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NOTE

by

**Mr Adam NIEMCZEWSKI
Secretary General of the Polish Senate**

on

“Social participation in the work of the Senate”

**Manama Session
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Draft speech by the Head of the Chancellery of the Senate, Mr. Adam Niemczewski, “Social participation in the work of the Parliament (the Senate)” at the session of the Inter-Parliamentary Union held in Manama (Bahrain) on 11-15 March 2023.

Ladies and Gentlemen,

What is social participation? The Senate of the Republic of Poland adopts its broad definition, and understands it as encompassing all activities intended to engage citizens and civic organizations in public life, in the development of public policies, in decision-making and law-making processes, and furthermore, as the interest expressed by citizens in the substance of work of the House and senators. In the light of definitions from social sciences, participation can take place on a local and on a national level. In Poland, an increased social participation takes its roots mainly in:

- post-1989 political transition and the adoption of good practices from Western countries;
- transposition of the EU legislation into national law;
- development of civil society.

There is no doubt that in a democratic state governed by the rule of law, law-making process needs to be transparent and should give its participants the possibility of shaping the contents of legal norms. As a Chamber of reflection and of open debate, the Senate seeks to make social participation truly meaningful.

Today, the Upper House strives to be the institutional foundation of democracy in Poland and the mainstay of free exchange of ideas, and is committed to ensuring that the legislative process at the Senate is characterized by full transparency and the widest possible participation of social actors. Various tools, projects and procedures are used to this end.

First, **public consultations** are for the Senate an important instrument of social participation. They provide an opportunity to learn directly from citizens and their representative organizations about possible public perceptions of proposed amendments, and would often provide senators with some additional practical knowledge, which is not always available to promoters of the bill and the Senate’s legislative services.

In Poland, the right to public consultation is derived directly from Article 4 of its Constitution, and therefore has the highest authority in the sources of law

Considering the stage of the legislative process at the Senate, consultations on the Senate’s legislative initiatives are of key importance. They have been defined in the following provisions of Article 79a of the Senate’s Rules of Procedure:

- “1. The Chair of the Legislation Committee shall request the relevant institutions or organizations to submit opinions on a bill if the requirement to obtain such opinions is derived from the provisions of the statute or the European Union law.
2. The bill shall be subject to public consultations via the Senate’s Website.
3. As part of public consultations, the Chair of the Legislation Committee shall set a deadline for submitting the opinions referred to in paragraph 1, as well as comments, and shall do so to ensure that they could be taken into account during the first reading of the bill.”

According to paragraph 2 of the aforesaid Article 79a of the Senate’s Rules of Procedure, the rule is to conduct public consultations which are open to any stakeholders, by means of the Senate’s Website. This is done via an on-line consultation form posted on the Senate’s Website with each Senate bill. Thanks to the use of modern communication tools and interactive modalities of consultation, the process is simplified and less formal, and the chance to make comments on the bill is given to the widest possible group of stakeholders.

It needs to be noted that the proper conduct of social consultations on Senate bills is of significant importance in view of the wording of Article 34, paragraph 3 of the Rules of Procedure of the Sejm; in line with its provisions, the explanatory memorandum to a bill submitted to the Sejm needs to detail the outcomes of consultations and inform about any presented variants and opinions, in particular when the requirement to seek such opinions stems from the provisions of the statute. With regard to bills which are introduced by the Senate, the President and the Council of Ministers, the Marshal of the Sejm may refer the bill back to the applicant if its explanatory memorandum does not comply with the said statutory requirement. The Senate has always strived to ensure that each of its bills be subject to the widest possible consultations – the step which, unfortunately, is more and more often overlooked in respect of government bills processed at the Sejm.

Public hearing is another, equally important form of social participation in the legislative process practiced at the Senate.

Pursuant to the Rules of Procedure of the Senate, committees which examine bills may adopt a resolution to hold a public hearing on the piece of legislation which they examine. Comprehensive details on the conduct of the public hearing are published on the Senate’s Website. The right to participate in a public hearing is vested in anyone who notifies the relevant committee of their willingness to participate, at least 7 days ahead of its date, specifying, inter alia, the interest that they seek to protect in relation to a specific regulation, or a legal solution that they wish to introduce into the legislation (these are most often social organizations – NGOs).

After the hearing, a table with the summary of comments from the public hearing is posted on the Senate’s Website, with the list of participants, their comments and the position taken by the relevant committee in respect thereof.

The first public hearing was held in the Senate on 8 October 2013 and concerned the bill on petitions – marking yet another important step in expanding the options available to citizens to participate in the law-making process.

Furthermore, the provisions of Article 63 of the Constitution of the Republic of Poland grant citizens the right to participate directly in the governance process by means of **petitions**. Under this power, citizens may either individually or collectively submit postulates, motions or proposals for legal amendments (including ready-made bills), and present matters and issues of relevance for public, economic or social life.

However, this constitutional right was for long not regulated in any detailed act of law. Therefore, on 20 November 2008, seeking to enable citizens to exercise their right to petition, the Senate amended its Rules of Procedure and established the basis for examining petitions filed to the Upper House. The Act on Petitions was passed only in July 2014 and entered into force on 6 September 2015.

Petitions submitted to the Senate are examined by the Human Rights, Rule of Law and Petitions Committee. After the examination of the proposal, the Committee decides whether a motion should be made to the Senate to take a relevant legislative initiative. The Committee may also decide to forward the petition to the competent institution or to reject it, providing the reasons for the rejection. Petitioners are always informed of any follow-up steps. In 2022, the Committee examined 91 petitions, and this year already 16 petitions.

The Human Rights, Rule of Law and Petitions Committee makes an annual report to the Senate on the petitions which have been examined. The report, and the list of petitions, together with additional documents, are posted on the Senate's Website.

Because Polish citizens have quickly learned how to exercise this right and are very willing to do so, a special organization unit to handle the petition processing was established at the Chancellery of the Senate, in the Office of Analysis, Documentation and Correspondence, i.e. the Department of Petitions and Correspondence.

Moreover, it should be stressed that in accordance with the Constitution of the Republic of Poland (see Article 125), the Senate plays a major role in the procedure for ordering a nationwide **referendum** – an institution which best serves the direct participation of the public in the law-making process and in any decisions of particular importance for the entire state.

Under Article 125, paragraph 2 of the Constitution of the Republic of Poland, the Senate has the right to consent to the President of the Republic of Poland ordering a nationwide referendum on a matter of particular importance to the State. The relevant resolution is adopted by the Senate by an absolute majority of votes in the presence of at least half of the statutory number of senators. The President may exercise their right only in cooperation with the Senate, which co-decides on the ordering of the referendum. In the absence of the Senate's consent the President's referendum initiative is ineffective.

The Senate may also submit a request to the Marshal of the Sejm to hold a nationwide referendum, and present proposals of questions or variants of solutions on the matter to be decided by such means.

Furthermore, **opinions and expert reports** commissioned from external experts are an important tool to get expert information on matters covered by the legislative process, and they also fit into the very idea of social participation.

Nowadays, when reliable, trustworthy and specialized information is of key importance and when the decision-making process may be challenged by any excess or deficit of information, and by increasingly dangerous fake news, expert knowledge becomes a particularly meaningful tool.

More importantly, experts' suggestions on matters of legislative relevance are quite helpful in the work of senators and are often taken into account as the basis for further amendments to any pending normative acts.

Moreover, opinions and expert reports produced by external experts and by the staff of the Chancellery of the Senate are published on the Senate's Website, which provides social stakeholders with some additional knowledge about the work in progress at the House, and citizens get access to expert information nearly on a par with senators.

Social participation at the Senate also takes the form of **conferences (seminars) and debates** – the tools of less formal nature.

Conferences (seminars) and debates are held either on the initiative of the Senate's body or senators, or at the request of a specific entity (representative group) from outside the parliament. Please note that the Senate is a platform of prestige for the presentation of present ideas, opinions and positions by representative groups, e.g. self-governments of professions of trust, communities of research or representatives of local government. Striving to find their place in the public discourse to voice good ideas or alert on existing issues, these groups often come up with their own initiative to organize the event, and the number of such meetings has been on the rise. This is just one manifestation of the existing tendency (not only in Poland) of "the opening of parliaments". Since the beginning of the 10th term (12 November 2019), 104 conferences, debates and seminars have been held at the Senate.