NSA THE SUPREME ADMINISTRATIVE COURT OF POLAND

Administrative Justice in Poland

Legislative Acts

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Legal situation
on 30 April 2018

SUPREME ADMINISTRATIVE COURT

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THE CONSTITUTION OF THE REPUBLIC OF POLAND

of 2nd April 1997

(*Dziennik Ustaw* of 1997, No. 78, item 483;
as amended by *Dziennik Ustaw* of 2001 No. 28, item 319;
of 2006, No. 200, item 1471 and of 2009 No. 114, item 946)
(exctract)

Chapter I
THE REPUBLIC

Article 2

The Republic of Poland shall be a democratic state ruled by law and implementing the principles of social justice.

Article 7

The organs of public authority shall function on the basis of, and within the limits of, the law.

Article 8

1. The Constitution shall be the supreme law of the Republic of Poland.
2. The provisions of the Constitution shall apply directly, unless the Constitution provides otherwise.

Article 9

The Republic of Poland shall respect international law binding upon it.

Article 10

1. The system of government of the Republic of Poland shall be based on the separation of and balance between the legislative, executive and judicial powers.

2. Legislative power shall be vested in the Sejm and the Senate, executive power shall be vested in the President of the Republic of Poland and the Council of Ministers, and the judicial power shall be vested in courts and tribunals.

Chapter II
THE FREEDOMS, RIGHTS AND OBLIGATIONS OF PERSONS AND CITIZENS

Article 45

1. Everyone shall have the right to a fair and public hearing of his/her case, without undue delay, before a competent, impartial and independent court.

2. Exceptions to the public nature of hearings may be made for reasons of morality, State security, public order or protection of the private life of a party, or other important private interest. Judgments shall be announced publicly.

Article 78

Each party shall have the right to appeal against judgments and decisions made at first stage. Exceptions to this principle and the procedure for such appeals shall be specified by statute.

Chapter VII
LOCAL SELF-GOVERNMENT

Article 165

1. Units of local self-government shall possess legal personality. They shall have rights of ownership and other property rights.

2. The self-governing nature of units of local self-government shall be protected by the courts.

Article 166

1. Public duties aimed at satisfying the needs of a self-governing community shall be performed by units of local self-government as their direct responsibility.

2. If the fundamental needs of the State shall so require, a statute may instruct units of local self-government to perform other public duties. The mode of transfer and manner of performance of the duties so allocated shall be specified by statute.

3. The administrative courts shall settle disputes over authority between units of local self-government and units of government administration.

Chapter VIII
COURTS AND TRIBUNALS

Article 173

The courts and tribunals shall constitute a separate power and shall be independent of other branches of power.

Article 174

The courts and tribunals shall pronounce judgments in the name of the Republic of Poland.

COURTS

Article 175

1. The administration of justice in the Republic of Poland shall be implemented by the Supreme Court, the common courts, administrative courts and military courts.

2. Extraordinary courts or summary procedures may be established only during a time of war.

Article 176

1. Court proceedings shall have at least two stages.

2. The organizational structure and jurisdiction as well as procedure of the courts shall be specified by statute.

Article 184

The Supreme Administrative Court and other administrative courts shall exercise, to the extent specified by statute, control over the performance of public administration. Such control shall also extend to judgments on the conformity to statutes of resolutions of organs of local government and normative acts of territorial organs of government administration.

Article 185

The President of the Supreme Administrative Court shall be appointed by the President of the Republic for a 6-year term of office from amongst candidates proposed by the General Assembly of the Judges of the Supreme Administrative Court. ■

THE ACT

of 25th July 2002

LAW ON THE SYSTEM OF ADMINISTRATIVE COURTS

(Consolidated text *Dziennik Ustaw* of 2017, item 2188;
as amended by: *Dziennik Ustaw* of 2018, item 3)

Chapter 1
General Provisions

Art. 1

§ 1. Administrative courts shall administer justice through reviewing the activity of public administration and resolving disputes as to competence and jurisdiction between local government authorities, appellate boards of local government, and between these authorities and government administration authorities.

§ 2. The review referred to in § 1 shall be performed from the point of view of conformity with law, unless otherwise provided by statute.

Art. 2

The Supreme Administrative Court and voivodship administrative courts shall be administrative courts.

Art. 3

§ 1. Cases falling within the jurisdiction of administrative courts shall be heard, in the first instance, by voivodship administrative courts.

§ 2. The Supreme Administrative Court shall exercise supervision over the activity of voivodship administrative courts

within the scope of adjudicating cases according to the procedure specified by statute and, in particular, shall hear means of appeal against the decisions of these courts and adopt resolutions explaining legal issues and shall hear other matters falling within the jurisdiction of the Supreme Administrative Court by virtue of other statutes.

Art. 4

Judges of administrative courts and court assessors, within the exercise of their office, shall be independent and subject only to the Constitution and statutes.

Art. 5

§ 1. The President of the Republic of Poland, upon request of the National Council of the Judiciary, shall appoint judges of administrative courts to hold judicial office.

§ 2. Judges of administrative courts shall be appointed to the office of judge of voivodship administrative court, with designation of official location (seat), or to the office of judge of the Supreme Administrative Court.

§ 3. The President of the Republic of Poland upon the request of the National Council of the Judiciary, shall appoint court assessors to perform the public function of a court assessor.

§ 4. Court assessors shall be appointed for the period of five years with designation of the official location (seat) of a court assessor in the voivodship administrative court.

Art. 6

§ 1. No person may be appointed as judge of a voivodship administrative court unless he/she meets the following requirements:

1) is a Polish citizen and fully enjoys civil and citizens' rights;
2) has a flawless character;

3) has graduated from law faculty at a university in Poland with a Master of Laws degree, or abroad with a degree recognised in Poland;
4) is due to health condition capable of performing the functions of a judge;
5) has attained 35 years of age;
6) shows a high level of knowledge in the field of public administration and administrative law, as well as other legal disciplines connected with the functioning of public administration authorities;
7[1]) for at least 8 years, has been employed or in service as judge, public prosecutor, president, vice-president or counsel of the General Counsel to the Republic of Poland, or has performed for at least 8 years the profession of lawyer, legal counsel or notary public, or has been employed for at least 10 years in public institutions at positions connected with application or making of administrative law or has worked as court assessor in a voivodship court for at least 2 years.

§ 2. The requirements referred to in § 1 (7) shall not apply to persons with the title of professor and habilitated doctors in legal science.

§ 3. In particularly justified cases, the President of the Republic of Poland may, at the request of the National Council of the Judiciary, appoint as judge a candidate who has not met the requirements specified in § 1 (7) concerning the time periods of employment on positions mentioned in that provision or the performance of the provision of lawyer, legal counsel or notary public.

§ 4. Persons referred to in § 2 may be employed on the basis of an appointment as judge, also on a part-time base.

[1] Article 6 § 1 (7) in the wording given by Article 112 (1) of the Act of 15th December 2016 on the General Counsel to the Republic of Poland (Dziennik Ustaw [hereinafter referred to as "Journal of Laws"] of 2016, item 2261). The amendments entered into force on 1st January 2017.

Art. 6a

§ 1. No person can be appointed to perform the official function as court assessor unless he/she has attained 30 years of age and complies with the requirements:

1) specified in Article 6 § 1 (1 to 4 and 6);
2)[2] he/she has been employed or in service as judge, public prosecutor or president, vice-president or counsel of the General Counsel to the Republic of Poland, or he/she has performed for at least four years the profession of attorney, legal counsel or notary public, or he/she should has occupied for at least six years in public institutions at positions connected with application or making of administrative law.

§ 2. The requirements referred to in § 1 (2) do shall not apply to persons with the title of professor and habilitated doctors in legal science.

§ 3. The application for the position of court assessor shall be submitted to the president of the appropriate voivodship administrative court.

§ 4. The president of the appropriate voivodship administrative court, after confirming that the candidate complies with the conditions and requirements stated in § 1 and 2 above, transfers the application to the President of the Supreme Administrative Court.

§ 5. The President of the Supreme Administrative Court, after the consultation with the court board, shall present the application to the position of court assessor to the National Council of the Judiciary together with the evaluation of qualifications.

[2] Article 6a § 1 (2) in the wording given by Article 112 (2) of the Act cited in footnote 1.

Art. 7

§ 1[3]. No person may be appointed as judge of the Supreme Administrative Court unless he/she meets the requirements specified in Article 6 § 1 (1)–(4) and (6), has attained 40 years of age and has been employed or in service for at least 10 years as judge, public prosecutor, president, vice-president or counsel of the General Counsel to the Republic of Poland, or has performed for at least 10 years the profession of lawyer, legal counsel or notary public. The requirement of attaining 40 years of age shall not apply to the judges who have been employed as judge of a voivodship administrative court for at least 3 years.

§ 2. The provisions of Article 6 § (2)–(4) shall apply equally to the appointment to the office of judge of the Supreme Administrative Court.

Art. 8

Financial declarations, referred to in Article 87 of the Act of 27 July 2001 Law on the System of Common Courts (Dziennik Ustaw of 2016, item 2062 as amended) shall be submitted by the judges of voivodship administrative courts to an appropriate president of the voivodship administrative court, and by the president of a voivodship administrative court and the judges of the Supreme Administrative Court – to the President of the Supreme Administrative Court. The board of an appropriate administrative court shall analyse the data contained in the financial declaration.

Art. 9

The Supreme Administrative Court shall be a disciplinary court in cases involving judges and court assessors of administrative courts. The Disciplinary Prosecutor of the Supreme

[3] Article 7 § 1 in the wording given by Article 112 (3) of the Act cited above.

Administrative Court shall be the prosecutor in disciplinary proceedings.

Art. 10

Administrative courts shall employ senior court referendaries, court referendaries, senior judge assistants, judge assistants and court officers as well as other court employees.

Art. 11

The President of the Supreme Administrative Court shall establish the principles of clerical work in administrative courts.

Art. 12

The President of the Supreme Administrative Court shall exercise hierarchical supervision over administrative activity of the administrative courts.

Art. 13

§ 1. The President of the Supreme Administrative Court may second a judge of a voivodship court, upon his/her consent, to perform, for a definite period, the duties of a judge in the Supreme Administrative Court.

§ 2. The Minister of Justice, upon request of the President of the Supreme Administrative Court, may second a judge of an appellate court or a judge of a regional court, upon his/her consent, to perform, for a definite period, the duties of a judge in an administrative court.

Art. 14

§ 1. A draft revenue and expenditure budget of the Supreme Administrative Court shall also include revenue and expenditures of voivodship administrative courts. The minister competent for matters of public finance shall include the draft revenue and expenditure budget, in the wording established by

the President of the Supreme Administrative Court, into the State budget.

§ 2. The President of the Supreme Administrative Court shall have the powers of minister competent for matters of public finance in relation to the implementation of the budget of administrative courts.

Art. 15

§ 1. The President of the Supreme Administrative Court shall inform the President of the Republic of Poland and the National Council of the Judiciary about the activity of the administrative courts.

§ 2. The President of the Supreme Administrative Court shall inform the Prime Minister about problems faced in the functioning of public administration in association with matters considered by administrative courts.

Chapter 2
Voivodship administrative courts

Art. 16

§ 1. A voivodship administrative court shall be created for one or more voivodships.

§ 2. The President of the Republic of Poland shall, upon request of the President of the Supreme Administrative Court, create and dissolve, by means of a regulation, voivodship administrative courts and shall establish their seats and jurisdiction, and may create local divisions of those courts outside the seat of the court, and may also dissolve local divisions of those courts.

Art. 17

§ 1. A voivodship administrative court shall be divided into divisions created and dissolved by the President of the Supreme Administrative Court.

§ 2. A division in the voivodship administrative court shall be directed by the president or vice-president of that court or by a designated judge.

Art. 18

§ 1. The voivodship administrative court shall be composed of: the president of the court, the vice-president of the court or vice-presidents of the court, judges and court assessors.

§ 2. The number of judges, vice-presidents of the court and court assessors at the voivodship administrative court shall be defined by the President of the Supreme Administrative Court.

Art. 19

There shall be the following governing bodies of the voivodship administrative court: the president of the court, the general assembly of judges of the administrative court, hereinafter called "the general assembly" and the board of the administrative court, hereinafter called "the board of the court".

Art. 20

§ 1. A president of voivodship administrative court shall manage the court and represent it in its external relations, and shall perform activities of judicial administration and other acts provided for by statute.

§ 2. In the area of court administration, the president of voivodship administrative court shall be a body subordinate to the President of the Supreme Administrative Court.

§ 3. A president of voivodship administrative court shall be substituted by a vice-president of the court or a designated judge.

Art. 21

§ 1. A president and a vice-president in a voivodship administrative court shall be appointed by the President of the Supreme Administrative Court from among the judges of the voivodship administrative court or judges of the Supreme Ad-

ministrative Court, after seeking an opinion of the general assembly of that court.

§ 1a. A president and a vice-president in a voivodship administrative court shall be appointed for no more than two consecutive five-year terms.

§ 2. If no opinion has been given within two months from the submission of the candidate to the appropriate general assembly, the President of the Supreme Administrative Court may appoint a president of the voivodship administrative court without such opinion.

§ 3. In the event that the general assembly has given an unfavourable opinion on the candidate, the President of the Supreme Administrative Court may appoint him/her after receipt of a favourable opinion of the National Council of the Judiciary. Unfavourable opinion of the National Council of the Judiciary shall be binding on the President of the Supreme Administrative Court.

§ 4. If the National Council of the Judiciary has failed to give an opinion within 30 days from the presentation by the President of the Supreme Administrative Court an intention to appoint a president of the court despite of an unfavourable opinion given by the general assembly of that court, it shall be deemed that the opinion is favourable.

Art. 21a

§ 1. A president and a vice-president in a voivodship administrative court may be removed from office during his/her term by the President of the Supreme Administrative Court in the event:

1) of gross dereliction of official duty;
2) that further performance of the function cannot be reconciled, for other reasons, with the interest of the administration of justice.

§ 2. The removal from office of a president and a vice-president in a voivodship administrative court shall take place after

seeking an opinion of the general assembly of that court and the National Council of the Judiciary. In the event of failure to give an opinion within one month from the presentation of an intention to remove the president or vice-president from office, it shall be deemed that the opinion is favourable.

§ 3. In the event that the president or vice-president in a voivodship administrative court resigns from office during his/her term, the President of the Supreme Administrative Court shall remove him/her from office without seeking an opinion referred to in § 2.

Art. 22

§ 1. The President of the Supreme Administrative Court, the president of a voivodship administrative court and other persons appointed to direct and supervise administrative activity shall have the right of access to activities of an appropriate voivodship court, they may attend a trial held in camera and may demand explanation and elimination of irregularities. The President of the Supreme Administrative Court and the president of a voivodship administrative court may set aside administrative rulings which are not in conformity with the law.

§ 2. Within the scope of measures of supervision over administrative activities of voivodship administrative courts, the President of the Supreme Administrative Court may order inspection or general inspection in the court.

§ 3. In the event that irregularities have been found in respect of effectiveness of the court proceedings, the President of the Supreme Administrative Court and the president of a voivodship administrative court may point out such irregularities and may demand that their consequences be eliminated.

§ 4. The functions referred to in § 1 and § 2 shall not enter into the area in which judges and court assessors are independent.

§ 5. The President of the Republic of Poland shall, by means of a regulation, specify a detailed procedure for the exercise of

supervision over an administrative activity of voivodship administrative courts by authorities and persons designated to do so. In specifying the detailed procedure for supervision, one should take into account the fact that the supervision should support effective and solid performance of the tasks assigned to the court.

Art. 23

§ 1. The President of the Republic of Poland shall establish, by means of a resolution, rules determining precisely the procedures of internal operation of voivodship administrative courts.

§ 2. The rules, referred to in § 1, shall specify in particular:

1) internal organisation of the courts,
2) order of functioning of the courts,
3) the procedure of court activities for assuring their effective and swift performance,
4) the procedure for assignment of adjudicating panels in adjustment to adjudicating specialisation of the judges and the inflow of cases,
5) instances of assigning adjudicating panels by drawing lots with determining the rules of drawing of lots.

Art. 24

§ 1. The general assembly shall consist of judges of the voivodship administrative court.

§ 1a. The court assessors can take part in the general assembly without the right to vote.

§ 2. The president of the voivodship administrative court shall be chairperson of the general assembly and shall convene the general assembly at least once a year.

§ 3. Presence of at least half of members of the general assembly shall be required for passing its resolutions. The resolutions shall be passed by an absolute majority of votes.

§ 4. The general assembly shall –

1) consider information from the president of the voivodship administrative court about annual activities of the court,
2) present candidates for judges of the voivodship administrative court to the National Council of the Judiciary,
3) provide opinion on the appointment or removal of the president of the voivodship administrative court and opinion on the appointment or removal of the vice-president of the voivodship administrative court,
4) decide the number of members of the board of the court and elect its members as well as enact changes in its composition,
5) *repealed*[4],
6) *repealed*[5],
7) consider and provide opinion on other matters submitted by the president of the voivodship administrative court and lodged by members of the general assembly.

Art. 25

§ 1. The board of the court:
1) shall assign the Activities at the court and it shall define the detailed principles of assignment of cases to specific judges and court assessors as well as court referendaries and senior court referendaries;
2) shall present its opinion on the candidates for the position of a judge or a court assessor to the general assembly;
3) shall consider matters submitted to the general assembly;
4) shall consider other matters submitted by the president of the court, or on its own initiative.

§ 2. The term of office of the board of the court shall be three years.

[4] Article 24 § 4 (5) repealed by Article 4 of the Act of 8th December 2017 amending the Act on the National Council of Judiciary and certain other acts (Journal of Laws of 2018, item 3).

[5] Article 24 § 4 (6) repealed by Article 4 of the act cited above.

§ 3. The president of the court shall be chairperson of the board of the court.

§ 4. The provisions of Article 24 § 3 shall apply to the passing of resolutions by the board of the court.

Art. 26

Repealed.

Art. 27

§ 1. No person may be appointed as court referendary, to perform the functions in mediation proceedings and other functions of judge as specified by statute, unless he/she meets the requirements specified in Article 6 § 1 (1)–(3) and has been employed for at least 3 years at positions connected with application or making of administrative law.

§ 2. A court referendary, who has held his/her post for at least 10 years, has not been punished for disciplinary infractions and has obtained positive results in regular qualification assessments, may be appointed as senior court referendary.

Art. 27a

§ 1. No person may be employed as judge assistant, to independently perform the functions of court administration and functions of preparing cases for court hearing, unless he/she meets the requirements specified in Article 6 § 1 (1)–(3).

§ 2. A judge assistant, who has held his/her post for at least 5 years, has not been punished for disciplinary infractions and has obtained positive results in regular qualification assessments, may be employed as senior judge assistant.

Art. 28

The President of the Republic of Poland shall specify, by means of a regulation, positions and required qualifications of court officers and employees of voivodship administrative courts, and also detailed principles of compensating and scales of

basic salary as well as the level of additional salary connected with the position held or the exercised function of court referendaries, senior court referendaries, judge assistants, senior judge assistants, court officers and other employees in voivodship administrative courts, taking into account the principle relating the salary to position and required qualifications, the need to ensure proper organization of administrative activity, adequate level of functioning of court secretariats and a high level of work culture, competence, rationality, promptness and professionalism in the carrying out of the activities indispensable to the efficient conduct of proceedings.

Art. 29

§ 1. Any matters not regulated by the Act related to voivodship administrative courts as well as judges, court assessors, senior court referendaries, court referendaries, senior judge assistants, and judge assistants shall be governed by appropriate provisions concerning the system of courts of general jurisdiction, however:

1) the provisions concerning the ITC system used in the procedure of appointment to the public function of a judge or a court assessor at a court of general jurisdiction shall not apply;
2) judges' remuneration shall be governed by appropriate provisions concerning the remuneration of judges of the court of appeal;
3) the basic remuneration of a court assessor shall correspond to the basic remuneration of a district court judge according to the fourth rate, increased by due social security premium.

§ 2. Any matters not regulated by the Act related to court officers and other employees of voivodship administrative courts shall be governed by the provisions of the Act of 18 December 1998 on the Employees of Courts and the Prosecutor's Office (Journal of Laws of 2017, item 246 and 1139).

§ 3. The powers of the Minister of Justice specified in provisions of § 1 and 2 shall be conferred on the President of the Supreme Administrative Court.

Chapter 3
The Supreme Administrative Court

Art. 30

The Supreme Administrative Court shall be composed of the President of the Supreme Administrative Court, Vice-Presidents and judges.

Art. 31

There shall be the following organs of the Supreme Administrative Court: the President of the Supreme Administrative Court, the General Assembly of Judges of the Supreme Administrative Court and the Board of the Supreme Administrative Court.

Art. 32

The Supreme Administrative Court shall have its seat in Warsaw.

Art. 33

Upon the request of the General Assembly of Judges of the Supreme Administrative Court, the President of the Republic of Poland shall decide, by means of a resolution, the number of the posts of judge in the Supreme Administrative Court, including the number of Vice-Presidents of that Court.

Art. 34

§ 1. The Supreme Administrative Court shall be headed by the President of the Supreme Administrative Court who shall direct its work and represent it in its external relations.

§ 2. The President of the Supreme Administrative Court shall perform functions prescribed for in this Act and in sepa-

rate provisions, and shall take up activities of judicial administration in relation to the Supreme Administrative Court.

Art. 35

§ 1. The President of the Supreme Administrative Court shall have the right of access to activities of the Supreme Administrative Court, he/she may attend a trial held in camera and may demand explanation and elimination of irregularities. In the event that irregularities have been found in respect of effectiveness of the court proceedings, the President of the Supreme Administrative Court may point out such irregularities and may demand that their consequences be eliminated.

§ 2. The functions referred to in § 1shall not enter into the area in which judges are independent.

Art. 36

§ 1. The President of the Supreme Administrative Court may apply to the Supreme Administrative Court for the adoption of a resolution explaining legal regulations whose application has caused divergence of jurisprudence between administrative courts.

§ 2. Provisions concerning the proceedings before administrative courts shall apply, as appropriate, to matters referred to in § 1.

Art. 37

Vice-Presidents of the Supreme Administrative Court shall be deputies of the President of the Supreme Administrative Court within the scope specified by the President.

Art. 38

The President of the Supreme Administrative Court may confer upon the judges specific activities of court administration and may authorise them to manage particular affairs on his/her behalf.

Art. 39

§ 1. The Supreme Administrative Court shall be divided into: the Financial Chamber, the Commercial Chamber and the General Administrative Chamber.

§ 2. The Financial Chamber shall exercise, within the limits and in accordance with the procedure specified in appropriate provisions, supervision over the jurisprudence of the voivodship administrative courts in matters of tax liabilities and other money contributions to which tax provisions and provisions on enforcement of money contributions apply.

§ 3. The Commercial Chamber shall exercise, within the limits and in accordance with the procedure specified in appropriate provisions, supervision over the jurisprudence of the voivodship administrative courts in matters of economic activity, the protection of industrial property, the budget, currencies, securities, banking, insurance, customs, prices, tariff rates and fees, except for fees payable in respect of matters referred to in § 4.

§ 4. The General Administrative Chamber shall exercise, within the limits and in accordance with the procedure specified in appropriate provisions, supervision over the jurisprudence of the voivodship administrative courts in matters not listed in § 2 or 3, particularly in matters of construction and construction supervision, land development, water management, protection of natural environment, agriculture, forestry, employment, system of local government, management of immovables, privatisation of property, the universal obligation of military service, internal affairs, as well as prices, fees and tariff rates, provided that they are connected with matters falling within the scope of competence of the Chamber.

§ 5. The work of each Chamber is directed by the vice-president designated to perform that function by the President of the Supreme Administrative Court.

Art. 40

§ 1. The Chancellery of the President of the Supreme Administrative Court and the Judicial Decisions Bureau shall operate within the Supreme Administrative Court.

§ 2. The scope of activities of the Chancellery of the President of the Supreme Administrative Court shall include performance of tasks connected with actions of the President of the Supreme Administrative Court relating to fulfilment of conditions for effective functioning of administrative courts, particularly in financial, personnel, as well as administrative and economic matters. The Chancellery of the President of the Supreme Administrative Court shall be directed by the Chief of the Chancellery of President of the Supreme Administrative Court.

§ 3. The scope of activities of the Judicial Decisions Bureau shall include performance of tasks connected with actions of the President of the Supreme Administrative Court relating to effectiveness of court proceedings and jurisprudence of administrative courts. The Judicial Decisions Bureau shall be directed by a Director, who is a vice-president or a judge.

§ 4. The detailed list of tasks of the Chancellery of the President of the Supreme Administrative Court and of the Judicial Decisions Bureau shall be specified by the Rules of Internal Procedure referred to in Article 43 below.

Art. 41

§ 1. The President of the Supreme Administrative Court shall, upon consent of the Board of the Supreme Administrative Court, create and dissolve divisions in the Chambers referred to in Article 39, and in the Chancellery of the President of the Supreme Administrative Court and in the Judicial Decisions Bureau and shall appoint and remove presidents of divisions, a Chief of the Chancellery of the President of the Supreme Administrative Court and Director of the Judicial Decisions Bureau.

§ 2. The President of the Supreme Administrative Court may also appoint and remove deputies of presidents of divisions in Chambers, referred to in Article 39, Deputy Chiefs of the Chancellery of President of the Supreme Administrative Court and deputy directors of the Judicial Decisions Bureau as well as heads of divisions in the Chancellery of President of the Supreme Administrative Court and in the Judicial Decisions Bureau.

Art. 42

The President of the Supreme Administrative Court shall publish an official collection of decisions of administrative courts.

Art. 43

Rules of Internal Procedure of the Supreme Administrative Court shall be adopted by the General Assembly of Judges of the Supreme Administrative Court. The Rules shall be published in Dziennik Urzędowy Rzeczypospolitej Polskiej "Monitor Polski" (Official Gazette of the Republic of Poland).

Art. 44

§ 1. The President of the Republic of Poland shall appoint the President of the Supreme Administrative Court for a term of six years from among of two candidates presented by the General Assembly of Judges of the Supreme Administrative Court.

§ 2. Candidates for the function of the President of the Supreme Administrative Court shall be elected by the General Assembly of Judges of the Supreme Administrative Court from among of the judges of the Supreme Administrative Court, who received the highest consecutive number of votes in the secret ballot. The election should be held no later than three months before the expiry of term of office of the incumbent President of the Supreme Administrative Court. In the event that the office has become vacant during the term of office, election of candidates shall be held within one month. The provision of the second sentence of Article 46 § 5 shall not apply.

§ 3. Debates of the General Assembly of Judges of the Supreme Administrative Court relating to the election of candidates for the function of the President shall be presided over by the oldest judge in terms of age taking part in the Assembly.

Art. 45

§ 1. The President of the Republic of Poland shall appoint, for a five-year term, a Vice-President of the Supreme Administrative Court at the request of the President of the Supreme Administrative Court, submitted upon consent of the General Assembly of Judges of the Supreme Administrative Court.

§ 2. A Vice-President of the Supreme Administrative Court may be removed from office during his/her term by the President of the Republic of Poland, at the request of the President of the Supreme Administrative Court, in the event:

1) of gross dereliction of official duty;
2) that further performance of the function cannot be reconciled, for other reasons, with the interest of the administration of justice.

§ 3. The submission of the request for removal of a Vice-President of the Supreme Administrative Court shall take place after obtaining consent from the General Assembly of Judges of the Supreme Administrative Court.

§ 4. In the event that a Vice-President of the Supreme Administrative Court resigns from office during his/her term, the President of the Supreme Administrative Court shall submit the request for his/her removal from office without seeking an opinion referred to in § 3.

Art. 46

§ 1. The General Assembly of Judges of the Supreme Administrative Court shall be composed of judges of the Supreme Administrative Court. The President of the Supreme Administrative Court shall be Chairperson of the General Assembly.

§ 2. The General Assembly of Judges of the Supreme Administrative Court shall:

1) consider information from the President of the Supreme Administrative Court about annual activities of the Supreme Administrative Court,
2) present candidates for judges to the National Council of the Judiciary,
3) elect candidates to the office of the President of the Supreme Administrative Court,
4) grant consent in respect of the appointment and removal of Vice-Presidents of the Supreme Administrative Court,
5) decide the number of members of the Board of the Supreme Administrative Court and elect its members as well as enact changes in its composition,
6) consider and provide opinion on other matters submitted by the President of the Supreme Administrative Court and lodged by members of the General Assembly of Judges of the Supreme Administrative Court.

§ 3. Repealed.

§ 4. The President of the Supreme Administrative Court shall convene the General Assembly of the Supreme Administrative Court at least once a year.

§ 5. Presence of at least half of members of the General Assembly of Judges of the Supreme Administrative Court shall be required for passing its resolutions. The resolutions shall be passed by an absolute majority of votes.

Art. 47

§ 1. The Board of the Supreme Administrative Court shall:

1) establish the division of activities in the Supreme Administrative Court and specify detailed principles of assignment of cases to individual judges,
2) present to the General Assembly of Judges of the Supreme Administrative Court an opinion about candidates for judges,

3) grant consent for the creation and dissolution of divisions and for appointment and removal of presidents of divisions, the Chief of the Chancellery of the President of the Supreme Administrative Court and Director of the Judicial Decisions Bureau,
4) consider matters presented to the General Assembly of Judges of the Supreme Administrative Court,
5) examine and give opinion on other matters submitted by the President of the Supreme Administrative Court or on its own initiative.

§ 2. The term of office of the Board of the Supreme Administrative Court shall be three years.

§ 3. The President of the Supreme Administrative Court shall be chairperson of the Board of the Supreme Administrative Court.

§ 4. The provisions of Article 46 § 5 shall apply to the passing of resolutions by the Board of the Supreme Administrative Court.

Art. 48

§ 1. The Supreme Administrative Court shall hear disciplinary cases of judges of administrative courts and court assessors:
1) in the first instance – in the panel of three judges;
2) in the second instance – in the panel of seven judges.

§ 2. All judges of the Supreme Administrative Court are entitled to adjudicate as a disciplinary court, except for the President of the Supreme Administrative Court, Vice-Presidents of the Supreme Administrative Court, the Disciplinary Commissioner of the Supreme Administrative Court and his/her deputy.

§ 3. The composition of the disciplinary court shall be determined by the Board of the Supreme Administrative Court by way of drawing lots from the list of judges of the Supreme

Administrative Court. The adjudicating panel shall be chaired by the judge who has longest served as a judge of the Supreme Administrative Court.

§ 4. The Disciplinary Commissioner of the Supreme Administrative Court and his/her deputy shall be elected by the Board of the Supreme Administrative Court for the term of four years.

Art. 49

Provisions relating to the Supreme Court shall apply, as appropriate, to matters not regulated by this Act, which concern the Supreme Administrative Court, the judges, officers and employees of that Court. The powers of the First President of the Supreme Court specified in those provisions shall be vested in the President of the Supreme Administrative Court.

Chapter 4
Final Provision

Art. 50

This Act shall come into force on the date[6] and in accordance with the principles specified in the Act of 30th August 2002 – Provisions implementing the Act – Law on the System of Administrative Courts and the Act – Law on Proceedings before Administrative Courts (Journal of Laws No. 153, item 1271). ■

[6] The Act – Law on the System of Administrative Courts entered into force on 1st January 2004 under Article 1 of the Act of 30th August 2002, the Provisions implementing the Act – Law on the System of Administrative Courts and the Act – Law on Proceedings before Administrative Courts that entered into force on 1st January 2004.

THE ACT

of 30th August 2002

LAW ON PROCEEDINGS BEFORE ADMINISTRATIVE COURTS

(Consolidated text *Dziennik Ustaw* of 2017, item 1369;
as amended by: *Dziennik Ustaw* of 2017, item 1370)

PART I
PRELIMINARY PROVISIONS

Chapter 1
General Provisions

Art. 1. The law on proceedings before administrative courts shall regulate judicial proceedings in matters relating to review of the activity of public administration and in other matters to which provisions thereof apply by virtue of specific statutes (administrative court cases).

Art. 2. Administrative courts shall have authority to hear administrative court cases.

Art. 3. § 1. Administrative courts shall exercise review of the activity of public administration and employ means specified in statute.

§ 2. The review of the activity of public administration by administrative courts shall include adjudicating on complaints against:

1) administrative decisions;
2) orders made in administrative proceedings, which are subject to interlocutory appeal or those concluding the proceeding, as well as orders resolving the case in its merit;

3)[1] orders made in enforcement proceedings and proceedings to secure claims which are subject to an interlocutory appeal, with the exclusion of the orders of a creditor on the inadmissibility of the allegation made and orders dealing with the position of a creditor on the allegation made;

4)[2] acts or actions related to public administration regarding rights or obligations under legal regulations other than acts or actions specified in points 1–3, excluding acts or activities taken in the course of administrative proceedings specified in the Act of 14th June 1960 – Code of Administrative Proceedings (Journal of Laws of 2016, item 23, 868, 996, 1579, 2138 and of 2017, item 935), proceedings specified in sections IV, V and VI of the Act of 29th August 1997 – Tax Ordinance (Journal of Laws of 2017, item 201, 648, 768 and 935), proceedings referred to in section V in chapter 1 of the Act of 16th November 2016 on the National Tax Administration (Journal of Laws of 2016, item 1947, as amended) and proceedings to which the provisions of the quoted acts apply;

4a)[3] written interpretations of tax law issued in individual cases, protective tax opinions and refusal to issue protective tax opinions;

5) local enactments issued by local government authorities and territorial agencies of government administration;

6) enactments issued by units of local government and their associations, other than those specified in subparagraph 5,

[1] Article 3 § 2 (3) in the wording given by Article 1 (1 a/) of the Act of 9th April 2015 amending the Act-Law on Proceedings before Administrative Courts (Journal of Laws of 2015, item 658).

[2] Article 3 § 2 (4) in the wording given by Article 71 (1) of the Act of 16th November, 2016 – Provisions implementing the Act on the National Tax Administration (Journal of Laws of 2016, item 1948, as amended).

[3] Article 3 § 2 (4a) in the wording given by Article 2 (1) of the Act of 13th May 2016 amending the Tax Ordinance Act and certain other acts (Journal of Laws of 2016, item 846, as amended).

in respect of matters falling within the scope of public administration;

7) acts of supervision over activities of local government authorities;

8)[4] lack of action or excessive length of proceedings in the cases referred to in subparagraphs 1–4 or excessive length of proceedings in the case referred to in subparagraph 4a;

9)[5] lack of action or excessive length of proceedings in cases relating to acts or actions other than the acts or actions referred to in subparagraphs 1–3, falling within the scope of public administration and relating to the rights or obligations arising from the provisions of law, taken in the course of the administrative proceedings referred to in the Code of administrative procedure of 14th June 1960 and proceedings referred to in sections IV, V and VI of the Tax Ordinance Act of 29th August 1997 as well as proceedings to which the provisions of the abovementioned Acts apply.

§ 2a[6]. Additionally, administrative courts shall issue rulings in appeals against decisions issued under Article 138 (2) of the Act of 14th June 1960 – Code of Administrative Proceedings.

§ 3. Administrative courts shall also adjudicate in respect of matters where provisions of specific statutes provide for judicial review, and shall employ means specified in those provisions.

Art. 4. Administrative courts shall resolve jurisdictional disputes between local government authorities and between self-government appellate boards, unless a separate statute provides otherwise, and shall resolve disputes as to competence

[4] Article 3 § 2 (8) in the wording given by Article 1 (1 b/) of the Act cited in footnote 1.

[5] Article 3 § 2 (9) inserted by Article 1 (1 c/) of the Act cited above.

[6] Article 3 § 2 a inserted by Article 9 (1) of the Act of 7th April 2017 amending the Code of Administrative Proceedings and certain other acts (Journal of Laws of 2017, item 935).

between local government authorities and government administration agencies.

Art. 5. Administrative courts shall have no competence in matters:

1) ensuing from organisational superiority or subordination in relations between public administration authorities,
2) ensuing from official submission of subordinates to superiors,
3) relating to refusal to appoint for an office or to designate to perform a function in public administration authorities, unless such obligation of appointment or designation ensues from the provision of law,
4) relating to visas issued by consuls, except for visas issued to an alien being a family member of a national of the European Union member state, family member of a national of a member state of the European Free Trade Association – a party to European Economic Area Agreement or family member of a national of the Swiss Confederation, within the meaning of Article 2 (4) of the Act of 14th July 2006 on the entry into, residence in and exit from the Republic of Poland of nationals of the European Union Member States and their family members (Journal of Laws of 2017, item 900),
5) relating to local border traffic permits issued by consuls.

Art. 6[7]**.** An administrative court shall, if necessary, provide the parties to a proceeding that are not represented by a lawyer, legal advisor, tax advisor or patent agent with necessary information on procedural steps and the consequences of their omissions.

Art. 7. An administrative court should undertake actions aimed at quick settlement of the case and should try to decide it at the first sitting.

[7] Article 6 in the wording given by Article 1 (2) of the Act cited in footnote 1.

Art. 8. § 1. A public prosecutor and the Commissioner for Human Rights (Ombudsman) may participate in any proceedings already pending and may also lodge a complaint, a cassation appeal, an interlocutory appeal and a petition for the reopening of proceedings if, according to their view, this is necessitated by the need to protect the rule of law or human and civil rights. In such an event they shall have the rights of a party.

§ 2. The Commissioner for Children's Rights may participate in any proceedings already pending and may also lodge a complaint, a cassation appeal, an interlocutory appeal and a petition for the reopening of proceedings if, according to his/her view, this is necessitated by the need to protect the rights of the child. In such an event he/she shall have the rights of a party.

Art. 9. In cases specified in this Act, a social organisation may participate in proceedings within the scope of its statutory responsibilities.

Art. 10. Cases shall be heard in public, unless a special provision provides otherwise.

Art. 11. The findings of a legally binding judgment given in the criminal proceedings, in which the offender has been convicted of an offence, shall bind the administrative court.

Art. 12. Whenever used in this Act, a party shall also mean a participant in the proceedings.

Art. 12a. § 1. A file shall be created for each case within scope referred to in Article 1. Files may be created and processed also using information technology.

§ 2. The file of the case shall be accessible to the parties of proceedings. The parties shall have the right to trawl through the file of the case and to obtain transcripts, copies or excerpts thereof.

§ 3. The files of all administrative law cases concluded with a binding decision shall be retained at an appropriate administrative court for a time period determined by the type and nature of the case and the importance of material contained in the file as a source of information.

§ 4. After the period of retention at court has elapsed, the file shall be transferred to appropriate State archives or destroyed.

§ 5. The President of the Republic of Poland shall specify, by means of a regulation, methods of creating the files referred to in § 1, as well as conditions and procedures for the retention and transfer of the files of voivodship administrative courts and the Supreme Administrative Court, and also conditions and procedures for the destruction of such files after the expiry of the time limit for their retention, considering especially the type of cases and adequate protection against access by unauthorized persons, loss or destruction.

Art. 12a[8]***.*** *§ 1. For each case falling within the scope referred to in art. 1 files shall be created. Files shall be created in electronic or paper form.*

§ 2. Electronic files shall be processed with the use of an electronic document management system, as defined in the provisions on national archive resources and archives.

§ 3. Paper files shall be processed in paper form as well as with the use of an electronic document management system, as defined in the provisions on national archive resources and archives.

§ 4. Case files shall be made accessible to the parties to a proceeding. Parties shall have the right to examine case files as well as to receive transcripts, copies or excerpts from the files.

[8] Article 12a in the wording given by Article 4 (1) of the Act of 10th January 2014 amending the Act on the Informatization of Activity of Entities performing Public Tasks as well as certain other acts (Journal of Laws of 2014, item 183; 2015, item 1311; 2016, item 1579). Any amendments introduced by means of this Act shall enter into force on 15th May 2018.

§ 5. The court shall, with respect to electronic files, enable a party to carry out the activities referred to in § 4 in its computer system, following the identification of the party in the manner set out in the provisions of the Act of 17th February 2005 on the informatization of entities performing public tasks (Journal of Laws of 2017, item 570).

§ 6. Files of all administrative court cases closed with a final decision shall be kept by a competent administrative court for a period necessary in view of the type and nature of a case and the significance of documents in the files as sources of information.

§ 7. After the period during which the case files are kept by a court, they shall be transferred to relevant state archives or destroyed.

§ 8. The President of the Republic of Poland shall specify, by means of a regulation:

1) *the way in which the files referred to in § 1 shall be created and processed;*
2) *the conditions and procedures for storing and transferring the files of voivodship administrative courts and the Supreme Administrative Court;*
3) *the conditions and procedures for destroying the files referred to in § 1 and in subparagraph 2 after the period of their storage.*

§ 9. When issuing the regulation referred to in § 8, the President of the Republic of Poland shall take into consideration, in particular, the conditions of electronic document management, as defined in the provisions referred to in § 2 and 3, types of cases as well as adequate protection of files against unauthorized access, loss or damage.

Art. 12b[9]***.*** *§ 1. The written form requirement provided for in the statute shall be deemed as being complied with if an electro-*

[9] Article 12b inserted by Article 4 (2) of the Act cited above.

nic document has been signed in the manner referred to in art. 46 § 2a.

§ 2. In the course of proceedings, electronic documents shall be lodged with an administrative court through an electronic incoming correspondence box, and the court shall serve such documents on parties using electronic means of communication under the conditions set out in art. 74a.

§ 3. In order to serve letters in a proceeding, an administrative court shall transform the form of letters received from the parties:

1) *in the case of a letter in the form of an electronic document, by making a certified printout, as referred to in art. 47 § 3, if a party does not use electronic means of communication to receive letters;*
2) *in the case of a letter in paper form, by making a certified copy in the form of an electronic document if a party uses electronic means of communication to receive letters.*

§ 4. Provisions on the use of electronic means of communication shall apply accordingly to the authorities to which or through which letters in the form of an electronic document are submitted.

Chapter 2
Jurisdiction of voivodship administrative courts

Art. 13. § 1. Voivodship administrative courts shall hear all administrative court cases, except for matters reserved for the jurisdiction of the Supreme Administrative Court.

§ 2. A voivodship administrative court having jurisdiction on the territory on which the seat of a public administration authority whose activity has been challenged is located shall be competent to hear the case.

§ 3. The President of the Republic of Poland may, by means of a regulation, transfer to the voivodship administrative court hearing of cases of a particular kind falling within the competence of another voivodship administrative court, if this is justified by reasons of expediency.

Art. 14. Unless a special provision provides otherwise, a voivodship administrative court competent at the time of filing of the complaint shall be competent until the conclusion of the proceedings, even if the grounds for such competence have changed.

Art 14a. If, due to a hindrance to its activity, the voivodship administrative court is not able to hear the case or undertake other action, the Supreme Administrative Court, sitting *in camera* in a panel of three judges, shall appoint another voivodship administrative court.

Chapter 3
Jurisdiction of the Supreme Administrative Court

Art. 15. § 1. The Supreme Administrative Court shall:

1) hear means of appeal against the judicial decisions of voivodship administrative courts, pursuant to the provisions of statute;
2) adopt resolutions in order to explain legal provisions whose application has caused differences in jurisprudence of administrative courts;
3) adopt resolution containing solution of legal issues raising considerable doubts in respect of a particular administrative court case;
4) resolve disputes referred to in Article 4;
5) hear other matters falling within the competence of the Supreme Administrative Court by virtue of separate statutes.

§ 2[10]. Provisions on proceedings before a voivodship administrative court shall apply accordingly to the settlement of the disputes referred to in art. 4 and to the determination of other cases falling within the jurisdiction of the Supreme Administrative Court pursuant to separate laws. The disputes referred

[10] Article 15 § 2 in the wording given by Article 1 (3) of the Act cited in footnote 1.

to in art. 4 shall be settled by the Supreme Administrative Court, upon request, by way of order, by indicating the authority seized of the case. The order shall be rendered by a court sitting with three judges *in camera*.

Chapter 4
Composition of the court

Art. 16. § 1. Unless otherwise provided by statute, an administrative court shall adjudicate in a panel of three judges, subject to § 2 and § 3.

§ 2. Unless otherwise provided by statute, an administrative court sitting *in camera*, shall adjudicate by a single judge.

§ 3. Elsewhere than at trial, rulings shall be made by the presiding judge.

Art. 17. § 1. Designation of judges to an adjudicating panel hearing the case at trial or *in camera* shall be regulated by the rules of internal procedure of administrative courts issued on the basis of a separate statute.

§ 2. Any change in the adjudicating panel shall be permitted only for purely fortuitous reasons or when a judge is not able to participate in the panel because of legal obstacles.

Chapter 5
Disqualification of judges

Art. 18. § 1. A judge shall be disqualified from performing his/her office by operation of the Act itself in cases:

1) in which he/she is a party to the case or remains in such a legal relationship to a party that the outcome of the case affects his/her rights or obligations;
2) of his/her spouse, persons related to him/her by blood or marriage, directly or collaterally, within the fourth degree of consanguinity (relationship by blood) or the second degree of affinity (relation by marriage);

3) of persons related to him/her by adoption, custody or guardianship;
4) in which he/she was or still is an agent of one of the parties;
5) in which he/she has rendered legal services for one of the parties or any other services relevant to the case;
6)[11] in which he/she participated in the issuance of the challenged judicial decision and in cases concerning the validity of a legal act prepared with his/her participation or examined by him/her, as well as in cases in which he/she has acted as a public prosecutor;
6a)[12] concerning a complaint against a decision or order ruling on the merits of the case made in extraordinary administrative proceedings if in earlier administrative court proceedings concerning the review of the legality of a decision or order made in ordinary administrative proceedings he/she participated in rendering a judgment or an order concluding the proceedings in the case;
7) in which he/she participated in resolving the case by public administration authorities.

§ 2. The grounds for disqualification shall continue to be valid after the ties of marriage, adoption, guardianship or custody upon which they are founded have been dissolved.

§ 3. A judge, who has participated in the issuance of the judicial decision included in a petition for reopening of the proceedings, may not decide on such petition.

§ 4. Repealed.

[11] Article 18 § 1 (6) repealed on 24th October 2008 in compliance with the Judgment of the Constitutional Court of 14th October 2008, case no. SK 6/07 (Journal of Laws No. 190, item 1171) in the scope, in which it does not consider the earlier participation of the judge in the case concerning the decision issued in the renewed administrative procedure to be the basis for his/ her exclusion from hearing the case in court proceedings initiated under the renewed administrative procedure.

[12] Article 18 § 1 (6a) in the wording given by Article 1 (4) of the Act cited in footnote 1.

Art. 19. Irrespective of the reasons enumerated in Article 18, the court shall disqualify the judge either at his/her own request or at the request of a party, if there exists a circumstance of such a kind that would give rise to justified doubts as to his/her impartiality in the case.

Art. 20. § 1. Motions to disqualify a judge shall be lodged by a party in writing or orally to the records of proceedings in the court in which the case is heard, with substantiation of the reasons for such disqualification.

§ 2. A party which has joined the trial should also substantiate that the reason for disqualification has occurred or has become known to it at later time.

§ 3. Until the determination of the case for his/her disqualification, the judge may perform only actions of utmost urgency.

§ 4[13]. A motion for the disqualification of a court shall be inadmissible and shall be rejected *in camera*.

Art. 21. A judge should notify to the court the existence of any grounds of his/her disqualification and refrain from participation in the case.

Art. 22. § 1. The disqualification of a judge shall be decided by the administrative court in which the case is heard.

§ 2. The court shall issue an order by a panel of three judges, sitting *in camera*, after the explanation is given by the judge to which the motion concerns.

§ 3. Where the administrative court referred to in § 1 is not able to issue an order due to the lack of sufficient number of judges, the Supreme Administrative Court shall designate another court to consider the motion.

§ 4[14]. A repeat motion for the disqualification of a judge that does not contain grounds for the disqualification or is grounded

[13] Article 20 § 4 inserted by Article 1 (5) of the Act cited in footnote 1.

[14] Article 22 § 4 inserted by Article 1 (6) of the Act cited in footnote 1.

on the same circumstances shall be rejected without explanations being given by the judge to whom it relates. The order shall be rendered by a court sitting with three judges *in camera*.

Art. 23. *Repealed.*

Art. 24. § 1[15]. The provisions of this chapter shall apply accordingly to the exclusion of the recording clerk, court referendary and public prosecutor.

§ 2. An application for disqualification of a public prosecutor shall be submitted to an appropriate superior public prosecutor.

PART II
PARTIES

Chapter 1
Capacity to be a party in court and procedural capacity

Art. 25. § 1[16]. A natural person, legal person or a public administration body shall have the capacity to appear before an administrative court as a party (capacity to be a party to a court proceeding).

§ 2. The State and local self-government organisational units not having legal personality, as well as social organisations not having legal personality, shall also have capacity to be a party in court.

§ 3. Other organisational units not having legal personality shall also have capacity to be a party in court, if provisions of law allow the possibility of imposing obligations, or conferring rights, on those units or making them the subject of orders or

[15] Article 24 § 1 in the wording given by Article 17 of the Act of 10th July 2015 amending the Act-Law on the System of Common Courts and certain other acts (Journal of Laws of 2015, item 1224).

[16] Article 25 § 1 in the wording given by Article 1 (7) of the Act cited in footnote 1.

bans, as well as acknowledging or recognising rights or duties resulting from provisions of law.

§ 4. Social organisations, even if not having legal personality, shall have capacity to be a party in court within the scope of their statutory responsibilities in matters relating to legal interests of other persons.

Art. 26. § 1. Natural persons with full ability to legal actions, as well as legal persons, social organisations and organisational units referred to in Article 25 shall have capacity to act in proceedings on administrative court cases (procedural capacity).

§ 2. A natural person with limited ability to legal actions shall have capacity to act in proceedings on matters arising from legal actions he/she is able to take by himself/herself.

Art. 27. A natural person having no ability to legal actions in proceedings may undertake them only by his/her statutory representative.

Art. 28. § 1. Legal persons and organisational units having capacity to be a party in court shall act in proceedings through bodies or persons empowered to act on their behalf.

§ 2[17]. On behalf of the State Treasury actions in the proceedings shall be taken by a body of the organisational unit to whose activity the proceeding is related, or a body of its superior unit.

§ 3[18]. To the extent specified in the Act of 15th December 2016 on the General Counsel to the Republic of Poland (Journal of Laws item 2261), actions in the proceedings on behalf of:
1) government administration authorities,
2) state organisational units which do not have legal personality,
3) the State Treasury
– shall be taken by the General Counsel to the Republic of Poland.

[17] Article 28 § 2 in the wording given by Article 1 (1a) of the Act of 8th June 2017 amending the Act – Law on Proceedings before Administrative Courts (Journal of Laws of 2017, item 1370).

[18] Article 28 § 3 inserted by Article 1 (1b) of the Act cited above.

Art. 29. A statutory representative or a body, or persons referred to in Article 28, shall be obligated to prove their authorisation by a document upon taking the first action in the proceedings.

Art. 30. § 1. Upon request of the opposing party, the court may appoint a guardian for a party lacking procedural capacity, which has no statutory representative and for a party having no body appointed to represent it, if that party has taken against the other party an action of utmost urgency. The order of the court may be issued *in camera*.

§ 2[19]. The court order referred to in § 1 may be issued by a court referendary.

Art. 31. § 1. If defects in respect of capacity to be a party in court or procedural capacity or in the composition of competent bodies may be corrected, the court shall set appropriate time limit. In cases where appointment of a statutory representative should be made ex officio, the court shall refer to a guardianship court.

§ 2. The court may temporarily admit to act a party which does not have capacity to be a party in court or procedural capacity and a person which does not have sufficient statutory authorisation, provided that the deficiencies will be corrected within the prescribed time limit, and the actions will be approved by a person appointed to do so.

§ 3. If the above-mentioned defects cannot be corrected, or when they have not been corrected within the set time limit, the court shall annul the proceedings to the extent it is affected by the defects and, if necessary, shall issue appropriate order.

[19] Article 30 § 2 inserted by Article 1 (8) of the Act cited in footnote 1.

Chapter 2
Parties and participants to the proceeding

Art. 32. Parties to a proceeding in relation to the administrative court case shall include the petitioner and the authority whose action, failure to act or excessive length of proceedings is a subject-matter of the complaint.

Art. 33. § 1. The person who has taken part in the administrative proceeding, and has not lodged a complaint, where the outcome of the court proceedings concerns his/her legal interest, shall be a participant in that proceeding having the rights of a party.

§ 1a[20]. If a special provision provides that parties to a proceeding before a public administration body shall be notified of acts or other actions of the body by way of an announcement or in any other manner of publication, a person that has participated in the proceeding and has not lodged a complaint, and the outcome of the court proceeding concerns his or her legal interest, shall be a participant in that proceeding having the rights of a party if the person files a request to join the proceeding before the commencement of the hearing.

§ 1b[21]. If the outcome of court proceedings does not relate to a legal interest of the persons referred to in § 1 and 1a and if they request that they be allowed to participate in the proceedings, the court shall, *in camera*, render an order refusing the request to participate in the case. The order shall be subject to an interlocutory appeal.

§ 2[22]. A request to join a proceeding as a participant may also be submitted by a person that has not participated in administrative proceedings if the outcome of the proceeding con-

[20] Article 33 § 1a inserted by Article 1 (9 a/) of the Act cited in footnote 1.

[21] Article 33 § 1b inserted by Article 1 (9 a/) of the Act cited in footnote 1.

[22] Article 33 § 2 in the wording given by Article 1 (9 b/) of the Act cited in footnote 1.

cerns his or her legal interest as well as by a social organisation, as referred to in art. 25 § 4, in cases concerning other persons if the case relates to the scope of its statutory activities. The order shall be made by the court *in camera*. An order refusing the request to participate in the case shall be subject to an interlocutory appeal.

Chapter 3
Agents

Art. 34. The parties and their bodies or statutory representatives may act before the court on their own or by agents.

Art. 35. § 1[23]. Persons who may act as an attorney of a party include a lawyer or a legal advisor, other complainant or participant in the proceeding as well as the spouse, siblings, ascendants or descendants of the party as well as its adopted child or adoptive parent and other persons if special provisions so provide.

§ 2. An employee of a legal person or of an entrepreneur, including those which do not have legal personality, or of its superior body, may be an agent of that legal person or entrepreneur. This shall also apply to State and local government organisational units which do not have legal personality.

§ 3. A legal person or the board of a partnership providing – on the basis of separate provisions – legal assistance to an entrepreneur, to a legal person or to another organisational unit may grant procedural power of attorney – on behalf of the entity to whom they provide legal assistance – to a lawyer or legal counsel, if they have been authorised to do so by that entity.

§ 4[24]. Persons that may act as an attorney of the authority whose action, failure to act or excessive length of proceedings

[23] Article 35 § 1 in the wording given by Article 1 (10 a/) of the Act cited in footnote 1.

[24] Article 35 § 4 inserted by Article 1 (10 b/) of the Act cited in footnote 1.

is the subject of a complaint also include an officer or employee of the organisational unit managed by the authority.

§ 5[25]. In matters:

1) in which the court has referred a legal issue causing serious doubts to be resolved by a panel of seven judges,
2) in which the court submitted a preliminary question to the Court of Justice of the European Union,
3) complaints against written interpretations of tax law provided on individual cases ,

– persons that may act as an attorney of the authority also include an officer or employee of the organisational unit managed by the superior authority.

§ 6[26]. The Head of the National Tax Administration or the Head of National Tax Information may be also represented by an official or a clerk of an office that supports the minister responsible for public finances.

Art. 36. The power of attorney may be:

1) general – to carry out any case before administrative courts;
2) to carry out individual cases;
3) only to perform specific actions in the proceedings.

Art. 37. § 1. An agent shall be obligated during the first procedural action to append to the case file the power of attorney with the principal's signature or a certified transcript of the power of attorney.

A lawyer, legal counsel, patent agent and tax adviser may themselves certify the transcript of the power of attorney granted to them and transcripts of other documents proving their powers. In the event of doubt, the court may request an official certification of a party's signature.

[25] Article 35 § 5 inserted by Article 51 of the Act of 10th July 2015 on Tax Administration (Journal of Laws of 2015 item 1269).

[26] Article 35 § 6 inserted by Article 71 (2) of the Act cited in footnote 2.

§ 1a[27]*. Where a transcript of a power of attorney or transcripts of other documents proving powers were prepared in the form of an electronic document, they shall be certified, as referred to in § 1, using a safe qualified electronic signature, signature verified with the use of a trusted ePUAP profile or using other mechanisms referred to in art. 20a (2) of the Act of 17th February 2005 on the informatization of entities performing public tasks, provided that such mechanisms were introduced by the administrative court. Transcripts of a power of attorney or transcripts of other documents proving powers which are certified electronically shall be prepared in data formats specified in provisions issued pursuant to art. 18 (1) of the Act.*

§ 2. In the course of the case, the power of attorney may be given orally, at a court session, by a statement made by a party and filed with the record.

§ 3. Repealed.

Art. 37a[28]*. A power of attorney granted in the form of an electronic document shall be accompanied by a qualified electronic signature, signature verified with the use of a trusted ePUAP profile or using other mechanisms referred to in art. 20a (2) of the Act of 17th February 2005, on the informatization of entities performing public tasks provided that such mechanisms were introduced by the administrative court.*

Art. 38. If a party cannot sign its name, another person authorised by it shall sign the power of attorney, indicating the reason for which the party has not signed it.

Art. 39. General power of attorney or the power to carry out individual cases shall cover, by virtue of law itself, authorisation to:

[27] Article 37 § 1a inserted by Article 4 (3) of the Act cited in footnote 8; in wording of the Act of 5th September, 2016 on electronic trust and identification services (Journal of Laws of 2016, item 1579).

[28] Article 37a inserted by Article 4 (4) of the Act cited in footnote 8; in the wording given by Article 112 (1a) of the Act quoted as second one in footnote 27.

1) carry out all actions in the proceedings, relevant to the case, including a petition for reopening of the proceedings and proceedings arising from filing thereof;
2) grant a further power of attorney according to the principles specified in separate provisions;
3) withdraw the complaint in whole or in part, if a given power of attorney does not exclude carrying out those actions;
4) receive the costs of proceedings.

Art. 40. The scope, duration and effects of an authorisation broader than the power of attorney referred to in Article 36, shall be evaluated pursuant to the contents of the power of attorney and the provisions of civil law.

Art. 41. A principal who appears before the court simultaneously with his/her agent may immediately rectify or withdraw statements made by the agent.

Art. 42. § 1. Revocation of the power of attorney by the principal shall take legal effect in relation to the court beginning from the day it has been notified about that, and in relation to the opposing party and other participants – from the day they have received a notification about that by the court.

§ 2[29]. A lawyer, legal advisor, tax advisor or patent agent that has disclaimed his or her power of attorney shall be obliged to act on behalf of the party for two more weeks, unless the principal releases him or her from this obligation. Any other attorney shall, despite the disclaimer, act on behalf of the principal for the same period of time if it is necessary in order to protect the principal from unfavourable legal consequences.

Art. 43. The power of attorney shall cease upon the death of a party or the loss of its capacity to be a party in court. Ho-

[29] Article 42 § 2 in the wording given by Article 1 (11) of the Act cited in footnote 1.

wever, a procedural agent shall act until the proceedings are suspended.

Art. 44. § 1. The court may temporarily admit a person who is not able to submit the power of attorney to undertake urgent action.

§ 2. The court shall, at the same time, fix a time limit within which a person acting without the power of attorney should submit it or present a confirmation of his/her action by the party. If the time period has ineffectively expired, the court shall omit procedural actions of that person.

PART III
PROCEEDINGS BEFORE VOIVODSHIP ADMINISTRATIVE COURTS

Chapter 1
Documents submitted in court proceedings

Art. 45. A document submitted in court proceedings (a document by a party) shall include motions and statements of the parties.

Art. 46. § 1. A document by a party should include:
1) identity of a court to which it is addressed, the first and last names or the name of the parties, of their statutory representatives and agents;
2) designation of a type of document;
3) essentials of a motion or statement;
4) the signature of the party or its statutory representative or agent;
5) a list of enclosures.

§ 2 If a document by a party is the first one in the case, it should also include the designation of the place of residence or, in the absence thereof, an address for delivery or addresses of the office of the parties, their statutory representatives and

agents and the subject-matter of the case, while further documents shall include a reference number.

§ 2a[30]*. Where a letter is lodged by a party in the form of an electronic document, it should also contain an electronic address and be accompanied by a qualified electronic signature of the party, its statutory representative or attorney, signature verified with the use of a trusted ePUAP profile or using other mechanisms referred to in art. 20a (2) of the Act of 17th February 2005 on the informatization of entities performing public tasks, provided that such mechanisms were introduced by the administrative court.*

§ 2b[31]*. The rules for signing documents set out in § 2a shall also apply to enclosures lodged in the form of an electronic document.*

§ 2c[32]*. A letter that is lodged in a form other than the form of an electronic document and that contains a request that court letters be served using electronic means of communication shall contain an electronic address.*

§ 2d[33]*. If the letter referred to in § 2a does not contain an electronic address, the court shall assume that the electronic address from which the letter lodged in the form of an electronic document was sent is relevant, and if the letter was lodged in a different form and contains the request referred to in § 2c, the court shall serve letters to the address indicated in accordance with § 2, and the first letter from the court shall include information that a request that letters be served using electronic means of communication must contain an electronic address.*

§ 3[34]. A letter shall be accompanied by a power of attorney or its certified transcript if the letter is lodged by an attorney

[30] Article 46 § 2a inserted by Article 4 (5) of the Act cited in footnote 8.

[31] Article 46 § 2b inserted by Article 4 (5) of the Act cited in footnote 8.

[32] Article 46 § 2c inserted by Article 4 (5) of the Act cited in footnote 8.

[33] Article 46 § 2d inserted by Article 4 (5) of the Act cited in footnote 8.

[34] Article 46 § 3 in the wording given by Article 1 (12) of the Act cited in footnote 1.

that has not submitted these documents to the court in a given case.

§ 4. If a party cannot sign its name, another person authorised by it shall sign the document, indicating the reason for which the party has not signed it.

Art. 47. § 1. A document by a party shall be appended with transcripts thereof and transcripts of enclosures to be served on the parties and, additionally, if the enclosures have not been submitted in its original version – one transcript of each enclosure to court files.

§ 2. Within the meaning of § 1, a transcript may also include a certified photocopy or certified electronic mail printouts.

§ 3[35]*. In the case of letters and enclosures lodged in the form of an electronic document, transcripts shall not be enclosed. In order to serve documents on parties that do not use electronic means of communication to receive letters, the court shall make copies of electronic documents in the form of certified printouts, in accordance with the requirements set out in provisions issued pursuant to art. 16 (3) of the Act of 17th February 2005 on the informatization of entities performing public tasks.*

§ 4[36]*. When serving transcripts of letters and enclosures in a form other than the form of an electronic document, the court shall inform the party about the conditions for the lodging of letters and for the service of letters by the court using electronic means of communication.*

Art. 48. § 1. A party which, in the submitted document, makes reference to another document shall be obliged to submit, upon request of the court, the original document before the trial.

§ 2[37]. If the document is placed in the records of the authority referred to in Article 76 § 1 and 2 of the Act of 14th June

[35] Article 47 § 3 inserted by Article 4 (6) of the Act cited in footnote 8.

[36] Article 47 § 4 inserted by Article 4 (6) of the Act cited above.

[37] Article 47 § 2 in the wording given by Article 1 (13) of the Act cited in footnote 1.

1960 – The Code of Administrative Proceedings and Article 194 § 1 and 2 of the Act of 29th August 1997 – Tax Ordinance, it shall suffice to present a transcript or an excerpt of the document officially certified by that authority. The court shall demand provision of a transcript or an excerpt if the party is not able to obtain it. Where the court finds it necessary to look through the original document, it may apply for its delivery.

§ 3. Instead of the original document, a party may lodge a transcript of the document, provided that its conformity to the original has been certified by a notary public or by a party's agent appearing in the case who is a lawyer, legal counsel, patent agent or tax advisor.

§ 3a[38]*. If a transcript of a document was prepared in the form of an electronic document, it shall be certified to be in conformity with the original, as referred to in § 3, using a qualified electronic signature, signature verified with the use of a trusted ePUAP profile or using other mechanisms referred to in art. 20a (2) of the Act of 17th February 2005 on the informatization of entities performing public tasks, provided that such mechanisms were introduced by the administrative court. Transcripts of documents that are certified electronically shall be prepared in data formats specified in provisions issued pursuant to art. 18 (1) of the Act.*

§ 4. The certification of conformity of the document with the original by a party's agent appearing in the case who is a lawyer, legal counsel, patent agent or tax advisor, contained in the transcript of the document, shall have the status of an official document.

§ 5. Where the circumstances of the case so justify, the court shall – upon request of the party or on its own motion – demand that the party lodging the transcript of the document referred to in § 3 submits the original document.

Art. 49. § 1. If a document submitted by the party fails to meet the formal requirements, which renders further proceedin-

[38] Article 48 § 3a inserted by Article 4 (7) of the Act cited in footnote 8.

gs thereof impossible, the presiding judge shall summon the party to complete or correct it within seven days, on pain of leaving the document unheard, unless otherwise provided by statute.

§ 2. If a party has not completed or has not corrected the document within the prescribed time limit, the presiding judge shall order the document to be left unheard. The ruling shall be subject to interlocutory appeal.

§ 3. A document that has been corrected or completed within the prescribed time limit shall take effect from the day of filing thereof.

§ 4[39]. The activities referred to in § 1 and 2 may be performed by a court referendary.

Art. 49a[40]. *The court shall confirm the submission of a letter in the form of an electronic document to its electronic incoming correspondence box by sending an official acknowledgment of receipt, as defined in the Act of 17th February 2005 on the informatization of entities performing public tasks to the electronic address indicated by the person lodging the letter. An official acknowledgment of receipt shall include information that letters in the case will be served using electronic means of communication as well as information about the right of the party to request that letters no longer be served using electronic means of communication, as referred to in art. 74a § 2.*

Chapter 2
Complaint

Art. 50. § 1. Everyone who has a legal interest therein, a public prosecutor, the Commissioner for Human Rights (Ombudsman), the Commissioner for Children's Rights and a social organisation, within the scope of its statutory activity and in matters affecting legal interests of other persons, provided

[39] Article 49 § 4 inserted by Article 1 (14) of the Act cited in footnote 1.

[40] Article 49a inserted by Article 4 (8) of the Act cited in footnote 8.

that it has taken part in administrative proceedings, shall be entitled to lodge a complaint.

§ 2. Any other entity on which such right is conferred by statute shall be also entitled to lodge a complaint.

Article 51. More than one entity entitled to lodge a complaint may act as complainant in one case, provided that their complaints concern the same [administrative] decision, order, another act or action or failure to act by an authority or excessive length of proceedings.

Article 52. § 1. A complaint may be lodged after the exhaustion of the means of review which have lied with the complainant in proceedings before an authority competent in the matter, unless the complaint has been lodged by a public prosecutor, the Commissioner for Human Rights (Ombudsman) or the Commissioner for Children's Rights.

§ 2[41]. Exhausting appeal measures shall mean a situation in which a party no longer has any appeal measure, such as complaint, appeal or reminder as envisaged by the act, at its disposal.

§ 3[42]. If a party has the right to apply for reconsideration to the body who issued a decision, the party may appeal against the decision without exercising the aforementioned right.

§ 4[43]. *Repealed*.

Art. 53. § 1[44]. The appeal shall be submitted within thirty days of the appellant being served the decision or act referred to in Article 3 (2)(4a).

[41] Article 52 § 2 in the wording given by Article 9 (2)(a) of the Act cited in footnote 6.

[42] Article 52 § 3 in the wording given by Article 9 (2)(a) of the Act cited above.

[43] Article 52 § 4 repealed by Article 9 (2)(b) of the Act cited above.

[44] Article 53 § 1 in the wording given by Article 9 (3a/) of the Act cited above.

§ 2[45]. If the Act does provide for any appeal measures for the case being the subject of an appeal, the appeal against the act or action referred to in Article 3 (2)(4) shall be filed within thirty days of the appellant's becoming aware of the issuing of the act or the taking of the action. After the appeal is filed, the court may decide that failure to respect the deadline has been caused for reasons not attributable to the appellant and consider the appeal nonetheless.

§ 2a[46]. In the case of other acts, if the Act does not provide for appeal measures for the case being the subject of an appeal and does not state otherwise, the appeal may be filed at any moment.

§ 2b[47]. Complaint against inaction or excessive duration of proceedings may be filed at any moment after submitting a reminder to the competent authority.

§ 3[48]. In the cases specified in § 1 and 2, a public prosecutor, the Commissioner for Human Rights (Ombudsman) or the Commissioner for Children's Rights may file an appeal within six months of the serving of the decision in an individual case and in other cases they may file an appeal within six months after the act enters into force or another action that would justify the appeal is taken. The deadline shall not apply in cases referred to in § 2a.

§ 4[49]. The deadline referred to in § 1 and 2 shall be considered met also when a party has filed an appeal directly to the administrative court prior to the expiry of the deadline. In such circumstances, the court shall immediately forward the appeal to the body which issued the appealed decision, issued

[45] Article 53 § 2 in the wording given by Article 9 (3a/) of the Act cited in footnote 6.

[46] Article 53 § 2a inserted by Article 9 (3b/) of the Act cited above.

[47] Article 53 § 2b inserted by Article 9 (3b/) of the Act cited above.

[48] Article 53 § 3 inserted by Article 9 (3c/) of the Act cited above.

[49] Article 53 § 4 inserted by Article 9 (3d/) of the Act cited above.

the act or took another action that constitutes the subject of the appeal.

Art. 54. § 1. A complaint to an administrative court shall be lodged through the authority whose action, failure to act or excessive length of proceedings has been challenged.

§ 1a[50]*. A complaint in the form of an electronic document shall be submitted to the electronic incoming correspondence box of the authority. The provision of art. 49a shall apply accordingly.*

§ 2[51]. The authority referred to in § 1 shall transfer the complaint, together with complete and ordered case files and the response to the complaint, to a court within thirty days of its receipt.

§ 2a[52]*. If a complaint has been lodged:*

1) *in the form of an electronic document to the electronic incoming correspondence box of the authority referred to in § 1 – the authority shall transfer the complaint and the response to the complaint to the court, to its electronic incoming correspondence box;*
2) *in paper form – the authority shall transfer the complaint and the response to the complaint to the court in this form.*

§ 2b[53]*. In the event that the files of the case to which a complaint relates are kept by the authority in electronic form, the authority shall:*

1) *transfer the case files to the court, together with information on documents whose content is not available in its entirety in the case files kept in electronic form as well as on the manner and date of their transfer to the court, to its electronic incoming correspondence box, and if it is not possible for technical reasons – on an electronic data carrier;*

[50] Article 54 § 1a inserted by Article 4 (9 a/) of the Act cited in footnote 8.

[51] Article 54 § 2 in the wording given by Article 1 (16 a/) of the Act cited in footnote 1.

[52] Article 54 § 2a inserted by Article 4 (9 b/) of the Act cited in footnote 8.

[53] Article 54 § 2b inserted by Article 4 (9 b/) of the Act cited above.

2) *transfer to the court documents in the case files whose content is not available in its entirety in the case files kept in electronic form, indicating the electronic case files transferred to the court in the manner referred to in subparagraph 1.*

§ 2c[54]. If the files of the case to which a given relates are kept by the authority referred to in § 1 in paper form, the authority shall transfer to the court the case files and, where applicable, electronic documentation stored on electronic data carriers whose content is not available in paper form.

§ 3[55]. The body whose action, inaction or excessively long proceedings was/were appealed against may, to the extent of its competence, grant the appeal in full within thirty days of receipt thereof. If the appeal is against a decision and it is granted in full, the body shall repeal the appealed decision and issue a new decision. While granting the appeal, the body shall also state whether the action, inaction or excessive duration of proceedings happened without legal grounds or whether a gross breach of law occurred. The provision of § 2 shall apply accordingly.

§ 4[56]. In the case referred to in art. 33 § 1a, the authority shall inform about the transfer of the complaint together with the response to the complaint by means of an announcement at the premises of the authority and on its website as well as in the manner usual for a given town, informing about the content of this provision.

Art. 54a[57]. § 1. If prior to the forwarding of an appeal of one party of administrative proceedings to the court another party to the same proceedings has applied to the body for reconsideration of the case, the provisions of Article 54 § 2–4 shall not

[54] Article 54 § 2c inserted by Article 4 (9 b/) of the Act cited above.

[55] Article 54 § 3 in the wording given by Article 9 (4) of the Act cited in footnote 6.

[56] Article 54 § 4 inserted by Article 1 (16 b/) of the Act cited in footnote 1.

[57] Article 54a inserted by Article 9 (5) of the Act cited in footnote 6.

apply. The body shall consider the appeal as an application for reconsideration, of which it shall immediately notify the appealing party.

§ 2. If after the forwarding of an appeal of one party of administrative proceedings to the court another party of the same proceedings has applied to the body for reconsideration of the case, the body shall notify the court immediately. The court shall immediately forward the appeal together with the case file to the body. The provision of the second sentence of § 1 shall apply.

Art. 55. § 1. In the event that the obligations referred to in Article 54 § 2 have not been complied with, the court may, upon request of the complainant, order to impose on the authority a fine in an amount specified in Article 154 § 6. The order may be issued *in camera*.

§ 1[58]*. In the case of failure to comply with the obligations referred to in art. 54 § 2–2c, the court may, at the request of the complainant, decide to impose a fine on the authority in the amount specified in art. 154 § 6. The order may be issued in camera.*

§ 2. If, despite the imposition of a fine, an authority has not transferred the complaint to the court, the court may, at the request of the complainant, hear the case on the basis of the received transcript of the complaint, provided that factual and legal state of affairs presented in the complaint does not raise reasonable doubt.

§ 3. Any flagrant cases of breach of the obligations referred to in § 2 or in Article 54 § 2, shall be notified by the adjudicating panel or the president of the court to authorities competent for examination of petitions, complaints and proposals.

[58] Article 55 § 1 in the wording given by Article 4 (10 a/) of the Act cited in footnote 8.

§ 3[59]*. Any flagrant cases of breach of obligations referred to in § 2 or in art. 54 § 2–2c shall be notified by the adjudicating panel or the president of the court to the authorities having jurisdiction to examine petitions, complaints and proposals.*

Art. 56. Where the complaint has been lodged to the court after the institution of the administrative proceedings aimed at modification, setting aside, declaration of invalidity of an act or reopening of proceedings, the court proceedings shall be suspended.

Art. 57. § 1. The complaint should meet the requirements of a document in the court proceedings, and should also include:
1) designation of the challend [administrative] decision, order, or another act or action;
2) the identity of the authority to whose action, failure to act or excessive length of proceedings s the complaint pertains;
3) specification of the breach of law or legal interest;
4)[60] *repealed*.

§ 2. In the case referred to in Article 51, complaints may be lodged in one procedural document.

§ 3. If more than one act or action, or failure to act or excessive length of proceedings , has been challenged in one procedural document, the presiding judge shall decide that those complaints be separated.

Art. 57a[61]**.** A complaint against written interpretation of the provisions of tax law issued in an individual case, a protective tax opinion or a refusal to issue a protective tax opinion may be grounded only on the allegation of an infringement of procedural provisions, erroneous interpretation or erroneous as-

[59] Article 55 § 3 in the wording given by Article 4 (10 b/) of the Act cited above.

[60] Article 57 § 1 (4) repealed by Article 9 (6) of the Act cited in footnote 6.

[61] Article 57a in the wording given by Article 2 (2) of the Act cited in footnote 3.

sessment as to the application of a provision of substantive law. An administrative court shall be bound by the charges of the complaint and the legal basis relied on.

Art. 58. § 1. The court shall reject the complaint:

1) if the case does not fall within the jurisdiction of the administrative court;
2) lodged after the expiry of prescribed time limit;
3) when formal deficiencies of the complaint have not been corrected within the prescribed time limit;
4) if the matter subject to the complaint between the same parties is pending or has already been decided by a legally binding decision;
5) if one of the parties has no capacity be a party in court or if the complainant does not have procedural capacity and he/she has not been substituted by a statutory representative or there are defects in the composition of the bodies of an organisational unit being the complainant which prevent it from operation;
5a)[62] if the legal interest or right of the person lodging a complaint against the resolution or act referred to in art. 3 § 2 subparagraphs 5 and 6 were not breached in the manner provided for in the special provision;
6) if lodging of a complaint is inadmissible for other reasons.

§ 2. For the reason of lack of capacity to be a party in court by any of the parties or because of lack of procedural capacity on the part of the complainant, non-existence of a statutory representative or the defects in the composition of the authorities of an organisational units being a complainant which prevent it from operation, the court shall reject the complaint only when the defect has not been corrected.

§ 3. The court shall reject the complaint by an order. The complaint may be rejected *in camera*.

[62] Article 58 § 1 (5a) inserted by Article 1 (19) of the Act cited in footnote 1.

§ 4. The court may not reject the complaint for a reason referred to in § 1(1), if the common court has found itself to have no jurisdiction in this case.

Art. 59. § 1. If another administrative court has jurisdiction to hear the case, the court which has found to be without jurisdiction shall refer the case to competent administrative court. The order of the court may be rendered *in camera*.

§ 2. The court to which the case has been referred shall be bound by an order referring the case. This shall not apply to referring the case to the Supreme Administrative Court.

§ 3. Any actions performed in an incompetent court shall remain valid.

Art. 60. The complainant may withdraw the complaint. The withdrawal of the complaint shall be binding upon the court. However, the court shall declare unacceptable the withdrawal of the complaint which intends to evade the law or would result in sustaining in force of an act or actions affected by invalidity.

Art. 61. § 1. The lodging of the complaint shall not stay the execution of an act or action.

§ 2. Where the complaint has been lodged:

1) against an [administrative] decision or an order – the authority which has issued the decision or order, may suspend, on its own motion or at the request of the complainant, their execution in whole or in part, unless there are grounds which in administrative proceedings makes the decision or order immediately enforceable or where specific statute excludes staying of their execution;
2) against other acts or actions in the field of public administration concerning the rights or obligations resulting from legal provisions – the competent authority may, on its own motion or at the request of the complainant, stay the execution of an act or action in whole or in part;

3) against resolutions by agencies of local government units and their associations, as well as acts of territorial agencies of government administration – the competent authority may, on its own motion or at the request of the complainant, stay the execution of a resolution or an act in whole or in part, except for provisions of local enactments which have come into force.

§ 3. After the complaint has been transferred to the court, the court may, at the request of the complainant, issue an order staying in whole or in part the execution of an act or action referred to in § 1, if there is danger of serious damage or hardly reversible consequences, except for provisions of local enactments which have come into force, unless a specific statute excludes the staying of their execution. A refusal to stay the execution of an act or action by the authority shall not preclude the complainant from applying to the court. This shall apply also to acts issued or taken in all proceedings carried out within the limits of the same case.

§ 4. Orders staying the act or action, issued on the basis of § 2 and 3, may be modified or reversed at any time by the court if the circumstances have changed.

§ 5. The orders referred to in § 3 and 4, may be issued by the court sitting *in camera*.

§ 6[63]. A stay of the execution of an act or action shall cease being effective on the date on which:
1) the court renders a decision granting the complaint;
2) a decision dismissing the complaint becomes legally binding.

Art. 62. The president of the department [of the court] or a designated judge shall:
1) rule that the files indispensable for hearing the case and, if necessary, other evidence shall be completed.

[63] Article 61 § 6 in the wording given by Article 1 (20b) of the Act cited in footnote 1.

2) select composition of a panel of judges adjudicating in the case, designated in a manner referred to in Article 17;
3) set the date at which the case is to be heard *in camera* or at trial.

Chapter 3
Application initiating the proceedings

Art. 63. Court proceedings shall be initiated upon filing of an application, where so is provided by statute.

Art. 64. § 1. Applications shall be filed directly with the court.

§ 2. The application should satisfy the requirements of documents in court proceedings, and should also describe the request, its grounds and reasons and the designation of the parties and authorities, and should also meet other requirements set forth in special provisions.

§ 3. Provisions on a complaint shall apply as appropriate to applications, unless otherwise provided by statute.

Chapter 3a[64]
Objection to the decision

Art. 64a. The decision referred to in Article 138 (2) of the Act of 14th June 1960 – Code of Administrative Proceedings may not be appealed against, but a party unsatisfied with the decision may file an objection to the decision, hereinafter referred to as the "objection to the decision".

Art. 64b. § 1. Unless the Act states otherwise, the provisions applicable to appeals shall apply to an objection to the decision.

§ 2. An objection to the decision shall satisfy the requirements for any submission filed in court proceedings and it shall

[64] Chapter 3a – Articles 64a–64e inserted by Article 9 (7) of the Act cited in footnote 6.

indicate the objected decision, include a request for its repeal and specify the body which issued the objected decision.

§ 3. The provision of Article 33 shall not apply to proceedings initiated by means of an objection to the decision.

Art. 64c. § 1. An objection to the decision shall be filed within fourteen days of the decision being served to the appellant.

§ 2. An objection to the decision shall be filed via the body whose decision is the subject of the objection to the decision.

§ 3. The deadline referred to in § 1 shall be considered met also when a party has filed an objection to the decision directly to the administrative court prior to the expiry of the deadline. In such circumstances, the court shall immediately request that the body which issued the objected decision forward the complete and ordered case file to the court.

§ 4. The body referred to in § 2 shall forward the objection to the decision to the court together with the completed and ordered case file within fourteen days of receipt of the objection. In the case referred to in § 3, the body who issued the objected decision shall forward the complete and ordered case file to the court within fourteen days of receipt of the request.

§ 5. The body referred to in § 2 may, to the extent of its competence, grant an objection to the decision in full within fourteen days of receipt thereof by repealing the objected decision and issuing a new decision pursuant to Article 138 (1) or (4) of the Act of 14th June 1960 – Code of Administrative Proceedings.

§ 6. In the event of failure to meet obligations referred to in § 4, the court may decide, at the request of the appellant, to impose a fine on the body in the amount specified in Article 154 (6). The order may be issued *in camera*.

§ 7. If the body fails to forward an objection to the decision to the court in spite of the fine having been imposed on it, the

court shall consider the case on the basis of the true copy of the objection to the decision sent by the appellant.

Art. 64d. § 1. The court shall consider an objection to the decision *in camera* within thirty days of receipt of the objection to the decision.

§ 2. When considering an objection to the decision, the court may refer the case to be heard at a full hearing.

Art. 64e. When considering an objection to the decision, the court shall assess only grounds for issuing the decision referred to in Article 138 (2) of the Act of 14 June 1960 – Code of Administrative Proceedings.

Chapter 4
Service

Art. 65. § 1[65]. The court shall serve documents using a postal operator, as defined in the Act of November 23rd 2012 – Postal law (Journal of Laws item 1529), through its employees, through other persons or bodies authorized by the court

§ 1[66]. The court shall serve documents using a postal operator, as defined in the Act of 23rd November 2012 – Postal Law (Journal of Laws 2016, items: 1113, 1250, 1923, 1948 and 2017, item 1128), through its employees, through other persons or bodies authorized by the court or using electronic means of communication, under the conditions specified in art. 74a.

§ 2[67]. Unless otherwise provided in this Chapter, the procedure for the service of court documents in civil proceedings shall apply to service of documents by post in court proceedings.

[65] Article 65 § 1 in the wording given by Article 163 (1) of the Postal Law Act of 23rd November 2015 (Journal of Laws of 2012, item 1529).

[66] Article 65 § 1 in the wording given by Article 4 (11 a/) of the Act cited in footnote 8.

[67] Article 65 § 2 in the wording given by Article 153 (1) of the Act cited in footnote 65.

§ 3. A document may also be served by fax or electronic mail. In such case, the confirmation of data transmission shall constitute the proof of service.

§ 3[68]. *Repealed.*

Art. 66. § 1[69]. In the course of a case, lawyers, legal advisors, tax advisors and patent agents shall serve letters on one another directly against acknowledgement of receipt and with an indication of the date or by registered mail. A pleading lodged with a court shall contain a declaration that a transcript of the pleading was served on the other party or that it was sent by registered mail. Pleadings that do not contain such declaration shall be returned without requesting that the shortcomings be rectified.

§ 2. Documents may also be served on the addressee by handing them in to him/her directly in the court's registry.

§ 3[70]. The provision of § 1 shall not apply to the lodging of a complaint, cassation appeal, interlocutory appeal, protest, petition for the reopening of proceedings and motion for a declaration that a legally binding decision is unlawful.

Art. 67. § 1. If the party to the proceedings is a natural person, documents shall be served on it personally and, if it has no procedural capacity – on its legal representative.

§ 2. Documents in court proceedings or judicial decisions addressed to a legal person, as well as an organisational unit having no legal personality, shall be delivered to an authority entitled to represent them before the court or by handing them to an employee authorised to accept documents.

§ 3. Documents in court proceedings addressed to entrepreneurs and partners of commercial companies entered in the

[68] Article 65 § 3 repealed by Article 4 (11 b/) of the Act cited in footnote 8.

[69] Article 66 § 1 in the wording given by Article 1 (21 a/) of the Act cited in footnote 1.

[70] Article 66 § 3 inserted by Article 1 (21 b/) of the Act cited above.

court register on the basis of separate provisions, shall be delivered at the address specified in the register, unless the party indicated another address for delivery.

§ 4. If it is impossible to serve the document in the manner specified in § 3, Article 70 § 2 shall apply as appropriate.

§ 5. If an agent or a person authorised to accept documents in court proceedings has been appointed, documents shall be served on those persons.

Art. 68. § 1. On days statutorily specified as days free from work and in the night time service may be effected only in exceptional cases, upon the previous ruling of the president of the court.

§ 2. Night time shall be deemed the time between 9:00 p.m. and 7:00 am.

Art. 69. Service shall be effected at the addressee's place of residence, his/her place of business or anywhere he/she can be reached.

Art. 70. § 1. The parties to the proceedings and their representatives shall be obligated to notify to the court any change in their place of residence, address for delivery or place of business.

§ 2. In the event of failure to comply with that obligation, the document shall be left in the files of the case and deemed as served, unless the court knows the new address.

At the time of first service, the party should be advised by the court of the above obligation and consequences of a failure to comply with it.

§ 3. The provisions of § 2 shall not apply to service of a petition for reopening of the proceedings.

Art. 71. § 1. Service upon soldiers in active service shall be effected through the commander of a military unit in which the soldier performs his/her military service.

§ 2. Service upon persons deprived of liberty shall be effected through the administration of an appropriate institution.

Art. 72. § 1[71]. In the event that the person serving a letter does not find its addressee at home, he/she may serve the letter on an adult household member, and should such a member not be present – on the building manager or caretaker, provided that they have no conflict of interest in the case and undertook to give the letter to the addressee.

§ 2. If the service is effected in a place of business, the document may be served upon the person authorized to accept documents.

Art. 73. § 1[72]. If it is impossible to serve a document in the manner envisaged in Articles 65–72, the document shall be left for the period of 14 days at a post office or an office of the commune, and a notification specified in § 2 shall be made at the same time.

§ 2[73]. A notification that the document has been left, together with the information about the possibility of picking it up at a post office or an office of the commune within the period of 7 days from the date of leaving the notification, shall be placed in the mail box or, if it is not possible to do so, affixed to the door of the addressee's apartment or left in a place designated as an address for delivery, or affixed to the door of the office or other space in which the addressee performs his/her professional activity.

§ 3[74]. In the event that the document has not been picked up within the time limit referred to in § 2, a repeat notification about the possibility of picking up the document within the

[71] Article 72 § 1 in the wording given by Article 1 (22) of the Act cited above.

[72] Article 73 § 1 in the wording given by Article 153 (2) of the Act cited in footnote 64.

[73] Article 73 § 2 in the wording given by Article 153 (2) of the Act cited above.

[74] Article 72 § 3 in the wording given by Article 153 (2) of the Act cited above.

period no longer than 14 days from the date of the first notification about leaving the document at a post office or an office of the commune.

§ 4. Service shall be considered as effected on the end of the last day of the period referred to in § 1.

Art. 74. § 1. If an addressee has refused to accept a procedural document, it shall be returned to the court with a notation on the refusal and the date of the refusal. The document with the notation shall be appended to the case file.

§ 2. In the event referred to in § 1, the document shall be considered to have been served on the day of refusal to accept it by the addressee.

Art. 74a[75]*. § 1. The court shall serve letters using electronic means of communication if a party has satisfied one of the following conditions:*

1) *it lodged a letter in the form of an electronic document through the electronic incoming correspondence box of the court or the authority through which the letter is lodged;*
2) *it requested that the court serve letters in this way and informed the court of its electronic address;*
3) *it agreed that the service of letters is to be effected using such means and informed the court of its electronic address.*

§ 2. If a party requests that letters no longer be served using electronic means of communication, the court shall serve a letter in the manner prescribed for a letter in a form other than the form of an electronic document.

§ 3. In order to serve a letter in the form of an electronic document, the court shall send to the electronic address of the addressee a notice containing:

1) *information that the addressee may retrieve the letter in the form of an electronic document as well as an indication of the electronic address at which the addressee may retrieve the*

[75] Article 74a inserted by Article 4 (12) of the Act cited in footnote 8.

document and at which the addressee should acknowledge the receipt of the document;

2) information as to how the letter can be retrieved, including especially on the manner of identifying the addressee at the indicated electronic address in the computer system of the court as well as information that an official acknowledgement of receipt must be accompanied by a qualified electronic signature, signature verified with the use of a trusted ePUAP profile or using other mechanisms referred to in art. 20a (2) of the Act of 17th February 2005 on the informatization of entities performing public tasks, provided that such mechanisms were introduced by the administrative court.

§ 4. The notice referred to in § 3 may be automatically created and sent through the computer system of the court, and the receipt of the notice shall not be acknowledged.

§ 5. The date of the service of a letter shall be the date on which its addressee signs an official acknowledgment of receipt in the manner set out in § 3 (2).

§ 6. Should a letter in the form of an electronic document not be retrieved by its addressee, the court shall, after seven days from the date of sending the notice, send a repeat notice that the letter may be retrieved.

§ 7. The provisions of § 3 and 4 shall apply to a repeat notice.

§ 8. Should a letter not be retrieved, the letter shall be deemed to have been served fourteen days after the date on which the first notice was sent.

§ 9. In the event that a letter in the form of an electronic document is deemed to have been served, the court shall provide the addressee of the letter with access to the letter in the form of an electronic document in its computer system as well as with information on the date on which the letter was deemed to have been served and on the dates on which the notices referred to in § 3 and 6 were sent.

§ 10. In the case of letters served on such participants in a roceeding before a court as the public prosecutor, Commissioner for Human Rights (Ombudsman) and the Commissioner for Child-

ren's Rights as well as the authority whose action, failure to act or excessive length of proceedings has been challenged, the court shall send a letter directly to the electronic incoming correspondence box of the public entity, as defined in the Act of 17th February 2005 on the informatization of entities performing public tasks, against an official acknowledgement of receipt.

§ 11. The date of service of the letters referred to in § 10 shall be the date indicated in the official acknowledgement of receipt.

§ 12. Court letters, transcripts of letters and enclosures in court proceedings as well as decisions served by a court in the form of an electronic document shall be accompanied by a safe electronic signature verified with the use of a valid qualified certificate.

Art. 75. Documents in court proceedings and judicial decisions shall be served in the form of transcripts.

Art. 76. § 1. An agent of more than one person shall be served with one copy of a document and enclosures.

§ 2. A person authorised by more than one participant to the proceedings to accept documents in court proceedings shall be served with one copy for each participant.

§ 3. If there is more than one agent of a party, the court shall hand down the document only to one of them.

Art. 77. § 1. The recipient of a document shall confirm by his/her own signature the receipt and the date thereof. If he/she is not able or does not want to do so, the person serving the document shall himself/herself determine the date of service and the reason for the lack of signature.

§ 1a[76]*. The receipt of a letter in the form of an electronic document shall be acknowledged in the manner set out in art. 74a § 5 or 10.*

§ 2. The person serving the document shall record in the receipt of service the manner in which service has been effected,

[76] Article 77 § 1a inserted by Article 4 (13) of the Act cited above.

he/she shall insert the date of delivery on the served document and shall sign such statement.

Art. 78. If a complaint or another document or a judicial decision which causes the need to assume the defence of its rights is to be served on the party whose place of stay is unknown, service may, until a party or its representative or agent has come forward, be effected only to a guardian ad litem appointed upon request of the concerned person by an adjudicating court.

Art. 79. § 1[77]. The court shall appoint a guardian at litem if the applicant proves presumptively that the place of residence of the party is unknown. The order shall be rendered by the court *in camera*.

§ 2. The appointment of a guardian ad litem shall be publicly announced by the presiding judge in the courthouse and in the office of the appropriate commune and, in matters of greater importance, also in the press, if he/she finds it necessary.

§ 3. Service shall be effected upon the delivery of a document to a guardian ad litem. The court may however make the effect of service conditional on the expiry of the specified time from the day of posting an announcement in the courthouse.

§ 4[78]. The activities referred to in § 1–3 may be performed by a court referendary.

Art. 80. The provisions on serving documents on the party whose place of stay is unknown and on the appointment of a uardian ad litem for that party shall also apply to organisational units which have no authorities or have authorities whose seats are unknown.

[77] Article 79 § 1 in the wording given by Article 1 (23 a/) of the Act cited in footnote 1.

[78] Article 79 § 4 inserted by Article 1 (23 b/) of the Act cited above.

Art. 81. If it transpires that the request for appointment of a guardian ad litem or for posting of the document has not been justified, the court shall rule on the service of the document in an appropriate manner and, if necessary, shall annul – at the request of the concerned party – the proceedings carried out with the participation of a guardian ad litem or after the posting of the document in the courthouse.

Chapter 5
Time limits

Art. 82. The time limit set by the court or the presiding judge (a court time limit) shall run from the pronouncement of an order or ruling in the matter and, where statute provides for service by the operation of law – from its delivery.

Art. 83. § 1. Subject to § 2, time limits shall be calculated in accordance with the provisions of civil law.

§ 2. If the last day of a time limit falls on a Saturday or a day free from work under statutory law, the last day of the time limit shall be considered the day immediately following the day or days free from work.

§ 3[79]. Submitting a letter in Polish post office of the designated operator within the meaning of the Act of 23rd November 2012 – Postal Law, or post office of the operator providing the universal postal service in another Member State of the European Union, the Swiss Confederation or the Member State of the European Free Trade Association (EFTA) – a party to the Agreement on the European Economic Area, or Polish consular office is tantamount to lodging it to the court.

[79] Article 83 § 3 in the wording given by Article 15 (1) of the Act of 10th July 2015 amending the Civil Code, the Civil Procedure Code and certain other acts (Journal of Laws of 2015, item 1311).

§ 4[80]. The same shall apply to a letter submitted by a soldier at the headquarters of a military unit or a letter submitted by a person deprived of liberty in the administration office of a prison or a custody suite and a letter submitted by a member of the crew of a Polish seagoing ship to the captain of the ship.

§ 5[81]. The date of the lodging of a letter in the form of an electronic document shall be the date on which the letter has been entered into the computer system of a court or a competent authority indicated in the official acknowledgement of receipt.

Art. 84. The presiding judge may for a good reason extend the court time limit, on its own motion or at the request of a party made before the expiry of the time limit, and may also shorten the court time limit at the request of a party to the proceedings.

Chapter 6
Failure to comply with, and reinstatement of, a time limit

Art. 85. An action in court proceedings taken by a party after the time limit has expired shall be without legal effect.

Art. 86. § 1. If the party has inculpably failed to effect, within the prescribed time limit, an action in the court proceedings, the court shall, at the request of the party, order the reinstatement of the time limit. An order reinstating the time limit or refusing the reinstatement of the time limit may be issued *in camera*.

[80] Article 83 § 4 in the wording given by Article 1 (24) of the Act cited in footnote 1.

[81] Article 83 § 5 in the wording given by Article 4 (14) of the Act cited in footnote 8.

§ 2. Reinstatement of the time limit shall not be permitted if the failure to comply with the time limit has not produced negative consequences for the court proceedings.

§ 3. An order reinstating the time limit or refusing the reinstatement of the time limit shall be subject to interlocutory appeal.

Art. 87. § 1. A legal document containing a request to reinstate the time limit shall be filed with the court in which the action was to be done, within 7 days from the date of termination of the reason for failure to comply with the time limit.

§ 2. The document should substantiate circumstances indicating the lack of guilt in the failure to comply with the time limit.

§ 3. The request for reinstatement of the time limit for lodging a complaint shall be lodged through an authority whose action, failure to act or excessive length of proceedings is the subject-matter of the appeal.

§ 4. At the time of making the request, the party should effect the action which the party has not effected within the time limit.

§ 5. After one year from expiry of the time limit not complied with, reinstatement thereof shall be admissible only in exceptional cases.

Art. 88. A request for reinstatement of the time limit that is late or inadmissible by virtue of a statute shall be rejected by the court sitting *in camera*. The order shall be subject to interlocutory appeal.

Art. 89. Submission of a request for reinstatement of the time limit shall not stay the proceedings on the case and the execution of the judicial decision. The court may however, according to the circumstances, stay the proceedings or the execution of the judicial decision. The order may be issued *in camera*. If the motion has been granted, the court may immediately proceed to a hearing of the case.

Chapter 7
Court sessions

Art. 90. § 1. Unless a specific provision provides otherwise, court sessions shall be public, and the decision-making court shall hear cases at trial.

§ 2. The court may refer the case for hearing in open court and may designate a trial also when the case is to be heard *in camera*.

Art. 91. § 1. The presiding judge shall designate court sessions on its own authority, whenever the state of the case so requires.

§ 2. Parties shall be notified in writing or by announcement at the session about sessions in open court. A party absent from an open session should always be served with a notification for the next session. The notification should be delivered at least seven days before the session. In urgent cases, this time limit may be shortened to three days.

§ 3. In order to clarify the matter, the court may issue a ruling requiring either parties, or both of them, to appear before the court in person or through an agent.

Art. 92. § 1. Proceedings before the court shall be conducted with participation of a public prosecutor, the Commissioner for Human Rights (Ombudsman) or the Commissioner for Children's Rights, if they have filed a complaint or have declared their participation in a proceeding before the court.

§ 2. Absence of a public prosecutor, the Commissioner for Human Rights (Ombudsman) or the Commissioner for Children's Rights from the trial shall not stay the hearing of the case by the court.

Art. 93. A notice about the session shall identify:

1) the first and last name or the name and seat of the receiver of the notification and the address of the receiver of the notification;

2) the court and the place and time of the session;
3) the complainant and the subject-matter of the case;
4) the purpose of the session;
5) consequences of a failure to appear.

Art. 94. Court sessions shall be held in the courthouse, and outside it only when, after meeting the security requirements, court actions must be carried out in the other place or when holding of a session outside the courthouse facilitates the conduct of the case or contributes considerably to cost saving.

Art. 95[82]**.** § 1. Apart from parties and persons summoned, open court hearings may be attended exclusively by persons of legal age. The chairperson may allow the under-aged to attend the hearing.

§ 2. *In camera* hearings may be attended only by persons summoned.

Art. 96. § 1. The court shall, on its own authority, order the whole or part of the session to be held behind closed door, if public hearing of the case endangers morals, state security or public order [*ordre public*], and also when it may lead to disclosure of circumstances of the case, including classified information.

§ 2. The court, at the request of a party, shall rule that the session be heard behind closed door, if necessary for protection of private life of a party or for other important private interest. The proceedings in relation to that motion shall be held behind closed door. The order on that matter shall be announced by the court in public.

Art. 97. § 1. The parties, their statutory representatives and agents, a public prosecutor and persons of confidence, two for

[82] Article 95 in the wording given by Article 2 of the Act of 21st April 2017 amending the Civil Procedure Code Act and the Law on Proceedings before Administrative Courts (Journal of Laws 2017, item 1136).

each party, may attend the court room in the course of a session held in private.

§ 2. Pronouncement of a judicial decision concluding the proceedings on the case shall be held in public.

Art. 98. § 1. The presiding judge shall open, conduct and close the sessions, give an opportunity to speak and ask questions, and give authorisation to ask questions and shall pronounce judicial decisions.

§ 2. The presiding judge may deprive a person who abuses his/her right to speak of the opportunity to speak and may also reject the question which he/she finds to be improper or unnecessary.

Art. 99. The court may adjourn the proceedings only for good cause, regardless of a concurrent motion of the parties.

Art. 100. § 1. The record of session held in open court shall be written down by the recording clerk under direction of the presiding judge.

§ 2. An official note shall be written down of an *in camera* session, if no judicial decision has been made.

Art. 101. § 1. The record should contain:

1) designation of a court, place and date of the session, first and last names of judges, the recording clerk, a public prosecutor, the parties, as well as statutory representatives and agents present at the session, and designation of the case and a note as to public nature of sessions;
2) the course of the session, in particular, conclusions and arguments of the parties, a list of rulings and judicial decisions issued during the session and declaration whether or not they have been pronounced; if the drawing up of a separate operative part of judicial decision is not required, is shall suffice to include, in the record, the contents of a determination itself; instead of presenting conclusions and arguments the record may refer to preparatory writs;

3) actions of parties, relevant to the determination of the case.

§ 2. The record shall be signed by the presiding judge and the recording clerk.

Art. 102. The conduct of actions recorded may be additionally transcribed by means of sound recording equipment, and all persons participating in the action should be so warned before such equipment is activated.

Art. 103. Parties may request correction or completion of the record at the next session, however no later than 30 days of the day of the session from which the record have been drawn up. Parties may appeal against a ruling of the presiding judge within seven days from the day the ruling was served on them.

Art. 104[83]**.** In the course of a session, motions, declarations, supplements and rectifications to motions and declarations may be included in an annex to the record. If a party is represented by a lawyer, legal advisor, tax advisor or patent agent, the presiding judge may request that such annex be submitted within the prescribed time limit.

Art. 105. During the session and, if they have not attended, at the next session, the parties may draw attention of the court to breaches of procedural provisions, and ask for their objections be entered in the record. A party which has not submitted its objection, shall not have a right to invoke such a breach in the further course of the proceedings, unless this concerns the procedural provisions breaching of which should be taken into consideration by the court on its own authority, or when a party has substantiated that it has not submitted an objections without their own guilt.

[83] Article 104 in the wording given by Article 1 (25) of the Act cited in footnote 1.

Art. 106. § 1. After the case is called, the trial shall begin with the report of the judge who presents in brief, on the basis of files, the state of the case, taking into account in particular the charges of the complaint.

§ 2. After the report is submitted, the parties – first the complainant, followed by an authority – shall present orally their claims and conclusions and shall give explanations. In addition, parties may also indicate legal and factual grounds for their claims and conclusions. The presiding judge shall permit other parties to speak in a sequence he/she may fix.

§ 3. The court may, on its own motion or at the request of the parties, request additional documentary proof, if this is necessary to resolve substantial doubts and will not extend excessively the proceedings on the case.

§ 4. The court shall consider commonly known facts, even if they are not invoked by the parties.

§ 5. The provisions of the Code of Civil Procedure shall apply as appropriate to the evidentiary proceedings referred to in § 3.

Art. 107. Failure by parties or their agents to attend a trial shall not stay the hearing of the case.

Art. 108. In case of absence of a party or its agent from the trial, the presiding judge or a judge-rapporteur designated by him/her shall present their conclusions, arguments and evidence contained in the files of the case.

Art. 109. The trial shall be adjourned if the court has found impropriety in notification of either party or if absence of a party or its agent has been caused by extraordinary circumstances or other impediments known to the court which may not be overcome, unless the other party or its agent seek the hearing of the case in their absence.

Art. 110. The trial shall be adjourned, if the court has decided to notify of the pending court proceedings those persons

which have not yet participated in the case in the capacity of a party.

Art. 111. § 1. The court shall rule that a number of individual cases pending before it be combined to be heard jointly or also to be determined if they would have been subject to one complaint.

§ 2. The court may rule that combining a number of individual cases pending before it be combined to be heard jointly or to be determined if they are connected with each other.

Art. 112[84]**.** Should the authority persistently fail to comply with an order of a court or a ruling of the presiding judge made in the course of proceedings and in connection with the determination of the case, the court may decide to impose a fine on the authority in the amount specified in art. 154 § 6. The order may be rendered *in camera*. The provision of art. 55 § 3 shall apply accordingly.

Art. 113. § 1. The presiding judge shall close the trial if the court decides that the case has been sufficiently clarified.

§ 2. The trial my also be closed when an additional evidence is to be taken from documents known to the parties, and the court has found that carrying out of a trial on that evidence is unnecessary.

Art. 114. Until the closure of the trial, parties may appeal to adjudicating court against decisions of the presiding judge made in the course of a trial.

Chapter 8
Mediation and simplified proceedings

Art. 115. § 1. At the request of the complainant or an authority, lodged before the trial has been designated, mediation

[84] Article 112 in the wording given by Article 1 (26) of the Act cited above.

proceedings may be carried out in order to clarify and consider the factual and legal circumstances of the case and to determine by the parties the manner of its settlement within the limits of the existing law.

§ 2. Mediation proceedings may be carried out even if the parties have not requested that such proceedings be instituted.

Art. 116[85]**.** § 1. Mediation proceedings shall be conducted by a mediator appointed by the parties.

§ 2. In the case of the mediation proceedings referred to in Article 115 (2), if parties have not reached any agreement to appoint a mediator, the court, when forwarding the case for mediation, shall appoint a mediator possessing adequate knowledge and skills in mediating cases of a specific type. When forwarding the case for mediation, the head of the division shall immediately forward contact details of the parties and their legal representatives to the mediator, in particular their telephone number and e-mail addresses, if available.

§ 3. A mediator may be a natural person who has full capacity to perform acts in law and enjoys full public rights, in particular a mediator included in the list of mediators or the list of institutions and persons entitled to conduct mediation proceedings kept by the president of the regional court.

Ar. 116a[86]**.** A mediator should stay impartial in conducting mediation and immediately reveal the circumstances which could have raised doubts about the mediator's impartiality, including circumstances referred to in Article 18.

Art. 116b[87]**.** A mediator is entitled to access the case file and receive true copies, copies or extracts from the file, unless a party within a week of the date of publishing or receiving the

[85] Article 116 in the wording given by Article 9 (8) of the Act cited in footnote 6.

[86] Article 116a inserted by Article 9 (9) of the Act cited in footnote 6.

[87] Article 116b inserted by Article 9 (9) of the Act cited in footnote 6.

order forwarding the case for mediation refuses to authorise the mediator to access the case file.

Art. 116c[88]**.** § 1. Mediation proceedings are not open.

§ 2. Unless the parties decide otherwise, a mediator, the parties and other participants to the mediation proceedings are required to keep confidential any facts that have been learned by them in connection with the mediation.

§ 3. Settlement proposals, disclosed facts or statements made within mediation proceedings may not be used after such proceedings are concluded, with the exception of arrangements included in the mediation proceedings protocol.

Art. 116d[89]**.** § 1. A mediator is entitled to receive remuneration and reimbursement of costs related to the mediation, unless the mediator agreed to conduct the mediation without remuneration. The remuneration and reimbursement of costs related to the mediation shall be covered by the parties.

§ 2. A minister responsible for public administration shall specify, by way of an ordinance, the remuneration payable to a mediator for conducting mediation proceedings and the mediator's costs to be reimbursed, taking into consideration the type of the case and swiftness of mediation proceedings, as well as necessary expenses related to mediation proceedings.

Art. 116e[90]**.** § 1. A mediator shall draft a protocol from mediation proceedings.

§ 2. The protocol from mediation proceedings shall specify:

1) time and place of the mediation;
2) name and surname (name) of the appellant, indication of the body and respective addresses;
3) name, surname and address of the mediator;

[88] Article 116c inserted by Article 9 (9) of the Act cited in footnote 6.

[89] Article 116d inserted by Article 9 (9) of the Act cited in footnote 6.

[90] Article 116e inserted by Article 9 (9) of the Act cited in footnote 6.

4) arrangements made by the parties regarding the resolution of the case;
5) signatures of the mediator, the appellant and the body.

§ 3. A mediator shall immediately submit the copy of the protocol from mediation proceedings to the parties and the court before which the proceedings are pending.

Art. 117. § 1. On the basis of arrangement made during the mediation proceedings, the authority shall set aside or modify the challenged act or shall made or take other action in accordance with the circumstances of the case within the limits of its own jurisdiction and competence.

§ 2. If the parties have made no arrangement as to the manner of settlement of the case, it shall be subject to a hearing by the court.

Art. 118. § 1. A complaint may be lodged against an act issued on the basis of arrangements referred to in Article 117 § 1, to a voivodship administrative court within 30 days from the day of delivery of the act or from the conclusion or taking of an action. The complaint shall be heard by the court jointly with a complaint lodged in the case against the act or action on which mediation proceedings have been conducted.

§ 2. If no complaint has been lodged against an act or action issued or taken on the basis of arrangements referred to in Article 117 § 1, or the complaint lodged has been dismissed, the court shall discontinue the proceedings in the case on which mediation proceedings have been conducted.

Art. 119. The case may be heard in accordance with the simplified procedure if:
1) the [administrative] decision or order has been affected by invalidity referred to in Article 156 § 1 of the Code of Administrative Proceedings or to other rules or have been issued in violation of the law which provides a basis for reopening of the proceedings;

2) a party has requested that the case be referred for a hearing in accordance with the simplified procedure, and none of the other parties has demanded, within 14 days from the notification of the filing of the request, that a trial be conducted;
3)[91] the subject of the complaint is an order made in administrative proceedings which is subject to an interlocutory appeal or concludes the proceedings as well as an order ruling on the merits of the case and orders made in enforcement proceedings and proceedings to secure claims which are subject to an interlocutory appeal;
4)[92] the subject of a complaint is the failure to act or excessive length of proceedings.
5)[93] a decision has been issued in simplified proceedings referred to in Section II Chapter 14 of the Act of 14th June 1960 – Code of Administrative Proceedings.

Art. 120[94]**.** The court shall hear cases in accordance with the simplified procedure *in camera* sitting with three judges.

Art. 121. The case may also be heard in accordance with the simplified procedure in the event referred to in Article 55 § 2.

Art. 122. The court hearing the case in accordance with the simplified procedure may refer that case to be heard at a trial.

Chapter 9
Suspension and resumption of proceedings

Art. 123. The proceedings shall be suspended by operation of law if the court has ceased to act due to force majeure.

[91] Article 119 (3) inserted by Article 1 (27) of the Act cited in footnote 1.
[92] Article 119 (4) inserted by Article 1 (27) of the Act cited in footnote 1.
[93] Article 119 (5) inserted by Article 9 (10) of the Act cited in footnote 6.
[94] Article 120 in the wording given by Article 1 (28) of the Act cited in footnote 1.

Art. 124. § 1. The court shall suspend the proceedings on its own authority:

1) in the event of death of the party or its statutory representative, the loss of procedural capacity by them, the loss of the party of its capacity to be a party in court or loss by the statutory representative of the character of such a representative, subject to § 3;
2) if defects have occurred in the composition of authorities of an organisational unit being a party, which prevent it from operation;
3) if a party or its statutory representative finds itself in a place from which, due to extraordinary events, it is not able to communicate with the seat of the court;
4) if bankruptcy proceedings have been commenced against a party, and the matter relates to an asset of the bankruptcy estate;
5) in the event that in these proceedings the court has submitted a question of law to the Constitutional Tribunal or the Court of Justice of the European Union;
6) in an event referred to in w Article 56.

§ 2. In the events listed in § 1 (1) and (4), suspension shall take effect from the day of events which have caused it. These events, however, shall not stay the rendering of a judicial decision if they have happened after the conclusion of the trial.

§ 3. In the event of the death of a party, the proceedings shall not be suspended if the subject-matter of the proceedings relates exclusively to the rights and obligations closely connected with the deceased person.

§ 4[95]. At the request of the Bank Guarantee Fund, the court shall stay proceedings to which an entity under restructuring referred to in Article 2(44) of the Act of 10th June 2016 on the

[95] Article 124 § 4 inserted by Article 353 (1) of the Act of 10th June 2016 on the Bank Guarantee Fund, deposit guarantee scheme and resolution (Journal of Laws of 2016, item 996, as amended).

Bank Guarantee Fund, deposit guarantee scheme and resolution (Journal of Laws item 996) is a party, if this is required to ensure proper forced restructuring, including the application of forced restructuring instruments.

Art. 125. § 1. The court may on its own authority suspend the proceedings:

1)[96] if the resolution of the case depends on the outcome of another pending administrative, court administrative or court proceeding, proceeding before the Constitutional Tribunal or the Court of Justice of the European Union;
2) if an act has come to light, the establishing of which by means of penal or disciplinary process would have influenced the determination of the administrative court case;
3) if, due to the lack of, or a wrong, address of the complainant being supplied, or a failure by the complainant to comply with other rulings, the case may not be proceeded with;
4) in the event of the death of an agent, unless the party performs acts before the court in person.

§ 2. If penal or administrative proceedings have not yet been commenced, and the commencement thereof depends on the party's request, the court shall set the time limit for institution of proceedings, in other instances it may address to a ompetent authority.

Art. 126. The court may also suspend the proceedings upon a concurrent motion of the parties.

Art. 127. § 1. In the event that the proceedings have been suspended upon concurrent motion of the parties or the impossibility to proceed with the case, the suspending of the proceedings shall stay only the running of court time limits, which shall begin to run just from the day of resumption of the proceedings.

[96] Article 125 § 1 (1) in the wording given by Article 1 (29) of the Act cited in footnote 1.

§ 2. In any other instances of suspension no time limits shall run, and they shall start to run from the beginning on the day of resumption of the proceedings. The court time limits, if necessary, should be set anew.

§ 3. While the proceedings are suspended, the court shall take no action, except for those aiming at resumption of the proceedings or staying the execution of an act or action. Actions taken by the parties, which do not concern these subjects, shall take effect from the day of resumption of the proceedings.

Art. 128. § 1. The court shall decide to resume the proceedings on its own authority, when the reason for the suspension has ceased to exist, in particular:

1) in the event of the death of the party – from the day on which legal successors of the deceased person have come forward or have been designated or from the day of appointment, in a proper way, of the curator for the estate;
2) in the event of the loss of capacity to be a party in court – from the day of establishment of a general legal successor;
3) in the lack of statutory representative – from the day of appointment thereof;
4) if determination of the case depends on the outcome of other proceedings – from the day on which the judicial decision concluding the proceedings has become legally binding; the court may also, before that, resume further proceedings according to the circumstances.

§ 2[97]. If the legal successors of the deceased party do not come forward or are not designated within a year from the date of issuing an order suspending proceedings, the court may, on its own authority, request a probate court to appoint a personal representative of the estate, unless a personal representative of

[97] Article 128 § 2 in the wording given by Article 1 (30) of the Act cited above.

the estate has already been appointed. The activity may be performed by a court referendary.

Art. 129[98]**.** § 1. In the event that the proceedings have been suspended upon a concurrent motion of the parties, the court shall decide to resume the proceedings upon the motion of any of the parties, no sooner than after three months of suspending the proceedings.

§ 2. If proceedings referred to in Article 124 (4) are stayed at the request of the Bank Guarantee Fund, the court shall decide to resume the proceedings at the request of the Fund.

Art. 130. § 1[99]. The court shall discontinue a proceeding that has been suspended:

1) if a petition to resume proceedings suspended on a joint application by the parties or for reasons indicated in art. 125 § 1 subparagraph 3 was not submitted within three years from the date of issuing an order suspending the proceeding;
2) if it is found that the party that is no longer capable of being a party to a court proceeding has no legal successor, and in any event after a period of three years from the date of issuing an order suspending the proceeding on this ground;
3) in the event of the death of a party, after a period of five years from the date of issuing an order suspending the proceeding on this ground.

§ 2. The discontinuance of the suspended proceedings before the Supreme Administrative Court shall make the judicial decision of a voivodship administrative court legally binding.

Art. 131[100]**.** An order on the suspending, resuming and discontinuing of proceedings may be made *in camera*. An order

[98] Article 129 in the wording given by Article 353 (2) of the Act cited in footnote 95.

[99] Article 130 § 1 in the wording given by Article 1 (31) of the Act cited in footnote 1.

[100] Article 131 in the wording given by Article 1 (32) of the Act cited above.

suspending proceedings and refusing to resume proceedings shall be subject to an interlocutory appeal.

Chapter 10
Court decisions

Art. 132. The court shall resolve the case by a judgment.

Art. 133. § 1. The court shall issue a judgment upon the closure of the trial on the basis of files of the case, unless the authority has not comply with the obligation referred to in Article 54 § 2. A judgment may be issued in camera in simplified proceedings or if so provided by statute.

§ 2. The case once closed may be opened *de novo* by the court.

§ 3. The trial should be opened *de novo* if substantial circumstances have come into light just after its closure.

Art. 134. § 1[101]. The court shall determine a case within its limits while not being bound by the charges and requests of the complaint and the legal basis invoked, subject to art. 57a.

§ 2. The court may not issue a decision in disfavour to the complainant, unless the court finds that there has been a violation of law resulting in the declaration of invalidity of the challenged act or action.

Art. 135. The court shall apply measures prescribed by statute in order to remedy the violation of law in relation to acts or actions issued or taken in all the proceedings carried out within the limits of the case to which the case relates, if this is indispensable to pursue the case to its final conclusion.

Art. 136. A judgment may be issued only by those judges before whom the trial immediately preceding the issuing of a udgment has been held.

[101] Article 134 § 1 in the wording given by Article 1 (33) of the Act cited above.

Art. 137. § 1. The court shall issue a judgment after the deliberation of the judges held in private. The deliberation and voting on the decision shall be closed to the public, and the waiving of secrecy of such matters, subject to § 3, shall not be allowed. The deliberation shall include discussion, a vote on the decision that is to be rendered, the principal reasons for the determination as well as the writing of the operative part of the judgment.

§ 2. The presiding judge shall take the vote of the judges, commencing from the youngest person holding the office of judge of the administrative court, giving his/her own vote last. The judge-rapporteur, if one has been designated, shall be the first to vote. Judgments shall be rendered by majority vote. A judge who, in the course of voting, has not agreed with the majority, may, when signing the operative part of a judgment, submit a dissenting opinion and he/she shall be obligated to present reasons for that in writing before signing the reasons [for the judgment]. A dissenting opinion may also relate to the reasons for the judgment alone.

§ 3. The fact that a dissenting opinion has been submitted shall be made public, as well as the name of a member of the adjudicating panel, who has submitted a dissenting opinion, upon his/her consent.

§ 4. The operative part of the judgment shall be signed by the entire panel.

Art. 138. The operative part of the judgment shall include: designation of the court, first and last names of judges, recording clerk, as well as public prosecutor who has participated in the case, the date and place of the hearing of the case and of rendering the judgment, the first and last name or the name of the complainant, the subject-matter of the complaint and the determination of the case by the court.

Art. 139. § 1.The judgment shall be pronounced at the session at which the hearing has been closed. However, in a com-

plex case, the court may defer a judgment for no longer than 14 days. In its order deferring it, the court should set the time limit for pronouncement of the judgment and announce it immediately after the closure of the trial. This time limit may be extended once for a period of not more than seven days.

§ 2. Pronouncement of a judgment shall be in a public session. Absence of parties shall not stay the pronouncement. If the pronouncement has been adjourned, it may be made by the presiding judge alone or by one of the judges from the adjudicating panel.

§ 3. Pronouncement of judgment shall be made by reading of its operative part. During the pronouncement of a judgment, all present, except for the court, should stand. After the pronouncement of the operative part, the presiding judge or a judge-rapporteur shall present orally the principal reasons for the determination, he/she may, however, omit to do so if the case has been heard behind closed door.

§ 4. A transcript of the operative part of a judgment issued *in camera* shall be served on the parties, when, by the operation of law, no reason for the judgment is drawn up.

§ 5[102]. A judgment rendered *in camera* shall be immediately made publically available at the registry of the court for a period of fourteen days.

Art. 140[103]. § 1. The presiding judge shall provide a party that is not represented by a lawyer, legal advisor, tax advisor or a patent agent and that is present during the delivery of a judgment with guidelines as to the time limit for bringing an appellate measure and the manner in which an appellate measure should be brought.

§ 2. The court shall, on its own authority, serve a transcript of the conclusion of the judgment, together with information about the time limit for bringing an appellate measure and

[102] Article 139 § 5 inserted by Article 1 (34) of the Act cited above.

[103] Article 140 in the wording given by Article 1 (35) of the Act cited above.

the manner in which an appellate measure should be brought, within a week of the delivery of the judgment on a party that is not represented by a lawyer, legal advisor, tax advisor or patent agent and that was not present during the delivery of the judgment due to the deprivation of liberty.

§ 3. If a court serves a transcript of the conclusion of a judgment handed down *in camera* on a party that is not represented by a lawyer, legal advisor, tax advisor or patent agent, the court shall inform the party about the time limit for bringing an appellate measure and the manner in which an appellate measure should be brought.

Art. 141. § 1[104]. Reasons for a judgment shall be prepared ex officio within fourteen days of the date of delivery of the judgment or the date of signature of the conclusion of a judgment handed down *in camera*.

§ 2. In cases, in which the complaint has been dismissed, reasons for judgment shall be given at the request of a party filed within seven days from the day of pronouncement of the judgment or delivery of a transcript of its operative part of the judgment. Reasons of judgment shall be given within 14 days from the day of filing the request.

§ 2a[105]. In a complicated case, where it is not possible to prepare the reasons for the judgment within the time limit referred to in § 1 and 2, the president of the court may extend the time limit for a fixed period of time no longer than thirty days.

§ 3. Refusal to give reasons for judgment shall be made by an order issued *in camera*.

§ 4. Reasons for judgment shall include provision of a brief picture of the state of the case, the charges of the complaint, the positions taken by other parties, the legal basis of the determi-

[104] Article 141 § 1 in the wording given by Article 1 (36 a/) of the Act cited above.

[105] Article 141 § 2a inserted by Article 1 (36) of the Act cited above.

nation and its explanation. If, as a consequence of granting the complaint, the case is to be reconsidered by an administrative authority, the reasons should additionally include suggestions as to further proceeding.

Art. 142. § 1. A transcript of the judgment with reasons given by the operation of law shall be served on each of the parties.

§ 2. If the reasons for the judgment have been given at the request of a party, a transcript of the judgment with reasons given shall be served only on that party which has filed the request.

Art. 143. Reasons for the judgment shall be signed by the judges who have issued it. If any of the judges is not able to sign the reasons, the presiding judge or the other judge of the adjudicating panel shall write in the judgment the reason for lack of signature.

Art. 144. The court shall be bound by the judgment rendered from the moment of its pronouncement and, if the judgment has been rendered *in camera* – from the signing of the operative part of the judgment.

Art. 145. § 1. The court, granting the complaint against an [administrative] decision or order, shall:

1) set aside the decision or order in whole or in part, if it finds that there has been:
   a) a violation of substantive law, that have affected the outcome of the case,
   b) a violation of law which provides the basis to reopen administrative proceedings,
   c) other breach of procedural provisions, if it would have substantially affected the outcome of the case;
2) find that the decision or order is invalid in whole or in part, if there exist grounds specified in Article 156 of the Code of Administrative Proceedings or in other provisions;

3) find the decision or order to be issued in violation of law, if there exist grounds specified in the Code of Administrative Proceedings or in other provisions.

§ 2. The provisions of § 1 shall apply, taken into consideration provisions governing the proceedings in which the challenged decision or order has been issued, to matters of complaints against decisions and orders issued in proceedings other those governed by the Code of Administrative Proceedings and by the provisions on enforcement proceedings in administration.

§ 3[106]. In the case referred to in § 1 subparagraphs 1 and 2, the court, determining that there are grounds for discontinuing administrative proceedings, shall at the same time discontinue the proceedings.

Art. 145a[107]**.** § 1. In the case referred to in art. 145 § 1 subparagraph 1(a) or subparagraph 2, where the circumstances of the case so justify, the court shall oblige the authority to render a decision or order within a specified time limit, indicating the manner in which the case should be handled or determined, unless the determination was left to the discretion of the authority.

§ 2. The competent authority shall notify the court of the issuing of the decision or order referred to in § 1 within seven days from the date on which they were issued. In the event of failure to notify the court, it may decide to impose a fine on the authority in the amount specified in art. 154 § 6. The order may be rendered *in camera*.

§ 3. Should the decision or order referred to in § 1 not be rendered within the time limit specified by the court, the party may lodge a complaint, requesting that a decision be rendered whereby it is declared whether or not the right or obligation exists. The court shall render a decision on this

[106] Article 145 § 3 inserted by Article 1 (37) of the Act cited above.

[107] Article 145a inserted by Article 1 (38) of the Act cited above.

matter if the circumstances of the case allow. As a result of the examination of a complaint, the court shall state whether or not the failure to issue a decision or order took place in blatant violation of law and may also, on its own authority or at the request of the party, impose a fine on the authority in the amount specified in art. 154 § 6 or order that the authority pay the complainant a sum of up to half the amount specified in art. 154 § 6.

Art. 146. § 1[108]. When granting a complaint against the act or action referred to in art. 3 § 2 subparagraphs 4 and 4a, the court shall annul the act, the interpretation, the protective tax opinion or refusal to issue a protective tax opinion or declare that the action is with no legal effect. The provision of art. 145 § 1 subparagraph 1 shall apply accordingly.

§ 2. In matters concerning complaints against the act or action referred to in art. 3 § 2 subparagraph 4, the court may recognize in its judgment the right or obligation arising from the provisions of law.

Art. 147. § 1. The Court, granting the complaint against the resolution or act referred to in Article 3 § 2 (5) and (6) shall declare such resolution or act invalid in whole or in part, or shall declare that they have been issued in violation of law, if a special provision excludes declaration of their invalidity.

§ 2. The determination of individual cases made on the basis of a resolution or act, referred to in paragraph 1, shall be subject to reversal according to a fashion specified by administrative procedure or special procedure.

Art. 148. The court, granting the complaint of an authority of local government unit against an act of supervision, shall set aside that act.

[108] Article 146 § 1 in the wording given by Article 2 (3) of the Act cited in footnote 3.

Art. 149. § 1[109]. When granting a complaint against failure to act or excessive length of proceedings by authorities in the matters referred to in art. 3 § 2 subparagraphs 1–4 or against the excessive length of proceedings in the matters referred to in art. § 2 subparagraph 4a, the court shall:

1) oblige the authority to issue, within a specified time limit, the act, interpretation or to perform the action;
2) oblige the authority to ascertain or recognize the right or obligation arising from the provisions of law;
3) declare that the authority is guilty of the failure to act or excessive length of proceedings.

§ 1a[110]. At the same time, the court shall declare whether the failure to act or excessive length of proceedings by the authority took place in blatant violation of law.

§ 1b[111]. In the case referred to in § 1 subparagraphs 1 and 2, the court may also declare whether or not the right or obligation exists if the nature of the case as well as the facts and legal framework of the case that do not raise reasonable doubts permit.

§ 2[112]. In the case referred to in § 1, the court may also, on its own authority or at the request of the party, decide to impose a fine on the authority in the amount specified in art. 154 § 6 or order that the authority pay the complainant a sum of up to half the amount referred to in art. 154 § 6.

Art. 150. In respect of complaints against acts or actions not listed in Articles 145–148, the court, granting the complaint, shall set aside or declare that act or action has no effect.

[109] Article 149 § 1 in the wording given by Article 1 (40 a/) of the Act cited in footnote 1.

[110] Article 149 § 1a inserted by Article 1 (40 b) of the Act cited above.

[111] Article 149 § 1b inserted by Article 1 (40 b) of the Act cited above.

[112] Article 149 § 2 in the wording given by Article 1 (40 c/) of the Act cited above.

Art. 151[113]**.** Should a complaint not be granted in whole or in part, the court shall dismiss the complaint, respectively, in whole or in part.

Art. 151a[114]**.** § 1. When granting an objection to the decision, the court shall repeal the decision in full, if it determines that any infringement of Article 138 (2) of the Act of 14th June 1960 – Code of Administrative Proceedings has occurred. The court may also decide, either ex officio or at the request of the party, to impose a fine on the body in the amount specified in Article 154 (6).

§ 2. If an objection to the decision is not granted, the court shall dismiss the objection.

§ 3. The judgment referred to in § 1 may not be appealed against, but the order imposing a fine may be complained against.

Art. 152[115]**.** § 1. Should a complaint against an act or action be granted, they do not produce legal effects until a judgment becomes legally binding, unless the court decides otherwise.

§ 2. The provision of § 1 shall not apply to the acts of local law.

Art. 153[116]**.** The legal assessment and indications as to the further course of action presented in a decision rendered by a court shall be binding on the authorities whose action, failure to act or excessive length of proceedings was the subject of the complaint as well as on courts, unless the provisions of law have been amended.

[113] Article 151 in the wording given by Article 1 (41) of the Act cited above.

[114] Article 151a inserted by Article 9 (11) of the Act cited in footnote 6.

[115] Article 152 in the wording given by Article 1 (41) of the Act cited in footnote 1.

[116] Article 153 in the wording given by Article 1 (41) of the Act cited above.

Art. 154. § 1[117]. Should a judgment granting a complaint against the failure to act or excessive length of proceedings not be fulfilled, the party shall have the right, after calling on the competent authority in writing to fulfil the judgment or handle the case, to lodge a complaint on the matter, requesting that a fine be imposed on the authority.

§ 2. In case referred to in § 1 above, the Court may additionally adjudicate on whether there exist or not a right or obligation, if this is allowed by the nature of the case and non-litigious circumstances of its factual and legal status. At the same time, the court shall find whether the failure to act or excessive length of proceedings by the authority have taken place in flagrant breach of law.

§ 3. Compliance with the judgment or settlement of the case after bringing of the complaint, referred to in § 1, shall not provide a basis for discontinuance of the proceedings or rejection of the complaint.

§ 4. A person, who has suffered injury because of a lack of compliance with the court decision, shall be entitled to compensation in accordance with principles specified in the Civil Code.

§ 5. A compensation referred to in § 4, shall be paid by the authority which has failed to comply with the court decision. If the authority has not paid the compensation within 3 months from the filing of a claim for compensation, the entitled entity may bring action to a common court.

§ 6. A fine referred to in paragraph 1 shall be imposed up to a maximum of ten-fold average wage in the sector of national economy calculated for the last year, as pronounced by the President of the Central Statistical Office pursuant to separate provisions.

[117] Article 154 § 1 in the wording given by Article 1 (42) of the Act cited above.

§ 7[118]. When granting a complaint, the court may order that the authority pay the complainant a sum of up to half the amount referred to in art. 154 § 6.

Art. 155. § 1. In the event that substantial violations of law or about circumstances affecting their occurrence have been ascertained in the course of hearing of the case, an adjudicating panel of the court may inform appropriate authorities, or their superior bodies, in the form of an order, about such irregularities.

§ 2. An authority which has received an order shall be obliged to consider it and notify the court, within 30 days, on its attitude.

§ 3[119]. In the case of failure to meet the obligations referred to in § 2, the court may decide to impose a fine on the authority in the amount specified in art. 154 § 6. The order shall be rendered *in camera*.

Art. 156. § 1. The court may, on its own authority, correct in a judgment any inaccuracies, mistakes in writing, calculation or other manifest errors.

§ 2. A correction may be ordered by the court sitting *in camera*. A mention of the correction shall be placed on the original of the judgment, and, at the request of the parties, also on the transcripts given to them. Further transcripts should be edited in the wording taking into account the order on correction.

§ 3. If the case is conducted before the Supreme Administrative Court, such court may on its own authority correct a judgment rendered in the first instance.

Art. 157. § 1. A party may, within fourteen days from service of judgment by the operation of law or – when the judgment is not served on the party – from the day of pronouncement, file

[118] Article 154 § 7 inserted by Article 1 (42 b) of the Act cited above.

[119] Article 155 § 3 inserted by Article 1 (43) of the Act cited above.

a request for supplementation of the judgment, if the court has not decided on the entire complaint or has not entered in the judgment an additional decision which, pursuant to the provision of this Act, the court should enter on its own authority.

§ 1a[120]. If the request referred to in § 1 is filed after the expiry of the time limit, it shall be rejected. The court may render the order *in camera*.

§ 2. A request for supplementation of a judgment as to the return of costs may be heard by the court sitting *in camera*.

§ 3. A judicial decision supplementing the judgment shall be rendered in the form of a judgment, unless the supplementation relates exclusively to costs.

Art. 158. The court which has issued a judgment shall resolve by an order any doubts as to its content. An order in the matter may be issued by the court sitting *in camera*.

Art. 159. A request for correction, supplementation or interpretation of a judgment shall not affect the running of the time limit for bringing means of review.

Art. 160. If a judgment is not provided for by this Act, the court shall make a decision in the form of an order.

Art. 161. § 1. The court shall issue an order to discontinue the proceedings:

1) if the complainant has withdrawn the complaint;
2) in the event of the death of the party, if the subject-matter of the proceedings relates exclusively to the rights and obligations closely connected with the deceased person, unless participation in the case has been declared by a person whose legal interest is affected by the outcome of these proceedings;
3) when the proceedings have become irrelevant for other reasons.

[120] Article 157 § 1a inserted by Article 1 (44) of the Act cited above.

§ 2. An order on discontinuance of the proceedings may be rendered *in camera*.

Art. 162. Determinations contained in orders not concluding the proceedings in the case, issued at open sessions, shall be written down to the record without writing a separate operative part, if they cannot be subject to interlocutory appeal.

Art. 163. § 1. The court shall give reasons to orders pronounced at the trial, when they are subject to review and shall serve them on the parties.

§ 2[121]. Orders rendered *in camera* shall be served by the court ex officio on the parties. If a party is entitled to bring means of review, the order should be served together with reasons for the order. When serving the order, a party to a case that is not represented by a lawyer, legal advisor, tax advisor or a patent agent shall be informed about the admissibility and manner of bringing an appellate measure as well as about the time limit for bringing an appellate measure.

§ 3. The justification specified in § 1 and 2 shall be prepared within seven days from the day on which the ruling has been issued.

Art. 164. The ruling issued during the hearing *in camera* shall be binding from the moment on which it has been signed together with its justification; if the court has not justified the ruling, it shall be binding from the moment on which the sentence has been signed.

Art. 165. The rulings which do not terminate the proceedings in a given case can be repealed and modified in the case of any change of the circumstances of the case, even if they are challenged or even legally binding.

[121] Article 163 § 2 in the wording given by Article 1 (45) of the Act cited above.

Art. 166. The provisions on rulings shall accordingly apply to the rulings, unless the Act provides otherwise.

Art. 167. The provisions hereof shall accordingly apply to the rulings of the presiding judge.

Art. 167a[122]**.** § 1. The provisions on the rulings of a presiding judge and the orders of a court shall apply mutatis mutandis to the rulings and orders of a court referendary.

§ 2. The rulings and orders of a court referendary referred to in art. 30 § 1, art. 49 § 2 and art. 234 § 2 shall be subject to a protest. A protest shall be examined by the court in which the challenged decision was rendered.

§ 3. In the event that a protest is lodged, the ruling or order against which it has been lodged shall cease to be effective.

§ 4. A protest shall be lodged with a court within seven days of service of a ruling or order of a court referendary on a party, unless a special provision provides otherwise.

§ 5. A protest that is lodged after the expiry of the time limit shall be rejected by the court.

§ 6. The court shall hear the case as a court of the first instance, unless a special provision provides otherwise.

Chapter 11
Legally binding character of judicial decisions

Art. 168. § 1. A decision of the court shall become legally binding, in no appellate measure lies against it.

§ 2. Despite inadmissibility of a separate review, orders subject to hearing by the Supreme Administrative Court shall not become legally binding, when that Court hears the case in which they have been issued.

§ 3. The judicial decision which has been challenged only in part, shall become legally binding in the remaining part after

[122] Article 167a inserted by Article 1 (46) of the Act cited above.

the expiration of the time limit for review, unless the Supreme Administrative Court may on its own authority hear the case in that part as well.

Art. 169[123]**.** § 1. At the request of a party as well as in the case referred to in art. 286 § 1, a voivodship administrative court shall declare *in camera* whether a decision is legally binding. The order shall be served only on the party that has filed the request.

§ 2. On order declaring that a decision of a voivodship administrative court is legally binding may be made by a court referendary.

Art. 170. A legally binding judicial decision shall bind not only the parties and court which has issued it, but also other courts and state authorities, and – in instances provided in statute – also other persons.

Art. 171. A legally binding judgment shall have the force of *res judicata* only on that what in relation with the complaint has constituted the subject of the determination.

Art. 172. The Supreme Administrative Court shall annul a legally binding decision of an administrative court issued in the case which, by reason of a person or subject-matter, has not been within the jurisdiction of the administrative court at the time of issuing the decision, and shall reject the complaint, if the decision cannot be reversed under the procedure provided for in statute. The Court shall adjudicate at the request of the President of the Supreme Administrative Court. The provisions on hearing of cassation appeal shall apply as appropriate to hearing of a request.

[123] Article 169 in the wording given by Article 1 (47) of the Act cited above.

PART IV
APPELLATE MEASURES

Chapter 1
Cassation appeal

Art. 173. § 1[124]. A judgment or an order concluding the proceedings in the case rendered by a voivodship administrative court, exclusive of cases referred to in art. 58 § 1 subparagraphs 2–4, art. 161 § 1 and art. 220 § 3, shall be subject to a cassation appeal to the Supreme Administrative Court.

§ 2. A cassation appeal may be lodged by a party, a public prosecutor, the Commissioner for Human Rights (Ombudsman) or the Commissioner for Children's Rights after a transcript of a judicial decision with reasons given has been served on them.

Art. 174. A cassation appeal may be made on the following grounds:

1) the violation of substantive law caused by its misinterpretation or improper application;
2) the breach of procedural rules, if that infringement could have substantially affected the outcome of the case.

Art. 175[125]**.** § 1. A cassation appeal should be drawn up by a lawyer or legal counsel, save § 2–3.

§ 2[126]. The provisions of § 1 shall not apply, when a cassation appeal is drawn up by a judge, a public prosecutor, a notary

[124] Article 173 § 1 in the wording given by Article 1 (48) of the Act cited above.

[125] Article 173 § 1 in the wording fiven by Article 1 (2a) of the Act cited in footnote 17.

[126] Article 173 § 2 in the wording given by Article 113 (2) of the Act of 15th December 2016 on the General Counsel to the Republic of Poland (Journal of Laws of 2016, item 2261).

public, a counsel of the General Counsel to the Republic of Poland, or a professor or doctor habilitated in legal sciences, who is a party to the proceedings or its representative or agent, or when the cassation appeal has been brought by a public prosecutor, the Commissioner for Human Rights (Ombudsman) or the Commissioner for Children's Rights.

§ 2a[127]. The provisions of § 1 shall not apply also when a party to the proceedings is the President of the General Counsel to the Republic of Poland or when actions in the proceedings on behalf of government administration authorities, state organisational units which do not have legal personality or the State Treasury are taken by the General Counsel to the Republic of Poland.

§ 3. A cassation appeal may be drawn up:

1) in matters of tax and customs obligations and matters of administrative enforcement related to these obligations – by a tax adviser,
2) in matters of industrial property – by a patent agent.

Art. 176[128]. § 1. A cassation appeal shall contain:

1) a reference to the challenged decision and information on whether it is challenged in its entirety or in part;
2) citation of the grounds for cassation and their justification;
3) a request that a decision be annulled or modified, together with the indication of the scope of the requested annulment or modification.

§ 2. Apart from the requirements referred to in § 1, a cassation appeal shall satisfy the requirements prescribed for a letter lodged by a party and include a request that it be heard at a hearing or a declaration on the waiver of a hearing.

[127] Article 175 § 2a inserted by Article 1 (2b) of the Act cited in footnote 17.

[128] Article 176 in the wording given by Article 1 (49) of the Act cited in footnote 1.

Art. 177. § 1. A cassation appeal shall be lodged with the court which has issued the challenged judgment or order, within 30 days from the day of service on the party of a transcript of the judicial decision with reasons given.

§ 2. The time limit for lodging a cassation appeal prescribed for the parties shall also bind a public prosecutor, the Commissioner for Human Rights (Ombudsman) and the Commissioner for Children's Rights. If, however, the decision is not served on a party, a public prosecutor, the Commissioner for Human Rights (Ombudsman) and the Commissioner for Children's Rights may apply within 30 days from the day on which the decision has been issued for reasons be given for the decision and may lodge a cassation appeal within 30 days from the day of service of a transcript of the decision with reasons given.

§ 3[129]. In the event that a lawyer, legal advisor, tax advisor or a patent agent is appointed upon the exercise of the right to assistance after a decision has been rendered, upon the application by the party on which a transcript of the decision together with the reasons therefor prepared ex officio is served or by the party that filed a request that reasons for the decision be prepared, the time limit for lodging a cassation appeal shall begin to run from the date on which the attorney is informed that he/she has been appointed, but in any event no earlier than from the date on which a transcript of the decision together with the reasons for the decision has been served on the party.

§ 4[130]. If an attorney appointed pursuant to art. 253 § 2 finds that there are no grounds for lodging a cassation appeal, the attorney shall lodge with the court, within the time limit prescribed for lodging a cassation appeal, his/her opinion on the matter, together with its transcript for the party for which the attorney has been appointed. The court shall serve the transcript of the opinion on the party. The time limit for the

[129] Article 177 § 3 inserted by Article 1 (50) of the Act cited above.

[130] Article 177 § 4 inserted by Article 1 (50) of the Act cited above.

lodging of a cassation appeal by the party shall begin to run from the date of the service of the transcript of the opinion, of which the court shall inform the party when serving the transcript.

§ 5[131]. The provision of the third sentence of § 4 shall not apply if the court finds that the opinion has not been prepared with due diligence. In such a case, the court shall notify thereof a competent circuit bar council, council of a circuit chamber of legal advisors, National Council of Tax Advisors or the National Council of Patent Agents, which shall appoint another attorney.

§ 6[132]. In the event of refusal to grant the right to assistance which includes the right to have a lawyer, legal advisor, tax advisor or patent agent appointed upon the application referred to in § 3, the time limit for lodging a cassation appeal shall not begin to run earlier than from the date of the service of the order on the party, and should the party appeal against the order – earlier than from the date of the service of the order concluding the proceeding in this matter.

Art. 177a[133]**.** If the cassation appeal does not meet the requirements of art. 176 other than citation of the appeal grounds and their justification, the president shall request the party to rectify the shortcomings within seven days on pain of rejection of the cassation appeal**.**

Ar. 178. The voivodship administrative court shall reject, sitting *in camera*, a cassation appeal lodged after the expiration of the time limit or inadmissible for other reasons, as well as

[131] Article 177 § 5 inserted by Article 1 (50) of the Act cited above.

[132] Article 177 § 6 inserted by Article 1 (50) of the Act cited above.

[133] Article 177a inserted by Article 1 of the Act of 9 July, 2015 amending the Law on Proceedings before Administrative Courts (Journal of Laws of 2015, item 1191).

a cassation appeal the deficiencies of which have not been corrected by the party within the prescribed time limit.

Art. 178a[134]**.** A voivodship administrative court shall discontinue a cassation proceeding *in camera* if a party has effectively withdrawn a cassation appeal before it is presented to the Supreme Administrative Court together with case files. The order shall be subject to an interlocutory appeal.

Art. 179. A party which has not lodged a cassation appeal, may bring to a voivodship administrative court a response to the cassation appeal within 14 days from the day of delivery of the cassation appeal thereto. After the expiration of the time limit for response or after the service on the appellant of the response to the cassation appeal has been decided, the voivodship administrative court shall immediately present the cassation appeal with the response and the files of the case to the Supreme Administrative Court.

Art. 179a[135]**.** If, before a cassation appeal is presented to the Supreme Administrative Court, a voivodship administrative court finds that a proceeding in the case is invalid or that grounds for the cassation appeal are clearly proper, the court shall set aside the challenged judgment or order, deciding, at the request of the party, also about the reimbursement of the costs of the cassation proceedings, and shall rehear the case at the same session. The decision rendered shall be subject to a cassation appeal.

Art. 180. The Supreme Administrative Court shall reject, sitting *in camera*, a cassation appeal, if it was subject to dismissal by a voivodship administrative court, or shall return it to that court for elimination of the defects noticed.

[134] Article 178a inserted by Article 1 (51) of the Act as cited in footnote 1.
[135] Article 179a inserted by Article 1 (52) of the Act cited above.

Art. 181. § 1. The Supreme Administrative Court shall hear a cassation appeal at trial by a panel of three judges, unless a specific provision provides otherwise.

§ 2[136]. The Supreme Administrative Court shall, when hearing a cassation appeal against a judgment, hand down a judgment, and when hearing a cassation appeal against an order – render an order.

Art. 182[137]. § 1. The Supreme Administrative Court may hear *in camera* a cassation appeal against an order of a voivodship administrative court concluding the proceeding in the case.

§ 2. The Supreme Administrative Court shall hear a cassation appeal *in camera* if the party that lodged the appeal waived the right to a hearing and the remaining parties did not request within fourteen days of the service of the cassation appeal that a hearing be conducted.

§ 2a[138]. An appeal on a point of law against a judgment issued by a voivodeship administrative court dismissing an objection to the decision shall be considered by the Supreme Administrative Court *in camera*.

§ 3. When hearing a cassation appeal *in camera*, the Supreme Administrative Court shall sit as a single judge, whereas in the cases referred to in § 2, in a panel of three judges.

Art. 182a[139]. An appeal on a point of law against a judgment issued by a voivodeship administrative court dismissing an objection to the decision shall be considered by the Supreme Administrative Court within thirty days of receipt of the appeal on a point of law.

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[136] Article 181 § 2 inserted by Article 1 (53) of the Act cited above.

[137] Article 182 in the wording given by Article 1 (54) of the Act cited above.

[138] Article 182 § 2a inserted by Article 9 (12) of the Act cited in footnote 6.

[139] Article 182a inserted by Article 9 (13) of the Act cited in footnote 6.

Art. 183. § 1. The Supreme Administrative Court shall hear the case within the limits of the cassation appeal, however, it take into account – on its own authority – invalidity of the proceedings. The parties may present new grounds for cassation.

§ 2. The nullity of the proceedings shall occur:

1) if making the recourse to the court was inadmissible;
2) if the party has not had the capacity to be a party in court or procedural capacity, it has not had a body appointed to represent it or statutory representative, or when the agent of the party has not been adequately authorised;
3) if the proceedings already instituted before an administrative court are pending in the same case or if a legally binding decision has been issued in such case;
4) if the formation of adjudicating panel has not complied with the provisions of law or if a judge disqualified by virtue of statute has taken part in the hearing of the case;
5) if the party has been deprived of the possibility to defend his/her rights;
6) if the voivodship administrative court has adjudicated in the case which falls within the jurisdiction of the Supreme Administrative Court.

Art. 184. The Supreme Administrative Court shall dismiss a cassation appeal if there is no justified grounds or if the challenged judicial decision complies with the law despite wrong reasons given.

Art. 185. § 1. If the cassation appeal is granted, the Supreme Administrative Court shall reverse the challenged judicial decision in whole or in part and remand the case for reexamination to the court which has issued the decision, and if that court is not able to examine it in a different panel – to another court.

§ 2. If the case is remanded for reexamination, the court shall examine it in a different panel.

Art. 186. The Supreme Administrative Court hearing a cassation appeal shall reverse the judgment also in its part not challenged, if nullity of the proceedings has occurred.

Art. 187. § 1. If a legal issue causing serious doubts arises in the course of hearing of a cassation appeal, the Supreme Administrative Court may adjourn the hearing of the case and refer that issue to be resolved by a panel of seven judges of that Court.

§ 2. The resolution of a panel of seven judges of the Supreme Administrative Court shall be binding upon the case.

§ 3. The Supreme Administrative Court sitting in a panel of seven judges may decide to hear the case itself.

Art. 188[140]**.** In the event that a cassation appeal is granted, the Supreme Administrative Court shall, annulling the challenged decision, hear the appeal if it finds that the substance of the case has been clarified sufficiently.

Art. 189. If the complaint was subject to dismissal or there have existed grounds for discontinuance of the proceedings before a voivodship administrative court, the Supreme Administrative Court shall reverse, by an order, the decision issued on the case and shall dismiss the complaint or shall discontinue the proceedings.

Art. 190. Interpretation of law made in a case by the Supreme Administrative Court shall bind the court to which the case has been referred. A cassation appeal from a judicial decision issued after rehearing of the case may not be based on grounds incompatible with the interpretation of law set forth in this case by the Supreme Administrative Court.

Art. 191. The Supreme Administrative Court, at the request of a party, shall also hear those orders of a voivodship admi-

[140] Article 188 in the wording given by Article 1 (55) of the Act cited in footnote 1.

nistrative court, which were not subject to review by way of interlocutory appeal but which have affected the solution of the case.

Art. 192. Except for the cases specified in Articles 123 through 125, the proceedings before the Supreme Administrative Court shall be suspended only upon a concurrent motion of the parties.

Art. 193[141]**.** If there are no special provisions on proceedings before the Supreme Administrative Court, such proceedings shall be governed, accordingly, by provisions on proceedings before a voivodship administrative court, and the Supreme Administrative Court shall, ex officio, provide reasons for judgments and orders within thirty days. Reasons for a judgment dismissing a cassation appeal shall include an assessment of the charges of the appeal.

Chapter 2
An interlocutory appeal

Art. 194. § 1. Interlocutory appeal shall lie to the Supreme Administrative Court from the orders of a voivodship administrative court in instances prescribed in statute, and also from the orders dealing with:

1) the transfer of the case to another administrative court;
1a)[142] dismissal of a complaint in cases referred to in art. 58 § 1 subparagraphs 2–4 and art. 220 § 3;
1b)[143] discontinuation of proceedings;
2) the staying or refusal of the execution of the decision, order, another act or action, referred to in Article 61;

[141] Article 193 in the wording given by Article 1 (56) of the Act cited above.

[142] Article 194 § 1 (1a) inserted by Article 1 (57 a/) of the Act cited above.

[143] Article 194 § 1 (1b) inserted by Article 1 (57 a/) of the Act cited above.

3)[144] *repealed*;
4) the refusal to give reasons for a judgment;
5) the correction or interpretation of a judicial decision or refusal thereof;
5a[145]) dismissal of a request for the supplementation of the judgment or refusal to grant it;
6) dismissal of a motion for disqualification of a judge;
7) rejection of a cassation appeal;
8) rejection of an interlocutory appeal;
9) reimbursement of costs of the proceedings, if the party has not filed a cassation appeal;
10) imposition of a fine.

§ 2. An interlocutory appeal shall be filed within seven days from the delivery of the order.

§ 3. An interlocutory appeal should meet the requirements prescribed for a document in court proceedings and include a designation of the challenged order and a motion for its modification or reversal, as well as brief motivation of the interlocutory appeal.

§ 4[146]. Interlocutory appeal concerning the dismissal of the cassation appeal should be drawn up by a lawyer or legal counsel. The provisions of Article 175 § 2–3 shall apply as appropriate.

Art. 195. § 1. A voivodship administrative court shall present to the Supreme Administrative Court the files of the case, together with the interlocutory appeal, after delivering it to other parties. A response to the interlocutory appeal may be fi-

[144] Article 194 § 1 (3) inserted by Article 1 (57 b/) of the Act cited above.
[145] Article 194 § 1 (5a) inserted by Article 1 (57 c/) of the Act cited above.
[146] Article 194 § 4 in the wording fiven by Article 1 (3) of the Act cited in footnote 17.

led directly to the Supreme Administrative Court within seven days from the delivery of the interlocutory appeal.

§ 2. If the interlocutory appeal raises the question of nullity of the proceedings or is evidently justified, the voivodship administrative court, which has issued the challenged order, may, sitting *in camera* and not sending the files to the Supreme Administrative Court, reverse the contested order and, if necessary, hear the case *de novo*. Appellate measures shall lie from the issued order in accordance with general rules.

§ 3[147]. Should proceedings concerning an interlocutory appeal become irrelevant before the interlocutory appeal is presented together with case files to the Supreme Administrative Court, a voivodship administrative court shall discontinue the proceedings *in camera*. The order shall be subject to an interlocutory appeal.

Art. 196. A voivodship administrative court may stay the execution of the challenged order until the interlocutory appeal is determined. Such order may be rendered *in camera*.

Art. 197. § 1. The Supreme Administrative Court shall hear the interlocutory appeal sitting *in camera*.

§ 2[148]. Provisions governing a cassation appeal, exclusive of art. 185 § 2, shall apply to proceedings pending as a result of the lodging of an interlocutory appeal.

Art. 198. The provisions of this Part shall apply as appropriate to interlocutory appeals against the rulings of the presiding judge, if filing of an interlocutory appeal is provided by statute.

[147] Article 195 § 3 inserted by Article 1 (58) of the Act cited in footnote 1.

[148] Article 197 § 2 in the wording given by Article 1 (59) of the Act cited above.

PART V
COSTS OF PROCEEDINGS

Chapter 1
Return of the costs of proceedings between the parties

Art. 199. The parties shall bear the costs of proceedings connected with their participation in the case, unless a specific provision provides otherwise.

Art. 200. In the event that the court of the first instance has granted the complaint, the complainant shall be entitled to claim from the authority which has issued the challenged act, has taken the challenged action, has failed to act or has excessive length of proceedings, reimbursement of the costs of proceedings indispensable for appropriate pursuit of his/her rights.

Art. 201. § 1. The complainant shall be entitled to claim the costs from the authority also in the event of discontinuance of the proceedings on the ground specified in Article 54 § 3.

§ 2. If proceedings have been discontinued in the event specified in Article 118 § 2, the provisions of Article 206 shall apply as appropriate.

Art. 202. § 1. If more than one entitled person appears in the case on the complainant's side, each of them shall be entitled to claim the costs proportionally to their participation in the case.

§ 2. If the rights or duties of complainants, as referred to in § 1, related to the subject of review are common, reimbursement of costs shall be made to them jointly.

Art. 203. The party which has filed a cassation appeal shall be entitled to claim the indispensable costs of the cassation proceedings incurred by it:

1) from the authority – if the judgment of the court of the first instance dismissing the complaint has been reversed in result of granting the cassation appeal;
2) from the complainant – if the judgment of the court of the first instance granting the complaint has been reversed in result of granting the cassation appeal.

Art. 204. If the cassation appeal has been dismissed, the party which has filed a cassation appeal shall be obliged to reimburse the indispensable costs of the cassation proceedings incurred by:
1) the authority – if the cassation appeal has been filed against the judgment of the court of the first instance dismissing the complaint;
2) the complainant – if the cassation appeal has been filed against the judgment of the court of the first instance granting the complaint.

Art. 205. § 1[149]. Indispensable costs of the proceedings carried out by the party in person, or by an agent who is not a lawyer or legal counsel, shall include court costs incurred by the party, cost of travel of a party or agent to the court and a sum equivalent to the loss of earnings due to attending the court. The total amount of travelling costs and a sum equivalent to the loss of earnings shall not exceed the salary of a lawyer or legal counsel.

§ 2. Indispensable costs of the proceedings of a party represented by a lawyer or legal counsel shall include their salary, which cannot however be higher than the rates of fees specified in separate provisions and the expenses of a lawyer or legal counsel, court costs and the costs of personal attendance of a party required by the court.

[149] Article 205 § 1 in the wording given by Article 6 (1) of the Act of 31st August 2012 amending the Penal Code Act and certain other acts (Journal of Laws of 2012, item 1101).

§ 3[150]. The receivables due to the party under travel costs and lost earnings or profit shall be determined and paid in compliance with the principles specified in the provisions of chapter 2, title III of the Act of 28th July 2005 on Court Costs in Civil Cases (Journal of Laws of 2016, item 623 and 2017, item 85).

§ 4. The provisions of § 2 and 3 shall apply as appropriate to a party represented by a tax adviser or patent agent.

Art. 206[151]**.** The court may, in justified cases, decide not to order that the costs of proceedings be reimbursed in whole or in part, especially in the event that the appeal was granted in part that is disproportionate in respect of the value involved in litigation determined in order to collect a filing fee.

Art. 207. § 1. The provisions of Article 202, Article 205 and Article 206 shall apply, as appropriate, in cases referred to in Article 203 and Article 204.

§ 2. In particularly justified cases, the court may refrain from awarding reimbursement of costs of the cassation proceedings in whole or in part.

Art. 208. Notwithstanding the outcomes of the cases referred to in Articles 200, 203, 204 and 207, the court may impose an obligation on the party to reimburse, in whole or in part, the costs created by his/her negligent or clearly improper conduct.

Art. 209. The application by a party for costs shall be resolved by the court in each decision granting the complaint and in a decision referred to in Articles 201, 203 and 204.

[150] Article 205 § 3 inserted by Article 6 (2) of the Act cited above.

[151] Article 206 in the wording given by Article 1 (60) of the Act cited in footnote 1.

Art. 210[152]**.** § 1. A party shall forfeit the right to request reimbursement of costs if the party fails to file, at the latest before the closing of the hearing immediately preceding the delivery of a decision, an application for the grant of a reimbursement of the costs due. A party that is not represented by a lawyer, legal advisor, tax advisor or patent agent shall be informed by the court about the consequences of failure to file the application within the aforementioned time limit.

§ 2. The provision of § 1 shall not apply when a decision is rendered *in camera* if a party is not represented by a lawyer, legal advisor, tax advisor or patent agent. In such a case, the court shall decide ex officio about the costs due to the party.

Chapter 2
Court costs

Section 1
General provisions

Art. 211. Court costs shall comprise court fees and reimbursement of expenses.

Art. 212. § 1. Court fees shall include a filing fee and a processing fee.

§ 2. Court fees shall be the revenue of the State budget.

Art. 213. Expenses shall include in particular:

1) amounts due to interpreters and guardians appointed in the given case;
2) costs of announcements as well as per diems and travel costs allowable to judges and court employees due to the performance of judicial acts outside the court house, as specified in separate provisions.

[152] Article 210 inserted by Article 1 (61) of the Act cited above.

Art. 214. § 1. Unless otherwise provided by statute, the one who has submitted to the court a legal document subject to a fee or resulting in expenses shall be obliged to pay court costs.

§ 2. A document submitted by more than one person, who share common rights or obligations relating to the subject--matter of the review, shall be subject to a single fee. Otherwise, each of those persons shall pay the fee separately pursuant to his/her right or obligation.

Art. 215. § 1. Any legal document initiating court proceedings in a given instance shall disclose the value of the subject-matter of the review, if that value affects the amount of fee.

§ 2. The designation of the value of the subject-matter of the review shall be rounded up to the nearest full zloty.

Art. 216. If a receivable is the subject-matter of the review, it shall be the value of the subject-matter of the review.

Art. 217. The value of the subject-matter of the review shall not include interest and costs related to principal due.

Art. 218. The presiding judge may check the value of the subject-matter of review specified in the legal document and may order an investigation for that purpose.

Art. 219. § 1. A court fee shall be paid upon submission of a legal document subject to the fee.

§ 2. A court fee shall be paid in cash at the cashier's desk of a competent administrative court or to the bank account of a competent court. The amount of fee shall be rounded up to the nearest full zloty.

Art. 220. § 1. The court shall not proceed on any legal document for which the required fee has not been paid. In such an event, subject to § 2 and 3, the presiding judge shall call the person submitting the document to pay, on pain of leaving the document unheard, a fee within 7 days from the day of delive-

ry of the call. After the ineffective expiry of that time limit the presiding judge shall issue a ruling on leaving the document unheard.

§ 1[153]*. The court shall not take any action in respect of a letter for which the fee, including the fee referred to in art. 235a, is not paid. In such a case, subject to § 2, 3 and 3a, the presiding judge shall request the person lodging the letter to pay the fee within seven days of the service of the request, on pain of disregarding the letter. In the event of the ineffective expiry of the time limit, the presiding judge shall issue a ruling on disregarding the letter.*

§ 2. If a legal document has been submitted by a person residing or having his/her seat abroad, and which has no representative in Poland, the presiding judge shall set the time limit for payment of a fee which shall be no shorter than two months.

§ 3. A complaint, a cassation appeal, an interlocutory appeal and a petition for reopening of the proceedings, for which the required filing fee has not been paid despite the call, shall be rejected by the court.

§3a[154]*. A complaint, cassation appeal, interlocutory appeal as well as a petition for the reopening of proceedings lodged in the form of an electronic document for which the fee referred to in art. 235a has not been paid despite the request shall be rejected by the court.*

§ 4. No filing fee shall be paid for an interlocutory appeal filed against the ruling of the presiding judge leaving the legal document unheard, or against the order of the court rejecting the legal remedies listed in § 3.

Art. 221. *Repealed.*

Art. 222. Where it is evident from the legal document that it would be rejected, no fee shall be required for it.

[153] Article 220 § 1 in the wording given by Article 4 (15 a/) of the Act cited in footnote 8.

[154] Article 220 § 3a inserted by Article 4 (15b/) of the Act cited above.

Art. 223. § 1. The provisions of Article 220 and Article 222 shall apply as appropriate, where the obligation to pay or complete the fee arises as a consequence of establishing higher value of the subject–matter of review, withdrawal of the granted right of assistance, or abatement of guardianship prior to setting of the date of the trial.

§ 2. If the required fee has not been paid, the court shall order, in a decision concluding the proceedings in a given instance, that the fee be collected from the party which has been obliged to pay it, or from another party, if the obligation of that party to pay costs of the proceedings follows from that decision.

Art. 224. If, in the course of the proceedings, the court has not issued a decision on the obligation to pay the court costs or if the decision made does not cover the whole amount due on that account, an order in this respect shall be issued by a woivodship administrative court *in camera*.

Art. 225. A fee annulled in whole or in part by a legally binding court order and the difference between the costs collected and the costs due, as well as the remaining part of an advance payment to cover the expenses, shall be returned to the party, at its expense, by the operation of law.

Art. 226. § 1. The right to claim court costs shall be barred after three years from the day on which the costs became due.

§ 2. The right of the party to claim reimbursement of a court fee or an advance payment to cover the expenses, shall be barred after three years after from the day on which that right emerged.

Art. 227. § 1. An interlocutory appeal shall lie against a ruling of the presiding judge and an order of a voivodship administrative court in respect of court fees, if the party has not submit an appellate measure as to essence of the matter.

§ 2. Court fees shall not be charged on interlocutory appeals referred to in § 1.

Art. 228. Similarly to court fees, fines imposed in proceedings before administrative courts shall be the revenue of the State budget. These charges shall be enforceable without granting an enforcement clause to the judicial decision.

Art. 229. § 1. Amounts due on unpaid court costs and fines imposed in the proceedings before administrative courts, except for a fine referred to in Article 55 § 1, Article 149 § 2 and Article 154 § 1, may be remitted or payment thereof may be deferred or allowed to be made by instalments, if their collection would cause disproportionate difficulties or would have too heavy consequences to the debtor.

§ 2. The Council of Ministers shall specify, by means of a egulation, detailed principles and procedure for remission, deferment and spreading out the payments as well as withdrawal of deferment or spreading out of payments specified in § 1. Any such regulation shall specify authorities authorised to remit, defer, spread out payments and to withdraw deferment and spreading out of payments, the periods for which such payments may be deferred or spread out, the extent of the remission, the manner of substantiating the application by the debtor, as well as the instances in which the amounts due might be remitted in whole or in part by the operation of law.

Section 2
Filing fee

Art. 230. § 1. A filing fee, either proportional or fixed, shall be charged on legal documents initiating proceedings before an administrative court of a given instance.

§ 2[155]. Documents, referred to in § 1, shall include a complaint, an objection to the decision, a cassation appeal, an

[155] Article 230 § 2 in the wording given by Article 9 (14) of the Act cited in footnote 6.

interlocutory appeal and petition for reopening of the proceedings.

Art. 231. A proportional filing fee shall be charged in cases, in which receivables are the subject of the challenge. A fixed filing fee shall be charged in other cases.

Art. 232. § 1. The court shall, on its own authority, return to the party the whole filing fee paid for:

1)[156] a letter that is rejected or withdrawn before the date of the commencement of a hearing,

2) an interlocutory appeal against an order concerning the imposition of the penalty of a fine, if the appeal has been granted.

§ 2. An order on the return of a filing fee may be rendered *in camera*.

Art. 233. The Council of Ministers shall specify, by means of a regulation, the amount of a filing fee and detailed principle of collection thereof. The regulation shall take into account that a filing fee shall be no less than 100 zloty, a proportional filing fee shall be no more than 4 percent of the value of the object of the litigation and may not exceed 100 000 zloty, a fixed filing fee shall be no more than 10 000 zloty, and that a constant filing fee should vary depending on the type and nature of the case.

Section 3
A processing fee

Art. 234. § 1. A processing fee shall be charged, subject to § 3, for declaring legally binding character and for issuing of transcripts, certificates, excerpts and other documents on the basis of records.

[156] Article 232 § 1 (1) in the wording given by Article 1 (62) of the Act cited in footnote 1.

§ 2[157]. A processing fee for a transcript of a decision with the reasons therefor served as a result of a request filed within seven days from the delivery of the decision shall be collected at the moment when a request for the preparation of the reasons for the decision and the service thereof is filed. In the event that the fee has not been paid, the presiding judge shall demand that the fee be recovered from the party that filed the request, after calling on the party to pay it. The provisions of art. 220 shall not apply.

§ 3. A processing fee shall not be charged for a transcript of a judicial decision with reasons given which should be served by the operation of law.

§ 4[158]. The activities referred to in § 2 may be performed by a court referendary.

Art. 235. A processing fee shall also be charged for transcripts, excerpts, copies and printouts and for certificates and other documents issued on the basis of collections gathered and kept in the court outside the files of the case.

Art. 235a[159]***.*** *A processing fee shall also be collected for the printouts of letters and enclosures lodged in the form of an electronic document prepared in order to serve them on parties that do not use electronic means of communication to receive letters.*

Art. 236. The Council of Ministers shall specify, by means of a regulation, the level of processing fees. The regulation shall take into consideration that the processing fee should be charged for each page of the issued documents, the level of a fee for a transcript of a judicial decision with reasons given made upon request may not exceed 200 zloty and shall specify an increase of the fee for issuing a document in a foreign language or a document including a table.

[157] Article 234 § 2 in the wording given by Article 1 (63) of the Act cited in footnote 1.

[158] Article 234 § 4 inserted by Article 1 (63 b/) of the Act cited above.

[159] Article 235a inserted by Article 4 (16) of the Act specified in footnote 8.

Art. 236[160]***.*** *The Council of Ministers shall specify, by means of a regulation, the amount of processing fees. The regulation shall take into consideration that the processing fee should be charged for each page of the document issued, the amount of a fee for a transcript of a judicial decision with reasons given made upon request may not exceed PLN 200, and the amount of the fee for the printouts of electronic document shall not exceed the actual costs of their preparation, and shall specify an increase of the fee for issuing a document in a foreign language or a document including a table.*

Section 4
Expenses

Art. 237. § 1. The party which moved that an action involving expenses be taken, shall be obliged to make advance payment to cover them.

§ 2. If the request has been made by more than one party or the court has decided the making of the action on its own authority, an advance payment shall be made by the parties in equal parts or in other proportion specified at its own discretion by the court.

§ 3. The court shall set the amount of the advance payment and the deadline for making it. If it turns out that the expected expenses exceed the advance payment, the court shall order completion thereof.

Art. 238. § 1. In the event of failure to make an advance payment by the parties pursuant to Article 237, the amount required to cover the expenses shall be assigned temporarily out of the budget of an administrative court. The assigned sum shall be a receivable of the state budget and shall be reimbursed by the party obliged to make an advance payment.

§ 2. The presiding judge shall summon the party obliged to make an advance payment, to pay within 14 days, and when

[160] Article 236 in the wording given by Article 4 (17) of the Act cited above.

the party resides abroad – in a set time limit no less than two months, the sum assigned out of the budget.

§ 3. If the time limits referred to in § 2 have not been complied with, the court shall issue *in camera* an order to recover the assigned sum without staying the proceedings.

§ 4. The provisions of § 1 through 3 shall not apply in the event that failure to take the action, referred to in Article 237 § 1, constitutes a precondition for suspension of the proceedings.

Chapter 3
Exemption from court costs

Section 1
General provisions

Art. 239. § 1. The following shall not be obliged to pay court costs:

1) a party challenging the action, failure to act or excessive length of proceedings by an authority in matters:
   a) falling within the scope of social care and social assistance,
   b) concerning the status of unemployed, benefits and other allowances and rights conferred on the unemployed,
   c) concerning occupational diseases, benefits connected with health care and rehabilitation,
   d) resulting from labour relations and official subordination,
   e) falling within the scope of social insurance,
   f) falling within the scope of military service,
   g)[161] relating to the grant of protection to foreigners,
   h)[162] relating to housing allowances;
2) a public prosecutor, the Commissioner for Human Rights (Ombudsman) and Commissioner for Children's Rights;

[161] Article 239 § 1 (1g/) inserted by Article 1 (64 a/) of the Act cited in footnote 1.

[162] Article 239 § 1 (1h/) inserted by Article 1 (64 a/) of the Act cited above.

3) a guardian ad litem appointed for a party by the adjudicating court or by the guardianship court for a given case;
4) the party, on which the right to assistance in proceedings before an administrative court (the right of assistance) has been conferred, within the limits specified in a legally binding order conferring such a right.

§ 2[163]. Entities that are not obliged to pay court fees are public benefit organisations, operating pursuant to provisions on public benefit and voluntary service, in their own matters, exclusive of matters concerning the business activities of the organisations, as well as non-governmental organisations and entities listed in art. 3(3) of the Act of 23rd April 2003 on public benefit activity and voluntary service (Journal of Laws of 2016, item 1817, 1948 and 2017, item 60, 573) in their own matters concerning the implementation of the commissioned public task pursuant to the provisions on public benefit and voluntary service.

Art. 240. The Council of Ministers may, by means of a regulation, relieve social organisations from an obligation to pay a filing fee in respect of their own matters, and may also withdraw such relief. This should concern relieve in cases conducted in connection with scientific, educational, cultural and charitable activity, as well as social assistance and care.

Art. 241. A relief from the obligation to pay court costs in the provision of law or in an order of the administrative court without specifying the scope of that relief – shall mean a complete relief from an obligation to pay both the court fees and to cover the expenses.

Art. 242. The expenses of a party exempted from court costs shall be assigned from the budget of an administrative court, within the scope of that relief.

[163] Article 239 § 2 inserted by Article 1 (64 b/) of the Act cited above.

Section 2
Right of assistance

Art. 243. § 1. Right of assistance may be granted to a party upon its own request filed before initiating the proceedings or in the course of the proceedings. The request shall be exempted from court fees.

§ 2[164]. *Repealed*.

Art. 244. § 1. The right of assistance shall include exemption from court costs and appointment of a lawyer, legal counsel, tax adviser or patent agent.

§ 2. Appointment of a lawyer, legal counsel, tax adviser or patent agent under the right of assistance shall be tantamount to granting the power of agency.

§ 3. If, in the request, the party has designated a lawyer, legal counsel, tax adviser or patent agent, an appropriate regional Bar Council, the council of a regional chamber of legal counsels, the National Council of Tax Advisers, the National Council of Patent Agents, shall appoint the lawyer, legal counsel, tax adviser or patent agent designated by the party, within its capabilities and in consultation with the designated lawyer, legal counsel, tax adviser or patent agent.

Art. 245. § 1. The right of assistance may be granted in full or in part.

§ 2. The right of assistance granted in full shall include an exemption from court costs and appointment of a lawyer, legal counsel, tax adviser or patent agent.

§ 3. The right of assistance granted in part shall include only an exemption, in full or in part, either from court fees or from expenses, or shall include only an appointment of a lawyer, legal counsel, tax adviser or patent agent.

[164] Article 243 § 2 repealed by Article 1 (65) of the Act cited above.

§ 4. Partial exemption from fees or expenses may take place by an exemption from bearing a percentage part or a specified amount of money.

Art. 246. § 1. The granting of the right of assistance to a natural person shall take place:
1) in full – if he/she has proved to be unable to bear any costs of the proceedings;
2) in part – if he/she has proved to be unable to bear total costs of proceedings without detriment to the necessary maintenance of himself/herself and his/her family.

§ 2. The right of assistance may be granted to a legal person and to other organisational unit having no legal personality:
1) in full – if it has proved that it has no means to pay any costs of the proceedings;
2) in part – if it has proved that it has no sufficient means to pay total costs of the proceedings.

§ 3. A lawyer, legal counsel, tax adviser or patent agent may be appointed for the party which does not employ and does not remain in other legal relationship with a lawyer, legal counsel, tax adviser or patent agent. This shall not apply to a lawyer, legal counsel, tax adviser or patent agent appointed on the basis of the provisions concerning the right of assistance.

Art. 247. In the event of evident groundlessness of its complaint the party shall not have the right of assistance.

Art. 248. The granting of the right of assistance shall not exempt the party from the obligation to reimburse the costs of proceedings, if such obligation arises from other provisions.

Art. 249. The right of assistance may be withdrawn if it turns out that it has been granted on the basis of the circumstances which did not exist or have ceased to exist.

Art. 249a[165]**.** Should a party withdraw its application or should the examination of the application become unnecessary, the proceeding on the grant of the right to assistance shall be discontinued.

Art. 250. § 1.The assigned lawyer, legal counsel, tax adviser or patent agent shall receive a salary as appropriate in accordance with the principles set forth in the provisions relating to fees for actions of a lawyer, legal counsel, tax adviser or patent agents within the scope of bearing costs of unpaid legal aid and reimbursement of necessary and documented expenses.

§ 2[166]. In justified cases, the court may reduce the salary referred to in § 1.

Art. 251. The granting of the right of assistance shall cease upon the death of a party that has acquired it.

Art. 252. § 1. An application for granting the right of assistance should contain the party's declaration providing precise data on its property assets and income, and, where the application is filed by a natural person, also precise data on his/her family status and the party's declaration of not employing or not remaining in other legal relationship with a lawyer, legal counsel, tax adviser or patent agent.

§ 1a[167]. Declarations referred to in § 1 shall be submitted on pain of criminal liability for making a false declaration. The person submitting the declaration shall be obliged to ensure that it contains the following clause: "I am aware of criminal liability for making a false declaration". The clause shall substitute the information on criminal liability for making a false declaration provided by the court.

[165] Article 249a inserted by Article 1 (66) of the Act cited above.

[166] Article 250 § 2 inserted by Article 1 (67) of the Act cited above.

[167] Article 252 § 1a inserted by Article 1 (68 a/) of the Act cited above.

§ 2. Applications shall be lodged on an official form in accordance with the prescribed pattern.

§ 3[168]. An order granting, withdrawing or refusing to grant the right to assistance or discontinuing a proceeding on the grant of the right to assistance shall be served on the party that submitted the application. Means of review may be brought only by the applicant.

Art. 253[169]**.** § 1. The court shall request a competent circuit bar council, council of a circuit chamber of legal advisors, National Council of Tax Advisers or the National Council of Patent Agents to appoint a lawyer, legal advisor, tax advisor or patent agent, serving the order granting the right of assistance. In the event that an attorney is to be appointed after a decision that is subject to a cassation appeal has been rendered, the court shall notify the competent council thereof.

§ 2. The circuit bar council, council of a circuit chamber of legal advisors, National Council of Tax Advisors or the National Council of Patent Agents shall, within fourteen days from receipt of the order referred to in § 1, appoint an attorney and promptly notify the attorney and the court thereof. The notification submitted by a competent council to the court shall include the name and surname of the appointed attorney as well as his/her address for service. In the event that an attorney is appointed after a decision that is subject to a cassation appeal has been rendered, the competent council shall also promptly inform the court about the date on which the attorney has been notified that he/she has been appointed.

§ 3. If a lawyer, legal advisor, tax advisor or a patent agent appointed in this way is to perform activities outside the seat of the adjudicating court, the competent circuit bar council,

[168] Article 252 § 3 in the wording given by Article 1 (68 b/) of the Act cited above.

[169] Article 253 in the wording given by Article 1 (69) of the Act cited above.

council of a circuit chamber of legal advisors, National Council of Tax Advisors or the National Council of Patent Agents shall, if necessary, appoint a lawyer, legal advisor, tax advisor or patent agent from a different town at the request of the appointed lawyer, legal advisor, tax advisor or patent agent.

Art. 254. § 1[170]. An application for granting the right to assistance and an application for the reimbursement of costs of unpaid legal aid shall be submitted to a competent voivodship administrative court.

§ 2. The party which has no place of residence, no place of stay or seat on the territory under the jurisdiction of the court referred to in § 1, may file the application with another voivodship administrative court. That application shall be immediately sent to the competent court.

Art. 255. If it has turned out that the declaration of the party, contained in the application referred to in Article 252, is insufficient to assess its actual property assets and payment capability as well as family status or raises doubts, the party shall be obliged to make, at request and in a prescribed time limit, additional declaration or present source documents concerning its property assets, income or family status.

Art. 256. The Council of Ministers shall specify, by means of a regulation:

1)[171] the model and manner of making accessible the official form referred to in art. 252 § 2, satisfying the requirements prescribed for letters by a party, special requirements for proceedings on the grant of the right to assistance, including the necessary information about how it should be

[170] Article 254 § 1 in the wording given by Article 1 (70) of the Act cited above.

[171] Article 256 (1) in the wording given by Article 1 (71) of the Act cited above.

completed and about the consequences of failure to meet the prescribed requirements as well as the clause referred to in art. 252 § 1a;
2) types of source documents, referred to in Article 255, and periods for which the data concerning property assets, incomes and family status should be recorded; these documents may include, in particular, transcripts of tax returns, statements or records from bank accounts held, including accounts and deposits in foreign currencies, extracts from official registers, transcripts of current balances and statements concerning the amount of salaries, fees and other dues and the benefits received.

Art. 257. An application for the right of assistance that has not been submitted on the official form or that whose deficiencies have not been corrected within the prescribed time limit, shall be left unheard.

Art. 258. § 1[172]. The activities concerning the grant of the right to assistance shall be performed by a court referendary.

§ 2. Actions referred to in § 1 shall include in particular:
1) reception of applications for the right of assistance;
2) transfer of the applications to the competent court;
3) examination of submitted applications for the right of assistance as to formal requirements, and as to their substance;
4) referring of applications for consideration to a court in the event referred to in Article 247;
5) summoning the parties to correct formal deficiencies of applications, and to make additional declarations and present documents;
6) issuance of rulings that applications be left unheard;

[172] Article 258 § 1 in the wording given by Article 1 (72 a/) of the Act cited above.

7)[173] issuing *in camera* orders granting, withdrawing or refusing to grant the right to assistance or discontinuing a proceeding on the grant of the right to assistance;
8) issuance, *in camera*, of orders on granting remuneration to the lawyer, legal counsel, tax adviser or patent agent for legal representation effected under the rules of the right of assistance and on reimbursement of necessary recorded expenses.

§ 3[174]. *Repealed*.

§ 4[175]. The activities referred to in § 2 may, in duly justified cases, be performed by a court. The orders or ruling of a court referred to in § 2(6–8) shall be subject to an interlocutory appeal.

Art. 259. § 1. A party or lawyer, legal counsel, tax adviser or patent agent may lodge a protest against rulings and orders, referred to in Article 258 § 2 (6)–(8), with a competent voivodship administrative court within 7 days from the day of service of the ruling or order. A protest lodged by a lawyer, legal counsel, tax adviser or patent agent shall require the statement of reasons.

§ 2. A protest filed after the expiry of the time limit and a protest whose formal deficiencies have not been corrected, as well as a protest filed by a lawyer, legal counsel, tax adviser or patent agent, lacking the statement of reasons shall be rejected by the court *in camera*.

§ 3. If no protest has been lodged or the protest lodged has been dismissed by a legally binding decision, the rulings and orders, referred to in § 1, shall have effects of a legally binding decision of the court.

[173] Article 258 § 2 (7) in the wording given by Article 1 (72 b/) of the Act cited above.

[174] Article 258 § 3 repealed by Article 1 (72 c/) of the Act cited above.

[175] Article 258 § 4 inserted by Article 1 (72 d/) of the Act cited above.

Art. 260[176]**.** § 1. When examining a protest against the ruling and orders referred to in art. 258 § 2 subparagraphs 6–8, the court shall render an order whereby the challenged ruling or order rendered by a court referendary is reversed or maintained.

§ 2. In matters referred to in § 1, a protest against a ruling or order of a court referendary shall suspend its enforcement. The court shall decide on the case as a court of the second instance, applying accordingly the provisions on an interlocutory appeal.

§ 3. The court shall hear the case *in camera*.

Art. 261[177]**.** Court fees shall not be collected for a protest and interlocutory appeals brought in matters concerning the right to assistance.

Art. 262. The provisions governing the granting the right of assistance, as far as they relate to legal representation under the rules of the right of assistance, shall apply as appropriate to parties entitled to a statutory exemption from the obligation to pay court costs.

Art. 263[178]**.** *Repealed.*

PART VI
RESOLUTIONS OF THE SUPREME ADMINISTRATIVE COURT

Art. 264. § 1. Resolutions provided for in Article 15 § 1 (2) and (3) shall be adopted by the Supreme Administrative Court by a panel of seven judges, by a panel of the entire Chamber or by the full panel of the Supreme Administrative.

[176] Article 260 in the wording given by Article 1 (73) of the Act cited above.

[177] Article 261 in the wording given by Article 1 (74) of the Act cited above.

[178] Article 263 repealed by Article 1 (75) of the Act cited above.

§ 2[179]. The Supreme Administrative Court shall adopt resolutions, referred to in Article 15 § 1 (2), on application of the President of the Supreme Administrative Court, the Public Prosecutor General, General Counsel to the Republic of Poland, Commissioner for Human Rights (Ombudsman) or the Commissioner for Children's Rights and shall adopt resolutions, referred to in Article 15 § 1 (3), on the basis of an order by the adjudicating panel.

§ 3. The President of the Supreme Administrative Court shall refer the application for resolving by one of the panels specified in w § 1.

§ 4. The panel of seven judges may refer – in the form of an order – a question of law to be resolved by a panel of the entire Chamber and the Chamber shall refer it to the full panel of the Supreme Administrative Court.

Art. 265[180]**.** Participation of the Public Prosecutor General or his/her Deputy in the session of the full panel of the Supreme Administrative Court or in the session of the Chamber shall be obligatory. The session of the panel of seven judges shall be attended by a prosecutor of the Prosecution General or a prosecutor of another organisational unit of prosecution delegated to act in the Prosecution General and appointed by the Public Prosecutor General or the deputy of the Public Prosecutor General to attend the sessions of the Supreme Administrative Court.

Art. 266. § 1. The presence of at least two-thirds of the judges of each Chamber shall be required for passing a resolution by the full panel of the Supreme Administrative Court or by a panel of the entire Chamber.

[179] Article 264 § 2 in the wording given by Article 113 (3) of the Act cited in footnote 126.

[180] Article 265 in the wording given by Article 4 of the Act of 30 November 2016, amending the Act – Law on the System of Common Courts and certain other Acts (Journal of Laws of 2016, item 2103).

§ 2. Resolutions shall be passed by a simple majority in open ballot vote.

Art. 267. The Supreme Administrative Court may – by issuing an order – refuse to adopt a resolution, if in particular there is no need to resolve doubts.

Art. 268. A motion to adopt a resolution as well as resolutions of the Supreme Administrative Court shall require a statement of reasons.

Ar. 269. § 1. If any panel of the administrative court hearing the case does not share the position taken in the resolution by seven judges, by a panel of the entire Chamber or by the full panel of the Supreme Administrative Court, it shall submit the arising legal issue for resolution by an appropriate panel. The provisions of Article 187 § 1 and 2 shall apply as appropriate.

§ 2. In instances, referred to in § 1, the panel of seven judges, the panel of the entire Chamber or the full panel of the Supreme Administrative Court shall pass repeat resolution. The provisions of Article 267 shall not apply.

§ 3. If the panel of one Chamber of the Supreme Administrative Court explaining the legal issue does not share the position taken in the resolution by another Chamber, it shall submit that issue for resolution by the full panel of the Supreme Administrative Court.

PART VII
REOPENING OF PROCEEDINGS

Art. 270. In instances provided for in this Part, it shall be permitted to demand that the proceedings concluded with a legally binding judicial decision be reopened.

Art. 271. The reopening of proceedings for the reason of invalidity may be demanded:

1) if an unauthorised person participated in the panel of the court or a judge disqualified by virtue of law adjudicated the case, and the party has not been able to demand the exclusion before the judicial decision has become legally binding;
2) if the party has had no capacity to be a party in court or procedural capacity, or has not been duly represented, or if in consequence of violation of law it has no opportunity to act; however, it shall not be permitted to demand the reopening, if before the judicial decision has become legally binding the lack of opportunity to act has ceased or the lack of representation has been raised by way of plea or the party has confirmed the procedural action performed.

Art. 272. § 1. The reopening of proceedings may also be demanded in the event that the Constitutional Tribunal has adjudicated the normative act not to be in conformity to the Constitution, international agreement or statute, on the basis of which the judicial decision has been given.

§ 2. In the situation specified in § 1, a petition for reopening of the proceedings shall be lodged within 3 months from day the judicial decision of the Constitutional Tribunal comes into force. If, at the moment the judicial decision of the Constitutional Tribunal was made, the court's decision was not legally binding due to the application of a means of appeal which was subsequently rejected, the time limit shall run from the day of service of the order on the rejection.

§ 3. The reopening of proceedings may also be demanded where such *need results from the decision* of an international body acting on grounds of international agreement ratified by the Republic of Poland. The provision of § 2 shall apply as appropriate, whereas the time limit for lodging a petition for reopening of the proceedings shall run from the day of service of the *decision* of international body upon the party or its agent.

Art. 273. § 1. The reopening may be demanded on the following grounds:

1) the judicial decision has been based on a forged or unlawfully altered document, or on a convicting judgement that has been subsequently reversed;
2) the judicial decision has been obtained by an offence.

§ 2. The reopening may be demanded in the event that the factual circumstances or evidentiary means have been later identified, which would have an impact on the outcome of the case and which could not be utilised by the party in the previous proceedings.

§ 3. The reopening may be demanded in the event that a legally binding judicial decision concerning the same case has been later identified. In such an event the court shall hear not only the challenged judicial decision, but also, by the operation of law, other legally binding judicial decisions concerning the same case.

Art. 274. The reopening may be demanded for reason of an offence only in the event that the act has been established by a legally binding convicting judgment, unless penal proceedings cannot be instituted or has been discontinued for reasons other than lack of evidence.

Art. 275. The court which has issued the challenged judicial decision shall be competent for reopening of the proceedings for reasons of invalidity, and the Supreme Administrative Court shall be competent if the judicial decisions of the courts of two instances have been challenged. The court which has recently adjudicated in the case shall be competent for reopening of the proceedings for other grounds.

Art. 276[181]**.** Provisions on proceedings before a court of the first instance shall apply accordingly to a petition for the reopening of proceedings, unless the provisions of this part provide otherwise. However, when the reopening of proceedings falls

[181] Article 276 in the wording given by Article 1 (76) of the Act cited in footnote 1.

within the jurisdiction of the Supreme Administrative Court, the provisions of art. 175 shall apply accordingly.

Art. 277. A petition for reopening of the proceedings shall be filed within a three-month time limit. This time limit shall be counted from the day on which the party has learned about the ground for the reopening, and if the deprivation of an opportunity to act or the lack of due representation are the grounds, the time limit shall be counted from the day on which the party, or its body or statutory representative has learned about the judicial decision.

Art. 278. Five years after the judicial decision becomes legally binding, the demand for reopening shall not be permitted, with exception for the event that the party has had no opportunity to act or has not been duly represented.

Art. 279. A petition for reopening of the proceedings should also include the designation of the challenged judicial decision, the grounds for reopening and reasons given, the circumstances proving the observance the time limit for lodging a petition and the demand that the challenged judicial decision be reversed or altered.

Art. 280. § 1[182]. The court shall examine *in camera* whether the petition was lodged within the prescribed time limit and whether it is based on a statutory ground for reopening proceedings. When one of the requirements is not met, the court shall reject the petition for the reopening of proceedings, or else set a date for a hearing.

§ 2. Upon request of the court, the person lodging the petition for reopening of the proceedings shall be obliged to substantiate the circumstances proving the observance of the time limit or admissibility of the reopening.

[182] Article 280 § 1 in the wording given by Article 1 (77) of the Act cited above.

Art. 281[183]**.** At a hearing, the court shall decide primarily on the admissibility of the reopening of proceedings and if there are no statutory grounds for the reopening of proceedings or if the petition was not lodged within the prescribed time limit, the court shall reject the petition. However, the court may, having considered the status of the case, combine the examination of the admissibility of the reopening of proceedings with the hearing of the case.

Art. 282. § 1. The court shall hear the case *de novo* within the limits defined by the grounds for reopening.

§ 2[184]. After hearing the case *de novo*, the court shall reject the petition for the reopening of proceedings or grant it, applying accordingly provisions on proceedings before the court that reopened the proceedings, or shall quash the challenged decision and reject the petition or discontinue the proceedings.

§ 3. In the event referred to in Article 273 § 3, the court shall reverse one of the judicial decisions concerning the same case and shall continue in force other legally binding judicial decision, or shall reverse all legally binding judicial decisions concerning the same case and shall adjudicate as to the substance of the case or shall refer the case to a voivodship administrative court having jurisdiction over it to hear and resolve that case.

Art. 283. A judge, whose participation or conduct in the previous proceedings has been challenged, shall be disqualified from adjudicating in the proceedings in relation to the petition for reopening of the proceedings.

Art. 284. The lodging of the petition for reopening of the proceedings shall not automatically stay the execution of a decision which is the subject thereof. If it has been substantiated

[183] Article 281 in the wording given by Article 1 (78) of the Act cited in footnote 1.

[184] Article 282 § 2 in the wording given by Article 1 (79) of the Act cited above.

that the petitioner is exposed to irreversible harm, the court may stay the execution of the judicial decision. An order may be rendered *in camera*. The order shall be subject to interlocutory appeal.

Art. 285[185]**.** § 1. It shall be unacceptable to further reopen proceedings concluded with a legally binding decision issued as a result of a petition for the reopening of proceedings.

§ 2. The provision of § 1 shall not apply if a petition for the reopening of proceedings was based on the ground for reopening proceedings referred to in art. 272 § 1 and 3.

PART VIIA
MOTION FOR A DECLARATION OF A LEGALLY BINDING JUDICIAL DECISION UNLAWFUL

Art. 285a. § 1. A motion for a declaration of a legally binding judicial decision unlawful may be lodged against a legally binding judicial decision of a voivodship administrative court, where such a decision has resulted in harm to the party and has not been and cannot be modified or reversed by other means of recourse available to the party.

§ 2. A motion referred to in § 1 may also be lodged, in exceptional circumstances, against a legally binding judicial decision of a voivodship administrative court, where means of recourse were available but the parties failed to act or where unlawfulness[of the decision] results from the violation of the fundamental principles of the legal order or the constitutional freedoms or rights of the person or citizen, unless the judicial decision may be modified or reversed by other means of recourse available to the party.

§ 3. A motion shall not be lodged against judicial decisions of the Supreme Administrative Court, with the exception whe-

[185] Article 285 in the wording given by Article 1 (80) of the Act cited above.

re the unlawfulness [of the decision] results from a flagrant breach of the rules of the European Union law. Decisions of the Supreme Administrative Court shall be treated as decisions issued in legal proceedings initiated by filing a complaint.

§ 4. A motion for a declaration of a legally binding judicial decision unlawful shall be subject to a fixed fee.

Art. 285b. In circumstances referred to in Article 285a § 1, 2 and 3, a motion for a declaration of a legally binding judicial decision unlawful may also be lodged by the Public Prosecutor General or the Commissioner for Human Rights (Ombudsman).

Art. 285c. Only one motion for a declaration of a legally binding judicial decision unlawful may be lodged against the same judicial decision.

Art. 285d. A motion for a declaration of a legally binding judicial decision unlawful may be based on the violation of substantive law or the provisions of procedural law which caused the unlawfulness of the decision if its issuance resulted in harm to the party. A motion may not be based on charges relating to the determination of facts or evaluation of evidence.

Art. 285e. § 1. A motion for a declaration of a legally binding judicial decision unlawful shall contain:

1) the designation of the judicial decision challenged, along with a declaration whether it has been contested in full or in part;
2) the quotation of its grounds and their justification;
3) the indication of the legal provision with which the contested decision is not consistent;
4) the proof for the possibility of prejudice being caused by issuance of the judicial decision to which the motion relates;
5) the proof that setting the contested decision aside was not or is not possible by other means of recourse and, moreover, when the motion has been lodged under Article 258a

§ 2**,** that there exist exceptional circumstances justifying the lodging of the motion;

6) the request for declaration of unlawfulness of the judicial decision.

§ 2. The motion should meet the requirements for a procedural document submitted by the party. The motion shall be appended with transcripts thereof to be served on the parties and participants to the proceedings and, additionally, two transcripts to be retained in the files of the Supreme Administrative Court.

Art. 285f. § 1. A motion for a declaration of a legally binding judicial decision unlawful shall be filed with the court which has issued the contested judicial decision within two years from the day the decision has become legally binding.

§ 2. If it was found that the formal requirements specified in Article 285e § 2 have not been satisfied, the presiding judge shall request the motion be corrected or completed.

§ 3. A motion for which the fee has not been paid, a motion lodged in violation of Article 175 § 1 and a motion the deficiencies of which have not been corrected within the prescribed time limit, shall be rejected by the court sitting *in camera*.

Art. 285g. Having served the motion for a declaration of a legally binding judicial decision unlawful on the opposing party or on both parties, where the motion has been lodged by the Public Prosecutor General or the Commissioner for Human Rights (Ombudsman), the voivodship administrative court shall present the files of the case, without delay, to the Supreme Administrative Court.

Art. 285h. § 1. The Supreme Administrative Court sitting in camera shall reject a motion for a declaration of a legally binding judicial decision unlawful, if it was subject to rejection by a court of lower instance, or a motion lodged after the time limit or that which does not meet the requirements specified in Article 285e § 1, as well as a motion inadmissible for other reasons.

§ 2. A motion shall also be rejected if modification of the challenged decision was or is possible by other means of recourse or if the exception referred to in Article 285a § 2 does not occur.

Art. 285i. § 1. The Supreme Administrative Court shall examine a motion for a declaration of a legally binding judicial decision unlawful by a panel of three judges.

§ 2. A judge who has participated in the issuance of a decision covered by the motion shall be disqualified from adjudicating in the proceeding concerning that motion.

Art. 285j. The Supreme Administrative Court shall examine a motion for a declaration of a legally binding judicial decision unlawful within the limits of the charges and within the limits of its grounds. The motion shall be heard in camera, unless there are important reasons justifying the holding of a trial.

Art. 285k. § 1. The Supreme Administrative Court shall dismiss a motion for a declaration of a legally binding judicial decision unlawful where there is no ground for declaration that the contested judicial decision is not consistent with the law within the scope of the charges.

§ 2. When granting the motion, the Supreme Administrative Court shall declare that the judicial decision is not consistent with the law within the scope of the charges.

§ 3. If in the moment of adjudication the case has not fallen within jurisdiction of the courts, the Supreme Administrative Court, finding the decision to be unlawful, shall quash the contested judicial decision and the decision of the court of first instance, and reject the motion.

Art. 285l. In the cases not regulated by the provisions of this Part, the provisions concerning cassation appeal shall apply, as appropriate, to the proceedings resulting from lodging a motion for a declaration of a legally binding judicial decision unlawful.

PART VIII
EXECUTION OF COURT DECISIONS

Art. 286. § 1[186]. After a decision of a court of the first instance concluding proceedings has become legally binding, the administrative files of the case, accompanied by a transcript of the decision with the declaration that it is legally binding, shall be returned to the public administration body. A ruling on the return of files may be issued by a court referendary.

§ 2. The time limit for settlement of a case by an administrative authority as specified by legal provisions or designated by the court shall be counted from the day of service of an act on the authority.

Art. 287[187]**.** *Repealed.*

PART IX
PROCEEDINGS IN RELATION TO LOST OR DAMAGED FILES

Art. 288. The files lost or those damaged in whole or in part shall be reconstructed. Where a case is concluded by a legally binding decision, the decision concluding the proceedings in the case and that part of files which is necessary to ascertain its contents and to reopen the proceedings, shall be subject to reconstruction.

Art. 289. § 1. The court shall initiate the proceedings on its own authority or at the request of a party.

§ 2. The court shall initiate the proceedings only at the request of a party, if the loss or damage of the files is the result of force majeure.

[186] Article 286 § 1 in the wording given by Article 1 (81) of the Act cited above.

[187] Article 287 repealed by Article 1 (4) of the Act cited in footnote 17.

Art. 290. § 1. The court by which the case was last heard shall be competent to reconstruct the files of a pending case.

§ 2. If the Supreme Administrative Court would be competent to deal with the case, that court shall refer it to the court of the first instance, unless the reconstruction of the files of that Court is the point.

§ 3. If the files of a case concluded by a legally binding decision have been lost or damaged, the proceedings shall be conducted by the court by which the case was heard in the first instance.

Art. 291. In an application for reconstruction of files the applicant should also specify precisely the case, append all officially certified transcripts being in the possession of the applicant and show the places known to him/her, where the documents or transcripts thereof can be found.

Art. 292. § 1. The presiding judge shall summon persons, public administration authorities or institutions named in the application and those known to the court officially, to lodge within a specified time limit officially certified transcripts of documents in their possession or to declare they do not possess them.

§ 2. If the summoned person does not possess the document or transcript which was in the possession of that person before the summons, he/she should explain where the document or transcript can be found.

Art. 293. § 1. The court may impose a penalty specified in Article 154 § 6 on anyone who fails to comply with the summons issued pursuant to the preceding Article.

§ 2. If a legal person or other organisational unit has been summoned, a head or employee thereof who was under an obligation to comply with the summons, shall be subject to punishment.

Art. 294. If officially certified transcripts have been submitted, the presiding judge shall rule on appending them to

the files. A transcript of the ruling shall be delivered to the parties.

Art. 295. If the files cannot be reconstructed under the procedure set forth in preceding articles, the presiding judge shall call upon the parties to submit precise statements concerning the contents of the lost or damaged legal documents and provide evidence to support the assertions contained therein, including one's own personal transcripts and other documents and notes that may be useful in the reconstruction of files.

Art. 296. § 1. In addition to statements and motions, the court shall conduct, on its own authority, an inquiry, omitting no circumstance which may be relevant to establishing the contents of lost or damaged files. The court shall take into account entries in repertories and other official books. The court may also examine as witnesses the judges, public prosecutors, recording clerks, agents of the parties and other persons who have participated in the proceedings or who can have something to communicate on the contents of the files, and may also make an order for the examination of the parties.

§ 2. The provisions of the Code of Civil Procedure shall apply, as appropriate, to taking of evidence referred to in § 1.

Art. 297. After carrying out the proceedings referred to in Article 295 and Article 296, the court shall decide, by issuing an order, in what manner and to what extent, lost or damaged files are to be reconstructed or that their reconstruction is impossible. The order shall be subject to interlocutory complaint.

Art. 298. If the files of the case cannot be reconstructed or have been reconstructed in part insufficient to resume further proceedings, a complaint or an appellate measure may be re-submitted within thirty days from the day on which the order on the matter becomes legally binding. In all other cases, the

court shall undertake the proceedings in such a condition as it has turn possible, with due reference to remaining and reconstructed files. The order undertaking further proceedings shall be subject to interlocutory complaint.

PART X
PROVISIONS RELATING TO FOREIGN RELATIONS

Art. 299[188]**.** § 1. The court shall deliver a letter by post by registered letter with acknowledgment of receipt or equivalent to the party whose place of residence, habitual residence or seat is located in the Member State of the European Union, the Swiss Confederation or the Member State of the European Free Trade Association (EFTA) other than the Republic of Poland – a party to the Agreement on the European Economic Area, and who has not appointed an attorney to conduct a case whose place of residence or seat is located in the Republic of Poland.

§ 2. If the party has no place of residence or habitual residence, or seat located in the Republic of Poland or other Member State of the European Union, the Swiss Confederation or the Member State of the European Free Trade Association (EFTA) – a party to the Agreement on the European Economic Area and it has not appointed an attorney to conduct a case whose place of residence or seat is located in the Republic of Poland, along with lodging an appeal it shall be obliged to appoint an attorney for service whose place of residence or seat is located in the Republic of Poland.

§ 3. In the event of failure to comply with the obligation referred to in § 2, the court shall request the party to rectify the

[188] Article 299 in the wording given by Article 15 (2) of the Act cited in footnote 79.

shortcomings within two months from the date of service of the request on pain of rejection of the complaint. The request shall be delivered in the manner referred to in § 1.

§ 4. If from the complaint it follows that the party of the proceeding has no place of residence or habitual residence, or seat located in the Republic of Poland, other Member State of the European Union, the Swiss Confederation or the Member State of the European Free Trade Association (EFTA) – a party to the Agreement on the European Economic Area, while delivering the transcript of the complaint, the court shall notify it about the obligation to appoint an attorney for service whose place of residence or seat is located in the Republic of Poland within two months from the date of service of the notice. In the event of failure to comply with this obligation, the letters in the court proceeding shall be left in the case files with the effect of having been served.

§ 5. The provision of § 4 shall apply accordingly to the participant in the proceeding referred to in art. 33 § 2.

§ 6[189]*. The provisions of § 1–5 shall not apply if:*

1) *an international agreement to which the Republic of Poland is a party states otherwise;*
2) *serving has been made via electronic communication means.*

Art. 300. Provisions concerning the system of common courts and the provisions of the Code of Civil Procedure on international civil procedure shall apply, as appropriate, to matters not regulated by this Act, which concern the proceedings relating to foreign relations.

[189] Article 299 § 6 in the wording given by Article 4 (18) of the Act cited in footnote 8.

PART XI
FINAL PROVISION

Art. 301. This Act shall come into force on the date[190] and in accordance with the principles specified in the Act of 30th August 2002 – The Provisions implementing the Act – Law on the Administrative Court System and the Act – Law on Proceedings before Administrative Courts (Journal of Laws No. 53, item 1271). ■

[190] The Act – Law on Proceedings before Administrative Courts entered into force on 1st January 2004 under Article 2 of the Act of 30th August 2002, the Provisions implementing the Act – Law on the system of Administrative Courts and the Act – Law on Proceedings before Administrative Courts that entered into force on 1st January 2004.



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