**Re Question 1**

The Constitution of the Republic of Poland provides for the following freedoms and political rights:

1) freedom of peaceful assembly and participation in such assemblies, subject to limitations upon such freedoms as imposed by the statute (Article 57 of the Constitution of the Republic of Poland);

2) freedom of association, excluding associations whose purposes or activities are contrary to the Constitution or the statute (Article  58(1) and (2) of the Constitution);

3) freedom of association in trade unions, socio-occupational organizations of farmers, and in employers' organizations, however it is assumed that the scope of freedom of association in trade unions and in employers' organizations may only be subject to such statutory limitations as are permissible in accordance with international agreements to which the Republic of Poland is a party (Article 59(1) and (4) of the Constitution);

4) right of access to the public service based on the principle of equality, which is enjoyed though only by Polish citizens with full public rights (Article 60 of the Constitution);

5) right to obtain information on the activities of public authority bodies as well as persons holding public functions (Article 61 of the Constitution);

6) right to participate in a referendum and the right to vote for the President of the Republic of Poland, representatives to the Sejm and Senate and bodies of local government, enjoyed by those Polish citizens who, no later than on the day of the vote, have attained 18 years of age (Article 62 of the Constitution);

7) right to submit petitions, proposals and complaints in the public interest to public authority bodies, as well as to organizations and social institutions in relation to the performance of their prescribed duties within the field of public administration (Article 63 of the Constitution).

Additionally, pursuant to Article 54(1) of the Constitution, everyone enjoys freedom to express opinions, to acquire information and to disseminate it.

The above provisions include no specific reference to the rights in question in the context of digital technologies, such as the Internet or social media.

At the same time, due to a special position of the judiciary within the legal system, certain limitations in the exercise of the freedoms in question apply to judges, which are provided for both at the level of the constitution and the statutes. In accordance with Article 178(3) of the Constitution of the Republic of Poland, a judge must not belong to a political party or trade union, or perform public activities incompatible with the principles of independence of the courts and judges. The prohibition of carrying out public activities that cannot be reconciled with the rules of judicial independence means that a judge should not disclose their political beliefs, they should not take active part in a political debate, be engaged in any election campaign on the side of a specific party, express their view on the exercise of competence by any public authority body or declare publicly their affiliation with a specific religion or church.

There are no legal grounds preventing judges from organising associations in a manner provided for by the Act of 7 April 1991 – Law on Associations (Journal of Laws of 2017, item 210, as amended).

Detailed regulations on the rights and obligations of judges are included in the Act of 27 July 2001 – Law on the System of Common Courts (Journal of Laws of 2018, item 23 as amended, hereinafter referred to as the Act on Common Courts).

In accordance with Article 82(2) of the Act on Common Courts, a judge should, when on and off service, guard the authority of the post of a judge and avoid everything that could prejudice the judge’s authority or weaken the confidence in their impartiality. In line with Article 89(1) of the Act on Common Courts, a judge may lodge requests, motions and complaints in matters related to the office they hold only through official channels. Official channels mean addressing the competent bodies via lower-rank bodies, i.e. via the immediate supervisor. A judge must not refer such matters to third persons or institutions, nor make such matters public. There is no obligation to follow official channels when a judge addresses their requests, applications, or complaints directly to the National Council of the Judiciary, the Commissioner for Human Rights or the Minister of Justice (Article 89(3) of the Act on Common Courts). A judge is also entitled to bring any matters related to claims under the service relationship to a court (Article 89(2) of the Act on Common Courts).

**Re Question No. 2**

In the Polish legal system, the limitations of the right to freedom of expression, the right to freedom of association and the right to peaceful assembly enjoyed by judges and public prosecutors arise from the essence of the service relationship that judges and public prosecutors are involved in. To the extent prescribed, there are no differences between on-line or off-line circumstances or due to a position held or the type of cases dealt with by a judge or a public prosecutor.

For any potential breach of the law or the rules of ethics by judges and public prosecutors and for the purpose of executing their disciplinary liability, the context and circumstances should be taken into consideration on a case-by-case basis.

Pursuant to § 7 of the Collection of Principles of Judges’ Professional Ethics, the National Council of the Judiciary may interpret the provisions of the Collection of Principles of Judges’ Professional Ethics. Statements in this regard are published on the website of the National Council of the Judiciary: http://krs.gov.pl/pl/dzialalnosc/zbior-zasad-etyki-zawodowej-sedziow/c,19,wykladnia-do-zbioru-zasad-etyki-zawodowej-sedziow/p,1.

Re Question 3

The Collection of Principles of Judges’ and Trainee Judges’ Professional Ethics (hereinafter referred to as the Collection) was drafted by the National Council of the Judiciary on 19 February 2003. The consolidated text of the Collection is an annex to Resolution No. 25/2017 of 13 January 2017. Pursuant to § 3a of the Collection, a judge should avoid all kinds of personal contacts and economic relationships with natural persons, legal entities and other entities, and avoid taking actions in the private, professional and public spheres that could result in a conflict of interests and thus have a negative impact on the judge's impartiality and undermine trust in the office of the judge. In accordance with the wording of § 17 of the Collection, a judge must avoid personal contact and any other business relations with other entities if they give rise to doubts as to the impartial performance of duties by the judge or jeopardise the prestigious status and undermine confidence in the office of the judge. Additionally, a judge should act with due care to ensure that members of his or her family should not act in this way. A judge must not be a member of any organisation operating beyond the binding legal order or support it in any way (§ 22 of the Collection). § 23 of the Collection includes a provision which imposes an obligation on judges to use social media in a restrained manner.

It should be emphasised that in the light of the judgment of the Supreme Court – Criminal Chamber of 23 February 2006, Case SNO 2/06, OSNSD 2006 No. 1, item 3, a breach of the provisions of the Collection of Principles of Judges’ and Trainee Judges’ Professional Ethics by a judge may be classified as disciplinary misconduct (*przewinienie dyscyplinarne*) within the meaning of Article 107(1) of the Act on Common Courts, but it should also be considered in the context of statutory grounds for and scope of judges’ disciplinary liability. An idea that a judge is not disciplinary liable for a breach of the principles of judges’ ethics contravenes deeply not only the common sense of justice and the social importance of holding the judge's office, but also the judge’s conscience and their statutory obligation to safeguard their own dignity “when on and off service”.

**Re Question 4**

The limitations with respect to the right to freedom of assembly enshrined in Article 57 of the Constitution of the Republic of Poland are provided for in the Act of 24 July 2015 – Law on Assemblies (Journal of Laws 2018, item 408, as amended). In the light of Article 4(1) of the Law on Assemblies, the right to organize assemblies is not enjoyed by persons without full legal capacity. Additionally, the prohibition to take part in assemblies applies to persons who bear arms, possess explosives, pyrotechnic articles or any other dangerous materials or tools (Article 4(2) of the Law on Assemblies).

Pursuant to Article 14 of the Law on Assemblies, a commune-level body is entitled to issue a decision prohibiting an assembly no later than 96 hours prior to the scheduled date of the assembly. This applies to the circumstances where:

1) the objective of the assembly breaches the freedom to peaceful assembly or the objective of the assembly or the assembly realisation itself breaches the provisions of the criminal code;

2) the execution of the assembly may pose a threat to human life or health or property of significant scale, including where the threat could not be eliminated,

3) the assembly is to take place in a place and time where and when cyclical assemblies take place.

The right to freedom of association enshrined in Article 58(1) and (2) of the Constitution of the Republic of Poland is limited in a manner specified in the Act of 7 April 1989 – Law on Associations (Journal of Laws of 2017, item 210, as amended). In the light of Article 6(1) of the said Act, it is prohibited to establish associations that adopt the principle of unconditional subordination of their members to the authorities of such associations.

Additionally, due to a specific nature of certain services, specific statutes may provide for limitations in the exercise of the aforementioned constitutional freedoms. In accordance with Article 106(1)(1) of the Act of 11 September 2003 on the military service of professional soldiers (Journal of Laws of 2018, item 173 as amended), a professional soldier, while in active military service, must not be a member of any political party or association, organisation or civic movement setting political goals. Additionally, professional soldiers must not create or be members of trade unions (Article 108(1) of the Act on the military service of professional soldiers.

The option of being a member of trade unions is excluded also with respect to the officers of the State Protection Service (Article 140 of the Act of 8 December 2017 on the State Protection Service – Journal of Laws of 2018, item 138 as amended), the officers of the Internal Security Agency and the Foreign Intelligence Agency (Article 40(2) of the Act of 9 June 2006 on the service of the officers of the Military Counter-intelligence Service and the Military Intelligence Service – Journal of Laws of 2018, item 1516, as amended) and the officers of the Central Anti-corruption Bureau (Article 73(3) of the Act of 9 June 2006 on the Central Anti-corruption Bureau – Journal of Laws of 2018, item 2104, as amended). The limitations mentioned above apply also to the use of digital technologies.

**Re Question 5**

As mentioned above, the wording of the Constitution of the Republic of Poland provides for the limitation of the exercise of certain freedoms and political rights by judges. This entails the prohibition to belong to a political party or a trade union or perform public activities incompatible with the principles of independence of courts and judges (Article 178(3) of the Constitution of the Republic of Poland). This applies also to the use of digital technologies, such as the Internet and social media. Moreover, a judge may lodge requests, motions and complaints in matters related to the office held by them only through official channels. The obligation to follow official channels does not apply only when a judge addresses their requests, applications, or complaints directly to the National Council of the Judiciary, the Commissioner for Human Rights or the Minister of Justice (Article 89(1) and (3) of the Act on Common Courts).

It should be emphasised that the limitations in question apply to all judges, irrespective of their position and cases falling within their competence.

In the light of Article 107(1) of the Act on Common Courts, a judge is liable to disciplinary actions for misconduct, including an obvious and gross violation of legal provisions and impairment of the authority of the office (disciplinary misconduct). When assessing the social harm of the disciplinary misconduct, Article 115(2) of the Criminal Code applies. The provision provides for circumstances that should be taken into consideration when assessing the level of social harm caused by an act committed. They include: the type and nature of the interest breached, the scale of actually caused and potential harm, the manner and circumstances of committing the act, the scale of obligations breached, as well as the existence of intent, motivation of the perpetrator, the type of prudential rules and the gravity of breach thereof. The notion of “circumstances of committing the act” means time, place and the situational context of the conduct (cf. judgement of the Supreme Court of 15 December 2017, SNO 51/17, www.sn.pl).