



**2015/0817(NLE)**

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## **DRAFT REPORT**

on the nomination of Janusz Wojciechowski as a Member of the Court of  
Auditors  
(C8-0414/2015 – 2015/0817(NLE))

Committee on Budgetary Control

Rapporteur: Igor Šoltes

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## PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

**on the nomination of Janusz Wojciechowski as a Member of the Court of Auditors  
(C8-0414/2015 – 2015/0817(NLE))**

**(Consultation)**

*The European Parliament,*

- having regard to Article 286(2) of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0414/2015),
  - having regard to Rule 121 of its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A8-0000/2016),
- A. whereas Parliament's Committee on Budgetary Control proceeded to evaluate the credentials of the nominee, in particular in view of the requirements laid down in Article 286(1) of the Treaty on the Functioning of the European Union;
- B. whereas at its meeting of 15 March 2016 the Committee on Budgetary Control heard the Council's nominee for membership of the Court of Auditors;
1. Delivers a favourable/negative opinion on the nomination of Janusz Wojciechowski as a Member of the Court of Auditors;
  2. Instructs its President to forward this decision to the Council and, for information, the Court of Auditors, the other institutions of the European Union and the audit institutions of the Member States.

## ANNEX 1: CURRICULUM VITÆ OF JANUSZ WOJCIECHOWSKI

### **Profession:**

legal practitioner, former judge, currently a lawyer

### **Education:**

advanced legal studies: master's degree in law, graduated from the University of Łódź, Department of Law and Administration (1977)

### **Professional career:**

- Member of the European Parliament since 2004
- Deputy Speaker of the Polish Sejm (2001-2004)
- Chairman of the Najwyższa Izba Kontroli [Supreme Audit Office] (1995-2001)
- Member of the Polish Sejm (1993-1995)
- Judge at the district court of Rawa Mazowiecka, judge at the provincial court of Skierniewice, judge at Warsaw appeal court (1980-1993)
- Trainee public prosecutor (1977-1980)

### **Offices held in national parliament:**

- Member of the Polish Sejm (1993-1995; 2001-2004)
- Deputy Speaker of the Polish Sejm (2001-2004)
- Chairman of the Committee on Codification Changes (2001-2004)

### **Offices held in national government:**

- Under-Secretary of State at the Cabinet Office with responsibility for Legislative Affairs (1994-1995)

### **Offices held in external audit bodies:**

Chairman of the Najwyższa Izba Kontroli [Supreme Audit Office] (1995-2001)

### **Offices held in the judiciary:**

- judge at district, provincial and appeal courts (1980-93)
- judge seconded to the Supreme Court (1990-91)
- member of the National Council of the Judiciary (1990-93)
- judge at the Tribunal of State (1991-93)

### **Offices held in the EU institutions:**

- Member of the European Parliament since 2004
- Vice-Chairman of the Committee on Agriculture and Rural Development (since 2004)
- Member of the Committee on Budgetary Control (2004-2009)
- Delegation to the EU-Kazakhstan, EU-Kyrgyzstan and EU-Uzbekistan Parliamentary Cooperation Committees and for relations with Tajikistan, Turkmenistan and Mongolia
- Observer at EP (2003-2004)

### **Offices held in other international organisations:**

- Member of the Governing Board of EUROSAI — European Organisation of Supreme Audit Institutions (1995-1999)

## **ANNEX 2: ANSWERS BY JANUSZ WOJCIECHOWSKI TO THE QUESTIONNAIRE**

### **Professional experience**

#### **1. Please list your professional experience in public finance, be it in budgetary planning, budget implementation or management or budget control or auditing.**

From 1995 to 2001 I was President of the Supreme Audit Office (NIK), the constitutional state auditing body that monitors the State budget and other areas of State activity, following election by the Polish Parliament for the six-year term of office. While I was in office I presented six audits of the execution of the State budget to the Polish Parliament and answered the members' questions.

As President of the NIK, I was also responsible for drawing up and managing the budget of the NIK itself.

I have been working on issues connected with the EU budget since 2004, both as Member of the European Parliament and, in particular, as Vice-Chair of the Agriculture and Rural Development Committee.

#### **2. What have been your most significant achievements in your professional career?**

I was highly successful in my role as judge. In 1990, following the collapse of the totalitarian regime in Poland, I was nominated by Polish judges to sit at the newly formed National Council of the Judiciary, a body responsible for monitoring judicial independence and the independence of the courts. That same year, I was asked to serve as a judge at the Court of Appeal and to adjudicate at the Supreme Court. As a judge I wrote a number of academic publications, in particular a commentary on the Criminal Code (1997).

As President of the NIK, I oversaw its systematic investigative activities into the risk of corruption. In 2000, under my direction, the NIK published its broad 'Analysis of the risk of corruption in the light of investigations by the Supreme Audit Office', which outlined corruption-generating mechanisms and areas most at risk of corruption in Poland. The analysis also contained recommendations for State administration with a view to reducing the risk of corruption. Many of those recommendations have been followed. The NIK's work on reducing the risk of corruption is still being built on today, and it is helping to improve Poland's ratings in Transparency International's anti-corruption index.

While I was in charge, the NIK was extremely successful in exposing cases of corruption in the management of public assets, some of which involved privatisation.

My greatest success as Member of the Polish National Parliament was exposing corrupt deals relating to public procurement contracts and bringing into Polish law a provision that weakened the solidarity between bribe-givers and bribe-receivers by stating that a bribe-giver who reported the corrupt deal to the authorities before it was discovered would not be held accountable. The new law was extremely effective in helping to tackle corruption.

I also brought into the Polish criminal procedure the concept of anonymous witness, making it possible to conceal the details of witnesses giving evidence in cases involving organised crime so that those witnesses do not face reprisal at the hands of criminal organisations. It was an important step in witness protection.

I also drafted a Parliamentary Act establishing the State General Prosecutor's Office, the authority responsible for the legal protection of State assets. The act was adopted and the Office still exists today.

I believe that my work on animal protection has been my greatest success as Member of the European Parliament. I am currently the President of the Intergroup on the Welfare and Conservation of Animals, which plays a highly active role in the European Parliament and initiates measures to improve animal welfare and protection in the EU. In 2009 I was rapporteur for the Parliament/Council Regulation on the protection of animals at the time of slaughter. In the Regulation we managed to make animal welfare standards at the time of slaughter much more humane.

What is more, I actively and successfully contributed to work on the establishment of a ban on dog, cat and seal product imports, given the cruel methods used to kill those animals in third countries.

**3. What has been your professional experience of international multicultural and multilingual organisations or institutions based outside your home country?**

I have gained most of my experience of working in an international setting by being an active Member of the European Parliament since 2004. I have been Vice-Chair of the European Parliament's Agriculture and Rural Development Committee since 2004.

Before that, as President of the Supreme Audit Office from 1995 to 2001, I participated actively in the international work of the EUROSAI and INTOSAI groups of the International Organisation of Supreme Audit Institutions. I was a member of the governing board of EUROSAI and actively took part in its congresses, conferences and seminars.

**4. Have you been granted discharge for the management duties you carried out previously, if such a procedure applies?**

Over the course of my term of office as President of the Supreme Audit Office, the Polish Parliament assessed my activity reports and my execution of the budget for each of the six years. All those assessments were positive.

**5. Which of your previous professional positions were a result of a political nomination?**

The only post I have held as a result of a political nomination was the position of Under-Secretary of State at the Office of the Council of Ministers in 1994-1995. I was responsible for legislation and was nominated to the position by the Prime Minister. I took up all my other public offices following public elections (national parliament, European Parliament) or parliamentary elections (President of the NIK).

**6. What are the three most important decisions to which you have been party in your professional life?**

I remember a time when, as a judge in the 1990s, I opposed a death sentence. As the only one opposed to the sentence in a panel of five judges, I was outvoted 4:1.

The Supreme Court upheld my opposition, however, and the death sentence was not carried out. The death penalty still existed in Poland at that time – it was not abolished until 1997 – and I contributed to its abolition by means of my opposition first as judge, and then as a Member of Parliament.

The most difficult decision I made whilst working at the Polish Supreme Audit Office was to submit a negative assessment of the execution of the State budget in 2001, which was the first time a negative assessment had been issued. I did not hesitate to submit the assessment, even though I knew that I would be blocking my own re-election, and in doing so I put an end to my six-year term of office. What is more, the negative assessment damaged the reputation of the government majority.

During my time as President of the Supreme Audit Office, I also took a particularly important decision on the monitoring of the salaries of government officials and State-owned company managers. My critical report on the unregulated way in which these salaries were fixed formed the basis of a Parliamentary Act limiting the value of these salaries. The Parliamentary Act is still in force.

One of the audits carried out by the Supreme Audit Office when I was in charge prevented the government from carrying out an extremely costly weapons contract, which saved the State budget hundreds of millions of euros.

## **Independence**

### **7. The Treaty stipulates that the Members of the Court of Auditors must be ‘completely independent’ in the performance of their duties. How would you act on this obligation in the discharge of your prospective duties?**

Neither as judge nor as President of the Supreme Audit Office did I ever perform my duties in such a way that my independence was brought into question – on the contrary, I was valued as a fully independent judge and a fully independent President of the NIK – and nor will my independence in my work at the Court of Auditors be compromised in any way. I know that the role requires total objectivity and full compliance with the established code of conduct.

### **8. Do you or your close relatives (parents, brothers and sisters, legal partner and children) have any business or financial holdings or any other commitments, which might conflict with your prospective duties?**

I am not involved in business activity, nor is any member of my family. My parents are dead, my wife and three sisters are retired, my younger brother is a farmer and a Member of the Polish National Parliament. One of my sons runs his own IT firm and the other is a lawyer, and neither of them are engaged in any economic or financial activity that could conflict with my prospective duties at the Court of Auditors.

### **9. Are you prepared to disclose all your financial interests and other commitments to the President of the Court and to make them public?**

I am prepared to disclose my assets not only to the President of the Court but also to the public. As a Member of the European Parliament I make a public declaration of my financial

interests every year in Poland, which is published on the internet. My financial situation is fully transparent.

**10. Are you involved in any current legal proceedings? If so, please provide us with details.**

I am not involved in any criminal proceedings. In recent years two civil suits have been brought against me relating to critical statements I made, one on the mismanagement and waste of EU funds by a Polish minister, and the other concerning mismanagement by the board of a state-owned Polish company in receipt of state aid. I won both cases. The court found my criticisms to be substantiated.

**11. Do you have any active or executive role in politics, if so at what level? Have you held any political position during the last 18 months? If so, please provide us with details.**

I do not now have, nor have I had during the last 18 months, any executive position in politics. In 2015, I was the acting regional plenipotentiary of the Law and Justice party in the Łódź region for a few months, without being formally appointed to the post. I no longer perform those duties.

As a Member of the European Parliament I am a member of the Policy Council of the Law and Justice party, which is the party's executive body and comprises all party members who are parliamentarians.

**12. Will you step down from any elected office or give up any active function with responsibilities in a political party if you are appointed as a Member of the Court?**

If I am appointed as a Member of the Court of Auditors I will resign my membership of the Policy Council of Law and Justice. I will entirely suspend all political activity for the duration of my term at the Court. That is exactly what I did in Poland when I was President of the Supreme Audit Office (NIK); I suspended my political activities.

**13. How would you deal with a major irregularity or even fraud and/or corruption case involving persons in your Member State of origin?**

I would present the findings accurately and draw any conclusions from those findings, including transferring the matter to the law enforcement authorities. There can be no question of making allowances, with regard either to the country or the individual concerned. As President of the NIK I presented critical reports which resulted in ministers resigning, including ministers from my own political circles. In 1996, I published a critical report on the activities of the minister for foreign economic cooperation, who was a member of the party I belonged to before I was elected to the NIK. Those investigations uncovered maladministration on the part of the minister, who was subsequently dismissed. The case was taken up by the law enforcement authorities and I had no qualms about presenting the true findings of the audit and the resulting conclusions.

I would also add that, as President of the NIK, I presented critical findings in which irregularities concerning Poland's use of PHARE pre-accession funds were presented honestly.

**Performance of duties**

**14. What should be the main features of a sound financial management culture in any public service? How could the ECA help to enforce it?**



Sound management of public finances means, above all, management which does not permit waste or corruption. Based on my experience at the NIK, which can also be relevant at the Court, I think that it is particularly important to eliminate the scope for officials to take arbitrary action, not to allow conflicts of interest and to ensure transparency (openness) in the use of public funds and an effective system of controls. In short, sound financial management is management which permits no arbitrariness or conflicts of interest and maximises transparency and the effectiveness of controls.

The Court can help to improve the management of public funds by exposing misconduct and coming up with specific recommendations for eliminating arbitrariness in the decision-making process, eliminating conflicts of interest, increasing transparency and improving controls.

**15. Under the Treaty, the Court is required to assist Parliament in exercising its powers of control over the implementation of the budget. How would you further improve the cooperation between the Court and the European Parliament (in particular, its Committee on Budgetary Control) to enhance both the public oversight of the general spending and its value for money?**

The Court performs its role of enhancing the European Parliament's powers of control very well, providing Parliament with reliable information on the spending of the EU budget. I believe enhanced cooperation is possible by increasing the scope of the Court's analytical work.

I see the primary scope for increasing the role of the Court in a continuation of the practice begun in 2014 of drawing up landscape reviews. Two such reviews in 2014, one concerning accountability mechanisms and the other on risks to the financial management of the EU budget, are highly valuable research containing important recommendations for Parliament. At the Court I will advocate more landscape reviews along those lines.

In addition, greater significance should be given to the implementation of the Court's recommendations. Both the Court and Parliament should hold more firmly to account those institutions which are subject to scrutiny by implementing the recommendations of the Court.

**16. What added value do you think performance auditing brings and how should the findings be incorporated in management procedures?**

I think the important added value in performance auditing is in improving the distribution of EU funds and allocating them more fairly among beneficiaries. Another benefit is that it increases EU citizens' awareness of how public money is spent, as greater knowledge engenders more confidence in the EU and its institutions. In sum, the particular added value of performance auditing lies in strengthening democratic oversight of the activities of the EU institutions and the implementation of the EU budget.

**17. How could cooperation between the Court of Auditors, the national audit institutions and the European Parliament (Committee on Budgetary Control) on auditing of the EU budget be improved?**

Cooperation between the Court and the national audit bodies is good. I am particularly pleased with the very good, if not to say exemplary cooperation between the Court and the

Polish Supreme Audit Office. As President of the NIK in the 1990s, when Poland was an EU candidate, I initiated cooperation between the NIK and the Court, and I worked together with the Court's Presidents, Mr Middelhoek, Mr Friedmann and Mr Nilsson. The good foundations laid by that cooperation are now bearing fruit: in its 2014 report the Court mentioned the Polish NIK as an exceptional example of substantive good cooperation.

I see scope for improvement mainly in making further efforts to align audit methodologies, whereby the Court can lend its experience, but should also itself seek out good practice, such as the Polish NIK's effective models for flagging up corruption risks. The Court is of course not an investigative body, but it can and should highlight systemic risks and mechanisms which incite corruption.

I think cooperation could also be improved through broader exchange of information on audit findings. The Court could make broader use of the findings of audits carried out by national audit bodies, which could prevent unnecessary duplication.

Joint or parallel audits by the Court and the supreme audit bodies of the Member States are also something that should be pursued, as unexploited opportunities for cooperation exist here.

**18. How would you further develop the reporting of the ECA to give the European Parliament all the necessary information on the accuracy of the data provided by the Member States to the European Commission?**

The Court's reporting of information on the data provided by the Member States can be developed primarily on the basis of the joint audits by the Court and the supreme audit bodies of the Member States that I proposed in answer to question 17, which would take into account the problem of the reliability of data provided by the Member States. It would be possible, for example, to jointly examine whether the Commission was receiving reliable information on the use of funds for agricultural producer groups.

This, however, is a matter of the competence of the supreme audit bodies. The Polish audit institution, the NIK, has statutory powers to undertake joint audits with the European Court of Auditors on the terms laid down in a mutual agreement.

**Other questions**

**19. Will you withdraw your candidacy if Parliament's opinion on your appointment as Member of the Court is unfavourable?**

Yes. If Parliament's opinion is unfavourable I will ask the Polish Government to consider withdrawing my candidacy.