



AEQUITAS NEWSLETTER Nr 25

November 8, 2025

INITIATIVE OF THE SUPREME COURT – CHAMBER OF EXTRAORDINARY CONTROL AND PUBLIC AFFAIRS REGARDING THE DEVIATION FROM THE LEGAL PRINCIPLE EXPRESSED IN THE RESOLUTION OF THE LABOR AND SOCIAL SECURITY CHAMBER OF THE SUPREME COURT OF SEPTEMBER 24, 2025, III PZP 1/25

In initiating this procedure, the Supreme Court's Extraordinary Control and Public Affairs Chamber invokes Article 88 paragraph 3 of the Act of December 8, 2017, on the Supreme Court. This procedure was initiated by presenting a legal question to the combined Chambers of Extraordinary Control and Public Affairs and of Labor and Social Security, aimed at determining whether the fact that the extraordinary appeal was heard by a panel comprising judges appointed at the request of the National Council of the Judiciary, acting under the currently applicable provisions, may negatively impact the effectiveness of the Supreme Court's ruling.

The justification for the decision initiating the aforementioned procedure (Supreme Court ruling of October 15, 2025, II NSNc 192/24) indicated that the resolution of September 24, 2025, was adopted in violation of Article 90 paragraph 1 and, a contrario, Article 91 paragraph 1. 3 of the Constitution of the Republic of Poland and the constitutional principle of protection of the sovereignty of the Republic of Poland in the process of European integration, expressed in the judgment of the Constitutional Tribunal of 24 November 2010 (K 32/09).

<https://www.rp.pl/sady-i-trybunaly/art43285971-izba-kontroli-nadzwyczajnej-chce-podwazyc-zasade-prawna>

https://www.sn.pl/aktualnosci/SitePages/Komunikaty_o_sprawach.aspx?ItemSID=747-b6b3e804-2752-4c7d-bcb4-7586782a1315&ListName=Komunikaty_o_sprawach

DISMISSAL AND APPOINTMENT OF DEPUTY DISCIPLINARY COMMON COURT JUDGES

On November 3, 2025, the Disciplinary Prosecutor for Common Court Judges, Judge Joanna Raczowska, dismissed nine deputy disciplinary prosecutors at appellate and regional courts. She also announced the appointment of seven new deputies.

As a reminder, Article 112, paragraph 8, of the Act on the System of Common Courts provides only for specifically identified cases in which a deputy disciplinary prosecutor may be dismissed, which was intended to help them maintain their independence. Such cases include, for example, retirement or termination of service. None of the individuals dismissed by the Disciplinary Prosecutor for Common Court Judges met the grounds for dismissal specified in Article 112, paragraph 8, of the Act.

An interesting element of the new situation for deputy disciplinary prosecutors is the information published by the website prawo.pl about a planned increase in the remuneration of the disciplinary prosecutor, approximately 8-9 times higher than the current level..

<https://www.prawo.pl/prawnicy-sady/9-zastepcow-rzecznika-dyscyplinarnego-odwolanych-sa-juz-powolani-nastepcy,535696.html>

<https://oko.press/dymisja-9-rzeczniow-dyscyplinarnych-z-czasow-pis-ivaniec-i-dudzicz-traca-stanowiska>
share.google/Fw5zDfMVBG2tJpzzT

DRAFT ACT AMENDING THE ACT ON THE NATIONAL COUNCIL OF THE JUDICIARY

On November 6, 2025, the Minister of Justice presented a draft bill amending the Act on the National Council of the Judiciary.

Contrary to assurances, the draft bill is inconsistent with the Constitution, and even more so with the Venice Commission's opinion of April 8, 2024, prepared for a similar draft presented in the spring of 2024. The draft is also not democratic and absolutely does not represent a compromise, as once again – in violation of the constitutional principle of equality and equal access to public offices – a significant portion of judges are excluded from the right to be elected to the National Council of the Judiciary. Candidates for the National Council of the Judiciary must have at least 10 years of judicial experience and at least 5 years of experience in a court of a given level. Consequently, a significant portion of judges adjudicating in district courts, as well as all judges who have been promoted in the last 5 years or transferred, for example, from common courts to administrative courts, are deprived of their right to be elected. The bill – as was the case before the amendment of the Act on the National Council of the Judiciary (NCJ) of December 8, 2017 – favors higher-level court judges. In the case of appellate, administrative, military, and Supreme Court judges, the bill requires the support of only 10 judges, while in the case of regional court judges, it requires 25 judges, and in the case of district court judges, as many as 40 judges, which may be practically impossible in small courts.

The bill – if adopted before the end of the current Council's term – assumes an interruption of the current Council's term, as the new members are to begin work the day after their election. The Venice Commission pointed to the risks associated with this, and in the event of an interruption, the need to provide current Council members with the opportunity to appeal to a national court, which the bill clearly does not provide for. While the bill assumes parity in the number of judges from various levels of the judiciary, as well as administrative and military courts and the Supreme Court,

it does not provide for gender parity or representativeness of the judiciary across the country, as also pointed out by the Venice Commission.

However, the greatest concern is that the bill interferes with the Electoral Code, although it does not amend it, which constitutes a serious legislative flaw. The Electoral Code contains a closed list of elections conducted by the National Electoral Commission, and the bill—though it does not expand this list—adds entirely new tasks to the National Electoral Commission, which are not covered by the Electoral Code.

The bill provides a completely unconventional solution, granting each judge the right to cast 15 votes, meaning the right to independently appoint the entire judicial branch of the National Council of the Judiciary.

The presented bill appears to be reminiscent of the pre-2018 election of the judicial branch of the National Council of the Judiciary, with a few larger judicial centers consistently favored. The proposed changes are intended to enable the judicial part of the National Council of the Judiciary to be filled with members of the Iustitia Judges Association, possibly together with members of the Themis Association.

<https://www.gov.pl/web/sprawiedliwosc/nowelizacja-ustawy-o-krajowej-radzie-sadownictwa-share.google/4VBAPrb9zuKA5zqvK>

DEBATE BETWEEN REPRESENTATIVES OF JUDGES' ASSOCIATIONS WITH THE PARTICIPATION OF MONIKA SMUSZ-KULESZ, MEMBER OF THE BOARD OF THE AEQUITAS JUDGES' ASSOCIATION

On November 6, 2025, Republika TV hosted a debate among law associations on the crisis in Poland's judiciary. The AEQUITAS National Association of Judges was represented by board member Dr. Monika Smusz-Kulesza, a judge of the District Court in Łódź. Invited representatives of the boards of the Iustitia Association of Polish Judges and the Themis Association of Judges did not attend the debate, but representatives of the Association of Polish Judges and Lawyers for Poland did attend. The discussion focused on both the status of judges and issues related to proposed changes to the operation of the National Council of the Judiciary..

<https://youtu.be/5IZ3JeQB1dc?si=xPWUBsQvOGGe-Nrht>

JUDGE KINGA ŚLIWIŃSKA-BUŚKIEWICZ'S INTERVIEW WITH EDITOR TOMASZ DRWAL IN THE "NA PIEŃKU Z DRWALEM" PROGRAM PART 2

We also encourage you to listen to the second part of the conversation between Kinga Śliwińska-Buśkiewicz, a judge of the Court of Appeal in Poznań and a member of the Aequitas National Association of Judges, and editor Tomasz Drwal in the program "Na pieńku z Drwalem" (On the Pile with the Drwal).

This part of the conversation addressed, among other things, the dangers of exerting pressure on judges by the judicial community itself, as well as by representatives of other authorities.

<https://youtu.be/-aEZXcNU-IE?si=9Qj6hyJNCRVWu1zr>