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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
OF THE COUNCIL OF EUROPE
(VENICE COMMISSION)

POLAND

**EXTRACTS FROM NATIONAL LEGISLATION
CONCERNING THE POWERS OF THE PRESIDENT
IN THE OATH-TAKING OF JUDGES OF THE CONSTITUTIONAL
TRIBUNAL AND OTHER APPOINTMENTS**

The Constitution of the Republic of Poland
as adopted by the National Assembly on 2nd April 1997

Article 179

Judges shall be appointed for an indefinite period by the President of the Republic on the motion of the National Council of the Judiciary.

Article 194

1. The Constitutional Tribunal shall be composed of 15 judges chosen individually by the Sejm for a term of office of 9 years from amongst persons distinguished by their knowledge of the law. No person may be chosen for more than one term of office.

2. The President and Vice-President of the Constitutional Tribunal shall be appointed by the President of the Republic from amongst candidates proposed by the General Assembly of the Judges of the Constitutional Tribunal.

The Act of 30 November 2016
on the Status of the Judges of the Constitutional Tribunal

Article 4

1. A person elected to assume the office of a judge of the Tribunal shall take the following oath in the presence of the President of the Republic of Poland:

"I solemnly declare that, by fulfilling my duties as a judge of the Constitutional Tribunal, I will faithfully serve the Polish Nation and safeguard the Constitution of the Republic of Poland, and that I will do so with impartiality and with the utmost diligence.". The oath may be taken by adding the following wording: "So help me God".

2. Refusal to take the oath of office shall be tantamount to resignation from the office of a judge of the Tribunal.

Article 5

A judge of the Tribunal shall commence his/her employment relationship after taking the oath of office. After taking the oath of office, a judge of the Tribunal shall arrive at the Tribunal to assume judicial duties; the President of the Tribunal shall assign cases to the judge and create conditions that make it possible to perform the judicial duties.

The Act of 30 November 2016
on the Organisation of the Constitutional Tribunal
and the Mode of Proceedings Before the Constitutional Tribunal

Article 6

1. The General Assembly shall comprise the incumbent judges of the Tribunal who have taken the oath of office before the President of the Republic of Poland.

2. The General Assembly shall be competent to:

- 1) approve the report referred to in Article 13(1);
- 2) present candidates for the positions of the President and Vice-President of the Tribunal;
- 3) consent to a judge of the Tribunal being held criminally liable and deprived of liberty, under rules laid down in separate provisions;
- 4) determine the expiry of the mandate of a judge of the Tribunal, under rules laid down in separate provisions;
- 5) retire a judge of the Tribunal who is permanently incapable of performing the duties of a judge of the Tribunal, under rules laid down in separate provisions;
- 6) determine that a judge of the Tribunal has lost his/her status as a retired judge of the Tribunal, under rules laid down in separate provisions;

- 7) adopt the rules of procedure of the Tribunal;
- 8) adopt the rules and regulations of the Chancellery of the Tribunal as well as the rules and regulations of the Office of the Legal Service of the Tribunal;
- 9) adopt a draft estimate of revenue and expenditure of the Tribunal;
- 10) adopt the Code of Ethics for the Judges of the Tribunal;
- 11) carry out other tasks assigned to the General Assembly in other statutes and the rules of procedure of the Tribunal.

Article 11

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5. The sitting of the General Assembly on the presentation of candidates for the position of the President of the Tribunal shall be attended by all the judges of the Tribunal who, prior to that sitting of the General Assembly, took the oath of office before the President of the Republic of Poland.

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The Act of 13 December 2016 – the Introductory Provisions to the Act on the Organisation of the Constitutional Tribunal and the Mode of Proceedings Before the Constitutional Tribunal and to the Act on the Status of the Judges of the Tribunal

Article 18

A judge of the Tribunal who has been assigned the duties of the President of the Tribunal by the President of the Republic of Poland, hereinafter referred to as 'the judge performing the duties of the President of the Tribunal', shall:

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- 2) assign cases to the judges of the Tribunal who have taken the oath of office before the President of the Republic of Poland and create conditions that make it possible for the judges of the Tribunal to perform their judicial duties;

...

Article 21

1. The judge performing the duties of the President of the Tribunal shall forthwith convene a sitting of the General Assembly for the purpose of presenting the President of the Republic of Poland with candidates for the position of the President of the Tribunal, and shall notify the judges of the Tribunal about the date of that sitting.

2. The sitting referred to in para 1 shall be attended by the judges of the Tribunal who have taken the oath of office before the President of the Republic of Poland. The judge performing the duties of the President of the Tribunal shall determine the agenda of the sitting and shall preside over the sitting.

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The Act of 25 July 2002 Law on the Organization of Administrative Courts

Article 5. Appointment and designation of a judge; prohibition of questioning the authority of courts and tribunals, constitutional state bodies and law control and protection bodies; prohibition of questioning the status of a judge

§ 1. An administrative court judge is a person appointed to this position by the President of the Republic of Poland and who has taken an oath before the President of the Republic of Poland.

**The Act of 21 August 1997
Law on the organization of military courts**

Article 23. Appointment to serve as a judge

§ 1. A judge of a military court is a person appointed to this position by the President of the Republic of Poland and who has taken an oath before the President of the Republic of Poland.

**The Act of 27 July 2001
Law on the Organisation of Common Courts**

Article 55. § 1. The President of the Republic of Poland, at the request of the National Council of the Judiciary, appoints common court judges to the office of a judge.

The Act of 8 December 2017 on the Supreme Court

Article 29. § 1. A judge of the Supreme Court is a person appointed by the President of the Republic of Poland, who has taken an oath to the President of the Republic of Poland.

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