***Disciplinary liability***

1. ***What are the types of misbehaviour that may give rise to disciplinary proceedings against judges? Are these violations codified in national legislation and/or professional codes of ethics?***

The basis of disciplinary responsibility of judges is laid down in the Act of 27 July 2001 on the System of Common Courts(Journal of Laws of 2020 item 365, as amended) - later referred to as the Common Courts Act - Article 107 § 1 and 2 for common court judges and Article 104 § 2 for retired judges. According to Article 107 § 1 of the Common Courts Act, a judge takes disciplinary responsibility for professional (disciplinary) misconduct. Examples could include:

1. obvious and gross violation of legal provisions;
2. action or inaction that can make impossible or strongly impede the functioning of judicial authorities;
3. actions that question the existence of a judge’s service relationship, the effectiveness of appointing a judge, or the empowering of a Polish constitutional authority;
4. public activity that cannot be reconciled with the principles of judicial independence;
5. offending dignity of a judicial office;
6. conduct before taking office if the judge failed in the duty of a civil servant at that time or appeared unworthy to hold a judicial position.

A retired judge is subject to disciplinary responsibility for offending judicial dignity after retiring and for offending the dignity of a judicial office during his or her time in service.

The rules of preserving the dignity of a judicial office by its holders are described in the Set of Principles of Judicial Ethics – Act of the National Council of the Judiciary n° 25/2017 of 13 January 2017.

1. ***Please describe the procedure for bringing disciplinary complaints against judges. Who can initiate disciplinary proceedings against judges? Which body is responsible for receiving disciplinary complaints and conducting disciplinary investigations? Can decisions of the disciplinary body be appealed before a competent court?***

According to Article 41b § 1 of the Common Courts Act, the authority that is competent to consider a complaint or motion relating to a court’s activity is the president of the court. If the complaint includes a motion to make the judge accountable, according to Article 41d of the Common Courts Act, the president of the court should refer it to a competent disciplinary commissioner who examines the circumstances described in the complaint and can take explanatory actions on his or her own initiative.

At the pre-judicial stage, disciplinary proceedings are instituted and performed by a disciplinary commissioner (Article 114 § 3 of the Common Courts Act). Disciplinary commissioners include: Disciplinary Commissioner of Common Court Judges and Deputy Disciplinary Commissioners of Common Court Judges, as well as deputy disciplinary commissioners sitting in appeal courts and provincial courts (Article 112 § 1 of the Common Courts Act).

Disciplinary matters concerning judges are handled by disciplinary courts after examining motions filed by disciplinary commissioners. Disciplinary courts include: disciplinary courts operating within appeal courts sitting as three judges and in the second instance - the Disciplinary Chamber of the Supreme Court (Article 110 § 1 section 1 of the Common Courts Act). Appeals can be lodged with a higher instance court.

1. ***Please provide information on the disciplinary penalties that may be imposed the judge if found guilty of a professional misconduct. Are these penalties codified in national legislation and/or professional codes of ethics?***

Disciplinary sanctions are laid down in the Common Courts Act.

Under Article 109 § 1 of the Common Courts Act, disciplinary penalties include an admonition, a reprimand, the reduction of the basic remuneration by 5% to 50% for a period of six months to two years; pecuniary penalty in the amount of one monthly basic wage that is due to be paid out for the month prior to the issue of the final convicting ruling, increased by the judge’s seniority bonus, function adjustment and special allowance; the dismissal from the function held; the transfer to another place of service; the dismissal from the office.

A retired judge can receive penalties defined in Article 104 § 3 of the Common Courts Act: an admonition, a reprimand, the reduction of the basic salary by 5% to 50% for a period of six months to two years; the suspension of pay indexation referred to in Article 100 § 3 for a period of one to three years; deprivation of the right to retire and the right to retirement pay.

1. ***Please provide detailed information, including disaggregated data, on the number of judges that have been subject to disciplinary proceedings in the last ten years. How many of them were found guilty of a disciplinary misconduct? How many of them were removed from office?***

No data available due to the lack of legal basis for such collection.

***Civil and criminal liability***

1. ***Can a judge be subject to civil liability and/or criminal responsibility as a result of the exercise of his or her functions? If so, in which case Who may lodge a complaint against the judge? And which authority is responsible for adjudicating these cases?***

A judge has criminal responsibility for committing an offence, also while performing their official duties, according to general rules that apply to all citizens. The only difference in the case of judges is the need to ask a disciplinary court's permission to call the judge to criminal responsibility (Article 80 of the Common Courts Act). A public prosecutor can file a motion to issue a resolution allowing to call the judge to criminal responsibility (withdrawal of immunity). In the case of a private accusation, the motion can be lodged by any citizen represented by an attorney at law or a legal counsel being an attorney in fact (Article 80 § 2b of the Common Courts Act). When the immunity has been withdrawn, the matter is considered by common courts adjudicating on criminal cases.

Judicial office holders exercise public authority on behalf of the state – the Republic of Poland. Civil responsibility for a damage done by an unlawful action or inaction while performing public authority lies with the State Treasury - Article 417 § 1 of the Act of 23 April 1964 – Civil code(Journal of Laws of 2019 item 1145, as amended).

1. ***Please provide detailed information, including disaggregated data, on the number of judges that have been subject to civil/criminal liability proceedings in the last ten years. How many of them were found liable for judicial errors? What was the outcome of these proceedings?***

No data available due to the lack of legal basis for such collection.