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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**POLAND**

**DRAFT AMENDMENTS TO THE LAW ON  
THE PUBLIC PROSECUTOR'S OFFICE**

**AND**

**EXPLANATORY REPORT TO THE DRAFT LAW**

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Bill dated 24 June 2024 time: 15:16

**ACT**  
of .....

**amending the Act – Law on the Public Prosecutor’s Office and certain other acts<sup>1)</sup>**

**Article 1.** The Act of 28 January 2016 – Law on the Public Prosecutor’s Office (Journal of Laws of 2024, item 390) shall be amended as follows:

1) Article 1 §§ 1 to 3 shall be replaced by the following:

“§ 1. The Public Prosecutor’s Office shall consist of: Public Prosecutor General, Public Prosecutor General’s deputies, and public prosecutors of general organisational units of the public prosecutor’s office and public prosecutors of the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation, hereafter referred to as the “Institute of National Remembrance.”

§ 2. The Public Prosecutor General shall be the chief prosecutorial body.

§ 3. Public prosecutors of general organisational units of the public prosecutor’s office include public prosecutors of the Public Prosecutor General’s Office, provincial public prosecutor’s offices (prokuratury regionalne), regional public prosecutor’s offices (prokuratury okręgowe) and district public prosecutor’s offices (prokuratury rejonowe).”;

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<sup>1)</sup> The following Acts are hereby amended: the Act of 14 June 1960 – Code of Administrative Procedure, the Act of 6 April 1990 on the Police, the Act of 12 October 1990 on the Border Guard, the Act of 21 June 1996 on special forms of supervision by the minister responsible for internal affairs, the Act of 6 June 1997 – Code of Criminal Procedure, the Act of 21 August 1997 – Law on the Organisation of Military Courts, Act of 21 August 1997 on real estate management, Act of 18 December 1998 on employees of courts and prosecution service, Act of 18 December 1998 on the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation, Act of 30 June 2000 – Industrial Property Law, Act of 27 July 2001 – Law on the System of Common Courts, Act of 24 August 2001 on Military Police and military law enforcement agencies, Act of 24 May 2002 on the Internal Security Agency and the Intelligence Agency, Act of 30 August 2002 – Law on Proceedings before Administrative Courts, Act of 27 August 2004 on health care services financed from public funds, Act of 29 July 2005 on Capital Market Supervision, Act of 9 June 2006 on the Central Anti-Corruption Bureau, Act of 9 June 2006 on the Military Counterintelligence Service and the Military Intelligence Service, Act of 21 July 2006 on Financial Market Supervision, Act of 18 October 2006 on disclosure of information on documents of state security authorities from 1944-1990 and the content of those documents, Act of 23 January 2009 on the National School of Judiciary and Public Prosecution, Act of 9 April 2010 on the Prison Service, Act of 12 May 2011 on the National Council of the Judiciary, Act of 10 June 2016 on anti-terrorist activities, Act of 16 November 2016 on the National Revenue Administration, Act of 30 November 2016 on the organisation of the Constitutional Tribunal and the mode of proceedings before the Constitutional Tribunal, Act of 8 December 2017 on the State Protection Service, Act of 8 December 2017 on the Supreme Court, Act of 1 March 2018 on anti-money laundering and countering the financing of terrorism, Act of 9 May 2018 on the processing of passenger flight data, Act of 4 July 2019 on the system of development institutions, Act of 30 August 2019 on the State Commission for the Investigation of Acts Against Sexual Freedom and Decency Against a Minor Under 15 Years of Age, Act of 11 September 2019 – Public Procurement Law, Act of 27 January 2022 on Passport Documents, Act of 11 March 2022 on Homeland Defence, Act of 13 April 2022 on special solutions for countering support for aggression against Ukraine and for protecting national security, Act of 1 December 2022 on the Financial Information System.

2) in Article 3 §1:

a) the introduction to the enumeration shall be replaced by the following:

“The tasks specified in Article 2 shall be performed by the Public Prosecutor General, the Public Prosecutor General’s deputies, as well as public prosecutors subordinate to them, by means of:”

b) point 9 shall be replaced by the following:

“9) cooperating with state bodies, state organisational units and social organisations in preventing crime and other violations of law and in disseminating the idea of the rule of law, including educational and scientific activities;”

c) the following paragraph 11a shall be inserted after paragraph 11:

“11a) cooperation with the European Public Prosecutor’s Office;”

3) in Article 7, §§ 2a and 2b shall be repealed;

4) the following Article 10a shall be inserted after Article 10:

“Article 10a The Public Prosecutor General shall conduct analytical work on the organisation and functioning of the public prosecutor’s office and in this regard shall cooperate in particular with the Minister of Justice.”;

5) in Article 12:

a) § 1 shall be replaced by the following:

“§ 1. The Public Prosecutor General or any other prosecutor authorised by the same may provide information on specific cases to public authorities if such information may be important for state security or its proper functioning.”

b) § 3 shall be replaced by the following:

“§ 3. In the cases specified in § 2, it is required to obtain written approval of the investigating authority. In particularly justified cases, the Public Prosecutor General or the head of an organisational unit of the public prosecutor’s office may provide information without the approval of the investigating authority, taking into account the public interest.”;

6) in Article 13:

a) §§ 1 to 3 shall be replaced by the following:

“§ 1. The Public Prosecutor General shall be in charge of the public prosecutor’s office in person or through the Public Prosecutor General’s deputies by issuing directions, guidelines and orders.

§ 2. The Public Prosecutor General shall be the superior of public prosecutors of general organisational units of the public prosecutor’s office and public prosecutors of the Institute of National Remembrance.

§ 3. The Public Prosecutor General may direct that the powers and tasks of the Public Prosecutor General as prescribed by law be carried out by the Public Prosecutor General's Deputy.”,

b) §§ 3a and 3b shall be repealed,

c) §§ 4 and 5 shall be replaced by the following:

“§ 4. Should the Public Prosecutor General be temporarily unable to perform the Public Prosecutor General's duties, he/she shall be replaced by the Public Prosecutor General's Deputy appointed by the same.

§ 5. The Public Prosecutor General's Office shall be the controller of the data processed in the nationwide ICT systems of general organisational units of the prosecutor's office.”;

7) Article 13a shall be repealed;

8) Articles 13b to 13r shall be inserted, reading as follows:

“Article 13b § 1. The Public Prosecutor General shall be appointed by the Sejm, with the consent of the Senate.

§ 2. The Sejm shall pass a resolution on the appointment of the Public Prosecutor General by an absolute majority of votes.

§ 3. Candidates for the position of the Public Prosecutor General shall be proposed to the Speaker of the Sejm by:

1) a group of at least 35 deputies;

2) a group of at least 15 senators;

3) the National Prosecution Council, from among those who have received the support of at least 60 active prosecutors;

4) General Council for Science and Higher Education;

5) non-governmental organisations whose statutory tasks include activities related to the protection of the principle of a democratic state of law, the protection of the rule of law and human rights, and which have carried out these tasks for a period of at least 3 years preceding the date the candidate is proposed.

§ 4. The National Prosecution Council shall propose no more than three candidates. The entities referred to in § 3(4) and (5) each shall propose one candidate.

§ 5. The Speaker of the Sejm shall announce information on the possibility, method and deadline for proposing candidates for the Public Prosecutor General in the Official Journal of the Republic of Poland “Monitor Polski” no later than six months before the end of the term of office of the Public Prosecutor General , and in the event of dismissal of the Public Prosecutor General before the expiration of the term of office or his/her death – within 7 days thereafter.

§ 6. The entities referred to in § 3 shall propose candidates no later than four months before the expiration of the term of office of the Public Prosecutor General, and in the event of dismissal

of the Public Prosecutor General before the expiration of the term of office or in the event of his/her death – within two months thereafter.

§ 7. The submission of a candidate for the Public Prosecutor General shall include the following information about the candidate: first and last name, date of birth, PESEL number, position and place of service, periods of service in particular prosecutorial positions, functions held in the prosecutor's office or the judiciary, together with the periods of service. The submission shall be accompanied by the public prosecutor's consent to stand for the position of Public Prosecutor General.

§ 8. Public prosecutors who have received the support of at least 60 public prosecutors, excluding retired ones, may submit their candidacy for the position of Public Prosecutor General to the National Prosecution Council within 14 days of the announcement of the information referred to in § 5. The submission of a candidate shall be accompanied by a list of public prosecutors supporting the submission, including their first and last names, positions and business addresses, PESEL numbers and their handwritten signatures with the date of their signature. Withdrawal of support shall entail no consequences.

§ 9. A list of public prosecutors supporting the submission must include, on each page, a note reading: "I give my support to the submission of public prosecutor ..... (first and last names of the public prosecutor) as a candidate for Public Prosecutor General."

§ 10. The National Prosecution Council shall verify the accuracy of the submissions referred to in § 8. If the National Prosecution Council finds that the candidate does not meet the requirements set out in Article 13c or the number of signatures of eligible prosecutors in the list referred to in § 8 is less than required, it shall refuse to accept the submission.

§ 11. The National Prosecution Council shall select no more than three candidates for Public Prosecutor General, distinguished by the highest qualifications.

§ 12. The Speaker of the Sejm shall verify the accuracy of the submissions of candidates for Public Prosecutor General. The Speaker of the Sejm, within 3 days after receipt of the submission, shall request the Public Prosecutor General to provide information whether the candidates for Public Prosecutor General meet the requirements set out in Article 13c.

§ 13. The Public Prosecutor General shall submit the information referred to in § 12 to the Speaker of the Sejm within 7 days from the date of receipt of the letter of the Speaker of the Sejm.

§ 14. If the Speaker of the Sejm finds that the candidate does not meet the requirements set out in Article 13c, he/she shall refuse to accept the submission.

§ 15. The Speaker of the Sejm shall hold a public hearing for the candidates for Public Prosecutor General, including their speech and an opportunity for participants in the hearing to ask questions. The form and order of the public hearing shall be determined by the Speaker of the Sejm.

§ 16. The Speaker of the Sejm shall immediately forward a resolution on the appointment of the Public Prosecutor General to the Speaker of the Senate.

§ 17. The Senate shall pass a resolution consenting to the appointment of the Public Prosecutor General within one month from the date of receipt of the resolution referred to in § 16. Failure on the part of the Senate to pass a resolution within a month shall amount to consent to the appointment of the Public Prosecutor General.

§ 18. If the Senate does not consent to the appointment of the Public Prosecutor General, the Sejm may appoint another person to the position, from among the candidates already selected. The provisions of § § 16 and 17 shall apply *mutatis mutandis*.

§ 19. If the Sejm fails to appoint the Public Prosecutor General or the Senate does not consent to the appointment of the Public Prosecutor General, the Speaker of the Sejm shall again announce the possibility of submitting candidates in accordance with § 5.

§ 20. The incumbent Public Prosecutor General shall serve until the new Public Prosecutor General takes the oath of office.

Article 13c. § 1. A person may be appointed to serve as the Public Prosecutor General who:

- 1) is a public prosecutor of a general organisational unit of the public prosecutor's office in active status or a prosecutor of the Institute of National Remembrance in active status;
- 2) has at least 20 years of experience as a public prosecutor or judge, in active status;
- 3) has served as a public prosecutor for a period of 10 years immediately preceding the date of submission for the position of Public Prosecutor General.

§ 2. The seniority referred to in § 1(2) shall include employment as an assistant prosecutor or assistant judge.

Article 13d. Before assuming his/her duties, the Public Prosecutor General shall take the following oath before the Sejm:

"When assuming the position of Public Prosecutor General, I solemnly swear to observe the Constitution of the Republic of Poland and the law, to uphold the rule of law, civil rights and freedoms and the independence of public prosecutors, and to perform the duties entrusted to me impartially, with the utmost care and attention to the dignity of the position entrusted to me." The person taking the oath may add the phrase "So help me God" at the end of the formula.

Article 13e § 1. The term of office of the Public Prosecutor General shall last six years, starting from the date of taking the oath of office.

§ 2. The Public Prosecutor General, once his/her term of office has ended, may not be reappointed.

§ 3. The fact that the Public Prosecutor General attains the age of retirement shall not affect the end of his/her term of office.

Article 13f. The position of Public Prosecutor General shall be classified as a prosecutorial position.

Article 13g. The Public Prosecutor General may not engage in additional employment, other gainful occupations and ways of earning money, except for employment in a teaching,

research, or research and teaching position in a total amount not exceeding the full-time equivalent of employees employed in such positions.

Article 13h. A Prosecutor General may not belong to a political party, a trade union or engage in public activities that are incompatible with the dignity of his/her office.

Article 13i. § 1. The Public Prosecutor General may not be held criminally liable or deprived of liberty without the prior consent of the Sejm.

§ 2. The Public Prosecutor General may not be arrested or detained, except for being apprehended *in flagrante*, if his/her detention is necessary to ensure the proper course of the proceedings. The Speaker of the Sejm shall be immediately notified of the arrest and may order the immediate release of the arrestee.

§ 3. A request for consent to prosecute, detain or arrest the Prosecutor General may be submitted by the National Prosecution Council or the Minister of Justice.

§ 4. In the matter of consenting to criminal prosecution, detention or remand in custody of the Public Prosecutor General, Article 135 shall not apply.

§ 5. Disciplinary proceedings against the Public Prosecutor General may be requested by the National Prosecution Council or the Minister of Justice. The activities of the disciplinary ombudsman shall be performed by a member of the National Prosecution Council who is a public prosecutor or the Disciplinary Ombudsman of the Minister of Justice, respectively.

Article 13j. § 1. If the Sejm approves the prosecution of the Prosecutor General, the Sejm, at the request of the National Prosecution Council or the Minister of Justice, may suspend the Prosecutor General from his/her duties pending the final and non-appealable conclusion of the proceedings. The suspension may be lifted in the same manner.

§ 2. During the period of suspension, the Prosecutor General's remuneration shall be decreased by 50%.

Article 13k. Articles 139, 140, 143 § 1, 149-152, and 154 §1, § 3 (second sentence), § 6 and § 10a shall not apply to the Public Prosecutor General.

Article 13l. § 1. The Sejm shall dismiss the Public Prosecutor General before the expiration of his/her term of office if:

- 1) he/she has resigned from service as Public Prosecutor General;
- 2) he/she has become permanently incapacitated as a result of illness or loss of strength, as established by a medical certificate;
- 3) he/she has been sentenced by a final and non-appealable court judgment for committing an offence or fiscal offence;
- 4) he/she has made an untrue vetting statement, as established by a final and nonappealable court decision;
- 5) a disciplinary penalty has been imposed on him/her under a final and non-appealable decision.



§ 2. The Sejm shall dismiss the Prosecutor General before the expiration of his/her term of office if he/she has violated his/her oath of office.

§ 3. The Sejm shall pass a resolution on the dismissal of the Public Prosecutor General in the cases specified in § 1(1) and (3) to (5), at the request of the Speaker of the Sejm.

§ 4.f The Sejm shall pass a resolution on the dismissal of the Public Prosecutor General in the case specified in § 1(2), following the opinion of the National Prosecution Council.

§ 5. In the case specified in § 2, the Sejm shall pass a resolution on the dismissal of the Public Prosecutor General at the request of the Speaker of the Sejm, a group of at least 35 deputies or a group of at least 15 senators, by a majority of at least 3/5 votes in the presence of at least half of the statutory number of deputies.

Article 13m. If the Public Prosecutor General is dismissed before the expiration of his/her term of office, in the event of his/her death, and in the event of his/her suspension, his/her duties, until the newly appointed Public Prosecutor General takes office or the suspension is lifted, shall be performed by the most senior Public Prosecutor General's Deputy.

Article 13n. As of the end of the term of office, or as of the date of dismissal by the Sejm in the case referred to in Article 13l § 1(1), the person occupying the position of the Public Prosecutor General shall assume the position of prosecutor of the Public Prosecutor General's Office, unless he/she retires due to attaining the required age. Dismissal for the reason set out in Article 13l § 1(2) shall amount to retirement.

Article 13o. As of the date of dismissal by the Sejm in the case referred to in Article 13l § 1(5) or § 2, the person occupying the position of Public Prosecutor General shall assume the position he/she held on the date of his/her appointment to the position of Public Prosecutor General, unless the dismissal was based on a disciplinary penalty referred to in Article 142 § 1(4) or (5).

Article 13p. § 1. The Public Prosecutor General shall submit to the Sejm and the Senate, annually, no later than by 31 March, a report on the activities of the public prosecutor's office, including, in particular, information on:

- 1) implementation of the tasks of the public prosecutor's office;
- 2) the level of staff of the public prosecutor's office;
- 3) the financial situation of the public prosecutor's office;
- 4) cooperation of the public prosecutor's office with other public authorities

– attaching the opinion of the National Prosecution Council on the report and the position of the National Prosecution Council on respect for prosecutorial independence.

§ 2. The Public Prosecutor General's report shall be made public.

Article 13q. The Speaker of the Sejm, the Marshal of the Senate, the President of the Republic of Poland, the Prime Minister, the Minister of Justice, the Commissioner for Human Rights and the Ombudsman for Children, each within the scope of his/her jurisdiction, may, at

any time, submit to the Prosecutor General a reasoned written request for information on a specific aspect of the public prosecutor's activities, but the request may not concern information on specific proceedings.

Article 13r. § 1. There shall be a Social Council attached to the Public Prosecutor General.

§ 2. The tasks of the Social Council shall include expressing opinions on important matters concerning the organisation and operation of the public prosecutor's office.

§ 3. The Social Council may express opinions on the matters referred to in § 2 on its own initiative or at the request of the Public Prosecutor General.

§ 4. The Social Council shall be composed of:

- 1) a person designated by the Supreme Bar Council;
- 2) a person designated by the National Bar Council of Attorneys-at-Law;
- 3) a person designated by the Commissioner for Human Rights;
- 4) a person designated by the General Council for Science and Higher Education;
- 5) two persons designated by the Social Dialogue Council;
- 6) three representatives of non-governmental organisations designated by the Council of Public Benefit Activities.

§ 5. A person convicted under a final and non-appealable court judgment for a publicly prosecuted intentional offence or for an intentional fiscal offence shall be disqualified from serving on the Social Council.

§ 6. The term of office of the Social Council shall be 4 years and shall begin on the date of the first meeting of this term of office.

§ 7. Membership in the Social Council shall expire before the expiration of the term of office referred to in § 6, as a result of:

- 1) death of a member of the Social Council;
- 2) resignation of a member of the Social Council;
- 3) conviction of a member of the Social Council by a final and non-appealable court sentence for a publicly prosecuted intentional offence or an intentional fiscal offence.

§ 8. In the event of expiration of membership in the Social Council before the expiration of the term of office referred to in § 6, the competent entity shall promptly designate a new member to the Prosecutor General for the period until the end of the term of office of the Social Council.

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

§ 10. Services for the Social Council shall be provided by the Public Prosecutor General's Office.

§ 11. The operating costs of the Social Council shall be covered by the state budget from the part referred to in Article 53.

§ 12. Members of the Social Council attending a meeting of the Social Council who reside outside the locality where the meeting is held shall be entitled to reimbursement of travel and accommodation expenses and an allowance on the basis of the provisions on dues payable to an employee employed in a state or local government unit of the budgetary sphere for business travel.

§ 13. A meeting of the Social Council shall be convened by the Chairperson of the Social Council, except that the first meeting of a given term of office shall be convened by the Public Prosecutor General.

§ 14. The Social Council shall specify its mode of operation in its by-laws.”;  
9) in Article 14:

a) § 1 shall be replaced by the following:

“§ 1. The Public Prosecutor General shall appoint and dismiss Public Prosecutors General’s Deputy.”,

b) §§ 3 to 5 shall be replaced by the following:

“§ 3. One of the Public Prosecutors General’s deputies shall be the Public Prosecutor General’s Deputy for Military Affairs, who shall be appointed and dismissed by the Public Prosecutor General in consultation with the Minister of National Defence.

§ 4. The Director of the Chief Commission shall be one of the Public Prosecutor General’s deputies. The Public Prosecutor General shall promptly inform the President of the Institute of National Remembrance about the appointment and dismissal of the Director of the Chief Commission. The Director of the Chief Commission shall be in charge of the Chief Commission’s operations.

§ 5. In addition to the deputies referred to in §§ 2–4, the Public Prosecutor General may appoint one Public Prosecutor General’s Deputy.”,

c) the following § 6 shall be inserted:

“§ 6. Public Prosecutor General’s deputies referred to in:

1) §§ 2, 3 and 5 – shall be appointed by the Public Prosecutor General from among the public prosecutors of the Public Prosecutor General’s Office;

2) § 4 – shall be appointed by the Public Prosecutor General from among the public prosecutors of the Institute of National Remembrance;”;

10) Articles 15 to 21 shall be replaced by the following:

“Article 15 § 1. A provincial, regional and district prosecutor shall be appointed by the Public Prosecutor General, after presentation of his/her candidacy to the relevant assembly of public prosecutors, and dismissed by the Public Prosecutor General.

§ 2. The deputy regional prosecutor for military affairs shall be appointed and dismissed by the Public Prosecutor General in consultation with the Minister of National Defence.

§ 3. In a district prosecutor's office in which a department for military affairs has been established, the prosecutor in charge of this department shall be the deputy district prosecutor for military affairs. The deputy district prosecutor for military affairs shall be appointed and dismissed by the Public Prosecutor General in consultation with the Minister of National Defence.

§ 4. Public prosecutors responsible for performing other functions in the public prosecutor's office shall be appointed and dismissed from these functions by the Public Prosecutor General or the heads of organisational units of the public prosecutor's office authorised by him/her. Public prosecutors responsible for performing functions in the organisational units responsible for military affairs shall be appointed and dismissed from these functions by the Public Prosecutor General or the heads of organisational units of the public prosecutor's office authorised by him/her.

Article 16 General organisational units of the public prosecutor's office shall be: the Public Prosecutor General's Office, provincial public prosecutors' offices, regional public prosecutors' offices and district public prosecutors' offices.

Article 17 § 1. The Public Prosecutor General's Office shall provide services to the Public Prosecutor General.

§ 2. The principal tasks of the Public Prosecutor General's Office shall also include ensuring the participation of a public prosecutor in proceedings before the Constitutional Tribunal, the Supreme Court and the Supreme Administrative Court, conducting and supervising investigations, exercising instance and service-related supervision over investigations conducted in provincial public prosecutor's offices, coordinating service related supervision over investigations conducted by other organisational units of the public prosecutor's office, carrying out inspections in provincial public prosecutor's offices, administering acts in relation to legal transactions with foreign countries, and maintaining a central database of legal opinions and a database of guidelines and directions of the Public Prosecutor General.

§ 3. The seat of the Public Prosecutor General's Office shall be in Warsaw.

Article 18 The Public Prosecutor General shall be in charge of the Public Prosecutor General's Office.

Article 19 § 1. The following shall be established at the Public Prosecutor General's Office:

- 1) departments – to perform substantive tasks of the Public Prosecutor General's Office;
- 2) offices – to perform tasks of providing services to the Public Prosecutor General's Office.

§ 2. Within departments and offices, divisions or other organisational units, including branches, may be established, if necessary.

§ 3. One of the departments at the Public Prosecutor General's Office shall be the Department for Organised Crime and Corruption, which has jurisdiction over the prosecution of organised crime, the most serious corruption crimes and crimes of a terrorist nature.

§ 4. One of the departments at the Public Prosecutor General's Office shall be the Department for Military Affairs, competent for matters under the jurisdiction of military courts.

Article 20 § 1. Branch Divisions of the Department for Organised Crime and Corruption of the Public Prosecutor General's Office shall be established at provincial public prosecutor's offices.

§ 2. The principal tasks of the Branch Divisions of the Department for Organised Crime and Corruption of the Public Prosecutor General's Office include conducting and supervising investigations in cases of prosecution of organised crime, the most serious corruption crimes and crimes of a terrorist nature, as well as to perform the function of a public prosecuting attorney in such cases before the court.

§ 3. Financial and administrative services to the Branch Divisions of the Department for Organised Crime and Corruption of the Public Prosecutor General's Office shall be provided by relevant provincial public prosecutor's offices. The procedure and detailed manner of performing such services may be determined by the Public Prosecutor General.

Article 21 § 1. A Branch Division of the Department for Organised Crime and Corruption of the Public Prosecutor General's Office shall be presided over by a chief.

§ 2. The chief of a Branch Division of the Department for Organised Crime and Corruption of the Public Prosecutor General's Office shall be the superior public prosecutor of public prosecutors of the provincial public prosecutor's office, public prosecutors of regional public prosecutor's offices and public prosecutors of district public prosecutor's offices who perform their duties in that division.”;

11) Article 24 § 2 shall be replaced by the following:

“§ 2. The principal tasks of the district public prosecutor's office include ensuring the participation of a public prosecutor in proceedings conducted under the law before common courts, and in units where military affairs departments have been established, also before military courts, conducting and supervising investigations, with the exception of the cases listed in Article 20 § 2, Article 22 § 2 and Article 23 § 2, and in units where military affairs departments have been established, also in cases under the jurisdiction of military garrison courts.”;

12) in Article 26:

a) § 1 shall be replaced by the following:

“§ 1. Departments and offices of the Public Prosecutor General's Office shall be presided over by directors; divisions of the departments and offices of the Public Prosecutor General's Office and divisions in provincial and regional public prosecutor's offices shall be presided over by chiefs; and sectors and sections in public prosecutor's offices, as well as branches of regional and district public prosecutor's offices shall be presided over by heads.”,

b) § 3 shall be replaced by the following:

“§ 3. If need be, directors of departments and offices and chiefs of divisions of the Public Prosecutor General’s Office, including the Branch Divisions of the Department for Organised Crime and Corruption of the Public Prosecutor General’s Office, may have deputies.”;

13) Articles 28 to 30 shall be replaced by the following:

“Article 28 § 1. The organisational unit of the higher-level public prosecutor’s office shall be:

- 1) for a district public prosecutor’s office – the competent regional public prosecutor’s office, provincial public prosecutor’s office and the Public Prosecutor General’s Office;
- 2) for a regional public prosecutor’s office – the competent provincial public prosecutor’s office and the Public Prosecutor General’s Office;
- 3) for a provincial public prosecutor’s office – the Public Prosecutor General’s Office;
- 4) for a branch commission – the Chief Commission; 5) for a branch vetting office – the Vetting Office.

§ 2. The higher-level organisational unit in cases examined by military courts shall be:

- 1) for a district public prosecutor’s office – the competent regional public prosecutor’s office and the Public Prosecutor General’s Office;
- 2) for a regional public prosecutor’s office – the Public Prosecutor General’s Office.

§ 3. The higher-level organisational unit in matters relative to prosecuting organised crime and corruption for Branch Divisions of the Department for Organised Crime and Corruption of the Public Prosecutor General’s Office shall be the Department for Organised Crime and Corruption.

Article 29 The service-related supervision in cases:

- 1) conducted at the Public Prosecutor General’s Office, subject to point 2, shall be exercised by the Public Prosecutor General;
- 2) conducted by the Branch Divisions of the Department for Organised Crime and Corruption of the Public Prosecutor General’s Office shall be exercised by the Public Prosecutor General’s Deputy for Organised Crime and Corruption;
- 3) subject to the jurisdiction of military courts shall be exercised by the Public Prosecutor General’s Deputy for Military Affairs.

Article 30 The Public Prosecutor General, as well as a provincial public prosecutor and a regional public prosecutor in their respective areas of operation, may order an inspection of an organisational unit of the public prosecutor’s office for the purpose of inspecting the implementation of statutory tasks by that unit in a particular field.”;

14) Article 31 § 1 shall be replaced by the following:

“§ 1. Public prosecutors being immediate superiors shall be:

- 1) Public Prosecutor General – towards Public Prosecutor General’s deputies, public prosecutors serving at the Public Prosecutor General’s Office, department directors at the Public Prosecutor General’s Office and provincial public prosecutors;

- 2) Public Prosecutor General's deputies, with regard to the tasks assigned to them – towards public prosecutors serving at the Public Prosecutor General's Office and department directors at the Public Prosecutor General's Office;
  - 3) Director of the Department for Organised Crime and Corruption – towards the chiefs of the Branch Divisions of the Department for Organised Crime and Corruption of the Public Prosecutor General's Office and public prosecutors serving in these divisions;
  - 4) provincial public prosecutors and regional public prosecutors, as well as their deputies with regard to the tasks assigned to them – towards public prosecutors serving in a given unit and towards heads of organisational units of immediately lower-ranking public prosecutor's office in the area of a given unit's operations, subject to point 5;
  - 5) heads of branches of regional public prosecutors' offices, as well as their deputies with regard to the tasks assigned to them – towards public prosecutors serving in a given branch and district prosecutors in the area of operations of a given branch of a regional public prosecutor's office;
  - 6) district public prosecutors and their deputies, as well as their deputies with regard to the tasks assigned to them – towards public prosecutors of a given district public prosecutor's office;
  - 7) heads of branches of district public prosecutor's offices – towards public prosecutors serving at a given branch.”;
- 15) Article 33 § 2 shall be replaced by the following:

“§ 2. The Public Prosecutor General shall be the superior prosecutor with regard to activities performed by a public prosecutor in the Public Prosecutor General's Office and the Chief Commission.”;

- 16) Article 34 §§ 1 and 2 shall be replaced by the following:

“§ 1. The right to issue orders referred to in Article 7 §§ 2 and 3 may be exercised by superior public prosecutors and, with regard to tasks assigned:

- 1) department directors at the Public Prosecutor General's Office – towards their subordinate public serving in those departments and towards provincial, regional and district public prosecutors;
- 2) chiefs of divisions in departments at the Public Prosecutor General's Office – towards public prosecutors serving in those divisions;
- 3) chiefs of divisions and heads of sectors and independent sectors of provincial public prosecutor's offices – towards public prosecutors serving in those divisions, sectors and independent sectors, as well as regional and district public prosecutors;
- 4) chiefs of divisions and heads of sectors, independent sectors and branches of regional public prosecutor's offices – towards public prosecutors serving in those divisions, sectors, independent sectors and branches, as well as district public prosecutors;

5) heads of branches of district public prosecutor's offices – towards public prosecutors serving in a given branch.

§ 2. The provisions of § 1(1) and (2) shall apply *mutatis mutandis* to deputy directors of the departments at the Public Prosecutor General's Office and deputy chiefs of divisions in the departments at the Public Prosecutor General's Office.”;

17) Article 35 §§ 1 to 4 shall be replaced by the following:

“§ 1. The Minister of Justice shall, by means of a regulation, after seeking the opinion of the Public Prosecutor General, establish and abolish Branch Divisions of the Department for Organised Crime and Corruption at the Public Prosecutor General's Office, provincial, regional and district public prosecutor's offices, as well as determine their seats and competence areas, out of consideration for an effective fight against crime and ensuring the efficiency of proceedings.

§ 2. The Minister of Justice shall, by means of a regulation, in agreement with the Minister of National Defence, after seeking the opinion of the Public Prosecutor General, establish and abolish organisational units for military matters in regional and district public prosecutor's offices, as well as determine their seats and competence areas, out of consideration for an effective fight against crime, ensuring the efficiency of proceedings, and the distribution and structure of organisational units of the Armed Forces of the Republic of Poland.

§ 3. The Minister of Justice may, by means of a regulation, after seeking the opinion of the Public Prosecutor General, determine the competence of general organisational units of public prosecutor's office in cases concerning various types of crimes regardless of where they have been committed, as well as in civil and administrative cases, petty crime cases and other proceedings conducted under the law, regardless of the general competence of general organisational units of public prosecutor's office, out of consideration for an effective fight against crime and ensuring the efficiency of proceedings.

§ 4. The Minister of Justice may, by means of a regulation, after seeking the opinion of the Public Prosecutor General, establish and abolish branches of provincial, regional and district public prosecutor's offices outside a public prosecutor's office's seat, out of consideration for an effective fight against crime and ensuring the efficiency of proceedings.”;

18) Article 36 shall be replaced by the following:

“Article 36 § 1. The Minister of Justice shall determine, by means of a regulation, after seeking the opinion of the Public Prosecutor General, the rules for the internal operations of general organisational units of the public prosecutor's office, specifying:

1) the internal organisational structure and tasks of organisational units of:

a) Public Prosecutor General,

b) Branch Divisions of the Department for Organized Crime and Corruption of the Public Prosecutor General's Office and provincial public prosecutor's offices,



- c) other general organisational units of the public prosecutor's office,
- 2) the work organisation and the work management method;
- 3) persons authorised to allocate budget funds,
- 4) forms and procedures for exercising service-related supervision, including inspections and vettings,
- 5) procedure for settling staff matters,
- 6) organisation of work of collective bodies,
- 7) detailed order of acts administered by a public prosecutor in criminal cases,
- 8) way of executing tasks relating to public prosecutor's participation in civil cases, family-law cases, guardianship cases, employment-relationship cases and petty crime cases;
- 9) detailed order of acts administered by a public prosecutor in administrative proceedings and proceedings before administrative courts;
- 10) procedure applied by a public prosecutor in order to prevent violations of the law,
- 11) way of executing the tasks referred to in Article 3 § 4,
- 12) procedure regarding complaints and motions,
- 13) way of maintaining contact with the media

– taking into account the need to ensure the efficacy and efficiency of proceedings in all types of cases handled by a public prosecutor or with his/her participation, including the swiftness and efficacy of action, considering the functionality and rationality of a public prosecutor's acts, while at the same time respecting the rights and freedoms guaranteed by law to the persons that a public prosecutor's office's actions concern; as well as, with regard to cases conducted in organisational units for military matters, taking into account the specificity of the Armed Forces of the Republic of Poland's organisation and functioning based on service-related subordination.

§ 2. The Minister of Justice shall specify, by means of an order, the scope of secretariats and other administration sectors in general organisational units of the public prosecutor's office, taking into account the specificity of tasks assigned to units of various levels and the need to ensure the rational functioning of the public prosecutor's office, as well as the need to relieve public prosecutors, and other employees who are responsible for substantial matters, of office work to the largest possible extent, and to ensure an efficient flow of information necessary for the public prosecutor office's operations; as well as, with regard to cases conducted in organisational units for military matters, taking into account the specificity of the Armed Forces of the Republic of Poland's organisation and functioning based on service-related subordination.

§ 3. The Public Prosecutor General shall specify, by means of an order, the scope of secretariats and other administrative sectors in the Vetting Office and branch vetting offices, taking into account the specificity of tasks of these organisational units and the need to ensure

the rationality of their functioning, as well as the need to relieve public prosecutors, and other employees responsible for substantial matters, of office work to the largest possible extent, and to ensure an efficient flow of information necessary for these organisational units.

§ 4. The provisions of the regulation referred to in § 1 shall apply *mutatis mutandis* to the internal operations of the Chief Commission and of branch commissions.

§ 5. The provisions of the order referred to in § 2 shall apply *mutatis mutandis* to the scope of secretariats and other administrative sectors at the Chief Commission and branch commissions.

§ 6. The Minister of Justice shall specify, by means of a regulation, after seeking the opinion of the Public Prosecutor General, the way of executing the public prosecutor's tasks in the context of the supervision over operational and exploratory measures specified in Article 57 § 2, out of particular consideration for ensuring substantial and efficient supervision of grounds for the actual requested measures, ensuring the lawfulness and correctness of initiating and carrying out those measures, as well as the need to respect the fundamental civic rights and freedoms.

§ 7. The Minister of Justice shall specify, by means of a regulation, after seeking the opinion of the Public Prosecutor General, the way of executing the tasks relative to the public prosecutor office's cooperation with international or supranational organisations operating under international agreements, including agreements establishing international organisations, ratified by the Republic of Poland, out of consideration for the need for correct fulfilment of duties specified in those agreements or acts of law introduced by an international organisation which has been set up for the purpose of fighting crime, and in particular out of consideration for a specification of the way of exchanging information among member states of those organisations and bodies of those organisations, granting requests for legal assistance, protecting the processed personal data and the security of the processed data.

§ 8. The Minister of Justice shall specify, by means of a regulation, after seeking the opinion of the Public Prosecutor General, the official dress of public prosecutors participating in court hearings, taking into consideration the solemn nature of the dress, adequate to the authority of the court and the established tradition.”;

19) Article 38 § 1 shall be replaced by the following:

“§ 1. The Public Prosecutor General may benefit from the assistance of advisers, including social advisers.”;

20) Article 39 § 1 shall be replaced by the following:

“§ 1. The public prosecutor in charge of a general organisational unit of the public prosecutor's office may entrust the function of a press spokesperson to a public prosecutor who serves in that body.”;

21) Article 41 shall be replaced by the following:

“Article 41 Article 53 of the Act of 20 June 1997 – the Traffic Act (Journal of Laws of 2023, item 1047, as amended) shall apply to the vehicles of organisational units of the public prosecutor’s office.

22) Chapter 2 shall be repealed in Section II;

23) in Section II, the following Chapter 2a shall be inserted after Chapter 2:

#### “Chapter 2a

##### National Prosecution Council

Article 42a The National Prosecution Council shall guard the independence of public prosecutors.

Article 42b. § 1. The National Prosecution Council shall be composed of:

- 1) a representative elected by the assembly of public prosecutors of the Public Prosecutor General’s Office, who serves as a public prosecutor;
- 2) representatives elected by assemblies of public prosecutors in provincial public prosecutors’ offices who are prosecutors – one from each provincial public prosecutor’s office;
- 3) a representative elected by the assembly of public prosecutors of the Institute of National Remembrance;
- 4) a representative of the President of the Republic of Poland;
- 5) a representative of the Speaker of the Sejm;
- 6) a representative of the Marshal of the Senate;7) a representative of the Minister of Justice.

§ 2. Public prosecutors belonging to the National Prosecution Council referred to in § 1(1) and (2) shall be elected pursuant to the rules enacted by the assembly of public prosecutors of the Public Prosecutor General’s Office and the assembly of public prosecutors in the provincial public prosecutor’s office, respectively.

Article 42c. § 1. The joint term of office of the elected members of the National Prosecution Council shall be four years and shall commence on the date of the first meeting of the National Prosecution Council of that term of office.

§ 2. The term of office of an elected member of the National Prosecution Council shall expire before the end of the term of office in the event of:

- 1) death;
- 2) resignation from service;
- 3) having made an untrue vetting statement, as established by a final and non-appealable court decision;
- 4) expiration or termination of the public prosecutor’s service relationship.

§ 3. Resignation from service on the National Prosecution Council shall be effective upon written notification to the Chairperson of the National Prosecution Council.

§ 4. Representatives of the President of the Republic of Poland, the Speaker of the Sejm, the Marshal of the Senate and the Minister of Justice shall serve on the Council without designating a term of office and may be dismissed at any time.

§ 5. A change in the number, seats or areas of jurisdiction of general organisational units of the public prosecutor's office shall not affect the mandate of the members indicated in Article 42b § 1(2).

Article 42d. The first meeting of the National Prosecution Council of the new term of office shall be convened by the Public Prosecutor General.

Article 42e. The National Prosecution Council shall elect and dismiss its Chairperson, two deputy chairpersons and a secretary.

Article 42f. The National Prosecution Council shall operate by virtue of self-enacted rules.

Article 42g. The National Prosecution Council shall deliberate at meetings convened by the Chairperson on his/her own initiative or at the request of one-third of the Council's members.

Article 42h. In particularly justified cases, meetings of the National Prosecution Council may be held using technical means that allow direct remote communication. The conduct of the meeting in this manner shall be ordered by the Chairperson.

Article 42i. The National Prosecution Council shall in particular:

- 1) give its opinion on draft normative acts concerning the public prosecutor's office;
- 2) hear notification from the Public Prosecutor General on the activities of the public prosecutor's office;
- 3) determine the method of selecting candidates for the position of Public Prosecutor General;
- 4) provide the Speaker of the Sejm with candidates for the position of Public Prosecutor General;
- 5) request the disciplinary court to hold the Public Prosecutor General liable for disciplinary action and appoint a representative to appear before the disciplinary court;
- 6) consider annual reports on the activities of the Disciplinary Ombudsman of the Public Prosecutor General;
- 7) enact a set of rules of professional ethics for public prosecutors and ensure compliance with them;
- 8) give its opinion on draft guidelines and orders of the Public Prosecutor General;
- 9) express its views on the state and development of the prosecutorial staff and training orientations for public prosecutors, assistant prosecutors, public prosecutor's assistants, trainee prosecutors, as well as officials and other employees of the public prosecutor's office;

- 10) give its opinion on applications for approval to continue service as a public prosecutor after attaining 65 years of age;
- 11) express its views on the orientations of measures taken to improve the professional qualifications of public prosecutors and the level of their work;
- 12) give its opinion on the candidate for Director of the National School of Judiciary and Public Prosecution;
- 13) designate one member of the Curricular Council of the National School of Judiciary and Public Prosecution;
- 14) present an annual position on respect for independence of public prosecutors;
- 15) give its opinion on the report on the activities of the public prosecutor's office presented by the Public Prosecutor General to the Sejm and the Senate;
- 16) take a position on issues relevant to the functioning of the public prosecutor's office.

Article 42j § 1. The operating costs of the National Prosecution Council shall be financed from the budget of the Public Prosecutor General's Office.

§ 2. Financial, administrative and clerical services of the National Prosecution Council shall be provided by the Public Prosecutor General's Office.”; 21) Articles 44 and 45 shall be replaced by the following:

“Article 44 § 1. In the Public Prosecutor General's Office, a meeting of public prosecutors operates, composed of public prosecutors of the Public Prosecutor General's Office.

§ 2. The Public Prosecutor General shall preside over the meeting of public prosecutors of the Public Prosecutor General's Office.

§ 3. The meeting of public prosecutors of the Public Prosecutor General's Office shall be convened by the Public Prosecutor General on his/her own initiative or on the initiative of one-fifth of public prosecutors of the Public Prosecutor General's Office.

§ 4. To conduct a meeting of public prosecutors of the Public Prosecutor General's Office, the provision of Article 42h shall apply *mutatis mutandis*.

Article 45 The meeting of public prosecutors of the Public Prosecutor General's Office shall:

- 1) hear the Public Prosecutor General's notification about the Public Prosecutor General's Office's activities and the public prosecutors' work, and give an opinion in this regard;
- 2) elect representatives to the National Prosecution Council;
- 3) elect members of the Disciplinary Court at the Public Prosecutor General;
- 4) give opinion on other matters presented by the Public Prosecutor General.”; 22) Article 46 §§ 5 and 6 shall be replaced by the following:

“§ 5. A meeting of the assembly of public prosecutors may be convened by the provincial public prosecutor at his/her own initiative, at the request of the Public Prosecutor General, the board of provincial public prosecutors, or at the request of one-fifth of the assembly's members.

§ 6. The provision of Article 42h shall apply *mutatis mutandis* to the assembly of public prosecutors of the provincial public prosecutor's office and the meetings referred to in § 1.”;

23) Article 47(3) shall be replaced by the following:

“3) elect representatives to the National Prosecution Council;”;

24) Article 48 §§ 5 and 6 shall be replaced by the following:

“§ 5. Meetings of the board of the provincial public prosecutor's office shall be convened by the provincial public prosecutor on his/her own initiative or at the request of one-third of the board's members.

§ 6. The provision of Article 42h shall apply *mutatis mutandis* to the meetings of the board of provincial public prosecutor's office.”;

25) Article 50 §§ 5 and 6 shall be replaced by the following:

“§ 5. A meeting of the board of the regional public prosecutor's office shall be convened by the regional public prosecutor on his/her own initiative or at the request of one-third of the board's members.

§ 6. The provision of Article 42h shall apply *mutatis mutandis* to the meetings of the board of regional public prosecutor's office.”;

26) Article 52 shall be replaced by the following:

“Article 52 The assembly of public prosecutors of the Public Prosecutor General's Office, the assemblies of public prosecutors and the boards of provincial and regional public prosecutor's offices shall operate by virtue of self-enacted rules.”

27) Article 53 §§ 3 and 4 shall be replaced by the following:

“§ 3. The draft revenue and expenditure of the general organisational units of the public prosecutor's office shall be forwarded by the Public Prosecutor General to the minister responsible for public finance for the purpose of being included in the Budget Bill, in accordance with the principles set forth in Article 139(2) of the Public Finance Act of 27 August 2009 (Journal of Laws of 2023, item 1270, as amended).

§ 4. With regard to the execution of the budget in the part corresponding to the general organisational units of the public prosecutor's office, the Public Prosecutor General shall have the powers of the minister responsible for public finance.”;

28) Article 54 shall be replaced by the following:

“Article 54 Expenditures on training and professional upgrading of the staff of general organisational units of the public prosecutor's office shall be provided by the National School of Judiciary and Public Prosecution and financed with the national budget's part administered by the Minister of Justice.”;

29) Article 57 shall be amended as follows:

a) §§ 1 to 3 shall be replaced by the following:

“§ 1. A public prosecutor shall exercise supervision over investigations conducted by another competent authority. The public prosecutor’s dispositions given in the course of the investigations shall be binding for that authority.

§ 2. The Public Prosecutor General or a public prosecutor authorised by the same shall exercise control over operational and exploratory activities by inspecting the materials collected in the course of operational control, undercover purchase operation, sting operation relative to handing over or accepting a bribe, or controlled delivery, in the conditions stipulated for conveying, storing and providing access to classified information.

§ 3. The Public Prosecutor General or a public prosecutor authorised by the same may request operational and exploratory activities to be undertaken by competent authorities if they are directly related to the ongoing investigations, and may become familiar with the materials collected in the course of such activities.”,

b) §§ 3a to 4 shall be repealed,

c) § 5 shall be replaced by the following:

“§ 5. In particularly justified cases, the Public Prosecutor General may, for the purposes investigations, declassify or modify the classification of a document or material classified by a competent authority under Article 6(1) of the Act of 5 August 2010 on the protection of classified information (Journal of Laws of 2023, items 756, 1030 and 1532), after seeking that authority’s opinion and notifying the President of the Council of Ministers about the intention to do so.”;

30) Article 60 § 1 shall be replaced by the following:

“§ 1. The Public Prosecutor General’s guidelines concerning the methodology of conducting investigations shall be binding for all authorities competent to conduct investigations.”;

31) Article 61 § 1 shall be replaced by the following:

“§ 1. The Public Prosecutor General may put forward requests to the state administration’s chief and central authorities for measures aiming to streamline their subordinate bodies’ operations with regard to investigations.”;

32) Article 63 shall be replaced by the following:

“Article 63 § 1. Investigations are conducted or supervised in district public prosecutor’s offices, regional public prosecutor’s offices, provincial public prosecutor’s offices and Branch Divisions of the Department for Organised Crime and Corruption of the Public Prosecutor General’s Office, taking into consideration the scope of tasks specified in Article 20 § 2, Article 22 § 2, Article 23 § 2 and Article 24 § 2.

§ 2. Investigations in cases with ample evidence, as well as those that are complex from the factual or legal point of view, may be conducted in the Public Prosecutor General’s Office or the Chief Commission, regardless of the general competence of general organisational units of

the public prosecutor's office. In such case, the Public Prosecutor General shall decide by issuing a relevant disposition for that purpose.

§ 3. The disposition referred to in § 2 may also include the appointment of a team of public prosecutors at the Public Prosecutor General's Office or at the Chief Commission for conducting investigations in a specific case or group of cases.

§ 4. The team of prosecutors referred to in § 3 may include officers of other state services, as well as, in an advisory or consultative capacity, retired prosecutors or retired judges, without the right to influence the content of procedural actions. The decision on that matter shall be made by the Public Prosecutor General.

33) in Article 68:

a) § 1 shall be replaced by the following:

"§ 1. Data for using the electronic signature for the purposes of electronic proceedings by writ of payment shall be granted to a public prosecutor after submitting an adequate request through the competent provincial public prosecutor or the Public Prosecutor General."

b) §§ 3 and 4 shall be replaced by the following:

"§ 3. Public prosecutors' requests for being granted the data referred to in § 1 which are submitted to the competent provincial public prosecutor or to the Public Prosecutor General shall be transmitted to the competent court together with the confirmation of the public prosecutor's employment in the competent public prosecutor's office subordinate to the provincial public prosecutor or in the Public Prosecutor General's Office, respectively. Persons who intend to communicate with the court in the way indicated in § 2 shall notify the court through the competent provincial public prosecutor or the Public Prosecutor General, providing the data for the verification of the electronic signature.

§ 4. The information referred to in § 3 shall be sent to the court by the competent provincial public prosecutor or the Prosecutor General, respectively, within 14 days from the date of the request submission.";

34) Article 71 § 1 shall be replaced by the following:

"§ 1. Should substantial circumstances that encourage the commission of offences be disclosed in the course of measures taken by public prosecutors, the Public Prosecutor General may request a competent authority to take appropriate measures, e.g. consider the grounds for adopting or amending specific regulations in order to prevent crime.";

35) Article 74 § 1 shall be replaced by the following:

"§ 1. Public prosecutors of general organisational units of the public prosecutor's office shall be appointed to prosecutorial positions by the Public Prosecutor General after seeking the opinion of the National Prosecution Council.";

36) in Article 75, §§ 1a shall be repealed;



37) in Article 76:

a) § 1 shall be replaced by the following:

“§ 1. The position of public prosecutor of the Public Prosecutor General’s Office may be vested in a person who, meeting the conditions for the position of public prosecutor:

- 1) for at least 15 years served as a public prosecutor, judge, president, vice-president or counsel to the General Counsel to the Republic of Poland or practised the profession of an advocate, attorney-at-law, notary public, and
- 2) for at least 5 years served as a public prosecutor of an appellate, provincial, regional public prosecutor’s office or a prosecutor of the Institute of National Remembrance.”,

b) § 4 shall be replaced by the following:

“§ 4. The required work experience referred to in § 1–3 shall not apply to the persons specified in Article 75 § 2(1).”;

c) § 5 shall be repealed,

d) § 6 shall be replaced by the following:

“§ 6. A public prosecutor who has served as Public Prosecutor General’s Deputy – Director of the Chief Commission for a period of not less than 5 years shall be appointed, at his/her request, by the Public Prosecutor General as a public prosecutor of the Public Prosecutor General’s Office.”;

38) Article 78 §§ 1 to 3 shall be replaced by the following:

“§ 1. The Public Prosecutor General shall seek information about each candidate for a prosecutorial position from a competent provincial Police commander or the Capital City Police Commander. The information about a candidate for a prosecutorial position shall be obtained and drawn up pursuant to the rules specified for the information about a candidate for a judiciary position. The information shall be obtained and drawn up on the basis of data contained in computerised police systems.

§ 2. When presenting the information referred to in § 1, the competent Police commander shall provide the Public Prosecutor General with all collected materials that have been used to draw up the information.

§ 3. Before considering a candidacy, the Public Prosecutor General shall notify the candidate for a prosecutorial position about the content of the information obtained from the competent Police commander.”;

39) Article 79 §§ 1 and 2 shall be replaced by the following:

“§ 1. The Public Prosecutor General shall assign new prosecutorial and assistant prosecutorial positions to particular organisational units of the public prosecutor’s office, out of consideration for a rational use of the prosecutorial staff.

§ 2. In the case of a vacancy in a prosecutorial or -prosecutorial position, the Public Prosecutor General may, out of consideration for a rational use of the prosecutorial staff:

- 1) assign the position to another organisational unit of the public prosecutor's office;
- 2) transform a prosecutorial position into an assistant-prosecutorial position, or an assistant-prosecutorial position into a prosecutorial position;
- 3) cancel the position.”;

40) Article 80 shall be replaced by the following:

“Article 80 Should a position of a public prosecutor of a district public prosecutor's office be created or vacated, the Public Prosecutor General shall make a decision on selecting the candidate for the first prosecutorial position by means of a competition procedure conducted under Articles 81–90.”;

41) Article 81 § 1 shall be replaced by the following:

“§ 1. In the event that a public prosecutor's position is created or vacated, the Public Prosecutor General shall immediately announce the vacant public prosecutor's position in the Official Journal of the Republic of Poland “Monitor Polski,” unless the position is filled through the official transfer of a public prosecutor of an equivalent public prosecutor's office.”;

42) in Article 82:

a) § 1 shall be replaced by the following:

“§ 1. If the application has been made by a person who does not meet the requirements for assuming the position of a public prosecutor referred to in Article 75 § 1(3)–(8), if the application has been made after the deadline referred to in Article 81 § 2, or if it does not contain the documents required under Article 77, the regional public prosecutor shall notify the applicant about the decision not to further examine the application, giving the reason. The person whose application has not been further examined may submit a written objection to the Public Prosecutor General within 7 days. The Public Prosecutor General shall decide whether to further examine the application.”,

b) § 3 shall be replaced by the following:

“§ 3. The regional public prosecutor shall present the Public Prosecutor General with the candidacies that have received positive opinions from the regional public prosecutor's office's board, together with the board's opinion and the assessment of qualifications drawn up by the inspector of the regional public prosecutor's office. The Public Prosecutor General shall present the candidacies to the National Prosecution Council for its opinion.”,

c) the following § 4 shall be inserted:

“§ 4. The National Prosecution Council shall present an opinion on the candidacy within 30 days. If the opinion is not submitted within this period, the opinion shall be presumed positive.”;

43) Article 84 § 4 shall be replaced by the following:

“§ 4. Observations submitted after the deadline shall be disregarded without being examined, and the reason for disregarding the observations without being examined shall be stated. The candidate whose observations have not been further examined may submit a written objection to the Public Prosecutor General within 7 days. The Public Prosecutor General shall make a decision with regard to the objection.”;

44) Article 88 § 6 shall be replaced by the following:

“§ 6. The assessment of the qualifications of a candidate occupying the position of a counsel to the General Counsel to the Republic of Poland shall be accompanied by protocols of periodic qualification assessments referred to in Article 66 of the Act of 15 December 2016 on the General Counsel to the Republic of Poland (Journal of Laws of 2023, item 1109, as amended), as well as copies of final and non-appealable decisions imposing a disciplinary penalty, unless the penalty has been declared null and void.”;

45) Article 90 § 2 shall be replaced by the following:

“§ 2. The Minister of Justice shall specify, by means of a regulation, after seeking the opinion of the Public Prosecutor General, the detailed procedure and method of assessing the qualifications of a candidate for a vacant prosecutorial position in a district public prosecutor's office, out of consideration for the need to preserve the methodology which takes into account the specificity of the profession the candidate practises or the office he/she holds, as well as the need to adapt it to the scope of examinations and the criteria specified by the law.”;

46) Article 93 § 1 shall be replaced by the following:

“§ 1. The Public Prosecutor General may dismiss a public prosecutor of a general organisational unit of the public prosecutor's office or a public prosecutor of the Institute of National Remembrance if the public prosecutor, despite being penalised twice by a disciplinary court with a disciplinary penalty other than an admonition, has committed a service-related misconduct, including a manifest violation of the law or an impairment of the dignity of the office of public prosecutor; before taking the dismissal decision, the Public Prosecutor General shall hear out the public prosecutor's explanations, unless it is impossible, and seek the opinion of the assembly of public prosecutors of the Public Prosecutor General's Office or the relevant assembly of public prosecutors in a provincial public prosecutor's office.”;

47) Article 94 § 3 shall be replaced by the following:

“§ 3. Transfers referred to in §§ 1 and 2 shall be made by the Public Prosecutor General.”;

48) Article 102 § 3 shall be replaced by the following:

“§ 3. The secrecy obligation shall cease to exist where a public prosecutor testifies as a witness in an investigation or before a court, unless the disclosure of a secret poses a threat to the interest of the state or to an important private interest which is not contrary to the purposes of

the administration of justice. In such cases, a public prosecutor may be relieved from the secrecy obligation by the Public Prosecutor General.”;

49) Article 103 §§ 4 and 5 shall be replaced by the following:

“§ 4. Public prosecutors of a district public prosecutor’s office and public prosecutors of a regional public prosecutor’s office shall notify the competent regional public prosecutor, public prosecutors of a provincial public prosecutor’s office shall notify the competent provincial public prosecutor, public prosecutors of the Public Prosecutor General’s Office, provincial public prosecutors and regional public prosecutors shall notify the Public Prosecutor General, and the Public Prosecutor General’s deputies shall notify the Public Prosecutor General about their intention to take additional employment, as well as about their intention to take up another gainful occupation or way of earning money.

§ 5. Public prosecutors of the Institute of National Remembrance shall submit the notification referred to in § 4 to:

- 1) Director of the Chief Commission in the case of public prosecutors of branch commissions;
- 2) Director of the Vetting Office in the case of public prosecutors of branch vetting offices;
- 3) Public Prosecutor General in the case of the Director of the Chief Commission, public prosecutors of the Chief Commission and chiefs of branch commissions, the Director of the Vetting Office, public prosecutors of the Vetting Office and chiefs of branch vetting offices.”;

50) Article 103a § 3 shall be replaced by the following:

“§ 3. Prosecutors of the Public Prosecutor General’s Office, prosecutors of the Chief Commission, prosecutors of the Vetting Office, provincial public prosecutors, prosecutors of the Branch Divisions of the Department for Organised Crime and Corruption of the Public Prosecutor General’s Office, regional public prosecutors, as well as chiefs of branch commissions and chiefs of branch vetting offices shall submit the statements referred to in § 1 to the Public Prosecutor General, and the Public Prosecutor General’s deputies to the Public Prosecutor General.”;

51) in Article 104:

a) § 4 shall be replaced by the following:

“§ 4. Public Prosecutor General’s deputies, Director of the Chief Commission, Director of the Vetting Office, prosecutors of the Public Prosecutor General’s Office, prosecutors of the Chief Commission, prosecutors of the Vetting Office, provincial public prosecutors, prosecutors of the Branch Divisions of the Department for Organised Crime and Corruption of the Public Prosecutor General’s Office, regional public prosecutors, as well as chiefs of branch commissions and chiefs of branch vetting offices shall submit the statements referred to in § 1 to the Public Prosecutor

General, who shall make an analysis of the data contained in the statements by 30 June each year.”,

b) § 9 shall be replaced by the following:

“§ 9. A vetting statement shall not be filed by a retired public prosecutor unless the same is an advisor to the Public Prosecutor General.”;

52) Article 105 shall be replaced by the following:

“Article 105 The Minister of Justice shall specify, by means of a regulation, after seeking the opinion of the Public Prosecutor General, the model form of the statement referred to in Article 104 § 1, including the detailed scope of information contained in the statement and the clause referred to in Article 104 § 6, out of consideration for the need to reliably demonstrate the assets of those required to make statements.”;

53) Article 106 §§ 1 to 4 shall be replaced by the following:

“§ 1. The Public Prosecutor General may, at the request of the Minister of Justice, delegate a public prosecutor of a general organisational unit of the public prosecutor’s office, with his/her consent, to the Ministry of Justice or another organisational unit subordinate to the Minister of Justice, in accordance with the public prosecutor’s qualifications.

§ 1a. The Public Prosecutor General may delegate a public prosecutor, with his/her consent, to perform duties or conduct training courses at the National School of Judiciary and Public Prosecution.

§ 2. The Public Prosecutor General may delegate a public prosecutor of a general organisational unit of the public prosecutor’s office to another organisational unit of the public prosecutor’s office. Delegation for a period longer than 6 months in a year shall only be possible with the public prosecutor’s consent.

§ 3. In justified cases, out of consideration for staff-related needs of general organisational units of the public prosecutor’s office, the Public Prosecutor General may delegate a public prosecutor without his/her consent for a period of 12 months in a year to a public prosecutor’s office with its seat in the locality where the delegated person resides, or to a public prosecutor’s office in the locality where the public prosecutor’s office which is the delegated person’s workplace is situated.

§ 4. The Public Prosecutor General shall immediately notify the Minister of National Defence about delegating a public prosecutor for military matters who is a professional soldier.”;

54) Article 108 shall be replaced by the following:

“Article 108 A public prosecutor delegated to another organisational unit of the public prosecutor’s office, with the exception of the Public Prosecutor General, shall be granted the right to basic remuneration at the standard rate specified for a public prosecutor of that unit after 6 months of delegation for the remaining delegation period, and if he/she has already received

remuneration at the same or higher rate in the position he/she has held, he/she shall be granted the right to remuneration at an immediately higher rate.”;

55) Article 109 § 4 shall be replaced by the following:

“§ 4. The provisions of § 1(1) and (2) and § 2 shall apply to a public prosecutor of the Public Prosecutor General’s Office who has been granted the consent referred to in

Article 121 § 2.”;

56) Articles 111 and 112 shall be replaced by the following:

“Article 111 A public prosecutor delegated to the Ministry of Justice, the National School of Judiciary and Public Prosecution or the Public Prosecutor General’s Office shall have the right to basic remuneration for the prosecutorial position he/she holds and to a seniority allowance. During the delegation period, a public prosecutor shall receive a special-duty allowance.

Article 112 The Minister of Justice shall specify, by means of a regulation, after seeking the opinion of the Public Prosecutor General, the procedure for delegating public prosecutors to the Ministry of Justice, the Public Prosecutor General’s Office and the National School of Judiciary and Public Prosecution, the procedure and the method of exercising the right to free-of-charge accommodation and reimbursement of accommodation costs in the place of delegation, including the maximum amount of reimbursement of actually incurred costs and the amount of the monthly lump sum, taking into consideration the possibility of the amount’s diversification depending on the delegation locality, as well as the procedure and method of implementation of the benefits referred to in Article 109 § 1(2)-(6), including cases where allowances referred to Article 109 § 1 (4) do not apply, out of consideration for the efficiency of the delegating procedure and the need to ensure conditions for the proper performance of duties and function entrusted to the public prosecutor, as well as the need to reimburse the costs incurred by the public prosecutor, taking into account average accommodation and living costs.”;

57) Article 113 § 6 shall be replaced by the following:

“§ 6. The Minister of Justice, in agreement with the Minister of National Defence, after seeking the opinion of the Public Prosecutor General, shall specify, by means of a regulation, the procedure, conditions for granting and payment, as well as the amounts of the allowances referred to in § 2, limits of reimbursement of accommodation costs, and the currency in which such allowances are paid, taking into consideration the extent of granting them depending on the place in which a public prosecutor performs his/her duties or entrusted function, as well as the need to ensure conditions for their correct execution and the need to finance the increased costs relative to performing those duties or functions outside of the Republic of Poland and to particular situations, including random events, taking into account average accommodation and living costs abroad.”;

58) Article 116 § 1 shall be replaced by the following:

“§ 1. The Public Prosecutor General may grant a paid health leave to a public prosecutor.”;

59) in Article 117 §2:

a) point 5 shall be replaced by the following:

“5) the Public Prosecutor General – in the case of an accident at work or an occupational disease of the Public Prosecutor General’ deputies, public prosecutors of the Public Prosecutor General’s Office, a provincial public prosecutor, a public prosecutor of a Branch Division of the Department for Organised Crime and Corruption of the National Public Prosecutor’s Office and a public prosecutor delegated to perform activities at the Ministry of Justice;”

b) point 6 shall be repealed,

60) Article 122 § 4 shall be replaced by the following:

“§ 4. The Minister of Justice, in agreement with the minister responsible for public finances, after seeking the opinion of the Public Prosecutor General, shall specify, by means of a regulation, the method of scheduling and using funds for the financial aid, as well as the procedure and conditions for its granting, and the amounts of a public prosecutor’s own funds, taking into account the contribution of public prosecutor’s offices’ boards or of the assembly of public prosecutors in granting the aid, as well as the principle of rational management of funds.”;

61) in Article 124:

a) § 1 shall be replaced by the following:

“§ 1. The remuneration of public prosecutors in equivalent public prosecutor’s positions shall vary according to the length of service or the performed functions. The basic remuneration of public prosecutors of district and regional public prosecutor’s offices shall be equal to the basic remuneration of judges in the analogous organisational units of common courts. The basic remuneration of public prosecutors of provincial public prosecutor’s offices shall be equal to the basic remuneration of judges of appellate courts. The basic remuneration of the Public Prosecutor General and public prosecutors of the Public Prosecutor’s Office shall be equal to the basic remuneration of judges of the Supreme Court. The Public Prosecutor General shall be entitled to a special-duty allowance, the amount of which is determined by applying a multiplier of 1.0 to the base for determining the basic remuneration of the public prosecutor.”

b) § 9 shall be replaced by the following:

“§ 9. The provisions of § 2-8 shall not apply to public prosecutors of the Public Prosecutor General’s Office.”

c) in § 12:

- point 1 shall be repealed,

- point 2 shall be replaced by the following:

“2) the list of functions performed by public prosecutors and the amount of special-duty allowances due in connection with their performance, as well as the amount of special-duty allowance for public prosecutors delegated to the Public Prosecutor General’s Office, the Ministry

of Justice or the National School of Judiciary and Public Prosecution, and the manner of determining them, taking into account the scope of duties, the type of function and the size of the organisational unit.”;

62) in Article 127:

a) § 1 shall be replaced by the following:

“§ 1. The provisions of Articles 69–71, Article 73, Article 74, Article 76, Article 85 § 4, Articles 94d–94g, Articles 99–102 and Article 104 of the Act of 27 July 2001 – Law on the System of Common Courts shall apply *mutatis mutandis* to public prosecutors, unless the provisions of this Act provide otherwise. The powers of the National Council of the Judiciary provided for in the Act of 27 July 2001 – Law on the System of Common Courts shall be vested, with respect to public prosecutors, in the National Prosecution Council, the powers of the Minister of Justice shall be vested in the Public Prosecutor General, and the powers of the boards and presidents of the relevant courts shall be vested in the relevant superior public prosecutors.”,

b) § 2 shall be replaced by the following:

“§ 2. A public prosecutor may continue to occupy a position after attaining 65 years of age if the Public Prosecutor General approves the public prosecutor’s continued occupation of the position, at the request of the public prosecutor, upon presentation of a certificate stating that he/she is capable of performing the duties of a public prosecutor considering his/her health, and after seeking the opinion of the National Prosecution Council and the relevant superior public prosecutor.”,

c) § 5 shall be repealed,

63) Article 129 shall be replaced by the following:

“Article 129 The Minister of Justice shall specify, by means of a regulation, in agreement with the minister responsible for labour matters, and after seeking the opinion of the Public Prosecutor General, the method and procedure for the determination and payment of remunerations and family remunerations to retired public prosecutors and their family members, as well as deadlines for transferring the contributions referred to in Article 126 § 2 to the Social Insurance Institution, out of consideration for the need to provide eligible persons with the continuity of sources of maintenance and convenience in the collection of remunerations and family remunerations.”;

64) Article 133 shall be repealed;

65) in Article 134:

a) § 2 shall be replaced by the following:

“§ 2. The Public Prosecutor General shall keep the register referred to in § 1 for public prosecutors of the Public Prosecutor’s General Office, whereas the President of the Institute of



National Remembrance – for public prosecutors of the Chief Commission, public prosecutors of branch commissions, public prosecutors of the Vetting Office and public prosecutors of branch vetting offices.”;

b) §§ 4 and 5 shall be replaced by the following:

“§ 4. A provincial public prosecutor, a regional public prosecutor and the President of the Institute of National Remembrance shall promptly provide the Public Prosecutor General with up-to-date information on public prosecutors and assistant public prosecutors. The information includes a public prosecutor’s or an assistant public prosecutor’s first and last names, date of his/her appointment or nomination, as well as details on suspension in duties.

§ 5. On the basis of information provided by provincial public prosecutors, regional public prosecutors and the President of the Institute of National Remembrance, the Public Prosecutor General shall keep a register of public prosecutors and assistant public prosecutors, containing the information referred to in § 4, with the use of a computerised system.”;

66) in Article 135:

a) § 1 shall be replaced by the following:

“§ 1. A public prosecutor may not be held criminally liable nor remanded in custody without the permission of a disciplinary court, nor detained without the permission of a disciplinary superior. The above shall not apply to being detained in flagrante while committing the offence. Until a permission is given to prosecute a public prosecutor or the Public Prosecutor General, only measures of the utmost urgency are allowed, and they need to be immediately notified to the superior public prosecutor.”;

b) § 2(1) shall be replaced by the following:

“1) of the Public Prosecutor General’s Office – the Public Prosecutor General shall be immediately notified,”,

c) § 15 shall be repealed,

67) Article 139 §§ 7 and 8 shall be replaced by the following:

“§ 7. The Public Prosecutor General may reprove the Public Prosecutor General’ Deputy, provincial public prosecutor, regional public prosecutor and district public prosecutor in writing if he/she finds significant misconduct in the management of the public prosecutor’s office or in the exercise of supervision. The provisions of §§ 2 to 6 shall apply *mutatis mutandis*.

§ 8. The power referred to in § 7 shall also be vested in the provincial public prosecutor vis-à-vis the regional and district public prosecutor, operating in the area of the region, and the regional public prosecutor vis-à-vis the subordinate district public prosecutor. The provincial public prosecutor shall notify the competent regional prosecutor of the fact that the district public prosecutor has been reprovved, and in all cases of more serious misconduct, the Public Prosecutor General shall also be notified. The provisions of §§ 2 to 6 shall apply *mutatis mutandis*.”;

68) Article 140 § 6 shall be replaced by the following:

“§ 6. The provincial public prosecutor shall notify the competent public prosecutor of the regional public prosecutor’s office of the fact that the public prosecutor of the district public prosecutor’s office has been reprovved, and in all cases of more serious misconduct, the Public Prosecutor General shall also be notified.

69) Article 142 § 1(2b) shall be replaced by the following:

“2b) a fine in the amount of the one-month basic remuneration payable for the month preceding the final and non-appealable conviction plus the public prosecutor’s long service and special-duty allowances;”

70) in Article 153:

a) § 1 shall be replaced by the following:

“§ 1. The disciplinary ombudsmen shall be: the disciplinary ombudsman of the Public Prosecutor General, the first deputy disciplinary ombudsman of the Public Prosecutor General and the disciplinary ombudsman’s deputies, one for each provincial area. Disciplinary ombudsmen shall be appointed by the Public Prosecutor General for a term of office.”,

b) § 4 shall be replaced by the following:

“§ 4. The Public Prosecutor General may dismiss the disciplinary ombudsman of the Public Prosecutor General, the first deputy disciplinary ombudsman of the Public Prosecutor General and the disciplinary ombudsman’s deputies appointed to a given provincial area from his/her function before the end of the term of office if there is a grounded suspicion of him/her having committed of a manifest and glaring violation of the law or impairment of the dignity of the office, in particular with regard to actions or omissions relative to investigative or disciplinary proceedings, as well as when the decision referred to in Article 161 § 1 has been pronounced.”;

71) Article 153a § 2 shall be replaced by the following:

“§ 2. The Disciplinary Ombudsman of the Minister of Justice shall be appointed from among the public prosecutors designated for each case by the Public Prosecutor General. In justified cases, in particular the death or prolonged obstruction of the Disciplinary Ombudsman of the Minister of Justice, the Minister of Justice shall appoint another public prosecutor from among those designated by the Public Prosecutor General in place of this person.”;

72) Article 154 § 1 shall be replaced by the following:

“§ 1. The disciplinary ombudsman shall launch investigative proceedings at the request of the Public Prosecutor General, the competent provincial or regional public prosecutor, as well as on his/her own initiative, after preliminary clarification of the circumstances necessary to determine the essential elements of a misconduct, as well as after the public prosecutor has submitted a statement or explanations in writing, unless this is impossible. Whenever investigative proceedings are launched, the competent ombudsman shall immediately notify the

Public Prosecutor General's disciplinary ombudsman, who may refer further proceedings to another ombudsman. The investigative proceedings should be completed within 30 days from the date of the first action taken by the disciplinary ombudsman.”;

73) Article 162 § 1 shall be replaced by the following:

“§ 1. The Public Prosecutor General, the accused and the disciplinary ombudsman shall have the right to appeal against the decision of a disciplinary court passed in the first instance. The appeal should be heard within 2 months of its being lodged with the disciplinary court of the second instance.”;

74) in Article 175, § 4 shall be repealed;

75) Article 178 shall be replaced by the following:

“Article 178 § 1. The Minister of Justice shall specify, by means of a regulation, and after seeking the opinion of the Public Prosecutor General, the detailed scope and way of performing duties by public prosecutor's assistants, out of consideration for the principles of efficiency, rationality, economical and fast action, ensuring a reliable execution of entrusted tasks.

§ 2. The Minister of Justice shall specify, by means of a regulation, and after seeking the opinion of the Public Prosecutor General, the amount of the remuneration of public prosecutor's assistants, taking into consideration the level of remuneration of public prosecutors and clerks of public prosecutor's offices, as well as the principle of varying remuneration of public prosecutor's assistants depending on whether they are employed in a district, regional or provincial public prosecutor's office, or the Public Prosecutor General's Office.”;

76) in Article 179, § 1a shall be repealed;

77) in Article 180:

a) §§ 7 and 8 shall be replaced by the following:

“§ 7. The Minister of Justice shall specify, by means of a regulation, and after seeking the opinion of the Public Prosecutor General, the detailed method and procedure for holding competitions for the position of a public prosecutor's assistant, in particular the composition of competition commissions and their operation method and procedure, the stages and course of the competition, as well as the range and method of providing access to information to a candidate, out of consideration for the appropriate selection of staff in the public prosecutor's office.

§ 8. The Minister of Justice shall specify, by means of a regulation, in agreement with the minister responsible for internal affairs, and after seeking the opinion of the Public Prosecutor General, the detailed method and procedure for obtaining information by the Police commander about a person applying for the position of a public prosecutor's assistant and the model information questionnaire, taking into consideration the nature and place of work, efficiency of

obtaining information, attention to the protection of candidates' personal goods, and their rights and freedoms protected by the Constitution.”,

b) § 9 shall be repealed,

78) Article 191a §1(3) shall be replaced by the following:

“3) provincial public prosecutor's office and the Public Prosecutor General's Office – the Public Prosecutor General.”.

**Article 2.** In the Act of 14 June 1960 – Code of Administrative Procedure (Journal of Laws of 2024, item 572), the words “the minister responsible for the affairs of justice”, as used in Article 22 § 3(4), shall be replaced by “the Minister of Justice”.

**Article 3.** In the Act of 6 April 1990 on the Police (Journal of Laws of 2024, item 145),

- 1) the words “the minister responsible for the affairs of justice”, as used in Article 4(2), shall be replaced by the words “the Minister of Justice”;
- 2) the words “First Deputy Public Prosecutor General, National Public Prosecutor”, as used in Article 19(1), (9) and (16a), and Article 20(11), in different cases, shall be replaced by the words “Public Prosecutor General”, as applicable.

**Article 4.** In the Act of 12 October 1990 on the Border Guard (Journal of Laws of 2023, items 1080, 1088, 1489 and 1723), the words “First Deputy Public Prosecutor General, National Public Prosecutor”, as used in Article 9e(1), (4)(1) and (17a), and in Article 10c(10), in different cases, shall be replaced by the words “Public Prosecutor General”, as applicable.

**Article 5.** In the Act of 21 June 1996 on special forms of supervision by the minister responsible for internal affairs (Journal of Laws of 2024, item 309):

- 1) the words “First Deputy Public Prosecutor General, National Public Prosecutor”, as used in Article 11n(1), (3), (7), (8), (15) to (21), (23), (26) and (27) and in Article 11p(11), in different cases, shall be replaced by the words “Public Prosecutor General”, as applicable.
- 2) the words “National Public Prosecutor's Office”, as used in Article 2(2a), shall be replaced by the words “Public Prosecutor General's Office”.

**Article 6.** In the Act of 6 June 1997 – Code of Criminal Procedure (Journal of Laws of 2024, item 37):

- 1) the words “National Public Prosecutor”, as used in Article 589zb § 1, shall be replaced by the words “Public Prosecutor General”;
- 2) the words “National Public Prosecutor's Office”, as used in Article 615a(1), shall be replaced by the words “Public Prosecutor General's Office”.

**Article 7.** In the Act of 21 August 1997 – Law on the Organisation of Military Courts (Journal of Laws of 2022, item 2250), the words “National Public Prosecutor”, as used in Article 40a(2), shall be replaced by the words “Public Prosecutor General”.

**Article 8.** The Act of 21 August 1997 on real estate management (Journal of Laws of 2023, item 344, as amended) shall be amended as follows:

- 1) the words “the minister responsible for affairs of justice”, as used in Article 46(4)(3), shall be replaced by the words “the Minister of Justice”;
- 2) the words “National Public Prosecutor’s Office”, as used in Article 60(1)(1), shall be replaced by the words “Public Prosecutor General’s Office”.

**Article 9.** In the Act of 18 December 1998 on employees of courts and prosecution service (Journal of Laws of 2018, item 577):

- 1) the words “National Public Prosecutor’s Office”, as used in Article 5(4a), Article 11b(9) and (12), in different cases, shall be replaced by the words “Public Prosecutor General’s Office”, as applicable.
- 2) the words “National Public Prosecutor”, as used in Article 5(4a), Article 11b(1), (2) and (4), shall be replaced by the words “Public Prosecutor General”.

**Article 10.** In the Act of 18 December 1998 on the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation (Journal of Laws of 2023, item 102):

- 1) the words “National Public Prosecutor’s Office”, as used in Article 47(5), shall be replaced by the words “Public Prosecutor General’s Office”;
- 2) the words “the minister responsible for the affairs of justice”, as used in Article 50(2), shall be replaced by the words “the Minister of Justice”;
- 3) the words “National Public Prosecutor”, as used in Article 51(7), shall be replaced by the words “Public Prosecutor General”.

**Article 11.** In the Act of 30 June 2000 – Industrial Property Law (Journal of Laws of 2023, item 1170), the words “Public Prosecutor General of the Republic of Poland”, as used in Article 89(2), Article 167, Article 169(3), Article 193, and Article 254, in different cases, shall be replaced by the words “Public Prosecutor General”, as applicable.

**Article 12.** In the Act of 27 July 2001 – Law on the System of Common Courts (Journal of Laws of 2024, item 334), the words “National Public Prosecutor”, as used in Article 112b § 2, shall be replaced by the words “Public Prosecutor General”.

**Article 13.** In the Act of 24 August 2001 on Military Police and military law enforcement agencies (Journal of Laws of 2023, items 1266 and 1860), the words “First Deputy Public Prosecutor General, National Public Prosecutor”, as used in Article 31(1), (4)(1) and (17a), in different cases, shall be replaced by the words “Public Prosecutor General”, as applicable.

**Article 14.** In the Act of 24 May 2002 on the Internal Security Agency and the Intelligence Agency (Journal of Laws of 2023, items 1136, 1834 and 1860), the words “First Deputy Prosecutor General National Prosecutor”, as used in Article 22b(3), in Article 27(1), (3), (8), (9),

(11a) in points 2, 14, 15, 15f–15i, 15k, 15l and 16a–16c, in Article 28(6), in Article 29(2a) and (4), in Article 30(2) and (4), in Article 32c(1), (4), (7), (10) and (12), and in Article 34a(10), in different cases, shall be replaced by the words “Public Prosecutor General”, as applicable.

**Article 15.** In the Act of 30 August 2002 – Law on Proceedings before Administrative Courts (Journal of Laws of 2024, item 309), the words “National Public Prosecutor’s Office”, as used in Article 265, in different cases, shall be replaced by the words “Public Prosecutor General’s Office”, as applicable.

**Article 16.** In the Act of 27 August 2004 on health care services financed from public funds (Journal of Laws of 2024, item 146), in Article 16(2), after the words “respectively,”, the words “of the Public Prosecutor General,” shall be added.

**Article 17.** In the Act of 29 July 2005 on Capital Market Supervision (Journal of Laws 2023, items 188 and 1723), in Article 40(1), in the second sentence, the words “National Public Prosecutor” shall be replaced by the words “Public Prosecutor General”.

**Article 18.** In the Act of 9 June 2006 on the Central Anti-Corruption Bureau (Journal of Laws of 2024, item 184), the words “First Deputy Public Prosecutor General, National Public Prosecutor”, as used in Article 17(1), (3), (8), (9), (14), (15), (15f) in point 2, paragraph 15g, in paragraphs 15h–15j, 16a, 17 in points 2 and 17a, in Article 18(6), in Article 19(2), (2a) and (5), in Article 23(10), and in Article 46(3), in different cases, shall be replaced by the words “Public Prosecutor General”, as applicable.

**Article 19.** In the Act of 9 June 2006 on the Military Counterintelligence Service and the Military Intelligence Service (Journal of Laws of 2023, items 81, 1834 and 1860), the words “First Deputy Prosecutor General National Public Prosecutor”, as used in Article 27a(3), in Article 31(1), (3), (6), (7), (10) in points 2, 13, 14, 14f–14h, 15a and 15b, in Article 32(8), in Article 33(2), (2a) and (4), in Article 34(2) and (4), in different cases, shall be replaced by the words “Public Prosecutor General”, as applicable.

**Article 20.** In the Act of 21 July 2006 on Financial Market Supervision (Journal of Laws of 2024, item 135), the words “National Public Prosecutor”, as used in Article 17ca(1), (2) and (2b), in different cases, shall be replaced by the words “Public Prosecutor General”, as applicable.

**Article 21.** In the Act of 18 October 2006 on documents of state security authorities from 1944–1990 and the content of those documents (Journal of Laws of 2024, item 273) the words “National Public Prosecutor’s Office”, as used in Article 22(1)(15), shall be replaced by the words “Public Prosecutor General’s Office”.

**Article 22.** The Act of 23 January 2009 on the National School of Judiciary and Public Prosecution (Journal of Laws of 2022, items 217 and 2695) shall be amended as follows:

- 1) the words “National Public Prosecutor”, as used in Article 2(2)(9), Article 6(1)(3) and (6), Article 15a(5), Article 17(1), Article 37d(2), Article 53b(2), in different cases, shall be replaced by the words “Public Prosecutor General”, as applicable;
- 2) the words “Minister of Justice – Public Prosecutor General”, as used in Article 15b(1), in different cases, shall be replaced by the words “Public Prosecutor General”, as applicable.
- 3) the words “National Council of Public Prosecutors at the Public Prosecutor General”, as used in Article 6(1)(4) and (6), Article 12(1), (2) and (5a), Article 20(2)(6) and Article 34(7), in different cases, shall be replaced by the words “National Prosecution Council”, as applicable;
- 4) Article 12(4) shall be replaced by the following:

“4. In the case of the appointment of a judge or public prosecutor to serve as Director of the National School, the Minister of Justice or the Public Prosecutor General shall delegate the judge or public prosecutor, respectively, to the National School for the duration of the term of office under the rules set forth in the Act of 27 July 2001 – Law on the System of Common Courts (Journal of Laws of 2024, item 334) or the Act of 28 January 2016 – Law on the Public Prosecutor’s Office (Journal of Laws of 2024, item 390), respectively.”;

- 5) Article 15b(1) shall be replaced by the following:

“1. The schedule shall take into account the training needs as reported by the Minister of Justice, the Public Prosecutor General, the National Council of the Judiciary, the National Prosecution Council, the presidents of appellate courts and provincial public prosecutors.”;

- 6) in Article 34:

- a) paragraph 4(3) shall be replaced by the following:

“3) 7 public prosecutors designated by the Public Prosecutor General, specialists in the various fields of law and related sciences as covered by the examination”,

- b) paragraph 5(3) shall be replaced by the following:

“3) 7 public prosecutors designated by the Public Prosecutor General, specialists in the various fields of law and related sciences as covered by the examination;”.

**Article 23.** In the Act of 27 August 2009 on Public Finance (Journal of Laws of 2023, item 1270, as amended), Article 139(2) shall be replaced by the following:

“2. The following shall be included by the Minister of Finance in the Budget Bill: the income and expenditures of the Chancellery of the Sejm, the Chancellery of the Senate, the Chancellery of the President of the Republic of Poland, the Constitutional Tribunal, the Supreme Audit Office, the Supreme Court, the Supreme Administrative Court together with the provincial administrative courts, general organisational units of the public prosecutor’s office, the National Council of the Judiciary, the general judiciary, the Commissioner for Human Rights, the Ombudsman for Children, the National Broadcasting Council, the President of the Office for Personal Data

Protection, the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation, the National Election Office and the State Labour Inspection.”.

**Article 24.** In the Act of 9 April 2010 on the Prison Service (Journal of Laws of 2023, items 1683 and 1860), the words “First Deputy Public Prosecutor General, National Public Prosecutor”, as used in Article 23p, paragraphs 1, 3, 7, 8, 15–21, 23, 26 and 27 in point 2, in Article 23q, paragraphs 4–7, 9–10 and 12, in Article 23r, paragraphs 2, 3, 5 and 6, in Article 23s in paragraph 11, and in Article 25c, paragraph 2 in point 2, in different cases, shall be replaced by the words “Public Prosecutor General”, as applicable.

**Article 25.** In the Act of 12 May 2011 on the National Council of the Judiciary (Journal of Laws of 2021, item 269 and of 2023, item 1615), the words “National Council of Public Prosecutors”, as used in Article 36(1) and (2), in different cases, shall be replaced by the words “National Prosecution Council”, as applicable.

**Article 26.** In the Act of 10 June 2016 on anti-terrorist activities (Journal of Laws 2024, item 92), the words “First Deputy Public Prosecutor General, National Public Prosecutor”, as used in Article 9(4), (6) to (7), (9), in different cases, shall be replaced by the words “Public Prosecutor General”, as applicable.

**Article 27.** In the Act of 16 November 2016 on National Revenue Administration (Journal of Laws of 2023, item 615, as amended), the words “First Deputy Public Prosecutor General, National Public Prosecutor”, as used in Article 118, paragraphs 1, 3, 6, 7, 9, 13, 15–17, in Article 119, paragraphs 3–6 and 9, in Article 120, paragraph 2(1), in Article 122, paragraph 1(1) and in paragraphs 1–5, in Article 123, paragraph 3, and in Article 127a, paragraph 9, in different cases, shall be replaced by the words “Public Prosecutor General”, as applicable.

**Article 28.** In the Act of 30 November 2016 on the organisation of the Constitutional Tribunal and the mode of proceedings before the Constitutional Tribunal (Journal of Laws of 2019, item 2393):

1) the words “Public Prosecutor General-Minister of Justice”, as used in Article 13(3), shall be replaced by the words “Public Prosecutor General”;

2) in Article 43(3):

a) the words “National Public Prosecutor’s Office”, in different cases, shall be replaced by the words “Public Prosecutor General’s Office”, as applicable,

b) the words “National Public Prosecutor” shall be replaced by the words “Public Prosecutor General”.

**Article 29.** In the Act of 8 December 2017 on the State Protection Service (Journal of Laws of 2024, item 325), the words “First Deputy Public Prosecutor General, National Public Prosecutor”, as used in Article 42 in paragraph 1 in the common part and in paragraph 4, in Article 44 in paragraphs 1 and 2, in Article 46 in paragraph 2, in Article 48 in paragraphs 1 and 2 in point



2 and in paragraph 3 in the introduction to the enumeration, in paragraphs 4 and 5, in Article 49 in paragraphs 2 and 3, in Article 50, in Article 52 in paragraph 1, in Article 53 in paragraph 2, and in Article 54 in paragraph 1 in point 2, in different cases, shall be replaced by the words “Public Prosecutor General”, as applicable.

**Article 30.** The Act of 8 December 2017 on the Supreme Court (Journal of Laws 2023, items 1093, 1532 and 1672) shall be amended as follows:

1) in Article 76:

a) § 1 shall be replaced by the following:

“§ 1. The Disciplinary Ombudsman of the Supreme Court shall undertake investigative measures at the request of the First President of the Supreme Court, the Board of the Supreme Court, the Public Prosecutor General, or on his/her own initiative, after preliminary clarification of the circumstances necessary to establish the elements of the offence, as well as the provision of explanations by the judge, unless the provision of such explanations is not possible. The investigative measures should be completed within 30 days from the date of the first measure taken by the Disciplinary Ombudsman of the Supreme Court.”,

b) § 8 shall be replaced by the following:

“§ 8. The President of the Republic of Poland may appoint – from among the judges of the Supreme Court, judges of common courts or judges of military courts – an Extraordinary Disciplinary Ombudsman to handle a specific case involving a judge of the Supreme Court. In the case of misconducts meeting the elements of publicly prosecuted intentional offence or an intentional fiscal offence, the President of the Republic of Poland may also appoint an Extraordinary Disciplinary Ombudsman from among public prosecutors of the Public Prosecutor General’s Office designated by the Public Prosecutor General. The appointment of the Extraordinary Disciplinary Ombudsman shall be tantamount to a request for investigative measures. The Extraordinary Disciplinary Ombudsman may initiate disciplinary proceedings or join pending proceedings. The appointment of the Extraordinary Disciplinary Ombudsman shall preclude the Disciplinary Ombudsman of the Supreme Court or his/her deputy from taking action in the case. In justified cases, in particular the death or prolonged obstruction of the Extraordinary Disciplinary Ombudsman in performing his/her function, the President of the Republic of Poland shall appoint another judge or public prosecutor in place of this person. The provisions of § 1–6 shall apply *mutatis mutandis* to actions taken by the Extraordinary Disciplinary Ombudsman. The function of the Extraordinary Disciplinary Ombudsman shall expire when the decision on refusal to initiate disciplinary proceedings, discontinuance of disciplinary proceedings or when a decision terminating disciplinary proceedings becomes final and non-appealable.”;

2) the words “National Public Prosecutor’s Office”, as used in Article 85 § 3, in different cases, shall be replaced by the words “Public Prosecutor General’s Office”, as applicable.

**Article 31.** In the Act of 1 March 2018 on anti-money laundering and countering the financing of terrorism (Journal of Laws of 2023, items 1124, 1285, 1723 and 1843), the words “National Public Prosecutor”, as used in Article 20(1)(3)(n) shall be replaced by the words “Public Prosecutor General”.

**Article 32.** In the Act of 9 May 2018 on the processing of passenger flight data (Journal of Laws 2022, item 1441), the words “National Public Prosecutor”, as used in Article 36(5), shall be replaced by the words “Public Prosecutor General”.

**Article 33.** In the Act of 4 July 2019 on the system of development institutions (Journal of Laws of 2019, item 1572), the words “the minister responsible for affairs of justice”, as used in Article 21ab(2)(2), shall be replaced by the words “the Minister of Justice”.

**Article 34.** In the Act of 30 August 2019 on the State Commission for the Investigation of Acts Against Sexual Freedom and Decency Against a Minor Under 15 Years of Age (Journal of Laws of 2024, item 94), the words “National Council of Public Prosecutors at the Public Prosecutor General”, as used in Article 6(9), shall be replaced by the words “National Prosecution Council”.

**Article 35.** In the Act of 11 September 2019 – Public Procurement Law (Journal of Laws of 2023, items 1605 and 1720), the words “Minister of Justice – Public Prosecutor General”, as used in Article 11(5)(8), shall be replaced by the words “Minister of Justice”.

**Article 36.** In the Act of 27 January 2022 on Passport Documents (Journal of Laws 2023, items 1302 and 1941), the words “the Public Prosecutor General, the National Public Prosecutor and other Public Prosecutors General’s deputies”, as used in Article 49(11), shall be replaced by “the Public Prosecutor General and Public Prosecutors General’s deputies”.

**Article 37.** In the Act of 11 March 2022 on Homeland Defence (Journal of Laws 2024, item 248), the words “National Public Prosecutor’s Office”, as used in Article 2(26), shall be replaced by the words “Public Prosecutor General’s Office.”

**Article 38.** In the Act of 13 April 2022 on special solutions for countering support for aggression against Ukraine and for protecting national security (Journal of Laws of 2024, item 507), the words “National Public Prosecutor”, as used in Article 3(3)(11), shall be replaced by the words “Public Prosecutor General.”

**Article 39.** In the Act of 1 December 2022 on the Financial Information System (Journal of Laws of 2023, item 180), the words “National Public Prosecutor”, as used in Article 19(2)(1), shall be replaced by the words “Public Prosecutor General”.

**Article 40.** 1. The National Public Prosecutor’s Office and the National Public Prosecutor shall be abolished.

2. The Public Prosecutor General shall be established.

**Article 41.** The first election of the Public Prosecutor General after the date of entry into force of this Act shall be made within two months from the date of entry into force of this Act, in accordance with the procedure set forth in Articles 13b–13r of the Act amended by Article 1, except that:

- 1) the tasks of the National Council of Public Prosecutors referred to in Article 13b § 3(3) of the Act amended by Article 1, as amended by this Act, shall be performed by the National Council of Public Prosecutors at the Public Prosecutor General;
- 2) The Speaker of the Sejm shall announce in the Official Journal of the Republic of Poland “Monitor Polski”, within 7 days from the date of entry into force of the Act, information on the possibility, manner and deadline for submitting candidates for Public Prosecutor General;
- 3) the entities referred to in Article 13b § 3(1), (2), (4) and (5) of the Act amended by Article 1 and the National Council of Public Prosecutors at the Public Prosecutor General shall propose candidates for the Public Prosecutor General within one month of the entry into force of the Act.

**Article 42.** Until the date on which the Public Prosecutor General elected in accordance with the procedure referred to in Article 41 takes office, the duties of the Public Prosecutor General shall be performed by the former First Deputy Prosecutor General, National Public Prosecutor.

**Article 43.** As of the date of entry into force of the Act, the functions of Deputy Public Prosecutors General, appointed on the basis of the current legislation, shall cease to be performed.

**Article 44.** 1. The Public Prosecutor General, elected according to the procedure referred to in Article 41, shall, within 60 days from the date of taking the oath of office, appoint public prosecutors to the positions of prosecutors of the Public Prosecutor General’s Office from among the prosecutors who meet the requirements set forth in Article 76 § 1 of the Act amended by Article 1.

2. The Public Prosecutor General, elected in accordance with the procedure referred to in Article 41, shall, within the period referred to in paragraph 1, transfer the current public prosecutors of the National Public Prosecutor’s Office, whom he/she has not appointed as prosecutors of the Public Prosecutor General’s Office, to another position and place of duty in the general organisational units of the public prosecutor’s office.

3. The Public Prosecutor General, when appointing the current public prosecutors of the National Public Prosecutor’s Office to the positions of public prosecutors of the Public Prosecutor General’s Office or transferring them to another position and place of duty in general organisational units of the public prosecutor’s office, shall take into account the suitability of the

prosecutor to serve in the given organisational unit of the public prosecutor's office. In determining this suitability, the Public Prosecutor General shall take into account:

- 1) possessed qualifications, necessary to carry out the tasks of the prosecution units of the various ranks;
- 2) the course of previous service, including periods of service in particular prosecutorial positions and periods of being delegated to other organisational units of the public prosecutor's office;
- 3) the scope and nature of the tasks performed in each prosecutorial position.

4. When transferring the current public prosecutor of the National Public Prosecutor's Office, the Public Prosecutor General shall determine the place of service taking into account his/her life situation.

5. The appointment or transfer of a current public prosecutor of the National Public Prosecutor's Office must be reasoned.

6. For the current public prosecutors of the National Public Prosecutor's Office, appointed to the position of public prosecutor of the Public Prosecutor General's Office, the period of service in a position of public prosecutor of the National Public Prosecutor's Office shall be counted as part of the period of service required to obtain basic remuneration at the rate of promotion to the position of public prosecutor of the Public Prosecutor General's Office.

7. The current public prosecutors of the National Public Prosecutor's Office transferred to another official position in general organisational units of the public prosecutor's office shall be entitled to basic remuneration determined on the basis of the rates of basic remuneration as specified in Article 124 § 3 of the Act amended by Article 1. The public prosecutor referred to in the first sentence shall be entitled to a basic remuneration at an appropriate higher rate if previous periods of service in an official position in the organisational unit to which the previous prosecutor of the National Public Prosecutor's Office was transferred, as well as in official positions in higher-level units, including the National Public Prosecutor's Office, pursuant to Article 124 § 5 of the Act amended in Article 1, justify the determination of the public prosecutor's basic remuneration at a rate higher than that specified in Article 124 § 3 of the Act amended in Article 1. The period of service referred to in Article 124(5) of the Act amended in Article 1, giving the right to receive a directly higher rate, shall include that part of the period of employment referred to in the second sentence which did not affect the determination of the remuneration referred to in the second sentence.

8. Until the date of appointment or transfer referred to in paragraph 3, the current public prosecutors of the National Public Prosecutor's Office shall perform their tasks in the Public Prosecutor General's Office.

9. The public prosecutor shall have the right to appeal against the transfer decision to the regional court – labour court, having jurisdiction over the public prosecutor's place of residence,

within 21 days from the date of service of this decision. The filing of an appeal shall not affect the effectiveness of the transfer.

**Article 45.** The cases conducted in the Internal Affairs Division of the National Public Prosecutor's Office, referred to in Article 19 § 4 of the Act amended by Article 1 in the current wording, shall be transferred by the Public Prosecutor General to the organisational units of the public prosecutor's office.

**Article 46.** Appointments of public prosecutors to hold positions in organisational units of the public prosecutor's office made on the basis of previous regulations shall remain in force.

**Article 47.** Delegations granted on the basis of the previous regulations shall remain in force and become delegations under the Act amended by Article 1.

**Article 48.** Public prosecutor's assistants in the National Public Prosecutor's Office shall become public prosecutor's assistants in the Public Prosecutor General's Office.

**Article 49.** Officials and other employees of the National Public Prosecutor's Office shall become employees of the Public Prosecutor General's Office.

**Article 50.** 1. As of the date of the oath of office being taken by the Public Prosecutor General elected under the procedure referred to in Article 41, the National Council of Public Prosecutors at the Public Prosecutor General shall be abolished.

2. During the period until the date of the oath of office being taken by the Public Prosecutor General elected in accordance with the procedure referred to in Article 41, the National Council of Public Prosecutors at the Public Prosecutor General shall exclusively perform the task referred to in Article 41(1).

**Article 51.** 1. The National Prosecution Council shall be established.

2. The entities referred to in Article 42b § 1(2) to (7) of the Act amended by Article 1 shall propose or elect their representatives for the National Prosecution Council within 30 days of the entry into force of the Act. The assembly of prosecutors of the Public Prosecutor General's Office shall elect its representative to the National Prosecution Council within 90 days from the date of the oath of office taken by the Public Prosecutor General elected in accordance with the procedure referred to in Article 41. Until a representative is elected by the assembly of public prosecutors of the Public Prosecutor General's Office, his/her function shall be performed by a public prosecutor designated by the Public Prosecutor General from among the prosecutors performing tasks in the Public Prosecutor General's Office. The representative elected by the assembly of public prosecutors of the Public Prosecutor General's Office referred to in the preceding sentence shall complete his/her term of office jointly with the other elected members of the National Prosecution Council.

**Article 52.** The first meeting of the National Prosecution Council shall be convened by the Public Prosecutor General or the former First Deputy Public Prosecutor General, National Public Prosecutor.

**Article 53.** A Social Council shall be established at the Public Prosecutor General's Office.

**Article 54.** Appointments of disciplinary ombudsmen made under the Act amended in Article 1, shall remain in effect.

**Article 55.** Proceedings in the cases referred to in Articles 82, 84, 103, 104, 117 and 127, as well as disciplinary proceedings initiated and not concluded before the entry into force of this Act, shall be conducted on the basis of the provisions of the Act amended by Article 1, as amended by this Act. Actions performed in these cases shall remain in force as long as they were performed in compliance with the previous regulations.

**Article 56.** The Public Prosecutor General's Office shall assume, as of the date of its establishment, the rights and obligations of the National Public Prosecutor's Office.

**Article 57.** In order to implement the Act, the Prime Minister shall, by means of a regulation, transfer the planned budget income and expenditures, including remuneration, between Part 37 "Justice" and the part corresponding to the general organisational units of the public prosecutor's office, while maintaining the allocation of public funds resulting from the Budget Act for the training and professional development of the staff of the general organisational units of the public prosecutor's office.

**Article 58.** 1. The existing implementing regulations issued pursuant to Article 36 § 1 and Article 124 § 12 of the Act amended by Article 1 shall remain in effect until the effective date of new implementing regulations issued pursuant to Article 36 § 1 and Article 124 § 12 of the Act amended by Article 1, as amended by this Act, but no longer than for 2 months from the effective date of this Act, and may be amended pursuant to the existing regulations.

2. The existing implementing regulations issued pursuant to Article 11b(12) and Article 14(1) of the Act amended by Article 9 shall remain in effect until the effective date of new implementing regulations issued pursuant to Article 11b(12) and Article 14(1) of the Act amended by Article 9, as amended by this Act, but no longer than for 2 months from the effective date of this Act, and may be amended pursuant to the existing regulations.

3. The existing implementing regulations issued pursuant to Article 41(1) of the Act amended by Article 17 shall remain in effect until the effective date of new implementing regulations issued pursuant to Article 41(1) of the Act amended by Article 17, as amended by this Act, but no longer than for 2 months from the effective date of this Act, and may be amended pursuant to the existing regulations.

4. The existing implementing regulations issued pursuant to Article 23p(28) of the Act amended by Article 24 shall remain in effect until the effective date of new implementing

regulations issued pursuant to Article 23p(28) of the Act amended by Article 24, as amended by this Act, but no longer than for 2 months from the effective date of this Act, and may be amended pursuant to the existing regulations.

5. The existing implementing regulations issued pursuant to Article 541(13) of the Act amended by Article 37 shall remain in effect until the effective date of new implementing regulations issued pursuant to Article 541(13) of the Act amended by Article 37, as amended by this Act, but no longer than for 2 months from the effective date of this Act, and may be amended pursuant to the existing regulations.

**Article 59.** The existing orders issued pursuant to Article 36 § 2 and 2a of the Act amended by Article 1 shall remain in effect until the effective date of the new implementing regulations issued pursuant to 36 § 2 and 3 of the Act amended by Article 1.

**Article 60.** The Act shall enter into force 30 months following its promulgation.

## **Explanatory report to the draft law**

### **I. Project objective**

The purpose of the bill is to establish an independent prosecution service. This independence is to consist in the exclusion of the public prosecutor's office from the sphere of executive power and the establishment of a body (the Public Prosecutor General) that will function under conditions of legally determined independence.

This will be achieved primarily by separating the functions of the Minister of Justice and the Prosecutor General. In this way, there will be a legally sanctioned rupture of the peculiar personal union between these bodies.

It should be recognised that the implementation of this systemic solution is a *sine qua non* for an independent prosecution service. Independence from the executive is intended to serve the purpose of effective control of situations involving violations of the law by those in power. Without such independence, the prosecutor's office may be used instrumentally to achieve the objectives of political power. Therefore, the separation of the above-mentioned bodies should be implemented with full consistency and ensure real independence. For this reason, the draft also includes a number of mechanisms to support the prosecutor's independence.

### **II. The actual legal and factual situation**

As of 4 March 2016, the Act of 28 January 2016 entered into force. - Law on the Public Prosecutor's Office (Journal of Laws 2024, item 390). This Act led to the merger of the functions of the Minister of Justice and the Prosecutor General, which was tantamount to the nullification of the systemic effort made in earlier years and directed at the separation of these bodies. It should be noted that the Act of 9 October 2009 amending the Act on the Public Prosecutor's Office and certain other acts (Journal of Laws, item 1375, as amended) introduced fundamental system changes concerning the organisation of the public prosecutor's office. The act provided for the separation of the prosecutor's office and its exclusion from the structures of the executive. This solution was the legislator's response to the unfavourable phenomena that took place in the years of 2005 - 2007, and was also a reference to systemic trends in European countries where the need to increase the independence of the prosecution service was highlighted.

The 2009 Act stipulated that the Prosecutor General was appointed by the President of the Republic of Poland no later than three months before the expiry of the term of office of the Prosecutor General or within three months after its expiry from among candidates put forward by the National Judicial Council and the National Prosecution Council. The National Council of the Judiciary and the National Council of the Public Prosecutor's Office each put forward one candidate for Public Prosecutor General no later than four months before the expiry of the term of office of the Public Prosecutor General or within two months of its expiry.

The solutions introduced by the 2016 Act were a retrograde step in the functioning of the public prosecution service in the Republic of Poland, as they effectively led to the elimination of independence in the public prosecution service, thereby undermining its systemic importance. The re-unification of the office of the Prosecutor General and the functions of the Minister of Justice essentially eliminated external independence.

In the current state of the law, the Prosecutor General directs the prosecutor's office by issuing orders, guidelines and instructions (Article 13 § 1 of the Law on the Public Prosecutor's Office), including instructions as to the content of procedural actions (Article 7 § 1 and 2 of the Law on the Public Prosecutor's Office). The Prosecutor General has a significant impact on the day-to-day activities of the prosecution service: he can familiarise himself with ongoing proceedings, obtain information on the prosecutors' intentions, and



influence their specific substantive decisions, including procedural decisions. He or she is also able to provide other authorities and the media with information about the activities of the prosecution service and any specific proceedings. The solution of creating the function of the State Prosecutor as the first of the Deputy State Prosecutors, which could have ensured the separation of the political sphere from the substantive sphere of the prosecution activities, proved to be insufficient.

The Prosecutor General as a politician additionally has a whole range of powers at his disposal to influence prosecutors in the organisational, personnel, financial and disciplinary spheres. He can freely appoint and dismiss persons from their positions in the prosecution service, with the exception of his deputies, for whom the President of the Republic of Poland and the President of the Council of Ministers have limited powers (Article 14 § 1 of the Law on the Prosecution Service). In addition, he appoints prosecutors (Article 74 § 1 of the Law - Law on the Public Prosecutor's Office), decides on promotions and secondments of prosecutors (Article 106 of the Law - Law on the Public Prosecutor's Office), has wide-ranging powers with regard to initiating proceedings Disciplinary and supervision of them.

It should be emphasised that, for the most part, powers of a personnel and organisational nature were transferred to the National Public Prosecutor by virtue of the Act of 7 July 2023 amending the Act - the Code of Civil Procedure, the Act - the Law on the System of Common Courts, the Act - the Code of Criminal Procedure and certain other acts (Journal of Laws, item 1860). The transfer of these powers was intended to limit the possibility of the Minister of Justice - Prosecutor General to influence the organisation and staffing of the prosecutor's office.

However, the limitation of the General Prosecutor's competences to the National Prosecutor has not solved the problems related to the influence of politics on the work of the prosecution service, as the legal system lacks transparent rules for the election of the politically powerful National Prosecutor and the politically appointed General Prosecutor.

The formation of an apolitical procedure for the election of the Prosecutor General is a knotty issue. Relevant indications in this aspect were found in the Opinion of the Venice Commission on the Law - Law on the Public Prosecutor's Office adopted at its meeting on 8-9 December 2017, which was critical of any attempt to politicise the function of the Public Prosecutor General. It should not escape notice that the Prosecutor General, as a politician, still retains the ability to influence the course of proceedings, has the power to obtain information about pending proceedings, and, pursuant to Article 9 § 2 of the Law - Law on the Public Prosecutor's Office, can take charge of any case, as well as decide on the course of proceedings through the power to issue orders.

As a consequence, the principle of independence, so crucial to the proper functioning of the prosecution service in a democratic state under the rule of law, has become a façade. The Law - Law on the Public Prosecutor's Office nullified efforts to make the public prosecutor's office a body independent of political power to carry out tasks of prosecuting crime and upholding the rule of law. This conflicted with international standards on the functioning of the prosecution service found in a number of documents, including the Recommendations of the Committee of Ministers of the Council of Europe R(2000)19 of 6 October 2000 on the role of the prosecution service in the administration of criminal justice, the Report on the Independence of the Judiciary, Section II - Prosecution by the European Commission for Democracy through Law (Venice Commission) of 3 January 2011, as well as Opinion No. 9 (2014) of the Consultative Council of European Prosecutors (CCPE) of 17 December 2014, referred to as the 'Rome Charter' on European standards and principles shaping the status of a prosecutor, and furthermore in the joint opinion of the European Consultative Council of Judges (CCJE) and the European Consultative Council of Prosecutors (CCPE), of 8 December 2009, referred to as the 'Bordeaux Declaration'.

### **III. Differences between the current and the draft legislation**

The project envisages a number of significant changes to the system and organisation of the public prosecutor's office.

#### **1. Establishment of a prosecutor's office independent of the executive branch**

One of the basic premises of the project is to establish a prosecutor's office free from current political influence, in particular from interference from the executive.

To this end, the draft provides for the establishment of a chief prosecuting authority, the Prosecutor General, who will not be attached to the office of the Minister of Justice. The effect of this solution will be to separate the entire prosecution service from government administration, as the Prosecutor General, as the head of all prosecutors, will no longer be exposed to the risk of political influence, in particular from government structures.

In this respect, the draft provides (in the proposed Article 13b § 1 of the Law on Public Prosecutions) that the Prosecutor General will be appointed by the Sejm, with the consent of the Senate. This solution is based on the regulations relating to the appointment of the Ombudsman, which, as indicated by previous systemic practice, have been applied in a prudent manner and have led to the appointment to this position of persons with high professional qualifications and extensive knowledge of the functioning of the legal system.

The draft indicates that the resolution on the appointment of the Prosecutor General will be adopted by the Sejm by an absolute majority (Article 13b § 2 of the Law on the Prosecutor's Office), which will be an exception to the principle of this chamber adopting resolutions by a simple majority, while at the same time fostering a strong mandate for the Prosecutor General to act in the public sphere.

The draft defines the circle of entities that will be able to propose candidates for the position of Prosecutor General (Article 13b § 3 of the Law on Public Prosecutions). These will be:

- 1) a group of at least 35 Members;
- 2) a group of at least 15 senators;
- 3) National Council of Public Prosecutors (proposing candidates from among the persons who have obtained the support of at least 60 prosecutors in active status);
- 4) General Council for Science and Higher Education;
- 5) non-governmental organisations whose statutory tasks include activities related to the protection of the principle of a democratic state of law, the protection of the rule of law and human rights and which have carried out these tasks for a period of at least 3 years preceding the date of the candidate's application.

The shaping of the above catalogue in the manner set out in the draft will ensure that the body appointing the Prosecutor General (the Sejm) will have the opportunity to select from among candidates put forward by both the prosecution community, an institution representing the system of higher education and science, the non-governmental sector and participants in parliamentary life. Such a selection of entities will, on the one hand, ensure the proper level of merit of the candidates and, on the other hand, guarantee social control over the process of appointing the Prosecutor General.

The proposed provisions of Article 13b § 4 - 19 of the Law on the Public Prosecutor's Office standardise the procedure for the election of the Public Prosecutor General, including issues relating to the announcement by the Speaker of the Sejm of information on the possibility, manner and deadline for submitting candidatures, as well as those relating to the manner of submitting candidatures and their verification. The draft also provides that one of the elements of the procedure for selection of the Prosecutor General will be a public

hearing. Pursuant to the proposed Article 13b § 15 of the Law on the Public Prosecutor's Office, the Speaker of the Sejm will organise a public hearing of the candidates for Prosecutor General, including their speech and the opportunity for the participants of the hearing to ask questions. The form and order of the public hearing will be determined by the Speaker of the Sejm.

The draft also provides for the role of the Senate in the appointment of the Prosecutor General (consenting to the appointment of the Prosecutor General), and under the proposed Article 13b § 17 of the Law on the Public Prosecutor's Office, the Senate will adopt a resolution on the subject within one month of receiving the resolution of the Sejm. Failure of the Senate to adopt a resolution within one month will mean that it consents to the appointment of the Prosecutor General. This solution will promote efficiency in the procedure for the appointment of the Prosecutor General.

The proposed Article 13b § 20 of the Law on the Public Prosecutor's Office contains a provision according to which the existing Prosecutor General will perform his duties until the new Prosecutor General takes the oath of office. This normalization will ensure continuity in the performance of the functions of the Prosecutor General.

The proposed Article 13c of the Law on the Public Prosecutor's Office contains the prerequisites for taking up the position of Prosecutor General, relating to professional qualifications and experience. According to this provision, a person will be eligible for appointment to the position of Prosecutor General who:

- 1) is a prosecutor of a general organisational unit of the public prosecutor's office in active status or a prosecutor of the Institute of National Remembrance in active status;
- 2) has at least 20 years' experience as a prosecutor or judge, in active status;
- 3) has held the position of prosecutor for a period of 10 years immediately preceding the date of nomination for the position of Attorney General.

This solution is intended to ensure that the position of Prosecutor General is filled in a way that guarantees the full professionalism of the person holding the position, and that this person has the knowledge and experience necessary to lead the complex hierarchical structure of the prosecution service.

The regulation has been supplemented When transferring an existing prosecutor of the National Public Prosecutor's Office, the Prosecutor General shall determine the place of service taking into account his/her life situation.

The proposed Article 13e § 1 of the Law on the Public Prosecutor's Office specifies the term of office of the Public Prosecutor General (6 years). This arrangement will ensure stability in the management of the prosecutor's office, while protecting the prosecutor's office from interference related to the cycle of political events. At the same time, §2 contains a restriction on occupation of the position of Attorney General by the same person. In this respect, it is indicated that the Prosecutor General, once his/her term of office has ended, may not be reappointed to that position. Paragraph 3, on the other hand, prejudices the fact that the attainment by the Prosecutor General of the age associated with retirement does not affect the end of the term of office. This solution is intended to ensure that the attainment of the age warranting retirement (65 as a rule) does not necessitate the termination of the office of the Prosecutor General.

The proposed Articles 13g and 13h of the Law on the Public Prosecutor's Office contain regulations aimed at strengthening the independence of the Public Prosecutor General relating to restrictions on additional employment, gainful occupations and modes of earning. In this regard, only one exception has been established, which relates to employment in entities of the higher education and science system in teaching, research or research and teaching positions, in a total amount not exceeding the full-time working hours of employees employed in such positions. In addition, the Attorney General will not be allowed to belong

to a political party, a trade union or to engage in public activities incompatible with the dignity of his or her office.

The proposed Article 13i of the Law on the Public Prosecutor's Office contains regulations relating to the immunity of the Public Prosecutor General, who will not be able to be held criminally responsible or deprived of liberty without the prior consent of the Sejm. In addition, the Prosecutor General will not be able to be detained or arrested, except in the case of being caught in the act of committing a crime and if his or her detention is necessary to ensure the proper course of proceedings. Detention will be immediately notified to the Speaker of the Sejm, who will be able to order the immediate release of the detainee. The entities entitled to request consent for the Prosecutor General to be held criminally liable, as well as for detention or pre-trial detention, will be the National Prosecution Council and the Minister of Justice. The regulation also establishes bodies independent of the Prosecutor General as the entities entitled to request the initiation of disciplinary proceedings against the Prosecutor General: The National Council of Public Prosecutors and the Minister of Justice, with the activities of the disciplinary ombudsman to be performed by a member of the National Council of Public Prosecutors who is a public prosecutor or the Disciplinary Ombudsman of the Minister of Justice, respectively. The proposed regulation relating to the immunity and inviolability of the Prosecutor General and disciplinary responsibility is aimed at ensuring effective protection of the operation of the chief prosecutorial authority.

The provisions contained in the proposed Article 13k of the Law on the Public Prosecutor's Office refer to the dismissal of the Public Prosecutor General before the expiry of the term of office. Paragraph 1 sets out the grounds for dismissal; these are:

- 1) resignation from the position of Attorney General;
- 2) permanent incapacity to perform duties due to illness or loss of strength;
- 3) conviction by a final court decision for committing a crime or an offence treasury;
- 4) making a false vetting declaration;
- 5) a final disciplinary penalty.

These grounds are objective in nature and are related to legal events, the occurrence of which fully justifies the dismissal of the Prosecutor General before the expiry of his term of office. Paragraph 2 includes the premise of dismissal consisting of the Prosecutor General's misappropriation of the oath he took. In this case, the dismissal of the Prosecutor General will require the Sejm to assess whether conduct justifying the dismissal has taken place and is related to the violation of the oath of the Prosecutor General (as defined in the proposed Article 13d of the Law - Law on Public Prosecution). In this case, the Sejm will adopt a resolution on the dismissal of the Prosecutor General at the request of the Speaker of the Sejm, a group of at least 35 MPs or a group of at least 15 senators, by a majority of at least 3/5 votes in the presence of at least half of the statutory number of MPs. This solution will provide an additional systemic guarantee of the independence of the Prosecutor General, will negate the risk of political interference in the functioning of this body, and at the same time will ensure social control over the actions of its hub.

The provision of Article 13m of the Law on the Public Prosecutor's Office will ensure continuity in terms of the Prosecutor General. This regulation indicates that in the event of dismissal of the Prosecutor General before the end of the term, in the event of his death, and in the event of suspension, his duties, until the newly appointed Prosecutor General takes office or the suspension is lifted, will be performed by the most senior Deputy Prosecutor General.

In turn, the proposed Article 13n of the Law on the Public Prosecutor's Office determines the official situation of the person holding the position of Prosecutor General in the event of termination of office or resignation from that position; in this respect, the regulation indicates that the person holding the position of Prosecutor General will assume

the position of prosecutor of the Public Prosecutor's Office, unless he or she retires due to reaching the required age. In the event of dismissal due to an adjudicated disciplinary penalty, the person in question will assume the position he or she held on the date of appointment to the position of Prosecutor General (proposed Article 13o), unless the penalty is transfer to another official position or expulsion from the prosecutorial service.

The proposed Article 13p of the Law on the Public Prosecutor's Office contains provisions relating to the obligation of the Public Prosecutor General to present a report on the activities of the public prosecutor's office to the Sejm and the Senate. The provision lists exemplary (and at the same time the most important) elements of this report, i.e. information on the implementation of the tasks of the prosecution service, the state of the prosecution staff, the financial situation of the prosecution service, as well as the cooperation of the prosecution service with other public authorities. The provision further stipulates that the report will be accompanied by the opinion of the National Prosecution Council on the report and the position of the National Prosecution Council on the observance of prosecutorial independence.

Another provision ensuring control over the activities of the Prosecutor General is contained in the proposed Article 13q of the Law on the Public Prosecutor's Office; under this provision, the Speaker of the Sejm, the Speaker of the Senate, the President of the Republic of Poland, the President of the Council of Ministers, the Minister of Justice, the Ombudsman for Civil Rights and the Ombudsman for Children, each within the scope of their jurisdiction, will be able to submit at any time a reasoned written request to the Prosecutor General for the presentation of information concerning a specific aspect of the activities of the public prosecutor's office, but the request cannot relate to the presentation of information on a specific proceeding.

## **2. Establishment of the Social Council of the Attorney General**

The project envisages the establishment of a Social Council at the Prosecutor General. The establishment of this body is an expression of the desire to socialise the processes of managing the sphere of public and ensure the participation of civil society representatives in the exercise of power. The establishment of an auxiliary body of a civic (social) nature, with consultative and advisory powers, can also be seen as the introduction of a balancing element in the operation of a public institution, which enjoys legally sanctioned independence from other public authorities.

The tasks of the Social Council will include the expression of positions on important matters concerning the organisation and functioning of the public prosecutor's office (proposed Article 13r § 2 of the Law on the Public Prosecutor's Office). The Council will be composed of:

- 1) person designated by the Supreme Bar Council;
- 2) person designated by the National Council of Legal Advisers;
- 3) person designated by the Ombudsman;
- 4) person designated by the General Council for Science and Higher Education;
- 5) two persons designated by the Social Dialogue Council;
- 6) three representatives of non-governmental organisations designated by the Council for Public Benefit Activities.

The term of office of the Council will be 4 years and will commence on the date of the first meeting of that term (proposed Article 13r § 6 of the Law on Public Prosecutions). The proposed regulations also resolve other issues related to the functioning of the Social Council, such as the termination of membership, election of the chairperson and deputy,

service of the Council and financing of its operation. The provision of the proposed Article 13r § 14 of the Law on the Public Prosecutor's Office confers competence on the Council to determine in the regulations the procedure of its operation.

### **3. Establishment of the National Council of Public Prosecutors**

The draft also provides for the establishment of another collegial body - the National Council of the Public Prosecution Service. The proposed chapter 2a in Section II of the Law on the Public Prosecutor's Office is devoted to regulations in this respect. The proposed Article 42a of the Act - Law on the Public Prosecutor's Office defines the systemic role of the National Council of the Public Prosecutor's Office and stipulates, in this respect, that the Council will uphold the independence of public prosecutors. This task emphasises the importance of the independence of the prosecutor as a value that should be protected and which shows a close connection with prosecutorial impartiality. It must be emphasised that independence is a guarantee of objectivity, while objectivity defines the limits of independence. For this reason, every effort must be made to protect the impartiality and independence of prosecutors, both in the context of the arrangements establishing the relationship between them and their superiors and in the area of strictly constitutional regulations relating to the functioning of bodies whose tasks are directed at the protection of these values.

The proposed regulations indicate that the members of the National Prosecution Council will be:

- 1) representative elected by the meeting of prosecutors of the General Prosecutor's Office, being prosecutor;
- 2) representatives elected by the assemblies of prosecutors in regional prosecutors' offices, who are prosecutors - one from each regional prosecutor's office;
- 3) representative elected by the meeting of prosecutors of the Institute of National Remembrance;
- 4) representative of the President of the Republic of Poland;
- 5) representative of the Speaker of the Sejm;
- 6) representative of the Speaker of the Senate;
- 7) representative of the Minister of Justice.

The above composition of the Council will ensure the participation of representatives of the professional prosecution community as well as representatives of the legislative and executive branches of government.

The legislation sets out a number of important issues relating to the functioning of the National Council of Public Prosecutors, including the term of office of elected Council members (6 years) - proposed Article 42c § 1 of the Act, the termination of the mandate of a Council member (Article 42c § 2), the election of the Chairman, Vice-Chairmen and Secretary of the Council (Article 42e), the procedure of the Council (Articles 42f - 42h of the Act).

An important regulation is contained in the proposed Article 42i of the Law on the Public Prosecutor's Office, which contains the basic tasks of the National Council of the Public Prosecutor's Office. These include, inter alia, giving opinions on drafts of normative acts concerning the public prosecutor's office, hearing the Prosecutor General's information on the activities of the public prosecutor's office, nominating candidates for the position of Prosecutor General to the Speaker of the Sejm, requesting the disciplinary court to hold the

Prosecutor General responsible for disciplinary action and appointing a representative to appear before the disciplinary court, adopting a set of rules of professional ethics for prosecutors, as well as commenting on the state and development of the prosecution staff and on the directions for the training of prosecutors, assistant prosecutors, assistant prosecutors, trainee prosecutors and officials and other prosecution staff.

#### **4. Establishing budgetary autonomy for the prosecution service**

The draft provides for an amendment within Article 53 of the Law on Public Prosecutions. The added § 3 stipulates that the draft revenues and expenditures of the common organisational units of the public prosecutor's office shall be forwarded by the Public Prosecutor General to the minister competent for public finances for inclusion in the draft budget act, under the principles set out in Article 139(2) of the Act of 27 August 2009 on public finances. This standardisation refers directly to the construction adopted in the cited provision of the Act on Public Finances, which statutes the so-called budgetary autonomy of certain public institutions. The provision of Article 139, paragraph 2 of the Public Finance Act obliges the Minister of Finance to include in the draft budget act revenues and expenditures resulting from the draft financial plans of the bodies and units indicated in this provision. This solution constitutes an additional guarantee with regard to the independence of the Prosecutor General's action and makes him independent of the executive authorities at the stage of drafting the Budget Act.

#### **5. Other amendments to the Law on the Public Prosecutor's Office**

The draft provides for the resignation of the provision providing for the omission of the competition procedure for the position of prosecutor (Article 80 in fine of the Act - Law on the Public Prosecutor's Office), providing that in the event of the creation or dismissal of the position of prosecutor of a district prosecutor's office, the Prosecutor General shall decide on the selection of a candidate for the first prosecutor's position in a competition procedure. The current regulation raises doubts in the context of Article 60 of the Constitution of the Republic of Poland, according to which Polish citizens, enjoying full public rights, have the right of access to public service on equal terms.

The proposed law repeals the provisions allowing appointments to prosecutorial positions in the National Public Prosecutor's Office, a regional prosecutor's office or a district prosecutor's office to be made in disregard of the minimum seniority requirements, under which the Prosecutor General could shape the personnel policy of the prosecutor's office in a completely arbitrary manner, without having to justify the decision taken.

In its basic form, the draft law does not provide for changes in the remuneration of prosecutors, which are regulated under the provisions of Article 124 of the Law on the Public Prosecutor's Office. However, it is envisaged to repeal §2-4 in Article 111 of the Law on the Public Prosecutor's Office, specifying the possibility for the Prosecutor General and the National Public Prosecutor to grant special allowances, which were an optional component of the remuneration of prosecutors delegated to the National Public Prosecutor's Office, the Ministry of Justice and the National School of Judiciary and Public Prosecution. This component significantly affects the differentiation of remuneration among prosecutors and specifically favours prosecutors who perform, by way of delegation, activities at the highest organisational level of the public prosecutor's office and in the Ministry of Justice and the National School of Judiciary and Public Prosecution, despite the fact that by the very fact of their delegation they receive a function allowance. Pursuant to Article 111 § 4 of the Law on the Public Prosecutor's Office, a special allowance may also be granted to prosecutors of the National Public Prosecutor's Office whose emoluments are equal to those of Supreme Court judges, which led to unjustified differences in this respect.

By its nature, the special allowance was to be granted for the performance of additional tasks assigned by the Attorney General or the National Prosecutor. Thus, the granting of the special allowance required an individual decision and an explanation of the extent to

which the special nature of the tasks went beyond the tasks assigned to the prosecutor in a given position. The granting of the special allowance should have been based on a sound analysis of the performance of the tasks by the superior prosecutor and submitted in writing to the Prosecutor General in order to make an appropriate decision on the granting of the special allowance. Meanwhile, the practice of granting the special allowance in the prosecutor's office was based on the principle of universality in recent years, covering not only prosecutors delegated to the National Prosecutor's Office, but also prosecutors of this unit. Their performance of any above-normal tasks was not demonstrated, and its granting was automatic and combined with the function allowance. This resulted in the huge disparity in remuneration between prosecutors and the widespread criticism when the salaries of prosecutors at the highest levels and the special allowances they receive are disclosed. In view of the real increase in prosecutors' salaries, which are based on the average salary in the second quarter of the previous year, there is no justification for maintaining the special allowance.

In addition, the draft provides for changes in the area concerning the transmission to the authorities of public authorities with information on specific matters. In accordance with the amended Article 12 § Paragraphs 1 and 3 of the Act - Law on Public Prosecutions - the Public Prosecutor General or another public prosecutor authorised by him will be able to provide the public authorities with information concerning specific cases, if such information may be important for the security of the state or its proper functioning. The proposed regulation is an expression of cooperation between the authorities while limiting the freedom to provide information from ongoing pre-trial proceedings in a situation where the information will be relevant to state security or its proper functioning. Thus, the transfer of information must be justified. In other respects, the transfer by the Prosecutor General and heads of organisational units of the public prosecutor's office in person or through another prosecutor of information from ongoing pre-trial proceedings or concerning the activities of the public prosecutor's office, excluding classified information, will require the written consent of the referring prosecutor conducting the pre-trial proceedings. Only in particularly justified cases will the Public Prosecutor General or the head of the organisational unit of the public prosecutor's office be entitled to communicate information without the consent of the prosecutor conducting the proceedings, having regard to the public interest.

## **6. Amending, transitional and adaptation provisions**

On the basis of the solutions proposed in this Act, a consequence of the system and organisational separation of the office of the Minister of Justice and the Public Prosecutor General is the abolition of the National Public Prosecutor's Office and the National Public Prosecutor's Office and the creation of the General Public Prosecutor's Office. The general organisational units of the public prosecutor's office will thus be: The General Prosecutor's Office and regional prosecutor's offices, district prosecutor's offices and district prosecutor's offices. In view of the above changes, it is necessary to include amending, transitional and adjusting provisions in the bill.

As already indicated, one of the objectives of the draft is to establish a prosecutor's office free from current political influence, in particular from interference from the executive. Given that the systemic position and tasks of the Prosecutor General and the prosecutor's office derive not only from the Act - Law on the Public Prosecutor's Office amended in Article 1 of the draft, consistent amendments to other laws are also necessary to ensure systemic completeness and consistency.

Amendments to other laws are included in Articles 2-39 of the bill. These include, among others:

- the designation of "Attorney General" in the relevant legislation in place of the "National Prosecutor", "First Deputy Attorney General of the National Prosecutor" and "Attorney General of the Republic of Poland" (in particular, in the provisions under which the "First Deputy Attorney General of the National Prosecutor" or the "National Prosecutor" consents to the ordering of an operational control, controlled purchase or access to



information constituting a secret or may order the cessation of activities - such changes were made in Article 3(2), Article 4, Article 5(1), Article 13, Article 14, Article 18, Article 19, Article 24, Article 26, Article 27, Article 29, Article 31 of the draft law). In addition, the provision of Article 589zb § 1 of the Code of Criminal Procedure concerning the transfer of the European Investigation Order will be amended on the basis of the proposed Article 6, point 1;

- replacement in the relevant legislation of the former "National Prosecutor's Office" "Attorney General's Office", which is a consequence of the provision of Article 40 of the draft (e.g. draft Article 8(2), Article 9(1));

- the replacement in the relevant provisions of the existing 'National Council of Prosecutors to the Prosecutor General' by the 'National Council of Prosecutors', in connection with the formation of this body on the basis of the proposed Articles 13b-13r, and the addition of the National Council of Prosecutors as an entity whose training needs are taken into account in the annual schedule of training activities of the National School of the Magistracy (e.g. Article 25, Article 34);

- amend the provisions concerning the authorisations to issue executive acts. By analogy with the amended Article 35 § 1 of the Act - Law on the Public Prosecutor's Office, the Minister of Justice - in legal acts concerning important matters of the public prosecutor's office - will issue ordinances "after consulting the Public Prosecutor General" - which is to underline the important constitutional position of the Attorney General formed as a result of the the entry into force of this Act.

In addition, along with the changes concerning the prosecution system, changes are being made to make the nomenclature in the legal system more coherent and uniform by replacing the term "minister competent for justice" occurring under the current laws with the proper term "Minister of Justice" - in accordance with the Constitution of the Republic of Poland and the Act of 4 September 1997 on government administration departments (Journal of Laws of 2022, item 2512, as amended). Such a change was made in:

- Article 22 in § 3 in point 4 of the Act of 14 June 1960. – Code of Conduct Administrative Procedure (Journal of Laws 2024, item 572) - Article 2 of the draft;

- Article 4 in paragraph 2 of the Act of 6 April 1990 on the Police (Journal of Laws 2024, item 145) - Article 3, point 1 of the draft;

- Article 46, paragraph 4, subparagraph 3 of the Act of 21 August 1997 on real estate management (Journal of Laws 2023, item 344, as amended) - Article 8(1) of the draft;

- Article 50 in paragraph 2 of the Act of 18 December 1998 on the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation (Journal of Laws of 2023, item 102) - Article 10, item 2 of the draft;

- in Article 21ab in paragraph 2 in point 2 of the Act of 4 July 2019 on the system of development institutions (Journal of Laws of 2019, item 1572) - Article 33 of the draft.

In addition, in the Act of 30 November 2016 on the organisation and procedure before the Constitutional Tribunal (Journal of Laws of 2019, item 2393) has been amended with the expression "Prosecutor General-Minister of Justice" by replacing it with "Prosecutor General", while in the Act of 11 September 2019. - Public Procurement Law (Journal of Laws 2023, item 1605 and 1720), the expression "Minister of Justice - Prosecutor General" will be replaced by "Minister of Justice" (Article 28, item 1 and Article 35 of the draft, respectively).

Bearing in mind that when amending the law, the legislator is obliged to exercise due diligence - it is obliged to fulfil the requirements arising from the principles of a democratic

state of law to amend the law, respect existing legal relations and enable rational planning of future tasks - it is incumbent on the legislator to establish transitional regulations and adaptations. These regulations should be shaped in such a way that the addressees of the standards can familiarise themselves with the new regulation and adapt to it.

In view of the above, the adjusting provisions of the draft Act indicate that the Speaker of the Sejm will announce in the Official Journal "Monitor Polski", within 7 days of the date of entry into force of the draft Act, information on the possibility, manner and deadline for the submission of candidates for the Prosecutor General, while the first election of the Prosecutor General after the date of entry into force of this Act will be carried out within two months of the date of entry into force of this Act, in accordance with the procedure set out in Articles 13b-13q of the Act - Law on Public Prosecution (vide: Section III, paragraph 1 of this draft explanatory memorandum).

The draft assumes that the tasks of the National Council of Public Prosecutors, concerning the notification to the Speaker of the Sejm of candidates for the Prosecutor General, from among those who have received the support of at least 60 prosecutors in active status, will be carried out by the existing National Council of Prosecutors at the Prosecutor General, while the other entities, i.e.:

- 1) a group of at least 35 Members,
- 2) a group of at least 15 senators,
- 3) the General Council for Science and Higher Education and
- 4) non-governmental organisations whose statutory tasks include activities related to the protection of the principle of a democratic state of law, the protection of the rule of law and human rights and which have carried out these tasks for a period of at least 3 years preceding the date of the candidate's nomination, and the National Prosecutors' Council of the Prosecutor General

– - shall nominate candidates for Attorney General within one month from the date of entry of the entry into force of the Act.

The proposed provisions of the Law Amending the Law - Law on the Public Prosecutor's Office also provide that:

1) until the date of assumption of the position by the General Prosecutor elected under the above procedure, the duties of the General Prosecutor shall be performed by the hitherto First Deputy General Prosecutor, the National Public Prosecutor. Such a procedure will ensure continuity of the tasks necessary for the proper functioning of the National Public Prosecutor's Office;

2) on the date of entry into force of the proposed rules, cease to hold office Deputy Prosecutors General appointed under the previous legislation.

Pursuant to Article 44 of the draft law containing a solution whereby the Prosecutor General, elected in accordance with the procedure referred to in Article 41 of the amending law, within 60 days of taking the oath of office, will be obliged to appoint prosecutors of the General Prosecutor's Office from among the prosecutors fulfilling the requirements set out in the newly drafted Article 76 § 1. When deciding on the appointment of new prosecutors of the General Prosecutor's Office, he will be obliged to be guided by the criteria that include the length of service under the above-mentioned provision, i.e.: 1) at least 15 years of holding the position of a prosecutor, judge, president, vice-president or counsellor of the General Prosecutor's Office of the Republic of Poland, or has practised the profession of an advocate, legal adviser, notary public, 2) at least 5 years of holding the position of a prosecutor of an appellate, regional, district prosecutor's office or a prosecutor of the Institute of National Remembrance. When determining suitability for the position of prosecutor of the General Prosecutor's Office, the Prosecutor General will be obliged to be

guided by certain criteria, including: 1) the qualifications possessed, necessary for the performance of the tasks of the prosecution units of particular ranks; 2) the course of previous service, including the periods of service in particular prosecution positions and the periods of delegation to other prosecution organisational units; 3) the scope and nature of the tasks performed in particular prosecutorial positions. Furthermore, and this needs to be particularly emphasised, when transferring an existing prosecutor of the National Public Prosecutor's Office in accordance with the principles referred to above, the Prosecutor General will also determine the place of service based on a criterion concerning the life situation of that prosecutor.

In each case, the Prosecutor General will be obliged to justify his/her decision relating to the appointment of a prosecutor to the position of a prosecutor of the General Prosecutor's Office or his/her transfer to another position and official place in common organisational units of the public prosecutor's office. The Prosecutor General, within the scope of his powers, guided by the indicated premises, will also be entitled to transfer to other organisational units those prosecutors of the existing National Public Prosecutor's Office whom he has not appointed to the position of prosecutors of the General Prosecutor's Office. A public prosecutor will have the right to appeal to the court against the decision of the Public Prosecutor General concerning the transfer.

The proposed legislation also specifies the basic salary of prosecutors of the National Public Prosecutor's Office who will be appointed to the position of prosecutor General Prosecutor's Office and existing prosecutors of the National Prosecutor's Office transferred to another official position in the common organisational units of the public prosecutor's office (Article 44(5) and (6)).

Existing prosecutors of the National Public Prosecutor's Office transferred to another official position in common organisational units of the public prosecutor's office will be entitled to basic remuneration determined on the basis of the rates of basic remuneration indicated in Article 124 § 3 of the Act amended in Article 1. In this aspect, the basis of remuneration will be the promotion rate specified in Article 124 § 3 of the amended Act, which will be increased by the working time that the prosecutor would have been entitled to if he/she had performed his/her activities in the indicated official position for the whole time.

In view of the solutions adopted to date in the sphere of prosecutors' remuneration, it must be stated that in a situation of a transparent and objectivised prosecution service, there are no grounds for retaining the previous remuneration for prosecutors transferred to a lower official position, since by its very nature it is granted for the performance of specific tasks at the highest organisational level. Remuneration must not be regarded as a privilege deriving from the performance of a particular official position, but from the nature of the duties it entails. By its very nature, a prosecutor transferred to a lower level unit will not be carrying out his or her previous activities and the scope of his or her tasks will be the same as other prosecutors holding the title of the organisational unit in question.

In this arrangement, obtaining remuneration at a certain organisational level cannot be treated as a justly acquired right. In the judgement of 12 December 2012, ref. K 1/12, the Constitutional Tribunal pointed out that none of the property rights, let alone any expective right, is of an absolute nature and its limitation by the legislator is permissible, whereby each such limitation is to be subject to verification according to the criterion of constitutional values justifying it. The assessment of the constitutionality of a particular solution from the point of view of the principle of protection of rightfully acquired rights was analysed in detail in the aforementioned verdict of K 32/02. The Constitutional Tribunal stated, *inter alia*, that the protection of acquired rights does not prohibit the legislator from introducing changes in legal provisions, even such that would result in the worsening of the situation of the addressees of the law (verdict of 22 December 1997, K 2/97, OTK ZU No 5-6/1997, item 72)." In this case, therefore, the legislator has the possibility of such shape the remuneration of the prosecutors of the former National Public Prosecutor's Office who have not been appointed to a position in the Prosecutor General's Office, which will correspond to their new responsibilities and be related to their competences and previous promotion path.

The proposed law also contains regulations on:

- 1) the transfer of cases conducted in the Internal Affairs Division of the National Public Prosecutor's Office to organisational units of the Public Prosecutor's Office - in connection with its liquidation;
- 2) appointments of prosecutors to functions in prosecutors' organisational units made on the basis of previous legislation, indicating that they remain in force;
- 3) delegations granted on the basis of previous provisions, indicating that they remain in force and become delegations on the basis of the Law on the Public Prosecutor's Office;
- 4) assistant prosecutors in the National Prosecutor's Office, indicating that they become assistant prosecutors in the General Prosecutor's Office;
- 5) officials and other employees of the National Prosecutor's Office indicating that they become employees of the General Prosecutor's Office.

As the bill in Section II, Chapter 2a of the Law on the Public Prosecutor's Office envisages the establishment of a new collegial body, the National Council of the Public Prosecutor's Office, it is necessary to include in the law provisions concerning the abolished National Council of Prosecutors under the Prosecutor General.

The provisions contained in Article 50(1) of the bill provide that the National Council of Prosecutors to the Prosecutor General shall be abolished as of the date of the oath of office of the Prosecutor General elected under the procedure referred to in Article 41, and that in the period between the entry into force of the law and the oath of office of the Prosecutor General elected under the procedure of the first election, the National Council of Prosecutors to the Prosecutor General shall perform exclusively the task referred to in Art. 41(1) - i.e., as indicated above, proposing to the Speaker of the Sejm candidates for the Prosecutor General from among those who have received the support of at least 60 prosecutors in active status (which competence is ultimately intended for the National Council of Prosecutors).

Article 51 of the draft sets a 30-day deadline for the designation or election of representatives to the National Prosecutorial Council by: assemblies of prosecutors in regional prosecutors' offices who are prosecutors - one from each regional prosecutor's office; a meeting of prosecutors from the Institute of National Remembrance; the President of the Republic of Poland; the Speaker of the Sejm; the Speaker of the Senate; and the Minister of Justice. It was also indicated that the meeting of prosecutors of the General Prosecutor's Office shall elect its representative to the National Prosecutorial Council within 90 days from the date of taking the oath of office of the Prosecutor General elected under the procedure of the first election of the Prosecutor General, while until the representative is elected by the meeting of prosecutors of the General Prosecutor's Office, its function shall be performed by a prosecutor indicated by the Prosecutor General from among the prosecutors performing tasks in the General Prosecutor's Office. It is also indicated that the representative already elected by the meeting of the prosecutors of the General Prosecutor's Office will complete his/her term of office together with the other elected members of the National Prosecution Council. These deadlines will provide adequate time for the competent authorities to carry out the actions indicated in the cited provisions.

Pursuant to the provision of Article 52 of the draft, the first meeting of the National Prosecution Council shall be convened by the Prosecutor General or the former First Deputy Prosecutor General by the National Prosecutor.

It is then proposed (Article 54) that the appointments of disciplinary ombudsmen made on the basis of the Law on the Public Prosecutor's Office remain in force.

On the other hand, Article 55 of the bill contains a ruling on proceedings pending in cases referred to in Article 82, Article 84, Article 103, Article 104, Article 117 and Article 127

of the Act - Law on Public Prosecutor's Office and disciplinary proceedings initiated and not concluded before the entry into force of this Act. The regulation of this provision stipulates that these proceedings will be conducted on the basis of the provisions of the Act amended in Article 1 (i.e. the Act - Law on the Public Prosecutor's Office), as amended by this Act, while the actions performed in these cases will remain in force, provided that they are performed in compliance with the previous provisions.

In connection with the regulation of Article 40 (abolition of the National Public Prosecutor's Office and creation of the General Public Prosecutor's Office), it was necessary to indicate that the General Public Prosecutor's Office takes over, from the date of its creation, the rights and obligations of the National Public Prosecutor's Office (Article 55 of the draft).

In turn, the provision of Article 57 contains an authorisation for the Prime Minister to make - in order to implement this Act - transfers, by means of a regulation, of planned budget revenues and expenditures between parts of the state budget.

The transitional provisions also contain regulations concerning the temporary retention in force of implementing acts and acts of internal character - Article 58 and Article 59 of the draft, respectively. Pursuant to Article 57, the executive regulations enumerated in this editorial unit, issued on the basis of the acts amended under Article 1, Article 9, Article 17, Article 24 and Article 37 remain in force until the date of entry into force of new executive regulations issued on the basis of the indicated provisions, however, no longer than for 2 months from the date of entry into force of this Act and may be amended on the basis of the hitherto regulations. On the other hand, the provision of Article 58 contains a regulation referring to the existing orders issued on the basis of Article 36 § 2 and 2a of the Law on Public Prosecutions, which shall remain in force until the date of entry into force of new implementing provisions issued on the basis of 36 § 2 and 3 of the Law.

Pursuant to Article 60 of the draft, 30 days from the date of promulgation are indicated as the date of entry into force of the Act. The proposed *vacatio legis* is sufficient to ensure that those affected have the opportunity to adapt to the proposed amendments.

The proposed regulation is not contrary to European Union law.

The proposed regulation does not contain technical regulations within the meaning of the Regulation of the Council of Ministers of 23 December 2002 on the functioning of the national system of notification of norms and legal acts (Journal of Laws, item 2039 and of 2004, item 597), so it is not subject to the notification obligation.

The proposed law will not require notification to the European Commission under the Act of 30 April 2004 on proceedings in public aid cases (Journal of Laws of 2023, item 702).

The proposed law does not require submission to the European Union institutions and bodies, including the European Central Bank, as referred to in § 39 of Resolution No. 190 of the Council of Ministers of 29 October 2013. - Rules of Procedure of the Council of Ministers (M.P. of 2022, item 348) for the purposes of opinion, notification, consultation or agreement.

Pursuant to Article 5 of the Act of 7 July 2005 on lobbying activities in the law-making process (Journal of Laws of 2017, item 248) and § 52(1) of Resolution No. 190 of the Council of Ministers of 29 October 2013. - The Rules of Procedure of the Council of Ministers, the draft is made available in the Public Information Bulletin of the Government Legislation Centre, in the Government Legislative Process service.