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System of the Standing Committees of the Sejm of the Republic of Poland – Introductory Remarks

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Słowa kluczowe: Sejm, organy Sejmu komisje, komisje stałe

Abstract

Sejm committees are internal, collegiate bodies of the Sejm, the establishment of which is required by the Basic Law. The regulations in force, which set the number of standing parliamentary committees (29), allow to state that we are currently dealing with a complex structure. Standing committees are formed to consider and prepare cases which are the subject of the Sejm's work, to express opinions in laws delegated to the Sejm, the Marshal of the Sejm or the Presidium of the Sejm, as well as to perform control tasks. The spheres of activity of Sejm committees are analyzed in the broader context of legislative, control or creative functions.

Streszczenie

System stałych komisji Sejmu Rzeczypospolitej Polskiej – zagadnienia wstępne

Komisje sejmowe są wewnętrznymi, kolegialnymi organami Sejmu, których powołania wymaga ustawa zasadnicza. Obowiązujące regulacje regulaminowe ustalające liczbę

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bę stałych komisji sejmowych pozwalają stwierdzić, że mamy współcześnie do czynienia z rozbudowaną strukturą. Stałe komisje Sejmu powoływane są do rozpatrywania i przygotowywania spraw stanowiących przedmiot prac Sejmu, wyrażania opinii w prawach przekazanych pod obrady przez Sejm, Marszałka Sejmu lub Prezydium Sejmu, a także są organami realizującymi zadania kontrolne.

I.

In order for the Sejm to perform its functions (legislative, control, creative), it is required to establish internal bodies which, on the one hand, will manage the work of the entire Chamber and, on the other hand, will carry out auxiliary activities in relation to the entire Chamber. The necessity to ensure the efficiency of the work of the Chamber serves as a justification for the existence of an extensive structure of the internal bodies of the Sejm. Challenges of the contemporary world manifested by the scope and number of matters subject to legislative rationing, the multiplicity of areas of executive activity subject to parliamentary control, determine the existence of internal bodies, the activities of which are consistent with the implementation of tasks constitutionally defined by the Sejm².

The bodies of the Sejm are indicated in the Article 9 of the Rules of Procedure of the Sejm³, Marshal of the Sejm, Presidium of the Sejm, Council of Seniors and Sejm committees. Only two of them (the Marshal of the Sejm and Sejm committees) find their legitimacy in the Basic Law, the existence of the others (Presidium of the Sejm and Council of Seniors) is based on the statutory basis. Pursuant to the Article 110, paragraph 1 of the Constitution of the Republic of Poland, the Sejm appoints the Marshal of the Sejm and dep-

² J. Marszałek-Kawa, *The Institutional Position and Functions of the Sejm of the Republic of Poland after the Accession to the European Union*, Odessa 2019, pp. 608.

³ Resolution of the Sejm of the Republic of Poland of July 30, 1992 on the Regulations of the Sejm of the Republic of Poland (consolidated text M.P. 2012, item 32, as amended), hereinafter referred to as the Sejm regulations.

uty Marshals from its members⁴, while paragraph 3 stipulates that the Sejm shall appoint standing committees and may appoint extraordinary committees, while under the Article 111, paragraph 1 of the Constitution, the Sejm may also establish investigative committees to investigate a particular matter. Sejm committees are therefore internal, collegiate bodies of the Sejm, the establishment of which is required by the Basic Law. Apart from the general description of the tasks of investigative committees by the lawmaker (investigation of a specific case), the Constitution does not prejudge the purpose of the appointment of other committees, leaving it to the regulations. In the view of the Article 17 of the Sejm's Rules of Procedure, committees are formed to consider and prepare cases which are the subject of the Sejm's work⁵, to express opinions in laws delegated to the Sejm, the Marshal of the Sejm or the Presidium of the Sejm, as well as to perform control tasks. The spheres of activity of Sejm committees are analyzed in the broader context of legislative, control or creative functions. All the areas of activity indicated in Article 17 (consideration, evaluation, preparation, control) should serve the performance of the constitutionally indicated functions of the Chamber, while at the same time the committees should not act outside the scope of these functions.

Bearing in mind the constitutional regulations, it can be pointed out that the system of committees of the Sejm of the Republic of Poland is composed of three types of committees – standing, extraordinary and investigative committees⁶. It should be remembered that with regard to standing committees, their number, internal organization and the way they function are determined only by the provisions of the Chamber's Rules of Procedure, and in the case of investigative committees: The Rules of Procedure and the Act on the Sejm Investigative Committee⁷. The situation of the extraordinary committees is slightly different, as the Chamber enjoys greater freedom not only to define the purpose of the committee, but also the rules and procedures. They are

⁴ According to the Regulations of the Sejm, the Deputy Marshals do not constitute separate bodies of the Sejm.

⁵ M. Chmaj, *Wewnętrzna organizacja Sejmu*, "Przegląd Sejmowy" 1999, No. 1, p. 31.

⁶ In view of the mechanisms of their creation and their duration, investigative committees should be regarded as a kind of extraordinary committees, functioning under the principles set forth in the Act on the Sejm investigative committee.

⁷ Act of January 21, 1999 on Sejm investigative committees (consolidated text: Dz.U. 2016, item 1024).

specified in each case in the resolution on their appointment, so that each time the Chamber may adjust the course of action to achieve a specific goal.

II.

The most basic type of committee operating in the Sejm is the standing committee. They are obligatorily appointed internal bodies of the chamber, which consequently results in the obligation to appoint all the committees indicated in the Article 18(1) of the Sejm regulation and their functioning throughout the entire term of office. However, the appointment of a standing committee should be understood as the election of its members and the formation of the committee, which should take place at the beginning of the term of office of the chamber. The chamber may not refrain from electing members of any of the committees included in the catalogue, nor may it remove all the MPs from the members of all the committees during the term of office, leaving any of the seats vacant. The number of standing committees results directly from the provisions of the Rules of Procedure of the Chamber. The catalogue of standing committees contained in Article 18⁸ ought to be treated as a closed one. This means that no committee which name does not correspond to the one indicated in the catalogue may be appointed as a standing committee, nor any committee other than those indicated in Article 18. At the same time, this does not invalidate the right of the Chamber to decide on the number of its internal bodies. The Sejm may at abolish the existing standing committees, appoint new ones, make changes in their names or subject matter at any time, using the procedures for amending the Rules of Procedure of the Sejm⁹. The performance of tasks generally defined in the Article 17 of the Rules of Procedure of the Sejm (preparation, consideration, evaluation and control) as part of the activities of each standing committee takes place within the area marked in the appendix to the Rules of Procedure of the Sejm “Material scope of activities of the committees of the Sejm”. The scope of activity

⁸ Currently, 29 standing committees of the Sejm.

⁹ The original wording of the Sejm’s Regulations provided for the creation of 24 standing committees. M. Zubik, *Organizacja wewnętrzna Sejmu Rzeczypospolitej Polskiej*, Warsaw 2003, p. 271.

of standing committees has been defined in considerable detail and remains largely in correlation with government administration departments referring to them. Such a solution is consistent with the concept of parliamentary committees conducting control activities toward the Council of Ministers, members of the Council of Ministers and government administration. Linking the scope of the committee's activities to government administration departments may undoubtedly facilitate their operation, especially in the area of auditing activity, as well as being important in the course of work on the adoption of the budget act. Considering the method of determining the scope of matters being the responsibility of standing committees, one can distinguish between the so-called ministerial committees and other committees – problem-oriented committees¹⁰. The scope of activity of the latter does not fit into the structure of government administration departments, it is of a more problematic nature, e.g. the Committee on Communication with Poles Abroad, the Committee on Senior Policy. It should be remembered that this division is by its very nature doctrinal and in no way affects the differentiation of the position of standing committees, understood as the possibility for some committees to influence the activities of others. In the literature of the subject¹¹, however, it is emphasized that one can distinguish among the standing committees of the Sejm the so-called leading committees, which include, for example, the Regulations and Parliamentary Affairs Committee, the Legislative Committee or the Public Finance Committee. This (symbolic) separation stems from the fact that the indicated committees are active in key areas of the Chamber's operation. The Committee on Regulations and Parliamentary Affairs handles matters related to the exercise of parliamentary mandate, immunities and amendments to the regulations of the Chamber. The Legislative Committee, in which the Marshal of the Sejm may submit drafts submitted to the Marshal's Staff, if he has doubts as to their compliance with the law, European Union law or the basic principles of legislative technique, is of particular significance. The essence of the Finance Committee in turn is related to its key role in the process of drafting the budget act and in the process of auditing the implementation thereof.

¹⁰ The literature on the subject also includes the term "extra-ministerial". M. Zubik, *Organizacja wewnętrzna...*, p. 274; B. Banaszak, *Prawo konstytucyjne*, Warsaw 1999, p. 469.

¹¹ Z. Czeszejko-Sochacki, *Prawo parlamentarne w Polsce*, Warsaw 1997, p. 149.

III.

Sejm committees are collegiate bodies. Their members can include exclusively members of the Sejm. This does not mean that persons who do not hold a mandate as an MP shall be excluded from participation in the work of the committees. Furthermore, there is an established practice of inviting representatives of various organizations and experts in a given area to committee meetings, provided that they are present only in an advisory capacity and will not exercise the rights of an MP by virtue of their membership. According with the Rules of Procedure of the Sejm, an MP may be a member of two standing committees. By a way of exception, a Member may participate in three committees, but this shall require the approval of the Presidium of the Sejm after consultation of the Council of Seniors¹². It is worth noting that the restrictions apply only to membership of standing committees, thus being a member of two standing committees of the Sejm, an MP may be a member of any number of extraordinary committees. Membership in committees is a right of a Member of Parliament, fitting into the mechanisms of exercising an MP's mandate. It can be assumed that every MP should be involved in the work of the chamber and thus membership in parliamentary committees becomes an obligation. MPs acting as members of the Council of Ministers or appointed as secretaries of state, who are not eligible to belong to the committees of the Sejm, neither standing nor extraordinary, are exempt from this requirement. The Sejm's Rules of Procedure do not determine the number of members of individual standing committees, except for three standing committees of the Sejm which composition or the manner of determining the number of members has been directly stipulated in the rules of procedure. In relation to the remaining committees, by a way of customary practice, the division into the so-called large, medium and small committees has been adopted, making the number of committee members dependent on its inclusion in one in these categories¹³. Members of standing committees are appointed by the Sejm at the request of the Presidium of the Sejm after consultation with the Council of Seniors. The appointment is also based on cus-

¹² In the Sejm of the 8th parliamentary term, only 56 MPs were not involved in any parliamentary committee.

¹³ <http://www.sejm.gov.pl/Sejm9.nsf/page.xsp/parytety> (17.11.2019).

tomary rules. Although the legislator has not referred to the distribution of seats in standing committees, their composition remains correlated with the composition of the forces formed during a given term of office of the parliamentary clubs and should reflect their size accordingly. The number of seats allocated to a parliamentary club in each type of standing committee is determined at the beginning of each term of office and that forms the basis for filling the seats in the committees.

As indicated, the rules for determining the number of members of the three standing committees have been formulated separately. These are: Deputies' Ethics Committee, Special Services Committee, European Union Affairs Committee. The number of members of the Deputies' Ethics Committee depends on the number of parliamentary clubs present in the Sejm for a given term of office. It is composed of one representative from each parliamentary club. In case of a change in the number of parliamentary clubs during the term of office of the chamber (establishment of a new club, liquidation of a previously existing club), the number of members of the Deputies' Ethics Committee also changes. The adoption of such a model of filling seats on the committee ensures proper representation of clubs regardless of their size and the decisions of the Presidium of the Sejm. Another standing committee, the composition of which has been determined by the regulations of the Sejm, is the Special Services Committee. Pursuant to Article 137(1), the number of committee members may not exceed 7. This is an upper limit that cannot be increased by the Sejm. However, the Rules of Procedure do not determine the minimum number of members¹⁴, leaving it to the discretion of the Sejm, which decides on a motion of the Presidium of the Sejm by a way of a resolution on the number of members of the Committee. Just as in the case of other parliamentary committees, the distribution of seats among individual parliamentary clubs should correspond to the distribution of political power in the entire Chamber. The last of the standing committees the composition of which was determined by the provisions of the Rules of Procedure of the Sejm is the European Union Affairs Committee. Although the provi-

¹⁴ Considering that the Presidium of the Special Services Committee should be composed of the Chairman of the Committee and two deputies, it can be concluded that the minimum number of committee members is 3.

sions contained therein do not specify the number of members of the committee directly, they do introduce a requirement that the composition of the Committee should reflect proportionally the representation of clubs and agreements composed of at least 15 members. This goal is achieved by introducing an algorithm according to which the number of seats in the committee for clubs and agreements is calculated¹⁵.

The regulations in force, which set the number of standing parliamentary committees, allow to observe that we are currently dealing with a complex structure. This extensive structure should be analyzed also in the context of the tasks of Sejm committees defined in Article 17, which consist in considering and preparing matters which are the subject of the work of the Sejm, expressing opinions on matters submitted by the Sejm, the Marshal or the Presidium. It should also be remembered that Sejm committees are bodies of parliamentary control and may use such instruments as desiderata and opinions to achieve this goal.

It is unquestionable that in order for the Sejm to function efficiently, it is necessary for internal bodies to exist and operate in support of the Chamber in the performance of its constitutionally defined functions. Parliamentary committees perform exactly such a role. Their role in the legislative process, in the performance of their control function and in the selection of state bodies cannot be underestimated. While analyzing the work of standing and extraordinary committees, the frequency of resorting to the latter can lead to the conclusion that the adopted model of the Sejm committee works well in parliamentary practice.

Literature

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¹⁵ Pursuant to Article 148a, paragraph 3, the Presidium of the Sejm determines the number of members of a club or an agreement that take a seat on the Committee according with the following terms: 1. by calculating the coefficient as the quotient of the number of members of the club or agreement and the number 460, to the third decimal place; 2. by multiplying the coefficient by 46, to the first decimal place; 3. by rounding off the product referred to in item 2 to an integer, according to general rules.

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