



AEQUITAS NEWSLETTER (Nr 10)

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THE MINISTRY OF JUSTICE'S PLAN TO REDUCE FUNCTIONAL ALLOWANCES FOR JUDGES

The Ministry of Justice intends to lower the so-called "ranges" – the multiplier values of functional allowances, including for presidents and vice-presidents of appellate, regional, and district courts, as well as department heads. Allowances for judges/undersecretaries of state at the Ministry of Justice and the minister's disciplinary spokesman are also to be lower. The draft regulation is currently being reviewed, and the Ministry justifies it by citing the need to pursue rational budgetary policy and a higher salary increase than for other professional groups.

According to the bill's sponsors, judges receiving functional allowances are entitled to a reduced caseload, and their additional duties do not need to be compensated as significantly as before.

The Ministry also emphasizes that the functional allowance should be adjusted to the actual workload associated with a given position.

<https://www.prawo.pl/prawnicy-sady/ms-obcina-mnozownikow-dodatkow-dla-sedziow-projekt-rozporzadzenia,533869.html>

FULL BENCH OF THE CONSTITUTIONAL TRIBUNAL

In its judgment of 15 July 2025 (K 8/23), the Constitutional Tribunal ruled that the provision defining the full bench of the Constitutional Tribunal as a minimum of 11 judges is unconstitutional. The Tribunal ruled that Article 37 paragraph 2, first sentence, of the Act of 30 November 2016 on the organization and procedure before the Constitutional Tribunal (Journal of Laws of 2019, item 2393), by depriving the Constitutional Tribunal of the power granted to it by the legislature to adjudicate in a bench of all judges with regard to whom there are no factual or legal obstacles to adjudicating and who exercise a legal obligation to participate in adjudication, is inconsistent with Article 188, Article 189 and Article 197 of the Constitution of the Republic of Poland and with the principle of reliability and efficiency of the operation of public institutions, expressed in its preamble – in conjunction with Article 8 paragraph 1 and Article 7 of the Constitution.

In his justification, Judge Jarosław Wyrembak pointed out that the Constitution, by its very nature, can only base the Tribunal's adjudicative authority on benches that are realistically capable of participating and that are participating in its exercise, and not on hypothetical benches that are only theoretically possible but actually unattainable. He emphasized that **the practice of "extending by the legislature" the concept of a full bench of the Constitutional Tribunal to a bench of fewer than 15 judges, based on a quorum expressed as a "rigidly and arbitrarily established number, imposed by law," cannot be considered justified. The challenged provision regarding the full bench "may lead to blocking the Constitutional Tribunal and preventing it from performing its constitutional tasks and functions."**

Judge Jarosław Wyrembak also pointed out that the Constitution "does not bind the adjudicative power of the Constitutional Tribunal to any limits on the number of judges participating in adjudication, while the fundamental right and legal obligation of every judge of the Constitutional Tribunal is to participate

in adjudication." He further noted that the Constitution "does not recognize the concept" of a full bench of the Constitutional Tribunal, but only indicates that the Tribunal is composed of 15 judges.

Therefore, according to the judgment, the term "full bench of the Tribunal" "must mean a bench composed of all the judges of the Constitutional Tribunal" who, in specific situations, due to all the legal and factual circumstances affecting them, can and do exercise adjudicative power."

<https://trybunal.gov.pl/postepowanie-i-orzeczenia/wyroki/art/brak-mozliwosci-rozpoznania-sprawy-przez-trybunal-konstytucyjny-w-pelnym-skladzie-przy-udziale-11-sedziow-trybunalu-1>

APPOINTMENT OF THE DISCIPLINARY COMMISSIONER FOR JUDGES OF COMMON COURTS AND HIS DEPUTY

On July 16, 2025, Minister of Justice Adam Bodnar appointed Mariusz Ulman, a judge of the District Court in Nysa, as Disciplinary Prosecutor for Common Court Judges. Tomasz Ładny, a judge of the District Court for Warsaw Praga-Północ in Warsaw, was appointed as the Deputy Disciplinary Prosecutor. The Minister appointed them for a four-year term.

These judges were appointed to replace Judges Piotr Schab and Przemysław Radzik, who were dismissed during their terms. Following the amendment of Article 112 of the Act of July 27, 2001, the Law on the System of Common Courts, effective April 3, 2018, the Disciplinary Prosecutor and his two deputies are appointed by the Minister for a four-year term. These provisions do not regulate dismissal – the termination of a term before its expiration.

<https://wyborcza.pl/7,75398,32102492,bodnar-wybiera-nowych-rzeczniow-dyscyplinarnych-sedziow-tylko.html>

OKO CITIZEN CONTROL CENTER FOUNDATION SUBSIDISED BY THE STEFAN BATORY FOUNDATION

The Citizens' Control Center OKO Foundation, which runs the OKO.press website, received a total of €156,123 and PLN 300,000 from the Stefan Batory Foundation between 2018 and 2023. Other beneficiaries included the Institute of Public Affairs Foundation (€80,100) and the Reporters' Foundation (€54,872), as well as the Iustitia Association of Polish Judges (€156,958 and PLN 95,000), the Lex Super Omnia Association of Prosecutors (PLN 216,000), the Committee for the Defense of Democracy (€90,000), and Democracy Action (€90,000), as we reported in issues 3 and 4 of our Newsletter.

In 2021, OKO.press journalist Mariusz Jałoszewski was honored with the Iustitia Association Award. Interestingly, both OKO.press and the Iustitia Association – apart from receiving subsidies from the Stefan Batory Foundation – also have in common the questioning of the status of judges nominated in the years 2018-2025.

https://x.com/OZS_Aequitas/status/1944883354119151753?t=yyFxx34yYX6VkwS6kYQ3GA&s=09

JUDGMENTS OF THE SUPERVISORY COURT III KK 385/24 AND III KK 211/25 AND THE PERFORMANCE OF THE FUNCTION OF THE PRESIDENT OF THE DISTRICT COURT IN WARSAW BY JUDGE BEATA NAJJAR AFTER TURNING 65 YEARS OF AGE

In its judgment of September 17, 2024, file reference III KK 385/24, the Supreme Court ruled that a judgment issued with the participation of a retired judge is annulled by operation of law because that person is not authorized to adjudicate. The deadline for expressing one's will to continue serving as a judge after the age of 65 is irreversible, and failure to submit such a declaration results in the judge's retirement. This position was reiterated in the Supreme Court's judgment of June 26, 2025, file reference III KK 211/25.

Meanwhile, Judge Beata Najjar, who turned 65 on July 11, 2025, but did not obtain the consent of the National Council of the Judiciary to continue serving as a judge after the age of 65, continues to serve as president of the District Court in Warsaw..

<https://www.sn.pl/sites/orzecnictwo/Orzeczenia3/III%20KK%20385-24.pdf>
<https://bip.warszawa.so.gov.pl/arttykul/1972/8303/komunikaty-prasowe>

According to press reports, another vice president of the District Court in Warsaw, Judge Agnieszka Owczarewicz, has resigned from her position as vice president for economic affairs. Slightly earlier, on June 2, 2025, Judge Hubert Zaremba, who held the unusual position of vice president for work organization and coordination of activities restoring the rule of law, resigned, as we reported in issue 4 of the Newsletter.

Judge Agnieszka Owczarewicz's resignation itself would not be particularly noteworthy were it not for the fact that it occurred on July 11, 2025, on the 65th birthday of the president of this court, Beata Najjar. Despite not obtaining the consent of the National Council of the Judiciary, she continues to serve as president and perform the duties of a judge.