

ACT

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on the amendment of the Act on the National Council of the Judiciary, the Act on the Supreme Court and on certain other Acts¹⁾

Article 1. The following amendments are made to the Act on the National Council of the Judiciary of 12 May 2011 (Journal of Laws of 2021, item 269):

1) Article 6 shall be reworded as follows:

“Article 6. The Council elects a Disciplinary Commissioner of the Judges of the Ordinary Courts and two Deputy Disciplinary Commissioners of the Judges of the Ordinary Courts after candidates are put forward by the general assemblies of judges of the courts of appeal, as well as a Disciplinary Commissioner of the Judges of the Military Courts after candidates are put forward by the Assembly of Judges of the Military Courts.”;

2) Article 9a shall be repealed;

3) Articles 11a–11e shall read as follows:

“Article 11a. 1. The following judges are elected to the membership of the Council:

- 1) from the Supreme Court – 1 judge of that Court;
- 2) from the courts of appeal – 1 judge of an ordinary court;
- 3) from the regional courts – 2 judges of the ordinary courts;
- 4) from the district courts – 8 judges of the ordinary courts;
- 5) from the military courts – 1 judge of a military court;
- 6) from the Supreme Administrative Court – 1 judge of that Court;
- 7) from the voivodship administrative courts – 1 judge of a voivodship administrative court

– in direct elections and by means of a secret ballot.

2. If several Council members referred to in para. 1, items 3 or 4 are elected in the same elections, a judge may cast no more votes for candidates than the number of Council members being elected.

¹ This Act amends the following Acts: the Law on the Structure of Military Courts of 21 August 1997, the Act on the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation of 18 December 1998, the Law on the structure of ordinary courts of 27 July 2001, the Law on the Structure of Administrative Courts of 25 July 2002, the Law on the Public Prosecutor’s Office of 28 January 2016 and the Act amending the Law on the Structure of Ordinary Courts, the Act on the Supreme Court and certain other acts of 20 December 2019.

3. The candidate who receives the most votes, or in the event of electing several Council members, the candidates who receive the highest number of votes in turn, shall become Council members. If candidates receive an equal number of votes, the more senior judge shall become the Council member.

Article 11b. 1. The right to propose a candidate for membership of the Council rests with:

- 1) a group:
 - a) in case of the courts referred to in Article 11a, para. 1, items 1, 2, 5, 6, 8 – of 10 judges;
 - b) in case of the courts referred to in Article 11a, para. 1, items 3 and 7 – of 30 judges;
 - c) in case of the courts referred to in Article 11a, para. 1, item 4 – of 50 judges; – who are authorised to take part in the election of a given Council member;
- 2) The Supreme Bar Council
- 3) National Council of Legal Advisers;
- 4) The National Council of Prosecutors under the Prosecutor General;
- 5) the body authorised to award academic law degrees;
- 6) a group of at least 2000 citizens having the right to vote for members of the Sejm.

2. The bodies referred to in para. 1, items 2–5 may propose no more candidates for membership of the Council than the number of Council members being elected. In the case of the groups referred to in para. 1, items 1 and 6, one entry can apply to only one candidate for membership of the Council.

3. A candidate for membership of the Council, as referred to in Article 11a, para. 1, cannot be a judge who is or, within the three years before the date of announcement of the election, was delegated to perform administrative duties in the Ministry of Justice, another organisational unit subordinated to or supervised by the Minister of Justice, the Chancellery of the President of the Republic of Poland or the office supporting the minister in charge of foreign affairs.

4. Entries of candidates shall be submitted to the body managing the elections within one month of the date of publication of the decision referred to in Article 11d, para. 1.

5. The judge's consent to stand as a candidate shall be attached to the entry.

6. In the case of the groups referred to in para. 1, items 1 and 6, a proxy shall enter the candidate in writing. The proxy is the person nominated by the candidate for membership of the Council, from among the people included in the candidate's list of support.

7. The body managing the elections verifies the correctness of the entries made by the groups of judges and bodies referred to in para. 1, items 1–5. At the request of the body managing the elections, the National Electoral Commission shall verify the lists of support of the candidates entered by the groups of citizens.

8. The body that manages the elections shall make the Supreme Court's or the Supreme Administrative Court's website available to the candidate for the purposes of the elections.

9. The Chairman of the Council, in consultation with the body managing the elections, shall organise a public hearing of the candidates no later than 7 days before the elections, which shall include their speech and the opportunity for citizens to ask questions. The form and order of the public hearing shall be specified by a resolution of the National Council of the Judiciary. The public hearing shall be broadcast over the Internet and its video recording shall be posted in the Council's website.

Article 11c. Elections are held in the form of voting with ballot cards or in the form of electronic voting guaranteeing secrecy and security of voting.

Article 11d. 1. The election of the Council members referred to in Article 11a, para. 1:

- 1) items 1–5 shall be ordered by the First President of the Supreme Court;
- 2) items 6 and 7 shall be ordered by the President of the Supreme Administrative Court

– by way of a decision which shall be promulgated in the Official Journal of the Republic of Poland "Monitor Polski".

2. The decision referred to in para. 1 shall specify:

- 1) the date of the elections, which is no later than one month before the end of the Council member's term of office;
- 2) the number of Council members elected by the judges referred to in Article 11a, para. 1;
- 3) the form of the elections;
- 4) the dates of the electoral activities.

3. The body that manages the elections:

- 1) shall post the list of candidates on the website of the Supreme Court or the Supreme Administrative Court within 7 days of the deadline referred to in Article 11b, para. 4, specifying the entities entering the candidates;
- 2) in the case of elections in the form of voting with ballot cards, shall order the printing of the ballot cards and their delivery to the courts referred to in Article 11a, para. 1 in a quantity that corresponds to the number of judges in the given court, within a timeframe enabling the elections to be properly conducted;
- 3) appoints the electoral commission referred to in Article 11g.

Article 11e. 1. The presidents of the courts referred to in Article 11a, para. 1, in which the elections are being held;

- 1) shall inform the body managing the elections about the current number of judges of the given court;
- 2) in the case of elections being held in the form of voting by ballot card, after announcing the list of candidates, shall appoint a returning committee consisting of at least 3 judges, including a chairman, who are not candidates for membership of the Council;
- 3) shall ensure that the voting is conducted properly.

2. At the request of the president of the court, the body managing the elections may appoint one returning committee for more than one court referred to in Article 11a, para. 1, items 25 and 7.”;

- 4) Articles 11f–11i are added after Article 11e, of the following wording:

“Article 11f. After consulting the First President of the Supreme Court and the President of the Supreme Administrative Court, the Minister of Justice shall specify the following by way of a regulation:

- 1) the method of holding the elections in the form of voting with ballot cards and electronic voting;
- 2) specimens of the list of support for the candidates, ballot cards, the list of people entitled to vote, the election reports and the announcement referred to in Article 11g, para. 2

– taking into account the need to ensure that the elections are conducted smoothly.

Article 11g. 1. The votes cast in the elections, together with the unused ballot cards in the case of elections in the form of voting with ballot cards, the election report prepared by the returning committee and the list of voters shall be handed over to the electoral commission forthwith.

2. The electoral commission shall count the votes, prepare an election report and announce the results, by way of an announcement, in the Official Journal of the Republic of Poland, “Monitor Polski”, within 3 days of the date of the election.

Article 11h. 1. At the request of a judge, the authority managing the elections shall make the documents related to the election available forthwith.

2. A judge may file a protest with the Supreme Court against the validity of the election of a Council member within 14 days of the date of the announcement of the election results. The provisions of Article 82 of the Electoral Code of 5 January 2011 (Journal of Laws of 2020, item 1319 and of 2021, items 1834, 2054, 2296, 2297, 2298 and 2299) shall apply accordingly.

3. The Supreme Court shall consider the election protests in non-procedural proceedings within 30 days of the end of the deadline for filing protests, in a panel of 3 judges, with the participation of the chairman of the respective electoral commission or another member of the commission.

4. When adjudicating that the election of a member of the Council was invalid, the Supreme Court shall declare that the mandate has expired and shall decide to hold a repeat election in whole or to repeat certain electoral actions.

Article 11i. If the mandate of a Council member referred to in Article 11a, para. 1 expires before the end of his term of office, an election shall be ordered to be held on a day that is no later than 3 months from the date of expiry of the mandate.”;

5) Article 22a is added after Article 22, of the following wording:

“Article 22a. 1. A Social Council operates under the Council, which presents opinions on the matters referred to in Article 3, para. 1, item 1 and, at the request of the Council Presidium, on other matters constituting the Council’s tasks.

2. The Social Council consists of:

- 1) a person nominated by the Supreme Bar Council;
- 2) a person nominated by the National Council of Legal Advisers;
- 3) a person nominated by the National Council of Notaries Public;
- 4) a person nominated by the Main Council of Academia and Higher Education;
- 5) a person nominated by the Ombudsman;
- 6) a person nominated by the National Council of Prosecutors under the Prosecutor General;
- 7) three representatives of non-governmental organisations nominated by the President of the Republic of Poland

– to the Chairman of the Council.

3. A member of the Social Council may not be a person who has been convicted with a final court judgment for an intentional crime prosecuted by the public prosecutor or an intentional fiscal crime.

4. The term of office of the Social Council is 4 years.

5. Membership in the Social Council expires before expiry of the term of office referred to in para. 4, as a result of:

- 1) the death of a member of the Social Council;
- 2) the resignation of a member of the Social Council;
- 3) the conviction of a member of the Social Council with a final court judgment for an intentional crime prosecuted with a public indictment or an intentional fiscal crime.

6. If membership of the Social Council expires before the end of the term of office referred to in para. 4, the competent entity shall promptly present a new member to the Chairman of the Council for the period until the end of the Social Council's term of office.

7. The Social Council shall elect a chairperson and a deputy chairperson from among its members.

8. The Chairperson or a member of the Social Council appointed by him may take the floor at the plenary sessions of the Council to present the opinions referred to in para. 1.

9. The members of the Social Council may take part in the work of groups designated in accordance with Article 31, para. 1.

10. The Council's Office provides support for the Social Council.

11. The costs of functioning of the Social Council are covered from the state budget in the part referred to in Article 27, para. 2.

12. The Council members taking part in the Council's meeting, who live away from the town where the meeting is being held, are entitled to a reimbursement of their travelling and accommodation expenses, as well as an allowance on the basis of the regulations on the amounts payable to an employee of a state or local government unit from the budget sphere for business travel.

13. The first meeting of the Social Council is called by the Chairman of the Council.

14. The Social Council specifies the procedure of its work in its regulations;

6) Article 24, para. 4 shall read as follows:

“4. The provisions of the Act on employees of state offices of 16 September 1982 (Journal of Laws of 2020, item 537 and of 2021, items 2447 and 2448).”;

7) the second sentence of Article 27, para. 1 shall read as follows:

“The Council shall ensure operating conditions for the Disciplinary Commissioner of the Judges of the Ordinary Courts, the Deputy Disciplinary Commissioner of the Judges of the Ordinary Courts, the Disciplinary Commissioner of the Military Court Judges and the Deputy Disciplinary Commissioner of the Military Court Judges.”;

8) para. 2a–2d from Article 31 shall be repealed;

9) para. 3 from Article 35 shall be repealed;

10) Article 44, para. 1 shall read as follows:

“1. A participant of proceedings may appeal to the Supreme Court on the grounds that a resolution of the Council is in conflict with the law.”

11) Articles 45a–45c shall be repealed.

Article 2. The following amendments are made to the Act on the Supreme Court of 8 December 2017 (Journal of Laws of 2021, item 1904):

1) in Article 3:

- a) item 3 shall read as follows:
“3) Labour, Social Insurance and Public Affairs.”;
- b) items 4 and 5 shall be repealed;
- 2) Article 4 shall read as follows:
“Article 4. The internal organisation of the Supreme Court, the detailed distribution of cases among the chambers and the principles of internal proceedings shall be specified in the Regulations of the Supreme Court adopted by the General Assembly of the Judges of the Supreme Court. The Regulations of the Supreme Court shall be promulgated in the Official Journal of the Republic of Poland “Monitor Polski”.
- 3) Article 4a is added after Article 4, of the following wording:
“Article 4a. After obtaining an opinion from the General Assembly of Judges of the Supreme Court, the President of the Republic of Poland shall specify the number of judicial posts in the Supreme Court, including the number of Presidents of the Supreme Court, in a regulation, taking into account the need to ensure the efficient operation of the Supreme Court and the number and type of cases being considered by the Supreme Court.”;
- 4) the second sentence of Article 5, § 1 shall be deleted;
- 5) § 2 in Article 6 shall be repealed;
- 6) in Article 7:
 - a) § 2 shall be repealed;
 - b) § 4–6 shall be repealed;
- 7) the words “the first sentence” shall be deleted from Article 14, § 1, item 5;
- 8) the words “the first sentence” shall be deleted from Article 17, § 1, item 2;
- 9) Article 20 shall be repealed;
- 10) the words “and 3” shall be deleted from Article 22, § 2, item 1;
- 11) chapter 3 shall be repealed;
- 12) in Article 29:
 - a) § 1 shall read as follows:
“§ 1. A judge of the Supreme Court shall be appointed to the office of judge by the President of the Republic of Poland, on the motion of the National Council of the Judiciary.”
 - b) § 2 and 3 shall be repealed;
- 13) the fourth sentence of Article 35, § 3 shall be deleted;
- 14) the words “and the President of the Supreme Court managing the work of the Disciplinary Chamber” shall be deleted from the first sentence of Article 36, § 8;
- 15) § 11 in Article 44 shall be repealed;

- 16) the words “and the President of the Supreme Court managing the work of the Disciplinary Chamber” shall be deleted from Article § 47;
- 17) § 7 in Article 48 shall be repealed;
- 18) the words “and the President of the Supreme Court managing the work of the Disciplinary Chamber” shall be deleted from the first sentence of Article 55, § 3;
- 19) in Article 59:
 - a) § 1 shall read as follows:

“§ 1. Lay judges of the Supreme Court shall participate in the hearing of extraordinary appeals.”
 - b) § 2 shall be repealed;
- 20) item 6 from Article 60 shall be repealed;
- 21) the words “and disciplinary proceedings” shall be deleted from the first sentence of Article 63, § 6;
- 22) the words “and the President of the Supreme Court managing the work of the Disciplinary Chamber” shall be deleted from Article 70, § 3;
- 23) Article 72, § 1 shall read as follows:

“§ 1. A Supreme Court judge shall be liable to disciplinary action for misconduct and for breaching the dignity of his office (disciplinary offences).”;
- 24) Article 73, § 1 items 1 and 2 shall read as follows:
 - “1) in the first instance – the Supreme Court in a panel of three judges of the Supreme Court;
 - 2) in the second instance – the Supreme Court in a panel of five judges of the Supreme Court.”;
- 25) in Article 75:
 - a) item 3a shall be repealed from § 1;
 - b) § 1a shall be repealed;
 - c) the second sentence of § 4 shall be deleted;
- 26) in Article 76:
 - a) the words “the President of the Supreme Court managing the work of the Disciplinary Chamber” shall be deleted from the first sentence of § 1;
 - b) § 8-11 shall be repealed;
- 27) § 2 in Article 77 shall be repealed;
- 28) § 78 and 79 shall be repealed;
- 29) § 2–5 in Article 82 shall be repealed;
- 30) in Article 94:
 - a) in the first sentence of § 1, the words “adjudicating in the Chamber of Extraordinary and Public Affairs” shall be deleted;

- b) in the first sentence of § 2, the words “adjudicating in the Chamber of Extraordinary and Public Affairs” shall be deleted;
- c) § 3 and 4 shall be repealed;
- 31) § 3 in Article 97 shall be repealed;
- 32) the words “the Chancellery of the President of the Supreme Court managing the work of the Disciplinary Chamber” shall be deleted from the title of chapter 9;
- 33) in Article 98:
 - a) the words “the Chancellery of the President of the Supreme Court managing the work of the Disciplinary Chamber” shall be deleted from § 1;
 - b) § 3 shall be repealed;
- 34) Article 100 shall be repealed;
- 35) § 2 in Article 102 shall be repealed;
- 36) in the Annex to the Act, in point 3 the words “Extraordinary Disciplinary Commissioner” shall be deleted.

Article 3. The following amendments are introduced into the Law on the Structure of Ordinary Courts of 21 August 1997 (Journal of Laws of 2020, item 1754):

- 1) § 5a is added to Article 10 § 3 after point 5, of the following wording:
 - “5a) the selection of candidates for the post of Disciplinary Commissioner of Judges of the Military Courts and the selection of the Deputy Disciplinary Commissioner of the Judges of the Military Courts;”;
- 2) Article 23, § 1 shall read as follows:
 - “§ 1. Judges of the military courts shall be appointed to the office of judge by the President of the Republic of Poland, on the motion of the National Council of the Judiciary.”;
- 3) Article 23a shall be repealed;
- 4) in Article 37:
 - a) § 2 shall read as follows:
 - “§ 2. A disciplinary offence is an act constituting a culpable breach of the dignity of the office, an infringement of official duties or an obvious and gross breach of the provisions of the law, as well as a breach of military discipline and of the principles of military honour and dignity.”;
 - b) § 2a is added after § 2, of the following wording:
 - “§ 2a. An act, the social harm of which is negligible, shall not constitute a disciplinary offence.”,
 - c) § 3 shall read as follows:

“§ 3. The judge shall also be held liable on disciplinary grounds for his activities before taking up his position if he proved to be unworthy of the office of a judge as a result.”;

5) in Article 39:

a) in § 1:

- item 2b shall be repealed;
- item 4 shall read as follows:

“4) transfer to another official place specified by the disciplinary court;”;

b) § 1a shall be repealed;

c) § 3 shall read as follows:

“§ 3. The imposition of the penalty specified in § 1, items 2a–4 entails the deprivation of the opportunity to be promoted to a more senior judicial position for a five years, the inability to be a part of the board of a military regional court during that period, adjudicate in a disciplinary court and assume the function of a court president, court vice-president, head of a local division of a court or a press officer.”

d) § 3a–3c shall be repealed;

e) § 4a is added after § 4, of the following wording:

“4a. Other than the disciplinary penalty, the disciplinary court may additionally adjudicate an obligation to apologise to the injured party, specifying the manner of its enforcement, which is appropriate to the circumstances of the case.”;

6) in Article 39a:

a) § 1 and § 2 shall read as follows:

“§ 1. The disciplinary courts in disciplinary cases regarding judges are:

1) in the first instance:

- a) the Supreme Court in cases of disciplinary offences satisfying the conditions of intentional crimes prosecuted by public indictment or intentional fiscal crimes;
- b) regional military courts in other cases;

2) in the second instance, the Supreme Court.

§ 2. The disciplinary court with territorial jurisdiction in the region of which the judge, who is encompassed by the proceedings, serves shall have the competence to hear the cases referred to in § 1, item b, as well as Article 15 § 3b and Article 30. However, if the case applies to a judge who adjudicates or has adjudicated in a given military regional court, another disciplinary court shall have jurisdiction.”,

b) § 2a and 2b shall be repealed;

c) § 4 shall read as follows:

“§ 4. If a case cannot be heard in a given disciplinary court because of the removal of judges, and the case cannot be transferred to another equivalent disciplinary court, the Supreme Court shall transfer the case to be heard by an appropriate disciplinary court established for the judges of the ordinary courts. The Supreme Court shall adjudicate in a panel of a single judge.”;

d) § 5 and § 6 are added as follows:

“§ 5. The Supreme Court shall adjudicate in a panel of three judges.

§ 6. If the punishment of removing a judge from his office is adjudicated in the first instance, the Supreme Court shall consider the appeal in a panel of five judges.”;

7) Articles 39ba–39d shall be repealed;

8) Article 39e is added after Article 39d, of the following wording:

“Article 39e. The disciplinary courts referred to in Article 39a § 1, item 1, point b shall have administrative support from the secretariats of military regional courts. The Supreme Court as a disciplinary court shall have administrative support from the secretariat of the Criminal Chamber of the Supreme Court.”;

9) in Article 40:

a) § 2 and § 3 shall read as follows:

“§ 2. The Disciplinary Commissioner of the Judges of the Military Courts shall be elected by the National Council of the Judiciary for a term of four years, from among the judges put forward by the Assembly.

§ 3. The Deputy Disciplinary Commissioner of the Judges of the Military Courts shall be elected by the Assembly for a three-year term of office from among the judges put forward by the boards of military regional courts. A candidate for the post of Deputy Disciplinary Commissioner of the Judges of the Military Courts may also be put forward by at least five judges of the military courts.”,

b) § 3a and § 3b are added after Article 3, of the following wording:

“§ 3a. No later than within one month before the end of the term of office of the Disciplinary Commissioner of the Judges of the Military Courts and if his term of office has expired, within two months of the date of expiry of the term, the Assembly shall propose three candidates for that post to the National Council of the Judiciary.

§ 3b. No later than within one month before the end of the term of office of the Deputy Disciplinary Commissioner of the Judges of the Military Courts and if his term of office has expired, within two months of

the date of expiry of the term, the boards of the military regional courts shall propose two candidates to the Assembly for that post.”;

- 10) Article 40a shall be repealed;
- 11) in Article 40b, the words “and the Disciplinary Commissioner of the Minister of Justice” shall be deleted;
- 12) Article 41, § 1 shall read as follows:

“§ 1. The Disciplinary Commissioner of the Military Court Judges takes disciplinary measures on the motion of the Minister of Justice, the Minister of National Defence, the court president, the board of a military regional court, the National Council of the Judiciary and on his own initiative, after establishing circumstances indicating that a disciplinary offence is suspected of having been committed. The explanatory activities should be conducted within thirty days of the date on which the Disciplinary Commissioner of the Military Court Judges performs his first activities.”;

- 13) in Article 41a, § 1 and § 2 shall read as follows:

“§ 1. The disciplinary court shall issue a judgment after reviewing the case.

§ 2. If the offence contains elements of a crime, the disciplinary court shall instruct the parties of this and shall notify the prosecutor, enabling him to take a stance. The disciplinary court shall examine the case regarding permission to hold a judge criminally liable in the same proceedings and shall issue a resolution on the permission referred to in Article 30 § 1, which shall not stop the disciplinary proceedings.”;

- 14) Article 41 aa shall be repealed;
- 15) in Article 41b, § 1a shall read as follows:

“1a. If the disciplinary court issues a resolution permitting the prosecution of a judge for a wilful crime or announces the penalty of removing a judge from office, it suspends the judge from his duties. The disciplinary court may suspend a judge from his duties if it issues a resolution permitting the prosecution of the judge for an unintentional crime.”;

- 16) in Article 41c, § 2 shall read as follows:

“§ 2. The Minister of Justice in consultation with the Minister of National Defence shall be responsible for executing the sentence with regard to the penalties referred to in Article 39 § 1 items 4 and 5, and in consultation with the president of the court with respect to a judge of that court with regard to the penalties referred to in Article 39 § 1, items 2a and 3. If the penalty

referred to in Article 39 § 1, item 3 is imposed on the president of the court or the vice-president of the court, the Minister of Justice in consultation with the Minister of National Defence shall be responsible for executing the sentence.”;

17) Article 41d shall be repealed;

18) the introduction to the listing in Article 70 § 1 shall read as follows:

“The provisions of Article 4, Article 5, Article 8, Article 9c, Article 9d, Article 20a, Article 22b § 2, Article 37 § 8, Article 37e § 1 and 3, Article 40, Article 41a-41d, Article 42, Article 44-52, Article 53 § 1-3, Article 54, Article 57 § 1 and 7 first and second sentences, Article 58 § 1, 3-4a, 5 and 6, Article 60, Article 65, Article 66, Article 69 § 1 and 1b-2a, Article 70, Article 71, Articles 73-75, Article 77 § 2a-2b, 3a, 4 and 6-7, Article 78 § 1b and 2, Article 78a § 1-3 and 6, Article 79, Article 80 § 2d-2h and 4, Article 82a, Article 83, Article 84 § 3, Article 85, Article 86, Article 88a and Article 90, Article 91 § 1, 1c-2, 6, 7 and 9-12, Article 91a, Article 92, Articles 93, 94 § 1, 3 and 4, Articles 95, 98 § 1 and 2, 99, 100 § 1–4, 101 §2–4, 102, 104 to 106, 108, 109a to 109c, Article 111, Articles 112 § 9, 10 and 12, Articles 113 § 1a, 114 § 2–10, 114b § 1 and 2, Articles 115, 116 to 118, Articles 120 to 122, Articles 125 to 128, Articles 130, 131, Article 133, Article 133a, Article 147 § 3, Article 156, Article 159 § 1, items 5 and 6, Article 167, Article 169, Article 170 § 3 and Articles 171 to 174 of the Act referred to in Article 32a § 1, and the secondary regulations issued on the basis of Article 41 § 2, Article 41e, Article 57 § 9, Article 78 § 5, Article 78a § 7, Article 91 § 8 and Article 148 § 3 of that Act, shall apply to military courts, assistants of judges and lay judges respectively, whereby:”.

Article 4. In the Act on the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation of 18 December 1998 (Journal of Laws of 2021, item 177) in Article 51 para. 2:

- 1) in item 1, point b, the words “2 judges of the Disciplinary Chamber and 1 lay judge” shall be replaced by the words “3 judges”;
- 2) in item 2, the words “2 judges of the Disciplinary Chamber and 1 lay judge” shall be replaced by the words “3 judges”;

Article 5. The Law on the Structure of Ordinary Courts of 27 July 2001 (Journal of Laws of 2020, item 2072, as well as of 2021, item 1236) shall be amended as follows:

1) Article 9a § 2 shall read as follows:

“§ 2. The Minister of Justice shall exercise external administrative supervision over the activities of the courts referred to in Article 8, item 2.”;

2) In Article 41b:

a) § 3a shall read as follows:

“§ 3a. The body with the jurisdiction to examine a complaint regarding the activities of the Disciplinary Commissioner operating at a court of appeal shall be the Disciplinary Commissioner of the Judges of the Ordinary Courts, while the National Council of the Judiciary shall have the jurisdiction to examine a complaint regarding the activities of the Disciplinary Commissioner of the Judges of the Ordinary Courts or the Deputy Disciplinary Commissioner of the Judges of the Ordinary Courts.”

b) § 3b shall be repealed;

3) in Article 41d, the words “§ 9, 11 and 13” shall be replaced with “§ 4, 8 and 10”;

4) Article 42a shall be repealed;

5) in Article 45 § 1, the words “Article 77 § 1 or 8” shall be replaced with the words “Article 76a or Article 77 § 8 or 9”;

6) in Article 55:

a) § 1 shall read as follows:

“§ 1. Judges of the ordinary courts shall be appointed to the office of judge by the President of the Republic of Poland, on the motion of the National Council of the Judiciary.”;

b) § 4 shall be repealed;

7) Article 76a is added after Article 76, of the following wording:

“Article 76a. § 1. The president of a court of appeal may request the Minister of Justice to initiate proceedings to post a judge to perform the duties of a judge in a higher, equivalent or lower court within the appellate area for a specified period of no longer than two years, or indefinitely.

§ 2. The Minister of Justice initiates proceedings on the posting of a judge if it is justified by the rational use of human resources of the ordinary courts and the needs arising from the burden of tasks of the individual courts. When initiating the proceedings, in accordance with the motion of the president of the appellate court, the Minister of Justice shall specify the court to which the posted judge is to perform his duties and the duration of the posting.

§ 3. The announcement of the initiation of proceedings shall be published on the website of the competent court of appeal and of the regional courts within the appellate area.

§ 4. A judge performing the activities of a judge in the appellate area may request a posting. The application for the posting shall be submitted to the president of the court of appeal within one month of the date of publication of the announcement referred to in § 3. The application shall contain a statement from the judge agreeing to the posting.

§ 5. The president of the court of appeal shall request the president of the regional court, in whose court region the judge who has applied for the posting holds the office of judge, to prepare an opinion on the application within one month.

§ 6. If proceedings are initiated to post a judge to a regional court or a court of appeal, the opinion referred to in § 5 includes brief information on the judge's service history, his professional development process, his culture in officiating, including his personal culture and culture of organisation of his work, as well as respect for the rights of the parties or participants of proceedings when hearing cases or performing other assigned tasks or functions, as well as an analysis of statistical data regarding the judge's activities for a period of two years from the date of filing the request for the posting and the results of the examination of the files of ten completed cases assigned to the judge which were precedent-setting or were particularly complex. The judge shall attach the list of these matters to the application for the posting.

§ 7. The board of the court of appeal shall specify the judge who offers the highest guarantee of correctly performing the judge's duties during the posting from among the judges submitting the application for the posting.

§ 8. The Minister of Justice shall post the judge specified by the board of the court of appeal to perform the duties of a judge in the court specified in the request of the president of the court of appeal referred to in § 1, and for the period specified in that request.

§ 9. The posting of the judge to work in another court shall cease as a result of:

- 1) the passage of the period for which it was granted;
- 2) the judge's withdrawal of his consent to the posting;
- 3) the posting of the judge, at his request, to work in another court or other entity;
- 4) the adjudication by the disciplinary tribunal of the removal of the judge from his posting as a disciplinary penalty.”;

8) in Article 77:

a) in § 1:

- items 1–2a are repealed;
- the words “or the President of the Supreme Court managing the work of the Disciplinary Chamber with respect to the judges posted to that chamber” shall be deleted from item 3;

b) § 2 shall be repealed;

c) § 2b shall read as follows:

“§ 2b. A judge may not combine the function of adjudication with the performance of administrative duties in an organisational unit subordinated to the Minister of Justice or an office serving the minister responsible for foreign affairs.”;

- d) in the first sentence of § 4, the words “§ 1 items 2–2b” shall be replaced with the words “§ 1 item 2b”;
- 9) in Article 77a, the words “Article 77 § 1–3b” shall be replaced with the words “Article 76a § 1 and Article 77 § 1 item 2b, 3 and 4, § 2a and § 3–3b”;
- 10) in Article 78:
- a) § 1 and 4 shall be repealed;
 - b) in § 1b, the words “the Ministry of Justice, the Chancellery of the President of the Republic of Poland,” shall be deleted;
 - c) in § 2, the words “the Ministry of Justice, the Chancellery of the President of the Republic of Poland,” shall be deleted;
 - d) § 3–4b shall be repealed;
 - e) in § 5, the words “the Ministry of Justice, the Chancellery of the President of the Republic of Poland and,” shall be deleted;
- 11) Article 88b shall be repealed;
- 12) in Article 98:
- a) § 2 shall read as follows:

“§ 2. A judge who has been appointed, nominated or elected to hold office in the Ministry of Justice or another organisational unit subordinated to or supervised by the Minister of Justice, other state bodies, territorial self-government, the diplomatic or consular service or the bodies of international and supranational organisations operating on the basis of international agreements ratified by the Republic of Poland, shall resign from his office immediately, unless he is retiring.”;
 - b) § 6 shall be repealed;
- 13) in Article 105, § 2, the words ‘Article 78 § 2–4’ in the sixth sentence shall be replaced by the words “Article 78, § 2”;
- 14) Article 107 shall read as follows:
- “Article 107. § 1. A judge shall be liable on disciplinary grounds for acts constituting a culpable breach of the dignity of the office, a breach of official duties or an obvious and gross breach of the law (disciplinary offence).
- § 2. An act, the social harm of which is negligible, shall not constitute a disciplinary offence.
- § 3. The judge shall also be held liable on disciplinary grounds for his activities before taking up his position if he proved to be unworthy of the office of a judge as a result.”;

“Article 108. § 1. A disciplinary offence shall cease to be punishable after a year from the date on which the disciplinary commissioner learned of the disciplinary offence having been committed, but no later than three years after it was committed.

§ 2. If disciplinary proceedings are instituted during the period referred to in § 1, the disciplinary offence shall cease to be punishable after five years from the moment of institution of such proceedings.

§ 3. If the disciplinary offence bears the signs of a crime, the disciplinary limitation period shall not be earlier than the limitation period provided for in the provisions of the Penal Code.”;

16) in Article 109:

a) in § 1:

– item 2b shall be repealed;

– item 4 shall read as follows:

“4) transfer to another official place specified by the disciplinary court;”;

– item 4a is added after item 4 as follows:

“4a) recalling a judge from his posting;”;

b) § 1a shall be repealed;

c) § 3 shall read as follows:

“§ 3. The imposition of the penalty specified in § 1, items 2a–4 entails the deprivation of the opportunity to be promoted to a more senior judicial position for five years, the inability to be a part of the board of court during that period, adjudicate in a disciplinary court and assume the function of a court president, court vice-president, head of a local division of a court or a press officer.”

d) § 3a–3c shall be repealed;

e) § 4a is added after § 4, of the following wording:

“4a. Other than the disciplinary penalty, the disciplinary court may additionally adjudicate an obligation to apologise to the injured party, specifying the manner of its enforcement, which is appropriate to the circumstances of the case.”;

17) Article 109a shall read as follows:

“Article 109a. The disciplinary court may order the content of the judgment to be made public in a specific manner if it deems this appropriate because of the circumstances of the case and provided that it does not breach the interests of the injured party.”;

18) Article 109c is added after Article 109b, of the following wording:

“Article 109c. If an offence is punished, the disciplinary court may order a ban on driving under the provisions of the Code of Offences of 20 May 1971.”;

19) in Article 110:

a) § 1 shall read as follows:

“§ 1. The disciplinary courts in disciplinary cases regarding judges are:

1) in the first instance:

- a) the Supreme Court in cases of disciplinary offences satisfying the conditions of intentional crimes prosecuted by public indictment or intentional fiscal crimes;
- b) the courts of appeal in other cases;

2) in the second instance, the Supreme Court.”;

b) § 2a and 2b shall be repealed;

c) § 3 shall read as follows:

“§ 3. The disciplinary court with territorial jurisdiction in the region of which the judge, who is encompassed by the proceedings, serves shall have the competence to hear the cases referred to in § 1, item b, and § 2. However, if the case applies to a judge who adjudicates or has adjudicated in a given court of appeal, a different disciplinary court designated by the Supreme Court in a single-judge panel on a motion of the disciplinary commissioner, shall have jurisdiction.”;

d) § 4a and § 4b are added after § 4, of the following wording:

“§ 4a. The Supreme Court shall adjudicate in a panel of three judges. § 4b. If the punishment of removing a judge from his office is adjudicated in the first instance, the Supreme Court shall consider the appeal in a panel of five judges.”;

20) Articles 110a–110c shall be repealed;

21) Article 110d is added after Article 110c, of the following wording:

“Article 110d. The disciplinary courts referred to in Article 110 § 1, item 1, point b shall have administrative support from the secretariats of criminal divisions of these courts. The Supreme Court as a disciplinary court shall have administrative support from the secretariat of the Criminal Chamber of the Supreme Court.”;

22) Article 111 shall read as follows:

“Article 111. § 1. All judges of a given disciplinary court, with the exception of the president and vice-presidents of the court of appeal and the First President of the Supreme Court and Presidents of the Supreme Court, as well as the Disciplinary Commissioner, are entitled to adjudicate in the disciplinary court.

§ 2. Judges shall be appointed to the panel of the disciplinary court by drawing lots, whereby:

1) in the case referred to in Article 110 § 4a, one person shall be appointed from among the judges adjudicating:

- a) in criminal law cases;

- b) in cases of the law in which the defendant adjudicates, and if he adjudicates in more than one division of the court – one of these scopes of law;
 - c) in other cases;
- 2) in the case referred to in Article 110 § 4b, one judge of the Supreme Court is nominated to rule in criminal cases and two judges of the Supreme Court shall each rule:
- a) in cases of the law in which the defendant adjudicates, and if he adjudicates in more than one division of the court – one of these scopes of law;
 - b) in other cases.

§ 3. The presiding judge of the disciplinary court shall be a judge adjudicating in criminal cases, the judge with the longest service.

§ 4. The clerk in the case being heard by the disciplinary court panel appointed in the manner referred to in § 2 shall be nominated respectively by the president of the given court of appeal or the First President of the Supreme Court.”;

23) Article 112 shall read as follows:

“Article 112. § 1. The prosecutors before the disciplinary court are the Disciplinary Commissioner of the Judges of the Ordinary Courts, the Deputy Disciplinary Commissioners of the Judges of the Ordinary Courts and Disciplinary Commissioners of the courts of appeal.

§ 2. In cases involving judges of courts of appeal, as well as presidents and vice-presidents of courts of appeal and regional courts, only the Disciplinary Commissioner of the Judges of the Ordinary Courts and the Deputy Disciplinary Commissioner of the Judges of the Ordinary Courts may be prosecutors before the disciplinary court.

§ 3. The Disciplinary Commissioner of the Judges of the Ordinary Courts and two Deputy Disciplinary Commissioners of the Judges of the Ordinary Courts shall be elected by the National Council of the Judiciary for a four-year term of office from among the judges nominated by the general assemblies of judges of the courts of appeal.

§ 4. The National Council of the Judiciary provides administrative support to the Disciplinary Commissioner of the Judges of the Ordinary Courts and the Deputy Disciplinary Commissioner of the Judges of the Ordinary Courts. A separate organisational unit in the Office of the National Council of the Judiciary performs tasks in this respect.

§ 5. The Disciplinary Commissioner operating at the court of appeal is elected by the general assembly of judges of the court of appeal for a three-year term of office from among the judges nominated by the board of the given court of appeal or by the board of a regional court from the appellate area. A candidate to the post of Disciplinary

Commissioner operating at a court of appeal may also be put forward by at least ten judges who are members of the assembly of judges of the court of appeal.

§ 6. The Disciplinary Commissioner of the Judges of the Ordinary Courts, the Deputy Disciplinary Commissioner of the Judges of the Ordinary Courts and the Disciplinary Commissioner at the Court of Appeal shall perform their duties after the end of their term of office until the Disciplinary Commissioner of the Judges of the Ordinary Courts, the Deputy Disciplinary Commissioner of the Judges of the Ordinary Courts or the Disciplinary Commissioner at the Court of Appeal, respectively, is appointed for the next term of office.

§ 7. No later than within one month before the end of the term of office of the Disciplinary Commissioner of the Judges of the Ordinary Courts or the Deputy Disciplinary Commissioner of the Judges of the Ordinary Courts and if his term of office has expired, within two months of the date of expiry of the term, the general assembly of the judges of the courts of appeal shall nominate one candidate each for these posts to the National Council of the Judiciary.

§ 8. No later than within one month before the end of the term of office of the Disciplinary Commissioner operating at the court of appeal, and if his term of office has expired, within two months of the date of expiry of his term, the boards of the courts of appeal and the boards of the regional courts from the appellate area shall nominate one candidate each for that post to the general assembly of judges of the court of appeal.

§ 9. The Disciplinary Commissioner of the Judges of the Ordinary Courts, the Deputy Disciplinary Commissioner of the Judges of the Ordinary Courts and the Disciplinary Commissioner at the Court of Appeal shall be elected in a secret ballot by a simple majority of votes.

§ 10. If none of the candidates for the post of Disciplinary Commissioner of the Judges of the Ordinary Courts, Deputy Disciplinary Commissioner of the Judges of the Ordinary Courts or Disciplinary Commissioner at the Court of Appeal receives the required majority of votes, the First President of the Supreme Court shall make the choice.

§ 11. The Disciplinary Commissioner of the Ordinary Courts and the Deputy Disciplinary Commissioner of the Ordinary Courts may take over a case being handled by the Disciplinary Commissioner at the court of appeal and may transfer a case to be handled by him, including a case from a different appellate area, if there are obstacles to the appropriate Disciplinary Commissioner at the Court of Appeal handling the case or the interests of justice so require.

§ 12. A judge of the Supreme Court nominated by the First President of the Supreme Court shall be competent to handle disciplinary cases involving the

Disciplinary Commissioner of the Judges of the Ordinary Courts or the Deputy Disciplinary Commissioner of the Judges of the Ordinary Courts. The provision of para. 11 shall not apply.”;

24) Articles 112a–112c shall be repealed;

25) Article 112d shall read as follows:

“Article 112d. Whenever this Act refers to a Disciplinary Commissioner, this shall mean the Disciplinary Commissioner of the Judges of the Ordinary Courts, the Deputy Disciplinary Commissioner of the Judges of the Ordinary Courts or the Disciplinary Commissioner at the Court of Appeal.”;

26) in Article 113:

a) § 1a is added after § 1, of the following wording:

“§ 1a. A judge with respect to whom explanatory proceedings are being conducted may appoint a proxy from among the judges, prosecutors, attorneys-at-law or legal counsels.”;

b) § 2-3 shall be repealed;

27) Article 113a and Article 113b shall be repealed;

28) Article 114 shall read as follows:

“Article 114. § 1. The disciplinary commissioner shall take up explanatory activities at the request of the Minister of Justice, the president of the court of appeal or the president of the regional court, the board of the court of appeal or the board of the regional court, the National Council of the Judiciary, as well as on his own initiative, after establishing the circumstances suggesting the suspicion that a disciplinary offence has been committed. The explanatory activities should be conducted within thirty days of the date on which the disciplinary commissioner performs his first activities.

§ 2. Within the explanatory activities, the Disciplinary Commissioner may only review evidence from documents, the hearing of the person requesting the institution of the proceedings or the injured party. The Disciplinary Commissioner shall also notify the judge of the right to submit a written statement on the subject matter of these activities or a declaration of the intention to submit an oral statement within fourteen days of the date of receipt of the notification. The judge’s failure to submit any statement shall not stop the proceedings.

§ 3. If a judge submits a declaration that he intends to make an oral statement, the disciplinary commissioner specifies the place where and the date when this may be done.

§ 4. If, after conducting the explanatory activities at request of an authorised body, the Disciplinary Commissioner finds no grounds for instituting disciplinary proceedings, he shall issues a decision on the refusal to do institute them. A certified copy of the

decision shall be served to the authority that requested the institution of the proceedings, the board of the regional court or the board of the court of appeal with jurisdiction over the judge with respect to whom the explanatory activities were being conducted respectively, as well as to that judge.

§ 5. If grounds arise for instituting disciplinary proceedings after conducting the explanatory activities, the disciplinary commissioner shall initiate the disciplinary proceedings and prepare disciplinary charges in writing and shall then serve them to the accused. In serving the allegations, the disciplinary commissioner summons the accused to present explanations and all requests to take evidence in writing within fourteen days of the date of service of the disciplinary charges. The Disciplinary Commissioner may also take explanations from the accused and, at his request, may collect explanations by way of questioning.

§ 6. The failure to submit explanations within the deadline referred to in § 5 or the failure to appear on the date of the hearing set by the Disciplinary Commissioner shall not stop the further activities.

§ 7. If the disciplinary proceedings did not provide grounds for submitting a disciplinary motion to the disciplinary court, the disciplinary commissioner shall issue a decision to discontinue the disciplinary proceedings.

§ 8. The body that submitted the request to institute disciplinary proceedings and respectively the board of the court of appeal or the board of a regional court with jurisdiction over the judge with respect to whom the explanatory activities were being conducted or who was charged, as well as that judge, may file a complaint with the disciplinary court within seven days of the date of the service of the decision referred to in § 4 or § 7.

§ 9. At the request of the body authorised to file a complaint, the disciplinary commissioner shall immediately send or otherwise make available the materials collected in the course of the explanatory activities or disciplinary proceedings.

§ 10. The disciplinary court shall examine the complaint within fourteen days of its submission to the court.”;

29) Article 114a shall be repealed;

30) Article 114b is added after Article 114a, of the following wording:

“Article 114b. § 1. The disciplinary commissioner shall prepare a disciplinary motion after conducting proceedings on taking evidence.

§ 2. If the accused is a judge, as referred to in the second sentence of Article 110 § 3, before preparing the disciplinary motion regarding an act other than the disciplinary offence referred to in Article 110 § 1 item 1, point a, the disciplinary commissioner shall request the Supreme Court to nominate a disciplinary court which has the jurisdiction to

examine the case in the first instance. The Supreme Court nominates such a court within seven days of the date of receipt of the request.

§ 3. The disciplinary motion should contain a precise specification of the details of the accused, the act constituting the subject matter of the proceedings, a list of evidence justifying the motion and the justification, and if a disciplinary offence caused damage – also the details of the injured party.”;

31) Article 115 shall read as follows:

“Article 115. § 1. The president of the disciplinary court shall order the drawing of lots referred to in Article 111 § 2 within three days of the date of the filing of the disciplinary motion, and shall then appoint a case clerk.

§ 2. A hearing date shall be ordered within seven days of the appointment of the case clerk. The hearing shall be held within forty-five days of the date of the filing of the disciplinary motion with the disciplinary court.

§ 3. The disciplinary court may decide to consider the case at a session if it deems this sufficient or if a motion has been filed for a penalty to be imposed without a hearing. The provisions of § 2 shall apply.

§ 4. The injured party shall also be notified of the date of the first hearing or session.”;

32) Articles 115a–115c shall be repealed;

33) Article 117 shall read as follows:

“Article 117. If, during a hearing, a disciplinary offence is discovered which is not encompassed by the disciplinary motion, the disciplinary court may issue a judgment with respect to this disciplinary offence only on a motion of the disciplinary commissioner exactly specifying the act constituting the disciplinary offence and on condition that the accused or his defence counsel agrees; in the event of a lack of such consent, the disciplinary commissioner shall hold separate disciplinary proceedings on this matter.”;

34) Article 119 shall read as follows:

“Article 119. If the offence contains elements of a crime, the disciplinary court shall instruct the parties of this and shall notify the prosecutor, enabling him to take a stance. The disciplinary court shall examine the case regarding permission to hold the judge criminally liable in the same proceedings and shall issue a resolution referred to in Article 80 § 2c.”;

35) in Article 121:

a) § 3 and 4 shall be repealed;

b) § 5 shall read as follows:

“§ 5. If the disciplinary court of the first instance examined a disciplinary case at a session, the disciplinary court of the second instance shall examine the appeal at a session, unless the whole or part of the proceedings on taking evidence needs to be conducted directly at the hearing in order to properly examine the case.”;

c) § 6 shall be repealed;

36) § 2-4 in Article 122 shall be repealed;

37) in Article 123:

a) § 1 shall be repealed;

b) § 3 shall read as follows:

“§ 3. The Minister of Justice shall be responsible for executing the sentence with regard to the penalties referred to in Article 109 § 1 items 4, 4a and 5, and in consultation with the president of the court with respect to a judge of that court with regard to the penalties referred to in Article 109 § 1, items 2a and 3. If the penalty referred to in Article 109 § 1, item 3 is imposed on the president of the court or the vice-president of the court, the Minister of Justice shall be responsible for executing the sentence.”;

38) Article 128 shall read as follows:

“Article 128. Matters not regulated in this chapter shall be subject to the provisions of the general part of chapters I-III of the Penal Code of 6 June 1997 accordingly (Journal of Laws of 2021, items 2345 and 2447) and the Criminal Procedures Code of 6 June 1997 (Journal of Laws of 2021, items 534, 1023 and 2447).”;

39) Article 129, § 2 shall read as follows:

“§ 2. If the disciplinary court issues a resolution permitting the prosecution of a judge for a wilful crime, prosecution under a public indictment or announces the penalty of removing a judge from office, it shall suspend the judge from his duties for the duration of the disciplinary proceedings.

40) in Article 130:

a) in § 1, the words “Minister of Justice” shall be replaced by the words “First President of the Supreme Court”;

b) § 2 shall read as follows:

“§ 2. If the judge referred to in § 1 holds the post of a court president, the president of the superior court or the First President of the Supreme Court shall order the break in his official duties.”

c) in the first sentence of § 3, the words “Minister of Justice” shall be replaced by the words “First President of the Supreme Court”;

41) in Article 131:

a) § 1 shall read as follows:

“§ 1. The disciplinary court shall issue a resolution on the suspension of the judge or the revocation of the order regarding the break in his duties, after hearing the disciplinary commissioner, as well as in the cases referred to in Article 37 § 5 and Article 75 § 2 item 3. The disciplinary court shall hear the judge, if he came to the session and, in the case referred to in Article 37 § 5, also the president of the relevant court.”;

b) § 4 shall read as follows:

“§ 4. A judge is entitled to appeal against a resolution on his suspension and the disciplinary commissioner is entitled to appeal against a resolution repealing an order to interrupt the performance of his duties; the appeal shall not stop the enforcement of the resolution.”;

42) in Article 133a, § 2 shall read as follows:

“§ 2. The following rules shall apply when imposing a joint penalty:

- 1) if two or more penalties of an identical nature are applied, a joint penalty of the same type or the more severe penalty shall be imposed;
- 2) if two or more penalties of warnings are applied, the cumulative, the penalty of a warning or a reprimand shall be imposed;
- 3) if a warning and a reprimand are applied, the cumulative penalty of a reprimand shall be imposed;
- 4) if two or more reprimands are applied, the penalty shall be a joint reprimand or a reduction in the basic salary or removal from office;
- 5) penalties of a warning and reprimand shall not be applied together with the penalty of a reduction in the basic salary;
- 6) if two or more penalties of a reduction in the basic salary are applied, the combined penalty of a reduction in the basic salary may not be lower than the higher of the penalties imposed and may not be higher than the sum of those penalties and may not exceed 60% of the salary;
- 7) the penalty of removal from office shall not be applied together with the penalties of a warning, reprimand and a reduction in the basic salary;
- 8) the penalty of transfer to another place of employment shall not be combined with the penalties of a warning, reprimand or a reduction of salary;
- 9) if penalties are applied for several offences that are different in nature, as well as the penalty of removing a judge from office, a joint sentence of removal of the judge from office shall be applied.”.

43) in Article 151a:

- a) in the second sentence of § 5, the words “Articles 78 § 1b, 4a and 4b” are replaced by the words “Articles 78”;

- b) in § 7, the words “and Article 78 § 1 and 3” shall be deleted;
- 44) in Article 155e:
- a) in the second sentence of § 2, the words “Articles 78 § 1b, 4a and 4b” are replaced by the words “Articles 78”;
 - b) the words “and Article 78 § 1 and 3” shall be deleted in § 4;
- 10)

Article 6. The Law on the structure of the administrative courts of 25 July 2002 (Journal of Laws of 2021, item 137) is amended as follows:

- 1) in Article 5:
 - a) § 1 shall read as follows:

“§ 1. Judges of the administrative courts shall be appointed to the office of judge by the President of the Republic of Poland, on the motion of the National Council of the Judiciary.”;
 - b) § 1a and 1b shall be repealed;
- 2) Article 33a is added after Article 33, of the following wording:

“Article 33a. After obtaining an opinion from the General Assembly of Judges of the Supreme Administrative Court, the President of the Republic of Poland shall specify the number of judicial posts in the Supreme Administrative Court, including the number of vice-presidents of that Court, in a regulation, taking into account the need to ensure the efficient operation of the Supreme Administrative Court and the number and type of cases being considered by the Supreme Administrative Court.”;
- 3) Article 43 shall read as follows:

“Article 43. The internal organisation of the Supreme Administrative Court and the rules of internal procedure shall be specified in the Rules of the Supreme Administrative Court adopted by the General Assembly of Judges of the Supreme Administrative Court. The Regulations of the Supreme Administrative Court shall be promulgated in the Official Journal of the Republic of Poland ‘Monitor Polski’.”;
- 4) § 5 in Article 48 shall be repealed;

Article 7. The Law on the Public Prosecutor’s Office of 28 January 2016 (Journal of Laws of 2021, items 66 and 1236) is amended as follows:

- 1) Article 137, § 1 shall read as follows:

“§ 1. A judge is liable for disciplinary action for misconduct in his work, including the obvious and blatant contempt of the law and the breach of the dignity of the office (disciplinary misconduct).
- 2) in Article 142:
 - a) item 2a shall be repealed from § 1;
 - b) § 1a shall be repealed;

- 3) in Article 145:
 - a) in § 1:
 - in item 1, point b, the words “2 judges of the Disciplinary Chamber and 1 lay judge” shall be replaced by “3 judges” and the words “, and in the cases referred to in Article 137 § 1, item 3” shall be deleted,
 - in item 2, the words “2 judges of the Disciplinary Chamber and 1 lay judge” shall be replaced by the words “3 judges”;
 - b) § 1a and 1b shall be repealed;
- 4) Article 153a and Article 153b shall be repealed;
- 5) Article 157a shall be repealed;
- 6) Article 158a and Article 158b shall be repealed;
- 7) § 2–4 in Article 163a shall be repealed;

Article 8. Article 7 of the Act amending the Law on the Structure of Ordinary Courts, the Act on the Supreme Court and certain other acts of 20 December 2019 (Journal of Laws of 2020, items 190 and 568) shall be repealed.

Article 9. 1. The mandate of members of the National Council of the Judiciary elected on the basis of Article 9a, para. 1 of the Act amended in Article 1 expires.

2. The members of the National Council of the Judiciary shall be elected in place of the members referred to in para. 1 on the basis of the Act amended in Article 1, in the wording applied by this Act, whereby:

- 1) elections shall be held within 3 months of the date on which this Act enters into force;
- 2) a public hearing of the candidates shall be ordered and organised by the First President of the Supreme Court and the President of the Supreme Administrative Court respectively.

Article 10. 1. Proceedings in individual cases regarding appointments to the office of a Supreme Court judge, an ordinary court judge, a military court judge, an administrative court judge or a court assessor in an administrative court which are pending before the National Council of the Judiciary consisting of members elected on the basis of Article 9a, para. 1 of the Act amended in Article 1 shall be discontinued by law.

2. Proceedings in cases discontinued on the basis of para. 1 shall be reopened within a month of the date on which this Act enters into force on the basis of new announcements of vacant judicial or assessor positions.”

Article 11. 1. Resolutions in individual cases regarding appointments to the office of a Supreme Court judge, an ordinary court judge, a military court judge, an administrative court judge or a court assessor in an administrative court passed by the National Council of the Judiciary consisting of members elected on the basis of Article 9a, para. 1 of the Act amended in Article 1 are invalid by law.

2. The office of a Supreme Court judge, an ordinary court judge, a military court judge, an administrative court judge or a court assessor in an administrative court which applied to resolutions passed by the National Council of the Judiciary consisting of members elected on the basis of Article 9a, para. 1 of the Act amended in Article 1 shall be considered vacant judicial positions. These positions will be filled in new proceedings initiated on the basis of notices about vacant judicial or assessor positions. The provision of Article 10, para. 2 applies accordingly.

3. The provisions of para. 1 and 2 does not apply to the case where the resolution in an individual matter included a motion to appoint a judicial assessor to hold office in the post of a district court judge.

4. Individual cases other than those referred to in para. 1, which were resolved by resolutions of the National Council of the Judiciary consisting of members elected on the basis of Article 9a, para. 1 of the Act amended in Article 1 shall be re-examined at the request of a party to the proceedings submitted within one month of the date on which this Act enters into force.

Article 12. 1. An employment relationship in the position of a Supreme Court judge, an ordinary court judge, a military court judge, an administrative court judge or a court assessor in an administrative court is deemed not to have been established if the appointment to hold office in this position was taken up on the basis of a motion encompassed by the resolution referred to in Article 11, para. 1.

2. The provision of para. 1 does not apply to the employment relationship of a judge of a district court, as referred to in Article 11 para. 3.

Article 13. 1. In the case referred to in Article 12, para. 1, a person who takes up the post of Supreme Court judge, ordinary court judge, military court judge or administrative court judge may return to the previously held judicial post or the post of judicial assessor in an administrative court, a court referendary or a judge's assistant. A request to this effect is submitted to the president of the relevant court. If a request is submitted, the employment relationship in the previously occupied position is deemed to be continuous.

2. A judge of a district court who has been appointed to hold office in this position on the basis of a motion encompassed by the resolution referred to in Article 11, para. 3 is subject to reassessment by the National Council of the Judiciary. If the National Council of the Judiciary concludes that the assessment of the assessor's qualifications made in accordance with Article 106xa § 2 and 3 of the Act amended by Article 5 or the assessment of the court assessor's qualifications referred to in Article 37a, para. 2 of the Act amended by Article 1, or the opinion of the board of a regional court or the assessment of the general assembly of judges of a regional court, as referred to in Article 106xa § 5 of the Act amended in Article 5, did not justify the submission of a motion on the appointment to the

office of a judge, it shall adopt a resolution to submit a motion to the disciplinary court to remove the judge from office.

3. The disciplinary court shall pass a resolution removing the judge from office if there were grounds in the case for passing the resolution referred to in Article 37a para. 1 of the Act amended in Article 1.

Article 14. 1. The salary received in connection with holding the position of a judge of the Supreme Court adjudicating in the Disciplinary Chamber is undue to the extent exceeding the salary received in the previously position held.

2. The salary received after 23 January 2020 in connection with holding the post of judge of the Supreme Court adjudicating in a chamber other than the Disciplinary Chamber or a judge of the Supreme Administrative Court by a person appointed to hold office in that position on the basis of a motion encompassed by the resolution referred to in Article 11, para. 1 is an undue salary to the extent to which it exceeds the salary received in the position previously held.

3. The limitation period for the recovery of the undue salary referred to in para. 1 and 2 is 5 years and starts from the date on which this Act enters into force.

Article 15. 1. Judgments issued in the Disciplinary Chamber of the Supreme Court and the Chamber of Extraordinary Control and Public Affairs of the Supreme Court are invalid and without legal effect.

2. The provision of para. 1 shall not apply to judgments regarding the examination of election protests and the ascertainment of the validity of elections to the Sejm and Senate, the election of the President of the Republic of Poland and the elections to the European Parliament.

3. The proceedings ended in the judgments referred to in para. 1 shall be repeated.

4. The proceedings referred to in para. 3 shall be discontinued if it has become unnecessary to issue the judgment or the ruling has produced irreversible legal effects.

5. The remedy of the damage caused by a final ruling being issued, as referred to in para. 1, may be requested without the ruling being found unlawful in appropriate proceedings.

Article 16. 1. Decisions issued after 23 January 2020 by the Supreme Court in the Civil Chamber and in the Chamber of Labour and Social Insurance make the proceedings invalid if a person appointed to hold office in the position of judge on the basis of a motion encompassed by the resolution referred to in Article 11, para. 1 was a member of the panel.

2. Decisions issued after 23 January 2020 by the Supreme Court in the Criminal Chamber constitute a shortcoming with the consequences specified in Article 439 § 1, item 2 of the Criminal Procedures Code of 6 June 1997 (Journal of Laws of 2021, item 534, 1023 and 2447) if a person appointed to hold office in the position of judge on the basis of a

motion encompassed by the resolution referred to in Article 11, para. 1 was a member of the bench.

3. Decisions issued after 23 January 2020 by the Supreme Administrative Court make the proceedings invalid if a person appointed to hold office in the position of judge on the basis of a motion encompassed by the resolution referred to in Article 11, para. 1 was a member of the panel.

Article 17 Criminal proceedings shall not be resumed ex officio if the only reason for the resumption is the shortcoming involving the court bench, which includes a person who was appointed to hold office in the position of judge on the basis of a motion encompassed by the resolution referred to in Article 11, para. 1, issuing the decision.

Article 18. 1. The provisions of the Act amended by Article 2, Article 3 or Article 5 respectively in the wording assigned to them by this Act shall apply to the proceedings referred to in the provisions of chapter 7 of the Act amended by Article 2, chapter 5 of the Act amended by Article 3 and chapter 3 of part II of the Act amended by Article 5, which were instituted but not completed before the date of entry into force of this Act, with the reservation that actions taken to date in these proceedings shall remain in force, with the exception of the actions taken in accordance with Article 113a, Article 113b and Article 115c of the Act amended by Article 5.

2. The provisions to date shall apply to prescriptive judgments issued before this Act entered into force on the basis of Article 41aa of the Act amended in Article 3, Article 115b of the Act amended in Article 5 or Article 158a of the Act amended in Article 7.

Article 19. 1. The term of office of a judge of a disciplinary court in a military regional court, to whom duties were entrusted under Article 39b § 1 of the Act amended in Article 3, expires.

2. The term of office of a judge of a disciplinary court in a court of appeal, to whom duties were entrusted under Article 110a § 1 of the Act amended in Article 5, expires.

3. The terms of office of the Disciplinary Commissioner of the Judges of the Military Courts and the Deputy Disciplinary Commissioner of the Judges of the Military Courts appointed on the basis of Article 40 § 2 of the Act amended in Article 3 shall expire one month after the date of announcement, by way of the notice referred to in Article 11g para. 2 of the Act amended in Article 1, of the results of the elections referred to in Article 9, para. 2.

4. The terms of office of the Disciplinary Commissioner of the Judges of the Ordinary Courts and the Deputy Disciplinary Commissioners of the Judges of the Ordinary Courts appointed on the basis of Article 112 § 3 of the Act amended in Article 5 and the terms of office of the deputy disciplinary commissioners at the courts of appeal and the deputy disciplinary commissioners operating at the regional courts, who were appointed on the basis of Article 112 § 6 and 7 of the Act amended by Article 5, shall expire one month after

the date of announcement, by way of the notice referred to in Article 11g para. 2 of the Act amended in Article 1, of the results of the elections referred to in Article 9, para. 2.

Article 20. 1. No later than 14 days before the date of expiry of the term of office of the Disciplinary Commissioner of the Judges of Military Courts, the Assembly of Judges of the Military Courts shall put forward three candidates for that post to the National Council of the Judiciary.

2. No later than within 14 days before the end of the term of office of the Disciplinary Commissioner of the Judges of the Ordinary Courts or the Deputy Disciplinary Commissioners of the Judges of the Ordinary Courts, the general assembly of the judges of the courts of appeal shall nominate one candidate each for this post to the National Council of the Judiciary.

3. The boards of the courts of appeal and the boards of the regional courts from the individual appellate areas shall propose one candidate each for the post of Disciplinary Commissioner at the court of appeal to the relevant general meetings of judges of the courts of appeal no later than 14 days before the date of expiry of the term of office of the deputy disciplinary commissioners at the courts of appeal.

Article 21 The posting of judges to perform the duties of a judge or administrative functions in the Ministry of Justice or another organisational unit subordinated to or supervised by the Minister of Justice or in the Chancellery of the President of the Republic of Poland shall expire at the end of 3 months from the date on which this Act enters into force. This does not apply to cases where the period of the posting expires earlier

Article 22. 1. The Chamber of Labour and Social Insurance of the Supreme Court shall become the Chamber of Labour, Social Insurance and Public Affairs of the Supreme Court.

2. The President of the Supreme Court managing the Chamber of Labour and Social Insurance of the Supreme Court shall become the President of the Supreme Court managing the Chamber of Labour, Social Insurance and Public Affairs of the Supreme Court.

3. The judges of the Supreme Court adjudicating in the Chamber of Labour and Social Insurance of the Supreme Court shall become judges of the Supreme Court adjudicating in the Chamber of Labour, Social Insurance and Public Affairs of the Supreme Court.

Article 23. 1. A Social Council shall be formed at the National Council of the Judiciary.

2. The entities referred to in Article 22a, para. 2 of the Act amended in Article 1 shall specify the members of the Social Council to the President of the National Council of the Judiciary within a month of the date of announcement of the results of the elections referred to in Article 9, para. 2, by way of a notice, as referred to in Article 11g, para. 2 of the Act amended in Article 1.

3. The President of the National Council of the Judiciary shall call the first meeting of the Social Council within 14 days of the end of the period referred to in para. 2.

Article 24. 1. The Chamber of Extraordinary Control and Public Affairs of the Supreme Court and the Disciplinary Chamber of the Supreme Court shall be abolished.

2. Cases commenced and not completed before the date on which this Act enters into force, which fall within the jurisdiction of the Chamber of Extraordinary Control and Public Affairs of the Supreme Court shall be handled by:

- 1) the Civil Chamber of the Supreme Court, the Criminal Chamber of the Supreme Court or the Chamber of Labour, Social Insurance and Public Affairs of the Supreme Court – in the case of extraordinary complaints regarding , respectively, the cases referred to in Article 23, Article 24 or Article 25 of the Act amended by Article 2, as well as complaints regarding the tardiness of proceedings before ordinary and military courts and the Supreme Court;
- 2) the Chamber of Labour, Social Insurance and Public Affairs of the Supreme Court – in the case of public law matters, as referred to in Article 26 § 1 of the Act amended in Article 2;
- 3) the court which, in accordance with the Civil Procedures Code of 17 November 1964 (Journal of Laws of 2021, items 1805, 1981, 2052, 2262, 2270, 2289, 2328, 2459 and of 2022, item 1), the Criminal Procedures Code of 6 June 1997 or the Code of Conduct in Criminal Cases of 24 August 2001 (Journal of Laws of 2021, item 457, 1005, 1595 and 2328) shall have the jurisdiction to examine the request or declaration referred to in Article 26 § 2 of the Act amended in Article 2;
- 4) the Civil Chamber of the Supreme Court, the Chamber of Labour, Social Insurance and Public Affairs of the Supreme Court or the Supreme Administrative Court – in the case of actions for the declaration of the illegality of a final decision, as referred to in Article 26 § 4 of the Act amended in Article 2.

3. The legal issues referred to in Article 82 § 2 and 3 of the Act amended by Article 2, which were submitted to the panel of the whole of the Chamber of Extraordinary Control and Public Affairs of the Supreme Court for resolution before the date of entry into force of this Act and which are not resolved before that date, shall be resolved by the competent chamber of the Supreme Court.

4. Cases commenced and not completed before the date on which this Act enters into force, which fall within the jurisdiction of the Disciplinary Chamber of the Supreme Court shall be handled by:

- 1) the Criminal Chamber of the Supreme Court – in the case of the matters referred to in Article 27 § 1, item 1 of the Act amended in Article 2;

- 2) the Labour, Social Insurance and Public Affairs Chamber of the Supreme Court – in the case of the matters referred to in Article 27 § 1, items 2 and 3 of the Act amended in Article 2;
- 3) the competent disciplinary court – in the case of the matters referred to in Article 27 § 1, item 1a of the Act amended in Article 2.

Article 25. 1. The Chancellery of the President of the Supreme Court in charge of the work of the Disciplinary Chamber shall be liquidated.

2. Activities in matters of labour law with respect to persons performing official activities in the Chancellery of the President of the Supreme Court managing the work of the Disciplinary Chamber shall be performed by the First President of the Supreme Court or a person authorised by him.

Article 26. Up to the day preceding the date of entry into force of the regulations referred to in:

- 1) Article 33a of the Act amended in Article 6 – the number of posts of judge of the Supreme Administrative Court shall correspond to the number established in the current secondary regulations issued on the basis of Article 43 of the Act amended by Article 6;
- 2) Article 43 of the Act amended in Article 6 – the existing secondary regulations issued on the basis of Article 43 of the Act amended in Article 6 shall apply accordingly to the internal organisation of the Supreme Administrative Court and internal proceedings.

Article 27. Up to the day preceding the date of entry into force of the regulations referred to in:

- 1) Article 4 of the Act amended in Article 2 – the internal organisation of the Supreme Court, the detailed distribution of cases between the chambers of the Supreme Court and the internal proceedings shall be subject to:
 - a) respectively, the provisions of the Act amended in Article 2, in the wording in force before the date on which this Act enters into force, and
 - b) respectively, the current secondary regulations issued on the basis of Article 4 of the Act amended in Article 2;
- 2) Article 4a of the Act amended in Article 2 – the number of posts of judge of the Supreme Administrative Court shall correspond to the number established in the current secondary regulations issued on the basis of Article 4 of the Act amended in Article 2;
- 3) Article 70 § 3 of the Act amended in Article 2 – the existing secondary regulations issued on the basis of Article 70 § 3 of the Act amended in Article 2 shall apply accordingly to the Lay Judge Council of the Supreme Court.

Article 28. The Act shall enter into force 30 days from the date of its promulgation, except for Article 2, items 1–11, 13–22, 24, 25, point a and items 26–36, Article 6, items 2

and 3, Article 15, Article 16, Article 22, Article 24, Article 25 and Article 27, which shall enter into force on the day following the date of its promulgation.