

Chapter 1 entitled “National parliament in the perspective of European integration process” includes mainly an analysis of the parliament’s position in the system and the impact of European integration on roles fulfilled by this authority. It attempts to answer the question whether it is possible to separate a European role of the parliament under the current legal status.

There is no one generally acceptable catalogue of parliament roles in the constitutional law doctrine, therefore the reflections have been commenced with a presentation of various ways of approaching this issue. Some representatives of the doctrine (surely referring to the literal interpretation of the Constitution of the Republic of Poland) distinguish two roles - supervisory (executed by the Sejm itself) and legislative. Others, in turn, through a more detailed analysis, decompose the two “constitutional” roles, claiming, as a consequence, the existence of such roles as e.g. budgetary or creationary ones. However, what is crucial is that practically every combination includes the two (considered to be downright classic): supervisory and legislative roles.

Under the current legal status separation of the European role of the parliament would be an unjustified or even aimless procedure, mainly because it is not expressly anchored in the provisions of the Constitution. Yet, considering the special nature of Article 90, indicated by the representatives of the doctrine, which was confirmed in the case law of the Constitutional Tribunal, as well as the intentions which the legislator was guided by when constructing the final content of this article, it can be said that the Republic of Poland’s participation in European structures has a constitutional value and, as a consequence, the European role is supported with regard to competencies in the provisions of the Constitution. However, this thesis is practically impossible to be defended, since the claim that the role is supported with regard to competencies in the provisions of the basic law is definitely insufficient, since it has to be expressly anchored in the provisions of the Constitution. For the particular role of the parliament to be distinguished it is insufficient to refer to interpretation of intent or functional interpretation of a particular constitutional standard. New challenges for the Polish parliament, being a consequence of Poland’s participation in European structures can be ascribed to its traditional roles. To a great extent they bear attributes of a supervisory role, yet the lack of constitutional regulation referring to the participation of parliament in the process of European integration does not allow to qualify them unequivocally, let alone distinguish a new European role of the parliament.

In conclusion of the analysis of the impact of Poland's accession to the EU on the two basic roles of the parliament it is to be stated that the legislative role has undergone major transformations:

- 1) the parliament has completely lost the capability for statutory regulation in matters being within the exclusive competence of the EU (e.g. in such areas as customs union or establishing competition rules necessary for the functioning of internal market),
- 2) in the scope of the so-called competitive competencies it has an obligation to share them with the EU institutions,
- 3) when regulating matters being the sole responsibility of member countries, it has to be guided by the rules adopted by the EU institutions,
- 4) loses the ability to decide on the need and time, often also on the scope of statutory regulation,
- 5) plays the role of a specific "photocopier", very often translating a directive into an act,
- 6) Is bound by an order of interpretation "EU legislation-friendly",
- 7) after the accession to the EU the relations between the Polish act and the EU legislation are shaped not on the basis of the Constitution, but on the basis of the EU law

Chapter II entitled "The impact of European integration on the shape of legislative process in Sejm and Senate" includes a description of the legislative process and a general presentation of the impact of European integration on its course. It has been assumed in this paper that the pre-parliamentary stage of proceeding with a draft act constitutes a separate part of the legislative process. Acknowledging that the period immediately preceding presentation of a legislative initiative by a constitutionally authorized entity, including the comprehensive preparation of a draft act, constitutes the first stage of the legislative process, is a measure justified for one important reason. For at this stage one can notice a large number of obligatory procedures being a direct consequence of the country's participation in the "European constitutional system".

This paper includes a distinction of the term "Europeanization of the legislative process". What should be identified with this term are the changes taking place at all stages of the legislative mode, being the consequence of the country's participation in the "European constitutional system". Europeanization of the legislative process is one of the elements of europeanization of the parliament's legislative role and an indication of a phenomenon of a significantly broader spectrum - the process of europeanization of the Constitution. The

country's accession to European structures resulted in the necessity of considering in the process of legislation the terms "enforced" by authorities external to the state authorities (formal aspect of the process of europeanization of the legislative mode), and the need for all the participants to make every effort so that the final effect of the actions undertaken is not contradictory to the EU law (the material indication of europeanization of the legislative process).

Reference books distinguish five characteristic features of an act. This paper particularly emphasises the impact of the process of European integration on its subject scope. It is demonstrated e.g. in the inability to make law in the areas which are subject to exclusive competence, while in the area of shared competence a limited ability to decide independently on the final shape of the normative act being made can be observed. The material scope of an act is limited also by the necessity to respect the so-called "general principles of law", e.g. the principle of non-discrimination.

Chapter III is entitled "The impact of the process of European integration on pre-parliamentary stage of handling draft acts". In the first two chapters of the paper it has been numerously emphasised that the government plays a particular role in the process of implementation of law made by the EU institutions into the legal system of the Republic of Poland. The analysis of transformations of the Polish legislative process requires a detailed reflection on the governmental legislative initiative. This process is justified by the following factors:

- forming of the two most important EU institutions,
- creating of the Polish legal system, as a consequence of which the act became the most effective tool for the implementation of law made on the supranational level,
- roles fulfilled by the Council of Ministers and location of this authority in the constitutional system of state authorities.

Legislative initiative in the scope of implementation of law made by the EU institutions can be presented by all entities named in Article 119 of the constitution. Forming of the two main EU authorities, roles assigned to the Council of Ministers under the provisions of the basic law, as well as having expert authorities the task of which is to prepare draft acts with respect to formal and legal aspects. All the circumstances mentioned above has led to shaping of a tendency to make the government an authority specialized in the scope of implementation of the EU law into the national legal order. A detailed analysis of works on the governmental

draft act also justifies the fact that the representatives of the doctrine distinguished three new areas where the government has a so-called “legislative monopoly”, one of which being the implementation act.

The first part of the third chapter includes a detailed analysis of provisions of the Council of Ministers’ work rules regarding preparation of draft governmental documents. These reflections have been made in order to distinguish procedures being the immediate consequence of the country’s participation in the “European constitutional system”. In conclusion it has been stated that the applying authority is obliged to observe unconditionally the mechanisms aimed at ensuring compliance of provisions of the act being drafted with the law made by the EU institutions. The necessity for the member country’s authorities to adhere to rules adopted on the supranational level - e.g. notification procedures - can result in a significant interference both in the course of the legislative process, and in the final form and content of the normative acts being made. However, indication of transformations of the legislative process following Poland’s accession to the EU requires, apart from the presentation of strictly content-related layer of the course of pre-parliamentary works on the governmental draft act, an analysis of how the provisions of given normative acts are applied in practice, too. In view of the above, further part of the chapter includes an analysis of pre-parliamentary works on governmental draft acts which were submitted to Sejm in 2016. Reflections made in this part of the paper are aimed at presenting the impact of European integration on the actual course of legislative process and depicting typical problems arising in the implementation process.

The paper distinguishes two types of impact of the process of European integration on the course of the legislative process:

- 1) Direct impact - presenting a legislative initiative was caused strictly by the necessity to implement the law made by the EU institutions,
- 2) Indirect impact - the actual impulse initiating commencement of works on a draft act or draft guidelines for a draft act is not caused by the necessity to implement or execute the EU law, but by reasons of internal, political or strictly legal nature, or - defined by some of the representatives of the doctrine as external causes - pressure put by political parties. However, the need to adhere to the terms and conditions of membership in the EU makes it necessary to attach to a draft normative act a statement of the applying authority concerning the draft’s compliance with the law of the European Union or the applying authority’s assessment of whether the draft act is

subject to notification according to provisions concerning the functioning of the national system of standards and legal acts notification.

As a consequence of the division being adopted, the course of works on a draft act whose commencement was not directly caused by the necessity to implement or execute the EU law and the works on a draft implementation act have been analysed separately. Selection of pre-parliamentary works on governmental draft acts analysed in this part of the dissertation has been preceded by an analysis of drafts submitted to be worked on in the Sejm in 2016. The selected drafts are the ones which most comprehensively illustrate the problems being the immediate consequence of Poland's accession to the EU.

Poland's accession to the EU resulted in a significant limitation of the legislator's freedom, making the subject scope of acts dependent on the rules adopted on the supranational level. The course of further legislative works often depends on the opinion of the European Commission, institutions external to state authorities significantly limit the freedom to decide both on matters regarding the state's security and its economic problems. Even if works on a particular draft act have not been directly caused by the necessity to implement or execute the EU law, the process of European integration significantly impacts its course. This impact can be divided into:

- formal impact (the necessity to conduct notification procedures causes the further course of works on a draft to be dependent on the date of obtaining the European Commission's opinion),
- material impact (e.g. the necessity to adhere to rules established on the supranational level).

The stage of pre-parliamentary works on a draft implementation act, developed on the basis of previously adopted guidelines and on a draft made without the application of this step, in turn, is a purely technical process. Analysis of opinions issued by a competent Minister in charge of Poland's membership in the EU concerning the compliance of draft guidelines for a draft act with the EU law leads to a conclusion that in most cases the remarks are made due to excessively general nature of this particular governmental document. It is required to transpose the provisions of an EU normative act in an exact, indeed literal way. In the case of a draft act itself, in turn, remarks are made most often due to incomplete transposition of obligations included in the EU normative act and a wording of exclusions which is too

broad in relation to the act being transposed. What should be further paid attention to is one very crucial and frequently occurring problem, i.e. opinions issued by a competent Minister in charge of Poland's membership in the EU often include an urge to accelerate the works in view of the lapse of the indicated deadline for implementation.

The last chapter has been entitled "The impact of the process of European integration on the course of parliamentary stage of handling a draft act". Vast part of the reflections has been devoted to the tasks performed by the Speaker of the Sejm, with their impact on the course of the legislative process being analysed. Currently it can be considered that apart from the roles fulfilled by this authority (related to the execution of internal duties) as a result of the deepening process of European integration after 2004, a new role has emerged - the European one. Undoubtedly, it is demonstrated mainly in the obligation to ensure a draft act's compliance with the EU law. Furthermore, decisions made by the Speaker of the Sejm have a significant impact on the correct and timely course of the implementation.

Analysis of legislative procedures conducted in 2016 directly in order to execute the EU law leads to the distinguishing of the following impulses being the reason for the initiation thereof.

- 1) the necessity to implement a directive,
- 2) The European Commission issuing a justified opinion on an improper implementation of particular provisions of a directive into the legal system,
- 3) the necessity to implement provisions included in the European Commission's decision,
- 4) adjusting the legal system to the execution of implementing regulations of the European Commission.

The law made by the EU institutions has its particular characteristic features, one of them being a general character of terms included in legal acts; this is a consequence of applying the principles of subsidiarity and proportionality on the EU level. Analysis of legislative procedures conducted directly in order to execute the EU law leads to an unequivocal conclusion: most remarks made by a competent Minister in charge of Poland's membership in the EU concern terminological issues. The problem is quite a significant one, since inaccurate transposition of terms included in an EU legal act may result in an unjustified broadening or narrowing down of the application of provisions included therein. The works

conducted on a draft act strictly in order to execute or implement the EU law are peculiar mainly in view of the subject scope of the draft. It is practically completely determined by the subject scope of the legal act being transposed (provisions not aiming at implementation of the EU law should be specified in a reversed compliance matrix and justified accordingly). A crucial feature characteristic of the legislative process conducted in order to execute or implement the EU law is the need for a detailed care for the compliance of terms included in an EU legal act with the terminological network in the act being drafted, at every stage of the process. What is also important is that it is insufficient to apply the statutory provisions “in the spirit” of an EU legal act; it is necessary to transpose the provisions thereof literally. When drafting an implementation act, the originator should also have in mind the interpretation of particular terms included in the legal act being transposed suggested by the European Commission. The stage of parliamentary works on a draft implementation act has a peculiar course; quite frequently no amendments are made to the draft act. The Senate, too, when examining an act already passed by the Sejm, often does not make any amendments to the content thereof. As a rule, when amendments are made, they are usually very minor. Such a state of affairs is to a great extent a consequence of a narrow, imposed authoritatively and exhausted subject matter. Very often the stage of parliamentary works is purely mechanical in nature; the parliament fulfils a role of a specific “photocopier”. A significant transformation in the legislative process as a result of Poland’s accession to the EU is the fact that the justification for the draft act includes a motion for withdrawal from the rules being practiced (e.g. withdrawal from the rule included in section 1 clause 1 No 20 of the Council of Ministers as of 18 February 2014 on recommendations for unification of enforcement dates of some normative acts) or that the shortest possible period of *vacatio legis* is applied, in order to be able to apply the act being implemented as soon as possible. Analysis of legislative procedures conducted in order to execute the EU law confirms the grounds for defining them as a limited legislation, mainly due to the limited subject scope and technical course of the parliamentary works.