

# ACT ON ATTORNEYS-AT-LAW of 6<sup>th</sup> July 1982

## Chapter 1 General Provisions

### Article 1

1. The Act defines the principles of practising the profession of an attorney-at-law and the principles of organisation and activity of the bar of attorneys-at-law.
2. The professional title of “attorney-at-law” is protected by law.

### Article 2

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

### Article 3

1. The profession of an attorney-at-law may be practised by a person who meets the requirements specified in this Act.
2. An attorney-at-law shall exercise his or her profession with due diligence stemming from the knowledge of law as well as ethical principles binding upon him or her.
3. An attorney-at-law shall keep confidential all information which has become known to him or her in relation to the provision of legal assistance.
4. The obligation of professional secrecy shall not be limited in time.
5. An attorney-at-law may not be released from the obligation of professional secrecy in relation to facts which have become known to him or her while providing legal assistance or handling a case.
6. The obligation of professional secrecy does not relate to information disclosed pursuant to the provisions of the Act of 16 November 2000 on Counteracting Money Laundering Activities and Financing of Terrorism (Journal of Laws of 2014 No. 455), within the scope specified therein.

### Article 4

The practise of the profession of an attorney-at-law consists in providing legal assistance.

### Article 5

1. Attorneys-at-law are organised within the framework of a professional bar hereinafter referred to as the bar of attorneys-at-law.

2. Organisational units of the bar of attorneys-at-law having legal personality include regional chambers of attorneys-at-law and the National Council of Attorneys-at-law.
3. The Minister of Justice exercises supervision over the activities of the bar of attorneys-at-law within the scope and in the forms determined in the act.

## **Chapter 2**

### **Practising the profession of an-attorney-at-law**

#### **Article 6**

1. Legal assistance provided by an attorney-at-law consists, in particular, in provision of legal advice and consultations, drafting legal opinions, preparing draft legislation as well as appearing before courts and authorities as an attorney or a defence attorney.
2. (repealed)
3. An attorney-at-law has the right to issue a certified true copy of the presented original document within the scope defined under separate regulations. The certified true copy shall include the signature of the attorney-at-law as well as the date and the place of issue, upon the request, the time of issue. If the original document contains any special marks (such as annotations, corrections or defects), the attorney-at-law shall mention this accordingly in the certified true copy.

#### **Article 7**

(repealed)

#### **Article 8**

1. An-attorney-at-law may practise his or her profession within an employment relationship, on the basis of a civil law agreement, in an-attorney-at-law's office and in a partnership:
  - 1) civil or general partnership, whose partners are attorneys-at-law, advocates, patent attorneys, tax advisers or foreign lawyers with a permanent legal practice pursuant to the provisions of the Act of 5 July 2002 on the provision of legal assistance by foreign lawyers in Poland (Journal of Laws of 2014, item 134);
  - 2) limited liability partnership, whose partners are attorneys-at-law, advocates, patent attorneys, tax advisers or foreign lawyers with a permanent legal practice pursuant to the provisions of the Act of 5 July 2002 on the provision of legal assistance by foreign lawyers in the Republic of Poland;
  - 3) limited or limited joint-stock partnership, whose partners are attorneys-at-law, advocates, patent attorneys, tax advisers or foreign lawyers with a permanent legal practice pursuant to the provisions of the Act of 5 July 2002 on the provision of legal assistance by foreign lawyers in the Republic of Poland.

2. The sole area of activity of the partnerships mentioned in clause 1 herein shall be limited to providing legal assistance.
3. An-attorney-at-law is obliged to notify the council of the competent regional chamber of attorneys-at-law about the commencement of practising law, its forms, the address and the name of his or her office or partnership, as well as of his or her address for service. An-attorney-at-law is obliged to immediately notify of any amendments to such data. Correspondence in relation to proceedings conducted under the act shall be sent and deemed served to the service address mentioned in the first sentence.
4. The scope of legal assistance, its deadlines and conditions of its provision as well as the remuneration due shall be specified in an agreement.
5. Whenever this Act contains a reference to the “employment relationship”, “employment” or “remuneration”, it shall also mean, respectively, the “service relationship”, “being on duty” and “emolument”.
6. Legal assistance which involves appearing before courts as a defence attorney in penalty proceedings and in proceedings relating to fiscal offences can be provided by an-attorney-at-law on the basis of a civil law agreement, both in an-attorney-at-law’s office or in a partnership, as mentioned in clause 1 hereinabove, provided that the attorney-at-law is not in an employment relationship. The ban on employment does concern researchers and academics.

#### **Article 9**

1. An-attorney-at-law practising his or her profession under an employment relationship shall hold a self-contained position reporting directly to the head of the organisational unit.
2. If an organisational unit employs two or more attorneys-at-law, one of them shall be entrusted with the task of coordinating the provision of legal assistance within this unit.
3. In a state or local-government body, an-attorney-at-law shall provide legal assistance in a section or in an organisational unit, in an office or a department, or shall hold a self-contained position for legal matters, reporting directly to the head of the said body. In a state body, an-attorney-at-law may be also employed in another self-contained section or an organisational unit, reporting to the manager thereof.
4. An-attorney-at-law may not be instructed to perform any activity which lies outside the scope of providing legal assistance.

#### **Article 10**

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

- 1) before the Supreme Court, the Supreme Administrative Court and before a superior or central body of state administration;
- 2) before a regional court, an appellate court, the regional administrative court and before a body of the second-instance in administrative proceedings;
- 3) in which a foreign contractor takes part.

## **Article 11**

1. While carrying out professional duties, an-attorney-at-law shall enjoy the freedom of speech and writing within the limits defined by law and material necessity.
2. The abuse of freedom referred to in clause 1 hereinabove, which constitutes an insult or defamation of a party, his or her legal representative or defence attorney, a warden, a witness, an expert witness or an interpreter, shall be persecuted upon private accusation and only by way of disciplinary proceedings.

## **Article 12**

1. In the course of and in relation to carrying out professional duties, an-attorney-at-law shall enjoy legal protection available to judges and public prosecutors.
2. The Minister of Justice shall, by way of an ordinance, determine the official dress of attorneys-at-law appearing in court proceedings, taking into account the solemn character of such a dress and its adequacy to the dignity of the court and the established tradition.

## **Article 13**

1. An-attorney-at-law shall not be bound by any instruction as to the content of a legal opinion.
2. *(repealed)*

## **Article 14**

An-attorney-at-law shall handle cases before adjudicating bodies in an independent way, taking care of due application of measures for the protection of justified interests of an organisational unit, as prescribed by law.

## **Article 15**

An-attorney-at-law is obliged to withdraw from carrying out professional duties in his or her own case, or if another organisational unit, in which he or she is employed, is an opponent of an organisational unit which has granted him or her the power of attorney, or if the case concerns a person with whom he or she remains in a relationship which could have influence on the result of the case.

## **Article 16**

1. Assessment of the professional work of an-attorney-at-law shall be carried out by the head of the organisational unit, after obtaining an opinion from an-attorney-at-law indicated by the council of the regional chamber of attorneys-at-law.
2. *(repealed)*

## **Article 17**

An-attorney-at-law practising the profession under an employment relationship may be simultaneously employed in more than one organisational units and his or her working time may exceed one full-time equivalent.

## **Article 18**

1. The working time of an-attorney-at-law shall also include the time necessary to arrange certain issues outside the premises of an organisational unit, in particular in courts and other bodies, as well as the time needed to prepare for such activities.
2. The working time on the organisational unit's premises may not be shorter than two-fifths of the working time specified in an agreement signed with the attorney-at-law in question.
3. *(repealed)*

## **Article 19**

1. The employment relationship with an-attorney-at-law may be terminated upon a notice by the organisational unit on account of an improper performance of duties stemming from this Act and after seeking the opinion from the council of the regional chamber of attorneys-at-law. The said opinion shall be forwarded to the organisational unit in question within 14 days from the date of receiving the notice of the intention to terminate the employment relationship by the organisational unit.
2. *(repealed)*

## **Article 20**

*(repealed)*

## **Article 21**

1. An-attorney-at-law may grant further power of attorney (substitution) to another attorney-at-law, attorney-at-law or a foreign lawyer who runs a regular practice under the act on the provision of legal assistance by foreign lawyers in Poland.
2. Should it be necessary, the dean of the regional chamber of attorneys-at-law shall designate *ex officio* a substitute for the attorney-at-law who has been removed from the list of attorneys-at-law or is temporarily unable to carry out his or her professional activities. The dean's decision authorises the designated attorney-at-law to handle the given cases and shall be equivalent to granting further power of attorney to represent in court proceedings.

## **Article 22**

1. An-attorney-at-law may refuse to provide legal assistance only due to

- compelling reasons.
2. When terminating the power of attorney, a commission contract or an employment contract, an-attorney-at-law shall make every effort to ensure that the termination will not adversely affect the course of the case in question.

#### **Article 22<sup>1</sup>**

The council of the regional chamber of attorneys-at-law shall be entitled to audit and assess the practice of the profession by an-attorney-at-law and a foreign lawyer who has been entered on the list of foreign lawyers maintained by the council of the regional chamber of attorneys-at-law. The audit and assessment shall be carried out by special inspectors appointed by the council from among attorneys-at-law.

#### **Article 22<sup>2</sup>**

The council of the regional chamber of attorneys-at-law, on the basis of a medical certificate and after carrying out a detailed explanatory proceedings may, at the request of the President of the National Council of Attorneys-at-law or the dean of the regional chamber of attorneys-at-law, adopt a resolution testifying about the permanent inability to practise the profession by an-attorney-at-law. Should such proceedings be instituted, the council may suspend the attorney-at-law in question for the duration of the proceedings.

#### **Article 22<sup>3</sup>**

1. The costs of legal assistance provided by an-attorney-at-law *ex officio* shall be borne by the State Treasury.
2. The Minister of Justice, after seeking the opinion of the National Council of Attorneys-at-law, shall determine by way of an ordinance the detailed principles relating to the incurring of costs mentioned in the above clause, taking into account the methods of determining such costs, expenses constituting the basis of such determination and the maximum amount of fees for the assistance in question.

#### **Article 22<sup>4</sup>**

1. An-attorney-at-law practising the profession under an employment relationship shall be entitled to remuneration and other benefits specified in the collective agreement or in regulations on remuneration of employees, which are binding in the organisational unit employing the attorney-at-law in question. Such remuneration shall not be lower than the remuneration of a senior specialist or equivalent. Should the right to bonuses be dependent on the condition of managing a team of employees, such a requirement shall not be applicable to an-attorney-at-law.
2. An-attorney-at-law shall be entitled to additional remuneration for not less than 65% of the costs of court representation awarded by the court to the party that he or she represents or awarded on the basis of an out-of-court settlement, amicable proceedings, international arbitration or in the enforcement

proceedings, provided that such costs have been collected from the other party. In the public sector, the amount and dates of payment of remuneration shall be specified in a civil law agreement.

#### **Article 22<sup>5</sup>**

1. The fees for activities performed by attorneys-at-law practising their profession in attorney-at-law's offices or in partnerships, as referred to in article 8 clause 1, and employed on the basis of a civil law agreement, shall be specified in an agreement with a client.
2. The Minister of Justice, after seeking the opinion of the National Council of Attorneys-at-law and the National Bar Council, shall determine by way of an ordinance the amount of fees for activities performed by attorneys-at-law when appearing before judicial bodies, which constitute the basis for awarding the costs of legal representation by courts, having regard to the fact that determining a fee higher than the minimum rate, as referred to in clause 3, but not higher than its sixth multiple, may be justified by the type and complexity of the case as well as the workload undertaken by the attorney-at-law in question.
3. The Minister of Justice, after seeking the opinion of the National Council of Attorneys-at-law and the National Bar Council, shall determine by way of an ordinance the minimum rates for activities of attorneys-at-law, as referred to in clause 1, taking into account the type and complexity of the case as well as the workload undertaken by the attorney-at-law in question.

#### **Article 22<sup>6</sup>**

Social insurance contributions of an-attorney-at-law shall be paid by the organisational units employing the attorney-at-law in question, partnerships referred to in article 8 clause 1, or they shall be paid personally by the attorney-at-law practising the profession in an-attorney-at-law's office or in partnerships specified in the said article 8 clause 1.

#### **Article 22<sup>7</sup>**

1. An-attorney-at-law shall be covered by the mandatory professional indemnity insurance for all damages inflicted while performing the activities referred to in article 4 clause 1 and article 6 clause 1.
2. The provisions of clause 1 above do not infringe the provisions of article 120 of the Labour Code.
3. The insurance obligation referred to in clause 1 above shall not apply to attorneys-at-law who are currently not practising the profession.
4. The council of the regional chamber of attorneys-at-law, having jurisdiction based on the place of residence of an-attorney-at-law, shall carry out regular inspection to ensure that a valid insurance contract, as referred to in clause 1 above, has been entered into by the attorney-at-law in question. The fulfilment of this obligation shall be ascertained on the basis of an insurance policy issued by the insurance company and presented by an-attorney-at-law, or another insurance document confirming that an insurance agreement has been validly entered into.

5. The Minister of Justice shall supervise the performance of the tasks specified in clause 4 above. The deans of regional chambers of attorneys-at-law shall file suitable annual reports on the inspections carried out and shall present them to the Minister of Justice until the 15th day of March each year.

#### **Article 22<sup>8</sup>**

The minister competent for issues relating to financial institutions, in cooperation with the Minister of Justice and after seeking the opinion of the National Council of Attorneys-at-law and the Polish Chamber of Insurers, shall determine, by way of an ordinance, the detailed scope of the mandatory insurance referred to in Article 22<sup>7</sup>, the commencement date of the insurance duty and the minimum guarantee sum, taking into consideration in particular the specifics of the profession and the scope of performed tasks.

#### **Article 22<sup>9</sup>**

1. Data needed to file in an electronic signature for the purposes of electronic enforcement proceedings are provided to attorneys-at-law after submitting an application to the appropriate regional chamber of attorneys-at-law.
2. Attorneys-at-law are permitted to communicate with courts in electronic enforcement proceedings using the electronic signature verified by a valid qualified certificate.
3. The application forms mentioned in clause 1 above will be transmitted by the regional chamber of attorneys-at-law to the appropriate court alongside a confirmation of registration (membership) of an-attorney-at-law in the respective regional chamber of attorneys-at-law. Persons intending to communicate with the court in the way stipulated in clause 2 above shall notify so the court by the agency of the regional chamber of attorneys-at-law, while supplying the court with appropriate data needed to verify the electronic signature.
4. Information referred to in clause 3 above shall be transmitted by the regional chamber of attorneys-at-law to the court within 14 days of receiving the application.

### **Chapter 3**

#### **Qualifications necessary for practising the profession of an-attorney-at-law**

#### **Article 23**

The right to practise the profession of an-attorney-at-law arises upon the entry on the list of attorneys-at-law and after taking an oath.

#### **Article 24**

1. In order to be entered into the register of attorneys-at-law, the candidate should:



- 1) complete higher legal studies in the Republic of Poland and has earned a master's degree, or has completed higher legal education abroad, provided it is recognised in the Republic of Poland;
  - 2) (repealed);
  - 3) enjoy full public rights;
  - 4) have full legal capacity to act;
  - 5) be a person of good character whose previous behaviour warrants the appropriate practice of the profession of an-attorney-at-law;
  - 6) complete training for attorneys-at-law in the Republic of Poland, followed by the exam, subject to the provisions of article 25 clause 1 and 2.
2. The entry on the list of attorneys-at-law of a person who has obtained a positive result in the exam, or persons referred to in article 25 clause 1 and 2, shall take place upon request and on the basis of a resolution of the regional chamber of attorneys-at-law with jurisdiction based on the place where the training for attorneys-at-law took place, the place of the request or the place of residence of the candidate in question.
- 2a. The request referred to in clause 2 above shall be accompanied by:
- 1) a confirmation of no criminal record from the National Penal Register, dated not earlier than one month prior to the confirmation request;
  - 2) in case of persons born before 1 August 1972, a declaration referred to in article 7 clause 1 of the Act of 18 October 2006 on Disclosing Information about Documents of the State Security Bodies from 1944-1990 and their Content (Journal of Laws of 2013, item 1388), or information referred to in Article 7 clause 3a thereof;
  - 3) in case of persons referred to in article 25 clause 1 subclause 4-5, a contract of employment alongside documents specifying the scope of duties, or declarations from an employer specifying such duties; or civil law agreements alongside a declaration of registering with appropriate tax authorities and a confirmation that any due tax has been paid;
  - 4) in case of a person referred to in article 25 clause 1 subclause 5, a document certifying the award of a Ph.D. degree in legal sciences;
  - 5) in case of persons referred to in article 25 clause 1 subclause 4b and 5b, a declaration of an attorney-at-law or an-attorney-at-law certifying that the candidate in question has been undertaking activities requiring legal knowledge and directly connected with the provision of legal assistance by an attorney-at-law or an-attorney-at-law;
  - 6) in case of persons referred to in article 25 clause 1 subclause 4c and 5c, documents certifying an employment record of at least three years in offices of public authorities or in state organisational units, whereby the candidate in question has been undertaking activities requiring legal knowledge and directly connected with preparing draft legislation, ordinances or local by-laws;
  - 7) a document certifying the attainment of a positive result in a judge, prosecutor or notary exam.
- 2b. (repealed)
- 2c. The council of the regional chamber of attorneys-at-law may refuse entry on the list of attorneys-at-law only in situations when such an entry would constitute a breach of the provisions of clause 1 above. The council of the regional chamber of attorneys-at-law shall be entitled to inspect the personal

and disciplinary files of a person wishing to be entered onto the said list.

3. (repealed)
4. (repealed)
5. (repealed)

## **Article 24<sup>1</sup>**

Passing the attorney-at-law's exam entitles a candidate to file an application to be entered on the list of attorneys-at-law within the period of 10 years from the date of a resolution on the results of the attorney-at-law's exam.

## **Article 25**

1. The requirement to complete an-attorney-at-law's training and pass the attorney-at-law's exam shall not apply to:
  - 1) persons holding the title of a professor or a PhD post-doctoral title (dr hab.) in legal sciences;
  - 2) persons who have held the position of an adviser or a senior adviser at the Office of the State Treasury Solicitors' Office for at least three years, or have been working as a bailiff;
  - 3) persons who have held the position of a judge, prosecutor, attorney-at-law or a notary;
  - 3a) persons who have held the position of a court assessor for the period of at least 2 years;
  - 4) persons who have passed the judge or persecutor exam after 1 January 1991, or the notary exam after 22 April 1991, and who, within the period of five years prior to the request for registration, for the period of at least three years in total:
    - a) have held the position of a court assessor, prosecutor assessor, court official, senior court official, court trainee, prosecutor trainee, prosecutor's assistant or a judge's assistant, or have been employed in the Supreme Court, the Constitutional Tribunal or in an international judicial authority, in particular in the Court of Justice of the EU or the European Court of Human Rights, while carrying out the duties equivalent to those of a judge's assistant, or
    - b) under an employment contract or a civil law agreement, have been undertaking activities requiring the knowledge of law and directly related to the provision of legal assistance by an attorney-at-law or an-attorney-at-law in an attorney-at-law's office, attorney-at-law team or in a civil, general, limited-liability, limited or limited joint-stock partnership, as provided for in article 4a clause 1 of the Act dated 26 May 1982 on the Bar Council (Journal of Laws of 2014, item 635, 993 and 1778), or in an-attorney-at-law's office or in a civil, general, limited-liability, limited or limited joint-stock partnership, as provided for in article 8 clause 1, or
    - c) have been employed in offices of public authorities or state organisational units, undertaking activities requiring legal knowledge and directly connected with preparing draft legislation, ordinances or local by-laws;
  - 5) persons who hold a PhD title in legal sciences and who within the period of five years prior to the request for registration, and for the total duration of three

years:

- a) have held the position of a court official, senior court official, court trainee, prosecutor trainee, prosecutor's assistant or a judge's assistant, or
  - b) under an employment contract or a civil law agreement, have been undertaking activities requiring the knowledge of law and directly connected with the provision of legal assistance by an attorney-at-law or an attorney-at-law in an attorney-at-law's office, attorney-at-law team or in a civil, general, limited-liability, limited or limited joint-stock partnership, as provided for in article 4a clause 1 of the Act of 26 May 1982 on the Bar Council, or in an attorney-at-law's office or in a civil, general, limited-liability, limited or limited joint-stock partnership, as provided for in article 8 clause 1, or
  - c) have been employed in offices of public authorities or state organizational units, undertaking activities requiring legal knowledge and directly connected with preparing draft legislation, ordinances or local by-laws, or
  - d) have been employed in the Constitutional Tribunal or in an international judicial authority, in particular the Court of Justice of the EU or the European Court of Human Rights, while carrying out the duties equivalent to those of a judge's assistant.
2. The following persons may take the attorney-at-law's exam before the board referred to in article 36, without the obligation to have completed the attorney-at-law's training:
- 1) persons holding a PhD title in legal sciences;
  - 2) persons who, for the period of at least four years but not longer than six years prior to applying to be admitted to take the examination, have been employed as a court official, senior court official, prosecutor's assistant, judge's assistant, or have been employed in the Supreme Court, the Constitutional Tribunal or in an international judicial authority, in particular the Court of Justice of the EU or the European Court of Human Rights, while carrying out the duties equivalent to those of a judge's assistant;
  - 3) persons who, after completing higher legal studies and for the period of at least four years, but not longer than six years prior to applying to be admitted to take the examination, have been undertaking, under an employment contract or a civil law agreement, activities requiring the knowledge of law and directly connected with providing legal assistance by an attorney-at-law or an attorney-at-law in an attorney-at-law's office or in a civil, general, limited-liability, limited or limited joint-stock partnership, as mentioned in Article 8 clause 1, or in an attorney-at-law's office, attorney-at-law team or in a civil, general, limited-liability, limited or limited joint-stock partnership, as mentioned in article 4a clause 1 of the Act of 26 May 1982 on the Bar Council;
  - 4) persons who, after completing higher legal studies and for the period of at least four years but not longer than six years prior to applying to take the examination, have been employed in offices of public institutions, where they have been undertaking activities requiring legal knowledge and directly connected with providing legal assistance to such offices;
  - 4a) persons who, after completing the training for civil servants and for the period of at least four years but not longer than six years prior to applying to be admitted taking the examination, have been undertaking activities requiring legal knowledge and directly connected with preparing draft legislation,

- ordinances or local by-laws;
- 5) persons who have passed the judge, prosecutor, notary or bailiff exam;
  - 6) persons who hold the position of an adviser or a senior adviser at the Office of the State Treasury Solicitors' Office;
  - 7) persons who within the time frame specified in article 24 have not filed the request to be entered on the list of attorneys-at-law;
  - 8) persons named in article 29 clause 2;
3. Persons named in clause 2 above must meet the conditions laid down in article 24 clause 1, subclause 1, 3-5.
  4. In case of part-time employment, time frames mentioned in clause 1 subclause 4-5 and clause 2 subclause 2-4 above shall be extended accordingly.
  5. In case of court and prosecutor legal training undertaken on an out-of-regular basis, time frames mentioned in clause 1 subclause 4 and 5 above, the duration of these trainings shall be credited towards these time frames proportionally, provided that every month of the course equals to  $\frac{1}{4}$  of a month.

### **Article 26**

Persons who practice the profession of a judge, prosecutor, notary, bailiff, court assessor, prosecutor assessor or a notary assessor, or who are currently undertaking the judge, prosecutor or notary training, may not be simultaneously entered on the register of attorneys-at-law or practise the profession of an-attorney-at-law.

### **Article 27**

1. An oath to be taken by an-attorney-at-law shall be worded as follows: "I solemnly swear to contribute to the protection and reinforcement of the legal order of the Republic of Poland by practising the profession of an-attorney-at-law, perform my professional duties in a diligent way and according to the provisions of law, respect professional secrecy as well as to act with dignity and in an honest way, guided by the principles of attorney-at-law's ethics and justice".
2. The oath shall be taken before the dean of the council of the regional chamber of attorneys-at-law where the attorney-at-law in question has been registered.

### **Article 28**

1. Suspension of the right to practise the profession of an-attorney-at-law takes place if the person in question:
  - 1) practices the profession of an attorney-at-law;
  - 2) has commenced employment with judicial authorities, prosecuting authorities or a notary's office;
  - 3) has commenced employment at the State Treasury Solicitors' Office;
2. The suspension of the right to practise the profession of an-attorney-at-law shall also take place when a disciplinary decision to apply this punishment becomes final and binding.

3. The suspension of the right to practise the profession of an-attorney-at-law is not applicable to persons employed as attorneys-at-law with authorities referred to in clause 1 subclause 2 above.
4. The resolution of the council of the regional chamber of attorneys-at-law on suspending the right to practise the profession of an-attorney-at-law shall be adopted within 30 days from the date when information about the event referred to in clause 1 above becomes known.
5. The resolution referred to in clause 4 above may be appealed against to the Presidium of the National Council of Attorneys-at-law within 14 days from the receipt of the resolution by the attorney-at-law in question. The resolution of the Presidium of the National Council of Attorneys-at-law shall be made within 30 days from the receipt of the appeal.
6. The attorney-at-law in question may lodge an appeal against the resolution of the Presidium of the National Council of Attorneys-at-law with the Minister of Justice, pursuant to the provisions of the Code of Administrative Proceedings.
7. The attorney-at-law in question as well as the Presidium of the National Council of Attorneys-at-law may lodge a complaint against the final decision of the Minister of Justice with the administrative court within 30 days from the receipt of the decision.

#### **Article 29**

Striking a person off the list of attorneys-at-law shall take place in the following circumstances:

- 1) at the request of an-attorney-at-law;
- 2) (repealed);
- 3) in case of even partial limitation of his or her legal capacity to act;
- 4) in the event of an-attorney-at-law in question being deprived of his or her public rights pursuant to a court judgement;
- 4a) in the event of a failure to pay membership fees for a period exceeding one year;
- 5) in the event of death of an-attorney-at-law;
- 5a) (no longer in force);
- 6) a disciplinary ruling or a court judgement depriving an-attorney-at-law of the right to exercise the profession.

#### **Article 29<sup>1</sup>**

The resolution of the council of the regional chamber of attorneys-at-law on removing a person from the list of attorneys-at-law shall be made within 30 days from the date when information about an event referred to in clause 29 subclause 1 and 3-5 becomes known. The provisions of article 28 clause 5-7 shall apply accordingly.

#### **Article 29<sup>2</sup>**

1. A person struck off the list of attorneys-at-law due to reasons referred to in article 29 subclause 1, 3-4a and 6 shall at his or her own request be reentered on the list, provided that he or she meets the conditions referred to in article 24 clause 1, and with account being taken of article 65 clause 2c.
2. If a person referred to in clause 1 above has not been practising the profession of an-attorney-at-law for at least 10 years, he or she shall be subject to re-registration on condition that he or she has passed the attorney-at-law's examination. This shall not apply to persons referred to in article 25 clause 1.

### **Article 29<sup>3</sup>**

The council of the regional chamber of attorneys-at-law may strike an-attorney-at-law off the list of attorneys-at-law because of an act committed before the registration, provided that this event was not known to the council at the time of entering him or her on the list and it could constitute an obstacle to the registration.

### **Article 30**

1. Should any disciplinary proceedings be in progress against an-attorney-at-law, striking such a person off the list of attorneys-at-law can be denied until the end of such proceedings, even despite the request of the attorney-at-law referred to in article 29 clause 1.
2. (repealed).

### **Article 31**

1. The resolution of the council of regional chamber of attorneys-at-law on entering a person on the list of attorneys-at-law shall be adopted within 30 days from the day when the application was filed.
2. The resolution referred to in clause 1 above may be appealed against to the Presidium of the National Council of Attorneys-at-law within 14 days from the receipt of such a resolution.
- 2a the person in question may lodge an appeal against the resolution of the Presidium of the National Council of Attorneys-at-law, which refuses entry on the list of attorneys-at-law, with the Minister of Justice, pursuant to the Code of Administrative Procedure.
- 2b the person in question and the Presidium of the National Council of Attorneys-at-law may lodge a complaint against the final decision of the Minister of Justice with the administrative court within 30 days from the receipt of such a decision.
3. Should the council of the regional chamber of attorneys-at-law fail to adopt a resolution within 30 days from the receipt of the request to be registered as an-attorney-at-law or should the Presidium of the National Council of Attorneys-at-law fail to adopt a resolution within 30 days from the receipt of an appeal, the person in question shall be entitled to lodge a complaint with the administrative court.

### **Article 31<sup>1</sup>**

1. Every time a resolution on entering a person on the list of attorneys-at-law is adopted, it shall be forwarded by the council of the regional chamber of attorneys-at-law to the Minister of Justice, together with personal files, within 7 days in case of the list of attorneys-at-law and within 30 days in case of the list of trainee attorneys-at-law. The council of the regional chamber of attorneys-at-law shall notify the Minister of Justice within 7 days of any resolution refusing entry on the list of attorneys-at-law and within 30 days in case of the list of trainee attorneys-at-law.
2. Should the request to be entered on the list fail to include all required documents or information, the Minister of Justice shall return the resolution together with the file to the council of the regional chamber of attorneys-at-law to be supplemented.

### **Article 31<sup>2</sup>**

1. Entry on the register of attorneys-at-law or trainee attorneys-at-law shall be considered complete if the Minister of Justice does not sign objection to such an entry within 30 days from the receipt of such a resolution together with the personal file of the candidate. In the event referred to in article 31<sup>1</sup> clause 2, the duration of that period runs from the day of the second receipt of the resolution together with a personal file. The Minister of Justice shall express such an objection in the form of an administrative decision.
2. The objection of the Minister of Justice may be appealed against to the administrative court by the interested person or an authority within the bar of attorneys-at-law within 30 days from the receipt of such an objection.
3. Without delay, after the entry on the list of trainee attorneys-at-law, the council of the regional chamber of attorneys-at-law shall notify the trainee about the date of taking of the oath. The provisions of article 27 shall be applied accordingly.

## **Chapter 4 Attorney-at-law's training and examination**

### **Article 32.**

1. The aim of the attorney-at-law's training is to prepare the trainee to practise the profession of an-attorney-at-law in the proper and independent manner, in particular to develop skills relating to legal representation, drafting letters, contracts and legal opinions and to learn the rules of professional conduct.
2. The attorney-at-law's training starts each year on 1 January and lasts for three years.
3. The attorney-at-law's training takes place in an-attorney-at-law's office, in a partnership of attorneys-at-law or attorneys-at-law and attorneys-at-law or in organisational units.
- 3a. During the first-year trainees receive training on the functioning of common courts and prosecutor's office. Every year the President of the National Council of Attorneys-at-law enters into an agreement with the Director of the National Training Centre for the Officials of the Common Courts of Law and the Public Prosecutor's

Office on courses for trainees dealing with the functioning of common courts and prosecutor's office. The agreement specifies the training's agenda, which takes into account both practical and theoretical aspects relating to the functioning of common courts and public prosecutor's office, its duration and organization as well as remuneration due for organizing each course.

4. The trainee who has completed the attorney-at-law's training receives a certificate of completion of the attorney-at-law's training issued by the council of the regional chamber of attorneys-at-law, however not later than 14 days from the completion of the attorney-at-law's training.

### **Article 32<sup>1</sup>.**

1. The attorney-at-law's training is a paid training.

2. The training offered to trainee attorneys-at-law is covered from fees paid by the trainee attorneys-at-law to the council of the regional chamber of attorneys-at-law.

3. The Minister of Justice, upon seeking the opinion of the National Council of Attorneys-at-law shall determine, by way of an ordinance, the amount of the annual fee, guided by the need to ensure adequate level of training to the trainees, with the reservation that the amount of such a fee may not be higher than six times the amount of a minimum salary.

4. The regional council of attorneys-at-law may exempt a trainee attorney-at-law from the duty to pay the fee referred to in clause 3, in total or in part, as well as defer its payment or allow payment in instalments.

5. Should a resolution to exempt a trainee attorney-at-law from the duty to pay the fee in total or in part be adopted, the costs of training of such a trainee attorney-at-law shall be covered, proportionally up to the amount of such exemption, from the own funds of the relevant council of the regional chamber of attorneys-at-law.

### **Article 33.**

1. Recruitment for training of attorneys-at-law shall be carried out in the form of an entrance examination, hereinafter referred to as the "entrance examination".

2. A person who meets the criteria specified in article 24 clause 1 subclause 1 and 3-5 and who has obtained a positive result at the entrance examination may become a trainee attorney-at-law.

3. Entry on the list of trainee attorneys-at-law takes place on the basis of a resolution of the regional chamber of attorneys-at-law competent in relation to the place of filing an application referred to in article 33<sup>3</sup> clause 2. Obtaining a positive result at the entrance examination entitles the candidate to file an application to be entered on the list of trainee attorneys-at-law within 2 years from the date of receipt of the resolution on the results of the entry examination.

4. A person meeting the requirements referred to in clause 2 and 3 may not be refused entry on the list.

5. The provisions of article 3 clause 3-5, article 11, article 12 clause 1, article 23, article 24 clause 1 subclause 1, 3-5, clause 2a subclause 1 and clause 2c and article 31<sup>1</sup> shall apply accordingly to trainee attorneys-at-law and to the proceedings relative to the entry on the list of trainee attorneys-at-law.



6. The council of the regional chamber of attorneys-at-law adopts a resolution on entering a candidate on the list of trainee attorneys-at-law within 30 days from the date on which the application was filed.

7. The resolution referred to in clause 6 may be appealed against to the Presidium of the National Council of Attorneys-at-law within 14 days from receipt of the resolution.

8. The final resolution refusing entry on the list of trainee attorneys-at-law may be complained against to the administrative court within 30 days of receipt of the resolution.

9. In the case of no resolution being adopted by the regional chamber of attorneys-at-law within 30 days from the date on which the application to be entered on the list of trainee attorneys-at-law was filed or in the case of no resolution being adopted by the Presidium of the National Council of Attorneys-at-law within 30 days from receipt of the appeal, the applicant may complain to the administrative court about failure to act.

### **Article 33<sup>1</sup>.**

1. The entrance examinations shall be carried out by examination boards for attorney-at-law's trainings affiliated with the Minister of Justice, appointed by order, hereinafter referred to as the "selection boards". The jurisdiction of a selection board covers the jurisdiction of one or more councils of regional chambers of attorneys-at-law.

1a. The Minister of Justice, not later than 21 days prior to the appointed date of the entrance exam may appoint more than one selection board within the jurisdiction of the regional chamber of attorneys-at-law to carry out examinations, especially if justified by organizational reasons, in particular a high number of candidates taking the examination. Provisions of article 33<sup>5</sup> clause 5 shall not apply.

2. The Minister of Justice is a superior authority in relation to the selection board.

3. The entrance examination shall consist in testing the knowledge of a candidate aspiring to join an-attorney-at-law's training, hereinafter referred to as the "candidate", within the area of substantive and procedural penal law, substantive and procedural petty offences law, penal fiscal law, substantive and procedural civil law, family and guardianship law, business law, commercial companies law, labour and social insurance law, substantive and procedural administrative law, court and administrative proceedings, European Union law, constitutional law, law on the system of courts and public prosecutor's offices, law on the Bar, law on the bar of attorneys-at-law and other legal protection bodies operating in the territory of the Republic of Poland.

4. The entrance examination shall be organised once a year, on the dates specified by the Minister of Justice.

5. Should circumstances arise which prevent a given selection board from carrying out the entrance examination on the dates referred to in clause 4, the Minister of Justice shall indicate additional dates for organising an entrance examination by this selection board. The chairman of the selection board notifies candidates of this fact with a registered letter and places a notice on the notice board in the seat of the designated regional chamber of attorneys-at-law. The provisions of article 75b clause 5, 7-11 of the act Law on the Bar dated 26 May 1982 shall apply accordingly excluding the term referred to in article 75b clause 9 of this act.

### **Article 33<sup>2</sup>.**

1. Provisions of article 75b of the act dated 26 May 1982 - Law on the Bar – shall apply to prepare test questions for the entrance examination for candidates aspiring to join the attorney-at-law's training and to print and deliver test questions to individual selection boards.

### **Article 33<sup>3</sup>.**

1. The Minister of Justice shall publish by 30 June each year in the Public Information Bulletin an announcement about the entrance examination, which shall specify in particular:

- 1) the deadline for filing an application to take the entrance examination to the attorney-at-law's training, hereinafter referred to as the "application";
- 2) territorial jurisdiction of each selection board and the address of its registered office;
- 3) dates of the entrance examination;
- 4) examination fee referred to in article 33<sup>4</sup> clause 1.

2. The application referred to in clause 1 subclause 1, should contain:

- 1) application to be admitted to the entrance examination;
- 2) personal questionnaire;
- 3) curriculum Vita (CV);
- 4) copy of a document confirming completion of higher legal studies in the Republic of Poland and obtaining a master's degree or completion of higher legal education abroad which is recognised in the Republic of Poland, or a certificate confirming that the master's examination has been passed;
- 5) (repealed)
- 6) original of the proof of paying the examination fee;
- 7) 3 photographs meeting the requirements for issuing identity cards.

2a. Instead of documents referred to in clause 2 subclause 4, it is possible to submit a certificate confirming that the candidate has passed all examinations and has undergone a training programme envisaged in the curriculum of higher legal studies and has an appointed date for the MA examination. Admission to the entrance examination is conditional upon submitting by the candidate the documents referred to in clause 2 subclause 4 in the registered office of the selection board not later than 7 days prior to the entrance examination.

3. The application shall be filed with the selection board by the candidate not later than 45 days prior to the commencement of the entrance examination. The deadline for filing applications shall not be reinstated.

4. If the application does not meet the formal requirements specified in clause 2, the chairman of the selection board shall call on the candidate by registered mail to remove the defects according to the procedure specified in article 64 § 2 of the Code of Administrative Procedure.

5. Should the candidate fail to remove the formal defects in the application pursuant to clause 4 or does not meet the condition specified in clause 2a, the application shall be disregarded. The decision to disregard the application is made by the chairman of the selection board by way of a decision and notifies the candidate thereof by registered letter with acknowledgement of receipt. The decision

may be complained against to the Minister of Justice. If the complaint is justified, the chairman of the selection board may annul the contested order and re-examine the case without sending the files to the Minister of Justice.

6. Should the candidate fail to pay the entrance examination fee, the chairman of the selection board shall call on such a candidate to make the said payment within 7 days, pursuant to the procedure specified in clause 4.

7. Should, despite the call referred to in clause 6, the candidate fails to pay the entrance examination fee, the chairman of the board shall issue a decision to return the application. The decision may be appealed against to the Minister of Justice.

8. If the application was filed after the deadline referred to in clause 3, the chairman of the board shall issue a decision refusing to admit the candidate to the entrance examination. The decision may be appealed against to the Minister of Justice.

9. The chairman of the selection board shall notify the candidate qualifying for the entrance examination about the time and place of the entrance examination by registered letter with acknowledgement of receipt at least 14 days prior to date of the entrance examination.

#### **Article 33<sup>4</sup>.**

1. The candidate shall pay the entrance examination fee which shall constitute the income of the state budget.

1a. In case of a decision to disregard the application, a decision to refuse the candidate to be admitted to the entrance examination, or if the candidate submits, not later than 14 days prior to the entrance examination, a written statement about withdrawing from the entrance examination, two-thirds of the paid fee shall be reimbursed upon a written request of the candidate submitted to the chairman of the selection committee within 30 days from the date of the request.

2. The Minister of Justice, after seeking the opinion of the National Council of Attorneys-at-law shall determine, by way of an ordinance, the amount of the fee - not exceeding the equivalent of minimum remuneration referred to in the Minimum Wages Act dated 10 October 2002 (Journal of Laws No 200, item 1679 and of 2004 No 240 item 2407 and of 2005 No 157 item 1314), hereinafter referred to as "minimum wage" - taking into account the need to carry out the entrance examination in the proper and effective manner.

#### **Article 33<sup>5</sup>.**

1. The Minister of Justice shall appoint the selection board from among the persons whose knowledge, experience and authority offer a warranty of the proper conduct of the entrance examination.

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

- 1) three representatives of the Minister of Justice; a judge or a judge emeritus may also be a representative of the Minister of Justice, upon the consent thereof;
- 2) two representatives delegated by the National Council of Attorneys-at-law;
- 3) a researcher, an academic or a member of the teaching staff at the law faculty in a higher educational institution in the Republic of Poland or the at Polish Academy of Science and holding at least a post-doctoral Ph.D. degree (dr hab.) in legal

sciences;

4) a public prosecutor holding at least a position of a public prosecution officer of the regional public prosecution office, also a public prosecutor emeritus.

3. Persons referred to in clause 2 subclause 1 and 3 may not be attorneys-at-law.

4. The Minister of Justice shall appoint one of his/her representatives as the chairman of the selection board. In the absence of the chairman, the deputy chairman is authorized to act in his or her capacity.

4a. The selection board ensures the proper conduct of the entrance examination. The chairman of the selection board manages its operations and represents the board before third parties.

5. The selection board's term of office shall last 2 years.

6. Failure to delegate representatives to the selection board by the obliged bodies or non-appearance of a member of the board shall not result in a discontinuation of the works of the board.

7. The chairman and the members of the selection board shall be entitled to reimbursement of costs of travel and accommodation as specified in the regulations on payments available to an employee employed with a state or local government unit of the public sector during domestic business trips.

8. The chairman and the members of the selection board who are not employed by governmental administration shall be entitled to remuneration for their work at the selection board.

9. The council of the regional chamber of attorneys-at-law having jurisdiction over the registered address of the selection board shall provide administrative and technical services for the selection board. It shall include organisation of entrance examinations as a task delegated by the governmental administration.

10. Funds transferred for the delegated task referred to in clause 9 shall be used by competent councils to cover the costs or organising entrance examinations and the expenses related to the activities of the board.

11. The expenses related to the activities of the board, including organization of entrance examinations as well as remuneration of the members of the selection board shall be covered from the part of the state budget available to the Minister of Justice.

12. The Minister of Justice, after seeking the opinion of the National Council of Attorneys-at-law, shall determine, by way of an ordinance:

1) the procedure and the deadline for proposing candidates to be members of the selection board as well as appointing and dismissing members of the selection board;

2) remuneration of the chairman and of the members of the selection board, taking into account the number of candidates who have submitted their applications to take the entrance exam, the scope of their work and the workload related to the organization of the entrance examination as well as the procedure for paying the remuneration;

3) detailed procedure and manner of conducting the entrance examination, in particular:

a) the manner of operation of the board,

b) the manner of organising administrative and technical services to the board by the councils of regional chambers of attorneys-at-law, including transfers of funds, exercise of supervision over spending them and settlement of expenditures related

to such services

- taking into account the need to ensure correct, punctual and effective recruitment for the attorney-at-law's training as well as the organisation of the entrance exam while ensuring impartiality of the works of the selection board.

### **Article 33<sup>6</sup>.**

1. Membership in the selection board shall expire in the event of death of a member of the board.
2. The Minister of Justice shall recall a member of the board in the event of:
  - 1) his or her resignation;
  - 2) an illness making it permanently impossible for him or her to hold the position of a board member;
  - 3) failure to meet the requirements referred to in article 33<sup>5</sup> clause 2,
  - 4) failure to perform or inadequate performance of the duties, with the reservation that recalling a member of the board referred to in article 33<sup>5</sup> clause 2 subclause 2 takes place following consent from the National Council of Attorneys-at-law,
  - 5) being convicted with a judgement having the force of res judicata for an intentional offence triable on public prosecution.
3. The Minister of Justice may recall a member of the board in the event when penal proceedings have been instigated against such a person in relation to a suspicion of committing an intentional offence triable on public prosecution.
4. Expiry of membership or dismissal of a member from the board during the procedure of entrance examinations shall not result in discontinuation of the works of the selection board.
5. In the event of expiry of membership or dismissal of a member of the selection board prior to the expiry of the term of office, the Minister of Justice within 7 days shall appoint a new member for the period until the end of the current term of office.
6. (repealed)

### **Article 33<sup>7</sup>.**

1. A member of the selection board shall be excluded from the works of the board during the period of entrance examination if a candidate qualified for the entrance examination is:
  - 1) his or her spouse,
  - 2) a person remaining with him/her in the following relationship:
    - a) consanguinity or affinity up to the second degree,
    - b) adoption,
  - 3) a person remaining with him/her in cohabitation:
  - 4) a person remaining with him/her in the personal relationship of another kind which might raise doubts as to the impartiality of a member of the selection board.
2. The reasons for exclusion shall continue even after termination of marriage or adoption.

3. Prior to the commencement of the entrance examination the members of the selection board shall make written declarations that they do not remain in any of the relationships referred to in clause 1 with any of the candidates qualified for the entrance examination.

4. Making untrue declarations or concealing the truth in a declaration referred to in clause 3 shall entail liability pursuant to the provisions of article 233 § 1 of the Penal Code.

### **Article 33<sup>8</sup>.**

1. The entrance examination shall take place in the presence of at least three members of the selection board.

2. A candidate's absence during the entrance examination or appearing at the entrance examination once it has started, regardless of the reasons, shall be considered a withdrawal from participating in the entrance examination.

3. During the entrance examination the candidates may not use any texts of legal acts, commentaries, judicial decisions or any other assistance and may not have any devices used for transmitting or receiving information.

4. Chairman of the selection board shall exclude from entrance examination a candidate who used the assistance of other persons during the entrance examination, used unauthorized materials or equipment, was helping other candidates or in any other way was interfering with the progress of the entrance examination.

5. The exclusion referred to in clause 4 takes place by way of a decision which cannot be appealed against.

6. The decision to exclude a candidate provides the basis for issuing a resolution by the selection board about the negative result of the entrance examination.

### **Article 33<sup>9</sup>.**

1. The entrance examination shall consist in solving a test composed of a set of 150 questions with three proposed answers per question, out of which only one is correct. The candidate may choose only one answer which he or she marks on the answer sheet which constitutes an integral part of the test. One point shall be awarded for each correct answer.

1a. The choice of the answer consists in marking on the answer sheet one of the three proposed answers (A or B or C).

1b. It is not allowed to change the marked answer.

1c. The sole basis for determining the candidate's result are the answers marked on the answer sheet.

1d. The correctness of the answers shall be determined according to the legal situation in force on the date of the entrance examination.

2. The test shall be checked by the selection board composed of the same persons who carried out the examination.

3. A candidate who obtained at least 100 points in the test shall receive a positive result at the entrance examination.

4. Minutes of the entrance examination shall be drafted immediately and signed by the members participating in the entrance examination. Members of the board

may submit their comments to the minutes.

5. The chairman of the selection board shall forward the minutes to the Minister of Justice within 7 days from the day of drafting them.

6. Following the examination, all documentation related to the organisation of the entrance examination shall be handed over by the chairman of the selection board to the competent regional council of the chamber of attorneys-at-law. A protocol thereof shall be drawn up. A copy of the protocol shall be handed over by the chairman of the selection board to the Minister of Justice within 7 days from its preparation.

### **Article 33<sup>10</sup>.**

1. After the entrance examination, the selection board shall determine the result obtained by a candidate in the form of a resolution and shall serve a certified copy to the candidate and to the Minister of Justice.

2. The chairman of the selection board shall announce the results of the entrance exam immediately.

3. A candidate may appeal against the resolution of the board concerning the result of the examination to the Minister of Justice within 14 days from its receipt. The Minister of Justice shall decide the appeal in the form of an administrative decision.

4. If during re-examination of the case, following the appeal to the resolution referred to in clause 1, any errors in calculations or any obvious clerical mistakes are identified in the resolution of the selection board, the Minister of Justice shall revoke the resolution and hand over the case to the selection board for re-examination. These provisions shall not affect article 138 § 2 of the Code of Administrative Procedure.

5. The Minister of Justice shall notify regional councils of the chambers of attorneys-at-law of the results of the entrance examination and shall publish in the Bulletin of Public Information the names and surnames of persons who have obtained a positive result at the examination as well as the names of their parents.

### **Article 34.**

1. An employee entered on the list of trainee attorneys-at-law, who has obtained permission from the employer to participate in attorney-at-law's training, shall be entitled to time off from work for the purpose of participating in obligatory trainings with the right to retain remuneration.

2. An employee entered on the list of trainee attorneys-at-law, who has not obtained permission from the employer to participate in attorney-at-law's training, shall be entitled to time off from work for the purpose of participating in obligatory trainings without the right to retain remuneration.

3. An employee is entitled to 30 calendar days of paid holiday in the amount of 80% of remuneration for the purpose of preparing himself or herself to the attorney-at-law's examination. It is possible to take advantage of this entitlement only once.

4. An employee is entitled to time off work with the right to retain remuneration in order to participate in the entrance examination and the attorney-at-law's examination.

## **Article 35.**

The duties of a trainee attorney-at-law include:

- 1) participating in theoretical and practical training scheduled in the curriculum,
- 2) individual broadening of legal knowledge and practical professional skills,
- 3) observing the discipline of work and training,
- 4) taking the attorney-at-law's examination on the specified dates.

## **Article 35<sup>1</sup>.**

1. After six months of attorney-at-law's training, a trainee attorney-at-law may represent an-attorney-at-law before courts, prosecution authorities, state and local authorities and other institutions except the Supreme Court, Supreme Administrative Court, Constitutional Tribunal and State Tribunal.

2. During a period of one year from the date of completing an-attorney-at-law's training indicated in the certificate, a trainee attorney-at-law may substitute an-attorney-at-law within the scope referred to in clause 1.

3. The rights referred to in clause 1 refer also to cases covered with the duty of providing legal assistance ex officio.

4. A trainee attorney-at-law may draft, and sign pleadings connected with the attorney-at-law's appearances before courts, prosecution authorities, state and local authorities and other institutions— following express authorisation from the attorney-at-law, with the exception of appeals, cassation and constitutional complaints.

5. A trainee attorney-at-law may represent an-attorney-at-law according to the same principles which apply to the attorney-at-law if such an-attorney-at-law is a partner in a partnership of attorneys-at-law and attorneys-at-law.

## **Article 36.**

1. Before every attorney-at-law's examination, the Minister of Justice appoints by way of an order a team assigned with the task of preparing test questions for the examination, hereinafter called "the team".

2. The team includes:

- 1) four attorneys-at-law delegated by the National Council of Attorneys-at-law,
- 2) four representatives of the Minister of Justice

- whose knowledge and experience give the warranty of the proper organization of the attorney-at-law's examination.

3. The works of the team are managed by the chairman or, in his or her absence, a deputy chairman, appointed by the Minister of Justice from among persons referred to in clause 2 subclause 2.

4. The administrative and office services for the team are provided by the Minister of Justice. Within the administrative and office services to the team, the Minister of Justice agrees with the chairman or with the deputy chairman of the team a schedule of work for the team, provides place and proper work conditions for the team.



5. The chairman and the members of the team are entitled to remuneration.
6. (repealed)
7. (repealed)
8. For each part of the attorney-at-law's examination, the team prepares tasks together with a description of relevant issues from the area of penal law, civil or family law, business law, administrative law and the principles of professional practice of attorneys-at-law.
9. The council of the regional chamber of attorneys-at-law may submit to the team via the chairman proposals of tasks together with a description of relevant issues.
10. The final wording of the tasks together with a description of relevant issues is agreed by the team with a majority of votes in the presence of at least 5 members of the team. In the event of an equal number of votes, the vote of the chairman of the team shall have the casting vote.
11. Provisions contained in the act dated 29 January 2004 – Act on Public Procurement (Journal of Laws of 2013 item 907 as amended) shall not apply to printing and delivery of tests with the description of relevant issues to individual selection boards referred to in article 36 clause 2, if the value of the order is smaller than the amounts specified in regulations issued pursuant to article 11 clause 8 of this act.
12. The Minister of Justice, after seeking the opinion of the National Council of Attorneys-at-law, shall determine by way of an ordinance:
  - 1) the procedure and the manner of the team's operations,
  - 2) the procedure and the form of submitting proposals of tests with description of relevant issues, manner of storing and handing over of the tests to selection boards referred to in article 36 clause 2 for the attorney-at-law's examination
    - considering the proper and effective organisation of the attorney-at-law's examination, in particular the necessity to protect the tests from unauthorized disclosure;
  - 3) the amount of remuneration of the chairman and of the team members taking into account the workload and their scope of duties.
13. The Minister of Justice shall determine, by way of ordinance, the procedure and the manner of awarding the contract referred to in article 11, taking into account the necessity to preserve the principles of fair competition and of equal treatment of subcontractors and prevent the tests with description of relevant issues from unauthorized disclosure.

### **Article 36<sup>1</sup>.**

1. A person who completed the attorney-at-law's training and received a certificate thereof and a person referred to in article 25 clause 2 shall be entitled to take an-attorney-at-law's examination.
2. The attorney-at-law's examination is conducted by examination boards for conducting an-attorney-at-law's examination, hereinafter referred to as "examination boards" composed of 8 members appointed in the jurisdiction of one or more regional chambers of attorneys-at-law. Provisions of article 33 clause 1a and article 33<sup>5</sup> clause 5 shall apply accordingly.

3. Members of examination boards are appointed from among specialists from the areas of law covered by the examination, whose knowledge and experience give a warranty of the proper organisation of the examination.
4. The examination board is composed of 4 persons indicated by the Minister of Justice and 4 persons indicated by the National Council of Attorneys-at-law from among attorneys-at-law.
5. The Minister of Justice appoints by way of an ordinance examination boards in the jurisdiction of one or several regional chambers of attorneys-at-law and appoints, after seeking the opinion of the National Council of Attorneys-at-law, the chairman of the examination board and its deputy chairman.
6. The examination board ensures the proper progress of the attorney-at-law's examination. The chairman of the examination board manages its works and represents the board before third parties.
7. Provisions of article 33<sup>6</sup> shall apply in relation to expiry of membership or dismissal of a member of the examination board.
8. Members of the examination board submit statements referred to in article 33<sup>7</sup> clause 3 within 7 days from the closing date for the submission of applications to be admitted to the attorney-at-law's examination. If the circumstances referred to in article 33<sup>7</sup> clause 1 arise, the chairman of the examination board immediately notifies the Minister of Justice. The Minister of Justice recalls a member of the examination board for reasons specified in article 33<sup>7</sup> clause 1. The provisions contained in article 33<sup>7</sup> clause 2 shall apply.
9. The attorney-at-law's examination shall be conducted once a year on the dates specified by the Minister of Justice in agreement with the National Council of Attorneys-at-law.
10. Should circumstances arise which make it impossible to organise the examination by the examination board on the dates referred to in clause 9, the Minister of Justice after seeking the opinion of the National Council of Attorneys-at-law schedules an additional date for organising the examination by the examination board. The chairman of the examination board notifies the candidates about the additional date by registered letter with acknowledgement of receipt and places a notice on the notice board in the registered office of the appointed regional chamber of attorneys-at-law. Provisions of article 36 clause 5 and 8-11 shall apply accordingly.
11. The chairman and the members of the examination board are eligible for reimbursement of costs of travel and accommodation on the principles specified in regulations on payments available to an employee employed with a state or local government unit of the public sector during domestic business trips.
12. The chairman and the members of the examination board who are not employed by governmental administration shall be entitled to remuneration for their work at the examination board.
13. The council of the regional chamber of attorneys-at-law with jurisdiction over the registered address of the examination board shall provide administrative and technical services for the examination board. It shall include organisation of attorney-at-law's examinations as a task delegated by the governmental administration.
14. Funds transferred for the delegated task referred to in clause 9 shall be used by competent councils to cover the costs of organising attorney-at-law's examinations and the expenses related to the activities of the examination board.
15. Expenses related to the activities of the board, including organization of attorney-at-law's examinations and remuneration of the members of the examination

board shall be covered from the part of the state budget available to the Minister of Justice.

16. The Minister of Justice, after seeking the opinion of the National Council of Attorneys-at-law, shall determine, by way of an ordinance:

- 1) the procedure and the deadline for proposing candidates to the examination board as well as appointing and dismissing members of the examination board;
- 2) type of documents referred to in article 36<sup>2</sup> clause 4 subclause 3 and 5-9,
- 3) remuneration of the chairman and of the members of the examination board, taking into account the number of candidates who have submitted their applications to take the examination, the scope of their work and the workload related to the organization of the attorney-at-law's examination as well as the procedure for paying the remuneration;
- 4) a detailed procedure and manner of conducting the attorney-at-law's examination, in particular:
  - a) the manner of operation of the board,
  - b) the manner of organising administrative and technical services to the board by the councils of regional chambers of attorneys-at-law, including transfers of funds, exercise of supervision over spending them and settlement of expenditures related to such services
    - taking into account the need to ensure correct, punctual and effective organisation of the examination, to guarantee impartiality of the work of the examination board and the necessity to obtain information indispensable for the proper organisation of the attorney-at-law's examination.

### **Article 36<sup>2</sup>.**

1. The Minister of Justice in agreement with the National Council of Attorneys-at-law shall place in the Public Information Bulletin, not later than 90 days prior to the attorney-at-law's examination, a notice about the attorney-at-law's examination, which specifically includes:

- 1) the deadline for filing applications for admission to the attorney-at-law's examination, hereinafter referred to as the "application",
- 2) jurisdiction of each examination board and the address of its registered office,
- 3) the amount of the examination fee for the attorney-at-law's examination.

2. Trainee attorneys-at-law file applications to the examination board in the jurisdiction of the regional chamber of attorneys-at-law in which they have completed their attorney-at-law's training. Persons entitled to take the attorney-at-law's examination without completing attorney-at-law's training shall file their applications to the examination board in the jurisdiction of the regional chamber of attorneys-at-law with jurisdiction over their place of residence and in case of residing outside the Republic of Poland, to a selected examination board. Every year the councils of regional chambers of attorneys-at-law, within 7 days from completing the attorney-at-law's training, shall hand over to the examination board with territorial jurisdiction as well as to the Minister of Justice a list of persons who have completed an-attorney-at-law's training.

3. Persons who have completed an-attorney-at-law's training shall attach a certificate on completing an-attorney-at-law's training to the application as well as

original proof of payment for the attorney-at-law's examination.

4. Persons entitled to take the attorney-at-law's examination without completing an-attorney-at-law's training shall attach to the application respectively:

- 1) personal questionnaire;
- 2) curriculum vitae (CV);
- 3) a document certifying that they have obtained a Ph.D. degree in legal sciences;
- 4) copy of a document certifying that the candidate has completed higher legal studies in the Republic of Poland and has obtained a master's degree or has completed legal studies abroad which are recognized in the Republic of Poland;
- 5) documents attesting at least a 4 year record of employment referred to in article 25 clause 2 subclause 2, in the position of a court official, senior court official, prosecutor's assistant or judge's assistant and in the case of persons who have been employed in the Supreme Court, the Constitutional Tribunal or in an international judicial authority, in particular in the Court of Justice of the EU or in the European Court of Human Rights, while carrying out the duties of a judge's assistant – also relevant documents defining the scope of their duties;
- 6) documents attesting at least a 4 year period of performing activities under an employment contract or a civil law agreement which require legal knowledge and directly connected with the provision of legal assistance by an-attorney-at-law or by an attorney-at-law in an-attorney-at-law's office, in a civil, general, limited-liability, limited or limited joint-stock partnership, as referred to in article 8 clause 1 or in the office of an attorney-at-law, in an association of attorneys-at-law, in a civil, general, limited-liability, limited or limited joint-stock partnership, as referred to in article 4a clause 1 of the Act dated 26 May 1982 – Law on the Bar;
- 7) documents attesting at least a 4-year period of employment in offices of public authorities and performing activities which require legal knowledge, and which are directly connected with providing legal aid to these authorities;
- 7a) documents attesting completion of a legislative training and documents attesting at least a 4-year period of employment in public authorities or in state organisational units and performing activities which require legal knowledge, and which are directly connected with drafting legislation, ordinances or acts of local law;
- 8) documents attesting a positive result at the judge's, prosecutor's notary's or bailiff's examination;
- 9) documents confirming employment at the Office of the State Treasury Solicitors' Office in the position of an adviser or senior adviser;
- 10) (repealed)
- 11) original proof of payment of the fee for the attorney-at-law's examination;
- 12) 3 photographs meeting the requirements for issuing identity cards;

5. Persons referred to in:

- 1) clause 3 – file applications not later than within 21 days,
  - 2) clause 4 – file applications not later than within 45 days
- prior to the date of the attorney-at-law's examination. Provisions of article 33<sup>3</sup> clause 4-9 shall apply accordingly.

### **Article 36<sup>3</sup>.**

1. A candidate shall pay a fee for the attorney-at-law's examination which shall

constitute an income of the state budget.

1a. In case of the decision that the application will not be further considered, decision to refuse admission to the attorney-at-law's examination or in case of submitting , not later than 14 days before the date of the examination, a written statement about withdrawal from participation in the attorney-at-law's examination, two-thirds of the paid amount shall be reimbursed upon a written request of the candidate submitted to the chairman of the examination board within 30 days from the date of submitting such an application.

2. The Minister of Justice, after seeking the opinion of the National Council of Attorneys-at-law shall determine, by way of an ordinance, the amount of the fee - not higher than the equivalent of minimum remuneration – taking into account the need to conduct the attorney-at-law's examination in the proper and effective manner.

#### **Article 36<sup>4</sup>.**

1. The aim of the attorney-at-law's examination is to examine the legal preparation of the person taking the attorney-at-law's examination, hereinafter referred to as the "examinee", for the independent and proper practice of the profession of an-attorney-at-law.

2. The attorney-at-law's examination consists of five written parts.

3. (repealed)

4. (repealed)

5. The first part of the attorney-at-law's examination shall include solving a problem from the area of penal law which involves drafting an indictment or an appeal and, in the event, that there are no grounds for filing them, drafting a legal opinion on the basis of files or presented facts, specially developed for the examination.

6. The second part of the attorney-at-law's examination shall include solving a problem from the area of civil law or family law which involves drafting a petition, an application or an appeal and in the event that there are no grounds for filing them, drafting a legal opinion on the basis of files or presented facts, specially developed for the examination.

7. The third part of the attorney-at-law's examination shall include solving a problem from the area of business law which involves drafting a contract or a petition, an application or an appeal and in the event that there are no grounds for filing them, drafting a legal opinion on the basis of files or presented facts, specially developed for the examination.

8. The fourth part of the attorney-at-law's examination shall include solving a problem from the area of administrative law or family law which involves drafting a complaint to the voivodeship administrative court or a cassation appeal to the Supreme Administrative Court, and in the event that there are no grounds for filing them, drafting a legal opinion on the basis of files or presented facts, specially developed for the examination.

8a. The fifth part of the attorney-at-law's examination shall include solving a problem concerning rules of professional conduct or rules of ethics and involves drafting a legal opinion on the basis of files or presented facts, specially developed for the examination.

9. (repealed)

10. Examiners assess each part of the attorney-at-law's examination with the use

of the following grade scale:

- 1) positive grades:
  - a) excellent (6)
  - b) very good (5)
  - c) good (4)
  - d) satisfactory (3)
- 2) negative grade – fail (2)

11. During the attorney-at-law's examination, the examinee may not have any devices for transmitting or receiving information.

12. During the attorney-at-law's examination, the examinee may use the texts of legal acts, commentaries and judicial decisions.

13. Provisions of article 33<sup>3</sup> clause 1, 2 and 4-6 shall apply accordingly.

### **Article 36<sup>5</sup>.**

1. (repealed)

2. Assessment of each task from parts one to four shall be made independently by two examiners from the areas of law which the written work concerns, one from among persons indicated by the Minister of Justice and the other from among persons indicated by the National Council of Attorneys-at-law. They will take into account, in particular the observance of procedural requirements, use of applicable regulations and the skills in their interpretation, the correctness of the solution proposed by the examinee taking into account the interest of the party which, according to the task, the examinee represents. Assessment of solutions from the fifth part of the attorney-at-law's examination shall be made independently by two examiners indicated by the chairman of the examination board, one from among examiners indicated by the Minister of Justice and the other from among examiners indicated by the National Council of Attorneys-at-law. They will take into account, in particular the observance of procedural requirements, use of applicable regulations and the skill in their interpretation, the correctness of the solution proposed by the examinee taking into account public interest.

3. Each of the examiners marking a written work assigns a partial grade and prepares a written justification for the partial grade and hands it over to the chairman of the examination board who attaches all justifications of partial grades from the examinee's works to the examination protocol.

4. The final grade from the written work concerning a given task from the attorney-at-law's examination shall be the average of partial grades assigned by each of the examiners, whereas:

- 1) positive grades are:
  - a) excellent – if the arithmetic average of assigned grades was 6.00,
  - b) very good – if the arithmetic average of assigned grades was 5.00 or 5.50,
  - c) good – if the arithmetic average of assigned grades was 4.00 or 4.50,
  - d) satisfactory – if the arithmetic average of assigned grades was 3.00 or 3.50

2) negative grade – fail – if the arithmetic average of assigned grades was 2.00 or 2.50.

5. In case of at least two partial grades from written works of the examinee

concerning tasks from different parts of the attorney-at-law's examination being negative whereas an arithmetic average referred to in clause 4 shows a positive final assessment of these works, the examination board:

- 1) refrains from assigning final grades from these works and
  - 2) hands over to the examination board of the second degree appointed with the Minister of Justice referred to in article 36<sup>8</sup> the written works of the examinee together with justifications in order to determine the final grades for these works.
6. In the case referred to in clause 5, the examination board of the second degree appointed with the Minister of Justice shall apply the provisions of article 36<sup>6</sup> clause 1 and 2 and article 36<sup>8</sup> clause 11.

#### **Article 36<sup>6</sup>.**

1. Examinee who has obtained a positive grade from each part of the attorney-at-law's examination shall receive a positive result from the attorney-at-law's examination.
2. The examination board adopts a resolution on the result of the attorney-at-law's examination with a majority of votes in the presence of all members of the examination board. The examination board serves the examinee with the resolution and sends a certified copy of the resolution to the Minister of Justice, the President of the National Council of Attorneys-at-law, to the competent regional council of the chamber of attorneys-at-law and attaches it to the examinee's personal file.
3. The Minister of Justice publishes in the Public Information Bulletin the names and surnames of persons who have obtained a positive result at the attorney-at-law's examination together with their parents' names.

#### **Article 36<sup>7</sup>.**

1. Minutes of the attorney-at-law's examination shall be drafted immediately and signed by the members participating in the attorney-at-law's examination. Members of the board may submit their comments to the minutes.
2. The chairman of the examination board shall forward the documentation concerning organisation of the attorney-at-law's examination, after its completion, to the competent regional council of the chamber of attorneys-at-law, which shall be minuted. Copy of the minutes of the examination and of the minutes from handing-over of the documentation shall be sent to the Minister of Justice by the chairman of the examination board within 7 days from drafting thereof.

#### **Article 36<sup>8</sup>.**

1. The resolution of the board concerning the result of the attorney-at-law's examination may be appealed against to the examination board of the second degree appointed with the Minister of Justice within 14 days from receipt of the resolution referred to in article 36<sup>6</sup> clause 2.
2. The Minister of Justice shall appoint by way of ordinance the examination board of the second degree with the Minister of Justice, hereinafter called the "appeal board" composed of 9 members.
  - 2a. If organisational reasons so dictate it, in particular a high number of appeals

against resolutions on the results of the attorney-at-law's examination, the Minister of Justice may appoint more than one appeal board to consider appeals to resolutions on the results of the attorney-at-law's examination indicating their territorial competence. Provisions of article 33<sup>5</sup> clause 5 shall not apply.

3. Members of the appeal board shall be proposed by:

- 1) the Minister of Justice – 5 members from among which he or she appoints the chairman,
- 2) The National Council of Attorneys-at-law – 4 members  
- from among persons whose knowledge and experience give the warranty of the diligent consideration of appeals.

4. The chairman and the members of the appeal board are entitled to remuneration for their participation in the works of the board.

5. Provisions of article 33<sup>5</sup> clause 5,7 and 11, article 33<sup>6</sup> clause 1, clause 2 subclause 1,2,4,5, clause 3 shall apply accordingly.

6. In case of expiry of membership in the appeal board or dismissing a member of the appeal board, the Minister of Justice shall appoint without delay a new member of the appeal board. In case of the member referred to in clause 3 subclause 2, the National Council of Attorneys-at-law, within the time limit specified by the Minister of Justice, designates a new candidate for the member of the appeal board.

7. A member of the appeal board shall be excluded from participating in the proceedings on the grounds referred to in article 33<sup>7</sup> clause 1. Provisions of article 33<sup>7</sup> clause 2 shall not apply.

8. Members of the appeal board, prior to consideration of the case, submit written statements that they do not remain in a relationship referred to in article 33<sup>7</sup> clause 1 with the concerned person.

9. The tasks of the appeal board include consideration of appeals to the results of the attorney-at-law's examination.

10. Resolutions are adopted with a majority of two-thirds of votes, in the presence of at least half of the members of the appeal board.

11. Resolutions of the appeal board can be complained against to the administrative court.

12. Provisions of the Code of administrative procedure shall apply in proceedings before the appeal board.

13. The Minister of Justice shall provide administrative and office services to the appeal board.

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

- 1) the procedure and the terms for proposing candidates for members of the appeal board,
- 2) the deadline for appointing the appeal board,
- 3) the remuneration of the chairman and the members of the appeal board, taking into account the scope of their work and the workload as well as the manner of paying it,
- 4) the procedure and the mode of action of the appeal board,
- 5) the manner in which administrative and office services are provided to the appeal board

- taking into account the necessity to ensure the proper and punctual consideration of appeals and to ensure impartiality of works of the appeal board.



### **Article 36<sup>9</sup>.**

1. If the examinee has not obtained a positive result at the attorney-at-law's examination, he or she may retake further attorney-at-law's examinations, however such an examination has to be taken in full.

### **Article 37.**

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

1) in cases referred to in article 29 clause 1 or 3-5 or article 29<sup>3</sup>, applied accordingly.

1a. in cases referred to in article 29 clause 6, applied accordingly;

2) in case of failure to complete the attorney-at-law's training within the deadline referred to in article 32 clause 2 without any justified reason;

3) in case of being entered on the list of attorneys-at-law;

4) if a year has passed from the date of completion of the attorney-at-law's training indicated in the certificate of completion of the attorney-at-law's training.

2. The council of the regional chamber of attorneys-at-law may strike a trainee attorney-at-law off the list of trainee attorneys-at-law if it ascertains that the person in question is unfit to practise the profession of an-attorney-at-law.

3. The provisions of article 31 clause 1,2 and 3 shall apply accordingly to removing a trainee attorney-at-law from the list of trainee attorneys-at-law on the grounds referred to in clause 1 subclause 1 and 2-4 and clause 2.

4. The resolution of the Presidium of the National Council of Attorneys-at-law on removing a trainee attorney-at-law from the list can be appealed against to the administrative court within 30 days from receipt of the resolution.

### **Article 38.**

1. The attorney-at-law's training shall be organised and conducted by regional chambers of attorneys-at-law,

2. The authorities of the bar of attorneys-at-law shall cooperate in relation to issues concerning the organisation and conducting of the attorney-at-law's training with the state administration authorities, courts, public notary offices, public prosecution offices and with organisational units.

3. Training for trainee attorneys-at-law may be organised jointly with trainee attorneys-at-law.

4. A trainee attorney-at-law shall participate in the attorney-at-law's training under the supervision of a patron appointed by the council of the regional chamber of attorneys-at-law.

5. The task of the patron consists in preparing the trainee attorney-at-law for practising the profession of an-attorney-at-law within the meaning of this Act.

### **Article 39.**

(repealed).

## **Chapter 5**

### **The Bar of Attorneys-at-law**

#### **Article 40.**

1. The bar shall be independent in performing its tasks and shall be governed exclusively by the provisions law.
2. Affiliation with the bar is mandatory for attorneys-at-law and trainee attorneys-at-law.

#### **Article 41.**

The tasks of the bar of attorneys-at-law shall include in particular:

- 1) ensuring adequate conditions for exercising the statutory tasks of attorneys-at-law,
- 2) representing attorneys-at-law and trainee attorneys-at-law as well as protecting their professional interests;
- 3) participating in the process of developing and applying the law;
- 4) preparing trainee attorneys-at-law for the proper practice of the profession of an-attorney-at-law as well as professional development of attorneys-at-law;
- 5) supervising the proper practice of the profession by attorneys-at-law and trainee attorneys-at-law;
- 5a) cooperation with local government units in ensuring the provision of free legal assistance referred to in the act dated 5 August 2015 on free legal assistance and on legal education (Journal of Laws item 1255);
- 6) conducting research on the functioning of legal assistance.

#### **Article 42**

1. The authorities of the bar of attorneys-at-law shall be the following: The National Assembly of Attorneys-at-law, the National Council of Attorneys-at-law, the Higher Audit Committee, the Higher Disciplinary Court, the Main Disciplinary Ombudsman, the assembly of a regional chamber of attorneys-at-law, the council of a regional chamber of attorneys-at-law, the regional audit committee, the regional disciplinary court and the regional disciplinary ombudsman.
2. Only attorneys-at-law may become members of these authorities.

#### **Article 43**

1. The term of office of the authorities of the bar shall last three years whereas the existing authorities are obliged to act until the newly-elected authorities become constituted.
2. Members of the authorities may be recalled by the electing body.
3. The same function in the authorities of the bar may not be exercised longer than during two consecutive terms of office; it shall not apply to the function of a

member of the Higher Disciplinary Court or the regional disciplinary court, the Chief Disciplinary Ombudsman and the regional disciplinary ombudsman.

**Article 44.**

Elections to the authorities of the bar shall take place in a secret ballot and the number of candidates is not limited.

**Article 45.**

The bar authorities shall adopt resolutions in the presence of at least half of the members of the given authority.

**Article 46.**

The National Council of Attorneys-at-law shall present an annual report about the functioning of the bar to the President of the Republic of Poland.

**Article 47.**

1. The bar authorities shall send a copy of each resolution to the Minister of Justice within 21 days from the day when it was adopted.
2. The Minister of Justice shall request the Supreme Court to annul unlawful resolutions of the bar authorities within 3 months from the date of their receipt. Should the challenged resolution constitute a material breach of the law, this deadline shall be extended to 6 months. The court shall uphold the decision or annul it and refer it for re-examination to the competent authority of the bar, specifying instructions as regards further handling of the case. A delayed complaint shall be left unheard by the Supreme Court.

**Article 48.**

The Minister of Justice may request the National Convention of Attorneys-at-law or the National Council of Attorneys-at-law to adopt a resolution in a specific case falling within the scope of competences of the bar. The resolution of the National Council of Legal Councils should be adopted within two months, and the resolution of the National Convention of Attorneys-at-law – at the next Convention.

**Article 49.**

1. Attorneys-at-law and trainee attorneys-at-law residing within the territory of the given region shall constitute a regional chamber of attorneys-at-law.
2. (repealed).
3. A resolution on establishing and the territorial jurisdiction of a regional chamber of attorneys-at-law shall be adopted by the National Council of Attorneys-at-law, taking into account the essential territorial division of the country.

## **Article 50.**

1. Assembly of the regional chamber of attorneys-at-law shall be attended by all attorneys-at-law belonging to a specific chamber and trainee attorneys-at-law (without the right to vote).
2. Should the number of members of a regional chamber of attorneys-at-law exceed 300, the assembly of the regional chamber of attorneys-at-law shall be attended by delegates elected during meetings convened for particular districts within the area of activity of the specific chamber.
3. The meeting of the regional chamber of attorneys-at-law shall be convened once a year by the council of the regional chamber.
4. The competences of the assembly of the regional chamber of attorneys-at-law shall include:
  - 1) determining the number of members of the regional chamber of attorneys-at-law;
  - 2) electing the dean of the council of the regional chamber of attorneys-at-law and other members of the council;
  - 3) determining the number of members of the regional audit committee and the regional disciplinary court and electing such members;
  - 4) electing the disciplinary ombudsman;
  - 5) adopting a resolution on the budget of the regional chamber of attorneys-at-law and granting approval to the reports of the council of the regional chamber of attorneys-at-law on execution thereof as well as annual and periodical work schedules of the regional council,
  - 6) dividing the area of activity of the regional chamber of attorneys-at-law into areas referred to in clause 2 and determining the number of delegates to the assembly of the regional chamber of attorneys-at-law from individual areas;
  - 7) dismissing the authorities of the regional chamber of attorneys-at-law or individual members of such authorities;
  - 8) assessing the activities of the authorities of the regional chamber of attorneys-at-law;
  - 9) electing delegates to the National Convention of Attorneys-at-law;
  - 10) electing a member of the National Council of Attorneys-at-law, referred to in Article 59 clause 1.

## **Article 51.**

1. The extraordinary meeting of the regional chamber of attorneys-at-law shall be convened by the council of the regional chamber of attorneys-at-law:
  - 1) on its own initiative;
  - 2) at the request of the National Council of Attorneys-at-law;
  - 3) at the request of its own presidium or the regional audit committee;
  - 4) at the request of one-third of the members of the regional chamber of attorneys-at-law.
2. The extraordinary meeting of a regional chamber shall be convened within 3 weeks from the day when a request to do so has been received.

## **Article 52.**

1. The activities of the regional chamber of attorneys-at-law shall be managed by the council of the regional chamber of attorneys-at-law.
2. The presidium shall constitute the executive body of the regional chamber of attorneys-at-law. The presidium shall be composed of a dean and deputy deans elected by the council, a secretary, a treasurer and members.
3. The scope of activities of the regional chamber of attorneys-at-law shall include in particular:
  - 1) representing professional interests of the members of the regional chamber of attorneys-at-law,
  - 2) in-service professional training of attorneys-at-law,
  - 3) supervision over the proper practice of the profession by attorneys-at-law and trainee attorneys-at-law,
  - 4) filing applications with registration or records authorities to instigate proceedings for removing from the registers or records any entities which exercise their business activities in the field of legal assistance in the manner inconsistent with the provisions of this Act.
  - 5) (repealed)
4. The council of the regional chamber of attorneys-at-law shall maintain a list of attorneys-at-law and trainee attorneys-at-law. The council of the regional chamber of attorneys-at-law shall make available on its website the information about attorneys-at-law and trainee attorneys-at-law entered on the list. The information shall include name, surname and the registration number on the list.
5. The council of the regional chamber of attorneys-at-law shall maintain a list of foreign lawyers pursuant to the provisions contained in the act dated 5 July 2002 on providing legal assistance by foreign lawyers in the Republic of Poland.
6. The council of the regional chamber of attorneys-at-law maintains the lists referred to in clause 4 and 5 in the ICT system which is made available by the National Council of Attorneys-at-law. The council of the regional chamber of attorneys-at-law shall give the National Council of Attorneys-at-law access to these lists.

#### **Article 53.**

The scope of activities of the regional audit committee shall include supervising the financial activities of the council of the regional chamber of attorneys-at-law.

#### **Article 54.**

1. The regional disciplinary court shall hear disciplinary cases of the members of the regional chamber of attorneys-at-law filed by the disciplinary ombudsman and appeals referred to in article 66 clause 3.
2. The decisions of the regional disciplinary court are subject to appeal to the Higher Disciplinary Court.

#### **Article 54<sup>1</sup>.**

1. The scope of activities of the regional disciplinary spokesman shall include activities in the disciplinary proceedings specified in the Act and in the regulations issued under the Act.
2. The disciplinary ombudsman may undertake activities with the help of his or her deputies.

#### **Article 55.**

Attorneys-at-law and trainee attorneys-at-law residing within the territory of Poland shall constitute the National Chamber of Attorneys-at-law.

#### **Article 56.**

1. The National Convention of Attorneys-at-law shall be attended by delegates elected by the assemblies of regional chambers of attorneys-at-law and the following persons who are not delegates, who shall perform an advisory role: members of the retiring National Council of Attorneys-at-law, President of the Higher Disciplinary Court, Chief Disciplinary Ombudsman and the Chairman of the Higher Audit Committee.
2. The principles of carrying out the elections of candidates to the National Convention of Attorneys-at-law and the number of such delegates from individual regional chambers of attorneys-at-law shall be specified by the National Council of Attorneys-at-law.
3. The National Convention of Attorneys-at-law shall be convened by the National Council of Attorneys-at-law.

#### **Article 57.**

The tasks of the National Convention of Attorneys-at-law shall include:

- 1) electing the President of the National Council of Attorneys-at-law;
- 2) electing the members of the National Council of Attorneys-at-law, Higher Audit Committee, Higher Disciplinary Court, as well as the Chief Disciplinary Ombudsman;
- 3) adopting the directives for the activities of the bar and its authorities;
- 4) specifying the principles of carrying out the elections to the bar authorities, the number of members of such authorities and the procedure for dismissing them, as well as the principles of adopting resolutions by the bar authorities;
- 5) (repealed).
- 6) examining and granting approval to the reports of the National Council of Attorneys-at-law, Higher Audit Committee, Higher Disciplinary Court, and the Chief Disciplinary Ombudsman;
- 7) adopting the principles of ethics for attorneys-at-law;
- 8) determining basic principles of financial management of the bar.

#### **Article 58.**

1. The Extraordinary National Convention of Attorneys-at-law shall be convened by the National Council of Attorneys-at-law.
  - 1) on its own initiative,

- 2) at the request of its own presidium or the Higher Audit Committee,
- 3) at the request of at least one-third of the councils of regional chambers of attorneys-at-law,
2. The Extraordinary National Convention shall be convened within two months from the day when a request to do so has been received

#### **Article 59.**

1. The National Council of Attorneys-at-law shall be composed of the president and members elected by the National Convention of Attorneys-at-law and the members elected directly by the assemblies of regional chambers, one per chamber.
2. The Presidium of the National Council of Attorneys-at-law shall be composed of a president as well as a deputy chairman, a secretary, a treasurer and the members of the Presidium elected by the National Council.
3. The Presidium of the National Council of Attorneys-at-law shall constitute an executive authority of the Council and shall report to it about its activities.
4. The Presidium of the National Council of Attorneys-at-law undertakes activities belonging to the scope of activities of the National Council of Attorneys-at-law except for activities specified in article 60 clause 4-5a and 8-11a.

#### **Article 60.**

The scope of activities of the National Council of Attorneys-at-law includes:

- 1) representing the bar in contacts with courts, state and local government authorities as well as institutions and organisations;
- 2) providing opinions about draft legislation and presenting proposals which concern applicable legal provisions;
- 3) coordinating the activities of regional chambers of attorneys-at-law and exercising supervision over their activities;
- 4) adopting the budget of the National Council of Attorneys-at-law and granting approval to the reports on the execution thereof as well as examining motions filed by the Higher Audit Committee;
- 5) electing the President of the National Council of Attorneys-at-law and the Chief Disciplinary Ombudsman if their term of office expired within the period between the National Conventions of Attorneys-at-law;
- 5a) electing the chairman of the National Team of Inspectors, his/her deputies and members of the Team;
- 6) examining appeals against the resolutions of regional chambers of attorneys-at-law;
- 7) coordinating the in-service professional training of attorneys-at-law;
- 8) adopting the following rules and regulations:
  - a) on the activities of the bar and its authorities,
  - b) on the scope, mode of operation and the principles of remuneration of inspectors,
  - c) participating in the attorney-at-law's training,
  - d) on maintaining lists of attorneys-at-law and trainee attorneys-at-law,

- e) on the principles of cooperation of an-attorney-at-law with a foreign lawyer representing a client in the proceedings in which, pursuant to the regulations in force, it is required that a party be represented by an attorney-at-law or an-attorney-at-law,
- f) concerning detailed principles of practising the profession of an-attorney-at-law,
- g) concerning the principles of appointing attorneys-at-law for free legal assistance referred to in the act dated 5 August 2015 on free legal assistance and documenting the provision of free legal assistance.
- h) on meeting the professional requirement of attorneys-at-law as regards professional development and the competences of the authorities of the bar which meant to ensure the observance of this obligation by attorneys-at-law;
- 8a) repealing resolutions of the assembly of regional chambers of attorneys-at-law which are inconsistent with the law;
- 8b) (no longer in force)
- 9) establishing regional chambers of attorneys-at-law, determining the number thereof and their territorial scope;
- 9a) determining the rules for the activities of the deputies of the Chief Disciplinary Ombudsman and of disciplinary ombudsmen as well as the procedure and the manner of electing them;
- 9b) determining the value of flat-rate costs of disciplinary proceedings;
- 10) determining the principles of financial management of the bar;
- 11) determining the amount of the membership fee and the principles of its distribution as well as the amount of fees relative to the decision on entering a specific person on the list of attorneys-at-law and trainee attorneys-at-law as well as administration fees;
- 11a) adopting the principles of releasing trainee attorneys-at-law from the duty to pay an annual fee in total or in part, as well as of deferring its payment or dividing it into instalments;
- 12) performing the tasks specified in the Act on Providing Legal Assistance by Foreign Lawyers in the territory of the Republic of Poland;
- 13) co-operation with the Minister of Justice to the extent specified in the Act.

## **Article 60.**

1. The National Council of Attorneys-at-law provides, by means of its ICT system, the following institutions with access to the lists referred to in article 52 clause 4 and 5: courts, the Minister of Justice, the General Prosecutor, prosecutors of common and military organizational units of the public prosecutor's office as well as prosecutors of the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation. The scope of information shall include: name and surname of the attorney-at-law, trainee attorney-at-law or a foreign lawyer, PESEL (personal identification) number if the attorney-at-law, trainee attorney-at-law or the foreign lawyer has it, date of resolution on entering this person on the list and the number of entry, date of the resolution on striking off the list, in case of attorneys-at-law and foreign lawyers – information on suspending the right to practise the profession of an-attorney-at-law, forms of practising the profession and address for service, and in the case of trainee attorneys-at-law – information on suspending in rights of the trainee attorney-at-law and information about the right specified in article 351 clause 1 and 2.



2. The National Council of Attorneys-at-law makes available on the website of the National Council of Attorneys-at-law the information on attorneys-at-law, trainee attorneys-at-law and foreign lawyers, which includes name and surname of an attorney-at-law or a trainee attorney-at-law or a foreign lawyer as well as the number of entry on the list.

3. The Minister of Justice shall determine by way of an ordinance the minimum functionality as well as organizational and technical conditions for the functioning of the ICT system referred to in clause 1, taking into account its compatibility with the minimum requirements and the procedure for determining software compatibility as provided in the act dated 17 February 2005 on computerization of entities performing public tasks (Journal of Laws of 2014 item 1114) as well as ensuring safety of data which includes unauthorized disclosure and access.

#### **Article 61.**

The scope of activities of the Higher Audit Committee shall include auditing of the financial activities of the National Council of Attorneys-at-law.

#### **Article 61<sup>1</sup>.**

1. The scope of activities of the Chief Disciplinary Ombudsman shall include actions in the disciplinary proceedings as provided in the Act and in regulations issued on its basis.

2. The Chief Disciplinary Ombudsman may undertake activities with the help of his or her deputies.

#### **Article 62.**

1. The Higher Disciplinary Court shall examine the appeals from the decisions of the regional disciplinary courts.

2. The Higher Disciplinary Court shall examine, as a first-instance court, disciplinary cases of the members of the National Council of Attorneys-at-law and the councils of the regional chambers of attorneys-at-law. Appeals against decisions issued in this mode shall be heard by the same court, by a different panel composed of five judges.

#### **Article 62<sup>1</sup>.**

A decision issued by the Higher Disciplinary Court in the second instance shall be delivered, together with the grounds for this decision, to the parties, the Minister of Justice and the National Council of Attorneys-at-law.

#### **Article 62<sup>2</sup>.**

1. A decision issued by the Higher Disciplinary Court in the second instance is subject to a cassation appeal filed with the Supreme Court by the parties, the Minister of Justice, the Ombudsman for Citizen Rights and the President of the National Council of Attorneys-at-law.

2. A decision against which a cassation appeal referred to in clause 1 may be filed shall not be enforced until a cassation appeal has been filed or until the ineffective expiry of the deadline for filing such an appeal.

#### **Article 62<sup>3</sup>.**

The cassation appeal may be filed because of a material breach of the law or a striking disproportion of the disciplinary penalty.

**Article 62<sup>4</sup>.**

The cassation appeal shall be filed with the Supreme Court through the intermediary of the Higher Disciplinary Court within 30 days from the date of service of the decision with the grounds for this decision.

**Article 62<sup>5</sup>.**

1. The cassation appeal referred to in Article 62<sup>2</sup> clause 1 is not subject to a court fee.
2. The decision against which the cassation appeal has been filed shall not be executed until the cassation appeal has been heard.
3. The Supreme Court shall examine the cassation appeal in a panel composed of three judges.

**Article 62<sup>6</sup>.**

(repealed)

**Article 63.**

The activities of the bar shall be financed:

- 1) from contributions paid by attorneys-at-law and trainee attorneys-at-law, from fees connected with the proceedings on entering new members on the list of attorneys-at-law and trainee attorneys-at-law as well as from fines,
- 2) from income coming from other sources and in particular from grants and subsidies as well as donations and inheritance.

## **Chapter 6 Disciplinary Liability**

**Article 64.**

1. Attorneys-at-law as well as trainee attorneys-at-law shall be subject to disciplinary liability for acting against the law, contradicting their ethical rules or the dignity of the profession, or for breach of their professional duties.
  - 1a. Attorneys-at-law shall be subject to disciplinary liability also in the event of a failure to enter into a valid insurance agreement referred to in article 22<sup>7</sup> clause 1, pursuant to the provisions issued on the basis of article 22<sup>8</sup>.
2. Acts constituting a breach of provisions relating to the order and discipline of work, as specified in the Labour Code, shall be excluded from the scope of disciplinary liability hereunder.

## Article 65.

1. The disciplinary penalties include:
  - 1) admonition;
  - 2) reprimand;
  - 3) financial penalty;
  - 4) suspending the right to perform the profession of an-attorney-at-law for the period ranging from three months to five years, and in relation to trainee attorneys-at-law - suspending the rights of a trainee attorney-at-law for the period ranging from one to three years;
  - 4) deprivation of the right to practise the profession of an-attorney-at-law, and in relation to trainee attorneys-at-law - expulsion from the training.
  
2. The penalty referred to in clause 1 subclause 3 shall not be applicable to a trainee attorney-at-law.
  - 2a. Apart from the reprimand and a financial penalty, an additional ban shall be imposed on exercising patronage for the period ranging from one to five years.
  - 2b. Apart from the penalty of suspending the right to practise the profession of an-attorney-at-law an additional ban shall be imposed on exercising patronage for the period ranging from two to ten years.
  - 2ba. The administered financial penalty shall range from one and a half times to twelve times of minimum remuneration for work being in force on the date of committing a disciplinary offence.
  - 2c. The penalty of deprivation of the right to practise the profession of an-attorney-at-law shall entail removing such a person from the list of attorneys-at-law without the right to apply for a re-entry for the period of 10 years from the date when the decision on deprivation of the right to practise the profession of an-attorney-at-law has become final and binding.
  - 2d. The penalty of expulsion from the legal training entails striking such a person off the list of trainee attorneys-at-law without the right to apply for a re-entry on the list of trainee attorneys-at-law or on the list of attorneys-at-law for the period of 5 years from the date when the decision on expelling from the legal training has become final and binding.
  - 2e. Apart from the disciplinary penalty, an additional obligation may be ordered to apologise to the victim. By ordering this obligation, the disciplinary court specifies the manner of implementation which should be appropriate given the circumstances of the case.
  - 2f. The disciplinary court may order to publish the decision in a defined manner if it deems it advisable given the circumstances of the case, unless it infringes the interest of the victim.
  - 2g. The reprimand and the financial penalty entail loss of eligibility in elections to an authority of the bar of attorneys-at-law for the period of three years from the date when the order becomes final and binding.
  - 2h. The penalty of suspension of the right to practise the profession of an-attorney-at-law entails the loss of the right to vote and to be elected to an authority of the bar of attorneys-at-law for the period of six years from the date when the order becomes final and binding.

3. (repealed).

### **Article 65<sup>1</sup>.**

1. In case of simultaneous punishment for several disciplinary offences, the disciplinary court shall impose the sentence for each individual offence and then the total punishment.

2. While sentencing the total punishment, the following principles shall apply:

1) in case of sentencing the penalty of admonition and reprimand, a total reprimand shall be imposed;

2) the punishments of admonition and reprimand are not subject to aggregation with financial penalty;

3) in case of financial penalties, the total financial penalty may not exceed the sum of these penalties and it may not be lower than the highest of the imposed penalties;

4) the punishment of suspension of the right to practise the profession of an-attorney-at-law or the penalty of suspending in the rights of a trainee attorney-at-law shall not be combined with the punishment of admonition, reprimand or a financial penalty;

5) with punishments sentenced for several offences of different kinds and with the punishment of suspension of the right to practise the profession of an-attorney-at-law or expulsion from attorney-at-law's training, a total punishment of the right to practise the profession of an-attorney-at-law or expulsion from attorney-at-law's training shall be sentenced, and in case of financial penalties sentenced simultaneously, the punishment shall be sentenced pursuant to the provisions contained in subclause 3.

3. Should the defendant commit two or more disciplinary offences, before the first sentence, even if appealable, was passed in relation to any of them, a joint sentence shall be imposed unless the sentenced punishments are subject to aggregation according to rules specified in clause 2.

### **Article 65<sup>2</sup>.**

1. An-attorney-at-law or a trainee attorney-at-law against whom disciplinary or criminal proceedings are pending, may be temporarily suspended in professional activities by the disciplinary court in particularly justified circumstances of the case. The decision about the suspension shall be made by the disciplinary court ex officio or at the request of the parties.

2. The disciplinary court rules on the temporary suspension in professional activities of an-attorney-at-law or a trainee attorney-at-law against whom, in the course of penal proceedings, pre-trial detention was applied, within 14 days from the date on which it acquired knowledge on pre-trial detention. If, in relation to a provisionally detained attorney-at-law or a trainee attorney-at-law, disciplinary proceedings were not instigated at the time of ruling on pre-trial detention, or if there is no motion for temporary suspension, the disciplinary court limits the temporary suspension to the period of pre-trial detention.

3. The decision of the disciplinary court about temporary suspension is immediately enforceable. The decision may be appealed against.

4. The person who has been temporarily suspended may at any time present an application for waiver of the decision about temporary suspension. The decision on the application may only be appealed against if the application was submitted after at least three months from the date of the decision about temporary suspension.
5. Temporary suspension shall be waived without delay when the reasons for applying it cease to exist or when new reasons justifying the waiver arise.

#### **Article 66.**

1. In the event of a minor disciplinary offence or if in the light of the circumstances of the case it would be a sufficient disciplinary measure without the need to impose a disciplinary punishment, the dean of the council of the regional chamber of attorneys-at-law upon the request of the disciplinary ombudsman may limit the reaction to warning the attorney-at-law or the trainee attorney-at-law in question. The disciplinary ombudsman may put forward such a motion after the decision refusing to instigate disciplinary proceedings has become final and binding or the proceedings have been discontinued.
2. When giving a warning, the dean may simultaneously oblige an attorney-at-law or a trainee attorney-at-law to apologize to the victim or may request any other applicable behaviour.
3. An attorney-at-law or a trainee attorney-at-law shall be entitled to appeal against such a warning to the respective regional disciplinary court within 7 days from the date of being given such a warning.
3. The decision of a regional disciplinary court on the appeal referred to in paragraph 2 shall not be subject to challenge.

#### **Article 67.**

1. Disciplinary proceedings relating to the same offence shall proceed independently from penal proceedings or disciplinary proceedings instituted in the organisational unit in which specific provisions provide for such proceedings. However, disciplinary proceedings may be suspended until the closing of penal proceedings.
2. (repealed).

#### **Article 67<sup>1</sup>.**

1. Disciplinary ombudsman shall conduct ex officio proceedings.
2. Decisions of authorities conducting disciplinary proceedings shall be based on the finding of facts. The evidence shall be examined at the request of the parties or ex officio.

#### **Article 67<sup>2</sup>.**

The disciplinary proceedings shall include:

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

#### **Article 68.**

1. The parties to the disciplinary proceedings shall include the defendant and the aggrieved party and in proceedings before the disciplinary court - the prosecutor, the defendant and the aggrieved party.
2. The role of the prosecutor in the proceedings before the regional disciplinary court shall be played by the disciplinary ombudsman, and before the Higher Disciplinary Court – by the Chief Disciplinary Ombudsman, as well as their deputies performing the tasks prescribed by the spokesmen.
3. The role of the defendant shall be played by an-attorney-at-law or a trainee attorney-at-law against whom the disciplinary proceedings are under way.
4. The defendant may have a defence attorney. The role of the defence attorney may be played only by an-attorney-at-law or an attorney-at-law.
5. The role of the aggrieved party shall be played by a person whose legal interests have been directly breached by the conduct of an-attorney-at-law or a trainee attorney-at-law as specified in Article 64.

#### **Article 68<sup>1</sup>.**

1. Proceedings before a disciplinary court shall be instituted, respectively, upon application of the Chief Disciplinary Ombudsman, the disciplinary ombudsman or their deputies.
  - 1a. The Minister of Justice may order to instigate an investigation against an-attorney-at-law or a trainee attorney-at-law.
  - 1b. In the case specified in article 1a the Minister of Justice shall enjoy the rights of a party to the proceedings.
2. If an-attorney-at-law provides legal assistance in any member state of the European Union or a member state of the European Free Trade Association (EFTA) being a party to the agreement on the European Economic Area pursuant to the provisions binding in this country and relative to providing legal assistance by lawyers from the European Union, the disciplinary court which instigated any disciplinary proceedings shall immediately notify thereof the competent body in the country in question by forwarding to this body a copy of the application referred to in clause 1.

#### **Article 68<sup>2</sup>.**

The disciplinary ombudsman shall submit to the Minister of Justice copies of the decisions on instigating the investigation and informs the Minister of Justice about filing a motion for penalty to the disciplinary court or about forwarding a motion to the dean of the regional council of the chamber of attorneys-at-law, pursuant to article 66.

#### **Article 68<sup>3</sup>.**

1. In the course of disciplinary proceedings, following the consent of the attorney-at-law or trainee attorney-at-law, letters may be served also with the use of fax or electronic mail. In such a case transmission report constitutes the proof of service.

2. Failure of the defendant or of the defence attorney to appear for trial, hearing or when summoned by the disciplinary ombudsman shall not suspend examination of the case or the conducting of the proceedings, unless their absence is duly justified and at the same time it is requested that the trial or hearing be adjourned or discontinued, or that the proceedings should not be conducted before the ombudsman, or the disciplinary court or the disciplinary ombudsman, due to substantial reasons, deems their presence necessary.
3. In case of unjustified absence of the defendant, the disciplinary ombudsman serves upon the defendant a certified copy of the decision to present charges, which replaces an announcement.
4. A judgement issued during the absence of the defendant or the defence attorney shall not be deemed as judgements by default.
5. The proper justification of the defendant's or his or her attorney's absence at the hearing or when summoned by the disciplinary ombudsman calls for naming and substantiating the extraordinary reasons, whereas in case of illness presenting a medical certificate confirming inability to appear when summoned, or notifying the body conducting the proceedings.

#### **Article 68<sup>4</sup>.**

1. The penalty for unjustified absence or refusal to give evidence or to take an oath shall be imposed on a witness or an expert witness, following the motion of the disciplinary court or the disciplinary ombudsman, by the district court having jurisdiction over the place of residence of the witness or the expert witness. A witness or an expert witness is not liable to penalty unless he or she had been warned about the consequences of his or her absence, refusal to give evidence or take an oath.
2. Compulsory appearance of a witness shall be ordered by the relevant district court upon the motion of the disciplinary court or disciplinary ombudsman.

#### **Article 69.**

(repealed)

#### **Article 70.**

1. Disciplinary proceedings may not be instigated if the period of three years from the day when the offence was committed has elapsed, whereas in case of events referred to in article 11 clause 2 - one year.
2. In case of disciplinary proceedings being instigated before the deadline referred to in clause 1, the punishability of a disciplinary offence expires if five years have elapsed from the its committing, and in cases provided for in article 11 clause 2 – three years.
3. If the act satisfies the criteria of a crime, disciplinary limitation of claims shall not take place earlier than the expiry of the limitation period for punishability of the crime.

#### **Article 70<sup>1</sup>.**

1. The disciplinary court adjudicates in the panel of three judges.

2. Judges appointed to rule on the case are selected by the chairman of the disciplinary court, taking into account the necessity to ensure the examination of the case without undue delay and considering even distribution of cases among panels of judges.

#### **Article 70<sup>2</sup>.**

1. The court competent to examine the case shall be the regional disciplinary court of the regional chamber of attorneys-at-law of which the defendant was a member on the day when the disciplinary proceedings were instigated.

1a. The regional disciplinary court examines all the cases as a court of the first instance except cases specified in article 66 clause 3 and except appeals from the decisions of the disciplinary ombudsman about the refusal to instigate disciplinary proceedings or about discontinuing the disciplinary proceedings.

2. If an offence examined within the framework of one case was committed by two or more defendants entered on the list of attorneys-at-law or trainee attorneys-at-law who are members of different chambers, the disciplinary court within the region of which the offence was committed shall be competent to examine the case, and should this location be impossible to determine - the regional disciplinary court in the region in which the disciplinary proceedings were instigated first.

3. Disputes concerning jurisdiction shall be resolved by the Higher Disciplinary Court.

#### **Article 70<sup>3</sup>.**

The rulings made by a disciplinary court shall take the form of judgements or decisions. A judgement may be issued exclusively at a hearing.

#### **Article 70<sup>4</sup>.**

1. Judgements and decisions which end the ex officio proceedings shall be served on the parties and on the Minister of Justice together with a statement of reasons for the judgement.

2. Statements of reasons for the judgement are not set forth ex officio in cases which approved of the motion of the disciplinary ombudsman to pass a judgement and to impose a disciplinary punishment agreed with the defendant without conducting a hearing and the motion of the defendant to pass a judgement and to impose on him or her a disciplinary punishment, or in cases where the punishment of admonition was administered. The judgement shall be served ex officio on the parties and the Minister of Justice.

3. In cases referred to in clause 2, a statement of reasons for the judgement is set forth and served upon request of a party or the Minister of Justice submitted within 14 days from the date of receipt of the judgement.

4. Judgements and decisions which end the ex officio proceedings shall be subject to appeal which may be filed by the parties or by the Minister of Justice within 14 days from receipt of a certified copy of the judgement or decision together with a statement of reasons for the judgement and an instruction about the deadline and the mode of making an appeal.



## **Article 70<sup>5</sup>.**

The Minister of Justice and the persons he or she has authorised shall be entitled at any stage of the proceedings to inspect the files and to request information about the results of the disciplinary proceedings as well as to request final and binding disciplinary judgements or decisions together with the files of the case.

## **Article 70<sup>6</sup>.**

1. The costs of disciplinary proceedings are paid on a flat-rate basis.
2. In the event of imposing a penalty, the costs of the proceedings shall be borne by the defendant. In all other cases, the costs of investigation and proceedings before the regional disciplinary court shall be covered by the competent regional chamber of attorneys-at-law and the costs of proceedings before the Higher Disciplinary Court – by the National Chamber of Attorneys-at-law.
3. The amount of the flat-rate costs of disciplinary proceedings shall be determined by the National Council of Attorneys-at-law by way of a resolution, taking into account the average costs of proceedings.

## **Article 71.**

1. The disciplinary court shall immediately send a certified copy of a final and binding judgement to the competent council of the regional chamber of attorneys-at-law, to the Minister of Justice and to the National Council of Attorneys-at-law.
2. Execution of the disciplinary penalties belongs to the dean of the regional council of attorneys-at-law.
3. A final and binding judgement on the financial penalty and the costs of the proceedings constitutes an enforcement title within the meaning of article 777 of the Code of Civil Proceedings and, after granting it an enforcement clause, by a district court competent as regards the seat of the disciplinary court which passed this judgement, is enforceable by way of execution conducted pursuant to this Act.
- 2b. In the execution proceedings referred to in clause 2a, the activities envisaged for the creditor shall be taken by the dean of the regional council of attorneys-at-law of this chamber whose member was the fined person on the day when the ruling on the scope of financial penalty and the costs of disciplinary proceedings became final and binding.
3. A copy of the final and binding judgement on imposing a disciplinary penalty shall be attached to the personal files.
4. The penalties referred to in article 65 clause 1 subclause 3 and 4 shall be notified to:
  - 1) the courts,
  - 2) public prosecution offices,
  - 3) employers and other entities to which the attorney-at-law in question provides legal assistance,
  - 4) state and local government authorities competent due to the character of the cases handled by the attorney-at-law in question  
– within the district of the regional chamber of attorneys-at-law in which an-attorney-at-law or a trainee attorney-at-law is entered on the list, and in the event of an-

attorney-at-law practising the profession of an attorney-at-law – the regional bar council.

5. The note about a disciplinary penalty shall be removed ex officio after the expiry of:

1) three years from the date when a disciplinary judgement imposing a penalty of admonition, reprimand or a financial penalty became final and binding,

2) five years from the expiry of the period of suspension of the right to practise the profession of an-attorney-at-law,

3) fifteen years from the date when the disciplinary judgement imposing the punishment which revokes the right to practise the profession of an-attorney-at-law becomes final and binding, or seven years and 6 months from the date when the disciplinary judgement imposing the punishment of expulsion from attorney-at-law's training becomes final and binding

- if an-attorney-at-law or a trainee attorney-at-law shall not be punished at this time or disciplinary proceedings are not instigated against him or her.

6. (repealed)

7. Once the disciplinary record is expunged, the dean of the council of the regional chamber of attorneys-at-law shall order that the note on imposing a disciplinary penalty be erased and that the documents relative to imposing the penalty be removed from the personal file.

#### **Article 72.**

(repealed)

#### **Article 73.**

Members of disciplinary courts, while judging in disciplinary matters, shall be liable exclusively to the provisions of law.

#### **Article 74.**

(repealed)

#### **Article 74<sup>1</sup>.**

In all issues not regulated in the Act, the following provisions shall be applied in disciplinary proceedings:

1. Code of Penal Proceedings;
2. Chapters I-III of the Penal Code.

### **Chapter 7**

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

#### **Article 75.**

The service relationship and the rights and duties resulting from it for attorneys-at-law and trainee attorneys-at-law who are soldiers in active military services, officers of the Police, officers of the Internal Security Agency, the Intelligence Agency, of the

Military Counter-Intelligence Service, the Military Intelligence Service, the Central Anticorruption Bureau, the Border Guards, the National Fire Service or Prison Service within the scope not covered by this Act shall be governed by the provisions of separate acts.

**Article 76.**

(omitted)

**Article 77.**

Attorneys-at-law entered on the list of attorneys-at-law on the date when this Act enters into force shall be ex officio entered on the list of attorneys-at-law provided for in this Act.

**Article 78.** (repealed)

**Article 79.** (repealed)

**Article 80.** (repealed)

**Article 81.** (repealed)

**Article 82.** (repealed)

**Article 83.** (repealed)

**Article 84.** This Act shall come into force on 1 October 1982.