

POLAND

I. Highlighting of dysfunctions within a court

1. Is there an organised system allowing to detect dysfunctions within a court?

In the Polish system of common courts there exists an organised system enabling to detect dysfunctions within the court.

a. If yes,

i. what are the alert mechanisms?

The alert mechanisms are:

- administrative supervision of the functioning of common courts, exercised by the Minister of Justice and by the Presidents of courts, and, in the scope limited to on location visits and vetting of the work of judges, by the National Judiciary Council,
- judicatory supervision of judicial decisions, exercised by the Supreme Court and by any upper-tier court in the examination of appeals on judgements of lower-instance courts,

ii. who has the initiative of alert?

The initiative of alert in cases of dysfunctions belongs to:

- Presidents of courts, based on hierarchical alerting,
- court inspectors,
- parties and other participants to proceedings,
- media, social organisations, members of parliament, the Ombudsman etc.

iii. who is the addressee of the alert?

The Minister of Justice and the Presidents of courts are the addressees of the alert.

b. If not, how are the dysfunctions within a court brought to the attention of the competent judicial and administrative authorities?

II. Methods of investigation and analysis of dysfunctions

2. Which are the methods used to check these dysfunctions?
(audit, evaluation, on location visit, etc...)

Evaluation of the functioning of courts, in particular based on analysing statistical data, register of old cases, appeal proceedings, judges' caseload, examining complaints, as well as on location visits, vetting, examination of the course and efficiency of proceedings in individual cases, audit.

3. Once a dysfunction has been detected, what methods of analysis are used?

Once a dysfunction has been detected post-visit meetings and training conferences for judges and other judicial staff are organised in order to discuss the results of on location visits or vetting, to make recommendations to eliminate future dysfunctions. As regards the judicatory supervision – detected dysfunctions are currently indicated

in the reasons for upper-instance courts' judgements on concrete cases and recommendations and guidelines to improve the quality of work are formulated.

III. The structure in charge of investigating and analysing the dysfunction

4. Is this structure centralised or decentralised (in this case, is it internal or external to the court?)

The discussed structure functioning within the system of common courts is decentralised.

The National Council for the Judiciary, being a constitutional body safeguarding the independence of courts and judges, which acts outside the structure in question, has, however, a functional link to the judicial power, in particular by its influence on the selection of judges.

5. Under what authority is it placed?

The structure is based on the provisions of law

- Constitution of the Republic of Poland
- Act of 27 July 2001 – Law on the system of common courts (Dz.U. No. 98 item 1070 as subsequently amended)
- Regulation of the Minister of Justice of 25 October 2002 on the procedure for supervising the administrative activity of courts (Dz.U. No. 187 item 1564 as subsequently amended)
- Code of Criminal Procedure.

6. How is this structure set up? Who appoints its members?

The Minister of Justice is an authority, which is constitutionally responsible for the justice system. He supervises the administrative activity of courts personally and by a competent supervising service, i.e. competent departments of the Ministry of Justice functionally connected with the subject of concrete acts of supervision. Main tasks falling within this supervision are carried out by judges delegated by the Minister of Justice to perform duties in the individual departments.

Apart from the Minister, the Presidents of courts appointed by the Minister supervise areas or circuits, which are subordinated to them, personally or by Vice-Presidents, chairmen of divisions, visiting judges and inspectors of office work in courts.

Visiting judges and inspectors act in separate divisions or offices. They are appointed by the Presidents of courts.

7. What is its jurisdiction?

The Minister and Presidents of courts have a right to inspect the acts performed by courts, they may demand explanations and the removal of infringements, and they abolish administrative orders, which are contrary to law or infringe the efficiency of judicial proceedings. If they identify an infringement to the efficiency of judicial proceedings, they may indicate it to a judge in a letter and demand the removal of the effects of this infringement.

Courts of the higher instance that supervise the decisions are competent to point out flagrant infringements to law to a lower instance court, to demand explanations from the presiding judge of the panel adjudicating in the first instance. The fact that infringements have been pointed out is notified to the President of the competent

court and, as regards more serious infringements, to the Minister of Justice.

IV. Follow up given to the analysis in order to remedy the dysfunction

8. What form will be adopted for the conclusions of the structure of investigation and analysis?

The outcome of inspections is presented by the structure of investigation and analysis in a form of protocols and post-control orders, as well as during post-visit meetings of judges and other judicial staff.

9. Who is the addressee of the conclusions of the structure of investigation and analysis?

The authority, which is directly responsible for the exercised supervision, is the addressee of the conclusions of the structure of investigation and analysis.

10. What means are available for the structure in order to find a remedy to the dysfunction?

Apart from pointing out the infringements referred to in item 7, the following are also available in order to find a remedy to the dysfunction:

- meetings and training of judges on the issues and branches of law where the highest number of infringements has been detected,
- periodically establishing by the Minister of Justice the directions of administrative supervision exercised by the Presidents of courts, with the attention paid to the areas needing the removal of the infringements,
- evaluation by the Minister of Justice of the planned supervisory work submitted by the Presidents of courts,
- control and evaluation of the materials relating to the supervision exercised by the Presidents of courts and passing instructions, which are binding for them.

11. If the investigation structure does not monitor the implementation of the recommendations, which structure is entrusted with their implementation?

The structure in question has been set up to supervise the implementation of the remedial recommendations.

V. Efficiency of mechanisms

12. Is the functioning of this structure evaluated?

Yes. The efficiency of supervision exercised by the Presidents of courts is evaluated by the Minister of Justice. The latter, as a member of the government, is subject to the evaluation by the Sejm (the lower chamber of the Polish parliament).

13. What improvements could be made?

The structure itself performs its function.

It seems reasonable to increase the scope of training for the judicial staff towards the improvement of professional qualifications and unification of judicial decisions.

