**RESOLUTION OF THE NATIONAL COUNCIL OF THE JUDICIARY No. 125/2015**

**of 6 February 2015**

**on Specific Procedure of the National Council of the Judiciary**

Pursuant to Article 22(1) of the Act of 12 May 2011 on the National Council of the Judiciary (Journal of Laws Dz. U. No. 126, item 714 and No. 203, item 1192 and of 2014, item 512):

**§ 1.** The National Council of the Judiciary hereby adopts the Rules of Specific Procedure of the National Council of the Judiciary, annexed to the resolution.

**§ 2.** The resolution comes into force after 14 days of the date of publication.

**RULES OF SPECIFIC PROCEDURE OF THE NATIONAL COUNCIL OF THE JUDICIARY**

**Chapter 1**

**General provisions**

**§ 1.** The Rules set out the specific procedure of the National Council of the Judiciary, including the use of information and communication system that supports the procedure for appointment to the post of a judge referred to in the Act of 27 July 2001 – Law on Common Courts Organisation (Journal of Laws Dz. U. of 2015, item 133).

**§ 2.** Whenever the Rules refer to:

1) the Council – it shall mean the National Council of the Judiciary;

2) the Act – it shall mean the Act of 12 May 2011 on the National Council of the Judiciary (Journal of Laws Dz. U. No. 126, item 714 and No. 203, item 1192 and of 2014, item 512);

3) the Chairperson of the Council – it shall mean also the Vice-Chairperson of the National Council of the Judiciary, given the division of activities referred to in Article 17(3) of the Act;

4) the Presidium – it shall mean the Presidium of the National Council of the Judiciary;

5) a meeting – it shall mean a plenary session of the National Council of the Judiciary;

6) the Office – it shall mean the Office of the National Council of the Judiciary;

7) a committee – it shall mean a special purpose committee, referred to in Article 19 of the Act;

8) the team – it shall mean the team referred to in Article 31 of the Act;

9) the information and communication system – it shall mean an information and communication system that supports the procedure for appointment to the post of a judge referred to in the Act of 27 July 2001 – Law on Common Courts Organisation, hereinafter referred to as the “ICT system”;

10) the procedure for appointment – it shall mean the procedure referred to in Article 3(1)(1) and (2) of the Act and the procedure for the re-appointment to a previous position, carried out by the Council pursuant to statutory requirements applicable to common courts, administrative and military courts and the Supreme Court.

**Chapter 2**

**Council meetings**

**§ 3.** 1. The Council meets in meetings.

2. The date and place of meetings shall be determined by the Chairperson of the Council, who convenes them as needed, at least once every two months.

3. In the case referred to in the second sentence of Article 20(2) of the Act, the Chairperson of the Council shall convene a meeting within thirty days of a written request submitted by at least one third of the members of the Council or by the Minister of Justice.

4. The Chairperson of the Council shall convene meetings to present an opinion on the appointment or dismissal of the president or the vice-president of a court, and in other cases where the time line of the activities of the Council is governed by separate regulations, in time allowing the Council to adopt a relevant resolution within the statutory period.

**§ 4.** 1. At the request of the Chairperson of the Council, the Presidium shall prepare a draft agenda for the meetings. The days of work in committees and teams are determined by their chairpersons.

2. When convening a meeting, the Chairperson of the Council shall notify its members of the date, place and proposed agenda of the meeting. The notification and materials to be reviewed by the Council should be served before the meeting.

**§ 5.** Council members shall confirm their presence at the meeting by signing the attendance list. In the event of an obstacle preventing the Council member from participating in a meeting, the Council member should justify his/her absence before the meeting.

**§ 6.** 1. The Chairperson of the Council presents the draft agenda of the meeting to the Council for acceptance. The agenda of the meeting may be extended relative to the proposed one over matters the urgency of which can be justified.

2. Following the adoption of the agenda, it can be extended at the request of a Council member only in exceptional cases. The agenda of the meeting cannot be extended over matters specified in Article 3(2)(4) and (6)–(9), Article 16(1), Article 18, and Article 20(3) of the Act.

3. The Council may change the meeting agenda during the meeting.

**§ 7.** The Chairperson of the Council may invite to meetings persons from outside the Council, whose presence is justified by the subject discussed during the meeting. The persons invited may speak and give explanations upon the consent of the Chairperson of the Council and after the adoption of the agenda.

**§ 8.** 1. For matters other than individual, the Chairperson of the Council, the Presidium or the Council shall appoint a speaker, a team or refer the matter to a committee.

2. Matters submitted for consideration are reported by members of the Council designated by the Chairperson of the Council, a committee, a team or the Council.

**§ 9.** 1. The Chairperson of the Council opens, chairs and closes the meeting.

2. The Chairperson of the Council chairs the meeting pursuant to the adopted agenda, opening and closing discussions on each of the items. In justified cases, if the Council does not object, the Chairperson of the Council may change the order of particular items on the agenda.

3. The Chairperson of the Council shall first give the floor to the speaker in a particular matter, and then to the members of the Council, on the “first-served” basis.

4. The speaker of a matter concisely presents the status of the matter by highlighting the factors relevant for the adoption of a resolution by the Council or the position of a team or committee, and answers questions from the Council members.

5. The Council may request that the matter files be supplemented. Materials in an individual matter shall be supplemented pursuant to Article 30 of the Act.

6. The Chairperson of the Council shall give the floor out of order to members of the Council who wish to submit a formal motion.

7. Formal motions include, in particular, motions for:

1) a resolution on the secrecy of the meeting or a part thereof, if separate provisions so provide;

2) an interruption, postponement or closure of the meeting;

3) closing the debate;

4) voting without discussion;

5) a secret ballot;

6) a repetition of voting in cases referred to in Article 21(3) of the Act.

**§ 10.** Meetings shall be held non-public, unless the Council decides otherwise.

**§ 11.** The participant to a procedure shall be informed about the date of the meeting at which his/her matter will be reviewed through the ICT system. In an appointment procedure carried out without the ICT system, all information shall be sent to the e-mail address indicated by the candidate. Information about the planned hearing of a matter at the meeting shall be published in the Public Information Bulletin of the National Council of the Judiciary.

**§ 12.** 1. The Council adopts resolutions in ballots.

2. Views and opinions of the Council on matters other than individual may be adopted by consensus.

3. In the case referred to in Article 37(1) of the Act, the Council shall adopt a resolution on presenting to the President of the Republic of Poland a motion for appointment to the post of a judge in relation to all candidates following separate voting on each of them. The candidates to be proposed in the motion for appointment to the post of a judge shall be deemed those who obtained the most votes from among those who received an absolute majority of votes.

4. Where:

1) none of the candidates obtained an absolute majority of votes or the number of candidates who obtained absolute majority is less than the number of vacancies, voting is carried out again, with the participation of candidates who obtained the largest number of votes “for”;

2) two or more candidates received equal, absolute majority of votes, and electing all candidates would mean exceeding the number of vacancies for judges, those candidates are voted again.

5. In the repeated ballot referred to in section 4 point 1, the Council votes on candidates in the number equal to the number of vacant posts of judges plus one person or plus the number of candidates with the same number of votes as that person.

6. In the event that no candidate receives an absolute majority, in ballot referred to in section 4 one additional voting is carried out over the candidate who received the largest number of votes.

7. In justified cases, following the procedure specified in the preceding section, the Council may order additional explanatory proceedings.

**§ 13.** 1. The Chairperson of the Council announces the results of open ballot.

2. In the event of secret ballot, the Council appoints in open ballot a three-person scrutiny committee carrying out the voting and drawing up the minutes.

3. The chairperson of the scrutiny committee announces the results of the secret ballot.

4. The minutes of the scrutiny committee on the secret ballot, with ballot papers, shall be attached to the minutes of the meeting.

**§ 14.** The Council resolutions shall be signed by the Chairperson of the Council.

**§ 15.** 1. The minutes of the meeting shall be drawn up by the Office employee designated by the Chairperson of the Council.

2. The minutes of the meeting shall contain:

1) the list of Council members and other persons participating in the meeting or any part thereof;

2) the adopted agenda of the meeting;

3) a brief statement of speeches by the Council members and persons participating in the meeting; if so ordered by the Chairperson of the Council or if so requested by the person speaking, his/her statement will be recorded in full;

4) the voting results and the list of the Council members voting in each individual case;

5) views, opinions and other resolutions of the Council.

3. Minutes of the meeting shall be signed by the Office employee who drew them up and the Chairperson of the Council.

4. Minutes of the meeting shall be available for the Council members to review in the Office, three days before the date of the next meeting.

5. A member of the Council may raise an objection to the minutes of the meeting before the approval of the agenda of the next meeting.

6. Unless there are any objections raised, the minutes shall be deemed adopted.

**Chapter 3**

**Proceedings before the Council**

**§ 16.** 1. Having examined the files of an individual case and supplemented them, as referred to in Article 30(1) of the Act, the Chairperson of the Council shall assign it to a designated team and appoint its chairperson and speakers.

2. In proceedings conducted using the ICT system, the Chairperson of the Council checks if there are other pending proceedings involving candidates nominated by the president of a particular court.

3. The Council may conclude agreements with bodies and organisations mentioned in Article 36 of the Act on Notifications served by Electronic Mail regarding the notification of the receipt of applications, as well as notification of dates of team meetings, in the appointment procedure, in cases where the law requires an opinion by those bodies and organisations.

4. In cases where the post of a judge is applied for by candidates being advocates, legal counsel, notaries, public prosecutors, trainee prosecutors, counsel or senior counsel to the State Treasury Solicitors’ Office, the Chairperson of the Council, at the request of a team chairperson, notifies the bodies and organisations referred to in Article 36(1) of the Act of the date of team meeting no later than 7 days before the meeting.

**§ 17.** The Council members have access to the ICT system for the purpose of appointment procedure in the Council office.

**§ 18.** 1. The speaker presents the status of the matter or a part thereof to the team.

2. In the first place, the team evaluates whether the files of the matter are sufficient to take a position, and in the event of deficiencies requests that the Chairperson of the Council order them being supplemented, specifying the required scope of supplement. If the Chairperson of the Council does not share the view of the team, the matter shall be brought before the Council.

3. The team may request the Council to call the participant to the procedure to appear in person at the meeting of the team or of the Council, and to submit a written explanation. The team may request an explanation via the ICT system. The team may hear the participants of the procedure and other persons via videoconference.

4. After hearing the participant to the procedure in which representatives of organisations and bodies referred to in Article 36(2) of the Act can take part, and before taking a position, the team hears the representative of the organisations or bodies listed in that provision, provided they participate in the team meeting.

5. The speaker proposes the wording of the position of the team, and in the case of reviewing candidates for the posts of judges, if more than one candidate applied, it presents the list of recommended candidates.

6. The list of recommended candidates indicates, in the order of placement, the candidates preferred by the team. The number of recommended candidates may be less than, equal to or greater than the number of vacancies. The team may also abstain from recommending any of the candidates to the Council.

7. The team adopts a position in open ballot, by absolute majority of votes, in the presence of all its members, unless it orders a secret ballot by a majority of votes.

8. The speakers shall prepare the draft grounds of the team position. The position and grounds shall be signed by all team members.

9. The Office employee shall draw up the minutes of the team meeting. The minutes shall include in particular:

1) the list of team members and other persons participating in the meeting;

2) a brief statement of speeches by the participants to the procedure and other persons participating in the meeting;

3) the ballot results.

10. Minutes of the team meeting shall be signed by the Office employee who drew them up, and the chairperson of the team.

11. The position of the team along with grounds thereto forms an appendix to the minutes.

**§ 19.** 1. In the case of a re-examination of a matter by the Council, as referred to in Article 45 of the Act, the Chairperson of the Council shall designate a team to prepare the matter and shall also appoint its chairperson and speaker.

2. Paragraphs 16 and 17 apply accordingly to proceedings before the team.

**§ 20.** Before adopting a resolution, the Council may request a legal opinion.

**§ 21.** 1. The Council shall appoint its representatives for the proceedings before the Constitutional Tribunal.

2. The Council or the Chairperson of the Council may appoint Council representatives to represent it in front of other bodies.

**§ 22.** The Council forwards to the Minister of Justice its legally binding resolution relating to its decision on presenting motion for appointment to the post of a judge of a common court or a military court along with grounds thereto.

**§ 23.** The legally binding resolution of the Council shall be announced on the Council’s website.

**§ 24.** 1. Council resolutions in individual matters, other resolutions and letters, including notifications and requests, in matters reviewed by the Council shall be served, return receipt requested, upon the participants to the procedure and other entities through a postal operator or a designated operator within the meaning of the Act of 23 November 2012 – Postal Law (Journal of Laws Dz. U. item 1529), as well as by the Office employees.

2. Council resolutions in individual matters, other resolutions and letters, including notifications and requests, in matters reviewed by the Council shall be served in procedures carried out using the ICT system in a manner specified in the rules governing this type of procedure. A notification can be served outside the system if a given action has not been provided for in the system or it cannot be executed therein.

**§ 25.** 1. Personal files attached to the files of an individual matter shall be made available to the person to whom they refer, and with his/her consent, to other persons.

2. Following the completion of the procedure, with the consent of the Chairperson of the Council, the participant to the procedure may collect a document filed by him/her. Returning the document may be contingent upon submitting a copy or an extract thereof.

**§ 26.** In matters referred to in Article 3(2)(4) and (6)–(9) of the Act, the Council may adopt rules governing the procedure of election or submission of candidates or expressing an opinion.

**Chapter 4**

**Dissemination of public information relating to procedures before the Council through the Public Information Bulletin of the National Council of the Judiciary**

**§ 27.** 1. Names of the candidates, the position of the team and the resolution of the Council concerning the motion for appointment to the post of a judge with grounds, upon becoming final, shall be announced in the Public Information Bulletin of the National Council of the Judiciary.

2. Following the closing of a meeting, a non-binding resolution referred to in section 1 shall be announced online on the website of the Council.

**§ 28.** The Chairperson of the Council orders that the Council’s positions, opinions and other resolutions be announced online on the website of the Council or disseminated otherwise.

**Chapter 5**

**Spokesperson for the National Council of the Judiciary**

**§ 29.** 1. The Council appoints a spokesperson who is responsible for liaising with the media.

2. Article 18 of the Act shall apply accordingly to the appointment of the spokesperson.

3. The spokesperson shall, in particular:

1) inform the media on matters of public interest;

2) if necessary, react to publications and broadcasts concerning the Council, the judiciary and judges;

3) inform the Council during its meetings of his/her activities;

4) perform other tasks assigned to him/her by the Council or the Chairperson of the Council and concerning the activities of press offices of the courts.