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Poland

Sąd Najwyższy Rzeczypospolitej Polskiej

Date of establishment: 1917

Address and e-mail of the court:

Krasinski sq. 2/4/6

00-951 Warsaw

Poland

Website:

<http://www.sn.pl/en/SitePages/Main.aspx> [1]

Link to the national database of their case law

Position of the supreme court in the national court system is

The Supreme Court exercises supervision over common and military courts regarding judgments (Article 183 (1) of the Constitution of the RP), the administrative matters as a whole being entrusted to the Minister of Justice. The SC scope of competence includes basically civil, labour, social security and criminal cases. The Court is composed of four Chambers (*Izby*): Civil, Criminal, Labour, and Militar one.

It is noticeable that any legal procedure in Poland consists obligatorily of two stages: so, against the judgments of District or Regional Courts adjudicating in the first instance, the appeal may be filed to the higher court, that is either to the Regional or to the Appeal Court, depending on the rank of the trial court. The Supreme Court is not the third one to hear the case itself; in order to ensure the coherence and the legality of the jurisprudence within the country, its supervision is limited generally to the legal points of final and binding judgments and decisions as to the merits.

What does the court decide about

The Supreme Court is one of three supreme jurisdictional bodies in Poland, beside the Supreme Administrative Court (*Naczelny Sąd Administracyjny*) and the Constitutional Court (*Trybuna Konstytucyjny*).

The judicial supervision of the Supreme Court generally amounts to (a) hearing extraordinary appeals in civil and criminal cases (*kasacja, skarga kasacyjna*), and to (b) adopting resolutions on points of law (the latter somewhat resembling the ECJ preliminary rulings). The latter bind either the court adjudicating the case in which the motion for adopting the resolution has been lodged or sometimes even the Supreme Court itself, if the resolution has the so-called 'abstract' character, namely, it is aimed at ruling out discrepancies in the decisions of the common courts, military courts or the Supreme Court.

Beside its jurisdictional responsibilities, the Supreme Court also gives opinions concerning legislative motions, examines electoral protests, and performs other tasks provided for by the law (see Article 1 of the Supreme Court Act of 23 November, 2002), as for instance the appeals to declare the verdict as unlawful (Article 424-1, and the following, of the Civil Procedure Code), which opens the possibility of making good damage caused by the State by the judicial breach of law.

The principals of procedure

Unless the statutory law provides for otherwise, the Supreme Court decisions are usually issued by a panel of three Justices (Article 57 of the SC Act 2001), yet more complex cases giving rise to serious doubts ? esp. as regards resolutions ? may be submitted by the panel of three to the panel of seven Justices. The decisions are delivered at the trial but with some exceptions (see below); certain formal decisions (e.g. concerning the inadmissibility of the appeal) may be made by the panel of one Justice at the close session without parties? attendance. Occasionally, the First President may even submit a legal issue giving rise to discrepancies in the jurisprudence to the Full Chamber or the Full Court.

The procedure before the Supreme Court is initiated by filing the **extraordinary (cassation) appeal** either by the interested party to the proceedings or by certain State organs, namely by the Public Prosecutor General or the Ombudsman. The SC does not carry out its competence *ex officio*.

The appeal in cassation may be based on the points of law only. The appeal against the findings of the common courts as to facts of the case are inadmissible.

As to the resolutions of the Supreme Court, they are adopted basically upon the motion lodged by the higher courts, where the point of law giving rise to serious doubts arises during hearing the appeal against the judgment of the trial court (see Article 441 of the Criminal Procedure Code, Article 391 of the Civil Procedure Code). The answer to the legal question filed by the higher court is binding only in a given case; it makes no precedence in a strict sense of the word.

In labour, civil and commercial cases the Court often adjudicates without the trial at the close session. In criminal cases, the Court decides at a close session rather in purely formal matters. The judgments and other decisions of the Supreme Court are rendered after the deliberation and voting.

The judges of the Supreme Court at the trial use gowns and cap, and the presiding judge wears the judicial chain.

The number of justices and panels

The number of posts of the Justices has been set at 90, including 5 Presidents, one of them appointed as the First President of the Supreme Court (Decree of the President of the Republic of the 18th of March, 2005; Journal of Laws 2005 No. 53, issue 470).

In Poland there are no fixed judicial panels, they are composed on an *ad hoc* basis. The Justices carry out their duties in one of four SC Chambers (see *supra*).

How are the justices appointed

The candidate for a post of the Justice of the Supreme Court has to fulfil the conditions as provided for in Article 22 of the SC Act 2001. He or she shall be a Polish citizen and enjoy full civil and full public rights, shall be a person of integrity distinguishing him- or herself by a high level of legal knowledge, shall complete legal higher studies in Poland or foreign studies recognized in the country, shall fulfil health conditions, and has to prove at least ten-year professional experience as a judge, public prosecutor, an advocate, or a notary. The latter condition shall not apply to persons employed as law professors in Polish higher schools, the Polish Academy of Science or other academic and research units.

According to Article 23(1) of the SC Act 2001, the First President of the Supreme Court shall announce, in Dziennik Urzędowy "Monitor Polski" (the Official Gazette of the Republic of Poland), the number of the posts to be occupied by Justices of the Supreme Court. The number of the posts to be occupied by Justices of the Supreme Court shall be determined by the Board of the Supreme Court.

Each person satisfying the requirements of the post of a Justice shall be entitled to propose their candidature, within a month following the announcement (Article 23(2) of the SC Act 2001).

The candidature is to be presented to the First President of the Supreme Court in the form of an application for the vacant post of a Justice together with, save where the candidate is a judge or a public prosecutor, relevant information about the candidate issued by the National Criminal Record, and with a relevant certificate confirming the candidate's ability to perform the tasks of a Justice, as far as the candidate's health is concerned (Article 23(3) of the SC Act 2001).

After making sure that the candidate satisfies prescribed requirements, the First President of the Supreme Court shall present the candidature, together with the evaluation of the candidate's qualifications, to the relevant Supreme Court Chamber (Article 23(4) of the SC Act 2001). Then the First President of the Supreme Court shall fix the date of the General Assembly of the Justices of the Supreme Court at which the candidate shall be presented. If there are more than one applications for one vacant post of a Justice, all candidatures shall be discussed at the same meeting of the Assembly (Article 23(5) of the SC Act 2001), which has to select no more than two candidates for the vacant post of a Justice (Article 23(6) of the SC Act 2001).

The following procedure is provided for by other Acts, namely by: (a) the Constitution of the Republic of Poland; (b) the Act on the National Council for the Judicature. It consists of two stages. At the first stage, the Council, which is the constitutional body responsible for safeguarding the independence of courts and judges, evaluates the candidatures for the vacant post. As the result thereof, the Council presents the candidature for the vacant post to the President of the Republic who shall appoint the Justice for an indefinite period (Article 179 of the Constitution).

Upon the appointment, a Justice shall take the solemn affirmation before the President of the Republic, according to the following formula : *"I affirm solemnly, holding the post of the Justice entrusted to me, to serve faithfully to the Republic of Poland, to guard the law, to perform scrupulously the duties arising from my position, to administer justice, without any bias, according to my conscience and to the rules of law, to keep the State and professional secrets, and to be guided by the principles of dignity and honesty?; the person taking this affirmation may finish it by saying the words "So help me God?"*.

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