**SEMINAR ORGANISED BY THE FRENCH COUNCIL OF STATE
IN COOPERATION WITH ACA-EUROPE**

***ETHICS AND RECRUITMENT
OF MEMBERS OF THE SUPREME ADMINSTRATIVE COURTS AND COUNCILS OF STATE***

Questionnaire

The Versailles seminar will address two related topics: ethics and recruitment.

The first topic will be discussed on Friday morning, 29 November, in two round tables. The first will focus on the legal and institutional framework. The second, based on practical cases, will address the content of ethical rules.

The second topic will be addressed on Friday afternoon during the third round table.

Ethics for magistrates was discussed at the seminar organised by AIHJA/IASAJ in September 2020 in Athens. It was also discussed at a meeting of the European Association of Administrative Judges (AEAJ) in May 2023 focusing on the freedom of expression of magistrates. Some of the questions below repeat those asked in the Athens questionnaire. You can, of course, use the answers you provided in 2020 to respond to this questionnaire.

I Ethics: Legal and institutional framework

1.1. General framework

1.1.1. Are the ethical obligations of public officials in general enshrined in your country's positive law?

☐Yes

☒No

If yes, they are enshrined (please check all applicable answers):

☐in the Constitution

☐in the law

☐in a regulatory text

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☐in a Charter of Ethics or a Collection of Ethical Principles

☐other

Please explain if necessary:

In Poland there is no single set of statutory rules that define behaviour within all types of public officials. Public service law in Poland is fragmented, separate acts apply to the civil service (in public administration), to police, prosecutors, judges, etc.

1.1.2. Are the ethical obligations of members of your institution specifically enshrined in your country's positive law?

☐Yes

☒No

If yes, they are enshrined (please check all applicable answers):

☐in the Constitution

☐in the law

☐in a regulatory text

☐in a Charter of Ethics or a Collection of Ethical Principles

☐other

Please explain if necessary:

In Poland ethical obligations are set for judges in general, there aren't any specific rules for administrative judges. The most important rules are included in the Constitution of the Republic of Poland. These rules relate to basic principle of judge's independence and prohibition of belonging to any political party, trade union or performing any other inappropriate public activities. These rules are included also in several statutory acts, in chapters concerning rights and obligations of judges, as well as in statutory acts concerning procedural matters (e.g. circumstances when a judge should be disqualified from the panel of judges). There is also a Code of Ethics for Judges, adopted by a resolution of the National Council of the Judiciary. This Code was adopted in 2003, then amended in 2017. The adoption of the Code of Ethics for Judges is a statutory obligation for the National Council of the Judiciary.

1.2. Charter of Ethics

1.2.1. Does your institution also have a Charter of Ethics or a Collection of Ethical Principles?

☐Yes

☒No

If the answer is yes: On which date was this document adopted?

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1.2.2. Is the adoption of this document an obligation for your institution?

☐Yes

☐No

Please explain if necessary:

Non applicable

1.2.3. Was this document adopted in response to a particular event that stirred public opinion?

☐Yes

☐No

If yes, please explain the legal and political context that led to the adoption of this text:

Non applicable

1.2.4. Who drafted this document?

☐A working group composed exclusively of members of your jurisdiction

☐A working group expanded to include outside persons

☐A working group involving associations of administrative judges

☐Other

Please explain if necessary:

Non applicable

1.2.5. Which authority signed and enacted this document?

☐The president of your institution

☐A collegiate body of your institution

☐Other

Please explain if necessary:

Non applicable

1.2.6. Has this document undergone one or more revisions?

☐Yes

☐No

Please explain the purpose of these revisions if necessary:

Non applicable

1.2.7. What is the legal value of this document?

☐This document contains binding legal rules (hard law)

☐This document contains soft law standards

☐Other

Please explain if necessary:

Non applicable

1.2.8. Please attach this document to your response, if possible in a French or English translation, in the form of an attached document or a web link.

Non applicable

1.3. Scope of application of ethical rules:

1.3.1. Whether a Charter of Ethics or equivalent text has been adopted or not, do the ethical rules applicable to members of your supreme court apply identically to magistrates in the lower courts of your judicial system?

☒Yes

☐Partially

☐No

Please explain if necessary:

1.3.2. To whom do these ethical rules apply?

☒To members of your institution who are active within it

☐To members of your institution who are temporarily not serving there, under secondment or availability arrangements, in other administrations or in the private sector

☐To resigning members

☒To retired members

☐To administrative staff (referendary judges, legal assistants, clerks, interns, etc.) assisting members of your institution

☐Other

Please explain if necessary:

Ethical rules listed in the Code of Ethics for Judges applies to retired judges of the SAC respectively.

For example, the National Council of the Judiciary in its opinion of April 9, 2003 stated that a retired judge may, without violating the rules of ethics, provide free legal advice on a charitable basis.

1.3.3. In the event that your institution exercises both a judicial and a consultative function, do the ethical obligations imposed on members exercising one or the other of these functions differ?

☐Yes

☐No

☒Not applicable

Please explain if necessary:

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1.3.4. If there is a duality of jurisdiction in your country distinguishing an administrative jurisdictional order and a judicial jurisdictional order, are the ethical rules applicable to magistrates of these two orders different?

☐Yes

☐Partially

☒No

Please explain if necessary:

There are general ethical rules, applicable to all judges.

1.3.5. If the ethical rules are wholly or partly different for magistrates of these two orders, please indicate one or more examples of obligations that apply to magistrates of only one order or that apply differently to magistrates of each order of jurisdiction:

Non applicable

1.3.6. If the magistrates who make up your institution belong to several different categories (for example, a bench and a public prosecutor's office), are they subject to different ethical rules?

☐Yes

☐No

☐Partially

☒Not applicable

If these ethical rules are wholly or partly different for magistrates of different categories, please give an example.

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1.4. Relationship between ethical and disciplinary rules:

Is a breach of ethical obligations necessarily an offence that may result in disciplinary action?

☐Yes

☒No

If not, please give an example:

In Polish jurisprudence, it is indicated that a breach of ethical obligations might be an offence that result in disciplinary action. Judge's behaviour should also be analysed in terms of fulfilling the conditions mentioned in statutory acts, concerning the disciplinary responsibility of judges, e.g. judgment of Supreme Court of the Republic of Poland, February 23, 2006, SNO 2/06. According to Article 9 of the Act of July 25, 2002 Law on the System of Administrative Courts, the disciplinary court for disciplinary cases of administrative court judges and court assessors is the Supreme Administrative Court. The disciplinary ombudsman in these cases is the Disciplinary Ombudsman of the Supreme Administrative Court.

1.5. Training on ethical rules:

Are members of your institution made aware of or trained in ethics?

☒Yes

☐No

If yes, how and how often?

Every several years there are organised lectures concerning different topics, methodology of a judge's work and ethics as well.

1.6. The College of Ethics

1.6.1. Has your institution created or does it have a collegiate body or a single authority responsible for answering ethical questions that may arise for members of your institution?

☐Yes

☒No

1.6.2. If yes, how is it appointed?

Non applicable

1.6.3. If yes and in the case of a collegiate body, how is it composed?

Non applicable

1.6.4. Who can refer to this body?

☐A member of your institution for an ethical question concerning them

☐A magistrate from the lower courts for an ethical question concerning them

☐The president of your institution

☐Other members of your institution

☐A litigant who believes that a magistrate has disregarded their ethical obligations

☐This body can refer to itself

☐Others

Please explain if necessary:

Non applicable

1.6.5. Are the opinions given by this body made public?

☐Yes

☐No

1.6.6. If yes, are the published opinions anonymised?

☐Yes

☐No

1.6.7. Can these opinions be challenged before the court?

☐Yes

☐No

Please explain the legal scope of these opinions:

Non applicable

1.7. Declaration of interests

1.7.1. Must members of your institution complete a declaration of interests?

☒Yes

☐No

If yes, please briefly describe the modalities of its submission:

According to Article 8 of the Act of July 25, 2002 Law on the System of Administrative Courts and Articles 87 and 88a of the Act of July 27, 2001 Law on the System of Common Courts, applied respectively to judges of the SAC, within 30 days of their assignment, all judges submit a declaration about their financial status, as well as membership in political party before the assignment or membership in associations or foundations. The declaration concerning financial status has to be held every year, while the declaration about membership in associations or foundations – within 30 days of any change in this matter. The declarations are submitted to the President of the SAC. They are analysed by the College of the SAC (the Board of the Supreme Administrative Court).

1.7.2. Is there a specific procedure or *ad hoc* body responsible for examining conflicts of interest that may arise when a member of your institution leaves for the private sector?

There is no specific procedure or *ad hoc* body responsible for examining conflicts of interest in such cases.

1.8. The oath

Do members of your institution have to take an oath?

☒Yes

☐No

If yes, what does this oath consist of and how is it taken?

Upon the appointment, judges publicly swear, before the President of the Republic of Poland, to uphold the rule of law, to fulfil their duties with diligence, to deliver justice in accordance with the rules of law and the principles of equity, impartially, according to his/her conscience, to respect for legally protected confidentiality and to follow the principles of dignity and honesty (Article 34 of the Act of December 8, 2017 on the Supreme Court of the Republic of Poland, applied respectively to judges of the SAC).

II Ethics: Content of rules

2. 1. Independence, impartiality and prevention of conflicts of interest

2.1.1. In which circumstances should a member of your institution abstain from sitting or risk being disqualified from a judgement panel?

☒In cases of familial ties that may link the magistrate with a party

☒In cases of friendly ties that may link the magistrate with a party

☒Due to previous functions performed by the magistrate

☒Other

Please explain, citing any relevant jurisprudential examples

According to Article 18 of the Act of August 30, 2002 Law on Proceedings before Administrative Courts, in cases in which a judge is a party to the case or remains in such a legal relationship to a party that the outcome of the case affects his/her rights or obligations, as well as in cases of a judge's spouse, persons related to him/her by blood or marriage, directly or collaterally, within the fourth degree of consanguinity (relation by blood) or the second degree of affinity (relation by marriage), a judge shall be disqualified from performing his/her office by operation of the Act itself. The same rule applies to cases of persons related to judge by adoption, custody or guardianship, cases in which judge was or still is an agent of one of the parties or render legal service for one of the parties or any other services relevant to a case. Also, judge is disqualified by the law itself due to previous functions performed in a case, e.g. when he/she participated in the issuance of the challenged judicial decision and in cases concerning validity of a legal act prepared or examined by him/her as well as in cases in which a judge acted as a public prosecutor.

Apart from these reasons, the court shall disqualify the judge, if there exists a circumstance of such a kind that would give rise to justified doubts as to his/her impartiality in the case (Article 19 of the above mentioned Act). In polish jurisprudence, it is indicated that these circumstances can concern personal relationships as well as previous relationship of the judge to a case. As an example, the Supreme Administrative Court of Poland disqualified a judge from the case because of his close relationship with an agent of one of the parties (as they have been working together for almost 30 years at the same university), judgment of March 11, 2024, case number I OSK 2779/20. Another example of disqualification of a judge from the case based on private relationship with the party to a case, described as close, friendly ties, lasting for several years, judgment of July 25, 2023, case number II GZ 228/23 and judgment of August 17, 2023, case number I OSK 2282/21.

2.1.2. If your institution exercises both a jurisdictional function and an advisory function, what individual measures does it implement to comply with the *Procola* case law of the European Court of Human Rights dated 28 September 1995, according to which the fact that certain members successively exercise, regarding the same decisions, advisory and jurisdictional functions is likely to compromise the structural impartiality of the institution?

☐Prohibition of a member's participation in the judgement of an appeal directed against an act taken after advisory opinion from your institution if they participated in the deliberation of that opinion

☐Prohibition for members of a judgement panel to consult the files of advisory panels

☐Other

Please explain if necessary:

The Supreme Administrative Court of Poland exercises only jurisdictional function.

2.1.3. If your country allows members of your institution to temporarily leave to take up other functions in the public or private sector, what ethical rules govern such a departure and, when the time comes, such a return?

☐Obligation to abstain, before departure, from participating in any deliberation involving a future employer from the moment the individual enters into negotiations with them

☐Prohibition for the members concerned, during this temporary period outside the institution, from intervening in cases they became aware of in the exercise of their jurisdictional activities

☐Prohibition for a member practising as a lawyer from submitting requests and briefs and appearing in court before your institution for a specified period

☐Obligation to abstain, if applicable for a specified period after the return, from participating in the judgement of disputes concerning decisions taken by the authority with which the member previously served

☒Other

Please explain if necessary:

There are not any written rules concerning specifically this situation. There is a possibility for a judge himself/herself or for a party to a case, to claim for disqualification based on justified doubts as to judge's impartiality in the case (mentioned in 2.1.1. above).

2.1.4. Can a member of your institution receive gifts?

☐Yes

☐Yes, under certain conditions

☒No

Please explain if necessary:

According to the Code of Ethics for Judges, judge is not allowed to accept benefits that might give the impression that they are an attempt to influence him/her. Judge should not take any financial actions which might give an impression that he/she is using his/her position. While using offers aimed only at judges, a judge should concern if they are not an attempt to influence him/her (§ 18 (2), § 19 and § 20 of the Code of Ethics for Judges). The exceptions for this rule may be small gifts exchanged as a part of protocol of a visit between jurisdictions or public authorities. There isn't any statutory limit of the value of such gifts.

2.1.5. Can a member of your institution receive an honorary decoration from their country or a foreign country?

☐Yes

☒Yes, under certain conditions

☐No

Please explain if necessary:

There are no specific rules concerning receiving an honorary decoration by a judge, apart from general rule of the Code of Ethics for Judges, mentioned in 2.1.4. above. According to it, a judge is not allowed to accept benefits that might give the impression that they are an attempt to influence him/her (§ 19 of the Code of Ethics for Judges).

According to the Article 5 of the Act of October 16, 1992 on orders and decorations, a Polish citizen may accept an order, decoration or other honourable award granted by the highest authorities of a foreign country, after obtaining the consent of the President of the Republic of Poland. This general rule concerns also judges.

2.2. Exercise of individual liberties

2.2.1. Are there limits placed on the freedom of expression and opinion of members of your institution?

☒Yes

☐No

Please explain if necessary:

According to the Code of Ethics for Judges, judge should not express an opinion about pending procedure or procedure which is about to start (§ 13 of the Code of Ethics for Judges).

2.2.2. In particular, is the use of social media by members of your institution regulated?

☒Yes

☐No

Please explain if necessary:

According to the Code of Ethics for Judges, judge should use social media with restraint (§ 23 of the Code of Ethics for Judges).

2.2.3. As an example, can a member of your institution participate in a public debate of general scope (for example, on immigration or euthanasia), provided that they do not specifically mention a particular case they may have been involved in judging?

☐Yes

☒Yes, under certain conditions

☐No

Please explain if necessary:

The answer to this question is not easy.

The Constitution of the Republic of Poland states in Article 178 (3) that a judge shall not perform public activities incompatible with the principles of independence of the courts and judges.

According to Article 41 (2) of the Act of December 8, 2017 on the Supreme Court of the Republic of Poland (applied respectively to judges of the SAC), judge shall guard the values associated with the exercise of judicial power and avoid anything that could bring the dignity of the office into disrepute or undermine confidence in his impartiality.

The standards included in the Code of Ethics for Judges concerning this matter are also rather general and refer as well to principles such as independence, impartiality and dignity of the office of a judge.

The National Council of the Judiciary in the Opinion of October, 13, 2016, stated that a judge as a citizen has the right to participate in public debate - if it concerns, for example, legal issues, the independence of the courts and the independence of judges, the organization of the judiciary, the status of judges. However, a judge should carefully consider the content and form of each of his public statements. This includes statements (posts) in online forums, social media (e.g., Facebook, X, former Twitter), blogs published on the Internet, and any other electronic media activity. A judge should use these forms of participation in public life with restraint, being careful in each situation to ensure that the content of the statements does not create grounds for accusations of lack of impartiality, political involvement or violation of good morals. He should also consider the real need for active use of these forms of expression.

2.2.4. Can a member of your institution write and publish an article or a book? Can they teach at a public university or a private educational institution?

☐Yes

☒Yes, under certain conditions

☐No

Please explain if necessary:

According to the Article 44 (1) of the Act of December 8, 2017 on the Supreme Court of the Republic of Poland (applied respectively to judges of the SAC), judges can become scientific and teaching employees at universities on certain conditions. These are: employment with only one employer and in total amount of time not exceeding the full time of employees employed in such a capacity. This employment cannot impede the performance of the duties as a judge.

As to write and publish an article or a book, there aren't any special requirements.

2.2.5. If yes, must they seek prior authorisation from the head of your institution?

☒Yes

☐No

Please clarify if necessary:

Judge is obliged to inform about his/her intention the President of the Supreme Administrative Court. The President of the SAC has a right to object if he considers that taking up or continuing employment or other occupation will obstruct the performance of duties, offend the dignity of the office of a judge or undermine confidence in impartiality or independence (Article 44 (3) of the Act of December 8, 2017 on the Supreme Court of the Republic of Poland, applied respectively to judges of the SAC).

2.2.6. Are members of your institution allowed to engage in political activities?

☐Yes

☐Yes, under certain conditions

☒No

Please explain if necessary:

The Constitution of the Republic of Poland states in Article 178 (3) that a judge shall not belong to a political party.

2.2.7. Can members of your institution run for elections?

☒Yes

☐Yes, under certain conditions

☐No

Please explain if necessary:

A judge running for a seat as an MP or senator or councillor shall be granted unpaid leave for the duration of the election campaign (Article 98 (1) of the Act of July 27, 2001 Law on the System of Common Courts, applied respectively to judges of the SAC).

In Polish jurisprudence it is indicated that failure to notify the court president of one's intention to run for parliamentary election is a disciplinary offense. In such case the president of the court could not take a position about judge's employment. This is also a breach of Article 98 § 1 of the Public Procurement Law by applying too late for unpaid leave for the duration of the election campaign, judgment of the Supreme Court of the Republic of Poland, August 30, 2006, SNO 39/06.

2.2.8. If a member of your institution is elected, can they continue to perform their functions in your institution?

☐Yes

☐Yes, under certain conditions

☒No

Please explain if necessary:

No, they have to resign immediately (Article 52 (1) of the Act of December 8, 2017 on the Supreme Court of the Republic of Poland, applied respectively to judges of the SAC).

2.2.9. If a member of your institution is elected, can they, in the event of full-time elective office, rejoin your institution upon the expiration of their mandate?

☐Yes

☒Yes, under certain conditions

☐No

Please explain if necessary:

Yes, they have the right to return to office as a judge, if the break in judicial duties does not exceed 9 years, unless he/she has served as a judge or prosecutor in international or supranational judicial bodies (Article 52 (2) of the Act of December 8, 2017 on the Supreme Court of the Republic of Poland, applied respectively to judges of the SAC).

2.2.10. Can a member of your institution sign a petition?

☐Yes

☒Yes, under certain conditions

☐No

Please explain if necessary:

The answer is not straightforward. The standards included in statutory law or in the Code of Ethics for Judges are rather general and do not refer to such specific situation. Judge has to take into account the principles of independence, impartiality and the dignity of their office and consider every situation on individual basis.

2.2.11. Can a member of your institution participate in a demonstration?

☐Yes

☒Yes, under certain conditions

☐No

Please explain if necessary:

As it has been already mentioned above, The Constitution of the Republic of Poland stated in Article 178 (3) that a judge shall not perform public activities incompatible with the principles of independence of the courts and judges. It is indicated that judges should care for dignity of their office and refrain from any behaviour which might undermine confidence in their impartiality.

2.2.12. Can a member of your institution invoke a "conscience clause" to refuse to apply the law – for example, by refusing to sanction a doctor who, in violation of the provisions obliging him to do so, failed to inform his patients about the possibility of terminating their pregnancy?

No

2.3. Case studies

To add substance to our discussion, the organisers of the symposium would like to discuss specific questions that you have encountered and on which your College of Ethics, if you have one, would have pronounced.

The French Council of State proposes four questions to you, as an example:

- On impartiality: Can a consultant judge (*rapporteur public*) of the Council of State [responsible for presenting to the members of the judgement panel the case before them, the legal issues it raises, and proposing a solution] receive a gift from a third party, not a party to the litigation, for the direction of the findings he has made in a case concerning the euthanasia of an elephant? (Opinion no. 2013/4 of 17 June 2013)

- On conflicts of interest: Which cases can a head of jurisdiction assign to a magistrate whose spouse is one of the most important members of the French Government? (Opinion no. 2017/4 of 18 September 2017)

- On conflicts of interest: Under what conditions can a former administrative magistrate practise as a lawyer? (Recommendation no. 2017-1 of 15 November 2017)

- On the obligation of discretion and freedom to produce intellectual works: Can a judicial magistrate seconded to the Council of State, during their secondment period, publish a historical essay on the *Ranucci* case, which had caused a stir and

led to one of the last capital executions in France in 1976? (Opinion no. 2016/4 of 17 January 2017)

On the freedom of expression: What are the limits of the freedom of expression in situation when a judge speaks publicly in his/her professional capacity (e.g. as a spokesperson of the court) and when he/she speaks in his/her private capacity? Do this limits differ from each other (on the basis of ECHR judgement Żurek v. Polska with the partly dissenting, partly concurring opinion of Judge Wojtyczek)?

III. Recruitment of members

3.1. Who can be recruited in your institution?

3.1.1. How many members do you recruit on average each year in your institution?

It is difficult to indicate an average number of judges who are appointed every year. This number differs from year to year and is dependent on many factors, first of all, on a number of vacant judicial positions in the Supreme Administrative Court of Poland.

The number of judges of Supreme Administrative Court of Poland is set in the Regulation of the President of the Republic of Poland and it now amounts to 130 judges. Judges are appointed for an indefinite period of time.

Last year, three judges of the SAC were appointed.

3.1.2. Are all new members recruited at the same rank, or are the members of your institution divided into several ranks for which different recruitment methods exist? Please explain:

All judges are appointed in the same way, that is, by the President of the Republic of Poland on the motion of the National Council of the Judiciary. It is stated in Article 179 of the Constitution of the Republic of Poland.

3.1.3. Are age conditions set for the recruitment of these new members?

☒Yes

☐No

Please explain if necessary:

A person may be appointed to serve as a judge of the SAC only if he/she has completed 40 years of age. There is one exception of this age limit – when a person has been a judge of voivodship

administrative court for at least three years (Article 7 of the Act of July 25, 2002 Law on the System of Administrative Courts).

3.1.4. Are diploma conditions set for the recruitment of these new members?

☒Yes

☐No

Please explain:

A person may be appointed to serve as a judge of SAC if he/she has completed higher law studies and is distinguished by his/her high level of knowledge in the field of public administration and administrative law and other areas of law related to the operation of public administration bodies (Articles 6 (1) and 7 of the Act of July 25, 2002 Law on the System of Administrative Courts).

3.1.5. Is it possible to become a member of your institution directly after completing university studies or, if applicable, after a training college?

☐Yes

☒No

Please explain:

A person may be appointed to serve as a judge of the SAC if he/she has remained for at least ten years in the position of a judge, prosecutor, president, vice-president, or counsellor of the General Prosecutor's Office of the Republic of Poland, or for at least ten years practiced the profession of an attorney, legal counsellor or notary, or if he/she has an academic title of professor or with the degree of doctor of jurisprudence (Article 7 of the Act of July 25, 2002 Law on the System of Administrative Courts).

3.1.6. Are conditions of prior professional experience required to become a member of your institution?

☒Yes

☐No

Please explain:

As it was mentioned in 3.1.5. above, at least ten years of professional experience is needed, although there is an exception for persons who have an academic title of professor or with the degree of doctor of jurisprudence.

3.1.7. Can members of the lower courts become members of your institution?

☒Yes

☐No

Please explain:

On condition that they have been judges for at least ten years.

If yes, what is their proportion in the number of new members?

It differs from year to year. Last year – 100% (all three nominated judges). In 2022 it was about 50%.

3.1.8. How old is the youngest of your colleagues?

The youngest judge of the SAC is 45.

3.1.9. Are the members of your institution recruited without a time limit - that is, for a career that will end with retirement - or for a fixed-term contract?

Judges of the SAC are appointed for an indefinite period of time.

3.2. How does the recruitment procedure work in your institution?

3.2.1. Does the executive branch intervene in the recruitment procedure for members of your institution?

☒Yes

☐No

Please explain:

Although judges are appointed by the executive, the President of the Republic, he does so on the basis of motions from the National Council of the Judiciary.

3.2.2. Does the recruitment procedure for members of your institution involve an individual interview?

☐Yes

☒No

3.2.3. If yes, is this interview an opportunity to assess the candidate's motivation as well as their legal knowledge?

☐Yes

☐No

3.2.4. Does the recruitment procedure vary depending on the rank the candidate is applying for - in the event that recruitments in your institution may be made at different ranks (cf. above 3.1)?

☐Yes

☒No

Please explain if necessary:

All judges are recruited in the same way.

3.3. What is the procedure for appointing members of your institution?

3.3.1. The appointment of members of your institution results from a decision:

☐by the executive branch (for example, a presidential decree)

☐by the judicial branch (by the president of your institution or a panel of independent judges)

☒other

Please explain if necessary:

According to the Constitution of the Republic of Poland, judges are recruited by the President of the Republic of Poland on the motion of the National Council of the Judiciary.

3.3.2. Can the appointment of members of your institution be challenged in court?

☐Yes, through an action at the time of the appointment of said members

☐Yes, as an exception regarding the regularity of the composition of the members of the judgement panel

☒No

If yes, before which judge?

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3.3.3. If your institution is competent to hear this litigation, how does it ensure respect for the right to a fair trial?

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