

THE SOCIAL FACTOR IN THE COURT OF CASSATION – INTERNAL AND EXTERNAL MOTIVATIONS

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Abstract. The article presents the results of empirical research devoted to the motivation for serving as a lay judge of the Supreme Court of the Republic of Poland. The social factor was introduced into the Polish legal system under the Act of December 8th, 2017 on the Supreme Court. Public discourse has pointed to the legislature's intent to provide broader, social legitimacy to the Supreme Court. The participation of the social factor is envisaged in the following proceedings: disciplinary and extraordinary appeal. The empirical study consisted in the Supreme Court lay judges filling a survey, which included a series of questions – mainly closed ones – concerning their motivation for holding the office, their management style, the way they work in a group, the role of rewards and reinforcements, but also their opinions on their functioning in the Supreme Court, their sense of satisfaction with their work, and their possible proposals for changes in the existing regulations. The article consists of a theoretical part, devoted to the legal regulations concerning the institution of lay judges of the Supreme Court, a discussion of the methodology of the study, its results and final conclusions. The authors only present and discuss the obtained results, without evaluating the legitimacy of introducing the social factor into the judicial process at the level of the Court of Cassation from the perspective of the theory and philosophy of law or the science of management and quality. The aim of the study was to examine the social attitudes of people who decided to run for the position of a lay judge of the Supreme Court and were sworn in after successfully passing the induction

procedure. The analysis is interdisciplinary. The study was prepared with the participation of researchers representing a number of disciplines in the field of social sciences: economics, law, management and quality sciences and psychology.

Keywords: lay judges, Supreme Court, motivation, law, society

INTRODUCTION

In the majority of the democratic states governed by the rule of law project participation of the so called social factor in dispensing is being projected. The general science of legal theory understands dispensing justice as the process of applying the law resulting in particular decisions decisive in terms of individual laws, rights and obligations. The extent of the category of cases to which the social factor applies is usually very diverse. However, as rule, participation of citizens in executing and dispensing justice is associated with proceedings in which the so called decisions on the substance of the case are being made. This is understood as the court determining facts within the framework of the proceedings to take evidence in order to qualify the findings into an appropriate legal norm with the goal of drawing the aforementioned particular and individual consequences from a given entity. Participation of the social factor consists in expanding the catalogue of verdicts and values taken into consideration within the framework of hearing the evidence. With increasing frequency social participation in executing authority, including judicatory authority, is being treated as a component of a law-observing state which should act efficiently as well as justly and therefore the law should be applied by the judicial system in the same efficient and just manner. Fulfilling both these premises jointly as a goal and value in on itself is a prerequisite for considering the state to be governed by the rule of law [Czarnek 2018, 83].

For this reason participation of citizens in appeal proceedings (within the framework of a second instance court) is usually severely restricted or not projected within the framework of civil and criminal procedures. In case of the latter it is being recognized that the social factor may be substantial in terms of sensitizing the adjudicating panel in regards to applying a penalty to an appropriate extent. In general terms, higher requirements regarding professional legal knowledge at the stage of the second instance proceedings programmatically exclude participation of the social factor at this particular stage of case proceedings. It is being accepted that participation of non-professional entities in the process of executing law is dysfunctional if a given procedure accepts only the legal control over adjudication at the stage of an appeal or extraordinary (cassation) instance. In other terms, additional social legitimization of the adjudication is possible only within the framework of the examination proceedings (when facts are being determined) and not during the appeal proceedings, particularly the proceedings during which only the legal control

over the already proclaimed verdict concerning application of law is being realized.

In Poland, along with adoption of the new Act on the Supreme Court¹ a social factor in the form of Supreme Court Lay Judges has been introduced into the court's practice regarding rulings [Grajewski 2018, 609–20; Szmulik 2018, 42–51; Otręba 2018, 45–52; Dudek 2018, 5–15]. The effective regulations project limited participation of lay judges in proceedings regarding dispensing justice but do not allow lay judges to participate in the resolution-making activities of the Court of Cassation. The Act on the Supreme Court projects participation of the Supreme Court lay judges only in the proceedings regarding control over or performance of the examination proceedings. As of the day of publishing of this paper such elements occur only within the framework of the operations of the so called “new chambers” of the Supreme Court, i.e. the Disciplinary Chamber and the Extraordinary Review and Public Affairs Chamber.² Therefore such form of inclusion of the social factor fulfils the doctrinal requirements of the social factor participation in the aforementioned

¹ Act of 8 December 2017 on the Supreme Court, Journal of Laws of 2018, item 5 [hereinafter: SC Act or AoSC]. Adoption of the new act proceeded in the atmosphere of strong political and social resistance. Initially, in the summer of 2017, the draft of the new Act on the Supreme Court was presented by the parliamentary majority. The new act largely departed from the constitutional tradition of the Polish Court of Cassation, primarily by transferring the majority of the Supreme Court judges appointed under the simultaneously adopted act on National Council of Judiciary into inactive status. On the grounds of this act the term of the First President of the Supreme Court explicitly defined in the Constitution has also been interrupted. According to the parliamentary majority such reform was effected on the grounds of, among other factors, Article 180(5) of the Constitution of the Republic of Poland which stipulates that a judge can be transferred into inactive status with full emolument in the instance of alteration of court system (with no explicit definition of this expression in the Polish doctrine of law). The political opposition and, partially, the community of judges indicated that this provision has been interpreted in isolation from the remaining normative contents of the Constitution, in particular with omission of Article 180(1), e.g. the general normative expression concerning the regulation indicating that judges are irremovable from office. Ultimately the President of RP vetoed the act (and simultaneously legalized election of the new National Council of Judiciary) and, subsequently, submitted own draft of the act on the Supreme Court which was adopted without major controversies and is still binding as of today. The act largely copies the previously introduced solutions. However, completely new solutions have been introduced including establishing two new Supreme Court Chambers staffed with the judges appointed under the new National Council of Judiciary. The judges whom were to be retired on the grounds of the previous draft continue to adjudicate as this aspect of the reform has been dropped. The previous First President of the SC (prof. Gersdorf) stepped down from the office in the May of 2020 in accordance with the conclusion of the 6-year term stipulated in the Constitution.

² As of the day of writing of this paper several rulings concerning the SC Disciplinary Chamber have been made by the Court of Justice of the European Union, the European Court of Human Rights and Polish Constitutional Tribunal, among which we should emphasize the Court of Justice of the European Union resolution of the 14th of July 2021, ref. no. C–204/21, CJEU ruling of the 15th of July 2021, ref. no. C–719/19, Constitutional Tribunal ruling of the 14th of

examination proceedings or in such proceedings where examination of facts is subject to review as a result of the call for extraordinary review.

However, introduction of lay judges into the Court of Cassation has been treated by the significant part of the Polish legal community as a controversial move. It has been indicated that there is no place for participation of the social factor in the supreme judiciary body of Poland, particularly in the judicial supervision body. Lay judges were selected by the upper house of the Polish parliament at the date of their appointment (for a term of 4 years which was later extended to the 31st of December 2022 but only for the SC lay judges of the first term). This selection proceeded in the atmosphere of media pressure on the candidates (several persons resigned). The draft of the Act on the Supreme Court did not present specific arguments for move such significant and innovative for the continental legal culture as introduction of the social factor into the Court of Cassation. Rare voices of representatives of the legal community postulated that the Constitution of the Republic of Poland projects participation of the social factor in the operations of the judicial system and does not present any restrictions in this regard [Szczucki 2021, 339–41].³

Currently the SC lay judges adjudicate since the day of taking the oath, i.e. the 30th of May 2019. Apart from several rare examples this institution – distinct from the common court lay judges – has not been a subject of analytical works, not in the Polish legal science nor in the associated disciplines [Basa 2020, 85–100]. As of today no empirical studies on this subject have been conducted in terms of legal sciences or management and quality sciences. The goal of this work is discussing results of the empirical studies performed among the SC lay judges concerning motivation behind taking this position. The work has been divided into three substantive parts: presentation of the normative regulations concerning the SC lay judges, discussing methodology of the studies and analysis of the results.

2. NORMATIVE REGULATIONS BINDING THE SC LAY JUDGES

The office of a Supreme Court lay judge is primarily regulated by the stipulations of chapter 6 (Articles 59–71) and chapter 11 (Articles 126–127) of the Act on the Supreme Court as well as the ordinance of the President of RP of the 29th of March 2018 concerning selection, composition, organizational structure, mode of operations and detailed tasks of the Supreme Court Board

July 2021, ref. no. P 7/20, the European Court of Human Rights ruling of the 22nd of July 2021 in *Reczkowicz v. Poland* case 43447/19.

³ Article 182 of the Constitution of the Republic of Poland: Participation of citizens in the administration of justice is defined by the act; Act of 30 March 2021 concerning changes in the act on the Supreme Court, Journal of Laws item 611, Article 1(1).

of Lay Judges issued on the grounds of the Article 70(3) of the Act on the Supreme Court. This executive act defines operations of the Board of Lay Judges of the Supreme Court and constitutes an equivalent of the ordinance of the Minister of Justice of the 31st of January 2006 concerning selection, composition, organizational structure, mode of operations and detailed tasks of the Board of Lay Judges applying to the lay judges adjudicating in common courts of law. However, it must be taken into consideration that in case of the issues not regulated under the Act on the Supreme Court the provisions of Part IV, chapter 7 of the act of the 27th of July 2001 apply to lay judges of the Supreme Court – the law on common court system regarding lay judges.⁴

In accordance with the Act on the Supreme Court the Supreme Court Lay Judges participate in examination of extraordinary appeals and, partially, in the disciplinary proceedings. Therefore, as indicated previously, lay judges adjudicate only within the framework of operations of the so called “new” chambers of the Supreme Court: the Disciplinary Chamber and the Extraordinary Review and Public Affair Chamber. As a rule, in case of the proceedings in which SC lay judges participate, the adjudication is being delivered by a panel consisting of two Supreme Court Judges and as single Supreme Court lay judge (Article 59(2) of the Act on the Supreme Court).

In compliance with requirements of the Act on the SC only persons meeting the following requirements can serve as Supreme Court Lay Judge (Article 59(3) of the Act on the Supreme Court): 1) possess solely Polish citizenship and fully exercises his or her civil and civic rights; 2) are of impeccable character; 3) are at least 40 years of age; 4) at the day of being selected are under the age of 60; 5) owing to physical soundness are capable of serving as a Supreme Court lay judge; 6) have at least secondary or vocational secondary education.

Therefore the legislator forgoes not only the legal education requirement but the tertiary education requirement in general. As far as forgoing the former is understandable the latter raises doubts. Lack of legal education is typical of the social factor. However, it must be emphasized that it is only a lack of legal education requirement and ultimately persons possessing legal education entered the group of the first-term Supreme Court lay judges. In courts the social factor is not a professional component of the composition of judiciary in this understanding that the role of the social factor is not to assess interpretation, application or determination of a legal consequences apart from the discretionary powers requiring life experience to the extent compliant with the discretionary powers imparted on the bodies exercising these powers by the legislator (e.g. adjudicating extent of penalty within the framework of the system of applied sanctions). Within the framework of discretionary powers we may

⁴ Journal of Laws of 2020, item 2072; Journal of Laws of 2021, item 154; Journal of Laws of 2018, item 653; Journal of Laws of 2006, No. 23, item 174.

distinguish open and confidential powers [Ura 2016, 511–28; Leszczyński 2004, 46–47, Kotowski 2014, 69–70]. The role of the social factor is not to provide additional information regarding interpretation and application of law – the role of reasoning within the framework of application of legal norms to individual cases is reserved for a professional entity – a judge who possesses specialist education and authorization to hold this office. In turn, the social factor represented by a lay judge is to serve in court as a supplementary source of sensitivity and tact regarding social and customary norms in regards to these premises of application of law which emerge in the process of applying legal regulations to individual cases. This occurs only at the stage of establishing facts and, as already indicated, within the framework of the judicial discretionary powers imparted by the legislator. The issue whether the social factor is authorized to engage in the considerations regarding a variant of judicial discretionary powers in the form of interpretative discretionary powers is contested. However, because defining the meaning of such expressions occurs jointly through application of life experience and social standards the affirmative answers appears to be acceptable.

However, as already indicated, forgoing the prerequisite of the Supreme Court lay judges possessing tertiary education is controversial. Admittedly, a lay judge in order to meet his obligations required by the role discussed above does not need a particular tertiary education but on the level of the Supreme Court introduction of such requirement would be beneficial to establishing legitimacy of the Supreme Court institution.

On the grounds of the decision made by the legislator a Supreme Court lay judge is to act as a classical, non-professional social factor which as a full member of the adjudicating panel introduces an advisory voice into the cases in which the need arises for assessment and a certain degree of review over interpretation of facts in the examined case. This assessment is further bolstered by Article 60 of the Act on the Supreme Court in which premises preventing taking the office of a Supreme Court lay judge are listed. Among these premises performing legal professional work or being employed in institutions of public administration is indicated. Therefore persons performing the following occupations or employed at the following positions cannot serve as a Supreme Court lay judge: a person employed at the Supreme Court or other courts or prosecutor's office, an employee of bodies issuing verdicts which may be relegated to be reviewed in the course of court proceedings, a person who is a lay judge in a common court of law or a military court, is a police officer or is employed at services persecuting offences or felonies or in institutions rendering services to central state authorities, works in a profession over which the Supreme Court has jurisdiction in disciplinary cases, is a solicitor, a legal counsellor, a notary public or a judicial assistant for these legal occupations, is a clergyman, a soldier (only when remaining in active service), an

officer of the prison service, a deputy, a senator, a Member of the European Parliament, a municipality, county or province counsel or a person who was employed at or cooperated with the state security bodies or is a member of a political party.

The number of SC lay judges has not been determined by the legislator. The Supreme Court Board composition is being determined on the grounds of the demand for judicial functions (Article 61(1) of the Act on the Supreme Court) – as of the day of writing of this paper thirty two SC lay judges of the first term were sworn-in. Supreme Court lay judges are being selected by the Senate in the open voting for a term of 4 calendar years following the year in which the lay judges were selected. The office of the Supreme Court lay judge elected during the ongoing term expires along with expiration of term of the whole of Supreme Court lay judges (with the exception of the first-term lay judges whose term, owing to late swearing-in and limited performance of obligations due to the COVID-19 pandemic, has been extended by one year). It is worth to take note that in order to ensure continuity of the Supreme Court composition the legislator indicated in Article 61(5) of the Act on the SC that the selection of the Supreme Court lay judges is to take place at the latest in the October of the calendar year in which the term of the current Supreme Court lay judges expires.

The submissions for candidates for the position of a Supreme Court lay judge (submitted to the President of the Senate) can be submitted by associations, other professional and social organizations registered on the grounds of separate provisions, with the exception of political parties, and by at least 100 citizens enjoying full suffrage rights, by the 30th of June of the calendar year during which the term of the current Supreme Court lay judges expires (Article 62(2) of the Act on the Supreme Court).

The Supreme Court lay judges selected by the Senate are sworn into office by the First President of the Supreme Court and take the following oath: “As a lay judge of the Supreme Court I solemnly swear to serve the Republic of Poland faithfully, uphold the rule of law, dutifully fulfill obligations of a lay judge, adjudicate in compliance with legal provisions and principles of equity, impartially and in concord with my conscience, to protect information confidential under the law and in my conduct to follow principles of dignity and integrity.” The person taking the oath may conclude it with the phrase: “So help me God” and refusal to take the oath is equal to renouncing the position of the Supreme Court lay judge. Following the swearing-in Supreme Court lay judges are entered into the list of the Supreme Court lay judges and only after that they may be designated to adjudicate. Each time the term of a Supreme Court lay judge begins with a compulsory training regarding extraordinary appeal and disciplinary proceedings (Article 63(6) of the Act on Supreme Court). The act does not stipulate whether the training is to be conducted by the First

President of the SC before or after accepting the oath. However, the systemic interpretation of Article 63(5–6) of the Act on the SC suggests that the training is being organized after swearing-in and therefore, following entering SC lay judges into the list. Refusal to take the oath is equated with renouncing the position of a Supreme Court lay judge (Article 63(4) of the Act on the SC) which is a further argument for organizing such training after accepting the oath.

In terms of adjudication lay judges are independent, sovereign and hold, as a rule, rights equal to the rights of career judges of the Supreme Court (Article 67(1) of the Act on the SC). The Supreme Court lay judge cannot preside over the proceedings and deliberations nor can he effect the actions of a judge outside of the hearing (Article 67(2) of the Act on the SC), a provision which, *de facto*, boils down to the prohibition on taking any administrative actions apart from the very action of adjudicating within the framework of the judiciary panel.

Lay judges of the Supreme Court do not receive permanent emolument. Similarly to the common court lay judges the lay judges of the Supreme Court are entitled to subsistence allowance and reimbursement of travel and accommodation costs on the grounds of the regulations established for common court judges (Article 69 of the act on SC). In turn, for performance of tasks in court each Supreme Court lay judge receives pecuniary compensation the amount of which for 1 day of serving as a Supreme Court lay judge is equal to 5% of the average national salary as defined in the previous calendar year (Article 68(2–3) of the Act on the SC). Among the tasks entitling a lay judge of the Supreme court to receive subsistence allowance the legislator lists: participation in proceedings or sitting, participation in deliberations concerning the sentence, preparing justification, participation in compulsory courses organized by the First President of the Supreme Court or participation in session of the board of the lay judges of the Supreme court provided that a lay judge was selected to participate in such session. This provision has roused doubts among the legal community since its implementation⁵ and the whole system for compensating SC lay judges incites certain practical complications. The primary issue is the wording of Article 68(2) of the Act on the SC which lists, among other obligations, preparing a justification – a task which cannot be performed by a SC lay judge (the rule is that a justification is being prepared by a professional factor as confirmed by e.g. para. 106(1) of the Supreme

⁵ In accordance with para. 106(1) of the Ordinance of the President of RP of 29 March 2018 Supreme Court Regulation (Journal of Laws item 660): justifications are being prepared by a Judge-Rapporteur. Therefore a lay judge cannot receive a pecuniary compensation for preparing a justification indicated in Article 68(2) of the Act on the SC because a lay judge does not participate in preparing a justification and instead signs the justification or prepares a separate opinion. As it has already been indicated Article 67(2) of the Act on the SC stipulates that a SC lay judge does not perform any tasks outside of a trial.

Court regulations which indicates that the justification for the adjudication is being prepared by a Judge-Rapporteur). The system of compensating SC lay judges is modeled after its equivalent effective in common courts whereas the majority of the SC lay judges are persons residing outside Warsaw, the residence of the Supreme Court. In these circumstances the subsistence allowances and compensations as defined in the amount projected by the legislator do not provide adequate emolument and compensation to SC lay judges for the amount of time and work resulting from the necessity of commuting to the Supreme Court in order to perform adjudication tasks on site. It should be further noted that as a rule a SC lay judge may be assigned to participate in proceedings in the extent not exceeding 20 days per year but this amount can be increased by the First President of the Supreme Court only due to significant reasons, particularly due to necessity of concluding the trial in which this particular SC lay judge participates (Article 68(1) act on SC). The subject literature also indicates that “All other tasks performed by a lay judge do not constitute a premise for paying compensation. The grounds for paying compensation consist in the lay judge not retaining the right for compensation for the period of absence from work. The lay judge retains only the right to other benefits resulting from employment [...]. On the grounds of a judicial decision it has been indicated that owing to his obligations a lay judge is not subject to national retirement insurance. There are also no grounds for qualifying the period of service as a lay judge as a contribution period (verdict of the Administrative court in Szczecin of 27th of June 2013, III AUa 100/13, Lex no. 134229)” [Szczucki 2021, 370–72].

An issue which may constitute a subject of a separate discussion is the Board of the Lay Judges of the Supreme Court – a body which is an equivalent of similar bodies in common courts of law. The Act on the Supreme Court only stipulates that the obligations of the Board include, in particular, improving quality of work of the Supreme court lay judges and representing lay judges as well as stimulating educational activities of the Supreme Court lay judges among the society (Article 70(2) act on SC). The detailed regulations, structure and mode of operations of the Board are defined by the president in an executive act. In accordance with para. 6(3) of the ordinance on the Board the meetings of the Board are to take place not less frequently than once per quarter or more frequently if need be. This means that the law giver considered the continuity of Board’s operations the meetings of which should be summoned evenly throughout the year, at least once per quarter. The purposefulness of making the premises of the Supreme Court available and reimbursing the costs to members of the Board are left to be assessed by the First President of the SC who makes the SC premises available to the Board for the purpose of organizing a session of the Board (para. 11(1) of the ordinance on the Board) and therefore has the opportunity to verify the validity of summoning the Board more frequently than once per quarter.

In accordance with para. 10 of the ordinance on the Board the tasks of the Board include representing Supreme Court lay judges, engaging in actions aimed at improving quality of work of the SC lay judges and stimulating educational activity of the Supreme Court lay judges among the society, presenting to the First President of the Supreme Court and Presidents of the Supreme Court leading the works of the Disciplinary Chamber and the Extraordinary Review and Public Affairs Chamber propositions regarding training necessities for the lay judges, cooperation with the First President of the Supreme Court in regards to the tasks aimed at dismissing a Supreme Court lay judge, expressing opinions on the issues submitted by the First President of the Supreme Court or Presidents of the Supreme Court leading the Disciplinary Chamber or the Extraordinary Review and Public Affairs Chamber as well as passing to these entities information regarding activities of the Supreme Court lay judges upon request.

In conclusion it must be indicated that a Supreme Court lay judge possess a strong guarantee of sovereignty and can be dismissed only under the circumstances projected in the act. Article 65 of the Act on the Supreme Court stipulates that a Supreme Court lay judge cannot be assigned to serve only in the case of revelling circumstances which prevent his selection, commencement of proceedings aimed at dismissing a Supreme Court lay judge – until the Senate makes the decision regarding dismissal, in the event of instituting criminal proceedings against a Supreme Court lay judge for an intentional offence prosecuted by public indictment or for fiscal offences – until the case has been legally settled. Article 166(2) of the Law on the common courts system, applied under Article 71 of the Act on the Supreme Court, stipulates that a Supreme Court lay judge may be dismissed by the Senate upon the notion of the First President of the Supreme Court in the event of not meeting his obligations, displaying conduct detrimental to dignity and legitimacy of the court or inability to perform obligations of a lay judge.

In summary, the Supreme Court lay judges enjoy a status different to the lay judges adjudicating in common courts of law as a result of a different mode of appointment, placement of a Supreme Court lay judge in the body of judicial power which ensures compliance with law and uniformity of judicial decisions of common and military courts (Article 1(1)(a) of the act on SC) and participation in the process of legal application of law on the level of the Court of Cassation in the proceedings of exceptional importance for legal protection, i.e. within the framework of extraordinary appeal and disciplinary claims.

2. RESEARCH METHODOLOGY

The goal of this paper is to discuss the results of the empirical studies conducted among the lay judges of the Supreme Court concerning their motivation

to take and serve in the position of a lay judge. This work is based on the interpretative paradigm based on the premise of instability and relativity of social reality in which the role of a researcher is to understand and interpret social phenomena from the point of view of an organization [Burrell and Morgan 1979, 28; Kociatkiewicz and Kostera 2013, 12; Kostera 2003, 15–16].

The research problem has been formulated into a question: What factors influence motivation of the Supreme Court lay judges to serve in this position? The following specific questions correspond with the research problem: What are the sources of motivation for the SC lay judges? How the SC lay judges perceive own activities in the context of satisfaction drawn from their work? What management style the SC lay judges prefer? Do lay judges recognize the necessity of introducing changes into functioning of the SC lay judge office on the grounds of own experiences?

Owing to selection of the inductive methodology based on empirical inferring research questions were posed instead of hypotheses [Jemiłniak 2012, 11; Kostera 2005, 12].

Authors studied opinion of the SC lay judges through a survey questionnaire which served to explore issues regarding motivation. The utilized research tool is not standardized but in authors' view it is adequate to the established scope of analysis and enables providing an answer to the presented research problem. The survey included both open and closed questions. The goal of the study was to explore the indicated scope of research; the study was not quantitative in character. The study consisted of the analysis of the manner in which a given reality is being perceived by the subjects of the study and thus corresponded with properties of a qualitative study. The survey questionnaire was used to procure data and its main goal was to assess experience of members of the organization, in this case lay judges of the Supreme Court, an act which enabled holistic study of the researched phenomenon. The goal of the study utilizing the survey questionnaire was to expand the knowledge regarding motivations of the SC lay judges to serve in this position. Thirty two lay judges adjudicate in the Supreme Court, of which 11 individuals participated in the study. Participation in the study was voluntary and anonymous. The majority of the questions concerned the motivating factors and preferences regarding exercising this function. The survey consisted of 45 closed questions and 4 open questions. In case of the closed questions the answers were given on a scale which was used by the respondents to assess own conduct in accordance with the assessment scale (1 – completely untrue; 2 – rather untrue; 3 – untrue to a slight degree; 4 – true to a slight degree; 5 – rather true; 6 – completely true). The open questions presented respondents with an opportunity of unrestricted expression.

3. ANALYSIS OF THE RESULTS

On the grounds of the survey questionnaire authors drew the conclusions concerning motivation and approach of lay judges towards the performed service. The results are presented in order beginning with the statements the respondents indicated as the most true. The arithmetic means calculated on the grounds of the values assigned by the respondents are provided in parentheses.

The respondents claim that they are characterized by consequence in pursuing goals (5.82), find rational arguments appealing (5.82) and are eager to acquire new knowledge (5.82). Furthermore, the respondents do not fear expressing an opinion different than the group (5.73) or admitting that they were mistaken (5.73). For a majority of the respondents their work should be interesting (5.64). They are motivated by willingness to serve the society and perceive their service as significant (5.64). The majority of respondents assigned the value of 5 and 6 to their answers with a single instance of the value of 1.

The respondents declare that they do not fear taking responsibility for their actions (5.64). In making decisions the respondents consider arguments to be significant (5.64). In their service the respondents expect autonomy and freedom of decision making (5.55) and simultaneously they, in general, value the opportunity for cooperation and coming into contact with interesting people (5.55). Eight persons has given these statements the value of 6 with one person giving them the value of 1.

It is significant for the respondents that the amount of work would be commensurable to the results (5.55). The respondents are task-oriented (5.45) and value the opportunity for individual work (5.36). In their opinion the work should not be monotonous (5.36) and should provide the opportunity for development (5.27). Lack of opportunities for development would constitute a source of frustration for the respondents (5.09). The respondents define themselves as tolerant persons (5.27).

The atmosphere at the workplace is important for the respondents (5.27). The respondents believe that the rewards should be subject to grading and be commensurate to achievements (5.18). The respondents believe that they cope well with stress (5.18). They perceive themselves as empathic persons (5.09). They consider themselves to be well-organized and plan their daily tasks in detail (5.09). The respondents usually make decisions autonomously (5.09) although they consider themselves good team workers (5.0). The respondents are not bothered by rivalry in the workplace (5.0).

Furthermore, the respondents claim that they cope well with criticism (4.91) and the opportunity to work in a team usually motivates them to act (4.91). They consider feedback regarding their work as rather important (4.91). Time pressure does not constitute an issue for the respondents (4.82).

The respondents claim that they rather prefer the conciliatory style of management and cooperation (4.73) and that they are content with the management style which assumes partnership of team members in making decisions (4.64). When making decisions autonomously they prefer to act in a conciliatory manner (4.36). The respondents recognized the statement that they enjoy working in an authoritatively managed team as rather untrue (3.18); similarly, they consider the statement that they feel well when their superior makes decisions independently to be untrue (2.64).

The respondents perceive audits and reviews as a rather natural aspect of their work (4.64). In turn, they deemed the statement that the possibility of their work being subjected to audit is stress-inducing to be false (2.82). The amount of compensation for the performed work is rather significant for the respondents (4.45). Some the respondents are motivated by rewards (4.18). In this area disparities in the answers given were major, three persons assigned the value of 6 to the statement, three assigned the value of 5, one the value of 4, two the value of 3, and the values of 1 and 2 were assigned by one person each. Pecuniary rewards are significant only to a part of the respondents (4.18) as evidenced by three persons assigning the value of 6 to the statement and one person the value of 1.

Some of the respondents pay particular attention to prestige and status (4.36) – 4 persons assigned the value of 6 to prestige and status whereas two persons assigned the value of 1. The respondents consider conflicts at workplace to be rather demotivating – four persons giving the statement the value of 6, two persons the value of 1. The issue of praises and citations was divisive (3.91).

In the open questions the respondents were asked what prompted them to become a candidate for the position of the Supreme Court lay judge. The respondents answered this question eagerly and explained the motivation behind becoming lay judges. Some of the respondents were motivated by desire for personal development, testing oneself in a new position and the willingness to learn and acquire experience. Some of the respondents previously served as lay judges in common courts of law.

The desire for further development for the benefit of the legal system [Respondent 1]; Further development. In my previous term I have served as a lay judge in a regional court [Respondent 11]; Learning [Respondent 2]; The willingness to experience new things, to become a part of the history because this is the first term of the Supreme Court lay judges and willingness to continue serving in the capacity of a lay judge [...] [Respondent 3].

The respondents indicated the opportunity to influence functioning of the justice system and the decisions made therein as well as the opportunity to share their knowledge and experience as an important motivating factor.

The opportunity to learn how the justice system operates on the grounds of the available files. The opportunity to express own opinion and view regarding subject of the case. Agency in the decision making – the feeling that the opinion I formulate is considered and may be meaningful [Respondent 4]; The opportunity to change how the justice system operates [Respondent 6]; The main motive behind me becoming a candidate was the desire to “share” my life experience in a discipline completely different from the field I have been acting in for more than 30 years. I wish for the knowledge I possess, for my personal predispositions for understanding peoples’ conduct, motivations and acts as well as my significant empathy to become helpful there where the law is, at times, unable to altruistically assess certain human acts [Respondent 8]; The willingness to help people and long-term social work [Respondent 9].

Among the answers given to this question voices arose regarding poor condition of the Polish justice system although no specifics or detailed statements were provided. Abysmal state of the Polish judiciary system [Respondent 7].

A notion of willingness to participate in a historical project regarding introduction of the position of a lay judge into the Supreme Court was mentioned in two statements. One of the respondents did not provide answers but indicated that he had his reasons and motives [Respondent 5]. Another respondent expressed the opinion that introduction of the social factor into the Polish Court of Cassation is the act of “historical justice.” Capitalizing on the formal opportunity for participation of the social factor in administering justice by the supreme body of Polish judiciary authority. Despite the criticism regarding our presence in the Supreme Court expressed by certain elements of the legal community it is a historical act of historical justice towards the Polish people [Respondent 10].

Within the framework of the open questions the respondents also had an opportunity to address the issue of what they value the most in their position as a lay judge of the Supreme Court. The respondents indicated the opportunity to acquire knowledge, test it in practice and the opportunity for further development as particularly important.

Expanding the already possessed knowledge. Opportunity for refinement. Further development. Testing my existing knowledge [Respondent 1]; Acquiring experience [Respondent 2].

The opportunity to participate in interesting cases and the possibility to come into contact with distinguished experts in the field of legal disciplines are also meaningful for the respondents. Participation in interesting, sometimes unusual cases and the opportunity to come into contact with excellent legal experts [Respondent 3].

Some of the respondents consider the ability to influence the decisions made, autonomy, independence, inclusion of the social factor in the

proceedings as well as the opportunity to alter judicial decisions and influence the justice systems to be important.

The ability to influence the decisions made in the context of rectifying mistakes (unjust verdicts) made previously and express opinions – own views – in case of disciplinary hearings. Learning the complex legal matters largely dependent on interpretation and importance and meaning of words [Respondent 4]; Autonomy and independence [Respondent 5]; I value the opportunity to express opinion on a given case independently the most [Respondent 6]; The opportunity to effect changes in the justice system [Respondent 7].

I value the opportunity to influence verdicts of the Court because my opinion is taken into consideration and therefore (as I imagine) it is possible to reach a verdict in which the punishment does not need to be excessively strict. I also greatly value the opportunity to meet numerous exceptional individuals. Personally I value the necessity of becoming familiarized with various cases in legal terms, an act which expands my horizons [Respondent 8]; The prestige and the ability to make independent decisions are important [Respondent 11].

The respondents have emphasized that they experience the sense of actually influencing verdicts, prestige and importance of the function they serve in as well as the sense of acting for the benefit of the society.

The opportunity to convince career judges to our views during deliberations. As a lay judge adjudicating in one of the district courts I am aware that in that type of court the possibility of convincing judges was illusionary, a façade, and our arguments were extremely rarely taken into consideration due to the attitude and resistance of career judges. In case of the SC the difference is distinctly visible. Our arguments bear importance and judges act properly and tactfully, they do not act superior to lay judges. I appreciate this fact and perceive it as a good omen in favor of slow but highly anticipated restoration of trust of citizens in the Polish justice system [Respondent 10]; The opportunity to fulfill social obligations [Respondent 9].

The respondents also referred to the issues which did not meet their expectations regarding serving in the role of a lay judge. The answers given were varied; each of the respondents drew attention to slightly different aspects. Among the provided answers such issues emerged as a very brief period for a discussion during deliberations [Respondent 4], bureaucracy in the Supreme Court [Respondent 5], resistance of the judiciary community in the face of changes [Respondent 7], stalling and dragging out cases which should have been dealt with quickly [Respondent 9], to infrequent participation in proceedings and hearings [Respondent 11]. Two individuals have drawn attention to the procedural issues – the manner in which cases are described, which influence impunity of the guilty parties, as well as the difficulties with rendering assistance to the actually aggrieved.

The cases submitted to the Supreme Court are frequently described and worded in a manner which ensures that not a slightest harm would come the blatantly guilty parties. I consider it to be faking of work [Respondent 6]; It is hard for me to accept that due to certain procedural errors it is impossible to provide assistance in cases where it should be justly done [Respondent 8].

Respondent 1 and Respondent 10 gave the most detailed answers to the question and indicated, among other issues, limited participation of the SC lay judges in adjudication during disciplinary proceedings, exclusion of lay judges from adjudicating on the election protests (in the Extraordinary Review and Public Affairs Chamber) as well as the limited number of training courses organized by the Supreme Court for its lay judges. It is also worth to emphasize that according to the survey the respondents frequently perceive themselves as “persons keeping an eye on career judges.”

1. Inability to adjudicate in the Disciplinary Chamber in disciplinary cases regarding persons practising legal professions such as: notary publics, lawyers or legal counselors – lay judges were excluded from such cases. 2. Inability to adjudicate in the Disciplinary Chamber on the requests for waiving parliamentary immunity – only a single-person panel in Division I adjudicates. 3. Inability to adjudicate in the Disciplinary Chamber on the requests for pressing criminal charges - only a single-person panel in Division I adjudicates. 4. Inability to adjudicate in the Extraordinary Review and Public Affairs Chamber on the election protests – a lay judge is not included in the three-person composition – the legislator did not, unfortunately, project participation of the social factor [Respondent 1].

The amendment to the Act on the Supreme Court of the 20th of December 2019 introduced changes in regards to jurisdiction of the Disciplinary Chamber. Changes related to this amendment resulted in exclusion of the social factor from the proceedings regarding waiving parliamentary immunity. It also concerns the clearance for temporary detention of the aforementioned persons. The issues of limited number of training courses for lay judges and lack of cohesive concept of professional development of lay judges as persons supervising and “double-checking” work of career judges must also be recalled [Respondent 10].

One of the respondents indicated that he has no negative remarks [Respondent 3] and one respondent did not give answer [Respondent 2]. One of the respondents deemed a number of questions to be inappropriate (the issue of compensation) but continued to participate in the study and suggest that in future similar studies should be performed in the form of interviews (case studies).

The respondents also assessed the satisfaction they draw from serving as lay judges of the Supreme Court. Eight individuals indicated the level of satisfaction to be high whereas three persons deemed it to be average. Seven

of the respondents intend to stand for the second term as the Supreme Court lay judge, two persons have not decided yet and two persons do not intend to stand for the second term. Two persons who will not stand for the second term indicated that the sole reason is no longer meeting the requirement regarding age of a lay judge candidate. The respondents had the opportunity to communicate any comments to authors by way of open answers. The respondents made suggestions which would be – in their opinion – beneficial to their work such as introduction of compensation for reading files [Respondent 9], *de lege ferenda* changes in the regulations concerning composition of the judiciary, particularly in disciplinary proceedings, limiting bureaucracy in the Supreme Court or the postulates concerning the process of selecting Supreme Court lay judges.

I wonder if it wouldn't be good for the judiciary composition of the Disciplinary Chamber to be "mixed" and consist of persons with judiciary, barrister and prosecutor experience – it would enable approaching each individual case in a more broad and comprehensive manner. Each of the groups indicated above may perceive a given case, unclear for other groups, in a different manner.

Lack of solutions to the issues concerning the time devoted to familiarizing oneself with the files (compensation, the need to work on site – in the Supreme Court reading room). I am aware that it is the issue of confidentiality of information but the access to e.g. case files could be arranged on-line with printing and copying functions blocked in order to avoid the requirement of staying on the premises of the Supreme Court. For me personally working with physical copies of documents is easier than with digital copies but in the instance of cases described in a substantial amount of files this results in the need to travel to the Supreme Court at own expense and in own time, within the framework of a leave of absence, in order to familiarize myself with the case [Respondent 4].

The parliamentary commissions (the Senate) should extensively interview candidates for the position of a Supreme Court lay judge in regards to candidates' motivation. For the benefit of the Supreme Court and the entirety of the justice system it would be appropriate and legitimate for a Supreme Court lay judge to be a person who served at least two terms in the capacity of the common court lay judge. Currently only 25% of the 32 persons previously served as a lay judge in a regional or district court and this fact has adverse influence on our relations throughout the entire term. I am a supporter of the notion that lay judges should be assigned to not only the Disciplinary and Extraordinary Review and Public Affairs chambers but also to the Criminal chamber in order to "socialize" the highest level of the judiciary system even more through participation of the social factor in dispensing justice and in order to minimize the risk of errors of the judicial system (the case of Tomasz Komenda etc.).

The fact that the three-persons judicial panels in the Extraordinary Review and Public Affairs Chamber do not include a lay judge when adjudicating on the election protests related to the parliamentary and presidential elections etc. (with the exception of local government elections as these are resolved by the common courts of law) should be emphasized. At least one lay judge should enter the composition of the adjudicating panel and only such composition of the mixed panel would provide the sense of objective and impartial examination of the claims and election protests of the citizens. I write these words as a lay judge with 10 years of experience and a person serving in various election commissions over the span of 20 years [Respondent 10].

One of the respondents drew attention to the issue of good cooperation between career judges and the Lay Judges Office [Respondent 11].

4. REVIEW OF THE RESULTS

Owing to character of the study review of the results concerns those lay judges of the SC who participated in the study. It should be emphasized that the results are not representative and have the character of a case study. The further part of our considerations requires that these facts be addressed.

The studies indicate that the first-term lay judges of the Supreme Court perceive themselves as persons consistently pursuing their goals, orientated at acquiring new knowledge and personal development. Prestige and remuneration are an important issue for the respondents but the work they engage in should also be interesting and present the opportunity for coming into contact with interesting people. The opportunity to serve society is also a major source of motivation. The answers given by the respondents suggest a high degree of internal motivation. It is worth noting that strong internal motivation co-appears among the respondents with the external motivation based on rewards. In the contemporary approach to the issue of motivation researchers assume coexistence of both types of motivation; in order to serve as a motivating factor rewards should be dependent on results of work [Dermer 1975]. Similarly, the respondents emphasized that the degree of a reward should correspond with results of work and achievements.

Consistently with the expectancy theory it is important for the respondents that the amount of work be commensurable to the results. It means that the respondents analyze and compare the amount of work done to the achieved effects. This fact corresponds with Victor Vroom's theory according to which human motivation is dependent on the strength of desires and the probability of satisfying these desires [Vroom 1995].

The respondents declare that they are not afraid to take responsibility for own actions, in the decision making process they consider arguments to be significant. They usually make decisions independently, although they work

well in teams. Such manner of making decisions can be referred to the normative model of decision making created by Victor Vroom and Philip Yetton. The decision making procedure in which the decision is being made independently after collecting information from members of the team fits in with the autocratic approach (A2) although among the statements given by the respondents the remarks and references emerged concerning the consultative approach (K2) which assumes making a decision after discussion and learning opinions of the team members [Vroom and Yetton 1973; Koźmiński and Jemielniak 2011, 34].

Consistently with the typology proposed by Kurt Lewin, Roland Lipitt and Ralph White the respondents undoubtedly feel well in a team governed by democracy in which a leader encourages coworkers to make decisions and to jointly establish goals and means of achieving them. The respondents indicated that they are comfortable with the mode of management which assumes co-participation of team members in decision making and that they themselves attempt to make conciliatory decisions. In turn, the respondents dislike the autocratic style based on centralization of authority and the superiors making decisions without consulting the team [Lewin, Lipitt, and White 1939].

The respondents are largely oriented at tasks and interpersonal relationships as well as the atmosphere in the workplace. Simultaneously, they highly value the opportunity to work independently and in teams. According to the managerial grid model developed by Robert Blake and Jane Mouton [Blake and Mouton 1985] such approach to management largely oriented at tasks and team (people) indicates preference for the style of management based on leadership.

The respondents perceive themselves as tolerant, empathic, and coping well with stress and not having any issue with subjecting themselves to audit/supervision. The open questions suggest that these qualities have in the opinion of the respondents a positive influence on their approach to the performed work.

Generally the Supreme Court lay judges assessed satisfaction drawn from the performed work highly; the majority of the respondents which is eligible to stand for the second term would wish to continue to serve in the capacity of a Supreme Court lay judge. However, on the grounds of their experience they indicate several issues, among these:

- 1) the changes in remuneration system for Supreme Court lay judges which was copied by the legislator from the legal provisions concerning the common courts' system – in this regard postulates of the SC lay judges appear to be valid. The authors indicate that the Article 68(2) of the Act on the Supreme Court stipulates that a SC lay judge receives a pecuniary compensation for the time devoted to the work performed in court and provides list of the tasks for which a SC lay judge is eligible to receive a pecuniary compensation. Because these

funds are public in character these provisions have to be interpreted strictly, primarily through use of the arguments of the language character. However, Supreme Court lay judges perform certain tasks outside of the court (e.g. familiarize themselves with case files through the use of court electronic mail when such files are available in digital form). For performing these tasks the SC lay judges do not receive any compensation, neither do they receive compensation for the amount of work devoted to preparing to participate in a case – a task which is also performed within the premises of the Supreme Court. If the actual need for participation of the social factor in a certain category of cases is being indicated (and not only a symbolic role of the social factor in the adjudicating panel) the fact must be taken into consideration that as a non-professional entities the lay judges will have to devote a significantly higher amount of work than career judges to familiarize themselves with the materials related to the case. Therefore the SC lay judges correctly drew attention to the issues of this kind during the study.

2) The postulate regarding modification of the criteria entitling a person to hold the office of the Supreme Court lay judge. What is interesting is the fact that this remark came from the judiciary community itself. According to the respondent who formulated this remark the additional requirement of the SC lay judge previously serving as a lay judge in common courts of law would result in a greater degree of professionalism of the social factor in the court of cassation and would nullify possible tensions between lay judges themselves as well as between career and lay judges of the Supreme Court. It is probably a question of lay judges acquiring better understanding of the reasoning of members of legal professions, manner of adjudication etc. The experience of serving in common courts of law as a prerequisite for serving in a capacity of a lay judge of the Supreme Court is an interesting notion which would not lead to the loss of the character of the SC lay judge as a social factor but would simultaneously lead to a certain professionalization of this community. Possibly introduction of the legal education prerequisite for the candidates for the position of the SC lay judge who did not previously serve in the capacity of a common court lay judge and forgoing this requirement for the candidates who possess such experience would be a compromise.

3) Another possible areas for introducing changes are the institution of the extraordinary appeal which was not mentioned directly by the SC lay judges in the survey but indirect remarks regarding this issue were communicated to the authors as well as general increase of participation of the social factor within the framework of the Supreme Court adjudication (the respondents indicate not only participation in disciplinary proceedings but also in dispensing justice within the framework of the Criminal Chamber of the Supreme Court in which SC lay judges do not adjudicate). The surveys include statements claiming that “the judicative community resists changes” and that the procedural errors

do not allow aiding a specific party to the proceedings. The latter remark is decisively related to the *de lege lata* regulations concerning the extraordinary appeal (Article 89–95 of the Act on the Supreme Court). Lay judges of the Supreme Court perceive this institution as a completely extraordinary measure for formal and material verification of the legally valid adjudication, essentially not bound by any restrictions. Meanwhile, within the framework of the already established adjudication process of the Extraordinary Review and Public Affairs Chamber, the need is being indicated for the lodged appeal to fulfil both the premises stipulated in Article 89(1) of the act on the SC (the need of ensuring compliance with regulations of a democratic state governed by the rule of law) as well as, secondarily, one of the specific premises listed in Article 89(1)(1–3) of the Act on the SC provided that the contested decision cannot be overruled or altered under other extraordinary appeal avenues (Article 89(1) act on SC).

The postulates of the community of lay judges listed hereinabove appear rational and, furthermore, indicate high motivation for serving in the capacity of a lay judge. Even if certain ideas are debatable from the legal standpoint the initiative displayed by submitting them (also by the Board of the Lay Judges of the Supreme Court) affords to presume that the first-term lay judges of the Supreme Court are an active community, deeply interested in the Supreme Court and justice system – a fact which constitutes a value in on itself.

CONCLUSIONS

As indicated at the beginning of this paper the introduction of the social factor into the Polish Supreme Court was realization of the postulates relating to increasing civil legitimization of the justice system submitted by way of public discourse by the current parliamentary majority. As it has been noted in the subject literature “the projector did not provide the motives behind introduction of position of the Supreme Court lay judge in the justification” but “a statement can be found in the legislative works’ materials claiming that [...] introduction of lay judges as a social factor into the process of examination of certain cases in the Supreme Court was the result of a valid and justified need for enriching adjudicating panels with social sensibility as well as life knowledge and experience not related to performance of legal professions” [Szcucki 2021, 339]. Such major novelty in the justice system – even more so novel due to being introduced on the level of the Court of Cassation which also supervises work of common courts of law (Article 1(1) of the Act on the Supreme Court), was not until now a subject of a broader and more thorough discussion in the Polish legal doctrine. Currently it is too early to assess whether the goals declared by the legislator in the public discourse were reached, even partly, i.e. whether the office of the lay judge of the Supreme

Court contributed to the social perception of the Supreme Court and whether the justice system is perceived as more legitimate. Such studies are difficult to perform owing to the necessity of comparing the state of affairs “before” and “after” implementation of the said changes. It also appears that the idea of the institution of the Supreme Court lay judges is not widely spread in Polish society. At times works aimed at popularizing this concept are published but mainly in the legal papers.

The goal of this paper was to perform empirical studies among the lay judges of the Supreme Court concerning the issue of motivation for serving as a lay judge and to analyze results of the studies.

The analysis enabled verification of the research problem and provided answers to the specific research questions. It has been ascertained that the lay judges of the Supreme Court display a high degree of internal and external motivation.

The sources of the internal motivation are the work itself, the opportunity to expand knowledge, the desire to test oneself as well as apply and develop own skills. Motivation of the lay judges of the Supreme Court is also significantly influenced by beliefs and values (serving the society, counteracting injustice) as well as fulfilling desires (e.g. for prestige and recognition) through performance of work. This kind of motivation is usually stronger and has a more lasting effect than the external motivation [Dolot 2015, 23]. The source of external motivation of the lay judges of the SC is the opportunity for receiving praise and rewards related to dutiful performance of work. These should be – needless to say – understood as the whole of the forms of gratification stimulation for the performed service (the rewards can be material or immaterial in character: prestige, social standing, experience etc.). The respondents primarily emphasized the role of motivation based on positive reinforcement (positive motivation).

The surveyed lay judges of the Supreme Court prefer the democratic style of management based on including coworkers in the decision making process as well as the joint process of establishing goals and means of reaching them. They value teamwork but are comfortable with and not afraid of making decisions independently; similarly, the respondents are not vary of having a different view and opinion than the group and are not afraid of admitting to own mistakes. The respondents highly value the need of taking actions oriented at tasks and team; this fact displays preference for leadership-based style of management.

The decisive majority of the surveyed lay judges of the Supreme Court perceive their work as engaging, fulfilling and presenting opportunities for development as evidenced by the high degree of satisfaction related to serving as a lay judge and willingness to stand for another term of service.

However, on the grounds of own opinions the Supreme Court lay judges have several reservations concerning their participation in the process of adjudication, certain administrative solutions effective and practiced in the Supreme Court on the grounds of both the binding regulations as well as the developed practice of applying stipulations of these regulations; furthermore, lay judges of the SC have submitted postulates regarding changes in both the manner in which the lay judges of the SC are appointed as well as performance of this function. The authors do not attempt to formulate a broader assessment of the researched problems and, primarily, any possible statutory amendments as this is not the goal of this paper. From among the more prominent reservations the following should be listed: lack of acceptance for the lay judges of the SC and the restrictions concerning adjudicating in disciplinary proceedings, lack of a more comprehensive concept for professional development of lay judges within the structure of the Supreme Court and the compensation system not adapted to the specificity of the work of the lay judges who are appointed from across the entire country.

The issues regarding the lay judges of the Supreme Court present extensive opportunities for formulating research subjects. The complete assessment of the institution of the Supreme Court lay judge and broader issues related to the social science disciplines:⁶ law, sociology, management and quality sciences, may present a valid reason for continuation of studies in the future. The first term of service of the lay judges of the Supreme Court concluding in the coming year is an example of one good opportunity for such initiatives. Further possible fields for analysis, both in terms of legal sciences as well as social sciences, should also be indicated. These are: the issues relating to interpretation and application of the regulations concerning lay judges of the Supreme Court which were included in the normative acts invoked in this paper, rationality of introduction of the social factor into the Court of Cassation from the point of view of theory and philosophy of law, also in consideration of the concept of deliberateness of law, its responsiveness or models of social participation in jurisprudential decision making processes (regarding official authority). The institution of the Board of the Lay Judges of the Supreme Court (Article 70 of the Act on the SC) is a very interesting, although more narrow, subject of research, both in the legal-normative aspect and sociological aspect or a subject of the analysis in the context of sciences regarding management and quality. The research problems indicated hereinabove display the wealth of research questions and topicality of the entire trend of the analyzes devoted to various institutions ensuring social participation in the process of application of law – customary these issues are studied in the context of law-making but it must

⁶ In accordance with the ordinance of the Minister of Science and Higher Education of 25 September 2018 regarding fields and disciplines of science as well as artistic disciplines, Journal of Laws item 1818.

be taken into consideration that in the democratic states such analyzes should also apply to application of law as is most frequently and to the best effect exemplified by the inclusion of the social factor into the composition of judging panels. Possibly inclusion of lay judges into the Polish Court of Cassation should be perceived as an example of an action innovative and significant in the context of legitimizing judicature.

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