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**Addendum to the Fourth Round
Evaluation Report on POLAND
(Rule 34)**

Adopted by GRECO
at its 80th Plenary Meeting
(Strasbourg, 18-22 June 2018)

EXECUTIVE SUMMARY

1. The current Addendum contains a critical analysis of the situation in the judiciary in Poland, following the judicial reform of 2016-2018, reflecting on amendments made to the Laws on the National Council of the Judiciary, the Supreme Court and the Organisation of Ordinary Courts. As such, this Addendum amends GRECO's Fourth Round Evaluation Report on Poland in relevant parts, in particular related to judicial independence. For GRECO, judicial independence is an essential pre-condition for an effective fight against corruption. Judges need to be able to make decisions free from real or potential undue influence, including from other branches of the State. If judges are motivated in their decisions by outside influences and considerations (e.g. career progression) other than the laws they are meant to apply, the judicial process is corrupted. As such, judicial independence is a cornerstone of the rule of law in a given country and key for citizens' trust in the justice system.

2. It is concluded in this Addendum that the amendments to the Laws on the National Council of the Judiciary, the Supreme Court and the Organisation of Ordinary Courts enable the legislative and executive powers to influence the functioning of the judiciary in Poland in a critical manner, thereby significantly weakening the independence of the judiciary. Whereas certain individual amendments of the Laws on the Organisation of Ordinary Courts, Supreme Court and National Council of the Judiciary may in themselves deserve attention, it is precisely the cumulative nature of these amendments against the background of earlier reforms (e.g. the Constitutional Court and the merger of the office of the Prosecutor General with that of the Minister of Justice) that gives rise to particular concern. Most recommendations in this report therefore point to the need to limit possibilities for the executive (the President of the Republic or the Minister of Justice, as appropriate) to intervene, be it in the internal organisation of the Supreme Court, prolonging the tenure of judges of the Supreme Court and ordinary courts, disciplinary proceedings against judges or the process of appointing and reappointing presidents of ordinary courts and the Supreme Court. Currently, the most pressing concern for GRECO is the lowering of the retirement age for judges. While GRECO does not question the new retirement age as such (nor the possibility of prolonging the service of judges beyond retirement age if necessary safeguards against undue influence are taken into account), it is particularly worrisome that on 3 July 2018 almost 40% of sitting Supreme Court judges will see their tenure terminated, also given the fact that new judges will be appointed by the President on the request of the newly-constituted National Council of the Judiciary, in which 21 out of 25 members have been selected by Parliament, which in itself – as GRECO points out in this report – is not in line with the standards of the Council of Europe.

3. GRECO has taken note of the stated aims of the reform, which refer to the balance of powers and the enforcement of democratic control over the judiciary. While GRECO supports the notion that the judiciary should not be a corporatist entity acting in its own interest, mechanisms to increase accountability of the judiciary should not interfere with judicial independence. Given the scale of the instituted reform, the issues at stake and its impact on the judiciary, at the very least the necessary time should be taken for a thorough consultation with the judicial community, ensuring an inclusive debate and full transparency of the legislative process.

I. INTRODUCTION AND METHODOLOGY

4. Poland joined GRECO in 1999. Since its accession, the country has been subject to evaluation in the framework of GRECO's First (in March 2000), Second (in May 2004) and Third (in December 2008) Evaluation Rounds. On 19 October 2012, GRECO adopted its Fourth Evaluation Round Report on Poland, dealing *inter alia* with corruption prevention in respect of judges. The Evaluation Reports, as well as the subsequent Compliance Reports, are available on GRECO's homepage (<http://www.coe.int/greco>).

5. Following considerable amendments to legislation affecting the judiciary in Poland in 2016-2018, and in parallel with the on-going compliance procedure in the Fourth Evaluation Round (covering, *inter alia*, corruption prevention in relation to judges), GRECO requested updated information from the Polish authorities concerning their on-going judicial reforms. Following a discussion on the information provided by the Polish authorities, GRECO decided at its 78th Plenary Meeting (4-8 December 2017) to apply Rule 34 of its Rules of Procedure in respect of Poland. This Rule provides for an *ad hoc* procedure which can be triggered in exceptional circumstances, such as when GRECO receives reliable information concerning institutional reforms, legislative initiatives or procedural changes that may result in serious violations of anti-corruption standards of the Council of Europe.

6. On the basis of the abovementioned decision and additional information provided by the Polish authorities on 16 January 2018, GRECO adopted at its 79th Plenary Meeting (19-23 March 2018) an [Ad hoc report](#) on amendments to the Law on the Supreme Court and the Law on the National Council of the Judiciary. In the report, GRECO concluded that several basic principles of the judicial system had been affected in such a critical way and to such an extent that the assessment made in GRECO's Fourth Round Evaluation Report on Poland in 2012, concerning corruption prevention in respect of judges, was no longer pertinent in crucial parts. It therefore decided to conduct an on-site visit to re-assess the out-dated parts of GRECO's Fourth Round Evaluation Report in respect of Poland, with a view to adopting an addendum to the Report concerning corruption prevention in respect of judges.

7. The present Addendum is based on legislation and other information provided by the Polish authorities, as well as information received from international organisations and civil society. Moreover, a GRECO evaluation team (hereafter referred to as the "GET"), carried out an on-site visit to Poland on 15-16 May 2018.

8. The GET held interviews with representatives of the chancellery of the President of Poland, the chancellery of the Prime Minister, the Ministry of Justice, the Ministry of Foreign Affairs, Supreme Court judges and judges of ordinary courts (district courts in Warsaw and Płock), the judges' association IUSTITIA, the National Prosecutor's Office, the Ombudsperson's Office, the Helsinki Foundation for Human Rights and the media. The GET was composed of Mr David MEYER (United Kingdom) and Ms Lenka MLYNÁŘÍK HABRNÁLOVÁ (Czech Republic). The GET was supported by Mr Björn JANSON, Deputy Executive Secretary, and Ms Tania VAN DIJK from GRECO's Secretariat.

9. The current Report does not replace GRECO's Fourth Round Evaluation Report on Poland (2012): It is an Addendum to that report, focusing only on the judicial reform of 2016-2018 and its implementation, which took place after the adoption of the Evaluation

Report. The main objective of the Addendum is to analyse the impact of the amended legislation (i.e. the Law on the National Council of the Judiciary, the Law on the Supreme Court and the Law on the Organisation of Ordinary Courts) in relation to corruption prevention in respect of judges.

10. This Addendum contains a critical self-standing analysis of the situation of the judiciary in Poland, following the judicial reform 2016-2018, reflecting on the amendments to the legislation referred to above, identifying possible shortcomings and making recommendations for improvement. In keeping with the practice of GRECO, the recommendations are addressed to the authorities of Poland, which are to determine the relevant institutions/bodies responsible for taking the requisite action, within the framework of the on-going Fourth Round compliance procedure of GRECO. Following the adoption of this report, Poland is to report back on actions taken in response to the recommendations contained herein.

II. CONTEXT¹

11. On 8 October 2015, ahead of the elections to the *Sejm* (lower chamber of Parliament) on 25 October 2015, the outgoing *Sejm* nominated five persons to become judges of the Constitutional Tribunal (CT), two of which would only take seats in the Constitutional Tribunal once these seats were vacated in December. After the elections, on 19 November 2015, the new *Sejm* amended the Law on the CT *inter alia* repealing a provision adopted by the previous legislature (which had formed the basis for the appointments to the CT on seats which would only become vacant after the elections). It subsequently on 25 November 2015 adopted five resolutions declaring the resolutions of 8 October 2015 on the election of CT judges null and void and requested the President not to swear in the five aforementioned judges. On 2 December 2015, the *Sejm* adopted five resolutions nominating five new judges to the CT. In judgments of 3 and 9 December 2015, the CT *inter alia* ruled that the legal basis on which the new legislature had annulled the nominations of three of the five judges nominated in October by the previous legislature was unconstitutional. The Secretary General of the Council of Europe [urged](#) the Polish authorities in December 2015 to fully implement the decisions of the CT.

12. Over the course of the next year, controversies surrounding the CT continued, with various amendments to legislation concerning the CT being adopted (in December 2015, March 2016 and December 2016), which were subsequently in part declared unconstitutional by the CT (on 9 March 2016 and 11 August 2016), and a new President of the CT being elected amid strong protest by the judicial community in Poland.² In this period the Venice Commission adopted two opinions on legislation concerning the CT, which highlighted *inter alia* that the Polish Parliament had assumed powers of constitutional revision which it did not have when acting as the ordinary legislature, without the requisite majority for constitutional amendments.³

¹ For a more detailed overview of the developments, please refer to Part II of the aforementioned [Ad Hoc Report](#).

² Attempts to influence the work of the CT, including through the election of the President of the CT, were *inter alia* [criticised](#) by the President of the Venice Commission on 16 January 2017.

³ See: Venice Commission, [Opinion on the Act on the Constitutional Tribunal, adopted by the Venice Commission at its 108th Plenary Session, \(Venice, 14-15 October 2016\)](#) as well as the earlier [Opinion on amendments to the](#)

13. The controversies surrounding the CT also led the European Commission to launch a dialogue with the Polish authorities under its rule of law framework, in order to seek solutions to its concerns regarding the CT, culminating in the adoption of a [Rule of Law Opinion](#) on 1 June 2016, followed by the European Commission's [first Rule of Law Recommendation](#) on 27 July 2016, finding a "systemic threat to the rule of law in Poland" (focusing on the new law on the Constitutional Tribunal and the lack of publication and implementation of various judgments regarding the CT) and a [second Rule of Law Recommendation](#) on 21 December 2016, which additionally addressed the issue of the appointment of the new President of the Constitutional Tribunal.

14. Parallel to the above developments regarding the CT, various pieces of new legislation were being promulgated, including a new Law on the Public Prosecutor's Office (which was adopted on 28 January 2016 and entered into force on 4 March 2016). A central feature of this law was the merger of the Office of the Public Prosecutor General with that of the Minister of Justice, with the stated aim of strengthening the public prosecutor's office as a whole so that it would be better equipped to execute the tasks assigned to it by the legislator.

15. The Law on the Organisation of Ordinary Courts was already amended in 2016, *inter alia* as regards the publication of financial declarations by judges and the limitation period for disciplinary offences. In January 2017, the Polish government announced further comprehensive judicial reforms, which would concern ordinary courts, the Supreme Court and the National Council of the Judiciary. The need to increase the efficiency of the court system, reduce "judicial corporatism"⁴ and enhance the accountability and professionalism of judges and re-establish the public trust in the judiciary was given as the reason for instituting these large-scale reforms. With the publication of the Law on the National Council of the Judiciary, the Law on the Supreme Court and the Law on the Organisation of Common Courts over the course of the next few months, the proposed reforms became the subject of extensive criticism, both by domestic stakeholders (the Supreme Court, National Council of the Judiciary, Ombudsperson, academics etc.) and internationally.⁵ Criticism focused in particular on the plans to have judge members of the National Council of the Judiciary elected by Parliament, the early retirement of Supreme Court judges and the pace and procedure by which the draft laws had been submitted (which had not allowed for a proper consultation process).

16. Despite the extensive criticism of the draft Laws on the National Council of the Judiciary, on the Supreme Court and on the Organisation of Ordinary Courts, the three draft laws were adopted by the *Sejm* and Senate in July 2017. However, following rallies outside Parliament, the President of Poland vetoed the draft Law on the Supreme Court and draft Law on the National Council of the Judiciary on 24 July 2017, while at the same time signing the amendments to the Law on the Organisation of Ordinary Courts into force. One of the main features of the amended Law on the Organisation of Ordinary Courts was an increase

[Act of 25 June 2015 on the Constitutional Tribunal of Poland, adopted by the Venice Commission at its 106th Plenary Session \(Venice, 11-12 March 2016\)](#)

⁴ "Judicial corporatism" in this context is understood as the judiciary "illegitimately serving and protecting its own interests".

⁵ Concerns were *inter alia* expressed by the [Secretary General](#) of the Council of Europe, [Commissioner for Human Rights](#), the [President of the Venice Commission](#), [Consultative Council of European Judges](#) (CCJE) and the OSCE's [Office for Democratic Institutions and Human Rights](#) (ODIHR).

of the powers of the Minister of Justice (who is at the same time the Prosecutor General) as regards the internal organisation of the courts. The new Law on the Organisation of Ordinary Courts entered into force on 12 August 2017, following which the Minister of Justice exercised his power (pursuant to a transitional measure in the Law on the Organisation of Ordinary Courts) to dismiss court presidents and appoint new ones.

17. In the meantime, on 26 July 2017, the European Commission issued its [third Rule of Law Recommendation](#), in which it considered that the situation of the rule of law in Poland as presented in its previous recommendations had seriously deteriorated and *inter alia* recommended that the new laws/draft laws relating to the judiciary be withdrawn.

18. On 26 September 2017, the President of Poland proposed two new draft laws - on the Supreme Court and the National Council of the Judiciary respectively - to replace the two previous draft laws he had vetoed in July 2017. The presidential proposals did not differ fundamentally from the drafts adopted by Parliament, but made the re-appointment of retired Supreme Court judges subject to a decision by the President of the Republic (instead of the Minister of Justice), removed the foreseen division of the National Council of the Judiciary into two chambers and required a higher majority of votes in the *Sejm* for the election of judicial members to the National Council of the Judiciary.

19. Domestic and international criticism⁶ of the draft laws continued in the months thereafter. On 8 December 2017, the Venice Commission adopted an [Opinion](#), which concluded that the draft Law on the National Council of the Judiciary, the draft Law on the Supreme Court and Law on the Organisation of Ordinary Courts, especially taken together and seen in the context of the 2016 Act on the Public Prosecutor's Office, "enable the legislative and executive powers to interfere in a severe and extensive manner in the administration of justice, and thereby pose a grave threat to judicial independence as a key element of the rule of law".⁷ Around the same time, at its 78th Plenary Meeting (4-8 December 2017), GRECO decided – on the basis of information concerning the on-going judicial reforms provided by the Polish authorities at the request of GRECO – to apply Rule 34 of its Rules of Procedure in respect of Poland (see paras. 3 and 4 above).

20. The dialogue between the European Commission and the Polish authorities on Article 7 of the Treaty on the European Union continued throughout the first five months of 2018. In the context of this dialogue, on 7 March 2018, the Prime Minister of Poland presented a [White Paper on the reform of the Polish judiciary](#) with the aim of explaining why the criticisms of the reforms were unfounded. The paper presents the reasons for the judicial reforms (i.e. low trust in the judiciary, excessive length of proceedings, failure to account for the communist past and an imbalance between powers) and how they would make the

⁶ Criticism was *inter alia* expressed by the SC, the NCJ and the Ombudsperson of Poland, as well as the [Parliamentary Assembly of the Council of Europe](#) (PACE), [CCJE](#), [ODIHR](#) and the [UN Special Rapporteur on the Independence of Judges and Lawyers](#).

⁷ At the same session, the Venice Commission also adopted, at the request of PACE, an [opinion](#) on the Law on the Public Prosecutor's Office, as had been adopted in 2016. In this opinion, it concluded that the merger of the office of the Minister of Justice and that of the Public Prosecutor had led to "the accumulation of too many powers for one person, which has direct negative consequences for the independence of the prosecutorial system from the political sphere, but also for the independence of the judiciary and hence the separation of powers and the rule of law in Poland".

Polish judiciary more effective, accompanied by comparisons of elements of the Polish system with those of other EU member states.

21. On 23 March 2018, at its 79th Plenary Meeting, GRECO adopted an [Ad hoc report](#) on amendments to the Law on the Supreme Court and the Law on the National Council of the Judiciary. This report was published on 28 March 2018. In the report, GRECO concluded that several basic principles of the judicial system had been affected in such a critical way and to such an extent that GRECO's Fourth Round Evaluation Report on Poland in 2012, concerning corruption prevention in respect of judges, needed to be updated in light of the judicial reform. It therefore decided to conduct an on-site visit to re-assess the system, with a view to adopting an addendum to the Fourth Round Evaluation Report concerning corruption prevention in respect of judges.

22. Further amendments to the Law on the Supreme Court and the Law on the Organisation of Ordinary Courts were adopted on 12 April 2018 (which entered into force on 9 and 23 May 2018) and on 10 May 2018 (which entered into force on 16 June 2018), which are further described below.

III. ANALYSIS BY GRECO

23. The following analysis focuses on some pertinent elements of the on-going reform of the judiciary in Poland that fall within the purview of GRECO's Fourth Evaluation Round regarding corruption prevention in respect of judges, focusing specifically on judicial independence as an essential pre-condition for the fight against corruption. As such, this Addendum amends GRECO's Fourth Round Evaluation Report on Poland in relevant parts, in particular related to the judicial system as a whole (including consultative and decision-making bodies), recruitment, career and conditions of service, as well as enforcement measures (disciplinary proceedings). It will not address those elements of the judicial system, which either have not undergone any changes or which have already been reported on in the Compliance Reports on the Fourth Round Evaluation, in particular relating to asset declarations, the extension of the limitation period for disciplinary proceedings and training and counselling on ethics and conduct.⁸ Central to the analysis below are the amendments to:

- The Law on the National Council of the Judiciary, which entered into force in January 2018. Additional amendments were made to this law on 12 April 2018 (entry into force on 23 May 2018) and 10 May 2018 (entry into force on 16 June 2018) to align it with the amendments of the Law on the Organisation of Ordinary Courts;
- The Law on the Supreme Court, which entered into force in April 2018. Additional amendments were made to this law on 12 April 2018 by two different laws (entry into force on 9 and 23 May 2018) and on 10 May 2018 (entry into force on 16 June 2018);
- The Law on the Organisation of Ordinary Courts, which entered into force in September 2017. This law was additionally amended on 12 April 2018 (entry into force on 23 May 2018) and 10 May 2018 (entry into force on 16 June 2018).

⁸ Please see the Fourth Round Compliance Report in respect of Poland, adopted by GRECO at its 66th Plenary Meeting (12 December 2014) ([Greco RC-IV \(2014\) 1E](#)) and the Second Compliance Report ([Greco RC4 \(2017\) 2E](#)) adopted at GRECO's 75th Plenary (20-24 March 2017), in particular in relation to recommendations vii-xi in respect of judges.

Law on the National Council of the Judiciary (LNCJ)

24. The National Council of the Judiciary (NCJ), the self-governing body of the judiciary, is established under Article 186 of the Constitution, which stipulates that the NCJ safeguards the independence of courts and judges. It is *inter alia* responsible for examining and selecting candidates for positions at the first instance courts, appeal courts and the Supreme Court, for a final decision by the President of the Republic. Amongst its other powers is the authority to lodge motions to the Constitutional Tribunal regarding the constitutionality of laws on courts and judges, adopt codes of ethics on the judicial profession and give opinions on draft laws concerning the judiciary.

25. In accordance with Article 187 of the Constitution, the NCJ comprises 25 members, of which three are *ex officio*-members (the First President of the Supreme Court, the President of the Supreme Administrative Court and the Minister of Justice), one is appointed by the President of the Republic, 15 are to be chosen from among judges, four are to be chosen by the *Sejm* (the lower chamber of the Parliament) from among its deputies and two by the Senate from among its senators. The tenure of the members of the NCJ is four years (renewable once).

26. While the previous LNCJ of 12 May 2011 provided that the 15 members of the NCJ chosen from among judges were to be chosen and elected by the judiciary, Article 9a of the amended LNCJ (as amended on 8 December 2017, which entered into force on 17 January 2018) provides that they are to be elected by the *Sejm*. The Polish authorities indicate that these amendments were made to ensure a better representation of the whole judiciary in the NCJ (in light of the underrepresentation of district court judges in the past) and to make the NCJ more democratic in order to counter corporatism.⁹ The amended LNCJ provides that the 15 members of the NCJ chosen from among judges can be proposed by groups of at least 25 judges or by 2000 citizens, following which each parliamentary club in the *Sejm* can designate up to 9 candidate judge members, for a final list to be voted on by a majority of three-fifths of present *Sejm* deputies.

27. In accordance with Article 9a of the amended LNCJ, the mandate of the 15 previous judge members of the NCJ came to an end in February 2018, 30 days after entry into force of the amendments. The GET regrets the enforcement of the simultaneous dismissal of the judicial members of the NCJ and the fact that it was not possible for judicial members to challenge the dismissals. The GET takes the view that it would have been possible to achieve the aim of “the same term of office” for NCJ members, as required by a judgment of the CT, without the pre-term dismissal of all serving judicial members.¹⁰ New elections of the 15 judge members took place on 7 March 2018. Only 18 judges stood for election, 17 of which were proposed by groups of 25 judges and one by a group of more than 2000 citizens. The GET was informed that a large part of the judiciary had boycotted the elections, as had several opposition parties in the *Sejm*, and that most of the new judge members were at the time judges seconded to the Ministry of Justice or presidents of courts who had recently been appointed by the Minister (which reportedly was similar for judge members of the

⁹ See also in this respect the aforementioned [White Paper on the reform of the Polish judiciary](#), p. 53 and further.

¹⁰ For a summary of this Constitutional Court judgment, please see: <http://trybunal.gov.pl/en/news/press-releases/after-the-hearing/art/9752-ustawa-o-krajowej-radzie-sadownictwa/>

previous NCJ).¹¹ The first, inaugural meeting of the NCJ in its new composition was convened on 27 April 2018.

28. While the GET takes note of the stated aim of making the NCJ more representative of the judiciary, it considers that this could and should have been done through other means. It also notes that despite this aim the 15 judge members chosen by the *Sejm* do not include any judges from courts of appeal, military courts, the Supreme Court or Supreme Administrative Court (other than *ex officio* members). The current method for electing judge members to the NCJ limits considerably the influence of the judiciary on these elections in favour of the legislature. In this context, the Polish authorities emphasise that two-thirds of the members of the NCJ are judges (referring to a considerable influence of the judiciary in the NCJ), that the sessions of the NCJ are now live-streamed and that further risks of undue influence over the NCJ are reduced by the fact that six judge members of the NCJ are elected by opposition parties, who themselves also sit on the NCJ. The Polish authorities furthermore consider it important to balance judicial influence in the NCJ, in order to avoid corporatism.

29. The GET takes note of these points, but at the same time cannot disregard the fact that effectively 21 of the 25 members of the NCJ are now elected by Parliament (a majority of which by the ruling party). The GET maintains that, following the 2017 amendments to the LNCJ, the election of representatives of the judiciary to the NCJ is no longer in compliance with Council of Europe standards, nor with GRECO's well-established practice, which require that at least half of the members of a judicial council should consist of judges elected by their peers, as was the case in Poland before the amending law was adopted.¹² This is particularly problematic in light of the NCJ's central role in the process of appointing judges in Poland. In view of the above, **GRECO recommends that the provisions on the election of judges to the National Council of the Judiciary be amended, to ensure that at least half of the members of the National Council of the Judiciary are judges elected by their peers.**

Law on the Supreme Court (LSC)

- *Structural changes in the Supreme Court*

30. The amended LSC introduces two new chambers of the Supreme Court (SC): one dealing with disciplinary proceedings against SC judges and one dealing with extraordinary appeals against court judgments.¹³ When dealing with disciplinary cases and extraordinary

¹¹ Out of the 15 judge members of the NCJ, nine were endorsed by members of the *Sejm* of the ruling majority (PiS) and six by members of an opposition party Kukiz'15.

¹² See [CM Rec \(2010\)12](#) of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, para. 46; Venice Commission, [Report on the Independence of the Judicial System Part I: The Independence of Judges](#) (CDL-AD(2010)004-e), para. 32; CCJE, [Opinion No. 10 \(2007\)](#) on the Council for the Judiciary at the service of society, para. 18; CCJE, [Magna Carta for Judges](#) (Fundamental Principles), paragraph 13; see also GRECO's Fourth Round Evaluation Reports, for example in respect of [Azerbaijan](#) (para. 52, rec. v), [Bulgaria](#) (para. 83, rec. v), [Portugal](#) (para. 96, rec. vi), [Serbia](#) (para. 99, rec. iv) and the [Slovak Republic](#) (para. 69, rec. vii).

¹³ The LSC introduced the possibility of an extraordinary appeal to be made by the Prosecutor General (Minister of Justice) or the Ombudsperson against rulings, if this is – in accordance with amendments adopted in May 2018 – necessary to “ensure compliance with the principle of a democratic state ruled by law and implementing the principles of social justice”, provided that the ruling violates constitutional “principles or freedom and human and civil rights, or the ruling is grossly in error of interpretation or misapplication of the

appeals, lay judges will be appointed to respective adjudicating panels. The lay judges of the SC are to be elected by the Senate.¹⁴

31. These structural reforms have been subject to extensive criticism in broad consensus by the international community, including bodies such as the Venice Commission, the Consultative Council of European Judges (CCJE), OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the European Commission. For example, concerns have been raised that the procedure of extraordinary appeals is “dangerous for the stability of the Polish legal order” and additionally problematic due to its retroactivity, permitting the reopening of cases determined long before the enactment of the LSC, which is not limited to newly established facts. Furthermore, the establishment of the special chambers for extraordinary appeals and for disciplinary matters has been criticised for creating a hierarchy within the court¹⁵, in that these two chambers have been granted special status and may be seen as superior to the other “ordinary chambers”: the extraordinary appeals chamber may examine decisions taken by the “ordinary chambers” of the SC, the disciplinary chamber having jurisdiction over disciplinary cases of judges sitting in the other chambers as well as a separate budget (and, in addition, judges of the disciplinary chamber receive a 40% higher salary).¹⁶ Moreover, the use of lay judges at the SC, which has been introduced as a way of bringing in a “social factor” into the system, according to the Polish authorities, has also been criticised, partly for being alien to other judicial systems in Europe at the level of supreme courts, but also due to the unsuitability of lay persons for determining significant cases involving legal complexities.¹⁷ The fact that they are elected by the legislature, which has the potential of compromising their independence, is a particular concern in this respect.

32. In response to some of the abovementioned criticism, the LSC was again amended on 10 May 2018, whereby more emphasis was placed on the fact that recourse to the extraordinary appeals procedure is exceptional and it is additionally provided that if the contested ruling has had irreversible legal effects and/or if annulment of the ruling would violate international obligations of Poland, the SC would only declare that the contested ruling was in violation of the law, but would not annul the ruling as such.

33. Notwithstanding the May 2018 amendments to the LSC, the abovementioned concerns are shared by the GET and clearly require further consideration. These concerns

law or there is a clear contradiction between the relevant findings of the court and the evidence gathered on the case” (Article 89 LSC). In certain circumstances, the extraordinary appeal may also be brought by the President of the General Counsel to the Republic of Poland, the Ombudsman for Children, the Ombudsman for Patients' Rights, the Chairman of the Polish Financial Supervision Authority, the Financial Ombudsman, and the President of the Office for Competition and Consumer Protection.

¹⁴ According to Article 58 LSC, a person may be a lay judge of the SC if they have (only) Polish nationality and enjoy full civil and civic rights, are of good character, are between 40 and 60 years' old, are sufficiently healthy to perform the function of lay judge and have completed secondary education. There are a number of incompatibilities provided for, including employment with the courts, prosecution office, police or military, as well as being an elected official in the National Assembly or municipal, district or provincial council.

¹⁵ Venice Commission, [Opinion on the Draft Act amending the Act on the National Council of the Judiciary; on the Draft Act amending the Act on the Supreme Court, proposed by the President of Poland, and on the Act on the Organisation of Ordinary Courts](#) (CDL-AD(2017)031), paras. 36-38 and 40.

¹⁶ The Polish authorities indicate that this higher remuneration is awarded to compensate for the fact that, unlike judges in other SC chamber, they are not allowed to carry out any other remunerated activities, in accordance with Article 44 LSC

¹⁷ See *inter alia* the abovementioned Venice Commission Opinion, para. 64 and further.

are compounded by the relatively large involvement of the executive in the internal proceedings of the SC. Pursuant to Article 4 LSC, the President of the Republic (after consulting the Board of the SC) sets rules for the internal organisation of the SC, decides on the number of judges, including those of individual chambers, and establishes the rules of procedures of the SC (matters which should – in view of the GET – rather be dealt with in law and/or be delegated to the SC itself). Furthermore, the President selects the First President of the SC from a list of five candidates (as compared to only two in the past) and presidents of chambers of the SC from three candidates, who moreover are appointed for a shorter period (three years, with the possibility to be re-appointed twice) than before (see also further below for the views of the GET on the procedures for appointing presidents). In the view of the GET, these issues raise questions of fundamental importance for the judiciary and judicial independence at the highest level of the judiciary in Poland, as they provide a range of measures that may be seen as dismantling the authority and integrity of the SC in Poland. Consequently, **GRECO recommends i) to reconsider the establishment of an extraordinary appeals chamber and disciplinary chamber at the Supreme Court and ii) reduce the involvement of the executive in the internal organisation of the Supreme Court.**

- *Tenure of SC judges*

34. The LSC, as amended, provides for a new lower retirement age for SC judges (from 70 to 65).¹⁸ The new retirement age will be applied not only to future judges, but also to those currently sitting. Under Article 37 LSC there is a possibility for the President of the Republic to prolong the tenure of individual SC judges beyond retirement age (until the age of 71). With the further amendments made to the LSC on 10 May 2018, the President is now obliged to consult the NCJ before deciding whether to prolong the tenure of judges, and to decide within three months. On 3 July 2018, 27 out of 79 sitting SC judges would have to retire. The GET was told that 13 of the 27 judges had applied for prolongation of their tenure, some judges had not done so as they would soon turn 70 anyway, while others did not wish to request prolongation of their tenure because they considered the procedure unconstitutional.

35. As already indicated in the Ad-hoc report, GRECO does not question the new retirement age as such, nor does it question the possibility of prolonging the service of judges beyond retirement age when necessary safeguards against undue influence are taken into account. However, the instant implementation of the lower retirement age in combination with the discretionary power of the President of the Republic to prolong the mandate of judges (even if – under the recently amended provisions of the LSC – he is now required to consult the NCJ), leads to the introduction of a system that constitutes a *de facto* “re-appointment system” as far as judges who would normally have served until the previous retirement age are concerned. Security of tenure is indeed a fundamental safeguard against undue influence over judges and the judiciary and, consequently, for their independence.

36. GRECO is highly concerned that requiring currently sitting SC judges to retire at an earlier age than foreseen, in combination with the discretionary possibility to re-appoint judges to the SC, opens the way for a system that is vulnerable to undue influence over

¹⁸ This is regardless of the gender of the judge concerned, which is different for the LOOC (see further below).

judges and the judiciary. This situation is particularly grave when branches other than the judiciary are involved in the appointment procedure. Given the pending retirement of 27 SC judges on 3 July 2018, **GRECO recommends that the new retirement age is not applied as an obligatory measure to currently sitting Supreme Court judges in combination with the provisions allowing the executive to extend the tenure of such judges, and it is ensured that the possible extension of new Supreme Court judges' tenure beyond retirement age is free from political influence.**

- *Disciplinary proceedings*

37. The amended LSC has introduced a number of changes to the disciplinary proceedings applicable to SC judges. In the past, the SC dealt with disciplinary proceedings in a unit for disciplinary matters and investigations were led by a disciplinary officer, elected by the SC. As already noted, the amended LSC establishes a new chamber within the SC, with jurisdiction over all disciplinary cases involving SC judges and appeals concerning *inter alia* excessive duration of proceedings. As already mentioned, judges in the disciplinary chamber receive 40% higher remuneration than other judges at the SC and the disciplinary chamber has its own budget separately from the SC. Another new feature is the involvement of lay judges in the hearings conducted within the chamber dealing with disciplinary proceedings (two SC judges and one lay judge and, in second instance, three SC judges and two lay judges).

38. In addition, the LSC, as amended, provides a possibility for the President of the Republic to appoint (from among SC judges, ordinary court judges or military court judges, or – in case of disciplinary offences which have the characteristics of a criminal offence – also from among prosecutors at the National Public Prosecutor's office) an Extraordinary Disciplinary Commissioner who may initiate disciplinary proceedings or even take over such pending proceedings against SC judges (Article 75, para. 8 LSC). This involvement of an Extraordinary Disciplinary Commissioner will exclude the ordinary Disciplinary Commissioner (as appointed by the SC's board) from the proceedings.¹⁹

39. The involvement of lay judges in disciplinary proceedings against SC judges might possibly be seen as adding an element of accountability and transparency vis-à-vis society to the process, as put forward by the Polish authorities. During the on-site visit concerns were however expressed about whether lay judges would have sufficient expertise to adjudicate disciplinary cases, especially those involving procedural violations or complex legal issues. As already mentioned above, the fact that lay judges are to be elected by the Senate inserts a potential political dimension to the disciplinary process. Above all, the possibility for the President of the Republic to intervene in disciplinary matters within the judiciary, both to initiate procedures or take over on-going procedures through the appointment of an Extraordinary Disciplinary Commissioner (who may in certain cases also be appointed from outside the judiciary), raises serious concerns in respect of judicial independence. **GRECO recommends that the disciplinary procedures applicable to Supreme Court judges are amended, in order to exclude any potential undue influence from the legislative and executive powers in this respect, in particular by excluding the possibility for the executive to intervene in these proceedings.**

¹⁹ For a further outline of the role of disciplinary commissioners and disciplinary proceedings, see GRECO's Fourth Round Evaluation Report in respect of Poland, para. 157

Law on ordinary Courts (LOOC)

40. The LOOC has been amended various times throughout 2016-2018. Amendments in 2016 first introduced the obligation to publish financial declarations of judges and extended the limitation period for disciplinary offences from three to five years (Article 108). The latter amendment was made to *inter alia* address a recommendation by GRECO in its Fourth Round Evaluation Report, to address its misgivings about the application of a statute of limitations in situations where judges brought before the disciplinary court had delayed matters until the limitation period had expired.²⁰

41. Further amendments adopted in March 2017 *inter alia* provided the Minister of Justice with the authority to appoint and dismiss court managers/directors (Article 32), placing them under the supervision of the Minister of Justice (Article 21a) and in July 2017 *inter alia* extended the authority of the Minister of Justice to appoint and dismiss court presidents (Articles 23-25 and 27), lowered the age of retirement of judges and gave the Minister of Justice the authority to extend this retirement age (similar to the authority of the President in respect of SC judges, see above), and introduced amendments to the system of administrative oversight.

42. Some of the abovementioned amendments to the LOOC were amended again on 12 April 2018, changing the procedure for the dismissal of court presidents, the procedure for prolonging the tenure of a judge beyond the retirement age and for election to the boards of courts. The amendments made to the LOOC should however also be seen in the context in which they have been implemented, in particular the 2016 amendments to the Law on the Public Prosecutor's Office, pursuant to which the Minister of Justice assumed the function of Prosecutor General and the competencies of the Prosecutor General were increased.

- *Appointment and dismissal of the presidents (and vice-presidents) of courts*

43. The amendments to the LOOC extended the power of the Minister of Justice to appoint the presidents and vice presidents of courts of appeal, regional courts and district courts (Articles 23-25) and to dismiss them in certain circumstances (Article 27).²¹ The LOOC appears to give almost unlimited discretion to the Minister of Justice in the appointment of these positions in the courts (bearing additionally in mind that the vice-presidents are appointed by the Minister of Justice at the requests of these presidents).²² It does not

²⁰ Para. 163 of the Fourth Round Evaluation Report in respect of Poland

²¹ Under the previous version of the Law, the Minister of Justice appointed presidents of appellate courts after consultation of the general assembly of that court, and in the case of regional courts in consultation also with the President of the Court of Appeals. If the judicial assembly of the appellate court or the regional court in question gave a negative opinion, the Minister of Justice could only appoint him/her after obtaining a positive opinion from the NCJ. A negative opinion of the NCJ would be binding upon the Minister of Justice. Under the amended LOOC, no consultation procedure of the assembly is foreseen. Furthermore, under the previous law, the President of the Court of Appeals appointed district court presidents after consultation with of the general assembly of that court. Under the amended LOOC, district court presidents are appointed by the Minister of Justice, without a prescribed consultation procedure.

²² The only criteria listed in the LOOC for the appointment of court presidents is that they should be appointed from among judges of appeal or regional courts for a president of the court of appeal, among judges of appeal, regional or district courts for a president of a regional court and among judges of regional or district courts for a president of a district court.

stipulate any obligation for the Minister of Justice to consult the NCJ or otherwise involve the judiciary in this decision.

44. As for the dismissal of court presidents and vice-presidents, in the transitional period of six months after the entry into force of the July 2017 amendments, in accordance with Article 17 of the LOOC, the Minister of Justice could dismiss presidents and vice-presidents and appoint new ones at his discretion. The GET was told that the Minister of Justice dismissed around 160 presidents and vice-presidents, which according to the authorities represented 18.6 percent of all presidents and vice-presidents of the courts. Reportedly no reasons for the dismissals were given, nor was there a possibility for court presidents and vice presidents to appeal the decisions. Following this transitional period, the Minister of Justice could dismiss presidents and vice-presidents for reasons provided in Article 27 LOOC, but would need to consult the NCJ.²³ The NCJ could block the planned dismissal by a resolution adopted by a two-thirds majority of its members (Article 27, paras. 3 and 4). With the entry into force of further amendments to the LOOC on 23 May 2018, the Minister will now first have to seek the opinion of the board of the competent court, which would be required to hear the president / vice-president in question. In case the board disagrees with dismissing the president, the Minister can seek the opinion of the NCJ which can block the planned dismissal with a two-thirds majority.

45. The GET aligns itself with the opinion of the CCJE, that procedures for the appointment of court presidents should ideally follow the same path as that for the selection and appointment of ordinary judges, in that it includes a process of evaluation of candidates and involves a judicial council.²⁴ In view of the GET, these procedures should as a minimum be an independent merit-based process. As regards their pre-term removal, the GET takes the view that these procedures should be transparent and subject to established procedures and safeguards, with clear and objective criteria (which it does not consider the current criteria listed in Article 27 to be), excluding any risk of political influence and with a possibility of appeal for the president / vice-president concerned.²⁵ As such it deeply regrets the dismissals of the 160 presidents / vice-presidents by the Minister of Justice without a possibility to have these dismissals meaningfully addressed. It also considers that with the amendments to the LOOC, which once again change the procedure for the dismissal of court presidents could be seen to cement the appointments of new court presidents. While the GET welcomes the involvement of the board of the competent court and the NCJ in the process of dismissing court presidents (even if in light of the high threshold and the new composition of the NCJ, doubts can be raised whether this provides for sufficient safeguards), it takes the view that the strong participation of the Minister of Justice (who is also the Prosecutor General) in this process should be avoided. **GRECO recommends that the procedures for appointing and dismissing presidents and vice-presidents of ordinary courts be amended, to exclude any potential undue influence from the executive power therein.**

²³ According to Article 27, para. 1 LOOC, presidents and vice-presidents of courts can be dismissed “in the event of gross or persistent failure to perform professional duties” (with ‘persistent’ being a recent addition to the law); if “further performance of the function, for other reasons, cannot be reconciled with the interests of justice”; due to resignation by the president/vice-president; or for “a particularly low efficiency of activities in the field of administrative supervision or work organisation in the court of lower courts” (with the latter two criteria being recent additions to the law).

²⁴ See CCJE, [Opinion No. 19](#) (2016) on the “The Role of Court Presidents”, para. 38.

²⁵ *Ibid.*, paras. 46-47.

- *Retirement age*

46. The LOOC has aligned the retirement age of judges with the general retirement age of civil servants (Article 69, para. 1a), reducing it from 67 to 65 years (with a possibility for female judges to retire at the age of 60, at their own request, pursuant to the amendments of 12 April 2018). As is the case for SC judges, the new retirement age is applied to currently sitting judges and initially also included a possibility for the Minister of Justice (similar to that of the President in the case of SC judges) to prolong the tenure of judges until the age of 70, “having regard to the needs arising from the workload of individual courts” (Article 69, paras. 1b and 3). The GET was informed during the on-site visit (15 May 2018) that 219 motions for prolongation had been made. The Minister had decided on 130 motions, of which 98 had not been granted. As the GET had been informed that there were around 600 unfilled vacancies in the judiciary, it had found it rather surprising that the motions had been denied. The Polish authorities however indicate that currently there are only 15 unfilled vacancies in the courts and that for 96 judges the basis for this refusal was precisely the “rational use of staff of common courts and the workload of particular courts” (in accordance with Article 69, para. 1b of the LOOC), with an additional two motions having been refused due to procedural violations.

47. Furthermore, the Polish authorities point to the possibility (provided for by the law establishing the general retirement age of civil servants) for civil servants to retire in accordance with previously binding provisions. Judges only had to forward a statement of will to the Minister of Justice within six months of the entry into force of this law, which 78 judges are reported to have done. Moreover, in spite of the information received on-site that no reasons had been given, nor was there a possibility to appeal these decisions, the Polish authorities indicate that in 11 complaints about the refused motions for prolongation beyond retirement age had been submitted to the Supreme Administrative Court or Supreme Court.

48. With the amendments to the LOOC of 12 April 2018, it is no longer the Minister of Justice, but the NCJ which decides on prolonging the service of judges beyond retirement age, “if justified by the interest of justice or important public interest, in particular if justified by the rational use of the staff of common courts and the workload of particular courts”. Notwithstanding the concerns the GET has about the method of election of judge members of the NCJ and its view that if it is decided to maintain a reappointment/prolongation process that this should be quasi-automatic if a judge is shown to be in good health, the GET considers the removal of the discretionary power of the Minister of Justice to prolong the mandate of judges of ordinary courts an improvement.

- *Disciplinary proceedings*

49. The amended LOOC has introduced a number of changes to the disciplinary proceedings applicable to ordinary judges, including the submission of written explanations before the hearing, the mandatory presence of a defence counsel at disciplinary hearings and an additional disciplinary penalty of lowering the basic salary by up to 50%. The GET was provided with a few examples of misdemeanours and other offences conducted by judges during the on-site visit but from the additional statistics provided by the Polish authorities it could not draw the conclusion that disciplinary proceedings against Polish judges were evidently ineffective or fundamentally flawed.

50. Concerning the procedure itself, disciplinary cases are heard by disciplinary courts as before (see Fourth Round Evaluation Report, para. 157). However, judges at disciplinary courts operating at appellate courts are now selected by the Minister of Justice (i.e. the Prosecutor General), after consulting the NCJ (Article 110 a, LOOC). As before, disciplinary commissioners (also called disciplinary ombudspersons) act as prosecutors before the disciplinary courts. Whereas before they were selected by the NCJ from among the candidates proposed by the court's general assembly, the LOOC now provides a possibility for the Minister of Justice to appoint a disciplinary commissioner from among judges of ordinary courts, judges at the SC or – if the alleged disciplinary offence has the characteristics of a criminal offence – a prosecutor (Article 112b LOOC). This disciplinary commissioner (ombudsperson) may initiate disciplinary proceedings or even take over pending proceedings. Similar to the involvement of the President of the Republic in disciplinary matters within the SC, the involvement of the Minister of Justice (who is at the same time the Prosecutor General) in disciplinary proceedings in respect of judges, gives rise to serious concerns in respect of the independence of judges. Therefore, **GRECO recommends that the disciplinary procedures applicable to judges of ordinary courts be amended to exclude any potential undue influence from the executive powers therein, in particular by excluding the possibility for the executive to intervene in these proceedings.**

- *Other powers of the Minister of Justice*

51. In addition to the concerns described, the GET has reservations about various subtle ways in which the Minister of Justice / Prosecutor General can intervene in the judicial branch, in a way that may have a chilling effect on the independence of the judiciary. This includes the appointment of court directors by the Minister of Justice (before this was done at the request of the president of the court in question) (Article 32 LOOC), who are now subordinate to the Minister (Article 21a LOOC)²⁶; the appointment of “inspecting judges”²⁷; and the reduction of post allowances to presidents and vice presidents of ordinary courts due to deficiencies in the administration of the courts, which can be regarded as disciplinary in nature but fall outside the disciplinary proceedings²⁸. While it is legitimate that a Minister of Justice has administrative responsibility in respect of the overall running of the court system (budgets etc.), in the view of the GET there is a risk of “overreach” imbedded in the current system which bestows extensive powers on the executive (who is at the same time

²⁶ Court directors (sometimes called court managers) oversee the administrative functions of the courts, including by ensuring that the courts have the structure and facilities they need for their functioning (cf. Article 31a LOOC).

²⁷ Inspecting judges can carry out inspections of courts, in particular in relation to administrative supervision over courts (cf. Article 37c, 37d and 37g LOOC).

²⁸ In accordance with Article 37ga LOOC, if the Minister of Justice finds deficiencies in court management, internal administrative supervision or other administrative activities, s/he may issue a written notice to the president or vice-president of the court of appeal and demand removal of its consequences. This notice may be accompanied by a decision to reduce the post allowance to the president or vice president of the court in question by 15 to 50 percent for a period of one month up to six months (Article 37ga, para. 5). The president/vice-president can submit a written objection to the Minister of Justice who either quashes the written notice or submits it to the NCJ. Similarly, in accordance with Article 37h, presidents of courts of appeal are to submit to the Minister of Justice annual reports of activities of the courts in the appeal court area (with similarly presidents of regional courts submitting such reports to the president of the court of appeal and presidents of district courts submitting such reports to regional courts). These reports are assessed by the Minister of Justice and in case of a negative assessment can be subject to a reduction of the special allowance by 15 to 50 percent for a period of up to one year.

the Prosecutor General) in this respect. The use of these powers and their impact should thus be kept under close review.

52. The GET welcomed information that the (computerised) random allocation of cases has now explicitly been regulated in the LOOC. However, it was also informed that a public information request on the algorithm underlying the allocation of cases had been denied by the authorities. In order to ease any doubts about undue influence over the allocation of cases, the GET can only encourage the Polish authorities to provide more transparency as regards the weighing of cases and the method underlying the computerised allocation.

IV. FINAL REMARKS

53. Judicial independence is an essential pre-condition for an effective fight against corruption. Judges need to be able to make decisions free from real or potential undue influence, including by other branches of the State. If judges are motivated in their decisions by outside influences and considerations (e.g. career progression) other than the laws they are meant to apply, the judicial process will have been corrupted. As such, judicial independence is a cornerstone of the rule of law in a given country and key for citizens' trust in the justice system.

54. In view of the findings in this Addendum, the GET concludes that the amendments to the LNCJ, LSC and the LOOC weaken the independence of the judiciary in Poland and consequently the system of checks and balances. This is not in line with Council of Europe standards, nor with GRECO's well-established practice. The amendments referred to in this report enable the legislative and executive powers to influence the functioning of the judiciary in a critical manner.

55. In this context, the GET has also taken a close look at the stated aims²⁹ of the judicial reform, which do not seem to effectively address the issues identified and/or which could well have been addressed in a different manner.³⁰ In this regard, there is an impression that the poor public perception of judges may also be the result of what seems to have been an extremely negative public information campaign built on incidents of an anecdotal character. While GRECO supports the notion that the judiciary should not be a corporatist entity acting in its own interest, mechanisms to increase accountability of the judiciary should not interfere with judicial independence. A further concern is the speed with which different key pieces of legislation on the judiciary were adopted.³¹ Given the scale of the instituted reform, the issues at stake and its impact on the judiciary, the GET urges the Polish

²⁹ See the aforementioned White Paper of March 2018, which lists low trust in the judiciary, excessive length of proceedings, failure to account for the communist past and an imbalance between powers as the reasons for the reform.

³⁰ For example, when it comes to low efficiency of the courts, none of the amendments to the law seem likely to lead to higher efficiency. In addition, efficiency will not be helped by the large number of unfilled vacancies in the judiciary, which will be aggravated by the lower retirement age and continuation of regular secondments of judges to the Ministry of Justice and other state bodies.

³¹ In this context, the GET was told that some of these legislative initiatives were presented by members of parliament rather than the government, which limited consultation requirements. Similar concerns were expressed by the Council of Europe's Commissioner for Human Rights in his [letter](#) of 19 January 2018 to the Prime Minister of Poland.

authorities to take the necessary time for a thorough consultation with the judicial community, ensuring an inclusive debate and full transparency of the legislative process.

56. While certain individual amendments of the LOOC, LSC and LNCJ deserve attention, it is precisely the cumulative nature of these amendments against the background of earlier reforms (e.g. the Constitutional Court and the merger of the office of the Prosecutor General with that of the Minister of Justice) that gives rise to particular concern in terms of its effects on the separation of powers and the independence of courts and judges.

57. In view of the findings of the present report, GRECO addresses the following recommendations to Poland:

- i. **that the provisions on the election of judges to the National Council of the Judiciary be amended, to ensure that at least half of the members of the National Council of the Judiciary are judges elected by their peers** (para. 29);
- ii. **i) to reconsider the establishment of an extraordinary appeals chamber and disciplinary chamber at the Supreme Court and ii) reduce the involvement of the executive in the internal organisation of the Supreme Court** (para. 33);
- iii. **that, the new retirement age is not applied as an obligatory measure to currently sitting Supreme Court judges in combination with the provisions allowing the executive to extend the tenure of such judges, and it is ensured that the possible extension of new Supreme Court judges' tenure beyond retirement age is free from political influence** (para. 36);
- iv. **that the disciplinary procedures applicable to Supreme Court judges are amended, in order to exclude any potential undue influence from the legislative and executive powers in this respect, in particular by excluding the possibility for the executive to intervene in these proceedings** (para. 39);
- v. **that the procedures for appointing and dismissing presidents and vice-presidents of ordinary courts be amended, to exclude any potential undue influence from the executive power therein** (para. 45);
- vi. **that the disciplinary procedures applicable to judges of ordinary courts be amended to exclude any potential undue influence from the executive powers therein, in particular by excluding the possibility for the executive to intervene in these proceedings** (para. 50).

58. GRECO invites the authorities of Poland to submit a report on the measures taken to implement the above-mentioned recommendations by 31 March 2019. The measures will be assessed by GRECO through its specific compliance procedure.

59. GRECO invites the Polish authorities to authorise, at their earliest convenience, the publication of this report, and to make a translation of it into the national language available to the public.