

## **Attorneys at Law**

Dz. U. [*Journal of Laws*] of 2017, item 1870, consolidated text of 9 October 2017

Status: Act currently in force

Version of 9 October 2017

**consolidated text**

### **Entry into force:**

1 October 1982

## **The Attorneys at Law Act**

of 6 July 1982

### **Chapter 1**

#### **General Provisions**

##### **Article 1. [Scope of application]**

1. The Act lays down the rules for practicing as an attorney at law and for the organization and operation of the self-government of attorneys at law.

2. The professional title of “attorney at law” [*radca prawny*] shall be protected by law.

##### **Article 2. [Aim of legal assistance provided by attorneys at law]**

Legal assistance provided by an attorney at law shall be aimed at legal protection of interests of the entities for which it is rendered.

##### **Article 3. [Practicing the profession; professional secrecy]**

1. The profession of attorney at law may be practiced by an individual who satisfies the requirements stipulated herein.

2. An attorney at law shall practice his or her profession with due diligence stemming from knowledge of the law and the rules of professional conduct.

3. An attorney at law shall maintain the secrecy of any information acquired in connection with providing legal assistance.

4. The obligation to preserve professional secrecy may not be limited in time.

5. An attorney at law may not be released from the obligation to preserve professional secrecy with regard to facts that have come to his or her knowledge in the course of providing legal assistance or handling a case.

6. The obligation to preserve professional secrecy shall not extend to information disclosed pursuant to the provisions of the Counteracting Money Laundering and Terrorism Financing Act of 16 November 2000 (Dz. U. of 2017, item 1049) – within the scope provided therein.

##### **Article 4. [Provision of legal assistance]**

The profession of attorney at law shall be practiced by providing legal assistance.

**Article 5. [Professional self-government of attorneys at law]**

1. Attorneys at law shall be organized on the basis of a professional self-government, hereinafter referred to as the “self-government.”
2. The organizational units of the self-government shall include circuit chambers of attorneys at law and the National Chamber of Attorneys at Law – each enjoying legal personality.
3. The Minister of Justice shall exercise oversight of self-government activity within the scope and in the forms set out in statutory law.

**Chapter 2**

**Practicing as an attorney at law**

**Article 6. [Practicing as an attorney at law]**

1. Provision of legal assistance by an attorney at law shall include, in particular, giving legal advice and counselling, rendering legal opinions, drafting proposed legislation, and appearing before authorities and courts as an attorney or a defense counsel.
2. (No longer in force).
3. Within the limits set out in separate regulations, an attorney at law shall be authorized to certify copies of documents to comply with the originals provided. Such certification shall include the attorney at law’s signature, date, indication of the place of issue, and – where requested – time of issue. If a document has distinguishing features (side notes, corrections, or defects), the attorney at law shall state so therein.

**Article 7.**

(Repealed).

**Article 8. [Legal basis for practicing as an attorney at law]**

1. Attorneys at law shall practice their profession within the framework of employment, on the basis of a civil-law contract, in an attorney at law’s office [*kancelaria*], or in:
  - 1) a civil-law partnership or a registered partnership in which the partners are attorneys at law, advocates, patent attorneys, tax advisors, or foreign lawyers who engage in permanent practice in accordance with the provisions of the Provision of Legal Assistance by Foreign Lawyers in the Republic of Poland Act of 5 July 2002 (Dz. U. of 2016, item 1874);
  - 2) a professional partnership in which the partners are attorneys at law, advocates, patent attorneys, tax advisors, or foreign lawyers who engage in permanent practice in accordance with the provisions of the Provision of Legal Assistance by Foreign Lawyers in the Republic of Poland Act of 5 July 2002;

- 3) a limited partnership or a limited joint stock partnership in which the general partners are attorneys at law, advocates, patent attorneys, tax advisors, or foreign lawyers who engage in permanent practice in accordance with the provisions of the Provision of Legal Assistance by Foreign Lawyers in the Republic of Poland of the Act of 5 July 2002.
2. The sole business of the partnerships referred to in subsection 1 shall be the provision of legal assistance.
3. An attorney at law shall notify the council of a competent circuit chamber of attorneys at law of commencing the attorney at law's professional practice and forms thereof, as well as of the address and name of the attorney at law's office or partnership, and indicate the address for service. An attorney at law shall notify the council of any changes to such information without delay. In proceedings carried out pursuant to this Act, pleadings shall be sent to the address for service referred to in the first sentence and shall thus be considered duly served.
4. The scope of legal assistance, the deadlines, the terms and conditions for the provision thereof, and the remuneration due shall be set out in a contract.
5. Any reference in this Act to an "employment relationship," "employment," or "remuneration," shall also have the meanings, respectively: "service relationship," "service," and "pay."
6. Legal assistance that consists in an attorney at law appearing before the courts as defense council in cases concerning offences and fiscal offences may be rendered within the framework of practicing the profession on the basis of a civil-law contract, in an attorney at law's office, or in a partnership referred to in subsection 1 – provided that the attorney at law is not employed. The prohibition against employment shall not apply to members of research and research and teaching staff.

**Article 9. [Practicing the profession within the framework of employment]**

1. An attorney at law practicing the profession within the framework of employment shall occupy an independent position reporting directly to the head of the organizational unit.
2. Where an organizational unit employs two or more attorneys at law, one of them shall be tasked with coordinating legal assistance within that unit.
3. At a state or local-government authority, an attorney at law shall render legal assistance within a section or an organizational unit, a bureau, a department, or while occupying a separate position for legal matters reporting directly to the head of the authority. As regards state authorities, an attorney at law may also be employed at another separate section or organizational unit and report to the head thereof.

4. A legal advisor may not be instructed to operate beyond the scope of legal assistance.

**Article 10. [Representation for legal and litigation purposes]**

An organizational unit shall ensure the participation of an attorney at law in proceedings:

- 1) pending before the Supreme Court, the Supreme Administrative Court, and a superior or central authority of state administration;
- 2) pending before a *provincial* court [*sąd wojewódzki*]<sup>1</sup>, court of appeal, provincial administrative court [*wojewódzki sąd administracyjny*], and second-instance authority in administrative proceedings;
- 3) involving a foreign contractor.

**Article 11. [Freedom of speech and writing in practicing the profession]**

1. In discharging professional duties, an attorney at law shall enjoy freedom of speech and writing within the limits prescribed by law and substantive need.

2. Any abuse of the freedom referred to in subsection 1 which constitutes a criminal insult or defamation of the party, its attorney or defense council, guardian *ad litem*, fact witness, expert witness, or interpreter, prosecutable by private indictment, shall be subject exclusively to disciplinary responsibility.

**Article 12. [Immunity; official attire]**

1. In the course of and in connection with discharging professional duties, an attorney at law shall enjoy such legal protection as is accorded to judges and public prosecutors.

2. The Minister of Justice shall determine, by way of ordinance, the official attire for attorneys at law participating in court hearings, having regard to the solemn nature of such attire appropriate for the dignity of the court and established tradition.

**Article 13. [Attorney at law's autonomy]**

1. An attorney at law shall not be bound by any instructions as to the contents of his or her legal opinion.

2. (Repealed).

**Article 14. [Independent handling of cases]**

An attorney at law shall handle cases before adjudicating authorities independently, ensuring the proper application of measures provided by law for protection of an organizational unit's legitimate interests.

**Article 15. [Conflicts of interests in practicing the profession]**

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<sup>1</sup> At present: the circuit court [*sąd okręgowy*] pursuant to Article 4 of the Act Amending the Law on the Common Courts System of 18 December 1998 (Dz. U. of 1998, No. 160, item 1064), which entered into force on 1 January 1999.

An attorney at law shall recuse him or herself from discharging professional duties in cases to which the attorney at law is a party or if the opposing party of the organizational unit that granted the attorney at law power of attorney is another organizational unit that employs him or her, or if the case concerns a person who remains in such a relationship with the attorney at law that it may affect the outcome of the case.

**Article 16. [Evaluation of an attorney at law's professional performance]**

1. An attorney at law's professional performance shall be evaluated by the head of the organizational unit acting in consultation with an attorney at law designated by the council of the circuit chamber of attorneys at law.

2. (Repealed).

**Article 17. [Employment at more than one organizational unit]**

An attorney at law practicing his or her profession within the framework of employment may be simultaneously employed at more than one organizational unit and in excess of a single full time equivalent.

**Article 18. [Attorney at law's working time]**

1. The working time of an attorney at law shall include the time required to handle any matters outside the premises of an organizational unit, in particular in courts and other authorities, and time required to prepare therefor.

2. The working time of an attorney at law at the premises of the organizational unit may not be shorter than two-fifths of the working time stipulated in the contract concluded with the attorney at law.

3. (Repealed).

**Article 19. [Termination of a legal advisor's employment]**

1. Upon prior consultation with the council of the circuit chamber of attorneys at law, an organizational unit may terminate the employment relationship with an attorney at law by notice due to improper discharge of the attorney at law's obligations arising under this Act. The chamber's opinion shall be sent to the organizational unit within 14 days of receiving the organizational unit's notification of intent to terminate the employment relationship.

2. (Repealed).

**Article 20. (Repealed).**

**Article 21. [Substitution]**

1. An attorney at law may grant further power of attorney (substitution) to another attorney at law, an advocate, or a foreign lawyer who engages in permanent practice in accordance with the Provision of Legal Assistance by Foreign Lawyers in the Republic of Poland Act.

2. Where necessary, the dean of the council of the circuit chamber of attorneys at law shall, *ex officio*, appoint a substitute for an attorney at law who has been struck off the roll of attorneys at law or is temporarily incapable of discharging professional duties. The dean's decision shall authorize the appointed attorney at law to handle any cases that have been accepted and shall be tantamount to granting further power of attorney for litigation purposes.

**Article 22. [Refusal to provide legal assistance]**

1. An attorney at law may refuse to provide legal assistance for material reasons only.
2. In the event that an attorney at law terminates a power of attorney, a contract of mandate, or a contract of employment, the attorney at law shall take all necessary steps to ensure that such a termination does not adversely affect the course of the cases handled.

**Article 22<sup>1</sup>. [Review and evaluation of an attorney at law's practice]**

The council of a circuit chamber of attorneys at law shall have the right to review and evaluate the practice of the profession by an attorney at law or a foreign lawyer entered to the roll of foreign lawyers maintained by the council of a circuit chamber of attorneys at law. The review and evaluation shall be carried out by visiting inspectors appointed by the council from among attorneys at law.

**Article 22<sup>2</sup>. [Permanent incapacity of an attorney at law to practice the profession]**

On the basis of a medical certificate and upon carrying out an in-depth investigation, the council of a circuit chamber of attorneys at law may – on motion of the President of the National Council of Attorneys at Law or the dean of the council of the circuit chamber of attorneys at law – pass a resolution on an attorney at law's permanent incapacity to practice the profession. Where such an investigation is launched, the council may suspend the legal advisor from discharging his or her duties for the duration of the investigation.

**Article 22<sup>3</sup>. [Costs of legal aid provided *ex officio*]**

1. The costs of legal aid provided by an attorney at law *ex officio* shall be borne by the State Treasury or a local government unit if special provisions so provide.
2. In consultation with the National Council of Attorneys at Law, the Minister of Justice shall lay down, by way of ordinance, the detailed rules for the bearing of costs referred to in subsection 1, including the method of calculating the costs, the expenses that make up the calculation basis, and the maximum amount of fees for legal aid rendered.

**Article 22<sup>4</sup>. [Attorney at law remuneration]**

1. An attorney at law practicing his or her profession under an employment relationship shall be entitled to remuneration and other benefits set out in a collective bargaining agreement or applicable regulations on the remuneration of employees at the organizational unit employing

the attorney at law. Such remuneration may not be lower than the remuneration stipulated for the position of chief specialist or another equivalent position. Where the right to bonuses is conditional upon the requirement of managing a team of employees, such requirement shall not apply to an attorney at law.

2. An attorney at law shall be entitled to additional remuneration in the amount of no less than 65% of the attorney fees awarded to the party represented by the attorney at law by the court, in a settlement, domestic or foreign arbitration, or enforcement proceedings if such fees have been recovered from the opposing party. In state budget units, the amount and date of remuneration payment shall be set out in a civil-law contract.

**Article 22<sup>5</sup>. [Contract with the client; fees and minimum rates for attorney at law services]**

1. Fees for services of attorneys at law who practice their profession in attorneys at law' offices or partnerships referred to in Article 8(1), or who are employed under civil-law contracts shall be stipulated in the contract with the client.

2. In consultation with the National Council of Attorneys at Law and the Polish Bar Council, the Minister of Justice shall determine, by way of ordinance, the amount of fees for attorney at law services rendered before judicial authorities which make up the basis for the awarding of costs of legal representation by the courts, with the understanding that setting higher fees than the minimum rate referred to in subsection 3 but not exceeding such rate by more than sixfold may be justified by the type and complexity of the case, as well as the necessary workload required of the attorney at law.

3. In consultation with the National Council of Attorneys at Law and the Polish Bar Council, the Minister of Justice shall determine, by way of ordinance, the minimum rates for attorney at law services referred to in subsection 1, having regard to the type and complexity of the case, as well as the necessary workload required of the attorney at law.

**Article 22<sup>6</sup>. [Contributions to an attorney at law's social security insurance]**

Contributions to the social security insurance of an attorney at law shall be paid by the organizational units employing the attorney at law, partnerships set out in Article 8(1), or personally by attorneys at law who practice their profession in an attorney at law's office or partnerships set out in Article 8(1).

**Article 22<sup>7</sup>. [Mandatory professional liability insurance]**

1. An attorney at law shall be subject to mandatory professional liability insurance against damage inflicted in the course of discharging professional duties referred to in Article 4 and Article 6(1).

2. The provision of subsection 1 shall not prejudice any provisions of Article 120 of the Labor Code.

3. The obligation to take out insurance referred to in subsection 1 shall not apply to non-practicing attorneys at law.

4. The council of the circuit chamber of attorneys at law competent for the place of an attorney at law's residence shall review his or her compliance with the obligation to enter into an insurance contract referred to in subsection 1. Compliance therewith shall be established on the basis of a policy or another insurance document confirming that a contract has been entered into, issued by the insurance company and presented by the attorney at law.

5. The Minister of Justice shall supervise the performance of the tasks set out in subsection 4 by the councils of circuit chambers of attorneys at law. Deans of the councils of circuit chambers of attorneys at law shall be required to submit annual reports on the review carried out in the previous calendar year to the Minister of Justice on or before March 15.

**Article 22<sup>8</sup>. [Delegated legislation – the scope of professional liability insurance]**

In consultation with the National Council of Attorneys at Law and the Polish Insurance Association and having regard to the particular nature of the profession and the scope of the tasks performed, the minister in charge of financial institutions shall set out, by way of ordinance, a detailed scope of mandatory insurance coverage referred to in Article 22<sup>7</sup>, the date on which the obligation to take out insurance arises, and the minimum monetary amount guaranteed.

**Article 22<sup>9</sup>. [Electronic signature of an attorney at law]**

1. Data for affixing an electronic signature for electronic writ of payment proceedings [*postępowanie upominawcze*] shall be provided to attorneys at law on motion filed with the competent council of the circuit chamber of attorneys at law.

2. The communication between attorney at law and the court in electronic writ of payment proceedings shall also be permitted with the use of a qualified electronic signature.

3. A motion for the provision of data specified in subsection 1 filed by an attorney at law with the competent council of the circuit chamber of attorneys at law shall be referred to the competent court along with the proof of the attorney at law's membership in (association with) the competent circuit chamber of attorneys at law. Persons intending to communicate with the court in a manner specified in subsection 2 shall notify the court of their intention through the competent council of the circuit chamber of attorneys at law and shall provide data for verifying the electronic signature.



4. The competent council of the circuit chamber of attorneys at law shall forward the information referred to in subsection 3 to the court within 14 days of filing the motion.

### **Chapter 3**

#### **Qualifications to practice as an attorney at law**

##### **Article 23. [Acquiring the right to practice the profession]**

The right to practice the profession shall be acquired upon entry to the roll of attorneys at law and taking the oath.

##### **Article 24. [Entry to the roll of attorneys at law]**

1. Entry to the roll of attorneys at law shall be available to those who:

- 1) have completed tertiary legal education in the Republic of Poland and received a Master's Degree in law or have completed foreign legal studies recognized in the Republic of Poland;
- 2) (repealed);
- 3) enjoy full public rights;
- 4) have full capacity for acts in law;
- 5) are of impeccable moral character and their hitherto conduct provides an assurance that they will properly practice of the profession of attorney at law;
- 6) have completed attorney at law training in the Republic of Poland and passed the attorney at law professional qualifications examination, subject to Article 25(1)–(2).

2. The entry of a person who received a passing score on the attorney at law professional qualifications examination or persons referred to in Article 25(1)–(2) shall be made upon their application. The resolution on the entry shall be adopted by the council of the circuit chamber of attorneys at law competent for, respectively, the place of the attorney at law's training, the place the application was submitted, or the place of the applicant's residence.

2a. The application referred to in subsection 2 shall be accompanied by:

- 1) a statement from the National Criminal Register confirming the absence of a criminal record dated no earlier than one month prior to submission thereof;
- 2) the declaration referred to in Article 7(1) of the Disclosure of Information from the Documents of National Security Authorities from the Years 1944–1990 and the Content of Such Documents Act of 18 October 2006 (Dz. U. of 2016, item 1721, 1948, 2260, and 2261, and Dz. U. of 2017, item 1530 and 1600) or the statement referred to in Article 7(3a) therein as regards persons born before 1 August 1972;
- 3) as regards persons referred to in Article 25(1)(4)–(5) – contracts of employment along with documents defining the scope of their responsibilities or statements from their

employer defining the scope of their responsibilities, or civil-law contracts along with a declaration stating that a tax return has been filed with the competent tax office and taxes on the contracts have been paid;

- 4) as regards persons referred to in Article 25(1)(5) – a document that certifies the awarding of the academic degree of Doctor of Legal Sciences;
- 5) as regards persons referred to in Article 25(1)(4)(b) and Article 25(1)(5)(b) – a statement from an advocate or an attorney at law certifying that the applicant has been discharging duties requiring legal knowledge directly associated with the provision of legal assistance by the advocate or the attorney at law;
- 6) as regards persons referred to in Article 25(1)(4)(c) and Article 25(1)(5)(c) – documents certifying a period of employment of at least three years with offices of public authorities or organizational units of the state, and the discharge of duties requiring legal knowledge directly associated with drafting proposed legislation, ordinances, or enactments of local law;
- 7) a document that certifies achieving a passing score on the professional qualifications examination for judges, public prosecutors, or notaries public.

2b. (Repealed).

2c. The council of a circuit chamber of attorneys at law may refuse entry to the roll of attorneys at law only if the entry violates the provisions of subsection 1. The councils of circuit chambers of attorneys at law shall be vested with the right to view the personnel and disciplinary files and records of the applicants.

3. (Repealed).

4. (Repealed).

5. (Repealed).

**Article 24<sup>1</sup>. [Submission deadline for entry applications to the roll of attorneys at law]**

Achieving a passing score on the attorney at law professional qualifications examination shall entitle an examinee to submit an application for entry to the roll of attorneys at law within 10 years of service of the resolution on the examination results.

**Article 25. [Exemption from the requirement of completing attorney at law training and passing the attorney at law professional qualifications examination]**

1. The requirement of completing attorney at law training and passing the attorney at law professional qualifications examination shall not apply to:

- 1) Professors and those holding the degree of *Doctor Habilitatus* [*doktor habilitowany*] of Legal Sciences;

- 2) persons who have, for a period of at least three years, held the office of president or vice president of the General Counsel to the Republic of Poland [*Prokuratoria Generalna*] or the position of counsel thereof, or practiced as a court enforcement officer;
- 3) persons who have held the position of a judge or public prosecutor, or practiced as an advocate or a notary public;
- 3a) persons who have, for at least two years, held the position of assistant judge [*asesor sądowy*];
- 4) persons who have achieved a passing score on the professional qualifications examination for judges or public prosecutors after 1 January 1991, or the professional qualifications examination for notaries public after 22 April 1991, and for a sum total of at least three years, within a period of five years preceding their application for entry to the roll of attorneys at law, have:
  - a) held the position of assistant public prosecutor [*asesor prokuratorski*], court referendary [*referendarz sądowy*], senior court referendary [*starszy referendarz sądowy*], trainee judge [*aplikant sądowy*], trainee public prosecutor [*aplikant prokuratorski*], assistant to a public prosecutor [*asystent prokuratora*], assistant to a judge [*asystent sędziego*], or were employed at the Supreme Court, the Constitutional Tribunal, or an international judicial authority, in particular at the Court of Justice of the European Union or the European Court of Human Rights and performed tasks corresponding to the duties of an assistant to a judge, or
  - b) discharged duties requiring legal knowledge directly associated with the provision of legal assistance by an advocate or an attorney at law and have done so under a contract of employment or a civil-law contract in an advocate's office [*kancelaria adwokacka*], advocates' joint office [*zespół adwokacki*], civil-law partnership, registered partnership, professional partnership, limited partnership, or limited joint stock partnership referred to in Article 4a(1) of the Law on Advocates of 26 May 1982 (Dz. U. of 2016, item 1999 and 2261, and of 2017, item 1139), or attorney at law's law office, civil-law partnership, registered partnership, professional partnership, limited partnership, or limited joint stock partnership referred to in Article 8(1), or
  - c) been employed with offices of public authorities or organizational units of the state and have discharged duties requiring legal knowledge directly associated with drafting proposed legislation, ordinances, or enactments of local law;

- 5) persons who hold the academic degree of Doctor of Legal Sciences and for a sum total of at least three years, within a period of five years preceding their application for entry to the roll of attorneys at law, have:
- a) held the position of court referendary, senior court referendary, trainee judge, trainee public prosecutor, assistant to a public prosecutor, assistant to a judge, or
  - b) discharged duties requiring legal knowledge directly associated with the provision of legal assistance by an advocate or an attorney at law and have done so under a contract of employment or a civil-law contract in an advocate's office, advocates' joint office, civil-law partnership, registered partnership, professional partnership, limited partnership, or limited joint stock partnership referred to in Article 4a(1) of the Law on Advocates of 26 May 1982, or attorney at law's law office, civil-law partnership, registered partnership, professional partnership, limited partnership, or limited joint stock partnership referred to in Article 8(1), or
  - c) been employed with offices of public authorities or organizational units of the state and have discharged duties requiring legal knowledge directly associated with drafting proposed legislation, ordinances, or enactments of local law, or
  - d) were employed at the Constitutional Tribunal, or an international judicial authority, in particular at the Court of Justice of the European Union or the European Court of Human Rights and performed tasks corresponding to the duties of an assistant to a judge.

2. The following persons may sit for the attorney at law professional qualifications examination held before an examination board referred to in Article 36<sup>1</sup> without completing attorney at law training:

- 1) Doctors of Legal Sciences;
- 2) persons who for at least four years, within a period not exceeding six years prior to applying for admission to the examination, have been employed in the capacity of a court referendary, senior court referendary, assistant to a public prosecutor, or assistant to a judge, or were employed at the Supreme Court, the Constitutional Tribunal, or an international judicial authority, in particular in the Court of Justice of the European Union or the European Court of Human Rights, and performed tasks corresponding to the duties of an assistant to a judge;
- 3) persons who, having completed tertiary legal education, for a period of at least four years, within a period not exceeding six years prior to applying for admission to the examination, have discharged duties requiring legal knowledge directly associated with

the provision of legal assistance by an advocate or an attorney at law and have done so under a contract of employment or a civil-law contract in an attorney at law's law office, civil-law partnership, registered partnership, professional partnership, limited partnership, or limited joint stock partnership referred to in Article 8(1), or advocate's office, advocates' joint office, civil-law partnership, registered partnership, professional partnership, limited partnership, or limited joint stock partnership referred to in Article 4a(1) of the Law on Advocates of 26 May 1982;

- 4) persons who, having completed tertiary legal education, for a period of at least four years, within a period not exceeding six years prior to applying for admission to the examination, have been employed with offices of public authorities and have discharged duties requiring legal knowledge directly associated with the provision of legal assistance for such offices;
- 4a) persons who, having completed legislative training [*aplikacja legislacyjna*], for a period of at least four years, within a period not exceeding six years prior to applying for admission to the examination, have been employed with offices of public authorities or organizational units of the state and have discharged duties requiring legal knowledge directly associated with drafting proposed legislation, ordinances, or enactments of local law;
- 5) persons who passed the professional qualifications examination for judges, public prosecutors, notaries public, or court enforcement officers;
- 6) persons who hold the position of counsel with the General Counsel to the Republic of Poland;
- 7) persons who failed to submit the application for entry to the roll of attorneys at law by the deadline set out in Article 24<sup>1</sup>;
- 8) persons referred to in Article 29<sup>2</sup>(2).

3. Persons referred to in subsection 2 shall have to satisfy the requirements stipulated in Article 24(1)(1) and Article 24(1)(3)–(5).

4. In the event that work is performed on the basis of part-time employment, the periods referred to in subsection 1(4)–(5) and subsection 2(2)–(4) shall be extended proportionally.

5. In the event that judicial or public prosecutor training takes place outside the framework of full-time employment, the periods referred to in subsection 1(4)–(5) shall include the proportional duration of such training, with each month of the training counted as one-fourth of a month.

**Article 26. [Prohibition against combining the profession of attorney at law with other legal professions]**

No person practicing as a judge, assistant judge, public prosecutor, notary public, court enforcement officer, assistant public prosecutor or notary public, or completing judicial, public prosecutor, or notarial training may simultaneously be entered to the roll of attorneys at law or practice as an attorney at law.

**Article 27. [Oath of office]**

1. The oath of office taken by attorneys at law reads as follows: “I solemnly swear that in my practice as an attorney at law I shall contribute to the protection and strengthening of the legal order of the Republic of Poland, discharge my professional duties conscientiously and lawfully, keep professional secrets, and conduct myself with dignity and integrity, guided by the rules of professional conduct and justice.”

2. The oath shall be administered by the dean of the circuit chamber of attorneys at law that maintains the roll of attorneys at law to which the attorney at law has been entered.

**Article 28. [Suspension of the right to practice the profession]**

1. The right to practice as an attorney at law shall be suspended if the attorney at law:

- 1) practices as an advocate;
- 2) takes up employment with judicial authorities, prosecuting authorities, or a notary public's office;
- 3) takes up the position of President of the General Counsel to the Republic of Poland, its vice president, counsel, or referendary.

2. The right to practice as an attorney at law shall also be suspended from the date a disciplinary decision imposing such penalty becomes final and binding.

3. Suspension of the right to practice as an attorney at law shall not be imposed on persons employed in the capacity of attorneys at law with the authorities and offices referred to in subsection 1(2).

4. The council of the circuit chamber of attorneys at law shall adopt a resolution on the suspension of the right to practice as an attorney at law within 30 days of obtaining information about the occurrence of an event referred to in subsection 1.

5. The resolution referred to in subsection 4 may be appealed by the interested party to the Presidium of the National Council of Attorneys at Law within 14 days of the service of the resolution. The Presidium of the National Council of Attorneys at Law shall adopt a resolution within 30 days of the appeal being served.

6. The resolution of the Presidium of the National Council of Attorneys at Law may be appealed by the interested party to the Minister of Justice in accordance with the Code of Administrative Procedure.

7. The interested party and the Presidium of the National Council of Attorneys at Law may file a complaint [*skarga*] with an administrative court against the final decision of the Minister of Justice within 30 days of the decision being served.

**Article 29. [Strike-off the roll of attorneys at law]**

An attorney at law shall be struck off the roll of attorneys at law in the event of:

- 1) the attorney at law's application for being struck off the roll;
- 2) (repealed);
- 3) limitation, even if partial, of capacity for acts in law;
- 4) forfeiture of public rights by virtue of a court judgment;
- 4a) nonpayment of membership dues for a period exceeding one year;
- 5) the attorney at law's death;
- 5a) (no longer in force);
- 6) a disciplinary decision or a court ruling depriving the attorney at law of the right to practice as an attorney at law.

**Article 29<sup>1</sup>. [Resolution on the striking off the roll of attorneys at law]**

The resolution on the striking off the roll of attorneys at law shall be adopted by the council of the circuit chamber of attorneys at law within 30 days from obtaining information about the occurrence of an event referred to in Article 29(1) and Article 29(3)–(5). The provisions of Article 28(5)–(7) shall apply *mutatis mutandis*.

**Article 29<sup>2</sup>. [Re-entry to the roll of attorneys at law]**

1. A person who has been struck off the roll of attorneys at law for reasons referred to in Article 29(1), Article 29(3)–(4a), and Article 29(6), shall be re-entered to the roll upon his or her application provided that the applicant satisfies the requirements set out in Article 24(1) subject to Article 65(2c).

2. If the person referred to in subsection 1 has not practiced the profession for more than 10 years, he or she shall be entered to the roll of attorneys at law upon passing the attorney at law professional qualifications examination. The requirement of passing the examination does not apply to persons referred to in Article 25(1).

**Article 29<sup>3</sup>. [Strike-off the roll of attorneys at law in connection with an act committed prior to entry]**

The council of the circuit chamber of attorneys at law may strike an attorney at law off the roll of attorneys at law in connection with an act committed prior to entry to the roll if the act was not known to the council at the time of entry and would have constituted an impediment thereto.

**Article 30. [Denying removal from the roll of attorneys at law in the course of disciplinary proceedings]**

1. In the event of disciplinary proceedings pending against an attorney at law, removal from the roll of attorneys at law may be denied until the conclusion of such proceedings, notwithstanding the attorney at law's application referred to in Article 29(1).

2. (Repealed).

**Article 31. [Resolution on the entry to the roll of attorneys at law]**

1. A resolution of the council of the circuit chamber of attorneys at law on the entry to the roll of attorneys at law shall be adopted within 30 days of submitting an application.

2. The resolution referred to in subsection 1 may be appealed to the Presidium of the National Council of Attorneys at Law within 14 day of the resolution being served.

2a. The resolution of the Presidium of the National Council of Attorneys at Law denying entry to the roll of attorneys at law may be appealed by the interested party to the Minister of Justice in accordance with the Code of Administrative Procedure.

2b. The interested party and the Presidium of the National Council of Attorneys at Law may file a complaint with an administrative court against the final decision of the Minister of Justice within 30 days of the decision being served.

3. In the event that the council of the circuit chamber of attorneys at law fails to issue a resolution within 30 days of submitting an application for entry, or the Presidium of the National Council of Attorneys at Law fails to issue a resolution within 30 days of the service of an appeal, the interested party may file a complaint with an administrative court.

**Article 31<sup>1</sup>. [Forwarding resolutions to the Minister of Justice]**

1. Each resolution on the entry to the roll of attorneys at law shall be forwarded by the council of the circuit chamber of attorneys at law, along with personnel files of the candidate, to the Minister of Justice within seven days, and, within 30 days, each resolution on the entry to the roll of trainee attorneys at law. The council of the circuit chamber of attorneys at law shall notify the Minister of Justice of each resolution denying entry to the roll of attorneys at law within seven days, and, within 30 days, of each resolution denying entry to the roll of trainee attorneys at law.

2. Where an application for entry included in the personnel files does not contain all the required information or documents, the Minister of Justice shall return the resolution along with the



personnel files of the candidate to the competent council of the circuit chamber of attorneys at law for supplementation.

**Article 31<sup>2</sup>. [Objection by the Minister of Justice]**

1. An entry to the roll of attorneys at law or trainee attorneys at law shall be considered effected if the Minister of Justice does not sign an objection to the entry within 30 days of service of the resolution accompanied by the personnel files of the candidate. In the event referred to in Article 31<sup>1</sup>(2), the time limit is set running from the date of the repeat service of the resolution accompanied by the personnel files. The objection of the Minister of Justice shall take the form of an administrative decision.

2. The interested party or a body of the self-government may appeal the decision issued by the Minister of Justice to an administrative court within 30 days of the decision being served.

3. Immediately following the entry to the roll of trainee attorneys at law, the council of the circuit chamber of attorneys at law shall set the date for the trainee to take an oath. The provisions of Article 27 shall apply *mutatis mutandis*.

**Chapter 4**

**Attorney at law training and professional qualifications examination**

**Article 32. [Attorney at law training]**

1. Attorney at law training shall aim at preparing the trainee for the proper and independent practice of the profession of attorney at law in particular by developing skills in the areas of litigation, drafting pleadings, contracts, and legal opinions, as well as at imparting the rules for practicing the profession.

2. Attorney at law training shall commence on January 1 of each year and shall last three years.

3. Attorney at law training shall take place in an attorney at law's office, in a partnership of attorneys at law or attorneys at law and advocates, or in organizational units.

3a. In the course of training, the trainees shall be instructed in the operation of the common courts system and the public prosecutor's office. The President of the National Council of Attorneys at Law shall enter into an agreement with the Minister of Justice on the training of the trainees in the operation of the common court system and the public prosecutor's office. The agreement shall define, in particular, the general curriculum of the training that covers theoretical and practical courses, the manner in which the training is carried out, its duration, and the remuneration due for providing the training.

4. The competent council of the circuit chamber of attorneys at law shall issue a certificate of completion to a trainee who has completed attorney at law training without delay but no later than within 14 days thereof.

**Article 32<sup>1</sup>. [Fees for attorney at law training]**

1. Attorney at law training shall be subject to a fee.
2. The training of trainee attorneys at law shall be covered from the fees paid by the trainees to the competent council of the circuit chamber of attorneys at law.
3. In consultation with the National Council of Attorneys at Law, the Minister of Justice shall determine, by way of ordinance, the amount of the annual fee, having regard to the need of ensuring an adequate level of education for the trainees, with the stipulation that the amount shall not be in excess of six times the amount of the minimum monthly wage.
4. The circuit council of attorneys at law may waive the fee referred to in subsection 3 in whole or in part, defer payment thereof, or break it into installments.
5. Where a resolution is adopted on waving the fee for the trainee in whole or in part, the cost of training such a trainee shall be covered *pro rata* to the amount waived from the own funds of the competent council of the circuit chamber of attorneys at law.

**Article 33. [Recruitment for attorney at law training]**

1. Recruitment for attorney at law training shall be carried out by way of an entrance examination for attorney at law training, hereinafter referred to as the “entrance examination.”
2. A person who meets the criteria set out in Article 24(1)(1) and Article 24(1)(3)–(5) and who has received a passing grade on the entrance examination may become a trainee attorney at law.
3. Entry to the roll of attorneys at law shall be made upon a resolution of the council of the circuit chamber of attorneys at law competent for the place of submitting the notification referred to in Article 33<sup>3</sup>(2). Achieving a passing score on the entrance examination shall entitle the examinee to apply for entry to the roll of trainee attorneys at law within two years of service of the resolution on the examination result.
4. A person who meets the criteria referred to in subsections 2 and 3 may not be denied entry to the roll.
5. With regard to trainee attorneys at law and the procedure for entry to the roll of trainee attorneys at law the provisions of Article 3(3)–(5), Article 11, Article 12(1), Article 23, Article 24(1)(1), Article 24(1)(3)–(5), Article 24(2a)(1), Article 24(2c), and Article 311 shall apply *mutatis mutandis*.
6. The council of the circuit chamber of attorneys at law adopts a resolution on the entry to the roll of trainee attorneys at law within 30 days of submitting an application.
7. The resolution referred to in subsection 6 may be appealed against to the Presidium of the National Council of Attorneys at Law within 14 days of service of the resolution.

8. The interested party may file a complaint with an administrative court against a final resolution denying entry to the roll of trainee attorneys at law within 30 days of service of the resolution.

9. In the event that the council of a circuit chamber of attorneys at law fails to issue a resolution within 30 days of submitting an application for entry to the roll of trainee attorneys at law, or the Presidium of the National Council of Attorneys at Law fails to issue a resolution within 30 days of service of the appeal, the interested party may file a complaint with an administrative court.

**Article 33<sup>1</sup>. [Entrance examination]**

1. The entrance examination shall be administered by examination boards for attorney at law training operating under the auspices of the Minister of Justice and appointed by way of instruction [*zarządzenie*], hereinafter referred to as the “selection boards.” The territorial jurisdiction of a selection board shall comprise the area of jurisdiction of one or more circuit chambers of attorneys at law.

1a. Where warranted by organizational considerations, in particular by a large number of candidates wishing to sit for the examination, the Minister of Justice may appoint more than one selection board to administer the examination within the area of jurisdiction of a circuit chamber of attorneys at law no later than 21 days preceding the set date of the examination. The provisions of Article 33<sup>5</sup>(5) shall not apply.

2. The Minister of Justice shall be the higher level authority in relation to a selection board.

3. The entrance examination shall consist in testing the knowledge of a candidate for trainee attorney at law, hereinafter referred to as the “candidate,” in the following areas: substantive and procedural criminal law, substantive and procedural law of petty offenses, fiscal penal law, substantive and procedural civil law, family and guardianship law, economic law, commercial-law companies and partnerships, labor and social security law, substantive and procedural administrative law, administrative court proceedings, European Union law, constitutional law, as well as law on the system of courts and public prosecution offices, professional self-government of advocates, attorneys at law, and other legal protection authorities [*organy ochrony prawnej*] in the Republic of Poland.

4. The entrance examination for attorney at law and advocate training shall be held once a year on a date set by the Minister of Justice.

5. In the event of an impediment preventing a given selection board from holding the entrance examination on the date referred to in subsection 4, the Minister of Justice shall set an additional date for the entrance examination to be held by such selection board and the chairperson of the

selection board shall inform the candidates of the additional date by registered mail and by posting it on the message board at the registered office of the designated circuit chamber of attorneys at law. The provisions of Article 75b(5) and Article 75b(7)–(11) of the Law on Advocates of 26 May 1982 shall apply *mutatis mutandis* with the exception of the deadline referred to in Article 75b(9) therein.

**Article 33<sup>2</sup>. [Preparation, printing, and delivery of text questions for the entrance examination]**

The preparation of test questions for the entrance examination for candidates for attorney at law training and the printing and delivery of the test questions to each selection board shall be governed by the provisions of Article 75b of the Law on Advocates of 26 May 1982.

**Article 33<sup>3</sup>. [Announcing the entrance examination; notification of intent to sit for the entrance examination]**

1. On or before June 30 of each year, the Minister of Justice shall place an announcement of the entrance examination in *Biuletyn Informacji Publicznej* [Bulletin of Public Information] which shall specify, in particular:

- 1) the deadline for submitting the notification of intent to sit for the entrance examination for attorney at law training, hereinafter referred to as the “notification;”
- 2) the territorial jurisdiction of each selection board and the addresses of their registered offices;
- 3) the date of the entrance examination;
- 4) the amount of the entrance examination fee referred to in Article 33<sup>4</sup>(1).

2. The notification referred to in subsection 1(1) shall include:

- 1) an application for admission to the entrance examination;
- 2) a personal questionnaire;
- 3) a resume;
- 4) a copy of a document certifying the completion of tertiary legal education in the Republic of Poland and the awarding of a Master’s Degree or the completion of foreign legal studies recognized in the Republic of Poland, or a certificate confirming that the Master’s Degree final examination has been passed;
- 5) (Repealed);
- 6) the original proof of payment of the entrance examination fee;
- 7) three photographs that comply with the requirements applicable to the issuance of an identity card [*dowód osobisty*].

2a. In lieu of documents referred to in subsection 2(4), a candidate may submit a certificate confirming that the candidate has passed all examinations and practical training provided for in the curriculum for tertiary legal education and that his or her Master's Degree final examination has been scheduled. The admission of such candidate to the entrance examination shall be conditional upon the candidate filing the documents referred to in subsection 2(4) at the registered office of the selection board no later than seven days prior to the date of the entrance examination.

3. The candidate shall give notification to the selection board at the latest 45 days prior to the date of commencement of the entrance examination. The deadline for giving notification may not be reinstated.

4. Where the notification does not meet the formal requirements set out in subsection 2, the chairperson of the selection board shall call on the candidate by registered mail to rectify the defects pursuant to Article 64(2) of the Code of Administrative Procedure.

5. In the event that a candidate does not rectify the formal defects of the notification in accordance with subsection 4 or a candidate fails to meet the requirement referred to in subsection 2a, the notification shall not be considered. The chairperson of the selection board shall issue an order [*postanowienie*] not to further consider the notification and shall notify the candidate thereof by registered mail with confirmation of receipt. Such order may be challenged by means of interlocutory appeal [*zażalenie*] filed with the Minister of Justice. Should the interlocutory appeal be warranted, the chairperson of the selection board may vacate the challenged order and reexamine the case without forwarding the files to the Minister of Justice.

6. In the event that a candidate fails to pay the fee for participating in the entrance examination, the chairperson of the selection board shall call on the candidate to pay the fee within seven days in accordance with the procedure set out in subsection 4.

7. Where a candidate has failed to pay the fee for participating in the entrance examination despite having been called on pursuant to subsection 6, the chairperson of the selection board shall issue an order returning the notification. Such order may be challenged by means of interlocutory appeal filed with the Minister of Justice.

8. In the event that the notification has been submitted after the expiry of the deadline referred to in subsection 3, the chairperson of the selection board shall issue a decision denying the candidate admission to the entrance examination. Such decision may be appealed to the Minister of Justice.

9. The chairperson of the selection board shall notify each candidate who has qualified for admission to the entrance examination of the date and venue of the entrance examination by

registered mail with confirmation of receipt no later than 14 days prior to the date of the commencement of the examination.

**Article 33<sup>4</sup>. [Entrance examination fee]**

1. A candidate shall pay an entrance examination fee, which shall constitute state budget revenue.

1a. Where an order not to further consider the notification is made or a decision denying a candidate admission to the entrance examination is issued, or if a candidate submits a written statement of withdrawal from the entrance examination no later than 14 days prior to the date of the entrance examination, two-thirds of the fee paid shall be refunded within 30 days of the candidate lodging a written application for refund with the chairperson of the selection board.

2. In consultation with the National Council of Attorneys at Law and having regard to the need for proper and effective administration of the entrance examination, the Minister of Justice shall determine, by way of ordinance, the entrance examination fee in an amount not exceeding the equivalent of the minimum monthly wage referred to in the Minimum Wage Act of 10 October 2002 (Dz. U. of 2017, item 847), hereinafter referred to as the “minimum wage.”

**Article 33<sup>5</sup>. [Selection boards]**

1. The Minister of Justice shall appoint selection boards from among persons whose knowledge, experience, and authority ensure the proper conducting of the entrance examination.

2. A selection board shall be composed of seven members. The composition of a selection board shall include:

- 1) three representatives of the Minister of Justice; among other persons, a judge or a retired judge may, upon his or her consent, represent the Minister of Justice;
- 2) two representatives delegated by the National Counsel of Attorneys at law;
- 3) one member of research, research and teaching, or teaching staff of a faculty of law at an institution of higher education in the Republic of Poland or in the Polish Academy of Sciences who, at minimum, holds the degree of *Doctor Habilitatus* of Legal Sciences;
- 4) one public prosecutor who has been appointed, at minimum, to the position of a prosecutor at the circuit public prosecutor’s office and who may be retired.

3. Persons referred to in subsection 2(1) and subsection 2(3) shall not be attorneys at law.

4. The Minister of Justice shall appoint the chairperson and the deputy chairperson of a selection board from among the minister’s representatives. In the absence of the chairperson, the deputy chairperson shall be authorized to act as the chairperson.

4a. A selection board shall oversee the proper conducting of the entrance examination. The chairperson of a selection board shall preside over its work and shall represent it externally.

5. A selection board's term of office shall last for two years.

6. Failure to delegate representatives to a selection board by the authorities required to do so or the non-appearance of a member of a selection board shall not hold up the work of the selection board.

7. The chairperson and the members of a selection board shall be entitled to reimbursement of their travel and accommodation expenses in accordance with the rules set out in the provisions on travel allowance for persons employed with a budget unit of state or local government on account of a domestic business trip.

8. The chairperson and the members of the selection board who are not government administration employees shall be entitled to remuneration for discharging duties associated with their membership in a selection board.

9. The council of the circuit chamber of attorneys at law competent for the registered office of the selection board shall provide administrative and technical support for the operations of the board, including administration of the entrance examination, as a commissioned task in the area of government administration.

10. From the funds transferred for the commissioned task referred to in subsection 9, the competent councils shall cover the costs of administering the entrance examination and the expenses associated with the selection board's operations.

11. The expenses associated with the operations of the selection board, including the administration of the entrance examination, and the remuneration of the members of the selection board shall be covered from the portion of the state budget at the disposal of the Minister of Justice.

12. In consultation with the National Council of Attorneys at Law, the Minister of Justice shall determine, by way of ordinance:

- 1) the procedure and deadline for putting forward candidates for members of a selection board and for appointing and dismissing the members of a selection board,
- 2) the amount of reimbursement for the chairperson and members of a selection board having regard to the number of persons who have submitted notifications of intent to sit for the entrance examination, the scope and amount of work required to organize and conduct the entrance examination, and the procedure for payment of such remuneration,
- 3) a detailed procedure for and manner of administering the entrance examination, in particular:

- a) how a selection board shall operate,
- b) the organization of administrative and technical support for a selection board by councils of circuit chambers of attorneys at law, including transfer of funds, oversight of the disbursement of funds and clearance of expenditures associated with such support

- having regard to the need for proper, timely, and effective recruitment for the training and conducting of the entrance examination, and for ensuring impartiality during a selection board's operations.

**Article 33<sup>6</sup>. [Expiration of membership or dismissal of a member from the selection board]**

1. Membership in a selection board shall expire in the event of a selection board member's death.

2. The Minister of Justice shall dismiss a selection board member if the member:

- 1) has handed in his or her resignation;
- 2) is ill and the illness permanently prevents him or her from acting as a selection board member;
- 3) has failed to satisfy the requirements referred to in Article 33<sup>5</sup>(2);
- 4) has failed to discharge or has improperly discharged member obligations, with the stipulation that the dismissal of a selection board member referred to in Article 33<sup>5</sup>(2)(2) shall require consent of the National Council of Attorneys at Law;
- 5) has been convicted by a final judgment of an intentional criminal offence prosecuted by public indictment.

3. The Minister of Justice may dismiss a selection board member in the event that criminal proceedings have been instituted against such member in connection with an alleged commission of an intentional offence prosecuted by public indictment.

4. The expiry of membership or dismissal of a member of a selection board in the course of recruitment proceedings shall not hold up the work of a selection board.

5. Where membership expires or dismissal of a selection board member occurs before the expiry of a member's term of office, the Minister of Justice shall appoint a new member for the remaining duration of the term within seven days.

6. (Repealed).

**Article 33<sup>7</sup>. [Recusal from work on a selection board]**

1. A member of a selection board shall be recused from work on a selection board for the duration of the entrance examination if a candidate qualified for the entrance examination is:



- 1) the member's spouse;
  - 2) a person related to the member by:
    - a) first or second degree consanguinity or affinity,
    - b) adoption;
  - 3) the member's cohabitant;
  - 4) a person whose personal relationship with the member of the selection board is such that it could raise doubts as to the member's impartiality.
2. The grounds for recusal remain despite the dissolution of a marriage or an adoption.
3. Prior to the commencement of the entrance examination, selection board members shall submit written statements representing that none of the relationships referred to in subsection 1 exist between them and any of the candidates qualified for admission to the entrance examination.
4. If the statement referred to in subsection 3 is false or conceals the truth, liability shall ensue pursuant to Article 23<sup>3</sup>(1) of the Criminal Code.

**Article 33<sup>8</sup>. [Conducting of entrance examination]**

1. The entrance examination shall be held in the presence of at least three members of a selection board.
2. Irrespective of the reason, a candidate's absence from the entrance examination or appearance after the entrance examination has already begun shall be considered a withdrawal from participating in the examination.
3. During the entrance examination, the candidates may not use legislative texts, commentaries on legislation, texts of case law, or other aids, and may not be in possession of any devices used for transmitting or receiving information.
4. The chairperson of a selection board shall exclude from the entrance examination any candidate who has received help from another person during the examination, has used unauthorized materials or devices, has aided other candidates, or has otherwise disrupted the conducting of the entrance examination.
5. The exclusion referred to in subsection 4 shall be effected by way of an order, which may not be challenged.
6. An exclusion order shall provide the basis for a selection board to issue a resolution assigning a failing score on the entrance examination.

**Article 33<sup>9</sup>. [Form of the entrance examination]**

1. The entrance examination shall consist in taking a test comprising a set of 150 questions with three answers to choose from for each question, only one of which is correct, and an answer

sheet. A candidate may select only one answer and shall mark it on the answer sheet, which constitutes an integral part of the test. For each correct answer, the candidate shall receive one point.

1a. The process of marking the correct answer consists in circling one of the three suggested options (A, B, or C) on the answer sheet.

1b. Changing an answer that has already been circled shall be forbidden.

1c. The sole basis for determining a candidate's score shall be the answers marked on the answer sheet.

1d. The correct answers shall be determined according to applicable law in force and effect as on the date of the entrance examination.

2. The test shall be corrected by a selection board composed of the same members who administered the entrance examination.

3. A candidate who has scored at least 100 points on the test shall receive a passing score on the entrance examination.

4. Minutes of the entrance examination shall be taken without delay and shall be signed by the members of the selection board who have participated in the entrance examination. Members of the selection board may submit comments on the minutes.

5. The chairperson of a selection board shall forward the minutes to the Minister of Justice within seven days of their taking.

6. Upon conclusion of the entrance examination, the chairperson of the selection board shall forward the documentation connected therewith to the competent council of the circuit chamber of attorneys at law and such forwarding shall be recorded in minutes. A copy of the minutes shall be forwarded by the chairperson of the selection board to the Minister of Justice within seven days of their taking.

**Article 33<sup>10</sup>. [Determining entrance examination results]**

1. Upon carrying out the entrance examination, a selection board shall determine each candidate's results by way of resolution and shall serve a copy of the resolution on the candidate and on the Minister of Justice.

2. The chairperson of a selection board shall post the results of the entrance examination without delay.

3. The resolution of a selection board on entrance examination results may be appealed by the candidate to the Minister of Justice within 14 days of service thereof. The Minister of Justice shall resolve the appeal by way of administrative decision.

4. Where in the course of reconsidering the case on appeal lodged against the resolution of a selection board referred to in subsection 1, the resolution is found to contain an arithmetical error or other obvious clerical error, the Minister of Justice shall repeal such resolution and remand the case to the selection board for reconsideration. This provision shall not prejudice any provisions of Article 138(2) of the Code of Administrative Procedure.

5. The Minister of Justice shall notify the councils of circuit chambers of attorneys at law of the examination results and shall publish the first names and surnames of the persons who received a passing score on the examination along with the first names of their parents in *Biuletyn Informacji Publicznej*.

**Article 34. [Time off work for a trainee attorney at law; leave to prepare for the attorney at law professional qualifications examination]**

1. An employee entered to the roll of trainee attorneys at law who has obtained the consent of his or her employer to undertake attorney at law training shall have the right to time off work with pay for the purpose of attending mandatory training.

2. An employee entered to the roll of trainee attorneys at law who has not obtained the consent of his or her employer to undertake attorney at law training shall have the right to time off work without pay for the purpose of attending mandatory training.

3. An employee shall have the right to a 30-day leave paid at a rate of 80% of the employee's remuneration. This right may only be exercised once.

4. An employee shall have the right to time off work with pay for the purpose of attending the entrance examination and the attorney at law professional qualifications examination.

**Article 35. [Obligations of a trainee attorney at law]**

The obligations of a trainee attorney at law shall include:

- 1) attending theoretical and practical training provided for in the curriculum;
- 2) individual advancement of the trainee's knowledge of the law and practical professional skills;
- 3) observing the discipline of training and work;
- 4) sitting for the attorney at law professional qualifications examination on a set date.

**Article 35<sup>1</sup>. [Trainee attorney at law substituting for an attorney at law]**

1. After six months of attorney at law training, a trainee attorney at law may substitute for an attorney at law before courts, prosecuting authorities, state authorities, local-government authorities, and other institutions, with the exception of the Supreme Court, the Supreme Administrative Court, the Constitutional Tribunal, and the Tribunal of the State [*Trybunał Stanu*].

2. For a period of one year following the date of the training's conclusion indicated in the certificate of completion of attorney at law training, a trainee attorney at law may substitute for an attorney at law in the capacity referred to in subsection 1.

3. The rights referred to in subsection 1 shall also pertain to cases covered by *ex officio* legal aid.

4. Upon express authorization from an attorney at law, a trainee attorney at law may draft and sign pleadings connected with appearing before courts, prosecuting authorities, state authorities, local-government authorities, and other institutions, with the exception of appeals, cassation appeals, and constitutional complaints.

5. A trainee advocate may substitute for an attorney at law on the same terms as for an advocate if the attorney at law is a partner in a partnership of attorneys at law and advocates.

**Article 36. [The panel for preparing examination tasks for the attorney at law professional qualifications examination]**

1. Prior to each attorney at law professional qualifications examination, the Minister of Justice shall appoint, by way of instruction, a panel for preparing examination tasks for the attorney at law professional qualifications examination, hereinafter referred to as the "panel."

2. The panel shall be composed of:

- 4) four attorneys at law delegated by the National Council of Attorneys at Law,
- 5) four representatives of the Minister of Justice

- whose knowledge and experience ensure that the attorney at law professional qualifications examination is prepared properly.

3. The panel shall be headed by a chair or, in his or her absence, by a deputy chair appointed by the Minister of Justice from among the persons referred to in subsection 2(2).

4. The administrative and office support for the panel shall be provided by the Minister of Justice. As part of the administrative and office support for the panel, the Minister of Justice shall agree upon the panel's work schedule with the chair of the panel or a deputy chair and shall provide the panel with a work space and suitable working conditions.

5. The chair and the members of the panel shall be entitled to remuneration.

6. (Repealed).

7. (Repealed).

8. For each part of the attorney at law professional qualifications examination, the panel shall formulate tasks accompanied by lists of relevant legislative issues from the areas of criminal law, civil or family law, economic law, administrative law, and rules for practicing the profession.

9. The council of a circuit chamber of attorneys at law may put forward to the panel, via the chair, proposals for tasks accompanied by lists of relevant legislative issues.

10. The panel shall determine the final version of the tasks accompanied by lists of relevant legislative issues by a majority of votes with at least five members of the panel present. In the event of a tie, a vote by the chair of the panel shall decide.

11. Printing and delivery of the tasks accompanied by lists of relevant legislative issues to the examination boards referred to in Article 36<sup>1</sup>(2) shall not be governed by the provisions of the Public Procurement Law of 29 January 2004 (Dz. U. of 2017, item 1579) if the value of the contract is lower than the threshold amounts set out in the regulations adopted pursuant to Article 11(8) of said Act.

12. In consultation with the National Council of Attorneys at Law, the Minister of Justice shall determine, by way of ordinance:

- 1) the procedure for and manner of the panel's operations,
- 2) the procedure for and manner of putting forward proposals for tasks accompanied by lists of relevant legislative issues, their preparation and storing, as well as forwarding the tasks for the attorney at law professional qualifications examination to the examination boards referred to in Article 36<sup>1</sup>(2)

- having regard to the need for proper and effective administration of the entrance examination, in particular the need for protecting the tasks against unauthorized disclosure;

- 3) the amount of remuneration for the chair and the members of the panel, having regard to the amount of work and scope of obligations involved.

13. The Minister of Justice shall determine, by way of ordinance, the procedure for and manner of awarding the contract referred to in subsection 11, having regard to the need for observing the principles of fair competition and equal treatment of contractors, and protecting the tasks and lists of relevant legislative issues against unauthorized disclosure.

**Article 36<sup>1</sup>. [Attorney at law professional qualifications examination]**

1. The attorney at law professional qualifications examination may be sat for by persons who have completed attorney at law training and received a certificate of completion thereof, and by persons referred to in Article 25(2).

2. The attorney at law professional qualifications examination shall be administered by examination boards for administering the attorney at law professional qualifications examination, hereinafter referred to as the "examination boards," composed of eight members appointed within the area of jurisdiction of one or more circuit chambers of attorneys at law. The provisions of Article 33<sup>1</sup>(1a) and Article 33<sup>5</sup>(5) shall apply *mutatis mutandis*.

3. Members of an examination board shall be appointed from among specialists in the fields of law covered by the examination, whose knowledge and experience ensure the proper conducting of the examination.
4. An examination board shall be composed of four persons designated by the Minister of Justice and four persons designated by the National Council of Attorneys at Law from among attorneys at law.
5. The Minister of Justice shall appoint examination boards by way of instruction within the area of jurisdiction of one or more circuit chambers of attorneys at law and shall nominate the chairperson and deputy chairperson of the examination board in consultation with the National Council of Attorneys at Law.
6. An examination board shall oversee the proper conducting of the attorney at law professional qualifications examination. The chairperson of an examination board shall preside over its work and shall represent it externally.
7. Expiration of membership and dismissal of a member from an examination board shall be governed by the provisions of Article 33<sup>6</sup> applied *mutatis mutandis*.
8. Members of an examination board shall submit written statements referred to in Article 33<sup>7</sup>(3) within seven days from expiry of the deadline for applying for admission to the attorney at law professional qualifications examination. The chairperson of an examination board shall without delay notify the Minister of Justice of the occurrence of any of the circumstances referred to in Article 33<sup>7</sup>(1). The Minister of Justice shall dismiss an examination board member for reasons set out in Article 33<sup>7</sup>(1). The provisions of Article 33<sup>7</sup>(2) shall apply.
9. The attorney at law professional qualifications examination shall be held once a year on a date set by the Minister of Justice in consultation with the National Council of Attorneys at Law.
10. In the event of an impediment preventing an examination board from holding the examination on the date referred to in subsection 9, the Minister of Justice acting in consultation with the National Council of Attorneys at Law shall set an additional date for the entrance examination to be held by such examination board. The chairperson of the examination board shall inform the examinees of the date by registered mail with confirmation of receipt and by posting it on the message board at the registered office of the designated circuit chamber of attorneys at law. The provisions of Article 36(5) and Article 36(8)–(11) shall apply *mutatis mutandis*.
11. The chairperson and the members of an examination board shall be entitled to reimbursement of their travel and accommodation expenses in accordance with the rules set out

in the provisions on travel allowance for persons employed with a budget unit of state or local government on account of a domestic business trip.

12. The chairperson and the members of the examination board who are not government administration employees shall be entitled to remuneration for discharging duties associated with their membership in an examination board.

13. The council of the circuit chamber of attorneys at law competent for the registered office of the examination board shall provide administrative and technical support for the operations of an examination board, including administration of the attorney at law professional qualifications examination, as a commissioned task in the area of government administration.

14. From the funds transferred for the commissioned task referred to in subsection 13, the competent councils shall cover the costs of administering the attorney at law professional qualifications examination and the expenses associated with the examination board's operations.

15. The expenses associated with the operations of an examination board, including the administration of the attorney at law professional qualifications examination and the remuneration of the chairperson and the members of the examination board shall be covered from the portion of the state budget at the disposal of the Minister of Justice.

16. In consultation with the National Council of Attorneys at Law, the Minister of Justice shall determine, by way of ordinance:

- 1) the procedure and deadline for putting forward candidates for members of an examination board and for appointing and dismissing the members of an examination board,
- 2) the type of documents referred to in Article 36<sup>2</sup>(4)(3) and Article 36<sup>2</sup>(4)(5)–(9),
- 3) the amount of reimbursement for the chairperson and the members of an examination board having regard to the number of persons sitting for the examination, the scope and amount of work required to organize and conduct the entrance examination, and the procedure for payment of such remuneration;
- 4) a detailed procedure for and manner of administering the attorney at law professional qualifications examination, in particular:
  - a) how the examination board shall operate,
  - b) the duration of each part of the examination,
  - c) the organization of administrative and technical support for the examination board by councils of circuit chambers of attorneys at law, including the transfer

of funds, the oversight of the disbursement of funds and the clearance of expenditures associated with such support

- having regard to the need for proper, timely, and effective administration of the examination, ensuring impartiality during the examination board's operations, and obtaining information necessary for the proper administration of the attorney at law professional qualifications examination.

**Article 36<sup>2</sup>. [Announcement of the attorney at law professional qualifications examination; application for admission to the attorney at law professional qualifications examination]**

1. No later than 90 days prior to the date of the attorney at law professional qualifications examination, the Minister of Justice, acting in consultation with the National Council of Attorneys at Law, shall place an announcement in *Biuletyn Informacji Publicznej* of the attorney at law professional qualifications examination, which shall specify, in particular:

- 1) the deadline for submitting the application for admission to the attorney at law professional qualifications examination, hereinafter referred to as the “application;”
- 2) the territorial jurisdiction of each examination board, the addresses of their registered offices, and the date of each part of the attorney at law professional qualifications examination;
- 3) the amount of the attorney at law professional qualifications examination fee.

2. Trainee attorneys at law shall submit an application to the examination board within the area of jurisdiction of the competent council of circuit chamber of attorneys at law in which they completed their attorney at law training. Persons who may sit for the attorney at law professional qualifications examination without having completed attorney at law training shall submit the application to the examination board within the area of jurisdiction of the council of circuit chamber of attorneys at law competent for their place of residence, or, in the absence of a place of residence in the Republic of Poland – to an examination board of their choosing. Each year, within seven days of the conclusion of attorney at law training, the councils of circuit chambers of attorneys at law shall forward a list of persons who have completed attorney at law training to the examination boards exercising territorial jurisdiction and the Minister of Justice.

3. Applications of persons who have completed attorney at law training shall be accompanied by a certificate of completion of the attorney at law training and the original proof of payment of the attorney at law professional qualifications examination fee.

4. Applications of persons who may sit for the attorney at law professional qualifications examination without completing attorney at law training shall be accompanied by:



- 1) a personal questionnaire;
- 2) a resume;
- 3) a document that certifies the awarding of the academic degree of Doctor of Legal Sciences;
- 4) a copy of a document certifying the completion of tertiary legal education in the Republic of Poland and the awarding of a Master's Degree or completion of foreign legal studies recognized in the Republic of Poland;
- 5) documents certifying a period of employment of at least four years referred to in Article 25(2)(2) in the capacity of a court referendary, senior court referendary, assistant to a public prosecutor, or assistant to a judge and – as regards persons who were employed at the Supreme Court, the Constitutional Tribunal, or an international judicial authority, in particular in the Court of Justice of the European Union or the European Court of Human Rights, and performed tasks corresponding to the duties of an assistant to a judge – documents defining the scope of their responsibilities;
- 6) documents certifying a period of at least four years of discharging duties requiring legal knowledge directly associated with the provision of legal assistance by an attorney at law or an advocate under a contract of employment or a civil-law contract in an attorney at law's law office, civil-law partnership, registered partnership, professional partnership, limited partnership, or limited joint stock partnership referred to in Article 8(1), or advocate's office, advocates' joint office, civil-law partnership, registered partnership, professional partnership, limited partnership, or limited joint stock partnership referred to in Article 4a(1) of the Law on Advocates of 26 May 1982;
- 7) documents certifying a period of employment of at least four years with offices of public authorities and the discharging of duties requiring legal knowledge directly associated with the provision of legal assistance for such offices;
- 7a) a document certifying completion of legislative training and documents certifying a period of employment of at least four years with offices of public authorities or organizational units of the state and the discharging of duties requiring legal knowledge directly associated with drafting proposed legislation, ordinances, or enactments of local law;
- 8) a document certifying having achieved a passing score on the professional qualifications examination for judges, public prosecutors, notaries public, or court enforcement officers;

9) documents certifying employment in the capacity of counsel with the General Counsel to the Republic of Poland;

10) (Repealed)

11) the original proof of payment of the attorney at law professional qualifications examination fee;

12) three photographs that comply with the requirements applicable to the issuance of an identity card.

5. Persons referred to in:

1) subsection 3 – shall submit the application at the latest 21 days,

2) subsection 4 – shall submit the application at the latest 45 days

- prior to the commencement of the attorney at law professional qualifications examination.

Provisions of Article 33<sup>3</sup>(4)–(9) shall apply *mutatis mutandis*.

**Article 36<sup>3</sup>. [Fee for attorney at law professional qualifications examination]**

1. A candidate shall pay a fee for the attorney at law professional qualifications examination, which shall constitute state budget revenue.

1a. Where an order not to further consider the notification is made or a decision to deny a candidate admission to the attorney at law professional qualifications examination is issued, or if a candidate submits a written statement of withdrawal from the attorney at law professional qualifications examination no later than 14 days prior to the date of the attorney at law professional qualifications examination, two-thirds of the fee paid shall be refunded within 30 days of the written application by the candidate lodged with the chairperson of the examination board.

2. In consultation with the National Council of Attorneys at Law and having regard to the need for proper and effective administration of the attorney at law professional qualifications examination, the Minister of Justice shall determine, by way of ordinance, the examination fee in an amount not exceeding the equivalent of the minimum wage.

**Article 36<sup>4</sup>. [Form of attorney at law professional qualifications examination]**

1. The attorney at law professional qualifications examination shall consist in verifying the legal preparation of a person sitting for the attorney at law professional qualifications examination, hereinafter referred to as the “examinee,” for independent and proper practice of the profession of attorney at law.

2. The attorney at law professional qualifications examination shall consist of five written parts.

3. (Repealed).

4. (Repealed).

5. The first part of the attorney at law professional qualifications examination shall involve completing a task in the area of criminal law by drawing up an indictment or an appeal, or – where an examinee finds no grounds for the bringing thereof – drawing up a legal opinion on the basis of the files or facts of a case presented and prepared for the purposes of the examination.

6. The second part of the attorney at law professional qualifications examination shall involve completing a task in the area of civil or family law by drawing up a statement of claim, a motion, or an appeal, or – where an examinee finds no grounds for the filing thereof – drawing up a legal opinion on the basis of the files or facts of a case presented and prepared for the purposes of the examination.

7. The third part of the attorney at law professional qualifications examination shall involve completing a task in the area of economic law by drawing up a contract, a statement of claim, a motion, or an appeal, or – where an examinee finds no grounds for the filing thereof – drawing up a legal opinion on the basis of the files or facts of a case presented and prepared for the purposes of the examination.

8. The fourth part of the attorney at law professional qualifications examination shall involve completing a task in the area of administrative law by drawing up a complaint to the provincial administrative court or a cassation appeal to the Supreme Administrative Court, or – where an examinee finds no grounds for the filing thereof – drawing up a legal opinion on the basis of the files or facts of a case presented and prepared for the purposes of the examination.

8a. The fifth part of the attorney at law professional qualifications examination shall involve completing a task in the areas of rules for practicing the profession or rules of professional conduct by drawing up a legal opinion on the basis of the files or facts of a case presented and prepared for the purposes of the examination.

9. (Repealed).

10. Examiners shall evaluate each part of the attorney at law professional qualifications examination using the following grading scale:

- 1) passing grades:
  - a. excellent (6),
  - b. very good (5),
  - c. good (4),
  - d. satisfactory (3);
- 2) failing grade – unsatisfactory (2).

11. During the attorney at law professional qualifications examination, an examinee may not be in possession of any devices used for transmitting or receiving information.

12. During the attorney at law professional qualifications examination, the examinee may use legislative texts, commentaries on legislation, and texts of case law.

13. The provisions of Article 33<sup>8</sup>(1)–(2) and Article 33<sup>8</sup>(4)–(6) shall apply *mutatis mutandis*.

#### **Article 36<sup>5</sup>. [Grading]**

1. (Repealed).

2. Each completed task from part one through four of the attorney at law professional qualifications examination shall be graded independently by two examiners in the fields of law to which the written assignment pertains – one appointed from among the persons designated by the Minister of Justice, the other from among the persons designated by the National Council of Attorneys at Law – each having particular regard to compliance with requirements of form, relevance of the laws applied as well as the ability to construe them, and the adequacy of the solution proposed by an examinee in view of the interests of the party the examinee was charged with representing according to the task. The completed tasks from part five of the attorney at law professional qualifications examination shall be graded independently by two examiners appointed by the chairperson of the examination board – one from among the persons designated by the Minister of Justice, the other from among the persons designated by the National Council of Attorneys at Law – each having particular regard to compliance with requirements of form, relevance of the laws applied as well as the ability to construe them, and the adequacy of the solution proposed by an examinee in view of the public interest.

3. Each of the examiners grading a written assignment shall award a partial grade and provide a written explanation therefor that shall be forwarded without delay to the chairperson of the examination board who shall attach all written explanations for the partial grades pertaining to examinee's assignments to the minutes of the attorney at law professional qualifications examination.

4. The final grade on the written assignment pertaining to a given task from one part of the attorney at law professional qualifications examination shall be the average of the partial grades awarded by each of the examiners, whereby:

1) the passing grades shall be as follows:

- a) 'excellent' – where the arithmetic mean of the grades awarded equals 6.00,
- b) 'very good' – where the arithmetic mean of the grades awarded equals 5.00 or 5.50,
- c) 'good' – where the arithmetic mean of the grades awarded equals 4.00 or 4.50,
- d) 'satisfactory' – where the arithmetic mean of the grades awarded equals 3.00 or 3.50;

2) a failing grade – ‘unsatisfactory’ – shall be assigned where the arithmetic mean of the grades awarded equals 2.00 or 2.50.

5. In the event that at least two partial grades on the examinee’s written assignments pertaining to tasks from different parts of the attorney at law professional qualifications examination are failing, while the arithmetic mean referred to in subsection 4 indicates a positive final grade on these assignments, the examination board shall:

- 1) abstain from awarding the final grade on these assignments and
- 2) forward the examinee’s written assignments and the partial grades along with the explanations to the second instance examination board operating under the auspices of the Minister of Justice referred to in Article 36<sup>8</sup> for the purpose of determining the final grades on the assignments.

6. In the event referred to in subsection 5, the second instance examination board operating under the auspices of the Minister of Justice shall apply the provisions of Article 36<sup>6</sup>(1), Article 36<sup>6</sup>(2), and Article 36<sup>8</sup>(11) *mutatis mutandis*.

**Article 36<sup>6</sup>. [Results of the attorney at law professional qualifications examination]**

1. An examinee who has received a passing grade on each part of the attorney at law professional qualifications examination shall be awarded a passing score on the attorney at law professional qualifications examination.

2. The examination board shall adopt a resolution on the result of the attorney at law professional qualifications examination by a majority of votes in the presence of all members thereof. The examination board shall serve the resolution on the result of the attorney at law professional qualifications examination upon the examinee, and a copy thereof shall be sent to the Minister of Justice, the President of the National Council of Attorneys at Law, and the competent council of the circuit chamber of attorneys at law and submitted to the personnel files of the examinee.

3. The Minister of Justice shall publish the first names and surnames of the persons who received a passing score on the attorney at law professional qualifications examination along with the first names of their parents in *Biuletyn Informacji Publicznej*.

**Article 36<sup>7</sup>. [Minutes of the attorney at law professional qualifications examination]**

1. Minutes of the attorney at law professional qualifications examination shall be taken without delay and shall be signed by the members of the examination board who have participated in said examination. Members of the examination board may submit comments on the minutes.

2. Upon the conclusion of the attorney at law professional qualifications examination, the chairperson of the examination board shall forward the documentation connected therewith to

the competent council of the circuit chamber of attorneys at law and such forwarding shall be recorded in the minutes. The chairperson of the examination board shall forward to the Minister of Justice a copy of the minutes of the attorney at law professional qualifications examination and a copy of the minutes of the forwarding of the documentation within seven days of their taking.

**Article 36<sup>8</sup>. [Appeal to the second instance examination board]**

1. An examinee may appeal against the resolution on the result of the attorney at law professional qualifications examination to the second instance examination board operating under the auspices of the Minister of Justice within 14 days of the resolution referred to in Article 36<sup>6</sup>(2) being served.

2. The Minister of Justice shall appoint, by way of instruction, the second instance examination board operating under the auspices of the Minister of Justice, hereinafter referred to as the “board of appeals,” composed of nine members.

2a. Where warranted by organizational considerations, in particular by a large number of appeals against the resolutions on the results of the attorney at law professional qualifications examination, the Minister of Justice may appoint more than one board of appeals to hear the appeals against such resolutions and delineate their territorial jurisdiction. The provisions of Article 33<sup>5</sup>(5) shall not apply.

3. The candidate members of the board of appeals shall be designated as follows:

- 1) five members – designated by the Minister of Justice from among whom the Minister shall appoint the chair,
- 2) four members – designated by the National Council of Attorneys at Law

- from among persons whose knowledge and experience ensure a fair hearing of the appeals.

4. The chair and the members of the board of appeals shall be entitled to remuneration for participating in the work of the board of appeals.

5. The provisions of Article 33<sup>5</sup>(5), Article 33<sup>5</sup>(7), Article 33<sup>5</sup>(11), Article 33<sup>6</sup>(1), Article 33<sup>6</sup>(2)(1)–(2), Article 33<sup>6</sup>(2)(4)–(5), and Article 33<sup>6</sup>(3) shall apply *mutatis mutandis*.

6. Where membership in the board of appeals expires or a member of the board of appeals is dismissed, the Minister of Justice shall appoint a new member of the board of appeals without delay. In the case of a member referred to in subsection 3(2), the National Council of Attorneys at Law shall designate a new candidate member to the board of appeals within the deadline set by the Minister of Justice.

7. A member of the board of appeals shall be recused from proceedings for reasons indicated in Article 33<sup>7</sup>(1). The provisions of Article 33<sup>7</sup>(2) shall apply.

8. Prior to examining a case, the members of the board of appeals shall submit written statements representing that none of the relationships referred to in Article 33<sup>7</sup>(1) exist between them and the person to whom the case pertains.

9. The board of appeals shall be tasked with hearing appeals against the results of the attorney at law professional qualifications examination.

10. Resolutions shall be adopted by a two-thirds supermajority vote in the presence of at least half the members of the board of appeals.

11. The resolution of the board of appeals may be challenged by means of a complaint filed with an administrative court.

12. Proceedings before the board of appeals shall be governed by the provisions of the Code of Administrative Procedure applied *mutatis mutandis*.

13. The administrative and office support for the board of appeals shall be provided by the Minister of Justice.

14. The Minister of Justice shall determine, by way of ordinance:

- 1) the procedure and deadline for putting forward candidates for members of the board of appeals,
- 2) the deadline for appointing the board of appeals,
- 3) the amount of reimbursement for the chairperson and members of the board of appeals, having regard to the scope and amount of work required of them and the procedure for payment of such remuneration,
- 4) the procedure for and manner of the board of appeals' operations,
- 5) the manner of providing administrative and office support for the board of appeals

- having regard to the need for proper and timely consideration of the appeals and ensuring the impartiality of the members of the board of appeals during the board's operations.

**Article 36<sup>9</sup>. [Retaking the attorney at law professional qualifications examination]**

In the event of failure to achieve a positive score on the attorney at law professional qualifications examination, an examinee may sit for subsequent attorney at law professional qualifications examinations – each time taking the whole examination.

**Article 37. [Strike-off the roll of trainee attorneys at law]**

1. A trainee attorney at law shall be struck off the roll of trainee attorneys at law:

- 1) in any of the events referred to in Article 29(1), Article 29(3)–(5), and Article 29<sup>3</sup> which shall apply *mutatis mutandis*;
  - 1a) in the event referred to in Article 29(6) applied *mutatis mutandis*;

- 2) in the event of failure to complete attorney at law training within the period referred to in Article 32(2) without just cause;
- 3) in the event of entry to the roll of attorneys at law;
- 4) one year from the date of the conclusion of attorney at law training indicated in the certificate of completion thereof.

2. The council of a circuit chamber of attorneys at law may strike a trainee attorney at law off the roll of trainee attorneys at law should it find the trainee to be unfit to practice as an attorney at law.

3. The removal from the roll of trainee attorneys at law for reasons stipulated in subsection 1(1), subsection 1(2)–(4), and subsection 2 shall be governed by Article 31(1)–(2) and Article 31(3) applied *mutatis mutandis*.

4. The resolution of the Presidium of the National Council of Attorneys at Law on the striking off the roll of trainee attorneys at law may be challenged by a complaint filed with an administrative court within 30 days of the decision being served.

#### **Article 38. [Conducting attorney at law training]**

1. Attorney at law training shall be organized and administered by the circuit chambers of attorneys at law.

2. In matters associated with the organization and conducting of attorney at law training, the bodies of the self-government of attorneys at law shall cooperate with authorities of state administration, courts, offices of notaries public, the public prosecutor's office, and organizational units.

3. Trainee attorneys at law may have their training organized jointly with trainee advocates.

4. A trainee attorney at law shall undergo attorney at law training under the supervision of a mentor [*patron*] designated by the council of the circuit chamber of attorneys at law.

5. A mentor shall be tasked with preparing a trainee attorney at law for practicing as an attorney at law within the meaning of this Act.

#### **Article 39. (Repealed).**

### **Chapter 5**

#### **Self-government of attorneys at law**

#### **Article 40. [Professional self-government's independence; mandatory membership in the professional self-government]**

1. The self-government shall be independent in carrying out its tasks and subject only to law.

2. Membership in the self-government shall be mandatory for attorneys at law and trainee attorneys at law.



#### **Article 41. [Self-government's tasks]**

The tasks of the self-government shall include in particular:

- 1) helping provide conditions to carry out the statutory tasks of attorneys at law;
- 2) representing attorneys at law and trainee attorneys at law and protecting their professional interests;
- 3) cooperating in the shaping and application of the law;
- 4) preparing trainee attorneys at law for proper practice of the profession of attorney at law and providing professional development for attorneys at law;
- 5) supervising proper practice of the profession by attorneys at law and trainee attorneys at law;
- 5a) cooperating with other local government units in providing free legal aid referred to in the Free Legal Aid and Legal Education Act of 5 August 2015 (Dz. U. of 2005, item 1255 and of 2016, item 1860);
- 6) conducting research on the functioning of legal assistance.

#### **Article 42. [Self-government bodies]**

1. The self-government shall have the following bodies: National Congress of Attorneys at law [*Krajowy Zjazd Radców Prawnych*], National Council of Attorneys at Law, Superior Audit Committee [*Wyższa Komisja Rewizyjna*], Superior Disciplinary Court [*Wyższy Sąd Dyscyplinarny*], Chief Disciplinary Counsel [*Główny Rzecznik Dyscyplinarny*], meeting of the circuit chamber of attorneys at law, council of the circuit chamber of attorneys at law, circuit audit committee, circuit disciplinary court, and disciplinary counsel.

2. Only attorneys at law may be members of self-government bodies.

#### **Article 43. [Term of office of self-government bodies]**

1. The term of office of the self-government bodies shall last four years, however, the bodies shall be obliged to carry on their activity until the newly elected bodies are constituted.

2. The members of the bodies may be dismissed by the electing body.

3. The same position in bodies of the self-government may not be occupied for more than two consecutive terms of office; the aforementioned shall not apply to occupying the position of a member of the Superior Disciplinary Court or a circuit disciplinary court, the Chief Disciplinary Counsel, and a disciplinary counsel.

#### **Article 44. [Elections to the bodies of self-government]**

Elections to the bodies of the self-government shall be conducted by secret ballot without restriction on the number of candidates.

#### **Article 45. [Resolutions of the bodies of self-government]**

Bodies of the self-government shall pass resolutions with at least half of their members present.

**Article 46. [Annual reports on self-government activity]**

The National Council of Attorneys at Law shall present annual reports on the activity of the self-government to the President of the Republic of Poland.

**Article 47. [Forwarding resolutions to the Minister of Justice; motion to repeal a resolution]**

1. Bodies of the self-government shall forward each resolution to the Minister of Justice within 21 days of its adoption.
2. The Minister of Justice shall file a motion with the Supreme Court to repeal resolutions of the bodies of the self-government which are contrary to law within three days of their service. Where the challenged resolution constitutes a flagrant breach of law, the deadline shall be six months. The court shall uphold the resolution or shall repeal it and remand the case to the competent body of the self-government for reconsideration with instructions as to how the matter should be resolved. The Supreme Court shall not consider such a challenge if it is belated.

**Article 48. [Motion of the Minister of Justice to adopt a resolution]**

The Minister of Justice may call on the National Congress of Attorneys at Law or National Council of Attorneys at Law to adopt a resolution in a given matter falling under the jurisdiction of the self-government. The National Council of Attorneys at Law shall adopt such a resolution within a two-month deadline and the National Congress of Attorneys at Law – during the subsequent Congress.

**Article 49. [Circuit chamber of attorneys at law]**

1. Attorneys at law and trainee attorneys at law residing within the area of a given circuit shall make up the circuit chamber of attorneys at law.
2. (Repealed).
3. The National Council of Attorneys at Law shall adopt a resolution on the establishment and the area of jurisdiction of a circuit chamber of attorneys at law having regard to the basic territorial division of the country.

**Article 50. [Meeting of a circuit chamber of attorneys at law]**

1. A meeting of a circuit chamber of attorneys at law shall consist of all attorneys at law belonging to a given chamber and by trainee attorneys at law who lack voting rights.
2. Where the number of members of a circuit chamber of attorneys at law exceeds 300, the meeting of the circuit chamber of attorneys at law shall consist of delegates elected at meetings convened for each district within the jurisdiction of a given chamber.

3. A meeting of a circuit chamber of attorneys at law shall be convened once a year by the council of the circuit chamber.

4. A meeting of a circuit chamber of attorneys at law shall have the power to:

- 1) determine the number of members of the council of the circuit chamber of attorneys at law;
- 2) elect the dean and the remaining members of the council of the circuit chamber of attorneys at law;
- 3) determine the number of members of the circuit audit committee and the circuit disciplinary court and elect such members;
- 4) elect the disciplinary counsel;
- 5) pass a budget for the circuit chamber of attorneys at law and approve the reports of the council of the circuit chamber of attorneys at law on the implementation of the budget as well as the annual and periodical work schedules for the council;
- 6) divide the area of jurisdiction of the circuit chamber of attorneys at law into districts referred to in subsection 2 and determine the number of delegates to the meeting of the circuit chamber of attorneys at law from each district;
- 7) dismiss the bodies of the circuit chamber of attorneys at law or respective members of such bodies;
- 8) evaluate the performance of the circuit chamber of attorneys at law;
- 9) elect delegates to the National Congress of Attorneys at law;
- 10) elect a member of the National Council of Attorneys at Law referred to in Article 59(1).

**Article 51. [Extraordinary meeting of a circuit chamber of attorneys at law]**

1. An extraordinary meeting of a circuit chamber of attorneys at law shall be convened by the council of the circuit chamber of attorneys at law:

- 1) on its own initiative;
- 2) upon motion of the National Council of Attorneys at Law;
- 3) upon motion of the council's presidium or the circuit audit committee;
- 4) upon motion of one-third of the members of the circuit chamber of attorneys at law.

2. An extraordinary meeting of a circuit chamber shall be convened within three weeks of receiving a motion to convene such a meeting.

**Article 52. [Council of a circuit chamber of attorneys at law]**

1. The activity of a circuit chamber of attorneys at law shall be managed by the council of the circuit chamber of attorneys at law.

2. The executive body of the council of a circuit chamber of attorneys at law shall be the presidium composed of the dean, as well as deputy deans, secretary, treasurer, and members elected by the council.

3. The scope of activity of the council of a circuit chamber of attorneys at law shall include in particular:

- 1) representing the professional interests of the members of the circuit chamber of attorneys at law;
- 2) professional development of attorneys at law;
- 3) supervising proper practice of the profession by attorneys at law and trainee attorneys at law;
- 4) filing applications with registering and recording authorities to institute proceedings for striking off the registers any entities that carry out business activity in the area of providing legal assistance contrary to the provisions of this Act;
- 5) (Repealed).

4. The council of a circuit chamber of attorneys at law shall maintain the rolls of attorneys at law and trainee attorneys at law. The council of a circuit chamber of attorneys at law shall make information about attorneys at law and trainee attorneys at law who have been entered to the rolls it maintains – including their first names, surnames, and entry numbers – available on its website.

5. The council of a circuit chamber of attorneys at law shall maintain a roll of foreign lawyers in accordance with the rules set out in the Provision of Legal Assistance by Foreign Lawyers in the Republic of Poland Act of 5 July 2002.

6. The council of the circuit chamber of attorneys at law shall maintain the rolls referred to in subsections 4 and 5 in the ICT system made available by the National Council of Attorneys at Law. The council of the circuit chamber of attorneys at law provides the National Council of Attorneys at Law with access to the rolls.

**Article 53. [Circuit audit committee]**

The scope of activity of the circuit audit committee shall include supervising the financial operations of the council of the circuit chamber of attorneys at law.

**Article 54. [Circuit disciplinary court]**

1. The circuit disciplinary court shall hear disciplinary cases of members of the circuit chamber of attorneys at law brought before it by the disciplinary counsel, as well as appeals referred to in Article 66(3).

2. A decision of the circuit disciplinary court may be appealed against to the Superior Disciplinary Court.

**Article 54<sup>1</sup>. [Disciplinary counsel]**

1. The scope of activity of a disciplinary counsel shall include actions undertaken in disciplinary proceedings set out herein and regulations adopted pursuant hereto.

2. A disciplinary counsel may undertake actions with the assistance of his or her deputies.

**Article 55. [National Chamber of Attorneys at law]**

Attorneys at law and trainee attorneys at law residing within the territory of the country shall form the National Chamber of Attorneys at law.

**Article 56. [National Congress of Attorneys at law]**

1. The National Congress of Attorneys at law shall be attended by delegates elected by the meetings of circuit chambers of attorneys at law and by the following non-delegates acting in an advisory capacity: the members of the outgoing National Council of Attorneys at Law, the President of the Superior Disciplinary Court, the Chief Disciplinary Counsel, and the Chairperson of the Superior Audit Committee.

2. The National Council of Attorneys at Law shall lay down the rules for electing delegates to the National Congress of Attorneys at Law and shall determine the number of such delegates from respective circuit chambers of attorneys at law.

3. The National Congress of Attorneys at law shall be convened by the National Council of Attorneys at Law.

**Article 57. [Powers of the National Congress of Attorneys at law]**

The National Congress of Attorneys at law shall:

- 1) elect the President of the National Council of Attorneys at Law;
- 2) elect the National Council of Attorneys at Law, the Superior Audit Committee, the Superior Disciplinary Court, and the Chief Disciplinary Counsel;
- 3) adopt the operating guidelines for the self-government and its bodies;
- 4) lay down the rules for holding elections to the bodies of the self-government, determine the number of members of such bodies and the dismissal procedure for the members, as well as the rules for passing resolutions by the bodies;
- 5) (repealed);
- 6) consider and approve the reports by the National Council of Attorneys at Law, the Superior Audit Committee, the Superior Disciplinary Court, and the Chief Disciplinary Counsel;
- 7) adopt the rules of professional conduct;

- 8) determine the basic principles of financial management of the self-government.

**Article 58. [Extraordinary National Congress of Attorneys at law]**

1. The Extraordinary National Congress of Attorneys at law shall be convened by the National Council of Attorneys at Law:

- 1) on its own initiative;
- 2) upon motion of its presidium or the Superior Audit Committee;
- 3) upon motion of at least one-third of the councils of circuit chambers of attorneys at law.

2. The Extraordinary National Congress shall be convened within two months of receiving a motion to convene such a Congress.

**Article 59. [National Council of Attorneys at Law]**

1. The National Council of Attorneys at Law shall consist of the president and members elected by the National Congress of Attorneys at Law, and the members elected directly by the meetings of circuit chambers – one per each chamber.

2. The Presidium of the National Council of Attorneys at Law shall consist of the president as well as vice presidents, secretary, treasurer, and members elected by the National Council.

3. The Presidium of the National Council of Attorneys at Law shall be the executive body of the Council and shall report on its activity to the Council.

4. The Presidium of the National Council of Attorneys at Law shall carry out duties falling within the scope of activity of the National Council of Attorneys at Law, with the exemption of activity specified in Article 60(4)–(5a) and Article 60(8)–(11a).

**Article 60. [Powers of the National Council of Attorneys at Law]**

The scope of activity of the National Council of Attorneys at Law shall include:

- 1) representing the self-government before courts, state and local-government authorities, and institutions and organizations;
- 2) providing opinion on draft legislation and presenting legislative proposals;
- 3) coordinating the activity of the circuit chambers of attorneys at law and exercising supervision over their activity;
- 4) passing a budget for the National Council of Attorneys at Law and approving the reports on the implementation thereof, as well as considering motions of the Superior Audit Committee;
- 5) electing the President of the National Council of Attorneys at Law and the Chief Disciplinary Counsel where his or her term has expired during the period between National Congresses of Attorneys at law;
- 5a) electing the head, vice head, and members of the National Team of Visiting Inspectors;

- 6) hearing appeals against resolutions of the councils of circuit chambers of attorneys at law;
- 7) coordinating the professional development of attorneys at law;
- 8) adopting by-laws governing:
  - a) the activity of the self-government and its bodies,
  - b) the scope of activity, operating procedure, and remuneration policy for visiting inspectors,
  - c) <sup>2</sup> undergoing attorney at law training,
  - d) the maintenance of the rolls of attorneys at law and trainee attorneys at law,
  - e) the rules of cooperation between attorneys at law and foreign lawyers representing clients in proceedings where the law requires the party to be represented by an advocate or an attorney at law,
  - f) the detailed rules for practicing as an attorney at law,
  - g) the rules for appointing attorneys at law to provide free legal aid referred to in the Free Legal Aid and Legal Education Act of 5 August 2015 and documenting legal aid provided free of charge,
  - h) the carrying out of attorneys at law' professional obligation of professional development and the powers of self-government bodies to ensure the fulfillment of such obligation by attorneys at law;
- 8a) repealing resolutions of the meeting of any circuit chamber of attorneys at law that are contrary to law;
- 8b) (no longer in force);
- 9) establishing circuit chambers of attorneys at law, determining their number and territorial jurisdiction;
- 9a) laying down the rules of operation for Deputy Chief Disciplinary Counsels and deputy disciplinary counsels, as well as the procedure for and manner of their election;
- 9b) determining the flat-rate costs of disciplinary proceedings;
- 10) laying down the rules for financial management of the self-government;

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<sup>2</sup> No longer in force as of 31 December 2006, insofar as it has deprived the self-government of attorneys at law of influence over setting the rules for taking the attorney at law professional qualifications examination adequate to the responsibilities concerning proper practice of the profession of attorney at law pursuant to the judgment of the Constitutional Tribunal of 8 November 2006, court file No. K 30/06 (Dz. U. of 2006, No. 206, item 1522).

- 11) setting the amount of membership dues and the rules for their distribution, the amount of fees payable in connection with entry to the roll of attorneys at law and trainee attorneys at law, and the amount of handling fees;
- 11a) adopting rules for waiving the annual fee for the trainees in whole or in part, deferring payment thereof, or breaking it into installments;
- 12) performing the tasks set out in the Provision of Legal Assistance by Foreign Lawyers in the Republic of Poland Act;
- 13) cooperating with the Minister of Justice to the extent set out in the Act.

**Article 60<sup>1</sup>. [Providing access to the rolls of attorneys at law and trainee attorneys at law]**

1. The National Council of Attorneys at Law shall provide the courts, the Minister of Justice, Public Prosecutor General, prosecutors with common and military organizational units of the public prosecutor's office and prosecutors with the Institute of National Remembrance – the Commission for the Prosecution of Crimes against the Polish Nation [*Komisja Ścigania Zbrodni przeciwko Narodowi Polskiemu*] – with access to the registers referred to in Article 52(4)–(5) via the ICT system, with regard to the first name and surname of an attorney at law, trainee attorney at law, or a foreign lawyer, the PESEL number of the attorney at law, trainee attorney at law, or foreign lawyer, if any, the date of the resolution on the entry to a roll and the entry number, the date of the resolution on the striking off the roll, and – as regards attorneys at law and foreign lawyers – information about the suspension of the right to practice as an attorney at law, the form of practicing the profession, the address for service, and – as regards trainee attorneys at law – information about the suspension of trainee attorney at law rights and information about the right set out in Article 35<sup>1</sup>(1)–(2).

2. The National Council of Attorneys at Law shall make information about attorneys at law, trainee attorneys at law, and foreign lawyers – including their first names and surnames, as well as roll entry numbers – available on the website of the National Chamber of Attorneys at law.

3. The Minister of Justice shall determine, by way of ordinance, the minimum standards of functionality and the organizational and technical conditions for the functioning of the ICT system referred to in subsection 1 having regard to compliance with minimum requirements and the manner of declaring software compatibility set out pursuant to the Informatization of Operations of Entities Performing Public Tasks Act of 17 February 2005 (Dz. U. of 2017, item 570) and ensuring data security, including protection against unauthorized access and disclosure.

**Article 61. [Superior Audit Committee]**



The scope of activity of the Superior Audit Committee shall include supervising the financial operations of the National Council of Attorneys at Law.

**Article 61<sup>1</sup>. [Chief Disciplinary Counsel]**

1. The scope of activity of the Chief Disciplinary Counsel shall include actions undertaken in disciplinary proceedings set out herein and regulations adopted pursuant hereto.
2. The Chief Disciplinary Counsel may undertake actions with the assistance of his or her deputies.

**Article 62. [Superior Disciplinary Court]**

1. The Superior Disciplinary Court shall hear appeals against the decisions of circuit disciplinary courts.
2. The Superior Disciplinary Court shall consider, as a court of first instance, the disciplinary cases of members of the National Council of Attorneys at Law and of the councils of circuit chambers of attorneys at law. Appeals against decisions issued in such proceedings shall be heard by a different panel of the same court composed of five judges.

**Article 62<sup>1</sup>. [Service of decisions of the Supreme Disciplinary Court]**

A decision accompanied by the statement of reasons issued in the second instance by the Superior Disciplinary Court shall be served upon the parties, the Minister of Justice, and the National Council of Attorneys at Law.

**Article 62<sup>2</sup>. [Cassation appeal to the Supreme Court]**

1. A decision issued in the second instance by the Superior Disciplinary Court shall be subject to a cassation appeal [*kasacja*] brought before the Supreme Court by any of the parties, the Minister of Justice, the Polish Ombudsman, or the President of the National Council of Attorneys at Law.
2. A decision against which a cassation appeal may be lodged by the entities listed in subsection 1 shall not be enforced until the cassation appeal is lodged or until the deadline for lodging such an appeal expires.

**Article 62<sup>3</sup>. [Grounds for cassation appeal]**

A cassation appeal may be lodged on grounds of a flagrant breach of law or a grossly incommensurate disciplinary penalty.

**Article 62<sup>4</sup>. [Lodging a cassation appeal]**

A cassation appeal shall be lodged with the Supreme Court through the Superior Disciplinary Court within 30 days of service of the decision accompanied by a statement of reasons.

**Article 62<sup>5</sup>. [Court fee waiver]**

1. A cassation appeal referred to in Article 62<sup>2</sup>(1) shall not be subject to a court fee.

2. A decision challenged by a cassation appeal shall not be enforced until the cassation appeal has been considered.

3. The Supreme Court shall consider a cassation appeal at a hearing by a bench of three justices.

**Article 62<sup>6</sup>. (Repealed).**

**Article 63. [Financing self-government activity]**

Self-government activity shall be financed from:

- 1) dues paid by attorneys at law and trainee attorneys at law, fees associated with proceedings for entry to the roll of attorneys at law or trainee attorneys at law and fines;
- 2) revenue from other sources, in particular from grants and subsidies, as well as gifts and bequests.

**Chapter 6**

**Disciplinary responsibility**

**Article 64. [Grounds for disciplinary responsibility]**

1. Attorneys at law and trainee attorneys at law shall bear disciplinary responsibility for conduct contrary to law, rules of professional conduct, or dignity of the profession, and for breach of professional obligations.

1a. Attorneys at law shall also bear responsibility for failure to comply with the obligation to enter into an insurance contract referred to in Article 22<sup>7</sup>(1) in accordance with the regulations issued pursuant to Article 22<sup>8</sup>.

2. Disciplinary responsibility shall not attach to acts that violate the provisions on order and discipline at work set out in the Labor Code.

**Article 65. [Disciplinary penalties]**

1. Disciplinary penalties shall include:

- 1) admonition;
- 2) reprimand;
- 3) fine;
- 4) suspension of the right to practice as an attorney at law for a period of three months up to five years, and – as regards trainee attorneys at law – suspension of trainee attorney at law rights for a period of one year up to three years;
- 5) disbarment of an attorney at law, and – as regards trainee attorneys at law – expulsion from training.

2. The penalties set out in subsection 1(3) shall not apply to trainee attorneys at law.

2a. In addition to a reprimand or a fine, a prohibition against mentoring may also be imposed for a period of one year up to five years.

2b. In addition to a suspension of the right to practice as an attorney at law, a prohibition against mentoring shall also be imposed for a period of two years up to ten years.

2ba. A fine shall be imposed within the limits of one and a half to twelve times the amount of the minimum wage as at the date of committing the disciplinary offence.

2c. Disbarment of an attorney at law shall entail the striking off the roll of attorneys at law without the right to seek re-entry to the roll for a period of ten years from the date the decision to disbar becomes final and binding.

2d. Expulsion from training shall entail the striking off the roll of trainee attorneys at law without the right to seek re-entry to the roll of trainee attorneys at law or entry to the roll of attorneys at law for a period of five years from the date the decision to expel becomes final and binding.

2e. In addition to a disciplinary penalty, an obligation to apologize to the aggrieved party may also be imposed. While imposing such obligation, the disciplinary court shall determine the manner in which the apology shall be given appropriate for the circumstances of the case.

2f. The disciplinary court may order the announcing of the decision to the public in a manner prescribed where the court finds it purposeful in view of the circumstances of the case, provided that it shall not infringe upon the interests of the aggrieved party.

2g. Reprimand and fine shall entail the loss of the right to stand for election to bodies of the self-government of attorneys at law for a period of three years from the date the decision becomes final and binding.

2h. Suspension of the right to practice as an attorney at law shall entail the loss of the right to vote in or stand for election to bodies of the self-government of attorneys at law for a period of six years from the date the decision becomes final and binding.

3. (Repealed).

### **Article 65<sup>1</sup>. [Cumulative penalty]**

1. Where several disciplinary offences are punished simultaneously, the disciplinary court shall impose a penalty for each separate offence followed by a cumulative penalty.

2. The imposition of a cumulative penalty shall be governed by the following rules:

- 1) where the penalties of admonition and reprimand are imposed, the cumulative penalty shall be reprimand;
- 2) the penalties of admonition and reprimand shall not be combined with a fine into a cumulative penalty;
- 3) where fines are imposed, the cumulative penalty may not exceed the aggregate amount of such penalties or be lower than the lowest of the fines imposed;

- 4) the penalties of suspension of the right to practice as an attorney at law and suspension of trainee attorney at law rights may not be combined with an admonition, reprimand, or fine into a cumulative penalty;
- 5) where different types of penalties are given for several offences along with the disbarment of an attorney at law or expulsion from training the cumulative penalty imposed shall be the disbarment of an attorney at law or expulsion from training, and – where fines are given simultaneously – such penalty shall be imposed in accordance with the principles laid down in clause 3.

3. Where the defendant has committed two or more disciplinary offences before the first decision concerning any such offence is entered, even if not final, a cumulative decision shall be issued provided that the penalties imposed are subject to combining in accordance with the rules laid down in subsection 2.

**Article 65<sup>2</sup>. [Temporary suspension from discharging professional duties]**

1. An attorney at law or trainee attorney at law against whom disciplinary or criminal proceedings are pending may be temporarily suspended from discharging his or her professional duties by a disciplinary court in particularly justified circumstances. The disciplinary court shall issue an order to suspend *ex officio* or upon motion of any of the parties.
2. The disciplinary court shall impose the temporary suspension of an attorney at law or trainee attorney at law from discharging professional duties within 14 days of obtaining information about the pre-trial detention of the attorney at law or trainee legal advisor in criminal proceedings brought against him or her. If at the time pre-trial detention is imposed disciplinary proceedings against the detained attorney at law or trainee attorney at law have not been instituted or motion for temporary suspension has not been filed, the disciplinary court shall limit the temporary suspension to the duration of the pre-trial detention.
3. An order of the disciplinary court on temporary suspension shall be immediately enforceable. Such order may be challenged by means of interlocutory appeal.
4. A temporarily suspended attorney at law or trainee attorney at law may motion for voiding an order on temporary suspension at any time. An order on the motion may be challenged by means of interlocutory appeal only where such motion has been filed no earlier than at least three months of issuing the order on temporary suspension.
5. Temporary suspension shall be repealed immediately should reasons for imposing the suspension cease to exist or should reasons justifying the repeal arise.

**Article 66. [Issuance of a warning]**

1. In the event of a minor disciplinary offence or where, in light of the circumstances of the case, such a measure suffices to discipline an attorney at law or trainee attorney at law without imposing a disciplinary penalty, the dean of the council of a circuit chamber of attorneys at law, acting upon motion of the disciplinary counsel, may stop at issuing a warning to the attorney at law or trainee attorney at law. The disciplinary counsel may file the motion after an order refusing to institute disciplinary proceedings or an order discontinuing such proceedings becomes final.

2. When issuing a warning, the dean may also oblige the attorney at law or trainee attorney at law to apologize to the aggrieved party or follow another appropriate course of action.

3. An attorney at law or trainee attorney at law may appeal against a warning to the competent disciplinary court within seven days of receiving the warning.

4. An order of the disciplinary court on the appeal referred to in subsection 3 may not be challenged.

**Article 67. [Possibility of staying disciplinary proceedings]**

1. Disciplinary proceedings shall be carried out independently of criminal proceedings for the same offence, and independently of other disciplinary proceedings for the same offence instituted in an organizational unit in which specific regulations provide for such proceedings. The disciplinary proceedings may nonetheless be stayed pending the conclusion of the criminal proceedings.

2. (Repealed).

**Article 67<sup>1</sup>. [Conducting the proceedings; evidence]**

1. The disciplinary counsel shall conduct the proceedings *ex officio*.

2. Decisions of the bodies conducting the proceedings shall be based on factual findings. Evidence is taken upon motion of a party or *ex officio*.

**Article 67<sup>2</sup>. [Stages of disciplinary proceedings]**

Disciplinary proceedings shall include:

- 1) investigation;
- 2) proceedings before the disciplinary court;
- 3) enforcement proceedings.

**Article 68. [Parties to the investigation]**

1. The parties to the investigation shall be the defendant and the aggrieved party and to the proceedings before the disciplinary court – the prosecutor, the defendant, and the aggrieved party.

2. The role of the prosecutor in proceedings before a circuit disciplinary court shall be fulfilled by a disciplinary counsel, and before the Superior Disciplinary Court – by the Chief Disciplinary Counsel, along with their deputies discharging duties assigned by the counsels.
3. The defendant shall be an attorney at law or trainee attorney at law with regard to whom an order on presenting charges has been issued.
4. The defendant shall be entitled to the assistance of a defense counsel. Only an attorney at law or an advocate may act as a defense counsel.
5. The aggrieved party shall be the person whose legal interests have been directly infringed upon by the conduct of an attorney at law or trainee attorney at law set out in Article 64.

**Article 68<sup>1</sup>. [Instituting proceedings]**

1. Proceedings before the disciplinary court shall be instituted upon motion for disciplinary action brought by the Chief Disciplinary Counsel, a disciplinary counsel, or their deputies, respectively.
  - 1a. The Minister of Justice may order an investigation against an attorney at law or a trainee attorney at law.
  - 1b. In the event set out in subsection 1a, the Minister of Justice shall be vested with the rights of a party to the proceedings.
2. If an attorney at law provides legal assistance in a Member State of the European Union or a Member State of the European Free Trade Association (EFTA) that is party to the Agreement on the European Economic Area and does so pursuant to the provisions on legal assistance by lawyers from the European Union in force and effect therein, the disciplinary court that instituted disciplinary proceedings shall notify the competent authority in that state thereof without delay by sending a copy of the motion referred to in subsection 1.

**Article 68<sup>2</sup>. [Informing the Minister of Justice of disciplinary proceedings]**

The disciplinary counsel shall serve a copy of an order initiating an investigation upon the Minister of Justice and shall inform the Minister of bringing a motion for disciplinary action before a disciplinary court and referring a motion to the dean of the council of the circuit chamber of attorneys at law pursuant to Article 66.

**Article 68<sup>3</sup>. [Service of pleadings; defendant's failure to appear]**

1. Upon consent of the attorney at law or trainee attorney at law, in the course of disciplinary proceedings pleadings may be served, among other means, by telefax or electronic mail. In such cases, proof of service shall be the confirmation of data transmission.
2. Non-attendance of the defendant or the defense counsel at a hearing or a court session, or failure to comply with a summons issued by the disciplinary counsel shall not stay the

proceedings or halt the undertaking of an action unless they duly justify their absence and, simultaneously, move for deferment or adjournment of the hearing or the court session or for not undertaking actions before the disciplinary counsel, or unless the disciplinary court or the disciplinary counsel deem their presence necessary for compelling reasons.

3. In the event of the defendant's unexcused failure to appear, a copy of an order on presenting charges shall be served upon the defendant in writing by a disciplinary counsel – which shall take the place of promulgation.

4. A decision entered in the absence of the defendant or the defense counsel shall not be considered a default decision.

5. A due justification for non-attendance of the defendant or the defense counsel at a hearing or for failure to comply with a summons issued by a disciplinary counsel shall require demonstrating and substantiating the existence of exceptional circumstances and – in the event of an illness – presenting a medical certificate confirming inability to comply with a summons or a notice to appear issued by the authority conducting the proceedings.

**Article 68<sup>4</sup>. [Unexcused failure to appear, refusal to give evidence or take an oath]**

1. A penalty for unexcused failure to appear shall be imposed on a fact witness or an expert witness by a district court competent for the place of residence of the fact witness or the expert witness acting on motion of a disciplinary court or a disciplinary counsel. A fact witness and an expert witness shall not be subject to a penalty if he or she has not been advised of the consequences of non-appearance, or refusal to give evidence or take an oath.

2. Upon motion of a disciplinary court or a disciplinary counsel, the competent district court shall compel the appearance of a witness.

**Article 69. (Repealed).**

**Article 70. [Expiry of the limitation period]**

1. Disciplinary proceedings may not be instituted after the lapse of three years from the commission of the offence or – in matters provided for in Article 11(2) – after the lapse of one year.

2. Where disciplinary proceedings have been instituted prior to the expiry of the time limit referred to in subsection 1, the disciplinary offence may not be penalized if more than five years have elapsed from the commission of the offence or – in matters provided for in Article 11(2) – after a lapse of three years.

3. If the act satisfies the statutory definition of a criminal offence, the limitation period for disciplinary proceedings shall expire no sooner than with the expiry of the limitation period stipulated for the criminal offence.

**Article 70<sup>1</sup>. [Composition of a disciplinary court]**

1. A disciplinary court shall sit in a panel of three.
2. The judges shall be appointed to adjudicate the case by the president of the disciplinary court, having regard to ensuring that the case is heard without undue delay and that the caseload is evenly distributed among the panels of the court.

**Article 70<sup>2</sup>. [Territorial jurisdiction of disciplinary courts]**

1. The case shall be heard by the circuit disciplinary court of the circuit chamber of attorneys at law of which the defendant was a member at the time the disciplinary proceedings were instituted.
  - 1a. The circuit disciplinary court shall hear all cases as the court of first instance with the exception of cases set out in Article 66(3) and shall hear appeals against orders of the disciplinary counsel refusing to institute disciplinary proceedings and discontinuing disciplinary proceedings.
2. Where an offence that is dealt with as a single case has been committed by more than one defendant entered to the roll of attorneys at law or trainee attorneys at law at different chambers, the jurisdiction shall be vested in that disciplinary court in whose jurisdiction the offence was committed, or – if such location cannot be determined – in the circuit disciplinary court in whose jurisdiction the disciplinary proceedings were first instituted.
3. Conflicts of jurisdiction shall be resolved the Superior Disciplinary Court.

**Article 70<sup>3</sup>. [Forms of case resolution by disciplinary courts]**

A disciplinary court shall resolve a case by way of a decision or an order. An order may only be issued at a hearing.

**Article 70<sup>4</sup>. [Drawing up and serving statements of reasons for decisions; appeals]**

1. Decisions and orders disposing of disciplinary proceedings shall be served *ex officio* along with a statement of reasons on the parties and the Minister of Justice.
2. A statement of reasons shall not be drawn up *ex officio* in cases in which the motion of disciplinary counsel for issuing a decision and imposing a disciplinary penalty agreed upon with the defendant was granted without a trial, in which the motion of the defendant for issuing a decision and imposing a stipulated disciplinary penalty was granted without a trial, or in which admonition was imposed. The decisions shall be served *ex officio* on the parties and the Minister of Justice.
3. In the event referred to in subsection 2, a statement of reasons shall be drawn up and served upon application by a party or the Minister of Justice submitted within 14 days of the decision being served.



4. Decisions and orders finally disposing of disciplinary proceedings may be appealed against by any of the parties or the Minister of Justice within 14 days from service of a copy of the decision or of the order along with the statement of reasons and instruction about the time limit and methods of filing an appeal.

**Article 70<sup>5</sup>. [Access to case files]**

The Minister of Justice and persons authorized by the Minister shall have the right to access the case files at any stage of the disciplinary proceedings and request information on the outcome of the proceedings, as well as the right to request final disciplinary decisions or orders along with the case files.

**Article 70<sup>6</sup>. [Costs of disciplinary proceedings]**

1. The costs of disciplinary proceedings shall be flat rate in nature.
2. In the event that a penalty is imposed, the costs of the proceedings shall be borne by the defendant. In all other cases, the costs of the investigation and proceedings before a circuit disciplinary court shall be covered by the competent circuit chamber of attorneys at law and the costs of proceedings before the Superior Administrative Court – by the National Chamber of Attorneys at law.
3. The amount of the flat-rate costs of disciplinary proceedings shall be set by way of a resolution of the National Council of Attorneys at Law, having regard to the average costs of proceedings.

**Article 71. [Enforcement of disciplinary penalties; expungement of a criminal record]**

1. Without delay, the disciplinary court shall send a copy of a final and binding decision to the competent council of the circuit chamber of attorneys at law, the Minister of Justice, and the National Council of Attorneys at Law.
2. Disciplinary penalties shall be enforced by the deans of the councils of circuit chambers of attorneys at law.
  - 2a. A final and binding decision on the imposition of a fine and on the costs of the proceedings shall constitute a writ of execution [*tytuł egzekucyjny*] for purposes of Article 777 of the Code of Civil Procedure, and upon the issuance of an enforcement clause [*klauzula wykonalności*] by a district court competent for the registered office of the disciplinary court that has issued the decision, shall be subject to enforcement under enforcement proceedings carried out pursuant to the Code of Civil Procedure.
  - 2b. In enforcement proceedings referred to in subsection 2a, the duties of the creditor shall be carried out by the dean of the council of the circuit chamber of attorneys at law of that chamber

whose member was penalized on the date the decision on the imposition of a fine and on the costs of disciplinary proceedings becomes final.

3. A copy of the final decision on a disciplinary action shall be submitted to the personnel files.

4. The following shall be notified of the imposition of penalties referred to in Article 65(1)(4)–(5):

- 1) the courts,
- 2) public prosecution offices,
- 3) employers and other entities for whose benefit the penalized attorney at law provides legal assistance,
- 4) relevant state and local government authorities in view of the nature of the cases handled by the penalized attorney at law

- within the jurisdiction of the circuit chamber of attorneys at law where the attorney at law or trainee attorney at law has been entered to the roll, and – where the attorney at law practices as an advocate – the circuit chamber of advocates.

5. The record of a disciplinary action shall be deleted *ex officio*:

- 1) three years from the disciplinary decision imposing the penalty of admonition, reprimand, or fine becoming final,
- 2) five years from the expiry of the period of suspension from practicing as an attorney at law,
- 3) 15 years from the disciplinary decision disbarring the attorney at law becoming final or seven years and six months from the disciplinary decision imposing expulsion from attorney at law training becoming final,

- if no penalty is imposed and no disciplinary proceedings are instituted against the attorney at law or trainee attorney at law during such period.

6. (Repealed).

7. Upon expunging a disciplinary action, the dean of the council of a circuit chamber of attorneys at law shall order the erasing of the disciplinary action from the record and the removing of any documents that pertain to the action from the personnel files.

**Article 72. (Repealed).**

**Article 73. [Independence of the members of disciplinary courts]**

With regard to adjudicating disciplinary matters, members of disciplinary courts shall be subject only to law.

**Article 74. (Repealed).**

**Article 74<sup>1</sup>. [Criminal Code and Code of Criminal Procedure applied *mutatis mutandis*]**

Any matters pertaining to disciplinary proceedings not provided for herein shall be governed by the following provisions applied *mutatis mutandis*:

- 1) the Code of Criminal Procedure;
- 2) Chapters 1–3 of the Criminal Code.

## **Chapter 7**

### **Special, transitional, and final provisions**

#### **Article 75. [Attorneys at law and trainee attorneys at law in uniformed services]**

To the extent not regulated under this Act, the service relationship and the ensuing rights and obligations of attorneys at law and trainee attorneys at law who are soldiers in active military service, Police officers, or officers with the State Protection Service [*Shuzba Ochrony Państwa*], Internal Security Agency, Foreign Intelligence Agency, Military Counterintelligence Service, Military Intelligence Service, Central Anticorruption Bureau, Border Guard, State Fire Service, or Prison Service shall be governed by other laws.

#### **Article 76. (Omitted).**

#### **Article 77. [Entries to the roll of attorneys at law made prior to the Act's entry into force]**

Attorneys at law who have been entered to the roll of attorneys at law by the date of this Act's entry into force shall be entered *ex officio* to the roll of attorneys at law provided for herein.

#### **Article 78. (Repealed).**

#### **Article 79. (Repealed).**

#### **Article 80. (Repealed).**

#### **Article 81. (Repealed).**

#### **Article 82. (Repealed).**

#### **Article 83. (Repealed).**

#### **Article 84. [Entry into force]**

This Act shall enter into force on 1 November 1982.

Translated by *Marzena Lewandowski*