

Working Group IV

Working document 17

Working group IV – "Role of National Parliaments"

Subject: - Paper by Mr Józef Oleksy, member of the Convention
 " The Control Function of the Polish Parliament in the European Affairs "

Members of Working Group IV will find hereafter a paper by Mr Józef Oleksy, representative of the Polish Parliament, member of the Convention.

Paper for the National Parliaments Working Group

The Control Function of the Polish Parliament in the European Affairs

The modern democratic system requires division and separation of powers. The Polish Sejm plays a crucial role in this system by exercising control of the Council of Ministers (the Government) as regards both internal and external affairs. The most important provision of the Constitution, regarding the parliamentary oversight function provides for the political accountability of the Government. The Sejm is empowered to pass a vote of no-confidence in the whole Cabinet as well as in a particular member of the Cabinet. The Prime Minister may also ask the Sejm to express its vote of confidence at any time.

The accession of a state to the European Union does not mean that the state ceases to exist. The European Union does not constitute a state and it cannot replace a Member State in various aspects. One of them is the national parliament's control of government acts (including acts concerning the European matters).

Problems raised in this paper should be divided into two groups:

the role of the Polish Parliament in the process of accession negotiations;
the role of the Polish Parliament during the accession procedures and afterwards.

Ad a) The National Parliaments of the candidate states play a less important role in the accession procedures than do the Governments. From the perspective of the Sejm one may describe the functions of the Parliament in five categories:

political and controlling – it is exercised by political assessment of the Government as a whole, and of its individual members. The Polish Government the regularly passes special reports to the Sejm concerning the execution of the approximation tasks. The Sejm debates on such reports and passes resolutions in which it assesses the process of integration with the European Union. A very important part of it relates to the annual debate on the National Programme of Preparation for

Membership in the European Union. This function is also exercised during question hours which are devoted to the European matters;

inspiration of Government – in performing this function the Sejm influences the Government in order to secure that certain positions be presented by the Government in the process of negotiations; educational – when the Sejm, also during public debates, educates the citizens in the European matters, by frequently exercising its control functions (i.e interpellations and questions); international – the MPs participate in certain international organisations and bodies, such as the Joint Parliamentary Committee of Poland and European Parliament when joined by representatives of both the Polish Government and European Commission. The Polish MPs as well as members of the European Parliament take this opportunity to question them on matters relating to the EU – Poland relations;

legislative – enacting of new laws or amending the existing legislation in order to approximate laws to the EU law requirements. Also in performing this role one can see certain control functions. First of all, by submitting bills to the Sejm the Government shows the necessities resulting from the negotiations. The Sejm and the Senate decide about the contents of every law and the time it enters into force. Secondly, the Sejm, performing its role, controls the execution of the Polish obligations resulting from the Europe Agreement and concerning the approximation of laws. In addition, in certain situations it is the Sejm that allows the President of the Republic to ratify or terminate an international agreement (sometimes connected with the approximation of law)

Taking into consideration what was mentioned above one can say that the control function of the Parliament, in the case of Poland is performed in almost all functions described. This, however, cannot interfere with the general competence of the Government stipulated in article 146.1 of the Constitution: *“The Council of Ministers shall conduct the internal affairs and foreign policy of the Republic of Poland.”*

Very important role in the system of controlling the Government falls to the Parliamentary committees. Each of them is vested with special powers described in the Sejm’s Standing Orders. The committees examine reports and information provided by ministers and other representatives of the Government and state administration. The internal organisation of the Parliament should be mentioned. There is a special committee named the European Committee, consisting of representatives of all political parties represented in the Sejm. The Committee works permanently on Poland – EU matters. This work should also be qualified as the execution of the Parliamentary

control over the Government's policy. The Committee meets regularly and its debates concentrate on two groups of matters: legislative – connected with approximation of the Polish law to the EU law, and political – regular meetings with Polish negotiators, ministers responsible for integration, representatives of the European Union institutions, representatives of EU member states institutions.

The Foreign Affairs Committee also plays important role in controlling the acts of the Government with regard to the European matters. Obviously, it is a committee of a general political character. It is also the practice of the European Committee and the Foreign Affairs Committee to hold joint meetings devoted to the European matters.

The committees of the Sejm have the possibility to adopt desiderata (containing the committees' postulates regarding particular issues, which may be addressed to the Government, ministers etc.) or opinions (containing their position on a particular matter).

An important element in the control function of the Parliament is the right of the MPs to express their opinion and submit motions. The most powerful instrument which is in the possession of the MPs is the right of interpellation (question hour) addressed to the Prime Minister or other members of the Cabinet. A written answer to an MP must be given within 21 days from the receipt of the interpellation. The Deputies also have right to question members of the Cabinet. Questions concern problems of lesser importance and of current state of affairs in certain matters.

Ad b) The ¹ approval for accession will be the main problem the Polish Parliament faces. The Parliament should – if necessary – amend the Constitution and should participate in the procedure of ratification of the accession treaty.

Existence, composition, internal organisation, and Standing Orders of both the Sejm and the Senate will remain the internal competence of Poland as a new Member State. The accession, in general, will not change the functions of the Parliament (including the control function). A political decision will have to be taken with regard to establishing a committee dealing with the matter of European integration. Different models exist in the political systems of the present member states. (Such a committee will deal primarily with the analysis of the bills of European and domestic laws). The committee will receive appropriate documents from the Government (especially documents prepared by EU institutions, together with additional documents from the Government).

¹ see C.Mik – Rola parlamentu narodowego po przystąpieniu do Unii Europejskiej.

The control function of the Sejm and the Senate will increase after accession to the EU, especially as regards checking of the Government's acts in the EU institutions.

The changing situation within the EU as well as discussions in Poland and other candidate countries may lead to a conclusion that possible accession of Poland to the EU will bring about a new solutions that are not expected at the moment. One thing is certain – both Chambers of the Polish Parliament will be different from what they are now.
