

*Monitor Polski* gazette of 18 February 2019, item 192 as amended by:

- *M. P.* of 1 July 2020, item 595;
- *M. P.* of 8 January 2021, item 7;
- *M. P.* of 10 June 2021, item 530.

**RESOLUTION NO. 158/2019  
OF THE NATIONAL COUNCIL OF THE JUDICIARY OF POLAND**

of 24 January 2019

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

Pursuant to Article 22(1) and (1a) of the Act of 12 May 2011 on the National Council of the Judiciary (Journal of Laws of 2019, item 84), the National Council of the Judiciary provides as follows:

§ 1. The Rules of Procedure of the National Council for the Judiciary, annexed to this Act, shall be adopted.

§ 2. 1. The resolution shall enter into force on the day of its adoption.

2. The resolution shall be published in the Official Journal of the Republic of Poland "Monitor Polski".

Vice-Chairman of the National Council of the Judiciary: *W. Johann*

**Annex to Resolution No. 158/2019  
of the National Council of the Judiciary of Poland  
of 24 January 2019  
on the Rules of Procedure of the National Council of the Judiciary**

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

**Chapter 1 General provisions**

§ 1. The Rules of Procedure define the detailed procedure for the operation of the National Council of the Judiciary, taking into account the use of an ICT system supporting the procedure for appointment to the office of judge referred to in the Act of 27 July 2001 - Law on the Organisation of Common Courts (Journal of Laws of 2019, items 52, 55, 60 and 125).

§ 2. Whenever the regulations refer to:

- 1) Council - it is understood as the National Council of the Judiciary;
- 2) the Act - it is understood as the Act of 12 May 2011 on the National Council of Judgment (Journal of Laws of 2019, item 84);
- 3) Chairman of the Council - it is also understood as the Vice-Chairman of the National

Council of the Judiciary;

4) Presidium - it is understood as the Presidium of the National Council of the Judiciary;

5) Meeting - it is understood as a plenary session of the National Council of the Judiciary;

6) Office - it is understood as the Office of the National Council of the Judiciary;

7) Committees - it is understood as standing or issue-specific committees referred to in Article 19 of the Act;

8) team - it is also understood as the team referred to in Article 31 of the Act;

9) ICT system - it is understood as an ICT system supporting the procedure for appointment to the office of judge referred to in the Act of 27 July 2001 - Law on the Common Courts Organisation;

10) Nomination proceedings - it is understood as the procedure referred to in Article 3(1)(1), (2) and (2a) of the Act and proceedings for return to the previously held position, conducted by the Council in compliance with the statutory requirements applicable to common, administrative, military courts and the Supreme Court.

## **Chapter 2**

### **Council**

**§ 3.** 1. The Council shall meet in meetings, subject to Article 21(2a)-(2c) of the Act.

2. The date and place of meetings shall be determined by the Chairman of the Council, convening them, where appropriate, at least once every two months.

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

4. The Chairman of the Council shall convene meetings in matters in which the deadlines for the Council's action are specified in separate regulations, in time for the Council to adopt a resolution within the statutory period.

**§ 4.** 1. The Office shall, on a proposal from the Chairman of the Council, prepare a draft agenda for meetings. Working days in committees and teams shall be appointed by the Chairman of the Council.

2. The Chairman of the Council, when convening a meeting, shall send its members a notice of the date, place and proposed agenda of the meeting. The notice and the materials under consideration by the Council shall be made available to the members before the date of the meeting.

**§ 5.** 1. A member of the Council confirms his presence at the meeting of the Council

by signing the attendance list. In the event of an obstacle preventing participation in a meeting, a member of the Council should, as far as possible, justify his absence before the beginning of the meeting.

2. A member of the Council shall confirm participation in work for the Council other than the meeting by signing the work sheet and indicating the type of work performed.

**§ 6.** 1. The Chairman of the Council shall submit a draft agenda to the Council for adoption. The agenda may be extended at the reasoned request of a member of the Council.

2. The Council may amend the agenda of the meeting during the meeting.

**§ 7.** The Chairman of the Council may invite to the sessions, persons from outside the Council whose presence is justified by the subject of the meeting. The invited persons may, with the consent of the Chairman of the Council and after the adoption of the agenda, speak and give explanations.

**§ 8.** 1. The Chairman of the Council, the Office or the Council shall appoint a rapporteur, appoint a team or refer the matter to a committee for consideration other than individual matters.

1a. A member of the National Council of the Judiciary may participate in the work of a maximum of two issue-specific committees set up within the Council.

2. Matters submitted for consideration shall be referred to by the members of the Council designated by the Chairman of the Council, the committee, the team or the Council.

**§ 9.** 1. The meeting is opened, led and closed by the Chairman of the Council.

2. The Chairman of the Council shall conduct the meeting in the order laid down, opening and closing the discussion on each item. The order in which each item on the agenda is to be considered shall be determined by the Chairman, unless the Council decides otherwise.

3. The Chairman of the Council shall give the floor first to the rapporteur of the matter and then to the members of the Council on a first-come, first-served, on a first-come, first-line basis.

4. The rapporteur shall briefly present the state of the case, indicating the circumstances relevant to the adoption of the resolution by the Council, the position of the team or committee and answering the questions of the members of the Council.

5. The Council may request that the material of the matter be supplemented. Supplementation of the materials of the individual case is carried out in accordance with Article 30 of the Act.

6. The Chairman of the Council shall give the floor out of turn to the members of the Council in order to submit a formal proposal.

7. The formal proposal shall include, in particular, requests for:

1) exclusion of the openness of the meeting or part thereof;

- 2) interruption, postponement or closure of the session;
- 3) closing the discussion;
- 4) voting without discussion;
- 5) secrecy of voting;
- 6) repetition of voting in the cases referred to in Article 21(3) of the Act.

**§ 10.** 1. The audio and video transmission of the meeting shall be carried out via the Council's website. In particularly justified cases, the transmission can be carried out using other websites.

2. The part where the proceedings are closed shall not be broadcast.

3. A record of the transmission of previous meetings shall be made available on the Council's website, subject to paragraph 2.

**§ 11.** A participant in the proceedings shall be informed of the date of the meeting at which his or her case will be considered by posting relevant information in the Public Information Bulletin of the National Council of the Judiciary. This information may also be made via an ICT system or by e-mail.

**§ 12.** 1. The Council adopts resolutions, positions and opinions by voting.

2. In the case referred to in Article 37(1) of the Act, the Council shall adopt a resolution on the submission to the President of the Republic of Poland of a motion for appointment to the office of judge in respect of all candidates as a result of separate votes concerning each of them. Those candidates who have received the highest number of votes from among those who have received an absolute majority of votes shall be deemed to have been selected for submission with an application for appointment to the office of judge.

3. Where:

1) the application of more than one candidate is subject to consideration, and none of the candidates has obtained an absolute majority of votes or the number of candidates who obtained an absolute majority is less than the number of vacant posts, a one-time re-vote is carried out, with the participation of those candidates for whom the largest number of votes "for" was cast;

2) two or more candidates have received an equal, absolute majority of votes, and the recognition of all candidates as elected would result in exceeding the number of vacant judicial posts, these candidates shall be re-voted once.

4. In the re-vote referred to in paragraph 3(1), the Council shall vote on the candidates in the number of vacant judicial positions increased by one person or increased by the number of candidates with the same number of votes as that person.

5. In a justified case, before proceeding with the new vote referred to in paragraph 3,

the Council may refer the matter to the Team or order an additional investigation.

**§ 13.** 1. The Chairman of the Council shall announce the results of the public vote.

2. Where a secret ballot is ordered, the Council shall set up, by open vote, a three-member ballot counting committee which shall draw up the ballot papers, conduct the vote and draw up the minutes.

3. The chairman of the ballot counting committee shall announce the results of the secret ballot.

4. The minutes of the ballot counting committee of the secret ballot shall be annexed to the minutes of the meeting.

**§ 14.** 1. Resolutions, positions and opinions of the Council shall be signed by the Chairman of the Council.

2. In the event of a rectification of a resolution, position or opinion of the Council pursuant to Article 17(1)(3) of the Act, a reference to the rectification shall be placed on the original document. Copies of the corrected document shall be issued in the version taking into account the corrigendum.

**§ 15.** 1. The minutes of the meeting shall be drawn up by an employee of the Office appointed by the Chairman of the Council.

2. The minutes of the meeting shall include:

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

2) adopted agenda;

3) a summary of the statements of the members of the Council and persons participating in the meeting; the order of the Chairman of the Council or at the request of the speaker shall be subject to full expression;

4) the results of votes and the list of members of the Council taking part in voting on individual matters;

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

3. The minutes of the meeting shall be signed by the staff of the Office who drew them up and by the Chairman of the Council.

4. The minutes of the meeting shall be drawn up for inspection by the members of the Council in the Office three days before the date of the next sitting.

5. Member of the Council may object to the minutes of the meeting until the agenda for the next meeting has been approved.

6. In the absence of objections, the minutes shall be deemed to have been adopted.

7. The rectification or supplementation of the minutes of the meeting shall be decided

by order of the Chairman of the Council at the request of a person having a legal interest or of his own motion, after hearing the employee of the Office who drew them up.

8.The rectification order shall be annexed to the minutes of the meeting. The corrigendum shall contain a reference to its rectification, which shall be signed by the Chairman of the Council and the staff of the Office who drew it up.

### **Chapter 3**

#### **Circulation mode**

**§ 16.** 1. E-mail accounts allocated to members of the Council by the Office shall be used for circular voting. In particularly justified cases, the Chairman may authorise the use of another e-mail account if a member of the Council declares that he has exclusive access to such an account.

2.Minutes of the circular vote shall be drawn up, which shall include:

- 1) order to conduct voting in the circulation mode;
- 2) printout of the message about the start of voting in the circulation mode, sent to the members of the Council;
- 3) a draft resolution, position or opinion or other proposal for a decision subject to voting;
- 4) printout of messages containing the votes of the members of the Council;
- 5) the results of voting;
- 6) information on either making or not making a decision.

### **Chapter 4**

#### **Procedure before the Council**

**§ 17.** 1. After examining the materials of the individual case and the supplement referred to in Article 30(1) of the Act, the Chairman of the Council shall forward it to the designated team and indicate its chairman and referents.

2.In the proceedings conducted in the ICT system, the Chairman of the Council shall also verify whether there are other proceedings involving candidates presented by the president of the competent court.

3.The Council may conclude agreements with the bodies and organisations listed in Article 36(1) of the Act on electronic information on the receipt of applications, as well as on the dates of meetings of the teams, in the nomination procedure in cases where the law confers powers on these bodies and organisations.

4.In cases where candidates for the position of judge have been submitted by persons practising the profession of advocate, legal adviser, notary public or holding the

position of prosecutor, deputy prosecutor, counsellor or senior counsellor of the State Treasury of the Republic of Poland, the Chairman of the Council shall notify the organisations and bodies referred to in Article 36(2) of the Act of the date of the meeting of the team.

**§ 18.** Members of the Council shall have access to the ICT system for nomination proceedings.

**§ 19.** 1. The rapporteur presents the status of the case or part of it to the team.

2. The team shall first assess whether the material of the case is sufficient to give a position and, if deficiencies are identified, shall refer the matter to the Chairman of the Council for ordering their completion, specifying the scope of that supplementation. If the Chairman of the Council does not agree with the position of the team, he shall refer the matter to the Council.

3. The team may request the Council to summon a participant in the proceedings to appear in person at a meeting of the team or the Council, as well as to submit written explanations. The team may request explanations via the ICT system. The team may listen to the participants in the proceedings and other persons by videoconference.

4. After hearing the participant in the proceedings, in which representatives of organizations and bodies may participate, referred to in Article 36(2) of the Act, and before taking a position, the team shall hear a representative of the organisations or bodies referred to in that provision if they participate in a meeting of the team.

5. The rapporteur shall propose the content of the team's position within the scope entrusted to him.

6. The list of recommended candidates shall indicate, in the order in which they are placed, the candidates preferred by the team. The number of recommended candidates may be less, equal to or greater than the number of vacancies. The team may also not recommend any of the candidates to the Council.

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

8. The chairman of the team shall draw up a draft justification for the position of the team and shall present a list of recommended candidates at the Meeting of the Council.

9. The minutes of the meeting of the team shall be drawn up by an employee of the Office. The minutes shall include in particular:

- 1) a list of team members and other persons participating in the meeting;
- 2) a summary of the statements of the participants in the proceedings and other

persons participating in the meeting;

3) results of voting;

4) the content of the team's position with justification.

10. The minutes of the meeting of the team shall be signed by the staff of the Office who drew it up and by the chairman of the team. If the chairman of the team is unable to sign the minutes, the minutes shall be signed by one of the members of the team designated by him, indicating the reason for the lack of signature of the chairman.

11. To the rectification or supplementation of the minutes of the meeting of the team, the provisions of § 15 sections 7 and 8 shall apply *mutatis mutandis*. The powers of the Chairman of the Council specified in the aforementioned regulations are vested in the chairman of the team. If the chairman of the team is unable to rectify or supplement the minutes, the provisions of the second sentence of paragraph 10 shall apply accordingly.

12. It is not required to draw up the minutes of the meeting of the team on a matter other than an individual one.

**§ 20.** 1. In the event of a re-examination of the case by the Council referred to in Article 45 of the Act, the Chairman of the Council shall appoint a team to prepare the case and shall designate its chairman and referent.

2. To the proceedings before the team, the provisions of § 17 and § 18 shall apply *mutatis mutandis*.

**§ 21.** Before adopting a resolution, the Council may seek a legal opinion or expert opinion.

**§ 22.** The provisions determining the procedure for appointment to the office of judge shall apply *mutatis mutandis* to the procedure for appointment to the office of judge.

**§ 23.** 1. Resolutions of the Council in individual matters, other resolutions and letters, including notifications and summonses, in matters considered by the Council are delivered, with a return certificate of receipt, to participants of the proceedings and other entities through a postal operator or an operator designated within the meaning of the Act of 23 November 2012 - Postal Law (Journal of Laws of 2018, item 2188), as well as employees of the Office.

2. Resolutions of the Council in individual matters, other resolutions and letters, including notifications and summonses, in matters considered by the Council shall be served in proceedings conducted using an ICT system in the manner specified in the provisions governing this form of proceedings. Service outside the system may be effected when an action is not provided for in the system or it is not possible to perform it.

3. Delivery to the participants in the proceedings who are judges or deputy judges may also be carried out through the relevant president of the court.

**§ 24.** 1. The personal file attached to the individual case file shall be made available to

the person concerned and, with his or her consent, to other persons.

2. At the end of the proceedings, with the consent of the Chairman of the Council, a document submitted by him to the file may be issued to a participant in the proceedings. The issue of a document may be subject to the submission of a copy of it or an extract from its contents.

**§ 25.** 1. The Council shall appoint its representatives in proceedings before the Constitutional Court.

2. The Council or the Chairman of the Council may appoint representatives of the Council to represent it before other bodies.

**§ 26.** In the cases referred to in Article 3(2)(7) and (8) of the Act, the Council may adopt rules of procedure laying down the procedure for selecting, nominating candidates or expressing an opinion.

**§ 26a.** 1. The Council, the Presidium of the Council and the team of members and the committee may hold their meetings by means of electronic communication (remote meeting) and vote in the circulation mode in the cases specified in separate regulations.

2. Member of the Council participating in the remote meeting may participate in it stationary at the seat of the Council or by means of electronic communication.

3. Circulation voting shall take place in accordance with the procedure laid down in separate regulations.

4. The following shall decide between the following to hold a remote or circular vote meeting:

- 1) Chairman of the Council - in relation to a meeting of the Council or the Presidium;
- 2) the chairman of the team - in relation to the meeting of the team.

5. If the meeting is held remotely, the minutes of the meeting shall mention this and indicate which members of the Board participated in the meeting by electronic means of communication. Confirmation of the logging of the members of the Council into the electronic communication system is attached to the minutes.

6. During a remote meeting, public voting may be carried out, in particular, using software that supports voting (electronic voting) or by roll call. Remote roll-call voting shall be carried out in such a way that the chairman of the meeting or a person designated by him reads out the names of those entitled to vote who inform about their vote. Before ordering a vote, the Chairman shall each time check the presence of members of the Council participating remotely in the meeting.

7. Where a request for a secret ballot is made during a plenary session of the Council organised remotely, that vote shall be taken electronically or by casting votes in a ballot box made available to the participants in the voting at the place and time specified by the Chairman of the meeting. The form of secret ballot shall be finally decided by the Council. If the secret ballot is carried out electronically, § 13 (2) to (4) shall not apply and the results of the vote shall be announced by the chairman of the meeting.

## **Chapter 5**

### **Publication of information on proceedings before the Council in the Public Information Bulletin of the National Council of the Judiciary**

**§ 27.** 1. The names and surnames of the candidates, the stance of the team and the resolution of the Council on the presentation of an application for appointment to the office of judge or deputy judge together with the reasoning, after its becoming final, shall be placed in the Public Information Bulletin of the National Council of the Judiciary.

2. At the end of the meeting, the list of persons in respect of whom the Council has adopted resolutions containing applications for their appointment to the office of judge or deputy judge shall be published on the website and in the Public Information Bulletin of the National Council of the Judiciary. This provision shall apply *mutatis mutandis* to resolutions of this kind adopted in circulation.

**§ 28.** Resolutions, positions and opinions of the Council shall be published on the Council's website.

## **Chapter 6**

### **Spokesperson of the National Council of the Judiciary**

**§ 29.** 1. The Council appoints a spokesperson who is responsible for cooperation with the mass media. The Council may appoint a deputy spokesperson who shall be responsible for cooperation with the mass media.

2. To the appointment of a spokesperson, the provisions of Article 18 of the Act shall apply accordingly.

3. The Spokesperson in particular:

1) shall inform the mass media about matters of interest to the public;

(2) where necessary, shall respond to publications and programmes concerning the Council, the judiciary and judges;

(3) shall inform the Council at its meeting of his activities;

4) shall perform other activities commissioned by the Council or the Chairman of the Council regarding the activities of press offices of courts.

4. To the deputy spokesperson, paragraphs 2 and 3 shall apply *mutatis mutandis*.