

Mgr Agata Pyrzyńska

Centre of Electoral Studies

Faculty of Law and Administration

Nicolaus Copernicus University in Toruń

Supervisory Tasks of the National Electoral Commission in the Polish Electoral Law

- Summary -

The subject of my dissertation is a detailed analysis of supervisory tasks assigned to the National Electoral Commission (NEC) while taking into account provisions defining its supervisory competencies and the practice of their application. For the purposes of this study it was assumed that the NEC is the supervisory authority over the observance of the electoral law. The legislator imposed on it the duty to supervise the observance of the electoral law, maintaining and updating registers of voters and drawing up lists of voters. It should also be indicated that the legislator placed the supervisory tasks of the NEC at the head of the list of the Commission's duties, giving them explicit priority. The principal value of the NEC in a execution of the supervisory tasks is mainly to ensure that the electoral process is properly and thus lawfully prepared and carried out, and that the electoral bodies and other participants in the electoral process are co-ordinated and coherent.

The analysis of the provisions indicates that the supervision of the NEC is primarily internal although, in some cases, it also takes the form of external supervision. In the first case, it refers to lower-level electoral bodies to which the NEC has the widest list of the supervisory measures. However, the supervision is diversified depending on kind of electoral bodies. The supervision of the NEC is the broadest towards electoral commissioners, constituency electoral commissions and regional electoral commissions, narrow in the case of territorial electoral commissions and ward electoral commissions. If it comes to the external supervision of the NEC, it includes i.a. electoral committees, public radio and television broadcasters and local government bodies. What is important, the external supervision is strictly limited by the regulations. The considerations made in the dissertation also indicate that *de lege lata* the NEC is not the exclusive supervisory body in the Polish legal system although it is without doubt formally the most important body. In practice some of the

supervisory tasks are performed on its behalf by decentralized lower-level electoral bodies as well as the National Electoral Office (NEO). What is more, some supervision measures are available to entities not organizationally related to the NEC (e.g. voivodes, vogts, mayors, presidents of a city and electoral officers). In the dissertation, the detailed analysis also examined specific supervision measures through which the Commission can carry out supervisory tasks. This is an important issue because these measures determine the intensity and scope of supervision, and at the same time, determine the sphere of independence of the supervised entities. Of course, they must be explicitly stated in the law. A detailed analysis of supervisory competences of the NEC allows us to conclude that *de lege lata* they are definitely insufficient, especially in relation to entities conducting an electoral campaign and not included in the structure of the Polish electoral administration.

In terms of structure, the dissertation is divided into five chapters, each of which ends with conclusions. The structure applied has a problematic character. It is reasonable to consider the issue of supervision first, as there is no legal definition of this concept. In the first chapter, the accomplishment of the doctrine of law which seeks to develop constitutive elements for this institution, is examined. The chapter contains also considerations concerning the institution of control which is deprived of the element of binding influence. The attempt to separate these institutions seems to be important because in many cases, the NEC, despite its formal position as a supervisory body, carries out only the controlling tasks. Moreover, in the chapter types of the supervision and general definition and kinds of the supervisory measures are taken into consideration. The chapter concludes with a reference to general remarks to the character of constitutional and electoral law. This chapter *inunctim* constitutes a specific theoretical introduction to the issues related to the supervisory tasks of the NEC.

The second chapter refers to the legal shape and the systematic position of the NEC. Firstly, the basic standards for the organization and functioning of central electoral bodies in the world are examined. Several examples of solutions are analysed, which, unlike the Polish system, represent the highest electoral body in the constitutions, which strengthens its position and extends its competence, including supervisory powers. This analysis seems to be important due to the demand for the constitutionalization of the NEC. The second part of the chapter presents the place of the current Commission in the structure of the Polish electoral administration. Finally, the third subsection is devoted to the position of the NEC in the system of the Polish authorities, including the arguments for the possibility of being recognized as a body for state control and the protection of the law.

The considerations included in the third and fourth chapters are an attempt to connect the previous issues and to refer the conclusions to the objective and subjective scope of supervision of the NEC. Chapter three concerns the objective scope of supervisory task of the NEC. Its first part is an attempt of the general description of the supervisory tasks of the Commission, including their definition and systematization. In the next subsection the entities that support the NEC's supervision are taken into consideration. The role of electoral commissioners as local representatives of the NEC and the participation of the NEO are examined. The third subsection treats about the entities that are supervised by the Commission, the scope of the supervision and legal supervisory measures. It is indicated both for entities whose supervision of the NEC is obvious (its affiliated organs) as well as for those whose supervision is limited or whose regulation should be postulated.

The fourth chapter discusses the subjective scope of the supervisory measures of the NEC, and thus, the particular supervisory measures assigned to it. In the chapter the systematics similar to the one proposed by the legislator in the Polish Electoral Code is adopted. Firstly, the measures by which the NEC maintains surveillance over broadly understood observance of electoral law are examined as well as the actions by which the supervision over maintaining and updating register of voters and drawing up a list of voters should be carried out.

The last chapter deals with the role of the NEC in the examination of the financing of broadly understood politics. The first part is devoted to the study of financing electoral campaigns, while the second - to the verification of the financial policies of political parties by the Commission. In this case among scientists there is debate if there procedures should be termed supervision or control, which is also analysed.

In this study available sources and bibliographic resources have been used. What is more, the acts of the NEC have been very useful for this study. The source material is based primarily on the regulations included in the Electoral Code, the Law of Political Parties and, for historical interpretation, previous electoral law. In the study executive acts that were issued by the Electoral Code delegation are used, in particular with regard to the supervision of the NEC over the register and the list of voters, and the cooperation of electoral services with governmental and local government bodies in the exercise of their supervisory tasks. It is also important to refer to the guidelines, explanations, information or appeals of the NEC to discuss the issue of supervisory competences in a comprehensive way.

In this dissertation a few research methods have been used to make the analysis comprehensive and reliable. The main role is played by a formal and legal method that was

used to examine the shape of legal norms that regulate the issue of the supervision of the NEC. It enabled us to make a distinction between supervisory tasks and competences of the NEC. This method has also been used to designate the real scope of the Commission's supervisory tasks. Besides, in the dissertation a historical and legal method has been used to discuss the genesis of the NEC and the evolution of its supervisory tasks including selected competences. What is more, in the study the comparative method has been useful to discuss the functioning of selected models of the central electoral bodies that are empowered in constitutions, differently from the Polish law system.

The considerations included in the study are based on the provisions of law dating back to 29th March 2017.

Agata Rymaszka