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NOTE

by

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on

“Participation of citizens in the work of the Parliament”

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Citizen participation in parliament is standard today. Along with the electoral process implementing the principles of free elections, the openness of parliament to citizens is a basic premise for seeing parliaments as the most democratic and transparent constitutional bodies.

The constitutional anchor for establishing various forms of citizen participation in the work of parliament is the principle of openness of parliamentary work. Its external aspect dictates that the work of the representative assembly be organised in such a way that it is accessible to the public and all interested parties.

The citizens' participation in parliament can be viewed broadly (*sensu largo*) and narrowly (*sensu stricto*). Broadly understood, participation includes a universal, democratic and transparent electoral process or the use of the citizens' legislative initiative, i.e., the ability of citizens themselves to initiate bills. Narrow forms of participation, on the other hand, include the institution of petitions or citizen hearings, among others. A form of citizen participation in the parliament work is also the opportunity to participate in the work of parliamentary committees. This participation is not just a passive presence – consummated by the principle of openness of parliamentary work – but also the chance to take an active role, for example, through the opportunity to speak.

A special manifestation of citizen participation in the work of parliament is organised and orderly lobbying, the parliamentary rules for which are set forth in the Law of 7 July 2005 on Lobbying Activities in the Law-making Process.

The openness of parliament and transparency of its work

The openness of parliament is its defining feature. Hence, among other things, the openness of parliament's work is one of its fundamental principles on which the logic of parliament's work, as an expression of the popular will, is based. The openness of the parliamentary work is, under the Polish Constitution, a constitutional principle, expressed explicitly in the provision of Article 113 sentence 1 of the Constitution, stipulating that "Meetings of the Sejm shall be open to the public." The consensus opinion is that this principle significantly democratises parliament, opening its work to all interested parties who, referring to the disposition of Article 113 of the Constitution, have the opportunity to obtain full knowledge and information on the progress of the work of the Sejm and Senate. The doctrine indicates that the principle of openness has two basic elements, i.e., an external and an internal element. The

external element is quintessential to the openness of parliamentary work and boils down to the full availability of this work to external parties. Its manifestations include broadcasts of the proceedings of the Sejm and its bodies (e.g., committees), the availability of observing plenary sessions to interested parties, which involves the possibility of entering the so-called "lodges" in the Sejm Plenary Hall, or, for example, the option of viewing stenographic reports on the Sejm's work. In turn, the internal element of the constitutional principle of openness boils down to the full availability of all parliamentary materials to all deputies (and senators). Sejm papers, opinions, and other materials are therefore available to everyone regardless of club affiliation or division, essential for any parliament, between deputies supporting the government and those forming the so-called opposition. In doing so, it is pointed out that openness in its internal aspect is a crucial factor in ensuring that the parliamentary mandate, which is representative in nature, can be effectively carried out.

The openness of parliamentary work, however, does not *per se* prejudice the participation of citizens in the work of parliament. Nevertheless, it is a prerequisite for democratising parliament, complemented by citizen participation in the Sejm (Senate) work.

Citizen participation *sensu largo* (elections, citizen legislative initiative)

Citizen participation in the work of the Diet can be viewed in two ways. *Sensu largo* includes all citizens' (voters') activities in the procedures that constitute the composition of parliament. Therefore, the basic process to ensure citizen participation in the work of parliament, understood broadly, is elections which provide the opportunity for maximum, i.e., popular participation of citizens in the selection of the personal and political composition of parliament. The doctrine points out that the electoral act shapes, in the most general way, the work of parliament through the election of a ruling majority, which determines the agenda for the parliamentary work, which, in turn, to a greater or lesser extent, is a function of the electoral program assessed by the popular vote. In the Polish Sejm, elections are constitutionally characterised as universal, equal, direct, and proportional and are held by secret ballot (Article 96(2)). It should be noted that, in Poland's political order, it is the Sejm that is elected based on the broadest catalogue of electoral adjectives (principles of electoral law); hence it is assumed to have the most serious, i.e. the most robust democratic legitimacy. Another instrument of broad citizen participation in parliamentary work is

the institution of a nationwide referendum. The doctrine points out that the referendum on matters of particular importance (Article 125 of the Constitution) is of primary importance. That is because the referendum on matters of special interest is not constitutive (conclusive), which means that citizens, advocating certain solutions *de jure*, choose directions for the implementation of specific policies, which should then be transformed into legislative decisions (laws), which is the domain of parliament. Referendums on matters of special interest to the state must be seen as important because they are a constitutional tool for citizen participation in the work of parliament *sensu largo*. Finally, an important tool for citizens to influence the work of parliament is the citizens' (people's) legislative initiative. It is also a tool of constitutional stature that allows a group of at least 100,000 citizens with the right to elect the Sejm to bring a bill.

Unlike a nationwide referendum, the citizens' legislative initiative is a more concrete instrument. Citizens who initiate a project indicate not so much the fundamental directions of the suggested solutions but submit to the Sejm a ready-made bill which, on analogous principles to the projects coming from other entities, is processed in the Sejm and the Senate. It should be noted that the citizens' legislative initiative is being used increasingly. The Ninth Sejm currently (February 2023) has 18 bills brought by citizens under Article 118(2) of the Constitution.

Citizen participation *stricto sensu* (petitions, public hearing, lobbying)

Citizen participation in parliament can also be understood narrowly. *Sensu stricto*, the involvement of civil society in the work of the Polish Sejm (and Senate) is realised through the institutions of petitions or civic hearings, among others. The petition is based on the Law of 11 July 2014, on Petitions. According to it, a petition may be filed in the interest of 1) the public, 2) the petitioner; 3) a third party with its consent. The subject of a petition may be a demand, in particular, to change the law, to take a decision or other action on a matter concerning the petitioner's subject, collective life, or values requiring special protection in the name of the common good, falling within the scope of the tasks and competencies of the addressee of the petition. A petition may be submitted by an individual, a legal person, an organisational unit that is not a legal person, or a group of these entities. A petition shall be submitted either in writing or by electronic means. A petition should be considered without undue delay but no later than 3 months from submission. In the Sejm, petitions are handled

by a standing committee on petitions. It should be pointed out that filing a petition results in an enactment of a law or, as is most common in practice, an amendment of existing legislation. It should be added that in Poland, petitions are not only submitted to the parliament. The addressee of the petition may be any public authority, as well as a social organisation or institution, with the proviso that the petition may be addressed in connection with the tasks commissioned by it in the field of public administration.

Finally, citizen participation in the work of the Sejm is carried out using the institution of public hearings. The guiding principle of a public hearing is that anyone can participate. The purpose of a public hearing is to provide the legislature with the arguments and opinions of various actors on a given issue and to balance the parties' conflicting interests. It is a mechanism for representing and promoting certain interests, as well as a method of influencing the decisions of public authorities. It's a statutory procedure that allows any interested party to comment on a particular legal project. As a formalised procedure, the *public hearing* is based primarily on the principle of openness and aims to reduce corruption. Following the dispositions of the Law on Access to Public Information, all documents related to this procedure are public and made available on parliamentary websites on the Internet and in the Public Information Bulletin. These are "speeches" of those who participate in the public hearing, and an opportunity to "submit" – under certain conditions – to the minutes the text of a speech not made at the meeting.

A hearing is a statutory and regulatory institution that allows a deputy to submit a request for a public hearing to the committee dealing with a bill. A resolution to hold a public hearing is adopted by the committee after the completion of the first reading of the draft and before starting its detailed consideration. In adopting the relevant resolution, the commission shall set the date and time for holding the public hearing. The resolution and information on the location of the public hearing shall be made available in the Information System of the Sejm at least 14 days before the day of the public hearing. The right to participate in the public hearing on the draft law is open to entities that, after the announcement of the draft in print form, have notified the Sejm of their interest in working on the draft law. The right to participate in the public hearing also applies to entities that have declared, under the procedure provided for in the Law of 7 July 2005, on Lobbying Activity in the Law-making Process, their interest in the work on the draft law. The public hearing is held at one committee meeting only.

Finally, a detailed form of citizen participation in parliamentary work is the opportunity to participate in the work of parliamentary committees (as key organs of the parliamentary work). This participation is not just a passive presence – consummated by the principle of openness of parliamentary work – but also the opportunity to take an active role, for example, through the chance to speak.

Finally, a manifestation of citizen participation in parliamentary work is lobbying. It is regulated by the Law of 7 July 2005 on Lobbying Activity in the Law-making Process. According to Article 2(1) of the Law on Lobbying Activity, lobbying is any activity conducted by legally acceptable methods to influence public authorities in the law-making process. Professional lobbying, on the other hand, is a profit-making lobbying activity conducted for the benefit of third parties in order to take into account the interests of others in the law-making process. The distinction of professional lobbying activity within the broader concept of lobbying activity creates a duality of lobbying, especially since further provisions of the law subject only professional lobbying activity to detailed regulation. In order to disclose lobbying activity, the law provides for the maintenance of a register of entities engaged in professional lobbying activities and rules for the performance of professional lobbying activities.