in two copies.

§ 3. The declaration referred to in § 1 is submitted accordingly by public prosecutors to the competent provincial public prosecutor, regional public prosecutor, chief of a branch commission or chief of a branch vetting office, who analyzes the data contained in the declarations by 30 June every year.

§ 4. The Public Prosecutor's General's deputies, the Director of the Chief Commission, the Director of the Vetting Office, public prosecutors of the National Public Prosecutor's Office, public prosecutors of the Chief Commission, public prosecutors of the Vetting Office, provincial public prosecutors, public prosecutors of Branch Divisions of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office, regional public prosecutors, as well as chiefs of branch commissions and chiefs of branch vetting offices submit the declaration referred to in § 1 to the Public Prosecutor General, who analyzes the data contained in the declarations by 30 June every year.

§ 5. The declaration referred to in § 1 is submitted before assuming the position, and subsequently every year before 31 March, as of 31 December of the previous year, as well as on the day of leaving the position of public prosecutor.

§ 6. The declaration referred to in § 1 is submitted under pain of criminal liability for making a false declaration. The person submitting the declaration is obliged to include the following clause: "I am aware of the criminal liability for making a false declaration". The clause substitutes a warning from a body authorized to receive the declaration concerning the criminal liability for making a false declaration.

§ 7. Information contained in the declaration, including the first name and surname, are publicly accessible, except for the address, information about the location of real estate, as well as information that make it possible to identify the public prosecutor's or public prosecutor's assessor's movable property. At the request of the public prosecutor who has submitted the declaration, the superior public prosecutor may decide to grant the information contained in the declaration the protection provided for information classified as "reserved", specified by the provisions of the act of 5 August 2010 on the protection of classified information if the disclosure of that information could result in a threat to the public prosecutor or persons nearest to him/her. The declaration is kept for 6 years.

§ 7a. The publicly accessible information contained in declarations on financial standing is published by the Public Prosecutor General, competent provincial or regional public prosecutor, chief of a branch commission or chief of a branch vetting office in *Biuletyn Informacji Publicznej* referred to in the act of 6 September 2001 on the access to public information (Dz. U. 2016, entry 1764) no later than on 30 September each year.

§ 8. One copy of the declaration is transmitted by the public prosecutor authorized to collect the declaration to the tax office competent for the public prosecutor's place of residence. The competent tax office is authorized to analyze the data contained in the declaration, including a comparison of its content with the content of previously submitted declarations and annual tax returns (PIT). If the result of the analysis raises grounded doubts as to the legality of origin of the property disclosed in the declaration, the tax office refers the case for appropriate proceedings.

§ 9. A retired public prosecutor does not submit a declaration on financial standing, unless he/she is an adviser of the Public Prosecutor General or the National Public Prosecutor.

Article 105. A form specified in regulations adopted pursuant to Article 11 of the act of 21 August 1997 on the restriction of business activity of persons in charge of public functions (Dz. U. 2006 Nr 216, entry 1584, as amended) and concerning the declaration referred to in Article 10 (1) of that act applies accordingly to the submission of a declaration of financial standing.

Article 106. § 1. The Public Prosecutor General may delegate a public prosecutor of a universal prosecutorial body to the Ministry of Justice or any other prosecutorial body subordinate to the Minister of Justice in accordance with the public prosecutor's qualifications. Delegating for a period of more than 6 months in a year is only possible with the public prosecutor's consent.

§ 1a. The Public Prosecutor General may delegate a public prosecutor, with his/her consent, to perform duties or conduct training courses at the National School of Judiciary and Public Prosecution.

§ 2. The Public Prosecutor General or the National Public Prosecutor may delegate a public prosecutor of a universal prosecutorial body to another prosecutorial body. Delegating for a period of more than 6 months in a year is only possible with the public prosecutor's consent.

§ 3. In justified cases, out of consideration for staff-related needs of universal prosecutorial bodies, the Public Prosecutor General or the National Public Prosecutor may delegate a public prosecutor without his/her consent for a period of 12 months in a year to a public prosecutor's office with a seat in the locality in which the delegated person resides, or to a public prosecutor's office in the locality where the public prosecutor's office which is the delegated person's workplace is situated.

§ 4. The Public Prosecutor General or the National Public Prosecutor immediately notifies the Minister of National Defence about delegating a public prosecutor for military matters who is a professional soldier.

§ 5. A public prosecutor delegated to the Ministry of Justice or to the National School of Judiciary and Public Prosecution must distinguish himself/herself by thorough legal knowledge and awareness of issues relative to the duties that are entrusted to him/her.

§ 6. Delegating for a period of 2 months in a year may also be ordered by a provincial or regional public prosecutor.

§ 7. The Public Prosecutor General may delegate a public prosecutor of a universal prosecutorial body or, in agreement with the Minister of National Defence, a public prosecutor for military matters who is a professional soldier, with his/her consent, to perform duties or to be in charge of a particular function outside of the Republic of Poland in the context of activities of international or supranational organizations and international teams, operating under international agreements, including agreements establishing international organizations, ratified by the Republic of Poland, in accordance with the public prosecutor's qualifications, for a determinate period of no more than 4 years, with a possibility of a repeated delegation for another period of up to 4 years.

§ 7a. The Public Prosecutor General, upon a motion of the Director of the National School of Judiciary and Public Prosecution, may delegate a public prosecutor, with his/her consent, to perform duties or to be in charge of a particular function, or to complete a training course of more than one month outside of the Republic of Poland in the context of the National School of Judiciary and Public Prosecution's international cooperation, in accordance with the public prosecutor's qualifications, for a determinate period of no more than 4 years, with a possibility of a repeated delegation for another period of up to 4 years.

§ 8. The delegation period referred to in § 1-3 does not include the period during which a delegated public prosecutor has not performed his/her official duties due to illness.

Article 107. § 1. A public prosecutor delegated under Article 106 § 1 for an indeterminate period of time or under Article 106 § 7 and 7a for a period of more than one year may be recalled from delegation or resign from it with 3 months' notice. A public prosecutor delegated under Article 106 § 7 for a period of no more than one year can resign from delegation with 1 month's notice.

§ 2. The Public Prosecutor General recalls a public prosecutor delegated under Article 106 § 7 and 7a from delegation before the specified deadline if:

- 1) that public prosecutor's health makes it impossible for him/her to continue to perform his/her duties or to be in charge of the function;
- 2) an authorized body of the organization or team referred to in Article 106 § 7 has submitted a request;
- 3) the delegation's continuation becomes irrelevant;
- 4) a valid reason other than those listed in (1)-(3) appears, if a continued delegation of that public prosecutor does not ensure proper performance of duties entrusted to him/her or exercise of his/her functions.

Article 108. § 1. A public prosecutor delegated to another prosecutorial body, with the exception of the National Public Prosecutor's Office, is granted the right to a basic salary at the standard rate specified for a public prosecutor of that unit after 6 months of delegation for the

remaining delegation period, and if he/she has already been earning a salary at the same or higher rate in the position he/she has been holding, he/she is granted the right to a salary at an immediately higher rate.

§ 2. After 3 months of delegation to prosecutorial acts in the Department for Organized Crime and Corruption and in the Division of Internal Affairs and for the remaining delegation period, a public prosecutor of a provincial public prosecutor's office is granted a salary at the standard rate earned by a public prosecutor of the National Public Prosecutor's Office, and a public prosecutor of a regional or district public prosecutor's office – a salary earned by a public prosecutor of a provincial public prosecutor's office, unless his/her current salary is higher than the one paid in the National Public Prosecutor's Office.

Article 109. § 1. If a public prosecutor is delegated to a locality other than the one which is the seat of the prosecutorial body in which he/she performs service and which is not his/her place of permanent residence, the delegated public prosecutor has, during the delegation period, the right to the following benefits compensating the inconveniences resulting from being delegated outside of the permanent place of service:

- 1) the right to free accommodation under conditions appropriate for the dignity of the office or reimbursement of accommodation costs in the place of delegation in one of the following forms:
 - a) reimbursement of actually incurred costs – in the amount specified in the invoice,
 - b) monthly lump sum – in the amount no higher than 80% of the basic amount which is the basis for determining a public prosecutor's basic salary;
- 2) reimbursement of costs of the first transfer from the place of permanent residence to the place of delegation, reimbursement of costs of the last transfer from the place of delegation to the place of permanent residence, and reimbursement of costs of transfers made no more than once a week to the place of permanent residence and back – in the amount no higher than an equivalent of the price of a train ride, taking into consideration the reduction for a given means of transport to which the public prosecutor has the right, regardless of the reason for which he/she has the right to that reduction;
- 3) lump sum for paying the costs of transfer by local means of transport referred to in regulations adopted pursuant to Article 77⁵ § 2 of the Labour Code;
- 4) per diems referred to in regulations adopted pursuant to Article 77⁵ § 2 of the Labour Code;
- 5) reimbursement of costs incurred due to the use of vehicles which are the employee's property for service-related purposes referred to in regulations adopted pursuant to Article 34a (2) of the act of 6 September 2001 on road traffic (Dz. U. 2013, entry 1414, as amended);
- 6) reimbursement of costs of everyday transfer to the delegation locality referred to in § 3.

§ 2. Benefits and allowances referred to in § 1 (1) and (2) are not due if the distance from the locality where the public prosecutor has his/her place of permanent residence to the delegation locality does not exceed 60 kilometres, unless the body appointed to head the body to which the public prosecutor is delegated considers, at the delegated public prosecutor's request, that everyday transfer of the delegated public prosecutor to the delegation locality is irrelevant.

§ 3. The delegated public prosecutor referred to in § 2 who does not have the right to the benefits and allowances referred to in § 1 (1) and (2) has the right to the reimbursement of costs of everyday transfer to the delegation locality in the amount no higher than the equivalent of the price of a ride by train or another means of public transport, taking into consideration the reduction for a given means of transport to which the public prosecutor has the right, regardless of the reason for which he/she has the right to that reduction.

§ 4. The provisions of § 1 (1) and (2) and § 2 apply to a public prosecutor of the National Public Prosecutor's Office.

Article 110. § 1. A public prosecutor delegated to the Ministry of Justice may be entrusted duties in clerical positions.

§ 2. The duties referred to in § 1 may be entrusted to a public prosecutor delegated to the National School of Judiciary and Public Prosecution.

Article 111. § 1. A public prosecutor delegated to the Ministry of Justice, the National School of Judiciary and Public Prosecution or the National Public Prosecutor's Office has the right to a basic salary for the prosecutorial position he/she holds and to a seniority supplement. During the delegation period, a public prosecutor receives a functional supplement.

§ 2. During the delegation period, due to the nature of work and scope of executed tasks, a special supplement in the amount no higher than 40% of the sum of basic salary and functional supplement may be granted by the Public Prosecutor General to a public prosecutor delegated to the Ministry of Justice, or by the Public Prosecutor General or the National Public Prosecutor to a public prosecutor delegated elsewhere. The supplement is granted for a determinate period of time or, in justified cases, for an indeterminate period of time. A public prosecutor of a provincial public prosecutor's office delegated to the Department for Organized Crime and Corruption does not have the right to the special supplement. The total amount of the basic salary and the special supplement of a public prosecutor of a regional public prosecutor's office and of a public prosecutor of a district public prosecutor's office delegated to the Department for Organized Crime and Corruption cannot exceed the basic salary of a public prosecutor of a provincial public prosecutor's office delegated to that department.

§ 3. In particularly justified cases, the supplement referred to in § 2 can exceed the amount specified therein.

§ 4. The supplement referred to in § 2 may be granted to a public prosecutor of the National Public Prosecutor's Office.

Article 112. The Minister of Justice shall specify, by means of a regulation, the procedure for delegating public prosecutors to the Ministry of Justice, the National Public Prosecutor's Office and the National School of Judiciary and Public Prosecution, the procedure and the method of exercising the right to free accommodation and reimbursement of accommodation costs in the place of delegation, including the maximum amount of reimbursement of actually incurred costs and the amount of the monthly lump sum, taking into consideration the possibility of the amount's diversification depending on the delegation locality, as well as the procedure and method of implementation of the benefits referred to in Article 109 § 1 (2)-(6), taking into consideration the efficiency of the delegating procedure and the need to ensure conditions for a proper performance of duties and function entrusted to the public prosecutor, as well as the need to reimburse the costs incurred by the public prosecutor, taking into account average accommodation and living costs.

Article 113. § 1. A public prosecutor delegated under Article 106 § 7 and 7a has the right to a basic salary or remuneration for the position of a public prosecutor he/she holds and the seniority supplement, as well as compensation allowances for accidents at work and occupational diseases if the incident resulting in the emergence of the right to those allowances took place when the public prosecutor was performing his/her duties or function outside of the Republic of Poland. During the delegation period, a public prosecutor may receive a functional supplement.

§ 2. A public prosecutor delegated under Article 106 § 7 and 7a, during the period of performing his/her duties or function outside of the Republic of Poland, has the right to the following benefits, paid in Polish or foreign currency:

- 1) supplement related to service abroad for financing the increased costs relative to performing duties or functions outside of the Republic of Poland, fixed in accordance with the conditions and scope of the performed duties or functions;
- 2) in case of being entrusted duties or functions resulting in a change of the place of residence for at least a year:
 - a) a one-off adaptational supplement,

- b) financing the relocation costs of the delegated public prosecutor and each family member who moves with him/her, including the transfer of their property, regardless of the date of their actual relocation,
 - c) once every 2 years, financing the costs of transfer of the delegated public prosecutor and his/her family members who reside permanently with him/her outside of the Republic of Poland from the delegation place to the place of permanent residence for a holiday leave and back;
- 3) reimbursement of the travelling costs due to starting and ending the performance of duties or functions outside of the Republic of Poland, official trips to a foreign country outside of the delegation place, transfer from the delegation place to the Republic of Poland and back in justified service-related or random cases;
 - 4) reimbursement of medical costs if a public prosecutor is delegated to a country which is not a Member State of the European Union;
 - 5) financing the costs of accommodation in the delegation place up to the amount of documented expenses, not exceeding the fixed limit.

§ 3. The amount of allowances referred to in § 3 is decreased by the amount of financial means received by the delegated public prosecutor from the foreign party for the payment of costs related to him/her performing his/her duties or function outside of the Republic of Poland. The allowances are not due if the delegated public prosecutor incurs no costs for the payment of which they are intended.

§ 4. Expenses related to delegating may also be fully or partially covered with funds which have been allocated to that purpose by the international organization and the administration of which has been entrusted to the Minister of Justice or the Minister of National Defence, respectively.

§ 5. Expenses related to delegating do not include the public prosecutor's basic salary or remuneration nor seniority supplement due to the prosecutorial position he/she holds, to which the public prosecutor keeps the right when being delegated to perform his/her duties or function outside of the Republic of Poland.

§ 6. The Minister of Justice, in agreement with the Minister of National Defence, shall specify, by means of a regulation, the procedure, conditions for granting and payment, as well as the amount of the allowances referred to in § 2, limits of reimbursement of accommodation costs, and the currency in which such allowances are paid, taking into consideration the extent of granting them depending on the place in which a public prosecutor performs his/her duties or entrusted function, as well as the need to ensure conditions for their correct execution and the need to finance the increased costs relative to performing those duties or functions outside of the Republic of Poland and to particular situations, including random events, taking into account average accommodation and living costs abroad.

Article 114. A public prosecutor delegated to administer service-related acts in another locality than the one which is the seat of the prosecutorial body in which the public prosecutor performs service or the delegation locality has the right to allowances specified by regulations adopted pursuant to Article 77⁵ § 2 of the Labour Code.

Article 115. § 1. During a period of absence from work due to illness, a public prosecutor receives 80% of salary, but no longer than for one year. After that period, until the end of retirement proceedings, he/she receives 75% of salary.

§ 2. If a public prosecutor's absence from work has been caused by:

- 1) an accident at work or on the way to or from work,
- 2) a disease during pregnancy,
- 3) a disease developed in relation to particular characteristics or conditions of performing the public prosecutor's duties,
- 4) a disease caused by another person as a result of an intentional prohibited act committed by that person, in relation to performing the public prosecutor's duties, which has been confirmed by a decision pronounced by an authorized body;

- 5) undergoing necessary medical examinations prescribed for candidates for donors of cells, tissues and organs and undergoing the procedure of cells', tissues' and organs' collection
- the public prosecutor retains the right to 100% of the salary.

§ 3. Should a public prosecutor be diagnosed with a disease which is suspected of having developed in relation to particular characteristics or conditions of performing the public prosecutor's duties, the public prosecutor who is the immediate superior refers the public prosecutor to a certifying physician of the Social Insurance Institution (ZUS), *ex officio* or at the public prosecutor's request. The public prosecutor has the right to appeal against the certifying physician's opinion to the medical commission of the Social Insurance Institution within 14 days from the date of service of that opinion.

§ 4. A disease developed in relation to particular characteristics or conditions of performing the public prosecutor's duties is a disease caused by the influence of harmful factors present in the place of performing the public prosecutor's duties.

§ 5. The costs of examination and issuance of the opinion by the certifying physician and the medical commission of the Social Insurance Institution are paid by the State Treasury with the funds at the Public Prosecutor General's disposal.

§ 6. Should it be impossible for a public prosecutor to work for other reasons which give the right to allowances specified by regulations on social insurance financial allowances, the public prosecutor has the right to a salary equal to the amount of the social insurance financial allowances for the period specified in those regulations.

§ 7. The period of absence from work due to illness and inability to work referred to in § 6 is attested by a medical certificate issued under Article 55 (1) and Article 55a (7) of the act of 25 June 1999 on social insurance financial allowances in case of disease and maternity (Dz. U. 2014, entry 159, as amended), or a printout of a medical certificate referred to in Article 55a (6) of that act; however:

- 1) in the case of undergoing necessary medical examinations prescribed for candidates for donors of cells, tissues and organs, and inability to work due to undergoing the procedure of cells', tissues' and organs' collection – a certificate issued by the doctor with a standard form, pursuant to Article 53 (3) of the act of 25 June 1999 on social insurance financial allowances in case of disease and maternity;
- 2) in the case referred to in Article 6 (2)(1) of the act of 25 June 1999 on social insurance financial allowances in case of disease and maternity – a decision issued by a competent body or an authorized entity by virtue of regulations on preventing and fighting humans' infections and contagious diseases;
- 3) in the case of maternity leave – for the period before the delivery: a medical certificate issued with a standard form, specifying the estimated date of delivery, for the period after the delivery: an abbreviated transcript of the child's birth certificate or its copy;
- 4) if it is necessary for a public prosecutor to take care personally of a child below the age of 8 in case of an unforeseen closing of a crèche, kindergarten or school which the child attends – the public prosecutor's declaration.

§ 8. The medical certificate is delivered with the use of the information profile referred to in Article 58 (1) of the act of 25 June 1999 on social security financial allowances in case of disease and maternity, following the principles specified in that act. Public prosecutors who are immediate superiors use or create the information profile of the contribution payer referred to in Article 58 (1) of that act.

§ 9. The printout of the medical certificate referred to in Article 55a (6) of the act of 25 June 1999 on social security financial allowances in case of disease and maternity, the medical certificate referred to in Article 55a (7) of that act, the certificate issued by a doctor with a standard form in the cases referred to in § 7 (1) and (3), the abbreviated transcript of the child's birth certificate or its copy must be delivered by the public prosecutor to the public prosecutor who is his/her immediate superior within 7 days from the date of their receipt.

§ 10. A public prosecutor is obliged to submit the declaration of circumstances referred to in § 7 (4) to the public prosecutor who is his/her immediate superior within 7 days from the emergence of those circumstances.

§ 11. In case of failure to perform the obligation referred to in § 9 or 10, the absence is considered as unjustified, unless the failure to deliver the certificate, decision, transcript of the child's birth certificate or its copy, or the failure to submit the declaration is due to reasons beyond the public prosecutor's control.

§ 12. A public prosecutor has the right to a salary for any other justified absence from work.

§ 13. In cases in which employees covered by social insurance have the right to allowances regardless of the right to a salary, a public prosecutor has the right to a financial benefit equal to the amount of the social insurance allowance.

Article 116. § 1. The National Public Prosecutor may grant a paid health leave to a public prosecutor.

§ 2. A health leave cannot exceed 6 months and cannot be granted if the public prosecutor has not performed his/her duties for a period of one year due to an illness.

Article 117. § 1. The provisions of Article 94a and Article 94b of the act of 27 July 2001 – Act on the structure of courts with general jurisdiction apply accordingly to public prosecutors.

§ 2. A one-off compensation is granted or refused, and its amount is specified, by way of decisions, by:

- 1) the competent regional public prosecutor – in the case of an accident at work or an occupational disease of a public prosecutor of a regional and district public prosecutor's office and a district public prosecutor;
- 2) the competent provincial public prosecutor – in the case of an accident at work or an occupational disease of a public prosecutor of a provincial public prosecutor's office and a regional public prosecutor;
- 3) the Director of the Chief Commission – in the case of an accident at work or an occupational disease of a public prosecutor of the Institute of National Remembrance;
- 4) the Director of the Vetting Office – in the case of an accident at work or an occupational disease of a public prosecutor of the Vetting Office and a public prosecutor of a branch vetting office;
- 5) the National Public Prosecutor – in the case of an accident at work or an occupational disease of a public prosecutor of the National Public Prosecutor's Office, a provincial public prosecutor, a public prosecutor of a Branch Division of the Department for Organized Crime and Corruption of the National Public Prosecutor's Office;
- 6) the Public Prosecutor General – in the case of an accident at work or an occupational disease of the National Public Prosecutor and the Public Prosecutor General's other deputies, or a public prosecutor delegated to perform duties in the Ministry of Justice.

§ 3. The compensation is paid by the body issuing the decision. If the decision concerns public prosecutors of the Institute of National Remembrance, the compensation is paid by the President of the Institute of National Remembrance.

Article 118. § 1. At the request of a superior public prosecutor, the Social Insurance Institution is authorized to control a public prosecutor's correct use of the medical sick leave in compliance with its purpose, as well as to control whether declaring a temporary inability to work due to an illness is correct and substantiated.

§ 2. A public prosecutor who is gainfully employed during the period of the declared inability to work, or uses the medical sick leave contrary to its purpose, loses the right to the salary for the entire leave period.

§ 3. A public prosecutor loses the right to the salary if he/she refuses to undergo a check-up or fails to deliver the medical records to the certifying physician of the Social Insurance Institution with the effect from the day following the fixed check-up date or following the fixed deadline for the medical records' delivery. The loss of the right to the salary is declared by the superior public prosecutor.

§ 4. The costs of control proceedings are paid with the budget funds at the disposal of the superior public prosecutor who has requested the control.

§ 5. The provisions of the act of 25 June 1999 on social security financial allowances in case of disease and maternity apply accordingly to controlling the correct use of a medical sick leave and to controlling whether declaring a temporary inability to work due to illness is correct and substantiated, as well as to the rules governing the loss of the right to a salary.

§ 6. The employer's rights provided for in Article 17 of the act of 26 October 1982 on upbringing in sobriety and counteracting alcoholism (Dz. U. 2015, entry 1286, 1893 and 1916) extend to the substances and products indicated in Article 3 of the act of 29 July 2005 on counteracting drug addiction (Dz. U. 2012, entry 124, as amended).

Article 119. § 1. A public prosecutor has the right to an additional annual holiday leave of:

- 1) 6 working days – after 10 years of work;
- 2) 12 working days – after 15 years of work.

§ 2. The period of work which determines the length of the holiday leave includes all periods of employment in a public prosecutor's office or a court in the positions of: public prosecutors and judges, assessors and trainees; in the Office of the Attorney General of the Republic of Poland in the positions of: the President, a vice-president, a counsellor of the Office of the Attorney General of the Republic of Poland; as well as the period of practising the profession of a lawyer or legal adviser, or holding an independent position in public authority bodies which was associated with a law-related activity, as well as other periods of work if that employment gave the right to an increased length of holiday leave.

§ 3. In case of an overlap of the right to holiday leave referred to in § 1 and 2 with the right to additional holiday leave provided for in the act of 11 September 2003 on the military service of professional soldiers, a public prosecutor has the right to one holiday leave of the greatest length.

Article 120. § 1. A public prosecutor has the right to a seniority bonus equal to:

- 1) after 20 years of work - 100% of the monthly salary;
- 2) after 25 years of work - 150% of the monthly salary;
- 3) after 30 years of work - 200% of the monthly salary;
- 4) after 35 years of work - 250% of the monthly salary;
- 5) after 40 years of work - 350% of the monthly salary;
- 6) after 45 years of work - 400% of the monthly salary.

§ 2. The period of work giving the right to the seniority bonus includes all previous closed periods of employment and other periods if by virtue of separate regulations they are included in the period of work determining employees' rights.

§ 3. For the calculation and payment of the seniority bonus, provisions relative to seniority recompenses referred to in regulations on employees of government offices apply accordingly.

Article 121. § 1. A public prosecutor should reside in the locality which is the seat of the prosecutorial body in which he/she performs service.

§ 2. In justified cases, a superior public prosecutor may give his/her permission for a public prosecutor taking up residence in another locality.

§ 3. Should the permission referred to in § 2 be given, the public prosecutor has the right to the reimbursement of costs of transfer from the place of residence to the prosecutorial body and to a branch of the prosecutorial body, determined in accordance with the rules applicable for determining the amount of benefits for service-related trips within the territory of the Republic of Poland. The public prosecutor does not have the right to the reimbursement of costs if the change of the place of service is due to the imposition of a disciplinary penalty consisting in a transfer to another place of service.

Article 122. § 1. A public prosecutor may be granted financial aid in the form of a financial loan for satisfying his/her housing needs. The above also applies to retired public prosecutors.

§ 2. Means for the financial aid constitute up to 5% of the annual public prosecutor's salaries' fund.

§ 3. Should a public prosecutor's service relationship be terminated in the way referred to in Article 93, the loan is repaid with an interest rate which reflects the average interest rate of household credits in zlotys for housing real estate, published by the National Bank of Poland.

§ 4. The Minister of Justice, in agreement with the minister in charge of public finances, shall specify, by means of a regulation, the method of scheduling and using funds for the financial aid, as well as the procedure and conditions for its granting, and the amount of a public prosecutor's own funds, taking into account the participation of public prosecutor's offices' boards or of the meeting of public prosecutors in granting the aid, as well as the principle of rational management of funds.

§ 5. The provisions of § 1 and 2 do not apply to public prosecutors who are professional soldiers.

Article 123. § 1. The basis for determining the basic salary of a public prosecutor in a given year is the average salary in the second quarter of the previous year, published in the Official Journal of the Republic of Poland *Monitor Polski* by the President of the Chief Statistical Office under Article 20 (2) of the act of 17 December 1998 on retirement pension and other pensions from the Social Insurance Fund (Dz. U. 2015, entry 748, as amended).

§ 2. If the average salary referred to in § 1 is lower than the average salary published for the second quarter of the year before, the basis for determining the basic salary of a public prosecutor stays the same.

Article 124. § 1. The salaries of public prosecutors in equivalent public prosecutor's positions vary according to the length of service or the performed functions. The basic salary of public prosecutors of district and regional public prosecutor's offices is equal to the basic salary of judges in the analogous organizational units of courts with general jurisdiction. The basic salary of public prosecutors of provincial public prosecutor's offices is equal to the basic salary of judges of appellate courts. The basic salary of public prosecutors of the National Public Prosecutor's Office is equal to the basic salary of judges of the Supreme Court. The functional supplements of the National Public Prosecutor and the Public Prosecutor General's other deputies are equal to the functional supplements of the First President of the Supreme Court and President of the Supreme Court, respectively.

§ 2. A public prosecutor's basic salary is specified by rates which are determined with the use of multipliers of the basis for determining the basic salary of a public prosecutor.

§ 3. A public prosecutor who assumes a position in:

- 1) a district public prosecutor's office – has the right to a basic salary at rate 1;
- 2) a regional public prosecutor's office – has the right to a basic salary at rate 4, or, if he/she has already been receiving a basic salary at rate 4 or 5 in a lower-ranking position – he/she has the right to a basic salary at rate 5 or 6, respectively;
- 3) a provincial public prosecutor's office – has the right to a basic salary at rate 7, or, if he/she has already been receiving a basic salary at rate 7 or 8 in a lower-ranking position – he/she has the right to a basic salary at rate 8 or 9, respectively.

§ 4. If a public prosecutor has held another, appropriately equivalent, position of a public prosecutor or a judge before assuming the position of a public prosecutor, he/she has the right to a basic salary in the newly assumed position at a rate at least equal to the salary rate to which he/she has had the right in the position held previously.

§ 5. A public prosecutor's basic salary is fixed at an immediately higher rate after another 5 years of work in a given position of a public prosecutor

§ 6. The period during which a public prosecutor's assessor has been entrusted with the administration of public prosecutor's is included in the period of work in the position of a public prosecutor of a district public prosecutor's office.

§ 7. In the case of a public prosecutor who has had the right to a basic salary at rate 4 or 5 at the moment of assuming a position in a regional public prosecutor's office, as well as a public prosecutor who has had the right to a basic salary at rate 7 or 8 at the moment of assuming a position in a provincial public prosecutor's office, the period of work necessary to be granted the salary at an immediately higher rate includes the period of work in an immediately lower-

ranking position in which the public prosecutor has had the right to a basic salary at rate 3 or 4, or 6 or 7, respectively.

§ 8. The period of work referred to in § 5 is extended by 3 years if a public prosecutor has been penalized with a disciplinary penalty or reproached twice for a transgression during that period.

§ 9. The provisions of § 2-8 do not apply to public prosecutors of the National Public Prosecutor's Office.

§ 10. A public prosecutor has the right to a functional supplement due to the performed function.

§ 11. A public prosecutor has the right to a seniority supplement in the amount of 5% of the basic salary currently received by the public prosecutor from the 6th year of work onwards, increased by 1% of that salary with each subsequent year of work, until the amount reaches 20% of the basic salary. After 20 years of work, the supplement is paid in the amount of 20% of the basic salary currently received by the public prosecutor, regardless of the length of service exceeding that period.

§ 12. The Council of Ministers shall specify, by means of a regulation:

- 1) basic salary rates in individual prosecutorial positions and multipliers for determining the basic salary of public prosecutors at individual rates, taking into consideration the principles specified in § 1;
- 2) the list of functions performed by public prosecutors and the amount of associated functional supplements, and the amount of the functional supplement for public prosecutors delegated to the National Public Prosecutor's Office, the Ministry of Justice or the National School of Judiciary and Public Prosecution, as well as the way of calculating them, taking into account the scope of duties, type of function and size of an organizational body.

Article 125. In matters not specified in this act, regulations on professional soldiers apply to public prosecutors for military matters who are professional soldiers.

Article 126. § 1. Social insurance contributions are not paid out of public prosecutors' salaries.

§ 2. If a public prosecutor's service relationship is terminated in the way referred to in Article 93, a contribution prescribed for his/her period of service by the provisions of the act of 13 October 1998 on the social insurance system (Dz. U. 2015, entry 121, as amended) is transferred to the Social Insurance Institution out of the salary paid to the public prosecutor during that period out of which the social insurance contribution has not been paid.

§ 3. The social insurance contribution referred to in § 2 is re-assessed:

- 1) for the period before 31 December 1998 – with the salary growth index based on the growth of projected average salary, specified annually in the budget act, which used to be the basis for determining the funds and limits for judges' salaries;
- 2) for the period after 1 January 1999 – with the contribution re-assessment index determined on the basis of the provisions of the act of 17 December 1998 on retirement pension and other pensions from the Social Insurance Fund.

§ 4. Article 19 (1) of the act of 13 October 1998 on the social insurance system applies accordingly to the calculation of the amount of the due contributions, re-assessed pursuant to § 3 (2).

§ 5. The contribution referred to in § 2 is not transferred if the public prosecutor resigned from the office due to being assigned to a judge's position. If the judge's service relationship is subsequently terminated or expires in the way referred to in Article 68 of the act of 27 July 2001 – Act on the structure of courts with general jurisdiction, the contribution due for a period of service in the position of a public prosecutor is transferred in accordance with the rules specified in § 2-4.

§ 6. In case of a loss of the right to retirement and remuneration in the situations referred to in Article 104 § 5 of the act of 27 July 2001 – Act on the structure of courts with general jurisdiction, the provisions of § 2 and 3 and the provisions of the regulation adopted under Article 129 apply accordingly.

Article 127. § 1. Unless the provisions of this act stipulate otherwise, the provisions of Article 69-71, Article 73, Article 74, Article 76, Article 85 § 4, Article 99-102 and Article 104 of the act of 27 July 2001 – Act on the structure of courts with general jurisdiction apply accordingly to public prosecutors. The rights of the National Council of the Judiciary and the Minister of Justice specified in the act of 27 July 2001 – Act on the structure of courts with general jurisdiction are exercised by the Public Prosecutor General towards public prosecutors, and the rights of boards and presidents of competent courts are exercised by competent superior public prosecutors.

§ 2. A public prosecutor may continue to hold a position after reaching the age of 67 or after reaching the age specified in Article 69 § 1a of the act of 27 July 2001 – Act on the structure of courts with general jurisdiction if the Public Prosecutor General gives permission to the public prosecutor to continue to hold his/her position, at the public prosecutor's request, after submitting a certificate declaring that his/her health allows him/her to perform the public prosecutor's duties, and after seeking the opinion of the National Public Prosecutor, the National Council of Public Prosecutors and the competent superior public prosecutor.

§ 3. The request and the certificate referred to in § 2 are submitted to the Public Prosecutor General no later than 6 months before reaching the age of 67 or before reaching the age specified in Article 69 § 1a of the act of 27 July 2001 – Act on the structure of courts with general jurisdiction. If the proceedings relative to the request examination are not completed, the public prosecutor remains in service until the proceedings' completion, including proceedings before the Supreme Court.

§ 4. The Public Prosecutor General's decision on the matter referred to in § 2 is subject to appeal to the Supreme Court.

§ 5. The Public Prosecutor General notifies the National Public Prosecutor about the decision on the matter referred to in § 2, on retiring a public prosecutor and on returning a retired public prosecutor to the position held previously or equivalent.

§ 6. The Public Prosecutor General lists the data concerning retired public prosecutors, to the extent specified in Article 68a (1) of the act of 13 October 1998 on the social insurance system, in the Electronic Exchange of Social Security Information referred to in Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ UE L 284, 30.10.2009, p. 1, as amended) via a contact point run by the Social Insurance Institution.

Article 128. § 1. If a public prosecutor for military matters who is a professional soldier is dismissed from professional military service, he/she remains in the position of a public prosecutor in a given prosecutorial body, regardless of the number of prosecutorial positions in that body.

§ 2. The right to military retirement pension or military pension is suspended if the person referred to in § 1 remains in a prosecutorial position after being dismissed from professional military service.

§ 3. In case of an overlap of the right to remuneration for retired public servants with the right to military retirement pension or military pension, the eligible person receives exclusively the benefit which is higher or which he/she chooses.

Article 129. The Minister of Justice, in agreement with the minister in charge of labour matters, shall specify, by means of a regulation, the method and procedure for determining and payment of remunerations and family remunerations to retired public prosecutors and their family members, as well as deadlines for transferring the contributions referred to in Article 126 § 2 to the Social Insurance Institution, taking into consideration the need to ensure to the eligible persons the continuity of sources of maintenance and convenience in the collection of remunerations and family remunerations.

Article 130. In matters not specified in this act, the provisions of the act of 16 September 1982 on employees of government offices (Dz. U. 2013, entry 269, 2014, entry 1199, and 2015,

entry 1220) apply accordingly to public prosecutors, and in matters not specified by the provisions of that act, either, the provisions of the Labour Code apply.

Article 131. § 1. If a public prosecutor is called up to non-professional military service, with the exception of the situation referred to in Article 3 § 4, his/her service-related rights and obligations are suspended for a period of military service. The public prosecutor retains his/her position and right to the salary, and the period of military service is included in the period of service in the position of a public prosecutor

§ 2. Other particular rights associated with the service relationship of a public prosecutor called up to and dismissed from active military service are regulated by the provisions of the act of 21 November 1967 on the universal obligation of defence of the Republic of Poland (Dz. U. 2015, entry 827, as amended), and the act of 11 September 2003 on the military service of professional soldiers.

§ 3. A public prosecutor called up to non-professional military service performs this service in divisions of universal prosecutorial bodies responsible for matters subject to the jurisdiction of military courts, in military courts, or in positions related to providing judicial assistance.

§ 4. The provision of § 3 does not apply to military training for the purpose of nomination to the first officer grade.

§ 5. A public prosecutor for military matters who is a professional soldier may be referred to service in a military unit outside of the Republic of Poland in accordance with the rules specified in the act of 17 December 1998 on the rules for the use or stay of the Armed Forces of the Republic of Poland abroad (Dz. U. 2014, entry 1510).

Article 132. § 1. A public prosecutor nominated, appointed or selected to be in charge of a function in a government body, a local government body, diplomatic service, consular service, a body of an international or supranational organization operating by virtue of international agreements ratified by the Republic of Poland is obliged to resign from his/her position, unless he/she retires.

§ 2. The provision of § 1 does not apply to a public prosecutor's appointment to the position of an under-secretary of state in the Ministry of Justice. In that case, the public prosecutor is delegated to the Ministry of Justice for a period of being in charge of that function pursuant to Article 106 § 1.

§ 3. A retired public prosecutor who has assumed a seat in the Sejm or the Senate is obliged to resign from retirement for the term of office.

§ 4. A public prosecutor who has resigned from his/her position for the reasons specified in § 1 may return to the previously held position of a public prosecutor

§ 5. In the case specified in § 4, at the public prosecutor's request, the Public Prosecutor General appoints the public prosecutor who has resigned from his/her position to the previously held position of a public prosecutor, regardless of the number of positions in a given universal prosecutorial body, unless he/she does not meet the requirements for being appointed to the position of a public prosecutor.

§ 6. In case of refusal to make the appointment referred to in § 5, the public prosecutor has the right to lodge a complaint to the Supreme Court.

§ 7. In the case specified in § 3, after the expiration of the Sejm or Senate seat, the public prosecutor returns to previous retirement by the operation of law.

Article 133. § 1. Public prosecutors who display initiative at work, perform their duties impeccably and conscientiously, and make an exceptional contribution to the execution of official tasks may be granted awards and distinctions by the Public Prosecutor General or the National Public Prosecutor.

§ 2. The types of distinctions and awards, as well as procedure for their granting are specified by the Public Prosecutor General. An award may also be a promotion earlier than provided for in the provisions on salary or appointment to a higher official position or in special provisions. For that purpose, the Public Prosecutor General or National Public Prosecutor establish award funds.

§ 3. Public prosecutors for military matters who are professional soldiers cannot be granted merit awards granted by the Minister of National Defence.

Article 134. § 1. The competent regional public prosecutor keeps a separate service-related register for each public prosecutor of a district and regional public prosecutor's office, containing essential data concerning his/her official and personal relationships which affect the prosecutorial service, as well as data on completed training courses and forms of professional upgrading, as well as other circumstances indicating a specialization in specific branches of law or in handling specific types of cases. The competent provincial public prosecutor keeps such a register for public prosecutors of the provincial public prosecutor's office.

§ 2. The National Public Prosecutor keeps the register referred to in § 1 for public prosecutors of the National Public Prosecutor's Office, whereas the President of the Institute of National Remembrance – for public prosecutors of the Chief Commission, public prosecutors of branch commissions, public prosecutors of the Vetting Office and public prosecutors of branch vetting offices.

§ 3. The Public Prosecutor General shall specify, by means of a regulation, the template for the service-related register and method of its keeping on the basis of personal records kept for a public prosecutor, documents and other information certifying the data included in the records.

§ 4. The National Public Prosecutor, a provincial public prosecutor, a regional public prosecutor and the President of the Institute of National Remembrance transmit up-to-date information on public prosecutors and public prosecutor's assessors immediately to the Public Prosecutor General. The information includes a public prosecutor's or a public prosecutor's assessor's first name and surname, date of his/her appointment or nomination, as well as information about suspension in duties.

§ 5. On the basis of information transmitted by the National Public Prosecutor, provincial public prosecutors, regional public prosecutors and the President of the Institute of National Remembrance, the Public Prosecutor General keeps a register of public prosecutors and public prosecutor's assessors containing the information referred to in § 4 with the use of a computerised system.

§ 6. The Public Prosecutor General ensures the courts' access to the register of public prosecutors and public prosecutor's assessors via a computerised system.

Chapter 3

Public prosecutors' criminal, disciplinary and service-related liability

Article 135. § 1. A public prosecutor and the Public Prosecutor General cannot be prosecuted nor temporarily detained without the permission of a disciplinary court, nor detained without the permission of a disciplinary superior. The above does not apply to being detained *in flagranti* in the commission of the offence. Until a permission is given to prosecute a public prosecutor or the Public Prosecutor General, only measures of the utmost urgency are allowed, and they need to be immediately notified to the superior public prosecutor. In case of the Public Prosecutor General, the person notified is the President of the Council of Ministers.

§ 2. Until a motion for a permission to prosecute a public prosecutor or a joint motion for a permission to prosecute and temporarily detain a public prosecutor has been examined, the disciplinary court may order an immediate release of a public prosecutor detained *in flagranti*.

§ 3. A motion for a permission to prosecute a public prosecutor, unless it originates with a public prosecutor, is drawn up and signed by a representative who is a lawyer or a legal adviser.

§ 4. If a motion for a permission to prosecute a public prosecutor or a motion for a permission to temporarily detain a public prosecutor does not meet the formal requirements of a procedural writ specified in the act of 6 June 1997 – Code of Criminal Procedure (Dz. U. Nr 89, entry 555, as amended), the president of the disciplinary court refuses to accept it by issuing a

relevant order. It is possible to appeal against the order refusing to accept the motion to the disciplinary court within 7 days from the date of the order's service.

§ 5. The disciplinary court adopts a resolution permitting to prosecute a public prosecutor and a resolution permitting to temporarily detain a public prosecutor if there is a sufficiently grounded suspicion of him/her having committed a crime. The disciplinary court examines the motion in a sitting within 14 days from the date of its receipt.

§ 6. The disciplinary court enters a judgment on the basis of the motion and evidence attached by the proposer of a motion, and in particularly justified cases may take additional evidence. The disciplinary court requests the public prosecutor whom the motion concerns to submit a written statement about the motion or to appear in person in order to collect an oral statement from him/her. The appearance of the parties is not obligatory.

§ 7. The public prosecutor whom the proceedings concern has the right to access the documents attached to the motion. If a public prosecutor, when submitting the motion to the disciplinary court, has stipulated that in the interest of preparatory proceedings, those documents or a part of them cannot be made accessible, the decision regarding that stipulation is made by the disciplinary court, whose resolution on that matter is final.

§ 8. When making a decision regarding a motion for a permission to prosecute a public prosecutor, a motion for a permission to temporarily detain a public prosecutor, or the stipulation referred to in § 7, the disciplinary court adopts a resolution by the majority of votes. The resolution contains the decision with a statement of reasons.

§ 9. The resolution is served immediately to the proposer of the motion, the public prosecutor whom the motion concerns, and the disciplinary accuser.

§ 10. If a public prosecutor has been detained *in flagranti* in the commission of a crime and is still being detained, it is possible to submit a motion for a permission to prosecute him/her and a motion for a permission to temporarily detain him/her outside of the disciplinary court's working hours, ordering at the same time the public prosecutor's compulsory appearance in the sitting. The court assembles immediately, on the same day, with the possibility to appoint an adjudicating panel without the president, without regard to the rules provided for in Article 147 § 1, and the adopted resolution becomes enforceable at the moment of its announcement.

§ 11. Within 7 days from the date of service of the resolution refusing to grant permission for prosecuting a public prosecutor or for his/her temporary detainment, the proposer of the motion and the disciplinary accuser have the right to make a complaint to the Disciplinary Court of Appeal. Within the same deadline, the public prosecutor has the right to make a complaint against a resolution permitting his/her prosecution or his/her temporary detainment.

§ 12. The president of the Disciplinary Court of Appeal transmits the copies of appeals to other persons mentioned in § 11, who have the right to make written observations on the appeal within 7 days from the date of their service.

§ 13. The Disciplinary Court of Appeal enters a judgment in a sitting with the participation of the proposer of the motion, the public prosecutor whom the motion concerns, and the disciplinary accuser. Unless the court decides otherwise, the parties' failure to appear is not an impediment to the case's examination.

§ 14. With regard non-specified matters, provisions on disciplinary proceedings apply accordingly to cases concerning a permission to prosecute a public prosecutor and to cases concerning his/her temporary detainment or a resolution on the stipulation referred to in § 7.

§ 15. The provisions of § 2-14 apply accordingly to the Public Prosecutor General.

Article 136. Preparatory proceedings against a public prosecutor are initiated and handled exclusively by a public prosecutor.

Article 137. § 1. A public prosecutor is liable to disciplinary action for service-related misconducts, including a manifest and glaring infringement of the law and impairments of the dignity of office (disciplinary misconducts).

§ 2. A public prosecutor's action or omission performed exclusively in public interest is not a disciplinary misconduct.

§ 3. A public prosecutor is also liable to disciplinary action for his/her conduct before assuming the position if he/she breached the duties or impaired the dignity of a public office held at the time, or proved to be unworthy of the office of public prosecutor.

§ 4. In case of an abuse of the freedom of speech when performing official duties which is an insult, prosecuted by private accusation, to a party, a party's representative or defence counsel, a guardian, a witness, an expert or an interpreter, a public prosecutor is only liable to disciplinary action.

Article 138. § 1. In case of petty crimes, a public prosecutor is only liable to disciplinary action, subject to § 3-5.

§ 2. Article 51 § 1 of the act of 27 July 2001 – Act on the structure of courts with general jurisdiction applies to a public prosecutor who is a participant or a witness in court proceedings.

§ 3. A public prosecutor may consent to be prosecuted for petty crimes referred to in § 4 following the procedure specified in that provision.

§ 4. If a public prosecutor commits a petty crime referred to in chapter XI of the act of 20 May 1971 – Petty Crimes Code (Dz. U. 2015, entry 1094, as amended), the public prosecutor's acceptance of a penalty notice or payment of a fine in case of being penalised with a fine imposed in the absence of a person referred to in Article 98 § 1 (3) of the act of 24 August 2001 – Petty Crimes Procedure Code (Dz. U. 2013, entry 395, as amended), is a declaration of consent to being prosecuted in that form.

§ 5. A public prosecutor's consent to being prosecuted in accordance with the procedure specified in § 4 excludes disciplinary liability.

Article 139. § 1. Should a substantial misconduct be found with regard to the efficiency of preparatory proceedings, the superior public prosecutor may reprove the public prosecutor in writing and demand that the misconduct's effects be remedied.

§ 2. The reprovved public prosecutor may, within 7 days, submit a written objection to the reprovving superior public prosecutor, which does not release him/her from the obligation to remedy immediately the misconduct's effects. The reprovved public prosecutor notifies the superior public prosecutor of the measures that have been taken to this end.

§ 3. If an objection is submitted, the reprovving superior public prosecutor revokes the reprovval or submits the case for examination to the disciplinary court.

§ 4. The disciplinary court issues a decision which either upholds the reprovval as valid or revokes the reprovval and discontinues the proceedings after hearing out the disciplinary accuser and the reprovved public prosecutor, unless hearing them out is not possible. The disciplinary court's decision is not subject to appeal.

§ 5. A copy of the document with the reprovval that has not been revoked is attached to the public prosecutor's personal file.

§ 6. After 2 years since the reprovval became final, the Public Prosecutor General or the competent provincial or regional public prosecutor orders the removal of the document's copy referred to in § 5 from the public prosecutor's personal file if no other misconduct has been found during that period with regard to the efficiency of preparatory proceedings resulting in a reprovval, if the public prosecutor has not been reproached for an infringement following the procedure specified in Article 140 § 1, no disciplinary sanction has been imposed or no disciplinary misconduct has been found. In that case, it is only allowed to simultaneously remove the copies of all those documents and judgments from the public prosecutor's personal file. At the public prosecutor's request, the copies may already be removed after one year.

§ 7. The Public Prosecutor General may reprove a provincial, regional and district public prosecutor in writing if he/she finds a substantial misconduct with regard to heading a public prosecutor's office or exercising supervision. The provisions of § 2-6 apply accordingly.

§ 8. The right referred to in § 7 can also be exercised by the Public Prosecutor General towards the National Public Prosecutor and the Public Prosecutor General's other deputies, by a provincial public prosecutor towards a regional and district public prosecutor operating within the province, and by a regional public prosecutor towards a subordinate district public prosecutor. When a provincial public prosecutor reprovves a district public prosecutor, he/she

notifies the competent regional public prosecutor and, in the case of any more grievous misconduct, the Public Prosecutor General. The provisions of § 2-6 apply accordingly.

§ 9. The provision of Article 141 § 1 applies accordingly.

Article 140. § 1. Should a manifest infringement of the law with regard to handling a case be found, the superior public prosecutor, without prejudice to other rights, reproaches the public prosecutor who has committed that infringement, having first requested an explanation. Finding and reproaching an infringement does not affect the case's settlement.

§ 2. The reproached public prosecutor may, within 7 days, submit an objection in writing to the reproaching superior public prosecutor, which does not release him/her from the obligation to remedy the infringement's effects.

§ 3. If an objection is submitted, the reproaching superior public prosecutor revokes the reproach or submits the case for examination to the disciplinary court.

§ 4. The disciplinary court issues a decision which either upholds the reproach as valid or revokes the reproach and discontinues the proceedings after hearing out the disciplinary accuser and the reproached public prosecutor, unless hearing them out is not possible. The reproached public prosecutor may make an appeal against a decision refusing to take his/her objection into consideration. The appeal is examined by the same disciplinary court sitting in a different, equivalent formation.

§ 5. A copy of the document with the reproach that has not been revoked is attached to the public prosecutor's personal file.

§ 6. If a provincial public prosecutor reproaches a public prosecutor of a district public prosecutor's office, he/she notifies the competent regional public prosecutor and, in case of any more grievous infringement, the Public Prosecutor General.

§ 7. The provisions of 139 § 6 and Article 141 § 1 apply accordingly.

Article 141. § 1. Disciplinary proceedings cannot be initiated after more than 5 years since the act was committed, and they are discontinued in case of their unlawful initiation,.

§ 2. If disciplinary proceedings have been initiated before the deadline referred to in § 1, disciplinary prescription takes place 8 years after the act. Despite the prescription referred to in the previous sentence, the disciplinary court either finds the public prosecutor guilty of a disciplinary misconduct, discontinuing the proceedings with regard to the infliction of a disciplinary penalty, or acquits the accused public prosecutor.

§ 3. If a disciplinary misconduct shows all features of a crime, the prescription of disciplinary punishability cannot take place before the prescription specified in the relevant provisions of the act of 6 June 1997 – Penal Code (Dz. U. Nr 88, entry 553, as amended).

Article 142. § 1. Disciplinary penalties include:

- 1) admonition;
- 2) reprimand;
- 3) dismissal from function;
- 4) transfer to another place of service;
- 5) dismissal from prosecutorial service.

§ 2. Infliction of the penalty specified in § 1 (1) results in depriving the public prosecutor of the possibility of being promoted to a higher prosecutorial position for a period of 3 years, infliction of the penalty specified in § 1 (3) results in depriving the public prosecutor of the possibility of regaining the function from which he/she has been dismissed, and infliction of the penalties specified in § 1 (2)-(4) results in depriving the public prosecutor of the possibility of being promoted to a higher prosecutorial position for a period of 5 years and in an impossibility to participate in the public prosecutors' assembly, the public prosecutor's office's board and the disciplinary court during that period.

§ 3. Infliction of the penalty specified in § 1 (5) results in the penalised person losing the possibility to be re-appointed for service in a prosecutorial position for a period of 10 years.

§ 4. When inflicting the penalty specified in § 1 (4), the disciplinary court may simultaneously inflict the penalty specified in § 1 (3).

§ 5. In case of a disciplinary misconduct of lesser importance, the disciplinary court may refrain from inflicting a penalty.

Article 143. § 1. If a disciplinary misconduct shows all features of a crime, the disciplinary court issues the permission referred to in Article 135 § 1, which does not result in a stay of disciplinary proceedings.

§ 2. After final termination of criminal proceedings against a public prosecutor, a court or a public prosecutor transmits the case dossier to the competent disciplinary court.

Article 144. The Public Prosecutor General is the disciplinary superior of public prosecutors of universal prosecutorial bodies, the provincial public prosecutor is the disciplinary superior of public prosecutors of the provincial public prosecutor's office, public prosecutors of regional public prosecutor's offices and district public prosecutor's offices in the area of operations of the provincial public prosecutor's office, and the regional public prosecutor is the disciplinary superior of public prosecutors of the regional public prosecutor's office and public prosecutors of district public prosecutor's offices in the area of operations of the regional public prosecutor's office.

Article 145. § 1. The matters indicated in this chapter are settled by disciplinary courts operating under the Public Prosecutor General:

- 1) in the first instance – Disciplinary Court;
- 2) in the second instance – Disciplinary Court of Appeal.

§ 2. The president and the president's deputy of a disciplinary court are appointed by the Public Prosecutor General for a 4-year term of office from among public prosecutors who have been elected members of disciplinary courts.

§ 3. The term of office of members of disciplinary courts begins at the moment of the presidents' appointment and lasts 4 years.

§ 4. Members of disciplinary courts are independent with regard to passing judgments and are only subject to the laws.

§ 5. Disciplinary courts may pass judgments in off-site sessions in a provincial or regional public prosecutor's office in whose area of competence the accused holds the position of a public prosecutor or, in exceptional cases, in another place, unless the interest of the system of justice requires otherwise.

Article 146. The Disciplinary Court and the Disciplinary Court of Appeal enter judgments in a panel of 3 members. The adjudicating panel of the second instance cannot include a disciplinary court member who has contributed to passing the judgment that is appealed against.

Article 147. § 1. The composition of the disciplinary court is determined by the president following the list of all judges of a given court, according to the order of the receipt of cases, provided that the composition of the court includes at least one public prosecutor from a prosecutorial body equivalent to the one in which the accused performed service or administered service-related acts until the commission of the act. A departure from the order of the receipt of cases is only possible in case of a court member's illness or another valid reason, which has to be indicated in the order fixing the date of a hearing or sitting. The composition of a disciplinary court is presided over by the public prosecutor appointed by the president.

§ 2. The reporter may be a public prosecutor, a public prosecutor's assessor or another person appointed by the president of the disciplinary court.

Article 148. § 1. Disciplinary proceedings before a disciplinary court are open.

§ 2. A disciplinary court may decide to institute disciplinary proceedings in camera for reasons of morals, state security and public order, as well as in order to protect the parties' private life, for reasons of another important private interest or an important interest of preparatory proceedings.

§ 3. Should disciplinary proceedings be instituted in camera, the judgment is delivered openly.

§ 4. A disciplinary judgment may be made publicly known after it has become final, pursuant to a resolution of the disciplinary court adopted *ex officio* or at a party's request, in the way specified by the resolution, which is not subject to appeal.

§ 5. Dossiers of finally terminated disciplinary proceedings are made publicly accessible in accordance with the rules specified in the law of 6 September 2001 on access to public information.

Article 149. § 1. For disciplinary misconducts of lesser importance which do not justify the initiation of disciplinary proceedings, the superior public prosecutor imposes on subordinate public prosecutors the disciplinary sanction of admonition.

§ 2. The copy of the document by which the disciplinary sanction of admonition has been imposed is attached to the public prosecutor's personal file.

§ 3. The public prosecutor penalised with the disciplinary sanction of admonition may, within 7 days from the date of the admonition's service to him/her, submit an objection to the public prosecutor who is the immediate superior of the public prosecutor who has imposed that sanction.

§ 4. If an objection is submitted, the superior public prosecutor referred to in § 3 revokes the disciplinary sanction of admonition and discontinues the relevant proceedings or revokes the disciplinary sanction and submits the case for examination to a disciplinary court through the disciplinary accuser.

§ 5. After 3 years since the disciplinary sanction of admonition became final, the Public Prosecutor General or the competent provincial or regional public prosecutor orders the removal of the copy of the document referred to in § 2 from the public prosecutor's personal file if no other misconduct has been found during that period with regard to the efficiency of preparatory proceedings, heading a public prosecutor's office or exercising supervision, resulting in a reproof, the public prosecutor has not been reproached following the procedure specified in Article 140 § 1, or no disciplinary misconduct has been found. In that case, it is only allowed to simultaneously remove the copies of all those documents and judgments from the public prosecutor's personal file. At the public prosecutor's request, the copies may already be removed after one year.

§ 6. In the situation described in § 4, the disciplinary court pronounces a disciplinary judgment after hearing out the disciplinary accuser and the public prosecutor penalised with the disciplinary sanction of admonition, unless hearing them out is impossible.

§ 7. The judgment referred to in § 6 is subject to appeal.

§ 8. The appeal is examined by the Disciplinary Court of Appeal.

Article 150. § 1. A public prosecutor may be suspended in duties for a period of 6 months if it is necessary to immediately prevent him/her from performing duties due to the nature of the disciplinary misconduct. Suspension in duties does not release the public prosecutor from the obligation to remain at the superior's disposal and perform the duties which are defined precisely in the order on the suspension in duties, but which nevertheless cannot include administration of acts reserved by the law to a public prosecutor.

§ 2. The right to suspend in duties may be exercised by disciplinary superiors. The decision on a suspension in duties is subject to appeal to a disciplinary court. The disciplinary court's judgment on the suspension is not subject to appeal.

§ 3. In justified cases, a public prosecutor's suspension in duties may be extended by a disciplinary court upon a motion of the Public Prosecutor General or a provincial public prosecutor for a further necessary period of time. The decision on extending the period of suspension in duties is subject to appeal to the Disciplinary Court of Appeal.

§ 4. Suspension in duties expires by operation of law if within 6 months from the date of suspension, no disciplinary proceedings have been initiated against the public prosecutor, as well as, subject to § 6 and 7, at the moment of the proceedings' final termination.

§ 5. In the course of proceedings before a disciplinary court, the disciplinary court may at any moment revoke the suspension in duties.

§ 6. When pronouncing a disciplinary judgment, the Disciplinary Court of Appeal may decide to maintain in force the suspension in duties until the day of lodging a cassation or the deadline of its lodging.

§ 7. If a cassation is lodged, the suspension in duties remains in force until the cassation has been examined, unless the Supreme Courts revokes it at an earlier time.

§ 8. The disciplinary superior may at any time revoke suspension in duties, including the cases referred to in § 6 and 7.

Article 151. § 1. In case of a final permission to prosecute a public prosecutor, as well as when a motion for legal incapacitation has been submitted to the relevant court, the disciplinary superior may suspend the public prosecutor in duties until the final termination of the proceedings. The decision on the suspension in duties is subject to appeal to a disciplinary court. The disciplinary court's judgment on the suspension is not subject to appeal. The disciplinary superior may at any moment revoke the suspension in duties.

§ 2. The suspension in duties referred to in § 1 is obligatory if the issued permission to prosecute a public prosecutor concerns an intentional crime prosecuted by public indictment liable to punishment of imprisonment of at least 5 years. In that case, the suspension cannot be revoked until the final termination of the proceedings.

Article 152. § 1. If a public prosecutor has been suspended in duties, a disciplinary court may, upon a motion of the disciplinary superior, decrease the public prosecutor's salary to 50% for the suspension period.

§ 2. The decision on decreasing the salary is subject to appeal.

§ 3. If no disciplinary proceedings have been initiated within 6 months since the day of suspension in duties, or if disciplinary proceedings have been discontinued or has ended in an acquittal, the public prosecutor receives the retained share of the salary with statutory interest.

Article 153. § 1. Disciplinary accusers are: the Public Prosecutor General's disciplinary accuser, the Public Prosecutor General's disciplinary accuser's first deputy, and the disciplinary accuser's deputies, one for each provincial area. Disciplinary accusers are appointed by the Public Prosecutor General for a term of office from among public prosecutors.

§ 2. The Public Prosecutor General's disciplinary accuser's and the Public Prosecutor General's disciplinary accuser's first deputy's term of office lasts 6 years, whereas the term of office of the disciplinary accuser's deputies appointed to a given provincial area lasts 4 years.

§ 3. A disciplinary accuser initiates and handles discovery and disciplinary proceedings in the course of which, in matters not specified by the act, the provisions of the act of 6 June 1997 – Code of Criminal Procedure apply accordingly. A disciplinary accuser is the prosecutor before a disciplinary court, authorized to submit motions and declarations as well as to lodge and back appeals.

§ 4. The Public Prosecutor General may dismiss the Public Prosecutor General's disciplinary accuser, the Public Prosecutor General's disciplinary accuser's first deputy and the disciplinary accuser's deputy appointed to a given provincial area from his/her function before the end of the term of office if there is a grounded suspicion of him/her having committed of a manifest and glaring infringement of the law or impairment of the dignity of the office, in particular with regard to actions or omissions relative to preliminary discovery and disciplinary proceedings, as well as when the judgment referred to in Article 161 § 1 has been pronounced.

§ 5. In the case referred to in § 4, acts against a disciplinary accuser's deputy appointed to a given provincial area are administered by the Public Prosecutor General's disciplinary accuser or the Public Prosecutor General's disciplinary accuser's first deputy, whereas the acts against the Public Prosecutor General's disciplinary accuser and the Public Prosecutor General's disciplinary accuser's first deputy are administered by the Public Prosecutor General's deputy who has the rights and obligations of a disciplinary accuser in that matter.

Disciplinary proceedings in the situation referred to in Article 161 § 1 are initiated immediately after the disciplinary court's decision becomes final.

§ 6. The Public Prosecutor General's disciplinary accuser, the Public Prosecutor General's disciplinary accuser's first deputy and the disciplinary accuser's deputies for given provincial areas are bound by guidelines of the body authorized with regard to handling preliminary investigation.

§ 7. The Public Prosecutor General's disciplinary accuser and the Public Prosecutor General's disciplinary accuser's first deputy are authorized to take over any case handled by the disciplinary accuser's deputy for a given provincial area if they deem it justified by the interest of the public prosecutor's office or of the system of justice. In particular, they may personally initiate and handle disciplinary proceedings, submit a motion for the examination of a disciplinary case to a disciplinary court, appear as prosecutors before disciplinary courts, lodge appeals and administer other acts provided for by the law.

§ 8. In case of an impediment to the performance of duties by the Public Prosecutor General's disciplinary accuser, his/her duties are taken over by the Public Prosecutor General's disciplinary accuser's first deputy until the cessation of the impediment, unless the Public Prosecutor General entrusts that function to another public prosecutor for a determinate period of time.

Article 154. § 1. Disciplinary accusers carry out discovery proceedings at the request of the Public Prosecutor General, the competent provincial or regional public prosecutor, as well as on their own initiative, after preliminary clarification of the circumstances necessary to determine the features of a misconduct, as well as after the public prosecutor has submitted a statement or explanations in writing, unless such a submission is not possible. In case of every initiation of discovery proceedings, the competent accuser immediately notifies the Public Prosecutor General's disciplinary accuser, who may refer further proceedings to another accuser.

§ 2. After the proceedings referred to in § 1, if there are no grounds for initiating disciplinary proceedings, the disciplinary accuser issues a decision refusing to initiate such proceedings. The copy of the decision is served to the Public Prosecutor General and the body that requested disciplinary action.

§ 3. Within 7 days from the date of service of the decision referred to in § 2, the Public Prosecutor General and the body that requested disciplinary action have the right of appeal to a disciplinary court.

§ 4. After the proceedings referred to in § 1, if there are grounds for initiating disciplinary proceedings, the disciplinary accuser's deputy requests the Public Prosecutor General to appoint a disciplinary accuser from outside the provincial area in which the public prosecutor against which disciplinary discovery proceedings have been instituted performs service. The appointed disciplinary accuser initiates disciplinary proceedings.

§ 5. In order to restrict the circle of persons suspected of committing a disciplinary misconduct bearing features of the crime of disclosing information from criminal proceedings which are classified as "secret" or "top secret", the disciplinary accuser, in the course of the instituted disciplinary proceedings, may appoint an expert in order to apply technical measures towards the public prosecutor who has access to that information, with his/her consent, aiming to control unconscious reactions of the organism.

§ 6. The application of the technical measures referred to in § 5 requires the permission of the Public Prosecutor General.

§ 7. After written presentation of charges, the accused may submit explanations and motions for taking evidence within 14 days. The accused may also submit a statement in writing which shall be considered as explanations.

§ 8. After the deadline referred to in § 7, and, if needed, after taking further evidence, the disciplinary accuser submits a motion for the examination of a disciplinary case to a disciplinary court. The motion should contain a precise specification of the act which is the subject of the proceedings, statement of reasons and list of evidence requested to be taken.

§ 9. If the disciplinary accuser finds no grounds to submit a motion for the examination of a disciplinary case, he/she issues a decision on the discontinuation of disciplinary proceedings. The copy of the decision is served to the Public Prosecutor General, the body that requested disciplinary action and the accused.

§ 10. Within 7 days from the date of service of the decision referred to in § 9, the accused, provided that he/she has a legal interest to do so, the Public Prosecutor General and the body that requested disciplinary action have the right to appeal to a disciplinary court.

§ 11. The appeal should be examined within a month from its receipt.

Article 155. § 1. After the receipt of a motion for the examination of a disciplinary case, the president of the disciplinary court fixes the date of the hearing.

§ 2. The period between the motion's receipt and the date of the hearing should not be longer than 30 days.

§ 3. Unjustified failure of the disciplinary accuser, the accused or his/her defence counsel to appear does not stay the examination of the case, unless the disciplinary court considers their presence indispensable.

Article 156. § 1. The accused may also appoint a defence counsel from among public prosecutors, lawyers and legal advisers at the stage of disciplinary proceedings handled by a disciplinary accuser.

§ 2. Appointment or change of the defence counsel cannot become a reason for staying or adjourning the hearing.

Article 157. § 1. In case of an unjustified failure of the accused to appear at the summons with regard to which he/she has been informed that his/her appearance is obligatory, the disciplinary court instituting the proceedings may request the district court competent for the place of appearance to issue a decision ordering the public prosecutor to be detained for 48 hours and escorted to a designated place by the Police. The provision of Article 135 § 1 does not apply.

§ 2. The district court issues the decision in a sitting without the participation of the parties within 21 days from the date of receipt of the motion and delivers its copy to the disciplinary court and to the parties to the disciplinary proceedings.

§ 3. The disciplinary court on behalf of which the president of the adjudicating panel acts, as well as the parties to the disciplinary proceedings have the right to lodge a complaint to a regional court within 7 days from the date of service of the decision. The regional court examines the complaint in a sitting without the participation of the parties within 21 days since the date of its receipt.

§ 4. The parties may participate in the sittings referred to in § 2 and 3.

Article 158. If in the course of the hearing, another disciplinary misconduct is found apart from the one covered by the motion for the examination of a disciplinary case, the court may enter a judgment with regard to that misconduct only with the consent of the disciplinary accuser and the accused or his/her defence counsel. If no consent is given, the disciplinary accuser institutes separate disciplinary proceedings regarding that matter.

Article 159. If a public prosecutor's service relationship is terminated or expires in the course of disciplinary proceedings, the proceedings continue. If the accused has taken up work in a public administration body, an office providing service to a public administration body, the Office of the Attorney General of the Republic of Poland, as a lawyer, legal adviser or notary, the court transmits the judgment to the relevant public administration body, head of the office, the President of the Office of the Attorney General of the Republic of Poland, the Supreme Bar Council, the National Council of Legal Advisers or the National Notarial Council, respectively.

Article 160. § 1. The statement of reasons of the Disciplinary Court's judgment is drawn up in writing upon the motion of the Public Prosecutor General, the disciplinary accuser or the

accused within 21 days since the date of receipt of the judgment. In particularly justified cases, the president of the Disciplinary Court may extend the deadline for drawing up the statement of reasons for another 14 days.

§ 2. The deadline for submitting the motion referred to in § 1 is 7 days from the date of the judgment's delivery.

§ 3. The statement of reasons of a judgment passed by the Disciplinary Court is signed by the reporting judge. If a dissenting opinion has been submitted, the statement of reasons is signed by all judges.

§ 4. The judgment with the statement of reasons is served to the proposer of the motion and to the Public Prosecutor General.

Article 161. § 1. If a disciplinary court finds a manifest absence of factual or legal grounds for the motion for the examination of a disciplinary case submitted by a disciplinary accuser, or in case of a manifestly unjust discontinuation of proceedings by the disciplinary accuser, the court, after examining the case, includes a ruling declaring the manifest groundlessness of the disciplinary accuser's decision in the judgment's conclusion.

§ 2. The provision of § 1 does not apply to disciplinary actions taken by the Public Prosecutor General's deputy.

Article 162. § 1. The Public Prosecutor General, the accused and the disciplinary accuser have the right to appeal against the judgment of a disciplinary court passed in the first instance. The appeal should be examined within one month from the date of its receipt.

§ 2. The statement of reasons of the Disciplinary Court of Appeal's judgment is drawn up in writing upon a motion of the Public Prosecutor General, the disciplinary accuser or the accused within 14 days from the date of its receipt. In particularly justified cases, the president of the Disciplinary Court of Appeal may extend the deadline for drawing up the statement of reasons for another 14 days.

§ 3. The deadline for submitting the motion referred to in § 2 is 7 days from the date of the judgment's delivery.

§ 4. The statement of reasons of a judgment passed by the Disciplinary Court of Appeal is signed by the reporting judge and by the president of the adjudicating panel. If a dissenting opinion has been submitted, the statement of reasons is signed by all judges.

§ 5. The judgment with the statement of reasons is served to the proposer of the motion and to the Public Prosecutor General.

Article 163. § 1. The parties and the Public Prosecutor General have the right to lodge a cassation against a judgment passed by the Disciplinary Court of Appeal to the Supreme Court. The cassation may be lodged for the reason of a glaring infringement of the law or a glaring incommensurability of a disciplinary penalty.

§ 2. The deadline for lodging a cassation is:

- 1) for a party - 30 days,
 - 2) for the Public Prosecutor General - 3 months
- from the date of service of the judgment with the statement of reasons to the party or to the Public Prosecutor General, respectively.

§ 3. A party lodges a cassation via the disciplinary court that passed the contested judgment.

§ 4. The Public Prosecutor General lodges a cassation directly to the Supreme Court.

§ 5. The Supreme Court examines the cassation in a hearing, in a panel of 3 judges.

Article 164. The Public Prosecutor General, the disciplinary accuser or the penalised public prosecutor may request the body that issued the decision terminating the proceedings to reopen the disciplinary proceedings.

Article 165. § 1. The reopening of the disciplinary proceedings to the disadvantage of the accused is possible if the proceedings' discontinuation or the judgment's passing was a result of a crime or if new circumstances or evidence that could give grounds for conviction or a more severe punishment have been found within 5 years from the discontinuation or from the judgment.

§ 2. The reopening of the proceedings to the advantage of the penalised person is possible even after the death of the latter if new circumstances or evidence that could give grounds for acquittal or a less severe punishment are found.

§ 3. In case of the penalized person's death, the motion for the reopening of the proceedings may be submitted by his/her spouse, lineal relatives, siblings, adopter or adoptee, and the disciplinary accuser or the Public Prosecutor General.

Article 166. The costs of disciplinary proceedings are paid by the State Treasury.

Article 167. § 1. The president of a disciplinary court transmits the copy of the final judgment with the statement of reasons immediately to the Public Prosecutor General in order for the judgment to be enforced.

§ 2. The Public Prosecutor General may stay the enforcement of a disciplinary judgment which is subject to a party's cassation.

Article 168. § 1. The copy of a final judgment inflicting a disciplinary penalty is attached to the personal file of the accused.

§ 2. After 3 years since the day a judgment inflicting a disciplinary penalty provided for in Article 142 § 1 (1) became final, and after 5 years since the day a judgment inflicting a disciplinary penalty provided for in Article 142 § 1 (2)-(4) became final, the Public Prosecutor General, at the request of the penalized person, orders the removal of the judgment's copy from the personal file if no other convicting judgment has been passed against the penalized person during that period. If the penalized person was the Public Prosecutor General's deputy, the removal of the judgment's copy from the personal file is ordered by the Public Prosecutor General at the request of the penalized person if no other convicting judgment has been passed against the penalized person during that period.

Article 169. The Public Prosecutor General has the right to inspect the activities of disciplinary courts, and he/she may reprove transgressions found, as well as request explanations and remedying the transgression's effects; those acts cannot impinge on the sphere in which members of disciplinary courts are independent.

Article 170. § 1. In case of a simultaneous punishment for several disciplinary misconducts, the disciplinary court inflicts a penalty for individual disciplinary misconducts, and then an aggregate penalty.

§ 2. For adjudging an aggregate penalty, the following rules apply:

- 1) if the penalty of admonition and reprimand have been adjudged, the aggregate penalty of reprimand is inflicted;
- 2) the penalties of admonition and reprimand may be aggregated with other penalties, the aggregate penalty that is inflicted being the one which is more severe, specified in Article 142 § 1 (3), (4) or (5);
- 3) if penalties of different kinds for several misconducts and the penalty of the public prosecutor's dismissal from the office have been adjudged, the latter penalty is inflicted as the aggregate penalty.

§ 3. If the accused has committed two or more disciplinary misconducts before the first judgment, even a non-final one, has been passed with regard to any of them, an aggregate judgment is passed at the request of the accused, provided that the adjudged penalties may be aggregated in accordance with the rules specified in § 2.

Article 171. In matters not specified in this act:

- 1) the provisions of the act of 6 June 1997 – Code of Criminal Procedure and the general part of the act of 6 June 1997 – Penal Code apply accordingly to disciplinary proceedings, taking into consideration the distinctive character resulting from the nature of disciplinary proceedings;
- 2) the provisions of the act of 6 June 1997 – Code of Criminal Procedure concerning cassation, with the exception of Article 521, Article 526 § 2 and Article 530 § 2 and 3 apply accordingly to the examination of the cassation referred to in Article 163 § 1.

SECTION V

Public prosecutor's assessors, public prosecutor's assistants and public prosecutor's trainees

Chapter 1

Public prosecutor's assessors

Article 172. § 1. Public prosecutor's assessors are appointed and dismissed by the Public Prosecutor General.

§ 2. The Public Prosecutor General requests information from the competent provincial (Capital) commander of the Police about each candidate for the position of a public prosecutor's assessor. Information about a candidate for that position is obtained and drawn up on the basis of data contained in computerised police systems.

Article 173. § 1. The Public Prosecutor General may entrust the administration of prosecutorial acts to a public prosecutor's assessor for a determinate period of time of no more than 3 years, without the right to:

- 1) participate in proceedings before a court of appeal and in proceedings before a regional court, except for first instance proceedings in cases in which he/she has handled preparatory proceedings;
- 2) appear before the Supreme Court, draw up remedy acts and motions to the Supreme Court.

§ 2. Decisions on suspending proceedings, decisions terminating preparatory proceedings, sheets of charges, appeals and remedy acts drawn up by a public prosecutor's assessor are subject to approval of the public prosecutor who is his/her immediate superior. The approval consists in the acceptance of the draft decision.

§ 3. A public prosecutor's assessor who is not authorized to administer prosecutorial acts may appear as a public prosecuting attorney in cases in which an investigation has been carried out.

Article 174. § 1. The provisions that apply accordingly to public prosecutor's assessors are:

- 1) the provisions on public prosecutors, with the exception of Article 106 § 7, Article 107 § 1, Article 108, Article 117, Article 124 § 2-8, Article 126 and Article 127;
- 2) the provision of Article 85 § 4 of the act of 27 July 2001 – Act on the structure of courts with general jurisdiction.

§ 2. The basic salary of a public prosecutor's assessor is equal to 80% of the basic salary of a public prosecutor of a district public prosecutor's office at rate 1, increased by a due social insurance contribution.

§ 3. The Public Prosecutor General may dismiss a public prosecutor's assessor from service with a three months' notice. The provision of Article 93 § 2 applies accordingly.

Chapter 2

Public prosecutor's assistants

Article 175. § 1. Universal prosecutorial bodies may employ public prosecutor's assistants and public prosecutor's senior assistants. Whenever the provisions of this act refer to public prosecutor's assistants, the term refers also to public prosecutor's senior assistants.

§ 2. A public prosecutor's assistant is authorized, by proxy and pursuant to a written authorization by a public prosecutor, to:

- 1) administer routine acts of supervision over investigation;
- 2) conducting acts of legal procedure in the course of preparatory proceedings:
 - a) witness's interrogation,
 - b) retaining things and search,
 - c) viewing,
 - d) experiment.

§ 3. A public prosecutor's assistant independently carries out administrative actions related to handling and supervising preparatory proceedings and preparing decisions terminating those proceedings.

§ 4. A public prosecutor's assistant in the National Public Prosecutor's Office carries out other actions ordered by the superior, as well.

Article 176. § 1. Only a person meeting the following requirements may be employed as a public prosecutor's assistant:

- 1) he/she is a Polish citizen and exercises full civil and citizen rights, and has not been finally convicted for an intentional crime prosecuted by public indictment;
- 2) he/she is of impeccable moral character;
- 3) he/she graduated in Poland and obtained the Master degree, or graduated abroad and his/her education has been recognized in Poland;
- 5) he/she is at least 24 years old;

§ 2. Before employing a public prosecutor's assistant, the head of a given prosecutorial body requests information about the candidate from the National Criminal Register.

§ 3. Only a person meeting the following requirements may be employed as a public prosecutor's senior assistant:

- 1) he/she is an assistant who has been working as a public prosecutor's assistant for at least 10 years, has not been penalized for disciplinary misconducts and has received positive periodic grades, or
- 2) he/she has passed the exam to become a public prosecutor or a judge.

§ 4. The head of a given prosecutorial body requests information from the competent commander of the Police about each candidate for the position of a public prosecutor's assistant, containing data which are important for the assessment of compliance with the requirement of impeccable moral character and concern:

- 1) conduct that suggests an infringement of the legal order by the candidate;
- 2) contacts with criminal milieus or social pathology groups, and the nature of those contacts;
- 3) circumstances that suggest addiction to alcohol, narcotic drugs or psychotropic substances.

Article 177. A public prosecutor's assistant has the right to a basic salary. Apart from the basic salary, a public prosecutor's assistant has also the right to a seniority supplement, seniority bonuses and a one-off gratuity in case of the termination of the employment relationship due to invalidity or retirement.

Article 178. § 1. The Minister of Justice shall specify, by means of a regulation, the detailed scope and way of performing duties by public prosecutor's assistants, taking into account the principles of efficiency, rationality, economical and fast action, ensuring a reliable execution of entrusted tasks.

§ 2. The Minister of Justice shall specify, by means of a regulation, the amount of the salary of public prosecutor's assistants, taking into consideration the level of salaries of public prosecutors and clerks of public prosecutor's offices, as well as the principle of varying public prosecutor's assistants' salaries depending on whether they are employed in a district, regional, provincial or the National Public Prosecutor's Office.

Article 179. § 1. A public prosecutor's assistant who has graduated in law and obtained the Master degree, after having worked 5 years in this position, may notify the National Public Prosecutor of his/her intention to take the exam to become a public prosecutor. In that case, the public prosecutor's assistant is allowed to take the exam to become a public prosecutor on the nearest date set for public prosecutor's trainees.

§ 2. The provision of Article 98 applies accordingly to public prosecutor's assistants.

Article 180. § 1. The competent public prosecutor specified in Article 5 of the act of 18 December 1998 on employees of courts and the public prosecutor's office (Dz. U. 2015, entry 1241), referred to in this article as "the public prosecutor", organizes, by way of competition, the recruitment of candidates for the position of a public prosecutor's assistant.

§ 2. The public prosecutor announces the competition by placing an advertisement in a publicly accessible place in a public prosecutor's office's seat, in an employment office competent for the public prosecutor's office's seat, in the *Biuletyn Informacji Publicznej* or by another means, in particular by making a press advertisement.

§ 3. The competition is held by a competition commission appointed by the public prosecutor.

§ 4. The competition's goal is to verify candidates' knowledge, skills, predispositions and general abilities, necessary to perform the public prosecutor's assistant's duties.

§ 5. After holding the competition, on the basis of its results, the competition commission may draw up a reserve list of candidates for the eventuality of a possible employment of a larger number of persons or a resignation of the candidate selected in the competition.

§ 6. In order to apply for employment as a public prosecutor's assistant, the applicant has to submit a declaration stating that no proceedings concerning an intentional crime prosecuted by public indictment are being instituted against him/her.

§ 7. The Minister of Justice shall specify, by means of a regulation, the detailed method and procedure for holding competitions for the position of a public prosecutor's assistant, in particular the composition of competition commissions and their operation method and procedure, the stages and course of the competition, as well as the range and method of providing access to information to a candidate, taking into consideration the appropriate selection of staff in the public prosecutor's office.

§ 8. The Minister of Justice, in agreement with the minister in charge of internal affairs, shall specify, by means of a regulation, the detailed method and procedure for obtaining information by the Police commander about a person applying for the position of a public prosecutor's assistant and the template for information questionnaire, taking into consideration the nature and place of work, efficiency of obtaining information, attention to the protection of candidates' personal goods, and their rights and freedoms protected by the Constitution.

§ 9. In particularly justified cases, the Public Prosecutor General and the National Public Prosecutor may deviate from the procedures specified in § 1-5 when employing an assistant.

Article 181. § 1. Persons who take up work as a public prosecutor's assistant for the first time serve an assistant internship in the universal prosecutorial body in which they are employed. The internship lasts 6 months.

§ 2. Until the end of the internship, a public prosecutor's assistant is employed under a fixed-term employment contract, with the possibility of an early contract termination with two weeks' notice.

§ 3. Persons who have passed the exam to become a judge, public prosecutor, notary, lawyer or adviser are exempt from the internship obligation.

Article 182. In matters not specified in this act, the provisions of the act of 18 December 1998 on employees of courts and the public prosecutor's office apply accordingly to public prosecutor's assistants.

Chapter 3

Public prosecutor's trainees

Article 183. § 1. A public prosecutor's trainee is authorized to administer the acts referred to in Article 175 § 2 and 3.

§ 2. After 12 months of public prosecutor's traineeship, a public prosecutor's trainee may appear before a district court as a public prosecuting attorney in cases concerning crimes amenable to a punishment of no more than 5 years' imprisonment or a lighter type of punishment and petty crimes, as well as in enforcement proceedings before that court.

Article 184. In matters not specified in the act of 23 January 2009 on the National School of the Judiciary and Public Prosecution, the provisions of this act apply accordingly to a public prosecutor's trainee.

SECTION VI

Complaints and motions

Article 185. § 1. Complaints and motions are examined without undue delay, within no more than a month since their receipt.

§ 2. Complaints and motions regarding public prosecutors in matters in which they are independent are not examined. A public prosecutor in charge of the prosecutorial body to which such a complaint or motion has been lodged notifies the person who has lodged it about the reasons for the refusal to examine the complaint or motion.

§ 3. If a complaint or motion concerns a public prosecutor's action subject to complaint, the public prosecutor in charge of the prosecutorial body immediately transfers the complaint or motion to the dossier of the proceedings it concerns, notifying the person who has lodged it.

§ 4. If a complaint or motion concerns the content of a public prosecutor's actions that have not yet been performed and fall within the scope of actions referred to in § 2, it is immediately transferred to the dossier of the proceedings it concerns.

§ 5. If a complaint or motion contains insulting contents or words universally considered as abusive, the complaint or motion is not examined, and the person who has lodged it is notified about the reason for not examining the complaint or motion, unless the complaint or motion concerns a public prosecutor's action subject to complaint.

Article 186. § 1. Complaints or motions concerning a public prosecutor are examined a public prosecutor who is his/her immediate superior.

§ 2. The public prosecutor in charge of a prosecutorial body examines complaints or motions concerning public prosecutor's assistants, public prosecutor's trainees, clerks and other employees.

Article 187. To the extent that a complaint or motion contains a request to render a public prosecutor liable to disciplinary action, the public prosecutor in charge of a prosecutorial body transmits it to the competent disciplinary accuser. The disciplinary accuser notifies the complainant and the public prosecutor who has transmitted the complaint or motion about the way in which the complaint or motion is examined.

Article 188. Repeated complaints or motions concerning matters that have already been clarified and containing no new circumstances are not examined, of which the person who has lodged them is notified.

Article 189. In matters not specified in this act, the provisions of section VIII of the act of 14 June 1960 – Code of Administrative Procedure apply accordingly to complaints and motions.

SECTION VII

Clerks and other employees

Article 190. § 1. Universal prosecutorial bodies employ clerks and other employees.

§ 2. The rules for employing clerks and other employees, as well as their rights and obligations, are specified by separate regulations.

SECTION VIII

Processing personal data

Article 191. § 1. The Public Prosecutor General processes the personal data of public prosecutors, retired public prosecutors, public prosecutor's assessors, public prosecutor's assistants, clerks and other employees of universal prosecutorial bodies, as well as candidates for those positions for the purpose and to the extent necessary for the correct execution of tasks specified in applicable provisions.

§ 2. Article 40 of the act of 29 August 1997 on the protection of personal data does not apply to processing the personal data referred to in § 1.

SECTION IX

Final provision

Article 192. The act enters into force on the day and in accordance with the rules specified in the act of 28 January 2016 – Regulations implementing an act – Act on the public prosecutor's office (Dz. U. entry 178).