Kamila M. Bezubik¹

Democratic Legitimacy or Political Calculation? – On the Election of Judges to the German Federal Constitutional Court

Keywords: Federal Constitutional Court, election of judges, reform of the judiciary

Słowa kluczowe: Federalny Sąd Konstytucyjny, wybór sędziów, reforma sądownictwa

Abstract

The election and appointment of judges of the Federal Constitutional Court (FCC) have been the subject of a dispute in the German legal literature for decades. According to the second sentence of para. (1) of Art. 94 of the Basic Law, the members of this court are elected in equal parts by the Bundestag (BT) and the Bundesrat (BR). An outside observer would probably conclude from this that the entire BT, i.e. the plenary chamber, and the entire BR must decide on the election of constitutional judges. However, in practice, the BT does not decide in a plenary session but by the twelve-member committee for the election of FCC judges, which also deliberates and votes in secret. A number of constitutional law experts consider this procedure as unconstitutional. The Second Senate of the FCC, in its judgment of 19 June 2012, decided that the election of constitutional judges by the special committee for the election of FCC judges in the BT is not unconstitutional. In this paper, the author considers whether the procedure for election of judges to the FCC meets the requirements of democratic legitimacy of the constitutional authority.

¹ ORCID ID: 0000-0002-2572-334X, MA, Chair of Constitutional Law and Political Systems, Faculty of Law, University of Białystok. E-mail: kamila.bezubik@uwb.edu.pl.

Streszczenie**Demokratyczna legitymacja czy polityczna kalkulacja – o wyborze sędziów do niemieckiego Federalnego Sądu Konstytucyjnego**

Wybór i powoływanie sędziów Federalnego Sądu Konstytucyjnego (FSK) jest od dziesięcioleci przedmiotem sporu w niemieckiej literaturze prawniczej. Zgodnie z art. 94 ust. 1 zd. 2 Ustawy Zasadniczej członkowie tego sądu są wybierani w równych częściach przez Bundestag (BT) i Bundesrat (BR). Postronny obserwator wywnioskowałby z tego zapewne, że o wyborze sędziów konstytucyjnych musi zdecydować cały BT, czyli plenum, a także cały BR. W praktyce jednak BT nie podejmuje decyzji na plenum, lecz przez dwunasto-osobową komisję do spraw wyboru sędziów FSK, która również obraduje i głasuje w tajemnicy. Szereg ekspertów prawa konstytucyjnego uważa tę procedurę za niezgodną z konstytucją. Drugi Senat FSK, w wyroku z 19 czerwca 2012 r. uznał, że wybór sędziów konstytucyjnych przez specjalną komisję do spraw wyboru sędziów FSK Bundestagu, nie jest niekonstytucyjny. W artykule podejmuję rozważania, czy procedura wyborcza sędziów do FSK spełnia wymogi demokratycznej legitymacji konstytucyjnego organu.

The Federal Constitutional Court (hereinafter FCC), based in Karlsruhe, is a federal court that is autonomous and independent of other constitutional bodies². As the guardian of the German constitution – the Basic Law (hereinafter BL)³ – it has a dual role: on the one hand, it is an independent constitutional body and, on the other hand, it is a court which uniqueness consists in its special area of activity: the control of the constitutionality of law⁴. The qualification of the FCC as a constitutional body means that it can not only

² §1 Bundesverfassungsgerichtsgesetz – BVerfGG, BGBl. I S. 1724, Act on the Federal Constitutional Court (hereinafter the FCC Act).

³ Basic Law (hereinafter referred to as BL), Grundgesetz für die Bundesrepublik Deutschland, BGBl. I, p. 404.

⁴ Art. 92 and 93 of the BL. The status of the FCC as a constitutional body was initially a controversial issue. However, especially due to the pressure exerted by the FCC itself, it is now widely accepted. In a special memorandum, the so-called status memorandum (*Status-Denkschrift*) of 27 June 1952, the FCC highlighted and substantiated its status as a constitu-

imply its existence and competence from the BL, but can also participate in shaping of the will of the state as a whole through its case law. The political importance of the FCC should certainly not be underestimated. It often has to make decisions on politically controversial matters. However, this does not change the fact that the FCC should not be guided in its decisions by political advisability but should act according with constitutional standards. Its “power” is based on the authority of the BL and its power of persuasion. Since its creation in 1951, the FCC has contributed to the establishment of the foundations of democratic order and to making it effective. This applies particularly to the enforcement of fundamental rights as enshrined in the BL. If one traces the history of today’s Germany in terms of the FCC’s case law, one can conclude that almost all politically important decisions have been reflected in the FCC’s case law⁵.

The German FCC has been presented on multiple occasions as a model for the functioning of a constitutional court. There are also propositions to transfer the German model of appointment of judges to the Polish law⁶. The supporters of this idea invoke the democratic legitimacy of the judges, which this model enhances, while recognizing that election of judges by other judges constitutes their undemocratic cooptation. Let us take a look at the procedure for appointing FCC judges.

In the second sentence of Art. 94 (1), the BL charged the legislator with the task of developing a procedure for electing a half of the members of the FCC. This task is very difficult as the procedure must ensure that the persons to be elected have the necessary qualifications. Secondly, the procedure must ensure democratic legitimacy and adequate federal representation of this constitutional body. At the same time, it must demonstrate an adequate degree of transparency, thus meeting the requirements

tional body (Denkschrift des BVerfG, https://www.bundesarchiv.de/cocoon/barch/1000/k/k1953k/kap1_2/kap2_30/para3_8.html (21.01.2020)).

⁵ E.g. Verbot der Sozialistischen Reichspartei, Urteil vom 23.10.1952–1 BvB 1/51 – BVerfGE 2, 1; Verbot der Kommunistischen Partei Deutschlands, Urteil vom 17.08.1956–1 BvB 2/51 – BVerfGE 5, 85; “Elfs-Urteil” des Ersten Senats, Urteil vom 16.01.1957–1 BVR 253/56 – BVerfGE 6, 32; Urteil des Zweiten Senats zur Auflösung des BT nach Vertrauensfrage, Urteil vom 16.02.1983–2 BvE 1/83 u.a. – BVerfGE 62, 1.

⁶ <https://www.tvp.info/46409614/wazny-fakt-wobec-proby-stworzenia-anarchii-prawnej-w-sadach-ziobro-o-orzeczeniu-tk> (21.01.2020).

of a democratic state based on the rule of law. Even if the results of the procedure have not given any reason to be challenged so far, the question arises, even after the last amendment of 24 June 2015⁷, whether the procedure regulated in §6 of the FCC Act meets the mentioned conditions in an optimal manner.

The second sentence of the Art. 94 (1) of the BL provides that a half of the judges of the constitutional court are elected by the Bundestag (hereinafter BT) and a half - by the Bundesrat (hereinafter BR). This constitutional provision is concretized by the FCC Act. According to its §2 (1 and 2), the FCC consists of two senates, each of which has eight judges. The Act provides that in each senate, three judges must be elected from the highest federal courts, from among judges who have held office for at least 3 years⁸. A person who is at least 40 years old, has the right to stand for election to the BT, has the necessary qualifications to be a judge in a general court of law, and has given his or her written consent to stand as a candidate may become a judge of the FCC⁹. Pursuant to §8 (1) of the FCC Act, the Federal Ministry of Justice and Consumer Protection keeps an up-to-date list of federal judges who are suitable to serve as judges of the constitutional court. It is also the responsibility of this ministry to keep a list of proposals from the parliamentary fractions, the federal government, and the federal state governments concerning candidates for the office of an FCC judge. This list is non-binding but must be forwarded to both the President of the BT and the President of the BR at least one week before the election of a judge¹⁰. In practice, the procedure for election of FCC judges is such that for the four seats to which it is "entitled", the BT elects two judges from a pool of three judges from the highest federal courts and two judges from the federal states who meet the statutory requirements. The BR, on the other hand, elects one federal judge and three

⁷ Neuntes Gesetz zur Änderung des BVerfGG vom 24.06.2015, BGBl. I Nr. 24, p. 973. §6 of the FCC Act has so far been amended four times, through the amending acts of 1956, 1970, 1993, and 2015 (BGBl. I S 662, BGBl. I S 1765, 1766, BGBl. I S 1442, and BGBl. I S 973, respectively); the amendments included a provision for the obligation of secrecy for members of the committee that elects FCC judges.

⁸ §2 (3) of the FCC Act.

⁹ §3 (1 and 2) of the FCC Act; M. Bożek, *System konstytucyjny Republiki Federalnej Niemiec*, Warsaw 2017, p. 155.

¹⁰ §8 (3) of the FCC Act.

state judges¹¹. The President and Vice-President of the FCC are elected by both houses alternately¹².

The election of FCC judges appointed by the BT is governed by §6 of the FCC Act. The judges are elected by the plenum of the BT on a proposal from the special committee for the election of FCC judges, which the BT appoints at the beginning of its term of office. It is made up of 12 BT members delegated by the various fractions according with the rules for proportional representation¹³. If a candidate for the position of a judge of the constitutional court receives at least eight votes from the members of the committee for the election of FCC judges, he or she is put forward for election during a plenary session of the BT¹⁴. Pursuant to the first sentence of §6 (1) of the FCC Act, no debate is held over the vote. The BT elects the judges by a two-thirds majority, but at least a majority of the total number of the Members is required¹⁵.

The selection procedure in the BR is regulated by §7 of the FCC¹⁶. Unlike the procedure applicable in the BT, the BR's procedure so far has not raised any constitutional concerns¹⁷. This is probably due to the fact that this is a provision that only applies to the two-thirds majority of the BR's

¹¹ §5 (1) of the FSK Act; Deutscher BT, Wissenschaftliche Dienste, *Die Wahl von Richtern des Bundesverfassungsgerichts*, Aktueller Begriff Nr. 37/06, https://www.bundes-tag.de/blob/189672/b56ac462bac28ad61cf0d3fa011f77f4/die_wahl_von_richtern_des_bundesverfassungsgerichts-data.pdf (21.01.2020).

¹² §9 (1 and 2) of the FCC Act.

¹³ §6 (2) of the FCC Act.

¹⁴ §6 (5) of the FCC Act. As a result of the amendment of the FCC Act in 2015 (BGBl. I, p. 973, 24 June 2015), the legislator restricted the original right of the committee for election FCC judges to submit candidates to the BT (*Vorschlagsrecht*). This has a direct impact on the actual conduct of the election, since the BT plenum is bound to vote on the candidates presented: the BT may reject the committee's selected candidates but is not entitled to propose and elect its own candidates. P. Wittmann, [in:] *BVerfGG: Mitarbeiterkommentar zum Bundesverfassungsgerichtsgesetz*, ed. T. Barczak, Berlin 2018, §6, p. 182.

¹⁵ §6 (1), sentence 2, of the FCC Act.

¹⁶ It is still in the form adopted in 1951 (BGBl. I S 243) and recommended by the Law and Constitutional Law Committee of the BT. Alternative proposals to move the preparation of the election in the BR to the committee or to uniformly regulate the procedure for the election of judges in the BT and the BR did not win the support of a majority. This includes the 1949 draft of the FCC Act prepared by the SPD fraction (BT-Drucks. I/328, p. 2 §7).

¹⁷ P. Wittmann, op.cit., §7, p. 194.

votes required for the election of a judge¹⁸. Since the Rules of Procedure of the BR (GO-BR)¹⁹ do not contain any specific provisions concerning the procedure of election of judges, the provisions of the BL and of the GO-BR apply in this case²⁰.

The BR may, when looking for candidates, use the lists which must be kept pursuant to §8 (1 and 2) of the FCC Act. Sessions of the BR are public, voting is done by show of hands or by calling on the federal states in the alphabetical order²¹. According with the second sentence of Art. 51 (3) of the BL, the votes of a federal state may be cast only uniformly and only by the BR members or their alternates who are present. As a consequence, a non-unanimous vote leads to the invalidity of all votes cast by a given state²². A judge of the constitutional court is elected by a two-thirds majority of the statutory number of BR members. The required qualified majority is certainly intended to reach an agreement on the candidate to be voted on and to avoid the appearance of formation of political camps or even the danger of being formally assigned to one of them.

Although the BR's electoral procedure is far less focused on ensuring confidentiality of the election process than the BT's procedure, in practice it is also largely secretive. The recommended candidate judges, *in fact* their election, are prepared by bodies outside the competent electoral body – the BR. Usually, this is done by the election committee made up of the ministers of justice of the sixteen federal states. The BR, on the other hand, is limited to a (formal) vote without a debate²³.

In state practice, the process of election of constitutional court judges is shaped by specific political habits. Although they are not legally binding, the legal literature describes a clearly structured process for election of candidates²⁴. On this basis, each of the two main political parties (CDU/CSU and

¹⁸ §7 of the FCC Act.

¹⁹ Geschäftsordnung des Bundesrates (hereinafter referred to as GO-BR), BGBl. I S 1057.

²⁰ P. Wittmann, *op.cit.*

²¹ Cf. Art. 52 (3), sentences 3 and 4, of the BL and § 29 (1) of the GO-BR.

²² BVerfGE 106, 310 (330,331).

²³ S. Ruppert, [in:] *Bundesverfassungsgerichtsgesetz*, eds. Chr. Burkiczak, W. Dollinger, F. Schorkopf, Heidelberg 2015, §7 No. 3.

²⁴ Cf. A. Hopf, [in:] *Kommentar zum Grundgesetz*, eds. B. Schmidt-Bleibtreu, H. Hofmann, H.-G. Henneke, 2014, Art. 94, No. 43.

SPD) has the right to nominate a half of the judges in the senate²⁵. Others have only a veto right, which in practice is used rather in moderation²⁶. It has become customary that if one of the two large parties forms the government with a smaller coalition partner, then the partner is given the opportunity to nominate a candidate for a constitutional court judge²⁷. As a result, even the members of the BT's committee for election of FCC judges are not the decision-makers when it comes to election of judges of the constitutional court. They only accept what has been negotiated by politicians. They are bound by an obligation of secrecy with regard to the content of the committee's work, its discussions, and its voting. Ultimately, the result of this not very transparent procedure for the election of judges of the constitutional court is a strictly proportionate representation of the two main political parties.

The criticism that has been appearing for years is mainly aimed at the described practice. There is strong opposition to the creation of party-political agreements, the non-transparency of the election procedure, and the standardization of the actually separate procedures applicable in the BT and the BR²⁸. Over the years, various attempts have been made to streamline the pro-

²⁵ Two judges in each senate are to be neutral in terms of party preference.

²⁶ Cf. G. Geuther, K. Remme, *Undemokratischer als die Papstwahl*, Deutschlandfunk, https://www.deutschlandfunk.de/undemokratischer-als-die-papstwahl.724.de.html?dram:article_id=99030 (21.01.2020).

²⁷ Ch. Landfried, *Die Wahl der Bundesverfassungsrichter und ihre Folgen für die Legitimität der Verfassungsgerichtsbarkeit*, [in:] *Handbuch Bundesverfassungsgericht im politischen System*, eds. R. Chr. van Ooyen, M.H.W. Möllers, Wiesbaden 2015, p. 375.

²⁸ In the substantiation for the bill, submitted in 2008, intended to streamline the procedure for the election of judges of the constitutional court, members of the BT (including J. Montag, J.P. Winkler, and members of the BÜNDNIS 90/DIE GRÜNEN fraction), emphasized that the procedure was not transparent and used arguments such as the impossibility of hearing of the candidates and the fact that the nomination of the candidates was the exclusive domain of the two large political camps (CDU/CSU and SPD), which resulted in lack of need to reach a consensus on the candidates. In addition, they found it unacceptable that the BT, according with the wording of the BL (Art. 94 (1), second sentence), does not elect the judges it appoints to the constitutional court, but rather delegates this function to the committee for election of FCC judges. One of the proposals to streamline the procedure for election of the judges was to adopt again the requirement to obtain a majority of two-thirds of all the votes of the members of the BT, with a view to obtaining a broader consensus on the candidates. Such a solution was previously provided for in §6 (4) of the FCC Act of 12 March 1951 (BGBl. I S 243), BT-Drucks. 16/9628 of 18 June 2008, *Entwurf eines Gesetzes zur Verbesserung des Verfahrens zur*

cedure for the election of FCC judges, starting with the submission of draft amendments to the FCC Act²⁹, draft amendments to the Rules of Procedure of the BT³⁰, and a petition to change the way in which judges are elected and the consequent need to amend Art. 94 of the BL³¹. The petitions committee gave a detailed response concerning the method of election of judges presented in the petition, i.e. in direct elections. It was found that the proposed election of all members of the FCC on one day would undermine the continuity of the court's functioning, which until then had resulted from the filling of a seat in that senate that had just been vacated and from overlapping of the judges' terms of office. The idea to shorten the twelve-year term and make it dependent on the term of the BT has been equally criticized as it has been found to pose a threat to the continuity of the court's case-law³². In its arguments, the petitions committee also referred to the FCC's position on the procedure for election of judges of the constitutional court in the BT, contained in the decision of the Second Senate dated 19 June 2012, ref. No. 2 BvC 2/10, considering on its basis that there is no need for legislative action in this case³³.

The mentioned verdict of the FCC concerned an electoral protest³⁴. The applicant challenged the composition of the senate on the ground that the

Wahl der Bundesverfassungsrichterinnen und Bundesverfassungsrichter. The bill was eventually rejected (BT-Drucks. 16/13670 of 1 July 2009), while the question of constitutionality of the procedure for election of judges in the BT was considered in 2012 by the FCC (BVerfG 19 June 2012–2 BvC 2/10).

²⁹ Cf. footnote 32.

³⁰ Geschäftsordnung des Deutschen Bundestages, BGBl. I S. 197; Antrag der Abgeordneten J. Montag, I. Schewe-Gerigk, H.-Ch. Ströbele, W. Wieland, J. Philip Winkler und der Fraktion BÜNDNIS 90/DIE GRÜNEN Änderung der Geschäftsordnung des Deutschen Bundestages zur Verbesserung des Verfahrens zur Wahl von Bundesverfassungsrichterinnen und Bundesverfassungsrichtern, BT-Drucks, 16/9927 of 3 July 2008.

³¹ This request was posted as a public petition on the website of the Petitions Committee of the BT. It was supported by 408 people, Petition 35033, BVerfG: Direktwahl der Richter am BVerfG vom 17.08.2012.

³² Final substantiation, Pet 4–17-07–11080-041806.

³³ Ibidem.

³⁴ The applicant originally challenged the 5% electoral threshold clause applicable to the 2009 European Parliament election and, consequently, the validity of that election. After the FCC found, in its judgment of 9 November 2011 (2 BvC 4/10, BVerfGE 131, 230), the electoral clause to be incompatible with the BL, but did not consider it necessary to repeat the election, the applicant continued to seek a way to repeat the election in Germany or, alternatively, to

election of its members was flawed – he argued that they were elected by the committee for the election of FCC judges and not, as required by the BL, by the BT and, therefore, that their indirect election infringed Art. 94(1), second sentence, of the BL. The Second Senate of the FCC found that its members were adequately elected and rejected the protest.

The FCC concluded that there were no grounds for challenging the fact that the German BT elects the judges of the constitutional court in indirect elections by an electoral commission composed of members of the house who are under an obligation of secrecy and who decide by a two-thirds majority. The second sentence of Art. 94(1) of the BL, under which FCC judges are elected in an equal number by the BT and the BR, does not specify the electoral procedure. The procedure is to be formulated by the ordinary legislator³⁵. The delegation of the election of judges to the committee, as found by the FCC, is also without prejudice to the representative function of the BT, which it essentially performs in its entirety³⁶. This is justified by the need to protect and strengthen the reputation and confidence in the independence of the court and thus to ensure its ability to function properly³⁷.

However, the verdict of the FCC did not end the continuing criticism of the way constitutional court judges are elected³⁸. Attention was drawn to the need for a stronger focus on the principle of best selection, as expressed in the Art. 33 (2) of the BL, to make the whole process more transparent, including through the publication of vacancies, candidates' professional profiles, and clear selection criteria, and through the introduction of gender parity³⁹. It

redistribute the seats in the contingent of members of the European Parliament allocated to Germany (BVerfG Pressemitteilung No. 48/2012 vom 4 Juli 2012).

³⁵ BVerfGE 131, 230 (234).

³⁶ BVerfG, Urteil vom 28.02.2012–2 BvE 8/11.

³⁷ BVerfGE 131, 230 (236).

³⁸ D. Wiefelspütz, *Die Bundesverfassungsrichter werden vom Deutschen Bundestag direkt gewählt*, "Die Öffentliche Verwaltung, Zeitschrift für Öffentliches Recht und Verwaltungswissenschaften" 2012, No. 24, p. 961.

³⁹ Deutscher Juristenbund, Pressemitteilung vom 28.04.2015, <https://www.djb.de/st-pm/pm/pm15-17> (21 January 2020); Bundesvorstandes der Neuen Richtervereinigung, Pressemitteilung des vom 12.06.2015, <https://www.neuerichter.de/details/artikel/article/das-richterwahlgesetz-des-bundes-muss-nach-65-jahren-in-den-ruhestand-gehen-407.html> (21.01.2020); Deutscher BT, Antrag von Bündnis 90/Die Grünen, BT-Drucks. 18/7548.

was only in 2014 that a draft amendment to the FCC Act related to its §6 appeared⁴⁰. With the amendment of the FCC Act of 24 June 2015, the legislator for the first time moved the election of FCC judges to a plenary session of the BT. However, the legislator did not eliminate the committee for selection of FCC judges, which has a significant impact on the composition of the court in Karlsruhe. The political jigsaw puzzle and the politicians' concern about the election of judges with a similar socio-political attitude toward the court did not disappear either⁴¹. The relationship between the composition of the FCC (in terms of party membership and political affiliation) and its jurisprudence is best reflected in the position of the constitutional court regarding the financing of political parties. While the FCC initially allowed for the possibility of tax deduction of donations to political parties of up to DM 100,000 as being according with the BL⁴², in its verdict of 9 April 1992⁴³, the FCC found that this tax privilege does not comply with the requirement of equal participation of citizens in shaping of the political articulation of the opinions and interests of the public⁴⁴.

Constitutional courts need to be independent. This is not a new claim. The Venice Commission has addressed this issue on numerous occasions.

⁴⁰ Gesetzentwurf der Fraktionen CDU/CSU, SPD, DIE LINKE. und BÜNDNIS 90/DIE GRÜNEN Entwurf eines Neunten Gesetzes zur Änderung des BVerfGG (9. BVerfGGÄndG), BT-Drucks, 18/2737 of 7 October 2014.

⁴¹ Before the election of Stephan Harbarth (Deputy Chairman of the CDU/CSU faction in the BT between 2016 and 2018) in November 2018 as a judge of the FCC, there were numerous press reports, e.g. *Grüne unterstützen Harbarths Wahl*, Frankfurter Allgemeine, <https://www.faz.net/aktuell/politik/inland/neuer-bundesverfassungsrichter-gruene-unterstuetzen-stephan-harbarth-15883843.html> (21.01.2020). The election of current or former politicians for the FCC is particularly controversial. Stephan Harbarth "moved" to the court in Karlsruhe directly from the BT.

⁴² BVerfGE 73, 40.

⁴³ BVerfGE 85, 264.

⁴⁴ In 1986, 5 judges of the FCC's Second Senate were members of the CDU or CSU, or were nominated by the CDU/CSU, and only 3 were members of the SPD. In 1992, there was an equal balance between the CDU/CSU and the SPD. Assuming that judges with social-democratic views are more inclined to reject tax privileges than conservative judges, it can be concluded that a personal change, combined with the strengthening of the left-wing camp in the FCC's Second Senate, made it possible to change the jurisprudence on the financing of political parties from privileging the so-called *Großspender* to strict adherence to the formal principle of equal tax treatment of party donations. Cf. Ch. Landfried, op.cit., p. 382.

Particularly noteworthy is opinion No. 403/2006⁴⁵ which, while highlighting the diversity of the procedures for election of judges and appointment of judges by the executive branch of government in some older democracies, warns against possible political abuse and recommends introduction of appropriate constitutional provisions in this respect. A solution worth considering is establishment of a body in Germany, similar to a council for the judiciary⁴⁶, which would be completely independent of the executive branch of government and the legislature, thus reducing political influence on the judiciary, including the constitutional court. The procedure for election of FCC judges indicates lack of transparency. The small group of people deciding on the selection of the candidates, the low level of public information about the candidates, and the delegation of the selection to one of the BT's committees raise serious concerns about the democratic legitimacy of the members of the FCC.

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⁴⁵ European Commission For Democracy Through Law (Venice Commission) Judicial Appointments Report adopted by the Venice Commission at its 70th Plenary Session (Venice, 16–17 March 2007), CDL-AD(2007)028, p. 3, <https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD%282007%29028-e> (21.01.2020).

⁴⁶ A proposal to establish a council for the judiciary, as an institution with far-reaching powers in all matters related to the legal status of judges, is included in the “Magna Carta of Judges;” cf. Magna Carta of Judges (Fundamental Principles) Consultative Council of European Judges (CCJE) Strasbourg, 19 November 2010 CCJE (2010)3 Final, <http://www.kwartalnikiustitia.pl/wielka-karta-sedziow-zasady-podstawowe,339> (21.01.2020).

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