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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**
**OF THE COUNCIL OF EUROPE**
**(VENICE COMMISSION)**

# POLAND

# DRAFT LAW ON REINSTATING THE RIGHT TO A FAIR TRIAL AND HEARING THE CASE WITHOUT UNDUE DELAY AND AMENDMENTS

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## I. Draft Law on Reinstating the Right to a Fair Trial and Hearing the Case Without Undue Delay[1]

With a sense of responsibility for the system of justice in the Republic of Poland, emphasising the significance of the fact that the Republic of Poland is the common good of all citizens and that supreme power belongs to the Nation;

Respecting the values of a democratic state governed by the rule of law and the independence and political neutrality of judges. Exercising the right of citizens to a fair and public hearing without undue delay by a competent, independent, impartial and independent court, while striving to ensure that citizens feel secure and stable with regard to court rulings;

Respecting the necessity for the Republic of Poland to guarantee the human and civil freedoms and rights enshrined in the Constitution and other normative acts, as well as the importance of the prohibition of judges engaging in public activities that are inconsistent with the principles of independence of the courts and the independence of judges, as directly stipulated in the Constitution;

The following Act is hereby enacted.

### Chapter 1
### General provisions

**Article 1.** The Act shall regulate:

1) the right to a fair trial in all cases heard by courts and tribunals issuing judgements on behalf of the Republic of Poland and the administration of justice in accordance with the constitutional order;
2) obligations ensuring the right to an impartial and independent court and the adequate exercise of the right to have a case heard without undue delay before a court composed of independent judges, as well as the consequences of decisions issued without legal basis or in violation of the Constitution or statutes;
3) special rules on the disciplinary liability of judges and associate judges and the criminal liability of public officials.

**Article 2.** The Act aims to safeguard the right to an impartial and independent court and to guarantee that cases are heard without undue delay by a court composed of independent judges.

**Article 3.** Whenever the Act refers to:

1) associate judge – it shall mean an associate judge in a common court and an administrative court;
2) courts – it shall mean common courts, administrative courts, military courts and the Supreme Court;

[1] This Act amends the Act of 21 August 1997 – Law on the System of Military Courts, the Act of 27 July 2001 – Law on the System of Common Courts, the Act of 25 July 2002 – Law on the System of Administrative Courts, the Act of 17 June 2004 on complaints against violations of the party's right to have a case heard in preparatory proceedings conducted or supervised by a prosecutor and in court proceedings without undue delay, and the Act of 8 December 2017 on the Supreme Court.

3) judge – it shall mean a judge of a common court, a judge of an administrative court, a judge of a military court, a judge of the Supreme Court, and a judge of the Constitutional Tribunal.

## Chapter 2
## Exercising the citizen's right to a fair trial and the administration of justice by a judge

**Article 4.** § 1. Judges shall be independent in the exercise of their office and shall be subject only to the Constitution and statutes.

§2. A judge shall be obliged to administer justice and to act in accordance with the judicial oath.

§ 3. A judge, both in and outside of office, shall uphold the dignity of the office of a judge and refrain from any conduct that could undermine the dignity of a judge or weaken confidence the judge's impartiality.

§ 4. A judge in retirement shall be obliged to maintain the dignity of the judicial office. A judge in retirement shall be subject to disciplinary action for any breach of the dignity of a judge after retirement and for any breach of the dignity of the judicial office during the term of office.

§ 5. An associate judge shall be independent in the exercise of his or her office and shall be subject only to the Constitution and statutes.

**Article 5.** § 1. A judge and an associate judge shall not challenge the validity of, disregard, or refuse to apply the Constitution and statutes regulating the structure of courts and tribunals and the procedure for appointing judges or nominating associate judges.

§2. A judge or an associate judge shall not challenge the existence of constitutional bodies of the state or undermine their competence and authority.

§ 3. A judge or an associate judge shall not challenge the rulings of the Constitutional Tribunal or undermine their existence or effectiveness.

§ 4. A judge or assistant judge shall not assess the effectiveness of resolutions adopted in individual cases by the National Council of the Judiciary in the period from 5 March 2018 to 13 May 2026, disregard them, or consider them invalid or non-existent.

§ 5. The provision of § 4 shall not apply to the examination of appeals against resolutions of the National Council of the Judiciary referred to in Article 44(1) of the Act of 12 May 2011 on the National Council of the Judiciary (Dz.U. Journal of Laws of 2024, item 1186).

**Article 6.** § 1. Within the framework of activities of courts or judiciary bodies, it shall be unacceptable to dispute the legitimacy of courts, the Constitutional Tribunal, the State Tribunal and other constitutional public bodies, including law enforcement and protection bodies.

§2. It shall be unacceptable for a court or any other public authority to determine or assess the legality of appointment of a judge or nomination of an associate judge, or the resulting authority to perform judicial functions.

§ 3. It shall be unacceptable for a court or any other public authority to revoke, declare invalid or disregard a ruling issued with the participation of a judge or an associate judge on the basis of the findings or assessments concerning the appointment of a judge or nomination of an associate judge.

**Article 7.** § 1. Any rulings, acts, and actions of a judge or a court, including those on the exclusion of a judge or an associate judge, shall be null and void by operation of law and shall produce no legal effects where they are based on disputing or assessing the status of a person appointed to the office of judge or nominated as associate judge.

§2. Any rulings, acts, court decisions, and actions of a judge or a court issued in violation of the laws governing the jurisdiction of the chambers of the Supreme Court or the Supreme Administrative Court shall be null and void by operation of law and shall produce no legal effects.

**Article 8.** A judge or an associate judge shall not refrain from performing administrative duties by invoking the principle of independence if such duties are part of their judicial responsibilities under the law, nor shall they refrain from instructions concerning the efficiency of proceedings. However, a judge or an associate judge may request that such instructions shall be issued in writing.

**Article 9.** § 1. At the request of an entitled person submitted during court proceedings, the judge shall be obliged to submit a written statement regarding:

1) membership in an association, including professional and political associations – indicating the name and registered office of the association, positions held, and period of membership;
2) functions performed in a foundation not engaged in economic activity – indicating the name and registered office of the foundation and the period of holding the function;
3) membership in a political party prior to appointment as a judge, as well as during the term of office prior to 29 December 1989 – indicating the name of the party, the functions performed and the period of membership.

§2. The following persons are entitled to submit the request referred to in § 1 in the proceedings:

1) in cases concerning fiscal crimes and fiscal misdemeanours – the party;
2) in cases concerning misdemeanours – the party;
3) in cases concerning the liability of collective entities for acts punishable by law – the party and the applicant;
4) in criminal proceedings – the party;
5) in juvenile cases – the party
6) in civil proceedings – the party and the participant in the proceedings;
7) in disciplinary proceedings – the party;
8) in cases heard before administrative courts – the party and the participant in the proceedings with the rights of a party;
9) before the Supreme Court – the party or the participant in the proceedings.

§ 3. The request referred to in § 1 may be submitted by the entitled person through the competent president of the court within 14 days of the date of service of the notice on the composition of the court. After the expiry of the period referred to in the first sentence, the right to submit the request shall expire. The entitled person shall be advised of the right to submit a request in the notice on the composition of the court.

§ 4. The request referred to in § 1 shall comply with the requirements for pleadings applicable to the type of proceedings in which it is submitted and shall include a request for the judge to make a statement regarding the circumstances referred to in § 1(1)-(3).

§ 5. The request referred to in § 1 submitted after the expiry of the time limit, shall be rejected.

§ 6. A judge shall submit the statement referred to in § 1 to the case file within 14 days of the date on which the request was served on the judge and shall send a copy thereof to the competent president of the court.

§ 7. If a judge fails to submit the statement within the time limit referred to in § 6 or refuses to submit the statement, the president of the competent court shall publish information to that effect within three days in the Public Information Bulletin on the website of the competent court, or notify the National Council of the Judiciary and the competent Disciplinary Officer for judges of common courts, the Disciplinary Officer of the Supreme Administrative Court or the Disciplinary Officer of the Supreme Court.

§ 8. The competent Disciplinary Officer shall initiate explanatory proceedings within 14 days of the date of being notified that a judge has failed to submit a statement within the prescribed time limit or has refused to submit a statement.

§ 9. The provisions of § (1)-(8) shall apply mutatis mutandis to associate judges.

**Article 10.** § 1. An intentional refusal to administer justice is tantamount to resignation from the position of judge.

§2. An intentional refusal to administer justice shall be understood as:

1) the refusal of a judge to participate in a court panel composed of judges or associate judges on the grounds of the determination of the non-existence or assessment of their status;
2) revoking, declaring as non-existent, or disregarding of a ruling or order issued with the participation of a judge or an associate judge on the grounds of the determination of circumstances or assessment of their appointment or nomination;
3) the exclusion of another judge or associate judge on the grounds of the determination of circumstances or assessment of their appointment or nomination, or on the grounds of the assessment of their independence or impartiality resulting from the fact that they were appointed or nominated by the President of the Republic of Poland at the request of the National Council of the Judiciary, submitted in the period from 5 March 2018 to 13 May 2026.

§ 3. In the case referred to in § 2(1), the president of the competent court shall, within 7 days, issue a written summons to the judge to resume the administration of justice within 14 days of

the date of delivery of the summons and shall send a copy of the summons to the President of the Republic of Poland and the National Council of the Judiciary.

§ 4. Information regarding the summons of a judge to resume the administration of justice referred to in § 3, shall be published by the president of the competent court in the Public Information Bulletin on the website of the competent court immediately, but no later than within 7 days from the date of the summons.

§ 5. The employment relationship of a judge shall expire by operation of law:

1) on the day following the ineffective expiry of the time limit specified in the summons referred to in § 3;
2) on the day following the day of refusal to administer justice in the cases referred to in § 2(2) and (3).

§ 6. The president of the competent court shall immediately notify the President of the Republic of Poland, the National Council of the Judiciary and the Minister of Justice of the judge's resignation from the office, specifying the date of resignation in the notice.

§ 7. In the case of a judge seconded by the competent authority, the actions referred to in § 3, 4 and 6 shall be taken by the President of the court where the administration of justice was refused.

§ 8. The provisions of § (1)-(7) shall apply mutatis mutandis to associate judges.

**Article 11**. § 1. A judge and an associate judge shall not belong to a political party or a trade union.

§2. A judge and an associate judge shall not belong to any association, including professional and political associations, whose statutes require their members to comply with the resolutions of the bodies or authorities of that association, nor shall they engage in public activities that are incompatible with the principles of judicial independence and the independence of judges and associate judges.

**Article 12**. A judge or an associate judge who participated in issuing a ruling referred to in Article 7 § 1 and § 2, deciding on the merits of a case or terminating the proceedings in any other way and the State Treasury shall be jointly and severally liable for any damage caused by such a ruling.

## Chapter 3
## Special rules governing the disciplinary liability of judges and associate judges

**Article 13.** A judge and an associate judge shall also be subject to disciplinary action for acts or omissions related to the administration of justice and for acts or omissions unrelated to the administration of justice, involving:

1) disputing the validity, disregarding, or refusing to apply the Constitution and statutes regulating the system of courts and tribunals and the procedure for appointing judges or nominating associate judges;

2) deliberately applying a legal act or a provision of a legal act that has been repealed by a ruling of the Constitutional Court;
3) disputing the existence of constitutional state bodies, undermining their competence or authority, and disputing their constitutional or statutory powers;
4) disputing the existence or effectiveness of Constitutional Tribunal rulings or disregarding their application;
5) assessing the effectiveness of resolutions adopted in individual cases by the National Council of the Judiciary in the period from 5 March 2018 to 13 May 2026, disregarding their application, or declaring them invalid or non-existent;
6) acting or refraining from acting based on the determination of non-existence or assessment of the status of a judge or an associate judge;
7) acting or refraining from acting on the basis of the assessment of the independence or impartiality of a judge or an associate judge resulting from the fact of their appointment or nomination by the President of the Republic of Poland at the request of the National Council of the Judiciary submitted in the period from 5 March 2018 to 13 May 2026;
8) membership in a political party, trade union, or association, including professional and political associations whose statutes require members to comply with the resolutions of the bodies or authorities of that association;
9) public activities that conflict with the principles of independence of judges and associate judges.

**Article 14.** § 1. Eight years after the commission of the act referred to in Article 13, disciplinary proceedings may not be instituted.

§2. If disciplinary proceedings are instituted before the expiry of the period referred to in § 1, the disciplinary limitation period shall expire ten years after the commission of the act.

§ 3. In matters other than regulated by Articles 13 and 14, the disciplinary liability of judges and associate judges shall be governed by the provisions of the Act of 21 August 1997 – Law on the System of Military Courts (Dz.U. Journal of Laws of 2025, item 1614), the Act of 27 July 2001 - Law on the System of Common Courts (Dz.U. Journal of Laws of 2024, items 334 and 1907, of 2025, items 526, 820, 1172, 1178 and 1609, and of 2026, item 26), the Act of 8 December 2017 on the Supreme Court (Dz.U. Journal of Laws of 2024, item 622, and of 2026, item 26) and the Act of 25 July 2002 – Law on the System of Administrative Courts (Dz.U. Journal of Laws of 2024, item 1267).

## Chapter 4
## Criminal liability

**Article 15.** § 1. A public official who, as part of his or her professional or official duties or powers, persistently disputes the constitutional or statutory powers of the President of the Republic of Poland, the Constitutional Tribunal, the National Council of the Judiciary and the State Tribunal, or the acts or rulings issued by these bodies, or other constitutional or statutory activities performed by these bodies, shall be subject to imprisonment for a term from 6 months to 5 years.

§2. If a perpetrator commits an act referred to in § 1 for obtaining financial or personal gain, he or she shall be subject to imprisonment for a term from 1 to 10 years.

§ 3. A public official who acts within the scope of his or her constitutional or statutory powers shall not commit a crime referred to in § 1 and § 2.

**Article 16.** § 1. A public official who, within the scope of his or her professional or official duties or powers, persistently disputes the effectiveness of the Constitution or statutes regulating the system of courts and tribunals and the procedure for appointing judges or court assessors, or disregards or refuses to apply them, shall be subject to imprisonment for a term from 6 months to 5 years.

§2. A public official who, within the scope of his or her professional or official duties or powers, determines or assesses the legality of the appointment of a judge or the nomination of an associate judge or the resulting authorisation to perform tasks in the scope of the administration of justice, shall be subject to imprisonment for a term from 6 months to 5 years.

§ 3. A public official who acts within the scope of his or her constitutional or statutory powers shall not commit a crime referred to in § 1 and § 2.

## Chapter 5
## Amendments to the existing regulations

**Article 17**. The Act of 21 August 1997 – Law on the System of Military Courts (Dz.U. Journal of Laws of 2025, item 1614) shall be amended as follows:

1) Article 23a shall be repealed;
2) in Article 37 § 4, subparagraph 3 shall be repealed.

**Article 18.** In the Act of 27 July 2001 – Law on the System of Common Courts (Dz.U. Journal of Laws of 2024, items 334 and 1907, of 2025, items 526, 820, 1172, 1178 and 1609 and of 2026, item 26):

1) Article 20a shall be repealed;
2) Article 20b shall be added which shall read as follows:
   “Article 20b § 1. The President of the Republic of Poland, bearing in mind the rational use of common court staff, the needs arising from the workload of individual courts, shall announce the number of vacant positions for judges and associate judges to be filled in individual courts, in the Public Information Bulletin on the website of the Chancellery of the President of the Republic of Poland.
   §2. In the event of a vacancy in a judicial position in a court operating within a specific appellate jurisdiction, the president of the competent court shall notify the President of the Republic of Poland thereof within fourteen days of the date on which the vacancy arises. Based on the criteria referred to in § 1, the President of the Republic of Poland shall announce a vacancy in a judicial position in the Public Information Bulletin on the website of the Chancellery of the President of the Republic of Poland or shall abolish the position.
   § 3. In the event of a planned vacancy in a judicial position in a court operating within a specific appellate jurisdiction, due to a judge reaching retirement age, the President of the Court of Appeal shall notify the President of the Republic of Poland no later

than five months before the position becomes vacant. The provision of § 2, second sentence, shall apply mutatis mutandis.

§ 4. Prior to the announcement referred to in § 2 and 3, the President of the Republic of Poland may consult the President of the competent court, the National Council of the Judiciary or the Minister of Justice.

§ 5. The announcement referred to in § (1)-(3) shall be an official act of the President of the Republic of Poland involving the authoritative public disclosure of information on vacant positions of judges and associate judges to be filled in individual courts.",

§ 6. The position of an associate judge shall be converted into a judicial position by operation of law upon the appointment of the associate judge to the judicial position.

§ 7. A vacancy in a judicial position shall not be announced if such a position shall be filled by the official transfer of a judge of an equivalent court or in accordance with the procedure specified in Article 74, or by way of the official transfer of an associate judge.";

3) in Article 41:
   a) in § 1 and § 1a, the words “Minister of Justice” shall be replaced by the words “President of the Republic of Poland”,
   b) after § 3, § 4 shall be added, which shall read as follows:

“§ 4. If the National Council of the Judiciary fails to express its opinion referred to in § 1 and § 1a within 30 days of the date of submission of the draft regulation for review, the opinion shall be deemed positive.";

4) Article 42a shall be repealed;
5) in Article 107, § 3(3) shall be repealed.

**Article 19.** In the Act of 25 July 2002 – Law on the System of Administrative Courts (Dz. U. Journal of Laws of 2024, item 1267) shall be amended as follows:

1) in Article 5, § 1 a - 1§ c shall be repealed;
2) Article 5a shall be repealed;
3) in Article 29 § 1:
   a) subparagraph 4 shall be repealed;
   b) subparagraph 5 shall read as follows:

“5) Article 31 of the Act of 8 December 2017 on the Supreme Court (Dz.U. Journal of Laws of 2024, item 622 and of 2026, item 26) shall apply, mutatis mutandis, to submitting applications for vacant positions of a judge and an associate judge to be filled in a voivodeship administrative court and to the competition procedure, except that the President of the Republic of Poland shall announce vacant positions of judges and associate judges in the Public Information Bulletin on the website of the Chancellery of the President of the Republic of Poland.";

   c) subparagraphs 6 and 7 shall be added which shall read as follows:

“6. The President of the Republic of Poland, in consultation with the President of the Supreme Administrative Court, shall announce the number of vacant judge and associate judge positions to be filled in individual voivodeship administrative courts in the Public Information Bulletin on the website of the President of the Republic of Poland.

7. In the event of a vacancy in a judge or associate judge position in a voivodeship administrative court, the President of the Supreme Administrative Court shall, within 14 days of the date of vacating the position, notify the President of the Republic of Poland thereof. The President of the Republic of Poland shall

announce the vacant judicial position or abolish the position in the Public Information Bulletin on the website of the Chancellery of the President of the Republic of Poland.

4) in Article 48 § 6, subparagraph 3 shall be repealed.

**Article 20.** The Act of 17 June 2004 on complaints against violations of the right of a party to have their case examined in preparatory proceedings conducted or supervised by a prosecutor and in court proceedings without undue delay (Dz.U. Journal of Laws of 2023, item 1725) shall be amended as follows:

1) Article 1(2) shall read as follows:
"2. The provisions of the Act shall apply accordingly where, as a result of an action or inaction on the part of a court or a court enforcement officer, the right of a party to conduct and conclude without undue delay an enforcement case or another case relating to the enforcement of a court judgement, as well as a case concerning the application for an enforcement clause to be affixed to an enforcement title, has been violated.";
2) in Article 2, after subparagraph 2, subparagraph 3 shall be added which shall read as follows:
"3. Where, in course of proceedings, a ruling has been repealed due to the court's determination or assessment of circumstances relating to the appointment of a judge or the nomination of an assistant judge, or the resulting authorisation to perform judicial functions, the complaint may be dismissed only if the party filing the complaint referred to in Article 2(1) has contributed to the prolongation of the proceedings by its own conduct, in particular by requesting the court to determine or assess the appointment of a judge or the nomination of an assistant judge or the resulting authorisation to perform judicial functions.";
3) Article 3(7) shall read as follows:
"7) in the enforcement proceedings and other proceedings related to the enforcement of a court ruling, as well as in the proceedings for affixing an enforcement clause to an enforcement title – the party and another person exercising their rights in these proceedings.";
4) in Article 12:
a) subparagraph 4 shall read as follows:
"4. Where the complaint is upheld, the court shall, at the request of the complainant, award a sum of money ranging from PLN 4,000 to PLN 40,000 from the State Treasury or, in the case of a complaint concerning the excessive length of proceedings conducted by a court enforcement officer - from the court enforcement officer. The amount of money, within the limits specified in the first sentence, shall not be lower than PLN 1,000 for each year of the ongoing proceedings, regardless of how many stages of the proceedings are affected by the determined excessive length of the proceedings. The court may award a sum of money higher than PLN 1,000 for each year of the ongoing proceedings if the case is of particular importance to the complainant who has not contributed to the prolongation of the proceedings through his or her own culpable conduct. The amounts already awarded to the complainant as monetary compensation in the same case shall be credited towards this sum. When awarding the claimant a sum of money, the court shall indicate the period of delay in the proceedings to which

it relates. No sum of money shall be awarded if the complaint lodged by the State Treasury or state public finance sector entities is upheld.”,

b) paragraph 4a shall be added after paragraph 4 which shall read as follows:
“4a. In the case referred to in Article 2(3), the amount awarded may not be lower than PLN 6,000.”

**Article 21.** The Act of 8 December 2017 on the Supreme Court (Dz.U. Journal of Laws of 2024 item 622, and of 2026 item 26) shall be amended as follows:

1) in Article 26, § 2 and 3 shall be repealed;
2) in Article 29, § 2 - 25 shall be repealed;
3) in Article 31:
   a) § 1 shall read as follows:
   “§ 1. The President of the Republic of Poland shall announce in the Public Information Bulletin on the website of the Chancellery of the President of the Republic of Poland the number of vacant judicial positions to be filled in individual chambers of the Supreme Court.
   b) § 1a shall be added after §1 which shall read as follows:
   “§ 1a. Within fourteen days of the date on which a judge position in the Supreme Court becomes vacant, the First President of the Supreme Court shall notify the President of the Republic of Poland thereof, simultaneously presenting his or her opinion”;
4) in Article 72 § 6, subparagraph 3 shall be repealed;
5) in Article 82, § 2 shall be repealed.

## Chapter 6
## Transitional and final provisions

**Article 22.** § 1. Cases initiated and not concluded before the date of entry into force of this Act, relating to the administration of justice by judges and associate judges, shall be governed by the provisions of this Act.

§2. Article 7 of this Act shall not apply to rulings, acts and actions of a court or a judge issued or performed before the date of entry into force of this Act.

§ 3. A request for a judge or an associate judge to submit the statement referred to in Article 9 § 1 hereof, if a notification of the composition of the court has been served, may be submitted by an entitled person within 30 days of the date of entry into force of this Act. After the expiry of the time limit referred to in the first sentence, the right to submit a request shall expire, and any requests submitted after the time limit shall be rejected.

§ 4. Cases initiated and not concluded before the date of entry into force of this Act relating to disciplinary liability referred to in Article 13 of this Act shall be governed by the existing provisions.

**Article 23.** Proceedings initiated and not concluded before the date of entry into force of this Act, pursuant to a request to examine whether a judge fulfils the requirements of independence and impartiality, taking into account the circumstances accompanying the judge's appointment and the judge's conduct after the appointment, referred to in the repealed:

1) Article 23a of the Act amended in Article 17 hereof,
2) Article 42a of the Act amended in Article 18 hereof,
3) Article 5a of the Act amended in Article 19 hereof,
4) Article 29§ 2-25 of the Act amended in Article 21 hereof - shall be discontinued by operation of law on the date of entry into force of this Act.

**Article 24.** Proceedings initiated and not concluded before the date of entry into force of this Act before the Supreme Court, the Extraordinary Review and Public Affairs Chamber, pursuant to motions or statements concerning the exclusion of a judge or the designation of a court, before which the proceedings shall take place, including allegations of lack of independence of the court or lack of independence of the judge, referred to in the repealed Article 26 § 2 and 3 of the Act amended in Article 21, shall be discontinued by operation of law on the date of entry into force of this Act.

**Article 25.** Announcements by the President of the Republic of Poland regarding the number of vacant judge positions to be filled in individual chambers of the Supreme Court and announcements by the President of the Republic of Poland regarding vacant administrative judge and associate judge positions issued before the date of entry into force of this Act, which have not been published in the Official Gazette of the Republic of Poland “Monitor Polski” by the date of entry into force of this Act, shall be published in the Public Information Bulletin on the website of the Chancellery of the President of the Republic of Poland.

**Article 26.** The Act shall enter into force 14 days after its promulgation.

**II. Draft Amendments to the Law on the System of Military Courts of 21 August 1997 (extracts from the Law, with amendments marked)**

**Art. 23a. [Prohibition on questioning the authority of courts and tribunals, constitutional state bodies, and law enforcement and oversight bodies; prohibition on undermining the status of a judge; examination of a judge's independence and impartiality]**

**§ 1. In the course of the activities of a military court or its bodies, it is impermissible to question the authority of courts and tribunals, constitutional state bodies, and bodies responsible for the supervision and protection of the law.**

**§ 2. A military court or any other authority may not determine or assess the legality of a judge's appointment or the authority to perform judicial functions arising from such appointment.**

**§ 3. The circumstances surrounding a judge's appointment may not constitute the sole basis for challenging a judgment issued with the participation of that judge or for questioning the judge's independence and impartiality.**

**§ 4. It is permissible to examine whether a judge meets the requirements of independence and impartiality, taking into account the circumstances surrounding his or her appointment and his or her conduct following appointment, at the request of the entitled party referred to in § 7, if, under the circumstances of the case, this could lead to a violation of the standard of independence or impartiality that affects the outcome of the case, taking into account the circumstances concerning the entitled party and the nature of the case.**

**§ 5. A motion to determine the grounds referred to in § 4 may be filed with the judge assigned to the panel hearing the case at first instance or on appeal, except in cases where the time limit for hearing the case and rendering a decision is no longer than one month from the date of filing the pleading initiating the proceedings.**

**§ 6. The motion must be filed within 7 days of the date on which the party entitled to file the motion is notified of the panel hearing the case. Upon the expiration of the period referred to in the first sentence, the right to file a motion shall lapse. Upon service of the first document in the case, the court shall notify the party entitled to file a motion of the panel hearing the case, and upon service of each subsequent document—if the panel hearing the case has changed.**

**§ 7. The party entitled to file a motion is a party to criminal proceedings before a military court in the cases referred to in § 5, and in disciplinary proceedings—the accused.**

**§ 8. The motion must meet the requirements applicable to pleadings and must also include:**

**1) a request for a determination that the conditions referred to in § 4 exist in the case at hand;**

**2) a statement of the facts justifying the request, together with evidence in support thereof.**

**§ 9. A motion that does not meet the requirements referred to in § 8 shall be dismissed without a request to remedy formal deficiencies. A motion filed after the deadline or otherwise inadmissible shall also be dismissed.**

**§ 10. A motion filed with a judge assigned to the panel of judges conducting proceedings during the preliminary investigation in cases involving fiscal offenses or in criminal proceedings shall be dismissed without consideration.**

**§ 11. If a party entitled to file a motion has filed motions with more than one judge assigned to the panel hearing the case, or if motions have been filed in the same case**

**by several parties entitled to file motions, the court may order that the motions be consolidated for joint consideration. In the event of a joint hearing of the motions, the motions shall be heard by the panel of the court designated to hear the motion that was filed first.**

**§ 12. Upon granting the motion, the court shall recuse the judge from hearing the case. The recusal of a judge from a particular case shall not constitute grounds for recusing that judge from other cases in which he or she is presiding.**

**§ 13. If the motion is granted, the court shall, ex officio, issue a written statement of reasons for the ruling within 3 days.**

**§ 14. If the motion is granted, a copy of the order, together with the reasoning, shall be served on the judge to whom the motion relates. The judge may, within 3 days, file a motion for reconsideration with the Supreme Court. The Supreme Court, composed of five judges selected at random from the entire bench of the Supreme Court, shall, within 7 days, either uphold the ruling on the judge's recusal or overturn the ruling on the judge's recusal and dismiss the motion. Until the case is heard by the Supreme Court, the judge shall take any actions that cannot be delayed.**

**§ 15. In matters not covered by the provisions of this Act, the provisions of the Act of June 6, 1997—Code of Criminal Procedure (Journal of Laws of 2025, items 46, 304, 1178, and 1420) concerning the examination of a motion for the recusal of a judge shall apply mutatis mutandis, with the exception of the third sentence of Article 42 § 3 of that Act to the extent it concerns urgent proceedings, in particular regarding pretrial detention.**

[…]

Art. 37. [Scope of disciplinary liability; disciplinary offense]

[…]

§ 4. The following does not constitute a disciplinary offense:

1) the fact that a court ruling issued with the participation of a given judge contains an error regarding the interpretation and application of provisions of national law or European Union law, or regarding the determination of the facts or the assessment of evidence;

2) referring the matter to the Court of Justice of the European Union for a preliminary ruling pursuant to Article 267 of the Treaty on the Functioning of the European Union (Journal of Laws of 2004, items 864 and 865; of 2021, items 1309 and 1852; and of 2023, item 2735);

**3) an examination of compliance with the requirements of independence and impartiality in the case referred to in Article 23a § 4 or Article 42a § 3 of the Act of July 27, 2001—Law on the System of Common Courts, or Article 5a § 1 of the Act of July 25, 2002 - Law on the System of Administrative Courts ( ) (Journal of Laws of 2024, item 1267), or an examination of compliance with the requirements of independence or impartiality in the case referred to in Article 26 § 2 of the Act of December 8, 2017, on the Supreme Court (Journal of Laws of 2024, item 622), or an examination of compliance with the requirements of independence and impartiality in the case referred to in Article 29 § 5 of that Act.**

## III. Draft Amendments to the Law on the System of Common Courts of 27 July 2001 (extracts from the Law, with amendments marked)

~~Art. 20a. [Assignment of New Judicial and Associate Judge Positions to Courts]~~
~~§ 1. The Minister of Justice, taking into account the rational use of personnel in the common courts and the needs arising from the workload of individual courts, shall allocate new judicial and associate judge positions to individual courts.~~
~~§ 2. If a judicial or associate judge position becomes vacant in a court operating within a given appellate district, the president of the appellate court shall notify the Minister of Justice of this fact within fourteen days of the vacancy arising. The Minister of Justice, based on the criteria referred to in § 1, and with a view to providing assessor positions to examinees of the judicial training program:~~
~~1) assigns the position to a specific court or another court, if necessary after converting it into a judicial or associate judge position, or~~
~~2) abolishes the position.~~
~~§ 2a. In the event of a planned vacancy in a judicial position at a court operating within a given appellate district due to a judge retiring upon reaching the required age, the president of the appellate court shall notify the Minister of Justice of this no later than five months prior to the vacancy. The provision of § 2, second sentence, shall apply mutatis mutandis.~~
~~§ 2b. In the case of the assignment of an assessor position, the Minister of Justice shall assign the position to a division or divisions after consulting the president of the competent court. The provision of Article 22a § 4 shall apply mutatis mutandis.~~
~~§ 3. An associate judge position is converted by operation of law into a judge position upon the appointment of the associate judge holding that position to serve as a judge.~~
~~§ 4. The Minister of Justice shall announce vacancies for judicial positions in the Official Journal of the Republic of Poland, "Monitor Polski."~~
~~§ 5. A vacant judicial position shall not be announced if it is filled by the transfer of a judge from an equivalent court or pursuant to the procedure specified in Article 74, or by the transfer of a judicial assessor.~~

**Art. 20b**
**§ 1. The President of the Republic of Poland, bearing in mind the rational use of common court staff, the needs arising from the workload of individual courts, shall announce the number of vacant positions for judges and associate judges to be filled in individual courts, in the Public Information Bulletin on the website of the Chancellery of the President of the Republic of Poland.**

**§2. In the event of a vacancy in a judicial position in a court operating within a specific appellate jurisdiction, the president of the competent court shall notify the President of the Republic of Poland thereof within fourteen days of the date on which the vacancy arises. Based on the criteria referred to in § 1, the President of the Republic of Poland shall announce a vacancy in a judicial position in the Public Information Bulletin on the website of the Chancellery of the President of the Republic of Poland or shall abolish the position.**

**§ 3. In the event of a planned vacancy in a judicial position in a court operating within a specific appellate jurisdiction, due to a judge reaching retirement age, the President of the Court of Appeal shall notify the President of the Republic of Poland no later than**

**five months before the position becomes vacant. The provision of § 2, second sentence, shall apply mutatis mutandis.**

**§ 4. Prior to the announcement referred to in § 2 and 3, the President of the Republic of Poland may consult the President of the competent court, the National Council of the Judiciary or the Minister of Justice.**
**§ 5. The announcement referred to in § (1)-(3) shall be an official act of the President of the Republic of Poland involving the authoritative public disclosure of information on vacant positions of judges and associate judges to be filled in individual courts.**

**§ 6. The position of an associate judge shall be converted into a judicial position by operation of law upon the appointment of the associate judge to the judicial position.**

**§ 7. A vacancy in a judicial position shall not be announced if such a position shall be filled by the official transfer of a judge of an equivalent court or in accordance with the procedure specified in Article 74, or by way of the official transfer of an associate judge.**
[…]
Art. 41. [Statutory Delegation – Internal Rules of Procedure for Common Courts; Specific Procedures of Courts in Matters of International Civil Proceedings and Criminal Proceedings in International Relations]

§ 1. The ~~**Minister of Justice**~~ **President of the Republic of Poland**, after consulting the National Council of the Judiciary, shall issue a regulation establishing the internal rules of procedure for common courts, specifying:

1) the internal organization and operational procedures of the courts,
2) detailed rules for the assignment of cases, including:
a) the method of random case assignment,
b) the rules for determining multi-judge panels,
c) (repealed),
(d) rules governing the reduction of case assignments based on the judge's duties and excused absences, as well as the grounds for temporarily suspending case assignments,
e) conditions for participating in the assignment of only certain categories of cases heard by the division,
f) rules for performing on-call duties and the types of cases subject to assignment in accordance with the on-call schedule,
g) rules for preparing a substitution schedule and the types of actions taken in accordance with the substitution schedule,
h) rules for the territorial division of the jurisdictions of guardianship and juvenile courts and the assignment of these jurisdictions to judges,
i) (repealed),
3) the manner in which tasks related to the operation of the European Judicial Network in civil and commercial matters are carried out,
4) the rules governing court proceedings, the organization of court operations, and the performance of duties by judges, associate judges, and court clerks in managerial roles, the course of administrative proceedings in matters falling within the jurisdiction of the courts, permissible systems and schedules for office hours, the conditions and procedures for accessing and transmitting case files and documents from the files, and the conditions for providing access to premises for parties to the proceedings, witnesses,

and other persons present in the courts - taking into account the principles of efficiency, rationality, cost-effectiveness, and prompt action, as well as the need to ensure the reliable performance of the tasks entrusted to the courts and the need to ensure an even and objective distribution of caseloads among judges, judicial assessors, and court clerks, ensuring a similar likelihood of participation in multi-judge panels, utilizing IT solutions for the random assignment of cases, and applying other methods of random case assignment when such solutions are unavailable.

§ 1a. The **~~Minister of Justice~~** **President of the Republic of Poland**, after consulting the National Council of the Judiciary and the relevant general assembly of judges of the court of appeals, the general assembly of judges of the regional court, or the general assembly of judges of the district court, may, by regulation, within the scope referred to in § 1, internal rules of procedure for common courts containing provisions differing from those contained in the implementing regulations issued pursuant to § 1, applicable for a fixed period not exceeding two years, in no more than two district courts or two judicial districts, or within the territory of no more than two appellate courts, taking into account the need to verify the practical operation of these regulations.

§ 2. The Minister of Justice shall, by regulation, specify the detailed procedures to be followed by courts in cases involving international civil proceedings and criminal proceedings in international relations, including: the authentication of documents intended for use abroad, the manner of performing activities concerning persons enjoying diplomatic and consular immunities and privileges, as well as activities involving such persons, activities related to appearing before courts, the procedure for determining citizenship, the detailed procedure for requesting and providing legal assistance to courts and other authorities of foreign states, and the detailed procedure for requesting the extradition of persons being prosecuted or convicted, as well as other forms of cooperation in criminal matters.

§ 3. The Minister of Justice may, by regulation, designate foreign countries with which requests relating to international civil and criminal proceedings are to be transmitted by electronic means of communication, the types of such requests, and the manner of their transmission, taking into account the interests of the proceedings, the need to ensure their efficient conduct, and the admissibility of the use of electronic means of communication in the foreign state.

**§ 4. If the National Council of the Judiciary fails to express its opinion referred to in § 1 and § 1a within 30 days of the date of submission of the draft regulation for review, the opinion shall be deemed positive.**

[…]

**~~Art. 42a. [Prohibition on challenging the authority of courts and tribunals, constitutional state bodies, and law enforcement and oversight bodies; prohibition on challenging the status of a judge; examination of a judge's independence and impartiality]~~**

**~~§ 1. In the course of the activities of courts or judicial bodies, it is impermissible to question the authority of courts and tribunals, constitutional state bodies, and bodies responsible for the oversight and protection of the law.~~**

**~~§ 2. It is impermissible for a common court or any other authority to determine or assess the legality of a judge's appointment or the authority to perform judicial duties arising from such appointment.~~**

**~~§ 3. It is permissible to examine whether a judge meets the requirements of independence and impartiality, taking into account the circumstances surrounding his~~**

**or her appointment and conduct following appointment, at the request of an eligible party referred to in § 6, if, under the circumstances of the case, this could lead to a violation of the standard of independence or impartiality that affects the outcome of the case, taking into account the circumstances concerning the entitled party and the nature of the case.**

**§ 4. A motion to determine the grounds referred to in § 3 may be filed with the judge assigned to the panel hearing the case at first instance or on appeal, except in cases where the time limit for hearing the case and rendering a decision is no longer than one month from the date of filing the pleading initiating the proceedings.**

**§ 5. The motion must be filed within 7 days of the date on which the party entitled to file the motion is notified of the panel hearing the case. After the expiration of the period referred to in the first sentence, the right to file a motion shall lapse. Upon service of the first pleading in the case, the court shall notify the party entitled to file a motion of the panel hearing the case, and upon service of each subsequent pleading—if the panel hearing the case has changed.**

**§ 6. The following persons are entitled to file a motion in proceedings:**

**1) in cases involving fiscal crimes and fiscal offenses—the party;**

**2) in cases involving misdemeanors—the party;**

**3) in matters concerning the liability of collective entities for acts prohibited under penalty of law—the party and the petitioner;**

**4) criminal cases – a party;**

**5) in juvenile cases—party;**

**6) civil—party and participant in the proceedings;**

**7) disciplinary proceedings – the accused.**

**§ 7. The motion shall meet the requirements applicable to a pleading and shall also contain:**

**1) a request for a determination that the conditions referred to in § 3 exist in the case;**

**2) a statement of the circumstances justifying the request, together with evidence in support thereof.**

**§ 8. A motion that does not meet the requirements referred to in § 7 shall be dismissed without a request to remedy formal deficiencies. A motion filed after the deadline or otherwise inadmissible shall also be dismissed.**

**§ 9. A motion filed with a judge assigned to the panel of the court conducting proceedings in the course of a preliminary investigation in cases involving fiscal offenses or in criminal proceedings shall be dismissed without consideration.**

**§ 10. If a party entitled to file a motion has filed motions with more than one judge assigned to the panel hearing the case, or if motions have been filed in the same case by several parties entitled to file motions, the court may order that the motions be consolidated for joint consideration. In the event of a joint hearing of the motions, the motions shall be heard by the panel of the court designated to hear the motion that was filed first.**

**§ 11. Upon granting the motion, the court shall recuse the judge from hearing the case. The recusal of a judge from a particular case shall not constitute grounds for recusing that judge from other cases in which he or she is presiding.**

**§ 12. If the motion is granted, the court shall, ex officio, issue a written statement of reasons for the ruling within 3 days.**

**§ 13. If the motion is granted, a copy of the ruling, together with the reasoning, shall also be served on the judge to whom the motion relates. The judge may, within 3 days,**

**file a motion for reconsideration with the Supreme Court. The Supreme Court, composed of five judges selected at random from the entire bench of the Supreme Court, shall, within 7 days, either uphold the ruling on the judge's recusal or overturn the ruling on the judge's recusal and dismiss the motion. Until the case is heard by the Supreme Court, the judge shall take any actions that cannot be delayed.**

**§ 14. In matters not covered by the provisions of this Act, the following shall apply mutatis mutandis to the consideration of the motion referred to in § 4:**

**1) civil matters—the provisions of the Act of November 17, 1964—Code of Civil Procedure concerning the examination of motions for recusal of a judge and complaints,**

**2) criminal matters—the provisions of the Act of June 6, 1997 — Code of Criminal Procedure (Journal of Laws of 2024, item 37) concerning the examination of a motion for recusal of a judge, with the exception of Article 42 § 3, third sentence, of that Act insofar as it concerns urgent proceedings, in particular regarding pretrial detention.**

[…]

Art. 107. [Scope of a judge's disciplinary liability]

[…]

§ 3. The following does not constitute a disciplinary offense:

1) the fact that a court ruling issued with the participation of a given judge contains an error regarding the interpretation and application of provisions of national law or European Union law, or regarding the determination of the facts or the assessment of evidence;

2) referring the matter to the Court of Justice of the European Union for a preliminary ruling pursuant to Article 267 of the Treaty on the Functioning of the European Union (Official Journal of 2004, No. 864, as amended);

**3) an examination of compliance with the requirements of independence and impartiality in the case referred to in Article 42a § 3 or Article 23a § 4 of the Act of August 21, 1997—Law on the Organization of Military Courts (Journal of Laws of 2022, item 2250), or Article 5a § 1 of the Act of July 25, 2002—Law on the System of Administrative Courts (Journal of Laws of 2022, item 2492, and of 2023 , item 1615), or an examination of compliance with the requirements of independence or impartiality in the case referred to in Article 26 § 2 of the Act of December 8, 2017, on the Supreme Court, or an examination of compliance with the requirements of impartiality and objectivity in the case referred to in Article 29 § 5 of that Act.**

## IV. Draft Amendments to the Law on the System of Administrative Courts of 25 July 2002 (extracts from the Law, with amendments marked)

Art. 5. [Appointment and assignment of a judge's place of service; prohibition on challenging the authority of courts and tribunals, constitutional state bodies, and bodies responsible for the oversight and protection of the law; prohibition on challenging the status of a judge]
§ 1. A judge of an administrative court is a person appointed to that position by the President of the Republic of Poland who has taken an oath before the President of the Republic of Poland.

**§ 1a. In the course of the activities of an administrative court or its bodies, it is impermissible to question the authority of courts and tribunals, constitutional state bodies, and bodies responsible for the supervision and protection of the law.**
**§ 1b. It is impermissible for an administrative court or any other public authority to determine or assess the legality of a judge's appointment or the authority to perform judicial functions arising from such appointment.**
**§ 1c. The circumstances surrounding the appointment of an administrative court judge may not constitute the sole basis for challenging a ruling issued with the participation of that judge or for questioning his or her independence and impartiality.**

§ 2. Judges of administrative courts are appointed to the position of judge of a provincial administrative court, with the designation of the judge's place of service (seat), or to the position of judge of the Supreme Administrative Court.

§ 3. Judicial assessors are appointed to the office of judicial assessor by the President of the Republic of Poland, upon the recommendation of the National Council of the Judiciary.

§ 4. Judicial assessors are appointed for a term of five years, with the place of service (seat) of the judicial assessor designated at a provincial administrative court.

**Art. 5a. [Examination of a judge's independence and impartiality]**
**§ 1. It is permissible to examine whether an administrative court judge or a judge delegated to perform the duties of an administrative court judge meets the requirements of independence and impartiality, taking into account the circumstances surrounding his or her appointment and his or her conduct following the appointment, at the request of the entitled party referred to in § 3, if, under the circumstances of the case, this may lead to a violation of the standard of independence or impartiality that could affect the outcome of the case, taking into account the circumstances concerning the entitled party and the nature of the case.**
**§ 2. A motion to determine the grounds referred to in § 1 may be filed with an administrative court judge or a judge delegated to perform the duties of an administrative court judge who has been assigned to the panel hearing the case on its merits or the cassation appeal.**
**§ 3. The complainant and a party to the administrative court proceedings in the cases referred to in § 2, and in disciplinary proceedings—the accused, are entitled to file such a motion.**
**§ 4. The motion must be filed within one week of the date on which the party entitled to file the motion is notified of the composition of the panel hearing the case. Upon the expiration of the period referred to in the first sentence, the right to file a motion shall**

**lapse. Upon service of the first pleading in the case, the court shall notify the party entitled to file a motion of the panel hearing the case, and upon service of each subsequent pleading—if the panel hearing the case has changed. The provisions of Article 175 of the Act of August 30, 2002—Law on Proceedings before Administrative Courts (Journal of Laws of 2024, item 935)—apply to a motion considered by the Supreme Administrative Court.**

**§ 5. The motion must meet the requirements applicable to pleadings and must also include:**

**1) a request for a determination that the conditions referred to in § 1 exist in the case at hand;**

**2) a statement of the facts justifying the request, together with evidence in support thereof.**

**§ 6. An application that does not meet the requirements referred to in § 5 shall be dismissed without a request to remedy formal deficiencies. An application filed after the deadline or otherwise inadmissible shall also be dismissed.**

**§ 7. The Supreme Administrative Court shall notify the competent professional self-regulatory body to which the attorney belongs of the rejection of an application that does not meet the requirements referred to in § 5.**

**§ 8. Until the motion has been ruled upon, the judge who is the subject of the motion may not take any further action, unless such action is of an urgent nature.**

**§ 9. If a party entitled to file a motion has filed motions with more than one judge assigned to the panel hearing the case, or if motions have been filed in the same case by several parties entitled to file motions, the administrative court may order that the motions be consolidated for joint consideration. In the event of a joint hearing of the motions, the motions shall be heard by the panel of the administrative court designated to hear the motion that was filed first.**

**§ 10. The motion shall be heard by the administrative court before which the case is pending, in a panel of three judges selected by lot from the entire bench of that court. The Supreme Administrative Court shall hear the motion in a panel of five judges selected by lot from the entire bench of the Supreme Administrative Court. The judge to whom the motion relates shall be excluded from the selection. If the administrative court referred to in the first sentence is unable to hear the motion due to a lack of a sufficient number of judges, the Supreme Administrative Court shall designate another court to hear the motion.**

**§ 11. The court shall hear the motion in a closed session within two weeks of its filing, after hearing the judge to whom the motion relates, unless this is impossible or would be unduly difficult. The hearing may take place in writing.**

**§ 12. The court shall dismiss the motion if it is unfounded.**

**§ 13. If the motion is granted, the court shall recuse the judge from hearing the case. The recusal of a judge from a given case shall not constitute grounds for recusing that judge in other cases in which he or she is participating.**

**§ 14. The court shall, within 3 days, issue a written statement of reasons for the order issued following consideration of the motion.**

**§ 15. A copy of the ruling issued following consideration of the motion, together with the statement of reasons, shall be served on the petitioner and on the judge whose ruling is at issue.**

**§ 16. The party that filed the motion and the judge whose ruling is concerned may file an appeal with the Supreme Administrative Court against a ruling issued following the consideration of the motion. The deadline for filing an appeal is one week and begins**

**~~to run for each party entitled to file an appeal on the date of service of the ruling together with its reasoning. The provisions of Article 175 of the Act of August 30, 2002—Law on Proceedings before Administrative Courts—apply.~~**

**~~§ 17. The Supreme Administrative Court shall hear the complaint in a closed session before a panel of 7 judges selected by lot from among the entire membership of the Supreme Administrative Court within 2 weeks of the date the complaint was filed. The judge whose ruling is at issue and the judge who participated in issuing the contested decision shall be excluded from the selection.~~**

**~~§ 18. In matters not regulated by this Act, the provisions on appeals shall apply mutatis mutandis to proceedings pending as a result of a motion.~~**

**~~§ 19. No motion for retrial may be filed against a final decision issued following the adjudication of a motion.~~**

[…]

Art. 29. [Reference to provisions on the organization of the common courts]

§ 1. In matters not regulated by this Act, the provisions on the organization of common courts shall apply mutatis mutandis to provincial administrative courts and to judges, associate judges, senior court clerks, court clerks, senior judicial assistants, and judicial assistants, provided that:

1) the provisions concerning the information and communication technology system supporting proceedings for appointment to the office of a judge of a common court or a judicial assessor shall not apply;

2) the provisions regarding the remuneration of appellate court judges shall apply mutatis mutandis to the remuneration of judges;

3) The base salary of a judicial assessor corresponds to the base salary of a district court judge at the fourth pay grade, plus the applicable social security contribution;

**~~4) The provisions governing the appointment of a judge of a common court shall apply mutatis mutandis to the appointment of a judicial assessor;~~**

5) Article 31 of the Act of December 8, 2017, on the Supreme Court (Journal of Laws of 2024, item 622) **shall apply** **~~applies~~** mutatis mutandis to **submitting applications for vacant positions of a judge and an association judge to be filled in a voivodeship administrative court and to the competition procedure, except that the President of the Republic of Poland shall announce vacant positions of judges and associate judges in the Public Information Bulletin on the website of the Chancellery of the President of the Republic of Poland**; **~~the submission of nominations for vacant judicial positions to be filled in a provincial administrative court, provided that the President of the Supreme Administrative Court shall announce vacant judicial positions in the Official Journal of the Republic of Poland, "Monitor Polski."~~**

**6. The President of the Republic of Poland, in consultation with the President of the Supreme Administrative Court, shall announce the number of vacant judge and associate judge positions to be filled in individual voivodeship administrative courts in the Public Information Bulletin on the website of the President of the Republic of Poland.**

**7. In the event of a vacancy in a judge or associate judge position in a voivodeship administrative court, the President of the Supreme Administrative Court shall, within 14 days of the date of vacating the position, notify the President of the Republic of Poland thereof. The President of the Republic of Poland shall announce the vacant judicial position or abolish the position in the Public**

**Information Bulletin on the website of the Chancellery of the President of the Republic of Poland.**

[…]

Art. 48. [Disciplinary proceedings]

[…]

§ 6. The following do not constitute disciplinary offenses:

1) the fact that a judicial decision issued with the participation of a given judge contains an error in the interpretation and application of provisions of national law or European Union law, or in the determination of the facts or the assessment of evidence;

2) the submission to the Court of Justice of the European Union of a request for a preliminary ruling referred to in Article 267 of the Treaty on the Functioning of the European Union (Journal of Laws of 2004, item 864, as amended);

**~~3) examining compliance with the requirements of independence and impartiality in the case referred to in Article 5a § 1.~~**

## V. Draft Amendments to Act on complaints regarding the violation of a party's right to have a case heard in preparatory proceedings conducted or supervised by a prosecutor and court proceedings without undue delay of 17 June 2004 (extracts from the Act, with amendments marked)

Art. 1.1. This Act regulates the rules and procedures for filing and adjudicating complaints by a party whose right to have a case heard without undue delay has been violated as a result of an action or inaction by a court or a prosecutor conducting or supervising a pretrial investigation.

2. The provisions of this Act shall apply accordingly where, as a result of an action or inaction by a court or a court enforcement officer, a party's right to conduct and conclude, without undue delay, an enforcement proceeding or another proceeding concerning the execution of a court judgment **as well as a case concerning the application for an enforcement clause to be affixed to an enforcement title,** has been violated.
[…]
Art. 2.1. A party may file a complaint seeking a determination that, in the proceedings to which the complaint relates, there has been a violation of their right to have their case heard without undue delay, if the proceedings aimed at issuing a decision concluding the case last longer than is necessary to clarify the relevant factual and legal circumstances, or longer than is necessary to resolve an enforcement matter or other matter concerning the enforcement of a court judgment (excessive length of proceedings).
[…]
2. To determine whether proceedings in a case have been unduly prolonged, it is necessary, in particular, to assess the timeliness and correctness of the actions taken by the court to issue a decision concluding the proceedings in the case, or the actions taken by the prosecutor conducting or supervising the preliminary investigation to conclude the preparatory proceedings, or the actions taken by the court or a court enforcement officer to conduct and conclude an enforcement case or another case concerning the enforcement of a court judgment. In making this assessment, the total duration of the proceedings to date, from their initiation until the complaint is heard, is taken into account, regardless of the stage at which the complaint was filed, as well as the nature of the case, the degree of its factual and legal complexity, the significance for the party that filed the complaint, the issues resolved therein, and the conduct of the parties, in particular the party that alleged the excessive length of the proceedings.

**3. Where, in course of proceedings, a ruling has been repealed due to the court's determination or assessment of circumstances relating to the appointment of a judge or the nomination of an assistant judge, or the resulting authorisation to perform judicial functions, the complaint may be dismissed only if the party filing the complaint referred to in Article 2(1) has contributed to the prolongation of the proceedings by its own conduct, in particular by requesting the court to determine or assess the appointment of a judge or the nomination of an assistant judge or the resulting authorisation to perform judicial functions.**

Art. 3. The following are entitled to file a complaint:
1) in proceedings concerning fiscal crimes and fiscal offenses—the party;
2) in proceedings concerning misdemeanors—the party;

3) in proceedings concerning the liability of legal entities for acts prohibited under penalty of law – the party or the petitioner;
4) in criminal proceedings – a party and the victim, even if the victim is not a party;
5) in civil proceedings – a party, an intervenor, and a participant in the proceedings;
6) in administrative court proceedings – the complainant and a participant in the proceedings with the rights of a party;
7) in enforcement proceedings and in other proceedings concerning the enforcement of a court judgment**, as well as in the proceedings for affixing an enforcement clause to an enforcement title** —a party and any
other person exercising their rights in such proceedings.

[…]

**Art. 12.**1. The court shall dismiss an unfounded complaint.

2. If the complaint is upheld, the court shall find that there has been a delay in the proceedings to which the complaint relates.

3. At the request of the complainant or on its own initiative, the court shall recommend that the court hearing the case on its merits, or the prosecutor conducting or supervising the preliminary investigation, take appropriate action within a specified time limit, unless such recommendations are clearly unnecessary. Such recommendations may not encroach upon the court's assessment of the facts and law of the case.

4. Upon granting the complaint, the court shall, at the complainant's request, award a monetary sum ranging from ~~**2,000**~~ **4,000** to ~~**20,000**~~ **40,000** zlotys from the State Treasury, or—in the case of a complaint regarding the excessive length of proceedings conducted by a court enforcement officer—from the court enforcement officer. The amount of the monetary sum, within the limits specified in the first sentence, shall be no less than ~~**500**~~ **1,000** zlotys for each year of the proceedings to date, regardless of how many stages of the proceedings the established delay concerns. The court may award a monetary sum exceeding ~~**500**~~ **1,000** zlotys for each year of the proceedings to date if the case is of particular importance to the claimant, who has not culpably contributed to the prolongation of the proceedings through his or her conduct. Any amounts already awarded to the claimant as monetary compensation in the same case shall be credited against this sum. When awarding monetary compensation to the claimant, the court shall specify the period of the proceedings' delay to which it relates. No monetary compensation shall be awarded if a complaint filed by the State Treasury or state entities of the public finance sector is upheld.

**4a. In the case referred to in Article 2(3), the amount awarded may not be lower than PLN 6,000.**

## VI. Draft Amendments to the Law on the Supreme Court of 8 December 2017 (extracts from the Law, with amendments marked)

Art. 26. [Jurisdiction of the Chamber of Extraordinary Control and Public Affairs]

§ 1. The Extraordinary Control and Public Affairs Chamber has jurisdiction to hear:

1) extraordinary appeals;

2) election protests and protests against the validity of national referendums and constitutional referendums, as well as determining the validity of elections and referendums, and cases in which appeals have been filed against resolutions of the National Electoral Commission;

3) appeals against resolutions of the National Council of the Judiciary in cases provided for by specific regulations;

4) cases involving public procurement;

5) registration matters, excluding cases concerning the registration of businesses and the registration of liens;

6) matters relating to competition and consumer protection, as well as practices that unfairly exploit contractual advantage;

7) cases concerning the regulation of energy, telecommunications, and postal services, rail transport, and the water and sewerage market;

8) cases in which an appeal has been filed against a decision of the Chairman of the National Broadcasting Council;

8a) cases in which an appeal has been filed against a ruling of the State Commission for the Prevention of Sexual Exploitation of Minors Under 15;

8b) cases in which an appeal has been filed against an administrative decision of the State Commission for the Investigation of Russian Influence on the Internal Security of the Republic of Poland in the years 2007–2022, as referred to in Article 36(1) of the Act of April 14, 2023 on the State Commission for the Investigation of Russian Influence on the Internal Security of the Republic of Poland in the Years 2007–2022 (Journal of Laws, items 1030 and 1532);

9) cases concerning the retirement of a Supreme Court judge;

10) complaints regarding the excessive length of proceedings before common and military courts and the Supreme Court;

11) other matters of public law not reserved for the jurisdiction of other chambers of the Supreme Court.

**~~§ 2. The Extraordinary Control and Public Affairs Chamber has jurisdiction to hear motions or statements concerning the recusal of a judge or the designation of the court before which proceedings are to be conducted, where such motions or statements allege a lack of judicial independence or a lack of a judge's impartiality. The court hearing the case shall immediately forward the motion to the President of the Chamber of Extraordinary Control and Public Affairs for further processing in accordance with the rules set forth in separate regulations. The forwarding of the motion to the President of the Chamber of Extraordinary Control and Public Affairs shall not suspend the ongoing proceedings.~~**

**~~§ 3. The motion referred to in § 2 shall not be considered if it concerns the determination and assessment of the legality of a judge's appointment or of his or her authority to perform judicial duties.~~**

§ 4. The Extraordinary Control and Public Affairs Chamber has jurisdiction to hear complaints seeking a declaration of the unlawfulness of a final judgment of the Supreme Court, the common courts, military courts, and administrative courts, including the Supreme Administrative Court, if the unlawfulness consists in challenging the status of a person appointed to the office of judge who issued the ruling in the case.

§ 5. Proceedings in the cases referred to in § 4 shall be governed by the relevant provisions on the declaration of the unlawfulness of final judgments, and in criminal cases, by the provisions on the reopening of court proceedings concluded by a final judgment. It is not necessary to establish the likelihood of, or to demonstrate, damage caused by the issuance of the judgment that is the subject of the complaint.

§ 6. A complaint seeking a declaration of the unlawfulness of a final judgment referred to in § 4 may be filed with the Supreme Court - the Extraordinary Control and Public Affairs Chamber, bypassing the court that issued the contested ruling, as well as in the event that a party fails to exercise the legal remedies available to it, including an extraordinary appeal to the Supreme Court.

[…]
Art. 29. [Appointment to the Office of Supreme Court Judge; Test of Judicial Independence]
§ 1. A judge of the Supreme Court is a person appointed to that position by the President of the Republic of Poland who has taken an oath before the President of the Republic of Poland.

**§ 2. In the course of the activities of the Supreme Court or its bodies, it is impermissible to question the authority of courts and tribunals, constitutional state bodies, and bodies responsible for the oversight and protection of the law.**
**§ 3. It is impermissible for the Supreme Court or any other authority to determine or assess the legality of a judge's appointment or the resulting authority to perform judicial duties.**
**§ 4. The circumstances surrounding the appointment of a Supreme Court judge may not constitute the sole basis for challenging a ruling issued with the participation of that judge or for questioning his or her independence and impartiality.**
**§ 5. It is permissible to examine whether a judge of the Supreme Court or a judge seconded to perform judicial duties at the Supreme Court meets the requirements of independence and impartiality, taking into account the circumstances surrounding his or her appointment and his or her conduct following the appointment, upon the request of the entitled party referred to in § 7, if, under the circumstances of the case, this may lead to a violation of the standard of independence or impartiality that could affect the outcome of the case, taking into account the circumstances concerning the entitled party and the nature of the case.**
**§ 6. A motion to determine the grounds referred to in § 5 may be filed with a judge of the Supreme Court or a judge delegated to perform judicial duties at the Supreme Court who has been assigned to the panel hearing the case:**
**1) an appeal;**
**2) a disciplinary case;**
**3) a case concerning authorization to hold judges, judicial assessors, prosecutors, and assistant prosecutors criminally liable or to place them in pretrial detention;**

4) a case concerning a judge of the Supreme Court in the field of labor law and social security;

5) a case concerning the retirement of a Supreme Court judge.

§ 7. A party or participant in proceedings before the Supreme Court in the cases referred to in § 6 is entitled to file a motion.

§ 8. The application must be filed within one week of the date on which the party entitled to file the application is notified of the composition of the panel hearing the case. Upon the expiration of the period referred to in the first sentence, the right to file the motion shall lapse. Upon service of the first pleading in the case, the court shall notify the party entitled to file the motion of the panel hearing the case, and upon service of each subsequent pleading—if the panel hearing the case has changed. The provision of Article 871 § 1 of the Act of November 17, 1964—Code of Civil Procedure (Journal of Laws of 2023, item 1550, as amended) applies.

§ 9. The motion shall meet the requirements prescribed for a pleading and shall also contain:

1) a request for a determination that the conditions referred to in § 5 are met in the case at hand;

2) a statement of the circumstances justifying the request, together with evidence in support thereof.

§ 10. An application that does not meet the requirements referred to in § 9 shall be rejected without a request to remedy formal deficiencies. An application filed after the deadline or otherwise inadmissible shall also be rejected.

§ 11. The Supreme Court shall notify the competent professional self-regulatory body to which the attorney belongs of the rejection of an application that does not meet the requirements referred to in § 9.

§ 12. Until the motion is considered, the judge to whom the motion relates may not take any further action, unless such action is of an urgent nature.

§ 13. The filing of a motion does not suspend the admissibility of issuing a ruling in the case referred to in § 6(3), in matters of urgency or regarding a preventive measure, during the consideration of a cassation appeal or a motion to reopen proceedings.

§ 14. If a party entitled to file a motion has filed motions with more than one judge assigned to the panel hearing the case, or if motions have been filed in the same case by several parties entitled to file motions, the Supreme Court may order that the motions be consolidated for joint consideration. In the event of a joint hearing of the motions, the motions shall be heard by the panel of the Supreme Court designated to hear the motion that was filed first.

§ 15. The Supreme Court shall consider the motion in a closed session before a panel of five judges selected by lot from among the entire membership of the Supreme Court, after hearing the judge to whom the motion relates, unless such a hearing is impossible or would be unduly difficult. The hearing may take place in writing. The judge to whom the motion relates shall be excluded from the selection.

§ 16. The Supreme Court shall issue a ruling within two weeks from the date of filing the motion.

§ 17. The Supreme Court shall dismiss the motion if it is unfounded.

§ 18. Upon granting a motion, the Supreme Court shall recuse a judge from hearing the case. The recusal of a judge from a particular case shall not constitute grounds for recusing that judge from other cases in which he or she is participating.

§ 19. The Supreme Court shall, ex officio, issue a written statement of reasons for the order issued following consideration of the motion within 3 days.

**~~§ 20. A copy of the decision issued following the consideration of the motion, together with the statement of reasons, shall be served on the petitioner and on the judge whose ruling is at issue.~~**
**~~§ 21. An appeal may be filed with the Supreme Court against a ruling issued following the consideration of a motion. The Supreme Court shall hear the appeal in a panel of seven judges selected by lot from among all members of the Supreme Court. The judge whose ruling is at issue and the judge who participated in issuing the contested ruling shall be excluded from the selection process.~~**
**~~§ 22. The right to appeal is available to the party who filed the motion and to the judge whose ruling is at issue. The deadline for filing an appeal is one week and begins to run for each party entitled to appeal on the date of service of the decision together with the statement of reasons.~~**
**~~§ 23. The Supreme Court shall hear the appeal in a closed session within two weeks of the date on which it was filed.~~**
**~~§ 24. In matters not regulated by this Act, the provisions governing complaints applicable to the proceedings to which the motion relates shall apply mutatis mutandis to proceedings pending as a result of the motion and to appellate proceedings.~~**
**~~§ 25. No motion for retrial or complaint for retrial may be filed against a final decision of the Supreme Court issued following the consideration of a motion.~~**
[…]
Art. 31. [Nomination for a Vacant Position of Supreme Court Judge]
§ 1. The President of the Republic of Poland**~~, after consulting with the First President of the Supreme Court,~~** shall publish **in the Public Information Bulletin on the website of the Chancellery of the President of the Republic of Poland ~~in the Official Journal of the Republic of Poland, *Monitor Polski*,~~** the number of vacant judicial positions to be filled in the individual chambers of the Supreme Court.
**§ 1a. Within fourteen days of the date on which a judge position in the Supreme Court becomes vacant, the First President of the Supreme Court shall notify the President of the Republic of Poland thereof, simultaneously presenting his or her opinion.**

§ 2. Any person who meets the requirements to hold the position of a judge of the Supreme Court may submit their candidacy to the National Council of the Judiciary within one month of the date of the announcement referred to in § 1.

§ 3. A candidacy is submitted by filing a nomination form for a vacant position of Supreme Court judge with the chamber specified in the announcement, accompanied by the following documents—unless the candidate is a judge or a prosecutor — information from the National Criminal Register concerning the candidate and a certificate stating that the candidate is physically fit to perform the duties of a judge.

§ 3a. A candidate for a vacant position as a judge of the Supreme Court may also attach other documents to the application form confirming his or her qualifications, in particular information on academic achievements, a list of publications, evaluations from supervisors, and recommendations.

§ 3b. An applicant born before August 1, 1972, shall submit in paper form the statement referred to in Article 7(1) of the Act of October 18, 2006, on the disclosure of information regarding documents of state security agencies from 1944 to 1990 and the content of such

documents (Journal of Laws of 2024, item 273), or the information referred to in Article 7(3a) of that Act.

§ 3c. If a person who does not meet the requirements for appointment as a Supreme Court judge, as set forth in Article 30 § 1, points 1–3, 5, and 7–9, and § 2, or if the application was submitted after the deadline or does not meet the formal requirements, the National Council of the Judiciary shall leave the application unexamined. No appeal may be filed against a resolution to leave the application unexamined.

§ 3d. After determining that a candidate meets the conditions and formal requirements for nomination, the Chair of the National Council of the Judiciary shall appoint the panel referred to in Article 31(1) of the Act of May 12, 2011, on the National Council of the Judiciary (Journal of Laws of 2021, item 269, and of 2023, item 1615).

§ 4. The President of the Republic of Poland shall, by way of a regulation, establish a template for the application form for a candidate for a vacant position of a Supreme Court judge, bearing in mind the need to ensure transparency and efficiency in the proceedings for the selection of a candidate for the position of a Supreme Court judge.

[…]

Art. 72. [Scope of disciplinary liability; consent by a Supreme Court judge to be held criminally liable]

[…]

§ 6. The following does not constitute a disciplinary offense:

1) the fact that a judicial decision issued with the participation of a given Supreme Court judge is vitiated by an error in the interpretation or application of provisions of national law or European Union law, or in the determination of the facts or the assessment of evidence;

2) the submission to the Court of Justice of the European Union of a request for a preliminary ruling as referred to in Article 267 of the Treaty on the Functioning of the European Union (Official Journal of 2004, item 864, as amended);

**~~3) an examination of compliance with the requirements of independence or impartiality in the case referred to in Article 26 § 2, or an examination of compliance with the requirements of impartiality and objectivity in the case referred to in Article 29 § 5 or Article 23a § 4 of the Act of August 21, 1997 - Law on the Organization of Military Courts, or Article 42a § 3 of the Act of July 27, 2001 - Law on the Organization of Common Courts.~~**

[…]

Art. 82. [Submission of a legal issue to the panel of the chamber for resolution; legal issues resolved by the full panel of the Extraordinary Control and Public Affairs Chamber of the Supreme Court]

§ 1. If, in hearing a cassation appeal or other appeal, the Supreme Court has serious doubts regarding the interpretation of the legal provisions on which the decision was based, it may adjourn the hearing of the case and refer the legal issue to a panel of seven judges of that court for a ruling.

**~~§ 2. When hearing a case involving a legal issue concerning the independence of a judge or the independence of a court, the Supreme Court shall adjourn the hearing and~~**

~~**refer the issue to the full panel of the Extraordinary Control and Public Affairs Chamber of the Supreme Court for a ruling.**~~

§ 3. If, upon reviewing the motion referred to in Article 26 § 2, the Supreme Court has serious doubts regarding the interpretation of the legal provisions on which the ruling is to be based, it may postpone consideration of the motion and refer the legal issue to the full panel of the Extraordinary Control and Public Affairs Chamber of the Supreme Court for resolution.

§ 4. When adopting the resolution referred to in § 2 or § 3, the Chamber of Extraordinary Control and Public Affairs is not bound by a resolution of another panel of the Supreme Court, even if such resolution has acquired the force of a legal principle.

§ 5. A resolution adopted by the full panel of the Extraordinary Control and Public Affairs Chamber of the Supreme Court pursuant to § 2 or § 3 is binding on all panels of the Supreme Court. Any departure from a resolution having the force of a legal principle requires a new decision by resolution of the full bench of the Supreme Court, for which the presence of at least two-thirds of the judges of each chamber is required. The provision of Article 88 shall not apply.