

Draft

ACT

**on the National Council of the
Judiciary**



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of

on the National Council of the Judiciary

Chapter 1

General provisions

Article 1. The Act specifies the principles of operation of the National Council of the Judiciary, hereinafter referred to as the “Council”, its structure, the method of selecting its members and the way in which the Council works.

Article 2. 1. The Council safeguards the independence of the courts and of the judges and manages the judiciary.

2. All matters referred to in para. 1 which are not reserved for other authorities lie within the Council’s competence.

Article 3. 1. The Council’s performance of its tasks is based on the principles of effectiveness and transparency, while respecting the independence of the courts and of the judges.

2. When performing its tasks, the Council is guided, in particular, by the need to:

- 1) ensure there is a high quality of judiciary;
- 2) inform the public about the activities of the judiciary.

Article 4. The Council’s seat is the Capital City of Warsaw.

Article 5. The Council uses seals with the image of the eagle that has been established as the emblem of the Republic of Poland.

Article 6. The provisions of the Act of 14 June 1960 – the Administrative Procedures Code (Journal of Laws of 2023, item 775) – are not applicable to proceedings before the Council.

Chapter 2

Scope of the Council's activities

Article 7. The scope of the Council's activities include:

- 1) reviewing and appraising candidates for the office of judges of the Supreme Court and the office of judges of the ordinary courts, administrative courts and military courts, as well as for the positions of trainee judges in the administrative courts;
- 2) submitting motions to the President of the Republic of Poland to appoint judges of the Supreme Court, the ordinary courts, administrative courts and military courts, and to appoint trainee judges in the administrative courts;
- 3) reviewing motions to retire a judge;
- 4) reviewing applications to return to judicial positions;
- 5) requesting the Constitutional Tribunal to examine the compliance of normative acts with the Constitution of the Republic of Poland to the extent to which they apply to the independence of the courts and judges;
- 6) preparing proposals of solutions regarding the management of the judiciary and their presentation to the competent authorities;
- 7) expressing a position on matters regarding courts and judges which have been included in the Council's agenda by the President of the Republic of Poland, as well as other public authorities and judicial self-government bodies, and matters indicated by international organizations;
- 8) giving opinions on draft legislation regarding the judiciary and judges, including salaries of judges, and presenting proposals on this;
- 9) with regard to international cooperation and human rights:
 - a) taking up activities intended to ensure compliance of Polish law with international standards regarding the administration of justice, including the dissemination of the content of judgments of the European Court of Human Rights, as well as decisions, reports and recommendations of other international bodies protecting human rights,
 - b) performing tasks within the framework of cooperation with national and international bodies and human rights protection mechanisms of the Council of Europe and the United Nations, including cooperation with the European Commission for Democracy through Law (Venice Commission) and the Commissioner for Human Rights of the Council of Europe,

- c) initiating or recommending training activities on the protection of human rights to other competent entities,
 - d) cooperating with international organizations on matters regarding the judiciary,
 - e) cooperating with the minister responsible for representing and protecting the interests of the Republic of Poland abroad, including before international courts and tribunals;
- 10) handling matters related to improving the professional qualifications of the judges and other court employees delegated to the Council;
 - 11) establishing a system for weighing cases;
 - 12) monitoring the activities of the courts;
 - 13) evaluating the activities of the courts;
 - 14) adopting the principles of professional ethics of judges and ensuring their observance;
 - 15) developing and promoting good practices;
 - 16) conducting educational and popularization activities.

Article 8. The Council performs other tasks stipulated in separate laws, in particular:

- 1) it specifies the number of positions in the Supreme Court, at the request of the First President of the Supreme Court;
- 2) after appointment by the President, it assigns the place where a judge of an ordinary court is to take up office in the court at which he was applying for a vacant position, and changes the place where he holds office;
- 3) it handles matters related to the allocation of vacant judicial positions and vacant positions of court clerks and assistants of judges in the ordinary courts, including preparing announcements about vacant judicial positions;
- 4) it dismisses the president or vice-president of an ordinary court and the president or deputy president of a military court before the end of the term of office *ex officio* or at the request of a meeting of judges of the competent court;
- 5) it appoints and dismisses directors of the ordinary courts after conducting a competitive recruitment;
- 6) it delegates and handles matters related to the delegation of judges under separate laws;
- 7) it analyses the distribution of judges and employees in the ordinary courts in individual organizational units, as well as the even distribution of their duties, and prepares solutions for ensuring the correct functioning of the courts, including efficient proceedings;

- 8) it calls a congress of representatives of judges of the ordinary courts, including at the request of a majority of assemblies of representatives of the appellate judges;
- 9) it sets the judicial salaries of judges of the ordinary courts;
- 10) it handles matters related to the disciplinary liability of judges and the disciplinary liability of court clerks and appointed state officials employed in the ordinary courts;
- 11) it 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 nominated by the general assemblies of the representatives of the appellate judges, as well as a Disciplinary Commissioner of the Judges of the Military Courts after candidates are nominated by the Assembly of Judges of the Military Courts;
- 12) it elects judge-members of the National Electoral Commission;
- 13) it nominates candidates for the regional and district electoral commissions;
- 14) it nominates judges to the office of electoral commissioner;
- 15) it supervises the National School of Judiciary and Public Prosecution;
- 16) it performs tasks related to recruitment for judicial traineeship at the National School of Judiciary and Public Prosecution and supervises this traineeship and judicial examinations;
- 17) it appoints and dismisses the Director of the National School of Judiciary and Public Prosecution after consulting the National Council of Prosecutors attached to the Prosecutor General;
- 18) it performs tasks related to the computerization of the courts and creates the Institute of Computerization of the Judiciary;
- 19) it supervises the Institute of Justice and the Professor Jan Sehn Institute of Forensic Research in Kraków and appoints and dismisses the directors of these Institutes, and may also delegate judges there;
- 20) it supervises the processing of personal data by the Constitutional Tribunal, the Tribunal of State, the Supreme Court, the Supreme Administrative Court and the courts of appeal as part of the proceedings which they conduct;
- 21) it supervises entities tasked with ensuring the correctness and quality of the HR data registered in central systems;
- 22) it handles cases related to requests of judges for financial assistance;
- 23) to the extent of the Council's rights, it handles personnel matters of:
 - a) judges of the ordinary and military courts,

- b) retired judges and their family members receiving family allowances,
- c) court clerks,
- d) directors and deputy directors of the National School of Judiciary and Public Prosecution, the Professor Jan Sehn Institute of Forensic Research in Kraków and the Institute of Justice,
- e) court directors and their deputies.

Chapter 3

Method of selecting Council members and its structure

Article 9. The First President of the Supreme Court, the President of the Supreme Administrative Court and the Minister of Justice are members of the Council for the period in which they hold these functions (standing members).

Article 10. 1. A person appointed by the President of the Republic of Poland performs his functions in the Council without the term of office being specified and may be dismissed at any time.

2. The mandate of the person appointed by the President of the Republic of Poland expires no later than three months after the end of the term of office or after vacating the office of the President of the Republic of Poland.

Article 11. 1. The Sejm elects four members of the Council from among its deputies for a period of four years with a 3/5 majority of votes in the presence of at least half of the statutory number of deputies.

2. If members of the Council are not elected in the manner specified in para. 1, the Sejm elects members of the Council with an absolute majority of votes in the presence of at least half the statutory number of deputies.

3. If members of the Council are not elected in the manner specified in para. 2, the Sejm elects members of the Council with a simple majority of votes in the presence of at least half the statutory number of deputies. 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.

Article 12. 1. The Senate elects two members of the Council from among the senators for a period of four years with a 3/5 majority of votes in the presence of at least half of the statutory number of senators.

2. If members of the Council are not elected in the manner specified in para. 1, the Senate elects members of the Council with an absolute majority of votes in the presence of at least half the statutory number of senators.

3. If members of the Council are not elected in the manner specified in para. 2, the Senate elects members of the Council with a simple majority of votes in the presence of at least half the statutory number of senators. 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.

Article 13. The members of the Council elected by the Sejm and Senate perform their functions until new members are elected.

Article 14. 1. A candidate for membership of the Council elected by the Sejm and the Senate and the President of the Republic of Poland cannot be a person:

- 1) who has been convicted of an intentional crime in a final judgment;
- 2) with respect to whom bankruptcy has been declared and who was a member of the authorities of entities with respect to which bankruptcy was declared over the past 10 years;
- 3) who has been punished with a prohibition to perform functions related to the management of public funds, as referred to in Article 31, para. 1, item 4 of the Act of 17 December 2004 on Liability for a Breach of Public Finance Discipline (Journal of Laws of 2021, item 289 and of 2023, item 1030 and item 1532);
- 4) who has been deprived of public rights.

2. A person who is not a Polish citizen cannot be a candidate for membership of the Council elected by the President of the Republic of Poland.

Article 15. 1. The following are elected to the membership of the Council by judges:

- 1) from the Supreme Court – one judge of that Court;
- 2) from courts which have their place of office in the courts of appeal – one ordinary court judge;
- 3) from courts which have their place of office in the regional courts – two ordinary court judges;
- 4) from courts which have their place of office in the district courts – eight ordinary court judges;
- 5) from the military courts – one military court judge;

- 6) from the Supreme Administrative Court – one judge of that Court;
 - 7) from the voivodship administrative courts – one voivodship administrative court judge.
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.
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 longest serving judge shall become the Council member.

Article 16. 1. The right to nominate a candidate for membership of the Council elected by the judges rests with:

- 1) a group of:
 - a) in the case of the Supreme Court, the courts of appeal, the military courts, and the Supreme Administrative Court – ten judges,
 - b) in the case of the regional courts and the voivodship administrative courts – thirty judges,
 - c) in the case of district courts – fifty judges– who have the right to vote in the elections for a given Council member;
- 2) the National Council of Legal Advisers;
- 3) the Supreme Bar Council;
- 4) the National Council of Prosecutors attached to the Prosecutor General;
- 5) the body authorized to award academic law degrees;
- 6) a group of at least two thousand citizens who have the right to vote in general elections.

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 nomination can apply to only one candidate for membership of the Council.

3. Candidates shall be nominated to the body managing the elections within one month of the date of promulgation of the decision referred to in Article 19.

4. The judge's consent to stand as a candidate shall be attached to the nomination.

5. In the case of the groups referred to in para. 1, items 1 and 6, the candidate shall be nominated in writing by a proxy. 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.

6. The body managing the elections checks that the nominations made by the groups of judges and bodies referred to in para. 1, items 1–5 are correct. The National Electoral Commission checks the lists of support for the candidates nominated by groups of citizens at the request of the body managing the elections.

Article 17. The Chair of the Council, in consultation with the body managing the elections, shall organize a public hearing of the candidates no later than 7 days before the elections, which shall include their presentation and the opportunity for citizens to ask questions. The form and order of the public hearing shall be specified by a resolution of the Council. The public hearing shall be broadcast online and its video recording shall be posted in the Council's website.

Article 18. Elections of the members of the Council referred to in Article 15 shall be held in the form of voting with ballot cards or in the form of electronic voting guaranteeing secrecy and security of voting.

Article 19. 1. The election of the Council members referred to in Article 15:

- 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 Gazette 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;
- 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 respectively the Supreme Court or the Supreme Administrative Court within 7 days of the deadline referred to in Article 16, para. 3, specifying the entities nominating 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 15, para. 1 in a quantity that corresponds to the number of judges in the given court, within a time frame enabling the elections to be properly conducted;
- 3) shall appoint the electoral commission.

Article 20. 1. The presidents of the courts where the elections referred to in Article 15, para. 1 are being held:

- 1) shall inform the body managing the elections about the current number of judges holding office in 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 three judges, including a chair, 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 15, para. 1, items 2–5 and 7.

Article 21. 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) the templates of the lists of support for the candidates, ballot cards, the list of people entitled to vote, the election reports and the announcement of the election results;
- 3) the detailed technical and organizational conditions for holding the elections;
- 4) the method of appointing the electoral commissions

– taking into account the need to standardize the information contained in the templates referred to in item 2 and to ensure the efficient fulfilment of the tasks of the electoral commissions and the conduct of the elections.

Article 22. 1. Votes cast in the elections and, in the case of elections held in the form of voting with ballot cards, votes together with unused ballot cards, the election report prepared by the returning committee and the lists of voters shall be forwarded forthwith to the electoral commission.

2. The electoral commission shall count the votes, prepare an election report and announce the results by way of an announcement in the Official Gazette of the Republic of Poland, “Monitor Polski”, within 5 days of the date of the elections.

Article 23. 1. At the request of a judge, the authority managing the elections shall make the documents related to the elections 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 Act of 5 January 2011 – the Electoral Code (Journal of Laws of 2023, item 2408) shall apply accordingly.

3. The Supreme Court shall consider the election protests in non-procedural proceedings within 30 days of the passage 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 24. 1. A judge may serve as an elected member of the Council for no longer than two successive terms of office.

2. The function of an elected member of the Council cannot be combined with the position of the president or vice-president of a court.

Article 25. 1. The mandate of an elected member of the Council shall expire before the end of the term of office in the event of:

- 1) death;
- 2) resignation from the mandate;
- 3) expiry of the mandate of a deputy or senator;
- 4) the loss of Polish citizenship;
- 5) the expiry or termination of the judge’s office;
- 6) taking up the position of president or vice-president of a court;
- 7) the retirement of a judge;

2. Resignation from a mandate in the Council is effective upon the notification of the Chair of the Council in writing. The Chair of the Council shall notify the entity that elected the member forthwith.

Article 26. A new member of the Council shall be elected within 3 months of the date of expiry of the mandate of the current Council member.

Article 27. The Council's bodies are the Chair of the Council and the Council's Praesidium.

Article 28. 1. The Council elects a Chair of the Council and two deputy chairs from among its members.

2. The Praesidium consists of the Chair of the Council, two deputy chairs and two members, at least one of whom is elected from among the fifteen members elected from among the judges of the Supreme Court, the ordinary courts, the administrative courts and the military courts.

3. The term of office of the Council's Praesidium is 4 years. The term of office ends upon the termination of membership in the Council.

4. The Council may only dismiss a member of the Council's Praesidium for important reasons by a 3/5 majority of votes. All members of the Council must be notified of the meeting agenda which contains a motion to dismiss a member of the Council's Praesidium in no less than 7 days before the Council's meeting or voting by circulation.

5. The Council's Praesidium manages the work of the Council and ensures the appropriate functioning of the Council between plenary sessions and, in particular, prepares draft agendas for the Council's plenary sessions. In emergency cases requiring action to be taken between plenary sessions of the Council, the Council's Praesidium may, on its behalf, take up activities that lie within the competence of the Council, with the exception of handling individual matters. If the Council's Praesidium takes action in this manner, the Chair of the Council shall present the matter to the Council at the next plenary session.

Article 29. 1. The Chair of the Council represents the Council and organizes its work; in particular:

- 1) he calls and chairs Council meetings and supervises their course;
- 2) he signs the Council's resolutions;
- 3) he issues orders to correct obvious clerical mistakes in the Council's resolutions and their justifications;
- 4) he presents motions to the Council to reconsider a case;
- 5) he performs activities ordered by the Council.

2. In the absence of the Chair of the Council, the Deputy Chairs of the Council shall perform the activities referred to in para.1 in his stead, as well as other activities authorized by the Chair of the Council.

3. The Chair of the Council shall specify the demarcation of activities referred to in para. 2 among the deputy chairs and shall inform the Council of this.

4. In the absence of the Chair of the Council, the failure to appoint a deputy or the absence of the appointed deputy, Council meetings shall be chaired and Council resolutions shall be signed by the oldest deputy chair.

Article 30. 1. Elections of the Chair of the Council, the deputy chairs and other members of the Praesidium of the Council shall be conducted separately, with an unlimited number of candidates.

2. If none of the candidates receives the required majority of votes in the first ballot, the candidate who received the smallest number of votes in the previous ballot shall be eliminated from the next ballot.

3. If the position of a member of the Council's Praesidium becomes vacant, the Council shall hold supplementary elections at the next meeting.

Article 31. 1. The Council shall appoint standing committees from among its members and may appoint problem committees.

2. The Council members are required to participate in the work of the committees and teams to which they have been appointed.

Article 32. 1. The Council shall deliberate at plenary sessions which are broadcast online, unless the Council passes a resolution ruling out the openness of the session.

2. The Council shall rule out the openness of the meeting in whole or in part if its openness could lead to the disclosure of information that is protected on the principles set out in the Act of 5 August 2010 on the Protection of Classified Information (Journal of Laws of 2023, items 756, 1030 and 1532) or breach an important private interest by disclosing the data referred to in Article 9, para. 1 and Article 10 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ EU L 119 of 4/05/2016, p. 1, as amended).

3. The Chair of the Council calls plenary sessions whenever necessary, at least twice a month. The Council's plenary sessions are also called at the request of at least 1/3 of its members or at the request of a standing member of the Council.

4. In justified cases, the Chair of the Council may order a meeting to be held via means of remote communication, with the exception of the first meeting of a newly-elected Council and the election and change of the membership of its bodies.

5. The Minister of Justice shall call the first Council meeting after the position of the Chair of the Council becomes vacant on a day that is no later than 14 days from the date on which the position of Chair of the Council becomes vacant, nominating a member of the Council from among the longest serving judges to chair the meeting until the Chair of the Council is elected.

6. If a Council meeting is not called in the manner referred to in para. 5, the first Council meeting shall be called by the oldest member of the Council, who is a judge or a retired judge, for a day which is no later than 14 days from the passage of the term specified in para. 5. This judge shall chair the meeting until a new Chair of the Council is elected.

7. If a Council meeting is not called in the manner referred to in para. 6, the obligation to call the first Council meeting passes on to the next oldest members of the Council who are judges or retired judges. The provision of para. 6 shall apply accordingly.

Article 33. 1. The presence of at least half the members of the Council is required for it to pass a resolution.

2. The Council passes resolutions by an absolute majority of votes, in an open vote. The Council may order a secret ballot at the request of at least three members.

3. In justified cases, the Chair of the Council may order voting to be conducted via means of remote communication or by circulation.

4. Voting may be repeated in the case of a significant breach of the rules of conduct on the basis of a resolution of the Council passed at the request of a member of the Council submitted no later than within the period specified for submitting objections to the meeting's minutes.

Article 34. 1. In its regulations, the Council lays down the detailed mode of operation of the Council, including the use of an ICT system supporting proceedings regarding the appointment of a judge, as well as the range of activities of standing and problem committees, the procedure for calling and conducting Council and committee meetings, and the principles of taking part online in the Council's work, the circulation procedure, the procedure for

members of the Social Council to take part in the Council's work, as well as the procedure of work of the Council's international affairs officer, the Council's Press Officer and the Press Officer of the Judiciary.

2. The Council's Regulations shall be promulgated in the Official Gazette of the Republic of Poland, "Monitor Polski".

Article 35. 1. A Social Council is attached to the Council and presents opinions on the matters referred to in Article 7, item 1 and, at the request of the Council's Praesidium, on other matters constituting the Council's tasks.

2. The Social Council consists of:

- 1) a person nominated by the National Council of Legal Advisers;
- 2) a person nominated by the Supreme Bar Council;
- 3) a person nominated by the National Council of Notaries Public;
- 4) a person nominated by the National Council of Bailiffs;
- 5) a person nominated by the Main Council of Science and Higher Education;
- 6) a person nominated by the Commissioner for Human Rights;
- 7) a person nominated by the National Council of Prosecutors attached to the Prosecutor General;
- 8) three representatives of non-governmental organizations, nominated one each by the President of the Republic of Poland, the Sejm and the Senate.

3. 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, cannot be a member of the Social Council.

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

5. Membership of the Social Council expires before the expiry of the term of office 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, the competent entity shall promptly present a new member to the Chair of the Council for the period until the end of the Social Council's term of office.

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

Article 36. 1. The Chair 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 Article 35, para. 1.

2. Members of the Social Council may participate in committee meetings in an advisory capacity.

3. The members of the Social Council may take part in the work of groups designated on the basis of Article 48.

Article 37. The first meeting of the Social Council is called by the Chair of the National Council of the Judiciary.

Article 38. 1. The Council's Office provides support for the Social Council.

2. The costs of functioning of the Social Council are covered by the state budget in the part referred to in Article 43, para. 3.

3. The provision of Article 42, para. 5, item 2 shall apply accordingly.

4. The Social Council shall specify the procedure of its activities in its regulations;

Article 39. 1. The Council performs its tasks with the help of the Council's Office.

2. The Council's Office is managed by the Head of the Office, who is appointed and dismissed by the Chair of the Council after seeking the Praesidium's opinion.

3. The organization and mode of operation of the Council's Office shall be specified by the regulations adopted by the Council.

4. The provisions of the Act of 18 December 1998 on Court and Prosecutor's Office Employees (Journal of Laws of 2018, item 577) shall apply accordingly to the employees of the Council's Office, with the exception of the requirement to complete an official internship in a court or prosecutor's office, as referred to in Article 2, item 7 of that Act.

Article 40. 1. The Council shall appoint a member of the Council, who is a judge or a judge delegated to the Council's Office, to the function of Press Officer of the Judiciary.

2. The Chair of the Council shall appoint another member of the Council, who is a judge, to the function of the Council's Press Officer.

Article 41. The Council shall nominate a member of the Council, who is a judge or a judge delegated to the Council's Office, to the function of the Council's international affairs officer.

Article 42. 1. The remuneration of Council members, as referred to in Article 15, is equal to the remuneration of a Supreme Court judge at their grades plus a length of service allowance, unless they are entitled to a higher level of remuneration in their position to date.

2. The Council Member referred to in Article 15 may combine the function of adjudicating with the performance of his duties in the Council. In such a case, he also receives the remuneration to which he is entitled as a judge.

3. The remuneration referred to in para. 2 shall be reduced proportionally to the reduction in the rate of the judge's participation in the allocation of cases in connection with the performance of his duties in the Council.

4. The Council members referred to in Article 15:

- 1) who do not have a permanent place of residence in Warsaw, and who are not owners or co-owners of real property located in Warsaw, shall be provided with free accommodation at a level corresponding to their functions or, at their request, an allowance for renting an apartment, as referred to in the Act of – the Law on the Structure of the Ordinary Courts (Journal of Laws ...);
- 2) are entitled to a reimbursement of travelling expenses on the conditions specified in the regulations issued on the basis of Article 77⁵ § 2 of the Act of 26 June 1975 – the Labour Code (Journal of Laws of 2023, item 1465).

5. In connection with the performance of their duties in the Council, the Members of the Council referred to in Articles 9–12 shall receive:

- 1) per diems for every day in which they take part in plenary sessions and other work of the Council at the amount of 10% of the basis for determining a judge's basic remuneration, as referred to in Article of the Act of – The Law on the Structure of the Ordinary Courts;
- 2) a reimbursement of travelling expenses and accommodation on the conditions specified in the regulations issued on the basis of Article 77⁵ § 2 of the Act of 26 June 1975 – the Labour Code.

Article 43. 1. The costs of the Council's activities are covered by the state budget.

2. The Council's income and expenses constitute a separate part of the state budget.

3. The administrator of the part of the budget regarding the Council is the Chair of the Council.

4. The Chair of the Council shall provide the draft income and expenditure plan adopted by the Council to the minister responsible for the budget for inclusion in the draft Budget Act in accordance with Article 139, para. 2 of the Act of 27 August 2009 on Public Finance (Journal of Laws of 2023, item 1270, as amended¹⁾).

5. The Chair of the Council has the rights of the minister responsible for public finance with respect to the implementation of the Council's budget.

Article 44. 1. The Council shall establish the Judiciary Computerization Institute, as a state budget institution.

2. The Judiciary Computerization Institute may receive grants from the state budget for the performance of public tasks.

Chapter 4

Proceedings before the Council

Article 45. 1. Proceedings in individual cases are initiated on application or *ex officio* in the cases specified in the Act.

2. In individual cases, if it is found that there are no documents, which prevents the consideration of the matter, the Chair of the Council shall order their supplementation within a prescribed deadline, which, if not met, will mean the application will not be considered.

3. If personnel files are necessary for an individual case to be considered, the Chair of the Council shall request their presentation to the Council. The competent authority or institution shall submit the files to the Council within 7 days. The candidate's personnel files and documents, the presentation of which was requested by the Chair of the Council, may be presented over the ICT system.

Article 46. 1. In individual cases, the person whose rights or obligations are to be affected by the Council's resolution is a participant of the proceedings before the Council.

2. The participant of the proceedings shall be informed about the date of the meeting at which his case will be considered.

Article 47. 1. A member of the Council is disqualified by law in matters that directly apply to him, as well as in matters that apply to his spouse, direct relatives through sanguinity or affinity, collateral relatives to the fourth degree of kinship and collateral relatives through

¹⁾ Amendments to the consolidated text of this Act were promulgated in the Journal of Laws of 2023, items 1273, 1407, 1429, 1641, 1693 and 1872.

affinity up to the second degree of kinship, the person cohabiting with the Council member, and if the person cohabiting with the Council member is the party's legal representative or attorney, as well as with people related to the Council member through adoption, care or custodianship, as well as in matters in which the Council member was or is a proxy.

2. The grounds for disqualification continue even after the termination of marriage, cohabitation, adoption, custodianship or wardship that justifies them.

3. The Council shall disqualify a member of the Council at his request or at the request of the person whose case is being considered, as well as at the request of a member of the Social Council or the Commissioner for Human Rights if a circumstance arises which could incite reasonable doubts as to the impartiality of the Council member in a given case.

Article 48. 1. In order to prepare an individual case for consideration at a meeting of the Council, the Chair of the Council shall appoint a group, taking into account the specialization of the group members.

2. The group shall consist of three members of the Council, at least two of whom are judges and, in justified cases, more than three Council members.

3. In an individual case regarding a judge or a candidate for the office of judge of the Supreme Court, the group shall consist of five members of the Council, of whom at least four are judges, including the First President of the Supreme Court, and one judge of the Supreme Court. The provision of para. 5 shall not apply.

4. In an individual case regarding a judge or a candidate for the office of judge of the Supreme Administrative Court, the group shall consist of five members of the Council, of whom at least four are judges, including the President of the Supreme Administrative Court, and one judge of the Supreme Administrative Court. The provision of para. 5 shall not apply.

5. Judges of the court to which the case is related and of the court operating in the same judicial region cannot be members of the group.

6. A member of the Social Council taking part in a meeting of the group may present a position on behalf of the Social Council.

Article 49. 1. Submissions and other documents in individual cases being considered by the Council regarding appointment to the office of judge or trainee judge in an administrative court, as well as the Council's resolutions passed in these matters, shall be served to candidates through the ICT system. Service is deemed effective when the candidate logs in to the ICT system or after 14 days from the date on which the submission is posted in the ICT system.

2. In other matters considered by the Council, submissions are served to the participants of the proceedings with confirmation of receipt. Council resolutions are served as copies certified as true by the Council's Office.

3. The participants of proceedings have the right to view the case files and prepare copies or excerpts of these files. A participant of the proceedings may, upon written request, receive copies and extracts from the files, with confirmation by the Council's Office that they are true copies.

Article 50. 1. In individual cases, the Council shall pass resolutions after comprehensively considering the case, on the basis of the documentation provided, as well as on the basis of explanations of the participants of the proceedings or other persons, if submitted, taking into account the principles of independence of the courts and judges, as well as effectiveness and transparency.

2. The Chair of the Council gives the floor to the Chair of the Social Council or a member of the Social Council who he designates to present an opinion.

3. In justified cases, the Council may request the participant to personally appear at the proceedings or to submit written explanations, as well as supplement the case materials. Article 45, para. 3 shall apply accordingly.

4. Unless the Council decides otherwise, explanations from a candidate for the position of a judge and trainee judge in an administrative court, as well as supplementary materials, may also be submitted through the ICT system.

Article 51. 1. When preparing candidates for judicial or trainee positions in administrative courts to be considered and appraised at a meeting of the Council, the group shall adopt a position with an absolute majority of votes in the presence of all its members. A member of the Social Council participating in a group meeting does not have the right to vote.

2. Voting on matters referred to in para. 1 is public, unless the group passes a resolution on a secret ballot with a majority of votes.

3. The group's position on the matters referred to in para. 1 must have a justification.

4. Minutes shall be taken at the group's meetings on the matters referred to in para. 1.

Article 52. 1. If more than one candidate applies for the office of judge or trainee judge in an administrative court, the group shall prepare a list of recommended candidates. The provision of Article 55 shall apply accordingly.

2. When deciding on the order of candidates on the list, the group shall be guided by the assessment of the qualifications of the candidates and, furthermore, shall take into account:

- 1) the professional experience, including experience in the application of provisions of the law, academic achievements, opinions of supervisors, recommendations, publications and other documents attached to the application form referred to in separate laws;
- 2) the opinion of the board of the appropriate court and the assessment of the relevant general assembly of judges.

3. The group is not required to present a ranking of all the candidates in justification of its position if the group has not accepted all of them.

Article 53. 1. An application may be filed for one judicial position.

2. A person who applies for a vacant judicial position may not apply for another vacant judicial position until the end of the proceedings regarding the appointment to office. An application for another vacant judicial position will not be considered.

Article 54. 1. If people practising the profession of attorney-at-law, legal counsel or notary public or holding the position of prosecutor, counsel, senior counsel or vice-president of the General Counsel to the Republic of Poland apply for the office of judge or trainee judge in an administrative court, the Supreme Bar Council, the National Council of Legal Advisers, the National Council of Notaries Public, the National Council of Prosecutors attached to the Prosecutor General or the Chair of the Office of the General Counsel to the Republic of Poland respectively shall be informed of the group's meeting.

2. In the case referred to in para. 1, a representative of the Supreme Bar Council, the National Council of Legal Advisers, the National Council of Notaries Public, the National Council of Prosecutors attached to the Prosecutor General or the Chair of the General Counsel to the Republic of Poland may take part in the group's meeting in an advisory capacity.

Article 55. 1. If more than one candidate applies for the office of judge or trainee judge in an administrative court, the Council shall consider and assess all the submitted applications jointly. The Council shall pass a resolution encompassing the decisions regarding the submission of a motion for appointment to the office of judge or trainee judge in an administrative court with respect to all candidates.

2. The forenames and surnames of the candidates, the group's position and the Council's resolution, together with the justification, shall be posted in the Public Information Bulletin.

Article 56. 1. A motion to retire a judge shall contain a justification.

2. Documents shall be attached to the motion confirming the circumstances constituting the grounds for retiring the judge, in particular:

- 1) a certificate issued by a medical examiner from the Social Insurance Institution and a medical commission, if issued;
- 2) a detailed list of periods of absence from service because of sickness or leave for health reasons;
- 3) medical certificates or decisions regarding the state of the judge's health.

3. If consideration of a case requires special knowledge, the Council may request a court expert or several experts or an appropriate academic or research institute to issue an opinion.

4. Documents demonstrating a change in the structure of the courts or a change in the boundaries of the court regions shall be attached to the motion to retire a judge for that reason, together with an explanation of the reasons for not transferring the judge to another court.

Article 57. 1. An application for reinstatement as a judge shall contain a justification. Appropriate documents shall be attached to the application.

2. The Chair of the Council shall notify the president of the competent court about the submission of the application referred to in para. 1 within 14 days.

Article 58. The Council shall discontinue the proceedings if it becomes unnecessary or inadmissible to pass a resolution.

Article 59. 1. Council resolutions on individual matters require justification.

2. The justification of the resolution shall be prepared within 30 days of the date on which it is passed.

3. Resolutions in individual cases are served to the participants of the proceedings together with a justification and instructions on the method of filing an appeal with the Supreme Court.

Article 60. 1. A participant in the proceedings may appeal to the Supreme Court, unless separate laws provide otherwise.

2. If all participants of the proceedings do not appeal against a resolution regarding a motion for appointment to the office of judge or trainee judge in an administrative court, the resolution shall become final in the part encompassing the decision not to submit an application for the appointment of the participants, who have not filed appeals, to the office of judge or trainee judge of an administrative court in the proceedings.

Article 61. 1. The appeal referred to in Article 60, para. 1 shall be filed through the Chair of the Supervisory Board within 14 days of the date of service of the resolution with a justification.

2. The provisions of the Act of 17 November 1964 – the Administrative Procedures Code (Journal of Laws of 2023, item 1550, as amended²⁾) on the cassation appeal shall apply accordingly to proceedings before the Supreme Court. The provisions of Article 87 § 1 shall not apply.

Article 62. 1. The Council shall present a final resolution to the President of the Republic of Poland containing a request to appoint a judge or a trainee judge in an administrative court, together with a justification.

2. The President of the Republic of Poland may only refuse the appointment if the candidate withdraws his application after the Council's resolution becomes final.

Article 63. 1. If new circumstances arise, the Council may reconsider the case *ex officio* or at the request of the participant of the proceedings.

2. If new circumstances are discovered or arise, which constitute an obstacle to the appointment of the person specified in the request for appointment to the office of judge or trainee judge in an administrative court, which was presented to the President of the Republic of Poland, the President of the Republic of Poland may also submit a request to reconsider the case.

3. The Council shall make a decision on whether to reconsider or refuse to consider the case by way of a resolution.

Chapter 5

Monitoring and evaluation of court activities

Article 64. The monitoring of the activities of the courts applies to their reliability, efficiency and culture of holding office.

²⁾ Amendments to the consolidated text of the said Act were announced in the Journal of Laws of 2023, item 1429, 1606, 1615, 1667 and 1860).

Article 65. 1. As part of the monitoring of the activities of the courts, the Council may order the following:

- 1) a visitation of the court or its organizational unit;
- 2) a lustration in the court;
- 3) a lustration of the work of a judge or trainee judge in an administrative court, whose individual case is subject to consideration by the Council.

2. The activities referred to in para. 1 may not encroach on an area in which judges and trainee judges in the administrative courts are independent.

3. The activities referred to in para. 1, may be performed by members of the Council or by judges delegated to the Council's Office or by three inspector judges appointed by lot from among the inspector judges from an appellate area other than that in which the court, which is to be subject to the inspection or lustration, is seated or in which the judge or trainee judge in an administrative court, whose individual case is to be considered by the Council, holds office.

Article 66. 1. The Council shall consider complaints about the activities of the president of the court of appeal and disciplinary commissioners, as well as other complaints that are subject to examination by the Council on the basis of the Act of – the Law on the Structure of the Ordinary Courts, and complaints about the First President of the Supreme Court, the President of the Supreme Administrative Court and the President of the Military Regional Court. In other respects, complaints shall be forwarded to the appropriate authorities.

2. Complaints and motions with insulting content or words commonly considered offensive will not be considered.

3. The Council shall adopt the Regulations for examining complaints and motions, specifying the manner of considering complaints and motions.

Article 67. 1. The evaluation of court activities includes an analysis of all court activities, including those which are not related to the administration of justice and the performance of other tasks of legal protection.

2. The Council shall evaluate the activities of the courts in accordance with the principles specified in the Act of – the Law on the Structure of the Ordinary Courts.

Chapter 6

System of weighing cases

Article 68. 1. The Council shall establish a system of weighing cases considered by the ordinary courts by way of a resolution.

2. The Council may establish a system of weighing cases considered by administrative and military courts and the Supreme Court by way of a resolution.

Article 69. When establishing a system of weighing cases, the Council shall take into account the nature of these cases, the degree of their complexity, the workload expected and incurred, the time required for their consideration, as well as an equal split of cases among judges and the rational management of the courts.

Article 70. The system of weighing cases includes:

- 1) the division of cases into categories based on the average workload and time required for their consideration by the court;
- 2) the gradation of the importance of cases in the individual categories;
- 3) criteria justifying the classification of a case into a specific category and the principles of their application.

Chapter 7

Principles of professional ethics

Article 71. 1. The Council shall lay down a set of principles of professional ethics for judges and trainee judges in the administrative courts by way of a resolution and shall ensure that they are observed.

2. Before adopting a set of principles of professional ethics for judges and trainee judges in the administrative courts, the Council shall seek the opinion of the judicial self-government bodies and the associations of judges.

Article 72. 1. The Council may, on its own initiative or at the request of judicial self-government bodies or associations of judges, adopt a resolution on the interpretation of the principles of ethics arising from the set of principles of professional ethics of judges and trainee judges in administrative courts.

2. The Council may hold consultations with the judicial community before passing the resolution referred to in para. 1.

Chapter 8

Information and postulates presented by the Council

Article 73. The Head of the Council's Office shall present information each year to the Council by the end of March on the activities of the Council's Office in the prior year. The submission of the information shall be broadcast online and its video recording shall be posted in the Council's website. No vote shall be held on the information.

Article 74. 1. The Council shall submit information annually to the President of the Republic of Poland, the Sejm and the Senate, by the end of June, on the Council's activities for the prior year.

2. The Chair of the Council shall present the information at a session of the Sejm and at a session of the Senate. No vote shall be held on the information.

3. Together with information on the Council's activities, the Council may present postulates regarding current problems and needs of the justice system, including those arising from the monitoring and evaluation of the activities of the courts.

4. A representative of the National Council of Legal Advisers, the Supreme Bar Council, the National Council of Notaries Public, the National Council of Bailiffs and a representative of the Prosecutor General may participate in the session of the Sejm and in the session of the Senate referred to in para. 2.

JUSTIFICATION

DRAFT LAW ABOUT THE NATIONAL COUNCIL OF THE JUDICIARY

1. Introduction

The National Council for the Judiciary (KRS) – like no other constitutional body of the state – is set up to protect the independence of the judiciary and the independence of judges. Preserving the independence of the judiciary and the independence of judges is fundamental to the exercise of everyone’s right to an independent, impartial and independent tribunal.

The Constitution, specifying the composition of the National Council for the Judiciary, indicates that the NCJ consists of fifteen members elected from among judges of the Supreme Court, ordinary courts, administrative courts and military courts (Article 187 par. 1 point 2). The Parliament, on the other hand, is represented by four members elected by the Sejm from among deputies and two members elected by the Senate from among senators (Article 187 par. 1 point 3). Therefore, from a constitutional point of view, the proposal to transfer to the legislative authority the power to elect judges to the NCJ cannot be accepted. The first objective of the enacted act is therefore to bring the principles of selection of judges of the NCJ members into conformity with the Constitution.

The second objective of the Act is to equip the newly-formed NCJ with powers that will enable it to perform the tasks imposed by the constitutional legislator. In accordance with Article 186(1). The Council of the Judiciary upholds judicial independence and independence the judges. In the current political model, administrative supervision over courts was carried out by the Minister of Justice. As pointed out by the Constitutional Tribunal, the relationship between administrative activities and judicial proceedings and the provision of legal protection must be structured taking into account the fact that the administrative activities of the courts are of a servile nature in relation to their main activity, namely the exercise of justice and the performance of legal protection tasks. The organisation of the judicial administration and the way in which it operates are thus intended to support the correct case, not by a court of justice and the performance of tasks in the field of legal protection. However, the powers of the authorities supervising the administrative capacity of the courts must not lead to interference in the administration of justice and the performance of legal protection tasks, in particular to undermine or weaken the independence of judges (see judgment of the Constitutional Tribunal of 7 November 2013, ref. K 31/12, part III, point 4.3 and the case-law cited). The above assumptions turned out to be tangent ideals and the last years of this supervision prove that the way in which it is carried out violates or weakens independence (the dismissal of court

presidents in 2018 under the pretext of the results of the work selected selectively, the liquidation of departments chaired by the minister, the creation of special departments for “politically sensitive” cases, dismissal of judges’ delegations in connection with their rulings, etc.). In these circumstances, it should be considered necessary to delegate the essential powers related to the organisation of the functioning of the judiciary to the National Council of the Judiciary, since it is only in this way that its function of safeguarding the independence of judges and the independence of the judiciary can be established.

The Act on the National Council of the Judiciary together with the new law on the Ordinary Courts Organisation will be a kind of “new Constitution of the Judiciary”, and as a result of synergy between the two laws and propose new solutions therein is to speed up the examination of cases and strengthen the independence of the courts (Article 45 para. 1 Constitution). The adoption of a new law on the National Council of the Judiciary is necessary to restore the functioning of the rule of law in Poland. At the same time, it will be a new chapter in building a modern, open justice system.

In the judgment of the European Court of Human Rights in *Wałęsa v. Poland* (judgment of 23.11.2023 in case 50849/21), the Court stated that “the current way of appointing Supreme Court judges is a systemic problem resulting from the way in which the National Council for the Judiciary was formed. Therefore, Poland has been obliged to take legislative action to restore the “independent and independent court established by law”. The defendant State must take appropriate legislative and other measures to ensure that its national legal order complies with the requirements of ‘an independent and impartial tribunal established by law’ and the principle of legal certainty’. In addition, the ECtHR applied to Poland the procedure of piloting the judgment. This means that each subsequent case concerning the status of new SC judges will be dealt with in the same way. The commencement of work on the amendment of the NCJ Act is therefore a step towards the implementation by the Polish state of the obligation to adopt comprehensive targeted laws, rather than episodic and fragmentary amendments.

The National Council for the Judiciary, shaped in accordance with the provisions of the Act of 8 December 2017 amending the Act on the National Council of the Judiciary and certain other acts (Journal of Laws of 2017, No. U. of 2018 item 3) it is not a body identical to a constitutional body whose composition and method of selection are governed by the Constitution of the Republic of Poland, in particular in Article 187 par. 1 (as pointed out by the Supreme Administrative Court in its judgments of 6 May 2021 in cases of: II GOK 2/18, II GOK 3/18, II GOK 5/18, II GOK 6/18, II GOK 7/18; of 21 September 2021 on: II GOK 8/18, II GOK

10/18, II GOK 11/18, II GOK 12/18, II GOK 13/18 and II GOK 14/18, and of 11 October 2021 in cases: II GOK 9/18, and file ref. II GOK 15/18, II GOK 16/18, II GOK 17/18, II GOK 18/18, II GOK 19/18, II GOK 20/18, and the Supreme Court: in its order of 21 May 2019, III CZP 25/19; in the resolution of the three joined Chambers of 23 January 2020, BSA I-4110-1/20, and the resolution of the seven judges of 2 June 2022, I KZP 2/22, OSNK 2022, No 6, item. 22). The case-law of the European Court of Human Rights, the Court of Justice of the European Union and the national courts—the Supreme Court and the Supreme Administrative Court—clearly states that the current National Council of Provisions does not provide sufficient guarantees of independence from the executive and legislative authorities in the procedure for appointing judges (see, for example, in the judgments of the ECtHR of 22 July 2021, *Reczkowicz over Poland*, complaint No 43447/19; of 8 November 2021, *Dolińska-Ficek and Ozimek v Poland*, Complaints Nos 49868/19 and 57511/19; of 3 February 2022, *Advance Pharma sp. z o.o. v. Poland*, complaint No 1469/20; CJEU judgments of 19 November 2019, *Joined Cases C-585/18, C-624/18 and C-625/18, AK v National Council of the Judiciary and CP and DO v Supreme Court*, EU:C:2019:982; of 2 March 2021 in *Case C-824/18, A.B., C.D., E.F., G.H. and I.J. Krajowa Judiciary Council*, EU:C:2021:153; of 6 October 2021, *C-487/19 W.Ż.*, ECLI:EU:C:2021:798; resolution of the full composition of the SC – Izba Civil, Criminal and Labour and Social Insurance of 23 January 2020, BSA I-4110-1/20, OSNKW 2020, No. 2, item. 7).

The restoration of the rule of law requires the restoration of judicial independence also in terms of organisation. The mere change of the method of selecting the National Council of the Judiciary to one that will be compatible with the Constitution of the Republic of Poland will not be sufficient. The drastic curtailment by the legislative and executive powers of the independence of the judiciary in recent years has also led to the collapse of its governing body. The changes introduced were not only inconsistent with constitutional standards, but also catastrophic for the day-to-day work of judges and the functioning of the courts. This led to a dramatic increase in the average time to hear court cases and, consequently, to an increase in arrears. The victims of this are citizens and other actors, including entrepreneurs, who are looking forward to hearing their cases. Justice is late in the denial of justice.

Modern justice must ensure the smooth implementation of the right to justice. Therefore, the law introduces a new concept of judicial management by the National Council of the Judiciary. This will allow the introduction of innovative solutions in the form of: a case weighting system, a map of the availability of the general judiciary, a judge's pensum, as well as monitoring and

evaluation. This is to enable the courts and judges to cease to be genuinely burdened and to analyse the reasons for this. This will allow for a rational allocation of personal and financial resources to individual courts. It is designed to provide equal access to court throughout the country.

assuming a level playing field between courts and judges and guaranteeing an appropriate level of specialisation. Novum is the direct incorporation of the principles of effectiveness and publicity in Council's actions in the Act. However, the creation of such institutions requires that their functioning be supervised by a body that will ensure that the principle of efficiency is not used to undermine independence.

According to research, the current NCJ is considered apolitical by only 11 % of respondents. Only 16 % believe that it fulfils the standards of a democratic rule of law better than before 2018, so much believes that it fulfils the constitutional tasks of upholding judicial independence(<https://biqda--dimension-justice-za-radow-pis.html>). The new law on the National Council of the Judiciary will restore citizens' trust and reverse these negative social assessments. In order to increase the accountability of judges and, as a consequence, citizens' trust in them, new information obligations of the Council are introduced. It aims to promote high-quality justice and participate in educational and outreach initiatives. Transmissions from Council meetings, transmissions of information submitted and involvement of professional authorities and citizens in the discussion are intended to contribute to increasing the social responsibility of the judiciary. A manifestation of the model aimed at society is also the possibility for groups of citizens to submit judges to the National Council of the Judiciary. An important role in the functioning of the National Council of the Judiciary is to be played by the created Social Council.

The Act replaces the Act of 12 May 2011 on the National Judicial Council, which, as a result of numerous changes, has become illegible, and its current regulations grossly violate constitutional principles and requirements arising from international law.

2. Structure of the Law

The bill consists of eight chapters. Chapter 1 contains general provisions, Chapter 2 governs matters relating to the scope of the Council's activities. The third chapter contains rules on the organisation and election of the members of the Council. Chapter 4 includes a post before the Council. Chapter 5 regulates the monitoring and evaluation of judicial activities. Chapter 6 contains concrete solutions to introduce a system of judicial management in the form of a case-weighting system. Chapter 7 deals with professional ethics. Chapter 8 deals with the Council's

information obligations and the Council's right to make demands.

3. Chapter 1. General provisions

3.1. Scope and purpose of regulation

3.1.1. Assumptions

The new law contains the necessary regulations for the restoration and ordering of the functioning of the democratic rule of law, which must be started with the correction and improvement of the constitutional body, which is the National Council of the Judiciary. The design of the Act is based on the following assumptions:

- 1) the restoration of constitutional rules concerning the composition of the Council of the Judiciary and the election of its members in order to exercise the right to a court established by law;
- 2) the restoration of constitutional powers and the introduction of new tendencies and institutions necessary for the effective realisation of the right of every citizen to an efficient, impartial and apolitical court;
- 3) the creation of a modern, pro-citizen and democratic model of the National Council of the Judiciary.

3.1.2. Restoration of constitutional compositional rules

and how to elect the members of the National Council of the Judiciary

A prerequisite for the proper functioning of the Council is to restore the functioning of the body in its constitutional form.

The law provides for the restoration of the constitutional composition of the Council and the method of electing its members in order to restore the non-living and apolitical system of justice. From the exemplary case-law of the European Court of Human Rights, the Court of Justice of the European Union and the national courts – the Supreme Court and the Supreme Administrative Court – cited in the introduction, it is clear that the current National Council for the Judiciary does not provide sufficient guarantees of independence, since it is not a body identical to a constitutional body or an apolitical and fully independent body. The draft law is to return to what was laid down in the Constitution: impartiality of the Council and independence from purely political factors. This is the first, fundamental and necessary step to restore the rule of law in Poland. The provisions proposed in Chapter 3 of the draft law aim to change this state of affairs.

The necessity of changes in the selection of Council members who are members of the Council is also apparent from the pilot judgment of 23 November 2023 in the above-mentioned case

Wałęsa v. Poland, in which the European Court of Human Rights, referring inter alia to its previous judgments, in particular in Dolińska-Ficek and Ozimek and Advance Pharma sp. z o.o., instructed Poland to swiftly draw up measures (legislative amendments) aimed at restoring the independence of the National Council of the Judiciary by implementing the provisions guaranteeing the right of the Polish judiciary to elect the members of the Council of the Council (see paragraph 329 above). This is also the result of the decision of the Committee of Ministers of the Council of Europe adopted at its 1468th meeting (<https://www.consilium>).

3.1.3. Terms of reference of the Council

3.1.3.1. Assumptions

The basic amendment provided for in the draft law concerns the scope of action of the Council. The assumption adopted in the project is to improve the system of judicial management and to give the National Council of the Judiciary the main competence in this area. The independence and independence of the courts require that their management in part be entrusted to the National Council of the Judiciary and that the system of courts and their functioning are not determined by the legislator and not exclusively by the executive. The executive power must not interfere either in the content or in the manner in which justice is exercised (functionality dimension). In order not to be able to do so, it is not necessary to properly educate the management of the judiciary (organisational dimension). The sine qua non condition is the autonomy of the Council and its external independence vis-à-vis the other authorities and its constitutionally shaped composition. These are the conditions necessary for the creation of a modern and efficient justice system, in which cases will be handled smoothly, honestly, apolitically, with preserved office culture, and judgments are stable.

The performance of the Council's tasks is to be based on the principles of efficiency and transparency, respecting the independence of the judiciary and the independence of judges (Article 3(1). 1 of the draft law). A novelty is the proposal to clearly link the performance of the Council's tasks not only to judicial independence and judicial independence, but also to the efficiency and transparency of the Council's activities. It is worth emphasising that effectiveness and transparency are not absolute and must be subject to the principles of judicial independence and judicial independence.

3.1.3.2. Principles of efficiency and transparency

3.1.3.2.1. Principle of efficiency

The principle of effectiveness means that the Council acts in order to ensure the efficient, economic and efficient functioning of the judiciary and the effective exercise of the right to

justice of every citizen.

The effective management of the judiciary by the Council also means that it determines the organisational needs of each court and eliminates the existing discretion and discretion in management. All according to the rule that you cannot manage something that cannot be measured. Hence the assumption of the introduction of a standard-based European case weighting system.

An effective judiciary is also a judiciary that ensures the quality of justice. The law proposes to introduce a new concept for monitoring and evaluating the activities of courts, which includes: integrity, efficiency and culture of office. It is proposed to introduce an evaluation of the judiciary, consisting of an analysis of the overall activities of the courts, including those not related to the administration of justice and the performance of other tasks in the field of legal protection.

3.1.3.2.2. Principle of transparency

The principle of transparency of the Council implies full publicity and transparency of the Council in the exercise of its powers, in order to ensure that it is able to exercise public control over its activities. Transparency is a sine qua non condition for proper function of the administration of the judiciary in the assumptions of a model worthy of the citizen – transparency strengthens citizens' trust in the judiciary. Transparency is ensured in the proposed regulations, inter alia by enacting the rules of professional ethics of judges and ensuring that they are complied with (Article 7(14) of the draft law), developing and promoting good practices (Article 7(15) of the draft law), informing the public about the activities of the law and the Council and the related activities of the Press Officer for the Judiciary (Article 40 para. 1 of the draft law) and the Press Office of the Council (Article 40 par. 2 of the draft law), providing the public and the media with sufficient information to show the full picture of the justice system, the submission of information by the Council and the Bureau, the formulation of demands by the Council, the presentation of positions, the provision of written letters to each candidate for judge, reasoned decisions on appointment and promotion. In order to increase transparency, educational and popularising activities are also required (Article 7(16) of the Act).

3.1.3.3. Assumptions of a new model of governance of the general judiciary

3.1.3.3.1. Governance of the judiciary

The draft law, inter alia, refers to the notion of management in Article 2.

Institutional governance of the judiciary can be defined as a coherent system of institutions,

principles and practices adopted in the field of the judiciary, which organises, regulates and facilitates the exercise of its primary function by the judiciary. Dynamically, it is essentially a managerial (or co-managerial) activity carried out by a specific entity (in this case the National Council of the Judiciary), the objective of which in the form of efficient and efficient administration of justice and other activities and activities is achieved by planning, organising, and monitoring the implementation of the assumptions. The aim is to provide stability and predictability of justice and other activities and activities and to carry out its essential functions. The functional aspect, i.e. the exercise of justice by the courts, should be distinguished from the proposed judicial management, as this is an aspect that should be independent of the National Council of the Judiciary. As the experience of recent years has shown, it is not possible to properly carry out the function of justice with institutional (organizational) dependence on the executive and legislative powers. The law creates a general model for the administration of the judiciary, which has been fully referred only to ordinary courts and does not apply directly to other judicial authorities. This management includes all the activities necessary to ensure the effective and transparent functioning of ordinary courts. In the future, it is not impossible to extend the mechanisms-seen in this respect to the activities of courts other than the ordinary courts.

The management of the judiciary requires the conferral of specific competences on the management body, as pointed out by the Consultative Board

European Judges (CCJE) in Opinion No 10(2007) for the attention of the Committee of Ministers of the Council of Europe: “Council of the Judiciary in the Service of Society”(https://rm.coe.int/168074744c). Paragraph 42 of the Opinion recommends that the Judicial Council ensures that the following tasks are carried out in a manner that is not dependent on the legislative and executive powers:

- selection and appointment of judges;
- promotion of judges;
- evaluation of judges;
- discipline and ethics issues;
- training of judges;
- control and management of the budget of the judiciary and of the Council;
- administration and administration of courts;
- protection of the image of judges;
- provide other state authorities with opinions on the functioning of the judiciary and the



Council;

- cooperation with other competent authorities at national, European and international levels;
- responsibility towards society: transparency, accountability, reporting.

These recommendations have also been reiterated in recent documents of the Consultative Council of European Judges (see: Opinion No 24 on the evolution of Councils for the Judiciary and their role for independent and impartial judicial systems (2021)(<https://rm.coe.int/opinion-no-24-2021-of-the-CCJE-en/1680a59ec7>).

These powers are conferred on the National Council of the Judiciary in various respects by the National Council of the Judiciary, and in the remainder will belong to other bodies, in particular the Minister of Justice, but it should be emphasised that this scope does not create a state of dependence of the judiciary on other authorities in a manner contrary to the Constitution or the rules of democracy. This is also possible thanks to the appropriate proportions in the division of competences exercised by particular organs. The project introduces specific institutions to serve the efficient management of the judiciary. The way in which ordinary courts operate must ensure the right to a court of appropriate quality throughout the country, which is possible only if the tasks of courts and judges are evenly burdened and there is a universal guarantee of an adequate level of civilisation. So far, there have been no statutory solutions that regulate these issues in a coherent and comprehensive manner and ensure that they are transparent. This gap was not able to fill in the rules on jurisdiction or the system of random allocation of cases. What makes it possible to examine the burden of a particular judge is a pre-weighing system. This system is designed to measure and objectivise the time and workload spent by judges in dealing with a particular case. Therefore, when establishing that system, account will have to be taken of the nature of the specific cases, the degree of complexity and the expected workload necessary to identify them. The system is designed to consist of three main elements. First, cases heard by ordinary courts should be divided into specific categories, taking into account the average workload and the time needed to deal with them. Each category should group matters which require a similar amount of work and are similarly time-consuming. The project does not exclude that separate categories are created for different types of cases (civil and economic, family, work, social, register, perpetual, bankruptcy and criminal). Secondly, each of the separate categories must be given a weighting within the system, which will take into account, in a proportionate manner, the differences between the individual cases in terms of the workload and the time necessary to deal with them. The project does not prejudge what kind of indicators will be selected to determine the importance of cases. To this

extent, various solutions can be applied, including the simplest ones, consisting of determining the importance of cases by means of scoring. The system is based on determining the importance of the case. The importance of the case assesses the complexity of the different types of cases on the basis that one type of case differs from the other in terms of time and effort to be dealt with by the court. The weight of a case is the average amount of time spent on each type of case since its

enter the court until the date of its decision. The importance of the case does not relate to the time the case is handled (i.e. the number of days or years that have elapsed from the wrong application to the decision), but to the actual working time (minutes and hours) devoted to its resolution (all events related to the case). The term ‘case-related events’ refers to judicial acts that take place in all types of cases and require the attention of a judge, such as:

- examination of the case (e.g. in preparation for hearings);
- conducting court hearings;
- drawing up draft orders and rulings;
- other case-related activities carried out by a judge or court staff.

Thirdly, in view of the possibility of significant divergences as to the actions necessary to deal with cases of the same type, the system should introduce criteria justifying the classification of a case into a specific category covering cases of the same importance and explain the rules for the use of those criteria in order to ensure the objectivity of the weights assigned to individual cases.

In the assumptions, the tool in the form of a system is to enable the equal-division of cases between judges and to objectify the results of their work, and as a consequence, allow for rational management of the entire general judiciary. Ultimately, this system is intended to determine the necessary number of judges and court officials not only in a particular court, but also cumulatively in regional, regional and appeal courts, which is synchronised with the draft law on the system of ordinary courts. The system of weighing cases in the future may also be introduced in the Supreme Court as well as in administrative and military courts, which, however, would require appropriate changes to individual political laws. In addition, the case-weighting system is an important component of the solution aimed at determining the dimension of the tasks determining working time, which is proposed in the draft law on the system of ordinary courts under the name of the ‘judicial allowance’. The limits of the tasks envisaged in the context of that pensum are also to be applied to the gravity of the cases laid down in the weighing system. Another instrument for the management of the common judiciary

by the National Council of the Judiciary is to be a map of this judiciary created in accordance with the rules laid down in the draft law on the system of ordinary courts. On the basis of this, it will be possible to compare the burden on judges and individual courts and to assess the real availability of legal protection provided by these courts. The information contained in the map is to be public, accessible to citizens and updated annually.

This concept is reflected, inter alia, in the establishment of competence in Article 7(11) of the draft law, which is further specified in Articles 68 to 70 of the draft law. Ultimately, it is intended to enable:

- determination of the planned number of judges, court officials in the courts;
- assign cases to specific courts;
- determination of the number of judges in individual district, regional, appellate courts and ultimately in the Supreme Court and in all courts;
- determination of the number of new judges and judicial officials in-different courts;
- assessment of the productivity of courts;
- assessment of the judge's productivity;
- analysis of problems in court proceedings in order to create good practices.

When establishing a system of weighting the cases of a given court, account shall be taken of the nature of those cases, the complexity of those cases, the expected workload necessary to hear them, and the equal distribution of cases between judges and the rational administration of the court.

An auxiliary instrument for assessing the activities of the judiciary is monitoring, which allows to examine the reliability, efficiency and culture of the office of individual organisational units of the judiciary. In addition, according to the draft, the National Council of the Judiciary in relation to ordinary courts will undertake activities related to evaluation of their activities. The evaluation is to include an analysis of the overall activity of these courts in accordance with the rules laid down in the Act on the Organisation of Ordinary Courts. The data thus obtained, mainly from reports submitted by the presidents of the courts of appeal and the directors of the courts of appeal, are intended to provide access to the information necessary for the planning of activities belonging to the management of the division of the general judiciary and the effective execution of those activities.

3.1.3.3.2. The model of limited autonomy in the management of the general judiciary

The current model of judicial administration gives the judicial authority a form that prevents it from acting in a manner consistent with constitutional principles and values, which may

undermine citizens' right to an impartial, apolitical court, which is the basis of a democratic rule of law.

The provision in Article 2 of the proposed law is a completely new provision which forms the basis for the new model of judicial governance. In accordance with Article 2(2). 1 of the draft law, the Council upholds the non-dependence of the courts and the independence of judges and governs the judiciary. For clarification of the scope of the Council's activities, see Chapter 2 of the draft law, which defines the powers of the Council. The law proposes to adapt the powers of the Council to the needs of modern judiciary. In principle, the tasks of the Council should include: personal, administrative, financial, educational, ethical, informative, IT, regulatory. The European context and the evolution that has taken place in recent years as to the nature and position of the national judicial councils in Europe cannot be overlooked. The development of the jurisprudence of the European Court of Human Rights and the Court of Justice of the European Union has given rise to new challenges for the full realisation of the principle of separation of powers, judicial independence and independence of judges and the right to a court. The state of crisis in which the common judiciary is today in Poland makes a change in the position of the National Council of the Judiciary towards this judiciary a necessity. The constitutionally shaped composition of the Council makes it the most predestined entity to carry out functions related to the administration of courts. The Council, as a collegiate body formed by representatives of all authorities, can act impartially and take appropriately balanced decisions that take into account the position of all its members, representing different environments.

The proposed model of competence of the Council is a model of limited autonomy in the management of common courts. The limitation is manifested in the fact that only part of the powers in this area belong to the Council, and some of them are exercised by court authorities and judicial self-government. The limited autonomy model is also demonstrated by the fact that a significant part of the powers related to the organisation of judicial activities will remain with the Minister of Justice. These petitions-guarantee the principle of separation and balance of powers, but at the same time do not allow excessive interference in the functioning of the judiciary, which guarantees its independence and independence. The proposed solutions concern competence only with regard to the management of the general judiciary (and do not concern-e.g. administrative dovation outside clearly indicated situations). A detailed catalogue of these competences is set out in the draft Law on the Ordinary Courts Organisation, which delegates to the Minister of Justice the power to issue, in certain cases, executive arrangements

governing the activities of this division of the judiciary, including:

- the procedure and method of assessing the qualifications of a candidate for a vacant judicial post;
- rules for the operation of the electronic system supporting it in court proceedings;
- the model of the official costume of the judges;
- the manner in which judicial experts are appointed, acted and discharged from their functions;
- the activities of courts in international civil and criminal proceedings in international relations.

Nor does the draft change the fact that the Minister of Justice supervises military courts in the field of the organisation and administrative activities of these courts. The regulation of the Minister of Justice's austerity over maritime chambers remains unchanged. In addition, the project leaves intact other competences of the Minister for Justice, which have so far been exercised within this ministry. The Minister of Justice, among other things, continues to:

1. hold the office of Prosecutor-General;
2. he remains the Minister in charge of the Department of Justice in the property of the Act of 4 September 1997 on the Departments of the Administration of Dowry (i.e. Dz. U. of 2022, item 2512; further as: "law on rags");
3. is the holder of the Justice Fund, as well as of European funds;
4. appoint notaries and bailiffs and designate their registered offices (revisions);
5. supervises the activities of the lawyer's self-government, the self-government of legal advisers, notaries and over the bodies of the notarial government itself, as well as supervision over the execution of preliminary and professional renewals;
6. he remains the minister responsible for preparing draft codifications of civil law, including family law, and criminal law (Article 24 para. 2 of the Law on Divisions);
7. performs substantive supervision over the functioning and development-of registers: The National Criminal Register, the National Court Register, the Land Register, the Central Register of Restructuring and Insolvency and the Register of Liens;
8. supervised by the Central Board of the Prison Service, Head of the Inner Prison Service (Art. 24 par. 2 Departments Acts) and other organisational units of the prison service, investigative arrests and prisons;
9. supervises curatorial centres, opinion-giving teams of judicial specialists; supervises the activities of curators;

10. he remains the minister responsible for supervising the implementation of tasks in the field of European Union judicial cooperation in civil and criminal matters and cooperation with other European institutions and organisations in civil and criminal matters, including those related to European arrest warrants.

3.1.3.3.3. Constitutional standards

The solutions adopted in the Act comply with constitutional standards. They provide guarantees for the independence of the judiciary, but also of the balance of the authorities, as they implement a model of limited autonomy in the management of common courts (and not a model of full autonomy, which would involve the transfer of full management of all courts to the Council).

From the wording of Article 10 para. 1 of the Constitution “Division and balance of powers”, complemented by the “cooperation of authorities” (Preamble) and Article 173 of the ‘separity and independence of the courts’, it follows that the legislator is, in principle, free to choose a model for the administration of courts, under the condition, that it respects the principles of separation and balance of powers, and, in the relations between the judiciary and the legislature and the executive, observes the principle of separate judicial power. The limits of the freedom of the legislature in this respect are determined only by the provisions of the Constitution, which confer specific powers and powers on certain bodies. With regard to the administration of courts, there is no such regulation at the constitutional level. Article 187 para. 1 point 1 of the Constitution, which indicates that the Minister of Justice is a member of the National Council for the Judiciary, is not a provision of competence. The above means only that the Minister for Justice cannot be deprived of his participation in the National Council of the Judiciary by law, but on the basis of this provision he does not gain any independent competence.

The adoption of the proposed model is also not an obstacle to Article 146(1). 2 of the Constitution. The Council of Ministers may act on the basis of this provision only if the legislator does not refer the matter referred to therein to another specific body. The statutory transfer does not mean that it is taken away from the Council of Ministers. In fact, the Constitution has never established this specific competence in favour of the Council of Ministers. However, when assessing the possibility of expanding the competences of the National Council of the Judiciary, it is necessary to take into account its status as a constitutional body, which is linked to the judiciary and thus the most predestined for the administration of the judiciary. The Council, like no other constitutional body of the State, is called upon to protect the independence of the judiciary and the independence of judges. The

provisions of Article 187(1). 4 and 183 para. 2 The Constitution has a sufficient basis to change the role of the Council, given that its new actions will aim to safeguard the independence of the judiciary and the independence of judges. In addition, taking into account the experience of 2018-2023 and the ongoing devastation of the judiciary, the notion of guarding referred to in Article 186(1). 1 The Constitution must not only cover the retroactive supervision of the absence of threats to judicial independence and the independence of judges, but must also include the compulsion of the Council's active action in order to ensure the independence of the judiciary and the independence of judges. Not without significance is what falls within the concept of judicial independence and the independence of judges. It is not doubtful that, in the individual aspect, judicial appointments, the professional path of judges, systems, disciplinary proceedings and status fall within the concept of independence. However, it is also common ground that, apart from the individual aspect, the guarantee of independence of the judiciary covers not only the structure and organisation of the courts, but also the institutional aspect resulting from the model adopted for the administration of courts.

3.1.3.3.4. International standards

At the outset, it should be emphasised that all international instruments concerning the Councils of the Judiciary are of the nature of soft law, which means that Member States should adopt them, although they do not have a legal obligation to apply them. Importantly, the European Courts, and in particular the European Court of Human Rights, often refer in their judgments to the standards developed by: CCJE (Consultative Council of European Judges), European Commission for Democracy through Law (CCJE) The Venice Commission, ENCJ (European Networks of Councils for the Judiciary), OSCE-ODIHR (Office for Democratic Institutions and Human Rights), OSCE-ODIHR (Office for Democratic Institutions and Human Rights in particular in the OSCE-ODHIR Warsaw Recommendations (2023)) and other international organisations dealing with judicial issues. The Consultative Council of European Judges (CCJE), which is a body of the Council of Europe, has made the most extensive recommendations on the role of national judicial councils in its opinions.

The issue of Councils for the Judiciary is an important issue in the work of the CCJE, and therefore Opinion No 24 was adopted in 2021 on the evolution of the Councils of the Judiciary and their role of legal systems, which draws lessons from European experience in recent years. The document notes, inter alia, that: "However, vague declarations on the independence of the Council, even contained in the Constitution, are not sufficient. Each Council of the Judiciary should also have at its disposal effective legal means to protect its autonomy and to challenge

the legality of public acts concerning itself or the judiciary. A good example could be the right to bring proceedings before a constitutional court or an equivalent court. The Council of the Judiciary should also have the legitimacy of a sling before national and international courts (including the right to submit, where possible, an *amicus curiae* opinion).’ In this respect, the Act provides for appropriate competences of the National Council of the Judiciary.

As the CCJE points out, recent developments have also undermined the principles and standards expressed in previously adopted documents. Therefore, the principles contained in Opinion No 10 should be confirmed and, if necessary, supplemented in the light of recent political developments which have weakened the judicial institutions and challenged the case-law of the European Courts. In Opinion No 10(2007), the CCJE recommended the following actions:

A. In general:

- a) it is important to create a specific body, such as the Judicial Council, responsible for safeguarding the independence of the bow as a key element of the rule of law, respecting the principle of separation of powers;
- b) the aim of the Judicial Council is to protect the independence of both the judiciary and individual judges while guaranteeing the effectiveness and quality of justice as defined in Article 6 of the European Convention on Human Rights (ECHR) in order to strengthen the public’s trust in justice;
- c) The Council of the Judiciary should be protected from the risk of its autonomy being compromised by the legislative or executive authority by a provision in a constitutional or equivalent text.

B. As regards the composition of the Judicial Council:

- a) in order to avoid the impression of self-interest, protection and cronyism and to reflect different points of view in society, the Judicial Council should have a mixed staff composition, with an essential majority of judges, even if certain specific tasks should be reserved to a panel composed exclusively of judges. The Judicial-Council may also be composed only of judges;
- b) potential members, be they judges or others, should be appointed on the basis of their competence, experience, misrepresentation of the rules of operation of the judiciary and a sense of independence. Nor should they be active politicians or members of the executive or legislative power;
- c) judges should be elected as members by equals, without any interference by political authorities or judicial hierarchies, using methods guaranteeing the widest possible

representation of the judiciary; where selection is made through direct choices, the Judicial Council should establish rules aimed at minimising any threat to public trust in justice;

d) whereas the appointment of members who are not judges, with or without legal experience should be entrusted to non-political factors; however, if they are elected by Parliament, they should not be members of Parliament, they should be elected by a qualified majority with significant opposition support and should be persons representing a diverse representation of the public in the entire composition of the Council of the Judiciary.

C. As regards the functioning of the Council of the Judiciary:

a) the terms of office of members may be in full time, but limited in number and in time in order to maintain contact with judicial practice; members (judges and non-judges) should be guaranteed their independence and impartiality;

b) The Judicial Council should dispose of its own budget and receive funding to enable it to function in an optimal and independent manner;

c) decisions of the Council of the Judiciary should be reasoned and effective and subject to appeal;

d) as a key element of public confidence in justice, the Council of the Judiciary should act in a transparent manner and be accountable for its activities, in particular by submitting a periodic report, including proposals for taking measures in order to ensure the proper functioning of the judiciary.

D. As regards the competence of the Judicial Council:

a) The Judicial Council should have a wide range of tasks in order to protect and promote the independence of the judiciary and the-effectiveness of the judiciary; it should also ensure that there are no conflicts of interest within the Council of the Judiciary in the performance of its various tasks;

b) whereas it is advisable that the Council of the Judiciary be competent for the selection, appointment and promotion of judges; this must be done under conditions of absolute independence from-the legislative and executive powers, as well as under conditions of absolute transparency in the selection criteria of judges;

c) The Judicial Councils should be actively involved in the assessment of the quality of the functioning of the judiciary and in the implementation of techniques to ensure the effectiveness of the work of judges, but should not be substituted by the competent judicial-authority responsible for the individual assessment of judges in their day-to-day activities;

d) Ethics issues may be entrusted to the Judicial Council; in addition, it may deal with the

complaints of the parties to the proceedings;

- e) The Judicial Council may be entrusted with the organisation and-delivery of training courses, but the design and implementation of training programmes is the responsibility of the training centre, with which it should cooperate in order to undermine the quality of training;
- f)The Judicial Council may be given financial powers to negotiate the budget and manage the budget allocated to the judiciary, as well as-to petition the administration and management of numerous courts in order to achieve a better functioning of the judiciary;
- g) The Council of the Judiciary may also be competent to play a broad role in the promotion and protection of justice;
- h) The Council of the Judiciary should be a consultant on any law likely to affect the judiciary before its submission to Parliament, including those that may affect the independence of the judiciary or undermine the guarantees of citizens' access to justice,
- i) cooperation with the various Councils should be encouraged at-European and non-European levels.

The submitted project contains solutions implementing the recommendations presented. The proposed rules provide for the widest possible scope of competence, according to which the National Council for the Judiciary is responsible not only for the appointments and promotions of judges, their disciplinary proceedings and training, but also for managing–(and administering) the general judiciary, i.e. the organisation of all its activities, including, inter alia, staff management, budgeting, traffic and case allocation.

Furthermore, the CCJE stresses that each Council of the Judiciary must work in a transparent manner justifying its decisions and procedures and be subject to scrutiny in this regard. The Council must also be open to criticism and ready for continuous self-improvement. This form of responsibility is of particular importance in the dialogue with other state authorities and civil society (paragraph 18 of the Opinions).

The project meets these expectations by establishing a Social Council.

Another international body involved in the development of national judicial councils in Europe is the European Network of Councils for the Judiciary (ENCJ), which, in its Compendium on Councils of the Judiciary, adopted on 29–October 2021, states that its objective is not to establish a ‘ideal model’ of the Council of the Judiciary, but to lay down common principles for ensuring the independence of judicial councils (or one or more independent and autonomic bodies) as well as the effectiveness and efficiency of their activities.

According to the ENCJ, the Judicial Council or one or more independent and autonomous

bodies should be responsible for:

- appointment and promotion of judges,
- training of judges,
- discipline and Ethics of Judges,
- administration (administration) of courts,
- the finances of the judiciary,
- management of judicial efficiency,
- handling complaints of the parties to the proceedings,
- protecting the image of the judiciary,
- formulate opinions on the state's judicial policy,
- the establishment of a system of judicial evaluation,
- drafting or proposing legal acts relating to judicial administration/judicial administration and/or courts.

The project provides for the competence of the National Council of the Judiciary in all the above-mentioned areas.

The CCJE also commented on the role and competence of the Judicial Councils in other opinions, e.g. recognising the growing meaning of non-information technology for the future of the judiciary. In this regard, it is recommended that the existing Judicial Councils should play a role in this area in order to adequately protect judicial independence and ensure the quality of the work of judges in the future (see IP/10/07). CCJE Opinion 14 (2011), point 36). In that regard, the draft Article 8(18) confers powers on the Council to carry out tasks in the field of computerisation of courts. In addition, pursuant to Article 44 of the draft, the Council is to set up an Institute for Informatisation of the Judiciary, which is an institution of the budgetary economy.

CCJE Opinion No 10 (2007) and the Grand Charter of Judges (Consultative Council of European Judges (CCJE), Strasbourg, 19 November 2010 CCJE (2010)3 Final) recommended that judicial councils should have broad competence on all matters concerning the status, organisation, functioning and image of judicial institutions. According to the recommendations, the greater the responsibilities and powers conferred on the Council, the more important it is for the Council to have sufficient resources and to be accountable for its actions and decisions. In addition, the CCJE has repeatedly reiterated its opinion that, before parliamentary deliberations or legislative activities, the Council of the Judiciary should be a consultant on all acts, including draft laws that may affect the judiciary or may undermine citizens' access to

justice. Article 7(8) of the draft law provides for such an obligation, which corresponds to European standards. This objective is also indirectly pursued by the provisions of Article 7(6) and Article 7(8) of the draft law.

Furthermore, the Judicial Council should play a special role in explaining to citizens how the judicial system works and what its role is in it. The Act meets these expectations after the establishment of a Press Officer for the Judiciary, independently of the Council's Press Officer, which should bring the public closer to the specificity of the work of judges and courts. The Council's continued involvement in popularising and educational initiatives will also be important. Ombudsmen will also be involved in these initiatives.

With regard to the training of judges, Opinion No 4 of the CCJE points out in paragraph 13 that, according to the European Charter for the Status of Judges (point 2.3), the said authority for supervising the quality of the training programme should be independent of the executive and legislative powers and that at least half of the members of the supervisory body should be judges. In addition, paragraphs 16 to 18 of the above-mentioned Opinion indicate that the judiciary should either play a central role in organising and supervising training, or organise and supervise training itself.

In view of the above, and in line with the recommendations of the European Charter for the Status of Judges, the CCJE supports the solution that these duties in each country are entrusted not to the Ministry of Justice or another body responsible to the legislative or executive authority, but to the judiciary itself or to another independent body directly responsible for the training and discipline of judges. The CCJE therefore recommends that, under the supervision of the judiciary or another independent organ, training should be entrusted to a dedicated autonomous centre with its own budget, which is therefore able, in consultation with the judges, to develop training programmes and ensure their implementation. Persons responsible for training should also not be directly responsible for appointing or promoting judges. If the judicial service body referred to in CCJE Opinion 1, paragraphs 73(3), 37 and 45, is competent for training and appointment or promotion, a clear and clear division between its departments responsible for these tasks shall be ensured.

The Act guarantees compliance with the above standards by dissolving, according to which the National School of Judiciary and Public Prosecutor's Office will be a unit supervised by the National Council of the Judiciary, and at the same time independent of the members of the National Council of the Judiciary responsible for appointing or promoting judges.

3.1.3.3.5. Presumption of competence in the management of the judiciary for the benefit of the

National Council of the Judiciary

Draft in Article 2 para. 2 establishes the presumption of competence to uphold the independence of the courts and the independence of judges and to rule the judiciary—for the benefit of the National Council of the Judiciary. This—rule will be applicable in the event of a conflict of competence with any other body of state authority acting in relation to courts and judges. This will strengthen the guarantee of judicial independence and the independence of judges.

3.1.4. Pro-citizen model of operation of the National Council of the Judiciary

The project proposes to introduce a model of action of the National Council of the Judiciary aimed at citizens. In order to increase awareness—and trust in society, the law broadens the Council’s tasks by imposing an obligation to provide—the public with information about the functioning of the judiciary, the pursuit of high-quality justice and participation in educational and popularisation initiatives. The information duties are to be carried out primarily by the Council Press Officer and the Press Officer for the Judiciary. The Council is also to report regularly on its activities to the Sejm, the Senate and the President of—the Towi, and together with it may make proposals for changes in the law in the field of the judiciary. The parliamentary debate on the Council’s—report may be attended by a representative of the National Council of Legal Counsellors, the Supreme Bar Council, the National Council of Notaries, the National Judicial Council and a representative of the Prosecutor General—General. This ensures that the voice of the legal community concerned by the state of the judiciary is taken into account. A manifestation of the nakie—model for the citizen is also the opening of the possibility for citizens to submit candidates to the National Council of the Judiciary and the establishment of the Social Council.

3.2. Exclusion of the application of the Code of Administrative Procedure in proceedings before the Council

Article 6 of the draft act, referring to the 2011 solutions, resolves doubts as-to the nature of proceedings conducted by the Council, in particular whether and to what extent the provisions—of the Code of Administrative Procedure apply to proceedings. The content of the provision proposed in the Act determines that in any progress—(general or individual) carried out by the Council, the provisions of this Code shall not apply.

4. Chapter 2. Tasks of the National Council for the Judiciary

The powers of the Council in the Constitution are defined in two ways.

First, Articles 179 and 186(1). 2 The Constitution unambiguously and explicitly defines the powers of the Council, and the role of the legislator is only to clarify them.

Secondly, the legislator may give concrete expression to competences which are not directly worthy of the Constitution if they enable the Council to safeguard the independence of the judiciary and the independence of judges. The requirement to formulate these competences in the Constitution is optimised, i.e. the legislator should make them concrete if this helps to implement the principle of judicial independence and the independence of judges.

The new law on the National Council of the Judiciary covers both categories of competence within the scope of the Constitution.

Chapter 2 of the draft law, concerning the powers of the Council, consists of two parts: in the first, competences are defined as independent and are related to the constitutional function and tasks of the Council, and the second part contains competences rooted in many specific laws. The list of competences of the Council is open, as evidenced by the reference in Article 8 of the Act to the performance of other tasks specified in separate provisions. The model adopted in the Act thus allows for flexible shaping of the tasks of the Council, especially if in the future there would be a need to grant the Council new, further competences resulting from other laws.

As regards the various competences of the Council in the proposed law:

The competence to examine and assess candidates for the office of Supreme Court judges and in courts after all-all, administrative and military courts, as well as in the positions of assistant judges in administrative courts (Article 7(1) of the draft) has been retained.

laws). This competence belonged to the National Council of the Judiciary and remains valid in the draft.

The task of the Council is to submit to the President of the Republic of Poland applications for the appointment of judges in the Supreme Court, ordinary courts, administrative courts and military courts and for appointment as assistant judges in administrative courts (Article 7(2) of the draft law). This competence also belonged to the National Council of the Judiciary and remains valid in the draft. An end to the Council's action is to consider applications to retire a judge (Article 7(3) of the draft law). This competence belonged to the Council in the previous legal situation and is valid in the draft new law.

The Council also examines requests for return to judicial office (Article 7(4) of the draft law). This competence belonged in the preceding legal situation and is valid in the draft new law.

Another competence of the Council is to ask the Constitutional Tribunal to examine the compatibility with the Constitution of the Republic of Poland of normative acts in so far as they concern the independence of the courts and the independence of judges (Article 7(5) of the draft law). This provision essentially reproduces the constitutional norm contained in Article 186(1).

2 Conclusion of stimuli, and its interpretation is perpetuated.

The Council draws up proposals for the management of the judiciary (Article 7(6) of the draft law). These studies are of the nature of the so-called soft law and can form the basis for the creation of standards as well as the design of legal acts. It is essential that the Council be involved at every stage of the drafting and implementation of judicial reform plans. This is to ensure the independence of the judiciary and the effectiveness of reforms.

The soft competence to guarantee the principle of balance between the authorities is to express a position by the Council on the issues raised by the President of the Republic of Poland and other public authorities and judicial self-government bodies and international organisations in matters concerning courts and judges (Article 7(7) of the draft Act). This competence is part of the practical implementation of the principle of separation and balance of powers. The Council should seek continuous dialogue and cooperation with other authorities. All state authorities should support each other in the performance of their functions and refrain from interfering with the competences of others. This provision allows for such necessary cooperation.

In addition, the National Council for the Judiciary gives an opinion on draft acts of the active norm concerning the judiciary and judges, including draft legal acts in matters of judges' remuneration and has a competence to submit proposals in this regard (Article 7(8) of the Act). These are important powers of opinion, limited to a specific type of act. This competence means that the Council is involved in the legislative process, and omission to consult the National Council of the Judiciary on normative acts on the judiciary and judges causes the law to be unconstitutional for procedural reasons.

The Council's new competences for international cooperation and human rights are:

- a) undertaking actions aimed at ensuring compliance of Polish law with international standards in the field of justice, including dissemination of the content of European Court of Human Rights rulings, decisions, reports and recommendations of other international human rights protection bodies;
- b) performing tasks in cooperation with national and international bodies and mechanisms for the protection of the rights of a member of the Council of Europe and the United Nations, including cooperation with the European Commission for Democracy through Law (the Venice Commission) and the Commissioner for Rights Member of the Council of Europe;
- c) initiating or recommending training activities on the protection of human rights to other relevant actors;
- d) cooperation with international organisations in matters relating to the judiciary;

e) cooperation with the Minister competent for representing and protecting the interests of the Republic of Poland abroad, including before international courts and tribunals.

The Council is a body rooted in the judiciary and manages the judiciary and should therefore be empowered to carry out international action in this respect. In particular, action is needed to rebuild respect and trust in the National Council of the Judiciary in the European space.

The resulting new competence of the Council is also to conduct cases not concerning the secondment of judges, court referenda, assistant judges and court officials to the Council or any other organisational unit subordinate to or supervised by the Council to an international non-governmental organisation, as well as to an international or supranational organisation in the region, as well as to judicature teams and international projects operating on the basis of international agreements, including agreements constituting international organisations ratified by the Republic of Poland.

The Council also acquires competence to conduct cases related to the upskilling of judges and other court staff delegated to the Council, which entails new tasks that require specialised knowledge and skills after believing the Council.

The next new competence is to monitor the activities of the courts (Article 7(12) of the draft law). This task is further clarified in Articles 64 to 65 of the draft law.

Another new competence is to evaluate the activities of ordinary courts (Article 7(13) of the proposed act). This task is further specified in Article 67 of the draft law.

The Council will also define the rules of professional ethics of judges and how to respect them (Article 7(14) of the draft law).

This competence belongs to the Council as it stands and will not be changed in the draft.

The new task of the Council is to develop and promote good judicial practice (Article 7(15) of the draft law). For this purpose, the Council may use the instruments provided for by the new law in cooperation with, inter alia, the Institute of Justice.

The new task of the Council is to carry out educational and post-marketing activities (Article 7(16) of the proposed act). The Council should take action to ensure that the public receives the necessary information on the activities of the judiciary. This is essential for the functioning of democracy and the promotion of a democratic rule of law. The implementation of this competence is intended to create the conditions for a better understanding of the judiciary by society and to build public trust in the judiciary. The Council is to achieve the stated objectives by undertaking educational and popularising initiatives.

Article 8 of the proposed act includes an open catalogue of other tasks of the Council as defined

in special laws. In the light of the draft law on the Ordinary Courts Organisation, the National Council of the Judiciary:

- after the appointment of a judge by the President, designates to a judge of the ordinary court a place of service (seat) in the court in which he applied for a vacant post and changes his place of service;
- handles cases related to the allocation of vacant judicial posts and vacant posts of judicial referenda and assistant judges, including preparing announcements on vacant judicial posts;
- dismiss the president or vice-president of the ordinary court and the pre-ZESA or the deputy president of the military court before the expiry of the term of office or at the request of the judges of the competent court;
- appoints after the competition and dismisses the directors of the courts, is also their official head;
- handles and handles cases concerning the secondment of judges for the performance of their duties in another court, as well as the transfer of judges and re-judges between courts;
- may delegate a judge to perform other duties with his/her consent at the request of the President of the Council;
- examines the distribution of judges and other judicial staff within the various organisational units and ensures that their duties are distributed evenly and develops solutions to ensure the proper course of office, including efficient proceedings;
- convenes a congress of representatives of judges at the request of the assembly of representatives of the judges of appeal;
- determines the jurisprudence pensum of the judge.

At the request of the First President of the Supreme Court, the Council shall determine the number of posts in the Supreme Court (Article 8(2)).

In connection with disciplinary proceedings, the Council elects the Disciplinary Officer for ordinary court judges and two Deputy Disciplinary Officers of ordinary court judges after candidates have been submitted by the assemblies of representatives of appeal judges, as well as the Disciplinary Officer for military court judges after candidates have been submitted by the Assembly of Military Court Judges.

In relation to the electoral law governed by the Electoral Code as of 5 January 2011 (Journal of Laws of 2011, No. U. No. 21, item. 112 as amended) the following powers of the Council are foreseen: election of judges – members of the Electoral Commission, nomination of candidates to the composition of the constituency and district electoral commissions, and

nomination of judges for the function of electoral commission.

With regard to the National School of Judiciary and Public Prosecutor's Office, the National Council of the Judiciary: supervises the National Judicial School and the Public Prosecutor's Office; carry out tasks related to the recruitment of applications conducted by the National School of the Judiciary and the Public Prosecutor's Office, as well as the supervision of these applications and the conduct of judicial examinations; appoint and dismiss the Director of the National School

The Judiciary and the Public Prosecutor's Office shall indicate among the judges six members of the Programme Council of the National School of the Judiciary and the Public Prosecutor's Office. In addition, he may delegate a judge to the National School of Judiciary and Public Prosecutor's Office with his consent at the request of the Director of the School of Judiciary and Public Prosecutor's Office.

The new law transfers IT competences to the competence of the National Council of the Judiciary. In addition to its own activities, the Council for this purpose also creates the Institute for Informatisation of the Judiciary, which is an institution of the budgetary economy. The Institute's tasks will include: carrying out tasks related to computerisation of the judiciary, conducting lazy-school activities in the scope of the tasks referred to above and carrying out other IT tasks commissioned by the National Council of the Judiciary.

The new competence conferred on the Council in the proposed act is the supervision of the Institute of Justice, the Institute of Expert Professor Jan Sehn in Krakow and the appointment and dismissal of directors of these Institutes. The Institutes are intended to serve, among others, to analyse the practice of courts and propose solutions aimed at developing good practices in the application of the law.

The Council supervises the processing of personal data by the Constitutional Tribunal, the State Tribunal, the Supreme Court, the Supreme Administrative Court and the courts of appeal in the course of their proceedings. This competence belongs to the National Council of the Judiciary as it stands and has not been amended in the draft new law.

In the light of the draft, the Council is also to supervise my body, whose task is to ensure the correctness and quality of personnel data recorded in the central systems and to handle cases related to requests for financial assistance by judges in the scope and in accordance with the rules laid down in separate regulations and pro-defects, within the scope of the Council's powers, personal matters:

a) judges of ordinary and military courts,

- b) retired judges and their family members receive family salaries,
- c) court referenda,
- d) Directors and Deputy Directors of the National School of Judiciary and Public Prosecutor's Office, Prof. Jan Sehn Institute of Judicial Experts in Krakow, Institute of Justice,
- e) court directors and their deputies.

5. Chapter 3. How to elect the members of the Council and its system

5.1. How to elect the members of the Council

The composition of the National Council for the Judiciary is expressly laid down in Article 187(1). 1 of the Constitution. The National Council for the Judiciary is composed of twenty-five persons: The First President of the Supreme Court, the Minister for Justice, the President of the Supreme Administrative Court, a person appointed by the President of the Republic, fifteen members elected from among judges: The Supreme Court, ordinary courts, district administrative courts and military courts, four members elected by the Sejm from among deputies and two members elected by the Senate from among senators. The proposed arrangements for the composition and election of members are intended to guarantee its capacity to carry out its constitutional functions. They are necessary to restore the functioning of the rule of law. It should be emphasised that constitutional norms determine that the composition of the National Council of the Judiciary includes members of the executive and legislative powers.

Pursuant to Article 9 of the draft law, the First President of the Supreme Court, the President of the Supreme Administrative Court and the Minister of Justice are members of the Council for the duration of these functions (full members). This norm is to remain unchanged.

In accordance with Art. 10 para. 1 of the draft law, a person appointed by the President of the Republic of Poland shall perform his duties in the Council without indicating the term of office and may be dismissed at any time. In accordance with Art. 10 para. 2 of the draft act, the mandate of a person appointed by the President of the Denta of the Republic of Poland shall expire no later than 3 months after the end of the term of office or the vacancies of the office of the President of the Republic of Poland. This norm is also to remain unchanged.

The new regulation of Article 11 of the proposed law increases the standards for the election of Members as members of the National Council of the Judiciary in accordance with European standards, in particular the ENCJ Compendium on Councils for the Judiciary. The law states that, since non-judgemental members are appointed by parliamentary bodies, it is desirable that their election should be subject to the acquisition of a certain qualified majority in order to

avoid political influence. In accordance with Article 11(1). The Sejm elects from among the deputies four members of the Council for a period of 4 years, a majority of 3/5 votes in the presence of at least half of the statutory number of deputies. In accordance with Article 11(1). 2 of the proposed act, in the absence of election of the members of the Council in accordance with the procedure laid down in paragraph. 1 The Sejm elects the members of the Council by an absolute majority in the presence of at least half of the statutory number of deputies. The aim of this regulation is to build a cross-party, stable majority that will safeguard the proper functioning of the justice system. The choice is two-step. In the first stage, as defined in the above-mentioned paragraphs. 1 and 2, a qualified majority is adopted to guarantee increased standards of parliamentary cooperation in the election of the members of the National Council. In the absence of election of the members of the Council in accordance with the procedure laid down in paragraph 1. The Sejm elects the members of the Council by simple majority in the presence of at least half of the statutory number of deputies (Article 11(1)). 3 of the draft law). The member of the Council shall be the candidate who received the most votes and, in the case of the election of several members of the Council, the candidates who received the highest number of votes consecutively. The proposed regulation is necessary in order to guarantee the functioning of the Council in the absence of an increased majority.

Similarly, the new rule in Article 12 of the draft law increases the requirements for the election of senators as members of the National Council of the Judiciary in accordance with European standards, by all those provided for in the ENCJ Compendium on Councils for the Judiciary.

In accordance with the proposed Article 12 para. 1 draft law

The Senate elects two members of the Council from among senators for a period of 4 years by a three-fifth majority; in the absence of election of the members of the Council in accordance with the procedure laid down in paragraph 1. 1 The Senate elects the members of the Council in accordance with Article 12. 2 of the draft law, i.e. an absolute majority of votes in the presence of at least half of the statutory number of senators. The purpose and function of the regulation are the same as for the election of Members of the Council and are intended to achieve cross-party agreements in order to shape the composition of that constitutional body. In the absence of election of the members of the Council in accordance with the procedure laid down in paragraph 1. The Senate elects the members of the Council by a simple majority in the presence of at least half of the statutory number of senators. A member of the Council shall be the candidate who received the most votes and, in the case of the election of several members of the Council, the candidates who received the highest number of votes consecutively (Article

12(1)). 3 of the draft law).

In accordance with Article 13 of the draft law, the members of the Council elected by the Sejm and the Senate shall remain in office until the election of new members. The provision thus introduces the principle of continuation of functions until the election of new members by the Sejm and the Senate. The strengthening of the Council's competences requires the continuity of the Council's operations. Therefore, it is necessary for the members elected by the Sejm and the Senate to remain in office until the end of the term of office.

The strengthening of the Council's competences, including its financial competence, requires an increase in standards for candidates for members of the Council. This is because members of the Council who are not judges have the same status and voting rights as judges. Therefore, the candidate for a member of the Council elected by the Sejm and the Senate and the President of the Republic of Poland may not be a person: legally convicted of intentional offences; which has been declared bankrupt and has been part of the bodies of the entities in respect of which it has been declared bankrupt in the last 10 years; punishable by the prohibition of functions related to the disposal of public funds referred to in Article 31(1). 1 point 4 of the Act of 17 December 2004 on liability for violation of public finance discipline (Dz. U. of 2021, item 289, 2023, item 1030 and Items. 1532) and deprived of public rights.

A candidate for a member of the Council elected by the President of Common Poland shall also not be a person who does not have a Polish wateł.

The provisions on the selection of judges of the Council are also subject to changes in the draft. At European level, it is stressed that the composition of the Judicial Councils varies in quantity in terms of the number of judges and non-judges. The recommendation is that if the composition of the council is mixed, the council should be composed for the most part of judges. Moreover, the judge's part of the council should be elected by judges (the ENCJ Compendium on Councils for the Judiciary). Reference should also be made to the content of the 'Opinion of the Executive Board of the European Networks of Councils for the Judiciary' (ENCJ) on those draft laws submitted by the Polish Government of 30 January 2017. It states that 'The European Network of Councils for the Judiciary has clear rules in this regard which stipulate that the mechanism for appointing members of the Council elected from among judges must be a system which excludes interference by the executive or legislative powers and the selection of judges should be carried out on the basis of a broad representation of the relevant divisions of the judiciary. The above recommendations on the apolitical nature of the Council are important in the context of the Council's petitions for the recruitment, promotion or

evaluation of judges. Under the joint principles of judicial independence and the independence of judges approved by the UN General Assembly (resolutions: 40/32 of 29 November 1985 and 40/146 of 13 December 1985) and Recommendations No R(94) of the Committee of Ministers to the Member States of the Council of Europe concerning the independence, efficiency and role of judges (adopted by the Committee of Ministers on 13 October 1994) emphasise that all decisions concerning the career of judges should be based on objective criteria and that the recruitment and promotion of judges should be based on their attainment taking into account their qualifications, integrity, ability and fitness. The European Charter of Law Rules on Judges provides in point 1.3: ‘In relation to any decision relating to recruitment, recruitment, appointment, career development or termination of the profession of a judge, the statutes shall provide for the participation of a body independent of the executive and legislative powers, in which at least half of the judges elected by other judges, in accordance with the rules ensuring the widest possible representation of the bar.’ The European Court of Human Rights in Strasbourg stresses that the participation of the National Council of the Judiciary, composed of judges elected by the Parliament after the removal of their right to elect judges, means that the person appointed in such a way does not guarantee the right to an independent and impartial tribunal. In particular, in the above-mentioned case *Wałęsa v Poland*, the ECtHR explicitly obliged Poland to rapidly develop measures aimed at restoring the independence of the National Council of the Judiciary by introducing provisions guaranteeing the right of the Polish judiciary to elect judges of the Council. This draft takes into account these standards.

The proposed law also introduces a solution whereby judges of all courts (Supreme Court, ordinary courts, administrative courts and military courts) are represented in the National Council for the Judiciary. This solution is in line with the European standard. In particular, the OSCE-ODHIR Warsaw Recommendations (2023) stresses that judges who are members of the judicial councils should represent the overall dimension of fairness, including first-instance judges. Judicial councils should not be dominated by judges of appeal courts or other higher courts (point 2 of the Recommendation). As regards the pre-2018 selection rules, it was argued that the selection system depreciated the role of district court judges. In turn, in the number of changes from 2018, the council was composed almost exclusively of district court judges. The proposed regulation aims to ensure the participation in the Council of judges of all courts appropriate to their size, ensuring effective representation of the whole of the judiciary, including judges of the courts of first instance. In the case of ordinary courts, it takes into account the solutions relating to the uniform status of judges provided for in the draft law on

the Ordinary Courts Organisation. At the same time, representation is not dominated by judges of appeal courts or other higher courts. In view of the above, it is proposed that the members of the Council be elected by judges:

- 1) The Supreme Court – one judge of that court;
- 2) courts having a place of service in courts of appeal – one judge of the ordinary court;
- 3) courts having a place of service in regional courts – two ordinary court judges;
- 4) courts having a place of service in district courts – eight ordinary court judges;
- 5) military courts – one judge of the military court;
- 6) The Supreme Administrative Court – one judge of that General Court;
- 7) voivodship administrative courts – one judge of the Voivodeship Voivodeship-of the administrative court.

In accordance with the proposed law, if several members of the Council are elected in the same vote by judges serving in regional courts or district courts, the judge may cast a vote for candidates of no more than the number of elected members of the Council. A member of the Council shall be the candidate who received the most-votes, and in the case of the election of several members of the Council, the candidates who received the highest number of votes. If candidates obtain an equal number of votes, the oldest judge shall become a member of the Council.

The law also reformes the issue of nomination-of candidates for judges for members of the National Council of the Judiciary (fifteen persons). The right to nominate judges to the Council in accordance with Article 16(1). 1 Pro--Decided Law has:

- 1) group:
 - a) in the case of the Supreme Court, courts of appeal, military courts, Supreme Administrative Court – ten judges,
 - b) in the case of regional courts and provincial administrative courts – thirty judges,
 - c) in the case of district courts, fifty judges— having the right to vote in the elections of a member-of the Council;
- 2) National Council of Legal Counsellors;
- 3) General Bar Council;
- 4) The National Council of Prosecutors attached to the Prosecutor General;
- 5) a body authorised to award degrees in the field of legal science;
- 6) a group of at least two thousand citizens with an-active election in elections to the Sejm.

In accordance with Article 16(1). 2 of the proposed act, the bodies referred to in paragraph.

Points 2 to 6 shall be nominated by no more than the number of elected members of the Council. In the case of the groups referred to in paragraph 1. Points 1 and 7, one application may concern only one candidate for membership of the Council.

Candidates shall be notified to the election management body within one month of the date of publication of the order. The application shall be accompanied by the judge's consent to stand as a candidate. The application of the candidate shall be made by a representative. The proxy is the person designated by the candidate from among the persons on the candidate's support list. The election management body shall verify the correctness of the submissions made by groups of judges and other qualified entities. At the request of the governing body, the verification of the lists of candidates submitted by the groups of citizens is carried out by the Borcza-State Commission. The election management body shall make available to the candidate for election purposes a place on the website of the Supreme Court or the Supreme Administrative Court.

In view of the project's preferred pro-citizen model and the resulting principle of transparency, it is proposed to introduce mandatory public hearings with the possibility of asking questions to judges who are candidates for members of the Council (Article 17). The form and order of the public hearing is to be determined by a resolution of the Council. An online-broadcast is carried out from a public message and a video recording is posted on the Council's website. This solution refers to the informal institution of the Citizens' Monitoring of Candidates for Judges of the Constitutional Tribunal and the Prosecutor-General. It should be considered appropriate to formalise the process of hearings of numerous pubs and elections, so that citizens are able to familiarise themselves with all the candidatures and the conduct of the elections and their results.

Further provisions of the draft regulate the manner in which judges are elected as members of the National Council of the Judiciary, which are administered by the President of the Supreme Administrative Court and by the First President of the Supreme Court for other judges.

In view of the above, the draft provides that it will be the Minister of Justice, after consulting the First President of the Supreme Court and the President of the Supreme Administrative Court, to determine by means of a regulation:

- 1) the manner of holding elections in the form of voting in favour of electoral cards and electronic voting,
- 2) model lists of candidates' support, ballot papers, lists of voting rights, electoral protocols and announcements of election results,

- 3) detailed technical and organisational conditions for holding elections,
- 4) how to set up electoral commissions.

The above matters require regulation in the form of a regulation, which is a general normative act.

The law provides for the possibility for a judge to file an electoral protest, which shall be heard by the Supreme Court in non-procedural proceedings. The law also specifies the relevant time limits, the composition of the court and the consequences of declaring the election of a member of the Council invalid (without, however, indicating which Supreme Court Chamber will consider the protests, as this matter should be regulated in the Act on the Supreme Court).

The draft also introduces a ban on combining the functions of a member of the Council with the status of the president or vice-president of the court, as well as the termination of the mandate of a member of the Council in the event of taking up the above-mentioned positions. This is to prevent the actions of a judge as president of the court from interbreeding with the duties of a member of the Council, whose competence in various spheres falls within the jurisdiction of the court authorities, including its president. In addition, the function of a member of the Council, in connection with its new powers and tasks, will be so time-absorbing that it would be impossible to combine it with the position of president or vice-president of the court and the efficient management of those units. This solution is in line with European standards. For example, in the OSCE-ODHIR Warsaw Recommendations (2023), it is emphasised that if a court president is appointed to the judicial council, he should resign from the position of court president (point 2 of the Recommendation).

5.2. System of the Council

As in the rules currently in force, the draft rules govern the powers and functioning of Council bodies (the President and the Bureau), as well as the setting up by the Council of standing committees and ad hoc probations of Lemowe, the way in which the Council functions, the procedure for convening meetings, voting, the functioning of the Council Bureau and the procedure for the appointment and dismissal of the Head of the Council Office.

The Council shall decide by specifying in its Rules of Procedure which standing committees shall be set up by it. The members of the Board, who are part of the committee, prepare draft resolutions or positions of the Council on the subject of the committee concerned, and then a representative selected from among the members of the committee shall present the matter to plenary together with a request for adoption of the draft. An example of the standing committees set up by the Council are: budget Committee, Judicial Disciplinary Liability Committee, Court

Evaluation and Monitoring Committee, Case Weighting System Committee, Judicial Training Supervision Committee, General Court Staff Committee, Court Informatisation Committee, Judicial Ethics Committee, Committee on Complaints, Proposals and Petitions, etc.

The Council will be able to amend the number of committees in the adopted Rules of Procedure as appropriate, as well as to define the scope of their activities (e.g. by setting up two separate budget committees: for the budget of the Council and on the budget of the courts). This solution does not, i.e. the regulation of the standing committees in the Council's Rules of Procedure, rather than the law, will allow the Council more flexibility in its operation by adapting the structure of the Council to current needs.

In addition, the Council may set up problem committees, for which it is no longer necessary to amend the Rules of Procedure. The creation of problem committees (ad hoc) allows the Council to carry out other tasks that are not permanent tasks. The Council may, for example, call for an inventory committee, a library committee, a committee for opinions on specific draft legal acts, etc. if necessary.

In individual matters, the President of the Council shall appoint a panel with a view to the specialisation of the members of the team. In the light of the projections, the panel should be composed of three members of the Council, of which at least two are judges, but in justified cases there may be more than three members of the Council, the members of the panel may not be judges of the court to which the case is involved and of a court operating in the same judicial district. However, in the case of an individual case concerning a judge, or a candidate for that judicial post, the panel shall consist of five members of the Council, of which at least four are judges, including at least one judge of the Supreme Court and the First President of the Supreme Court. Similarly, the case of an individual judge of the Supreme Administrative Court or a candidate for that judicial post is regulated. The panel draws up a draft resolution, which is then presented to the plenary by the referent.

Members of the Council should actively participate in the work of the committees and from the members to which they have been elected (with obvious time limits in the case of permanent members of the Council, due to the remaining duties of those members) and do not receive any additional remuneration due to their participation in the work of committees or teams.

The Council shall take decisions during plenary sessions, transmitted via the Internet. The President of the Council shall convene the plenary as necessary, at least twice a month. In addition, the Council's plenary meetings shall be convened at least 1/3 of its members or at the request of a permanent member of the Council. For the adoption of a resolution by the

Council, the presence of at least half of its composition is required. The Council shall adopt resolutions by an absolute majority, in public voting, and at the request of at least three members, the Council may order a secret ballot.

The Council shall be assisted in the performance of its tasks by the Council Bureau. It is divided into departments headed by directors, supervising—or by the Head of the Council Office. These functions may also be performed by judges delegated to the Council Bureau. The structure of the Council Office shall be laid down in the Council's Rules of Procedure. Within individual departments or independently from them, teams and other organisational units (e.g. main law firm, expert library), as well as stand-alone positions, e.g. legal adviser, chief accountant, data protection officer, etc. may operate. The Office also serves as a—servant of the Council Press Officer, the Press Officer for the Judiciary, the Social Council, the Council's plenipotentiary for international affairs or disciplinary ombudsmen; for this purpose, secretariats or teams for the service of designated entities may be identified within the Office.

The Act provides for the appointment of a member of the Council who is a judge or is—delegated to the Council Office to act as a representative of the Council for international affairs. The need for intensive contacts with other judicial councils as well as with international associations and organisations dealing with the judiciary can be taken for granted. The fact that the current National Council for the Judiciary, one of the founding members of the European Network of Councils for the Judiciary (ENCJ), was first suspended and then, as the only member in the history of the organisation, clearly indicates the need to rebuild the position of the future National Council of the Judiciary (in the new composition and with new competences) on the international stage and to intensify international contacts in the exchange of experience and good practices.

Unlike the previous provisions, the—question of the remuneration of judges of the National Council of the Judiciary was regulated in the draft, namely that their remuneration is equal to the remuneration of a Supreme Court judge at the promotion rate plus an allowance for long-term work (unless the judge is entitled to a higher salary in that—period, e.g. in the case of judges of the Supreme Court or the Supreme Court of Ministerial Ad—). It should be borne in mind that, as at the—time, a judge who is a member of the Council may combine the function of adjudication with the performance of his duties in the Council. In such a case, he also receives the remuneration for his position as a judge, but it is subject to a reduction in proportion to the reduction in the amount of the judge's pensum due to the performance of his—duties in the Council (according to the draft Law on the Organisation of Ordinary Courts, due to the

expected workload in the Council, the participation of a judge in the allocation of cases may be reduced to 5 %). Therefore, if, due to duties in the National Council of the Judiciary, a member of the Council who is a judge is to adjudicate at the rate of 25 % of the share in the allocation of cases, he will receive, in addition to remuneration for the performance of his duties as a member of the National Council of the Judiciary, 25 % of the remuneration he is entitled to in his judicial post.

In addition, members of the Council who do not have a permanent residence in Warsaw, as well as non-owners or co-owners of real estate located in the city of Warsaw, shall be provided free of charge accommodation at the post-post level, or at their request, an allowance for renting housing, as well as reimbursement of travel expenses, and other members of the Council, in addition to reimbursement of trips and accommodation, also a subsistence allowance for each day of participation in plenary sessions and other Council work, amounting to 10 % of the basic salary base of a member of the Council.

The costs of the Council's activities, as so far, are covered by the State budget, the revenue and expenditure of the Council constitute a separate part of the State budget, and the part of the budget corresponding to the Council is held by the President of the Council and the President of the Council has the powers of the Minister for Public Finance.

5.3. Press Officer for the Judiciary and Council Press Officer

In addition to the existing Council Press Officer, the draft also provides for the appointment of a Press Officer for the Judiciary, to whom the Council appoints a member of the Council who is a judge or a judge delegated to the Council Bureau to perform this function.

The Council Press Officer already has a well-established tradition and is responsible for cooperation with the social media. In particular, the Ombudsman shall: it shall inform the media of matters concerning the Council which give rise to public interest, shall, if necessary, respond to publications and programmes relating to the Council and carry out other activities mandated by the Council. The Ombudsman informs the Council at the meeting of his/her activities, including activities in the social networks, which are a tool for quick communication of the Council with the public.

Experience so far in the field of contacts between judges and the media clearly indicates the need to appoint an entity whose task should be to comment regularly and professionally on the current situation in individual courts or to present cases of particular interest to the public. This information should, in view of its importance, be presented in a reliable and consistent manner, which has now been taken over by the judicial associations. The task of the Ombudsman and

the press team supporting him will be to respond to publications and programmes related to the judiciary—and to the courts, including cooperation in this field with the press officers of the courts, not excluding the Supreme Court and the Supreme Administrative Court.

5.4. Social Council

One of the key elements of the system of opening the National Ready Judiciary to citizens is the introduction of a new institution: The Social Council (Articles 35-38 of the draft law). The OSCE-ODHIR–Warsaw Dation Rekomen (2023) stresses that, in order to promote inclusiveness and transparency, the Judicial Councils should have a pluralistic composition and, if possible, guarantee the possibility of–participation in the work of a diverse representation of legal professionals, including law professors, representatives of the Bar Associations and experienced and respected members–of civil society, who can boast a long history of supporting the independence and accountability of the courts (paragraph 2 of the Rekomen dacja–). It is precisely these objectives and the strengthening of trust in–the judiciary that will serve to establish it at the National Council of the Judiciary as an advisory body. The Social Council will be composed of: a person designated by the Supreme Bar Council, a person designated by the National Council of Legal Advisers, a person designated by the National Council of Notaries, a person designated by the National Council of Prosecutors, a person designated by the Central Council of Science and Higher Education, a person designated by the Ombudsman, a person designated by the National Council of Prosecutors at the Prosecution Service–, three representatives of non-governmental organisations designated by the President of the Republic of Poland, the Sejm and the Senate. A person may not be a member of the Social Council by–a strong court judgment for an intentional offence prosecuted by public indictment or an intentional tax offence.

The term of office of the Social Council was set for four years. Membership of the Social Council expires before the end of the term of office as a result of: death of a member of the Social Council, resignation of a member of the Social Council, conviction of a member of the Social Council by a final judgment of a court for–intentional crime prosecuted by public prosecution or–intentional tax offence. In the event of termination of membership of the Social Council before the end of the term of office, the competent entity shall immediately appoint the President of the Council of the new member until the–end of the term of office of the Social Council.

The Social Council shall elect a Chairperson and an alternate from among its members. The first meeting of the Social Council is convened by the Chief-Executive of the National Council



of the Judiciary.

The aim of establishing the Council is to ensure the open participation of civic and professional organisations in formulating reform demands.

the judiciary and to ensure objectivity in the process of their monitoring. The Council is also expected to exercise public control over the judges' appointment process. Such a position of the Council will be an important guarantee of respect for the principles of judicial independence and judicial independence, an expression of civic cooperation and shared responsibility for the judiciary. In turn, the National Council for the Judiciary, thanks to the establishment of the Social Council, will be able to protect the courts more effectively against attempts of external pressure and influence.

The draft stipulates that the Social Council will be able to present opinions not at plenary meetings of the National Council of the Judiciary, and its members will be entitled to participate in the work of the teams with an advisory voice, in particular in matters relating to the questioning and evaluation of candidates to serve as judges and assessors in administrative courts. The Chairperson or a member of the Social Council appointed by him will also be given the opportunity to speak at the plenary sessions of the National Council of the Judiciary. The service of the Social Council shall be provided by the Council Office. The Social Council shall determine in its rules of procedure its mode of action.

6. Chapter 4. Proceedings before the Council

Chapter 4 of the draft law consists of twenty provisions governing proceedings before the National Council of the Judiciary. The basic principle is to initiate proceedings in individual cases on request. In addition, the draft provides for the initiation of a procedure under the du harness (e.g. to take a position on a case relevant from the point of view of judges or the judiciary).

The draft law provides guarantees for the party's participation in proceedings before the Council, including through the ICT system and the Internet, which have confirmed their usefulness in the activities of courts and other judicial authorities during the COVID-19 pandemic. However, the ICT system itself is to be maintained by the Institute of Informatisation of the Judiciary and not by the Minister of Justice, as it is currently the case.

The Act retains the existing powers of the parties to proceedings before the National Council of the Judiciary, together with the possibility of appealing to the Supreme Court (without indicating, as in the case of electoral protest, which Chamber of the Supreme Court will consider appeals against the resolution, as this matter should be regulated in the Act on the

Supreme Court).

In addition, the draft law extends the group of persons entitled to submit an application for the exclusion of a member where it is not subject to automatic exclusion, but there is such a circumstance that it could give rise to a reasonable doubt as to the impartiality of the member in the case in question. According to the Act, the Ombudsman and a member of the Social Council will also be able to make such a request. Currently, the National Council of the Judiciary excludes a member only at his or her request or at the request of the person whose case is to be dealt with. This amendment aims to strengthen social control and increase transparency and accountability of the National Council of the Judiciary towards society.

The draft also contains a standard that clearly indicates that the team is not obliged to provide a ranking of all candidates in the justification of its position if not everyone has obtained the approval of the team. This is due to the Council's previous practice, which has been approved by the Supreme Court (see, for example, judgment of the Supreme Court of 28 May 2015, III KRS 19/15).

The Act also contains a solution according to which one can apply for only one judicial post (i.e. independent of the court or division of the judiciary). The aim is to avoid a situation where the same person applies simultaneously for several or more competitions concerning nominations to different courts (e.g. at the same time not to different regional courts, appeal courts, and often also to administrative courts, or even to the Supreme Court), so that they must be assessed at one time by different teams. Such a situation is regulated by the Ordinary Courts Organisation Act and will be maintained in its new draft, but, of course, these provisions do not apply when a person who is not a court judge after the General Court submits his candidacy simultaneously for positions in various courts, e.g. provincial administrative courts or military courts, and to the Supreme Administrative Court and the Supreme Court. For this reason, the draft law on the National Council of the Judiciary required a systemic regulation for all courts that would contribute to the efficiency of the proceedings. In the event of an announcement concerning a more attractive position from the point of view of a person already taking part in the *nomis* procedure, he or she may always withdraw his application and, after discontinuing the proceedings in this regard (i.e. against that person), apply for a new judicial post.

At the same time, the draft regulates the course of actions in the event of non-disclosure or the emergence of new circumstances constituting an obstacle to the appointment of a person to the office of a judge or an assistant judge in the administrative court after submitting an application for the appointment of the President of the Republic of Poland. In such a case, the President,

in accordance with the draft, will not issue a decision refusing appointment, but should request that the matter be reconsidered by the Council. It can be about two situations: first, it may concern circumstances of which the Council did not know during the appointment procedure and which already existed at the time of the adoption of the resolution by the Council, or, second, such circumstances may arise after the adoption of the resolution (e.g. the candidate lost his Polish nationality at that time or suffered an accident resulting in the impossibility of exercising the office of judge). Regardless of the situation described above, the Council is obliged to re-examine the case or refuse (in the form of a resolution) its re-examination.

7. Chapter 5. Monitoring and evaluation of court activities

An effective judiciary is one that ensures the quality of justice. For the restoration and ordering of the functions of the democratic state of law, it is not sufficient to rebuild the constitutional organs of the state by introducing proper regulations as to how they are chosen. Therefore, the draft law introduces a new concept for monitoring the activities of courts, which includes: integrity, efficiency and culture of office (Article 64 of the proposed act).

The fairness of the courts means, on the one hand, their impartiality in the exercise of the citizen's right to an independent tribunal and, on the other, their independence and independence. Equipping the Council with monitoring powers in this regard makes it possible to verify whether there has been a violation of the independence of the judge or the independence of the court.

The efficiency of the courts should be assessed in the light of Articles 45 and 77. 2 of the Constitution. The efficiency of a particular court is the elimination of, as far as possible, the length of judicial proceedings beyond reasonable necessity. The examination of the efficiency of the court involves checking the effectiveness of the activities undertaken and organising work in the examination of cases or the performance of other tasks or functions entrusted, taking into account the degree of load carried out by the tasks involved and their complexity. The culture of office includes the personal culture and culture of the organisation of work and respect for the rights of the parties or participants in the proceedings.

As part of the reminder, the Council may order that:

- a) a visit to the court or its organisational unit;
- b) lustration in court;
- c) lustration of the work of a judge or assistant judge in the court of the administrative administration, whose individual case is subject to examination by the Council.

Those acts must not interfere with an area in which judges and judicial assessors in the

administrative court are independent. The proposed law provides that the activities listed in points (a) to (c) may be carried out by members of the Council or by judges delegated to the Council Bureau on the basis of separate provisions or three visiting judges appointed by lot from among

visiting judges from an area of appeal other than that in which the court to be visited or lustrated or where the judge or assistant judge in the administrative court is located. This new power of the Council is intended to enable the Council to effectively uphold the independence and independence of the courts, especially in the context of the impartial, reliable and comprehensive assessment of the can didata.

The source of knowledge about the functioning of the courts may also be complaints against the activities of the president of the appeal court, the First President of the Supreme Court, the President of the Supreme Administrative Court and the President of the Military Regional Court, as well as spokespersons of narcotic disciplines and other complaints subject to examination by the Council at the table of the Law on the system of ordinary courts. The handling of these complaints is entrusted to the Council and complaints on other matters are to be submitted to the relevant bodies. In accordance with Article 66(1). 2 Acts of complaint and motions containing defamatory content or words commonly considered to be abusive shall not be dealt with. In accordance with Article 66(1). The Council shall adopt rules of procedure for the handling of complaints and applications.

The Act also introduces a new institution for the evaluation of the activities of courts, which includes an analysis of the overall activities of courts, including those unrelated to the administration of justice and performing no other tasks in the field of legal protection. The evaluation of the activities of the courts is carried out by the National Council of the Judiciary on the basis of the principles laid down in the law.

8. Chapter 6. Case weighting system

The case weighting system is discussed in detail in point 3.1.3.3.1.

9. Chapter 7. Principles of Professional Ethics

There is no doubt that it is the European standard for judges to create ethical standards for judges – see e.g. Recommendation CM/Rec(2010)12 adopted by the Committee of Ministers of the Council of Europe on 17 November 2010, on judges: independence, efficiency and responsibilities – CM/Rec(2010)12.

As under the current legislation, the Council's tasks include, inter alia, adopting a set of rules on the professional ethics of judges and judicial assessors in administrative courts and ensuring

that they are complied with. The main difference is that before enacting a set of rules of professional ethics for judges and assessors in administrative courts, the Council should consult judicial self-government bodies and judicial associations. Similarly, in the case of adopting interpretative resolutions concerning a set of rules, the Council will be obliged to consult in the judicial community before adopting such resolutions.

The aim of the law is to increase the participation of the judicial community in the Council's activities on judicial ethics, the importance of which is also emphasised at the global level (see, for example, the so-called UN-led so-called Judicial Ethics Act). Bangalore Principle of Judicial Conduct, <https://www.unodc.org/documents/ji/training/bangaloreprinciples.pdf>).

10. Chapter 8. Information and requests from the Council

According to the draft, the model of functioning of the National Council of the Judiciary is a model aimed at maintaining a balance between the power of the Council and their loyal cooperation. The provisions contained in Chapter 8 are intended to emphasise the importance of the President as a guarantor of continuity between the state and guardian of the Constitution, the Sejm and the Senate as organs of the legislative authority.

According to the draft, once a year, by the end of June at the latest, the Chief Executive Board submits publicly before the Sejm and Senate of the Republic of Poland and the President adopted by the Council in the form of a resolution the information from the law of the previous year. Over the information is not moved

vote. However, it is possible to hold a debate on it. There is a "information" rather than a "report", which emphasises the independence of the Council as a constitutional body. The information, in contrast to the report, cannot be rejected. Submission of this information shall take place in accordance with the procedure laid down in the Rules of Procedure of the Sejm and the Senate respectively.

The model of functioning of the National Council of the Judiciary provided for in the Act is a model aimed at citizens. Those provisions, inter alia, taking into account the principle of transparency laid down in Article 3(1). 1 of the project aims to ensure that citizens' needs are taken into account, as well as to increase public trust in the Council and the judiciary as a whole. It also imposes regular information and demands obligations on the Council. It is therefore foreseen that the meeting during which the Council submits the information may be attended by a representative of the Supreme Bar Council, the National Council of Notaries, the National Judicial Council, the National Council of Legal Counsellors and a representative of the Prosecutor General.



A manifestation of the transparency of the functioning of the Council is also the obligation of the Head of the Office to publicly submit annual information on the activities of the Office, adopted in the draft. Voting information shall not be carried out. What is new, however, is that the course of this activity is carried out online and its video recording is posted on the Council's website.

The Council's tasks are extended by the fact that the Council submits to the Sejm, the Senate and the President of the Republic of Poland demands concerning current problems and needs of the judiciary, including those arising from monitoring and evaluation. The postulates made should be an inspiration to take measures aimed at ensuring that the courts do not properly carry out constitutional tasks. These demands shall be brought forward in accordance with the procedure laid down in the Rules of Procedure of the Sejm and the Senate.