



Permanent Mission of the Republic of Poland
to the United Nations Office and
International Organisations in Vienna

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The Permanent Mission of the Republic of Poland to the United Nations Office and International Organizations in Vienna presents its compliments to the Secretary of the Conference of the State Parties to the United Nations Convention against Corruption and in reply to Note Verbale No. CU 2012/28 (A)/DTA/CEB of 27 February 2012 has the honour to transmit (further to Note ref. No. 39/2012 of 24 April 2012) the additional information regarding anti-corruption measures provided by the Ministry of Justice of Poland.

The Permanent Mission of the Republic of Poland avails itself of this opportunity to renew to the Secretary of the Conference of the States Parties to the United Nations Convention against Corruption the assurances of its highest consideration.

Encls. 4

Vienna, 11 May 2012.



**Secretary of the Conference of the States Parties
to the United Nations Convention against Corruption
Corruption and Crime Branch
United Nations Office on Drug and Crime
Vienna**

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(1) Measures applied to the Ministry of Justice:

The anti-corruption system in the Ministry of Justice works together with a Quality Management system into which procedures and measures relevant to the System of Counteracting Corruption Risks have been incorporated. In 2006, a procedure called C.5.0.2 *Rules of Conduct in the Event of Suspected Corruption Practices*, which applies to all Ministry of Justice employees, was developed and implemented. Based on this procedure, information concerning corruption is collected as follows:

The Ministry of Justice's home page presents information about the system of counteracting corruption risks in the Ministry of Justice. Persons who have information about corrupt behaviour on the part of a Ministry employee can post such information there. Information can be sent by e-mail to the following address: antykorupcja@ms.gov.pl. or by regular mail to the address of: Ministerstwo Sprawiedliwości (the Ministry of Justice), Al. Ujazdowskie 11, 00-950 Warszawa in an enveloped marked "Anti-corruption". Such information is collected by the Internal Auditor and the Head of the Complaints Unit and is handed over to the Director General. The Director General, upon acquainting himself with the notifications, decides which procedure to apply.

In the event that corrupt behaviour or the possibility of corrupt behaviour has been identified, corrective measures are carried out in a relevant area in accordance with the procedure of *implementation of corrective measures C.4.4*.

A procedure has been developed to analyse the risk of corruption for the purpose of identifying sensitive areas. Corruption risks are being monitored by repeatedly analysing risk at regular time intervals, depending on the level of the corruption risk, every 2, 3 or 5 years, coinciding with the performance of internal and external audits. The Ministry of Justice, in consultation with an internal auditor, keeps a register of processes at risk of corruption. A list of job positions at risk of corruption is attached to the register.

In 2009, two training sessions were organised for the Ministry of Justice attended by 26 employees. In addition, the Ministry has prepared an "Anti-Corruption Manual" for its employees.

(2) Measures applied to the judiciary:

* The National Council of the Judiciary- a constitutional organ safeguarding the independence of courts and judges pursuant to Resolution dated 7 October, 2009, no. 741/2009, has adopted a set of rules governing the professional ethics of judges. Paragraph 2 of the resolution says that a judge should always be guided by principles of integrity, dignity, honour, a sense of

duty and should observe generally accepted customs. He may not abuse his status and the prestige of his office to further his own interest or the interests of other people. (§3 sentence 1). A judge should not yield to influence that could undermine his independence, irrespective of its source or cause (§9.1). He should avoid behaviour that could undermine trust in his independence and impartiality (§10). In addition, a judge should avoid personal contact and all business contacts with people or entities if such contacts give rise to doubts whether he performs his obligations in an impartial manner, or if such contacts undermine the prestige or trust in a judge's office and should refrain from engaging in financial activities that could be seen as an abuse of the judge's own position (§18.1 and §18.2). A judge may not accept any gains that could create the impression that by so doing someone is trying to exert an influence on him (§19); and when a judge benefits from offers addressed solely to judges, he should consider whether they are an attempt to influence on him or his professional workplace (§20). The National Council of the Judiciary is competent to interpret the rules of professional ethics. In its opinion dated 16 September, 2004, the Council provided an interpretation of the rules laid down in §18.2, saying that it is improper for judges to purchase movable or immovable property at auctions run by court executive officers (bailiffs) and furthermore stated that their closest persons should not engage in such activities as well.

* Furthermore, measures counteracting corruption in the judiciary are provided for in the Act of 27 July, 2001 – the Law on the Organisation of Common Courts (Dz. U. No. 98, item 1070 as amended). Under this Act, a judge may not take up an additional job, an additional activity, additional earnings, or membership in governing bodies of companies established under the commercial law, or a membership in co-operative bodies, or in foundations engaged in business activities or run a business (Art. 86§1-3). Pursuant to Articles 87-88 of the aforementioned Act, a judge is obligated to file annual financial disclosure statements. A breach of this obligation is subject to disciplinary liability.

Moreover Article 26§1 of the Act limits the term in office of presidents of courts in order to reduce the possibility of having the same persons serve as president or vice-president of the court for many years. Presidents are appointed for a four-year term and may not be reappointed as president or vice-president in the same court before the lapse of six years after the end of their term of office. The same rule also applies to presidents of court divisions, vice-presidents of court divisions (Art. 11 §3a) and judges who act as inspectors (Art.37d §1).

*An important instrument counteracting corruption is the right provided for in Articles 40-44 of the Act of 6 June 1997 – the Code of Criminal Procedure (Dz.U. z 1997, No. 89, item 555

as amended) that permits to exclude judges from adjudicating cases. Under this Act, judges are prevented from examining cases in which they are personally involved and from examining cases in which their family or personal relations could bear upon the outcome of a case. Both civil and criminal law procedure in the same scope provide for the exclusion of a judge from participating in the examination of a case by operation of the Act and at the request of a party, if there exists a circumstance giving rise to warranted doubts about the impartiality of a judge examining a particular case. In addition, court websites publish lists of judges who adjudicate in a specific court or court division. Such practice contributes greatly to the implementation of the rules of transparency of the judiciary.

* The rule is that proceedings before a court are open to the public. This rule follows from the Constitution of the Republic of Poland (Article 45.1 and Article 45.2), the Law on the Organisation of Common Courts (Article 42§2 and Article 42§3), and from both criminal and civil procedural regulations.

*Other instruments include information policy conducted by courts aimed at ensuring effective access to information relating to pending court proceedings. This practice, by reasons of the provisions of § 30 of the Rules of Procedure of common courts, falls under the responsibility of the presidents and vice-presidents of courts and court press spokesmen who may be asked by members of the media for information concerning court cases. A judge should avoid communicating with third persons who ask him questions concerning a case falling within his competence because such question may raise doubts about his impartiality. A judge should not make appointments with clients, while information concerning proceedings should be given by authorised court employees to persons concerned (§ 51 of the Rules of Procedure).

*The creation of the National School of Judicature and Public Prosecution – a centralised unit which organises systematic training courses for judges and prosecutors from across the country in different fields, including in counteracting and fighting corruption – is an example of good practice.

(3) Measures applied to the prison service

* On 1 February, 2011, the Director General of the Prison Service, appointed a Plenipotentiary for Counteracting Corruption in Prison Service who works in the Prison

Service. The Plenipotentiary is responsible for organising anti-corruption training courses and initiates amendments to internal regulations and changes in the organisation, the aim of which is to create transparent rules of organisation and implementation of tasks in the Prison Service. The Plenipotentiary also coordinates the implementation of anti-corruption mechanisms in the prison system and cooperates with other institutions and services whose task is to counteract corruption.

* Pursuant to Article 161 of the Act of 9 April 2010 on Prison Service (Dz.U. of 2010 No. 79, item 523) prison officers have a legal obligation (as do judges) to file financial disclosure statements about themselves and their spouses.