

Participation of Legal Profession Self-Government Organizations in the Process of Law-Making

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Abstract

Self-governments of legal professionals give their opinions on draft legal acts as part of public consultations and cooperation with the Minister of Justice, based on statutory delegation. The most active in this respect is the self-governments of attorneys-at-law and advocates, to which drafts of all legal acts are being sent. To this end, specialized agencies have been created in these organizations, which carry out the statutory task of self-governments of legal professions to provide opinions on draft legal acts. Since 2016, comments on drafts submitted by legal profession self-governments have rarely been taken into account, and sometimes there is even no evidence for a more profound analysis thereof. This means that there is no reliable consultation, which undoubtedly affects the quality of law. This is the result of a fast and too much simplified legislative process that dominated the period of 2016–2018.

Keywords: self-government of attorneys-at-law, self-government of advocates, Sejm, legislation, public consultation

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Introduction

Professional self-government organizations operate under the laws anchored in Article 17 of the Constitution of the Republic of Poland.¹ They constitute a form of decentralization of the performance of public tasks, thus implementing the constitutional principle of subsidiarity. The responsibilities granted to certain professional self-government organizations include also participation in the law-making process in the form of providing opinion on draft legislation, whether under a general rule or an obligation of cooperation resulting from a norm authorizing for the issuance of secondary legislation by a public authority. The Constitution distinguishes between two groups of professional self-government.

The first is the self-government representing those who perform a profession in which the public repose confidence, and supervising the proper practice of such professions in accordance with, and for the purpose of protecting, the public interest — Article 17 (1) of the Constitution. They bring together representatives of such legal professions as advocates, attorneys-at-law, notaries and court enforcement officers. They also include patent attorneys and tax advisers, but their self-governments will remain outside the scope of the discussion in this study. The second group includes “other types of professional self-government.” These self-governments must not infringe the freedom to practice a profession nor limit the freedom to undertake economic activity — Article 17 (2) of the Constitution.

1. See: Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r. DzU z 1997 r. nr 78 poz. 483 as amended; English translation of the Constitution is available at: <https://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>.

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Practicing a profession of public confidence entails compulsory membership of a professional self-government, otherwise it could not carry out supervisory activities referred to in the Constitution. Attorneys-at-law (Polish: *radcowie prawni*) and advocates (Polish: *adwokaci*) are organized according to the principles of self-government, in the form of bar associations of advocates and attorneys-at-law.² Court enforcement officers and assessors who have the status of public officials constitute the self-government of court enforcement officers,³ and notaries—the self-government of notaries.⁴

Currently, the most numerous of the above-mentioned self-governments is the National Bar of Attorneys-at-Law, which, as of the end of 2018, brought together 45 305 attorneys-at-law (over the last 3 years, the increase amounted to 13%) while the National Bar of Advocates brought together 22 454 advocates (over the last 3 years, the increase was 20%). This figure should be enlarged by trainee attorneys-at-law and trainee advocates who are also members of the self-governments. The self-governments of notaries and court enforcement officers are much smaller, which grow, for obvious reasons, much slower. According to data at the end of 2018, there were 3 553 notaries, and 3 504 court enforcement officers and associate court enforcement officers combined (including 1 771 court enforcement officers).

1 Powers of self-governments of legal professions

The statutory responsibilities of professional self-governments include representing their members vis-à-vis state authorities. One of the cases where the self-government acts as a representative of all members is participation in the process of giving opinion on legal acts. This takes place as part of public consultations, which make it possible to present a position on the proposed legal solutions, but the opinions thus expressed are not binding on public authorities in any way. They do, however, allow civil society opinion to be taken into account in the legislative process. This issue is governed by the laws regulating the system and organization of legal profession self-governments.

Pursuant to the Act on the Law on advocates, advocates are to provide legal assistance, cooperation in the protection of civil rights and freedoms and in the shaping and application of the law. The scope of activity of the Polish National Bar Council of Advocates covers giving opinions on draft legislative acts and submitting proposals and postulates in the field of making and applying the law.⁵ Pursuant to the Act on attorneys-at-law, the tasks of the self-government of attorneys-at-law include in particular cooperation in shaping and applying the law, and the scope of activity of the National Bar Council of Attorneys-at-Law includes giving opinions on draft legal acts and submitting proposals on legal norms.⁶

This matter has been approached in a slightly different way in the legislation that govern the functioning of self-government of court enforcement officers and notaries, where the powers of professional self-government bodies to issue opinions on legal acts are defined more narrowly by limiting them only to issues of the functioning of these self-governments and regulations directly related to the practice of these professions. The Polish National Notary Council has been granted, under the Act on the Law on Notaries, the right to present opinions and submit proposals on changes

2. See: Obwieszczenie Marszałka Sejmu Rzeczypospolitej Polskiej z dnia 28 października 2018 r. w sprawie ogłoszenia jednolitego tekstu ustawy o radcach prawnych [the Act of 1982.07.06 on attorneys-at-law]. DzU z 2018 r. poz. 2115, (hereinafter: AAL), Art. 5 and 42(2); Obwieszczenie Marszałka Sejmu Rzeczypospolitej Polskiej z dnia 9 maja 2018 r. w sprawie ogłoszenia jednolitego tekstu ustawy — Prawo o adwokaturze [the Act of 1982.05.26—Law on advocates]. DzU z 2018 r. poz. 1184, (hereinafter: LoA), Art. 1 (2).

3. Already ineffective Art. 79(1) of the Act of 1997.08.29 on court enforcement officers and enforcement—see: Obwieszczenie Marszałka Sejmu Rzeczypospolitej Polskiej z dnia 14 czerwca 2018 r. w sprawie ogłoszenia jednolitego tekstu ustawy o komornikach sądowych i egzekucji. DzU z 2018 r. poz. 1309—and the provisions effective from 1 January 2019, Art. 29(1) and Art. 195(1) of the Act of 2018.03.22 on court enforcement officers—see: Ustawa z dnia 22 marca 2018 r. o komornikach sądowych. DzU z 2018 r. poz. 771 as amended, (hereinafter: ACEO).

4. See: Obwieszczenie Marszałka Sejmu Rzeczypospolitej Polskiej z dnia 22 listopada 2017 r. w sprawie ogłoszenia jednolitego tekstu ustawy — Prawo o notariacie [the Act of 1991.02.14—Law on notaries]. DzU z 2017 r. poz. 2291, (hereinafter: LoN), Art. 26(1).

5. See: Art. 1(1) and Art. 58(9) LoA.

6. See: Art. 41 (3) and Art. 60 (2) AAL.

in the regulations concerning the functioning of notaries.⁷ The Act on court enforcement officers of 22 March 2018 has included among the scope of activities of the National Council of Court Enforcement Officers the expressing of opinions on amendments to the provisions on enforcement, execution of injunction decisions and on the work of court enforcement officers. This is a reiteration of Article 85 (1)(3) of the already repealed the Act of 29 August 1997 on court enforcement officers and enforcement.⁸

This means that the legislature guaranteed the legal self-governments of attorneys-at-law and advocates an extensive participation in consultation related to the law-making process. This is understandable due to the scope of legal assistance provided by these legal professions. Undoubtedly, the aim of this regulation is to improve the quality of law, which is in line with the public interest. The role of these self-governments is not limited only to submitting opinions on projects related to the practice of the profession, but also on the ongoing monitoring of proposed changes that are of importance to the practice of applying the law. Representatives of the self-governments of attorneys-at-law and advocates took part in teams appointed on an ad-hoc basis to work on specific draft legal acts (e.g., secondary legislation to the Criminal Procedure Code), or in preliminary preparatory legislative works aimed at amending the regulations that operate in a specific area (amendments to the Act on attorneys-at-law and the Law on advocates in the field of streamlining disciplinary proceedings).

2 Expert staff

The National Bar Council of Attorneys-at-Law runs the Centre for Research, Studies and Legislation, the responsibilities of which include reviewing draft legislation and preparing draft legislation under the so-called legislative pre-initiative. It was established in 2007 in place of the former Research Centre of Attorneys-at-Law and the Legislative commission of the National Bar Council of Attorneys-at-Law. Since the establishment of the Centre, several hundred opinions, positions and observations on draft legislation have been developed. In the period from November 2013 to November 2016 (equivalent to nine terms of office of the governing bodies of the National Bar of attorneys-at-law), over 1 200 draft legal acts (average 36 per month) were analyzed and more than 170 opinions were written (on average 5 per month).⁹

At the Polish Bar Council of Advocates, the Legislative Commission operates, the tasks of which is to give an opinion on draft legislation. The number of projects addressed to the Bar Association of advocates is identical to that of the Bar Association of attorneys-at-law. Due to the extensive legislative activity of the Polish Sejm in recent years, additional two representatives of the President of the National Bar Council of Advocates were appointed. They shall also carry out tasks of informing the community of fellow advocates related to the preparation of reports on the legislative process in which the bar association of advocates participates.

The National Council of Court Enforcement Officers has established the Research and Training Centre, whose responsibility, in accordance with its charter, is, inter alia, continuously monitoring and reviewing draft legal acts on enforcement proceedings and on the system and activities of court enforcement officers. The National Notary Council does not have a separate specialized organizational unit to provide opinion of legal acts, so its activity in this field is the smallest.

3 Forms of activity

The participation of the self-governments of attorneys-at-law and advocates in the legislative process consists of both the submitting of opinions of draft legislation sent as part of public consultation and the proposing of changes in legislation. Representatives of the legal profession self-governments also take part in the meetings of Sejm committees to which they are invited, which allows them

7. See: Art. 40 para. 1 (b) LoN.

8. See: Art. 202(1)(2) ACEO.

9. In 2014, a total of 412 draft legal acts were analysed as part of public consultation, in 2015—424 draft legal acts, while 2016—371 draft legal acts (through 19 October 2016).

to occasionally present in more detail the position of their professional self-government or answer questions from MPs. This activity proved to be effective at the meetings of Senate committees, due to the verification role played by the Senate until the end of 2015, which submitted amendments to almost 60% of the laws adopted by the Sejm.

At the end of 2015 and at the beginning of 2016, not all drafts were sent for consultation and, therefore, the opinions sometimes were drafted after noticing the need to do so in connection with the permanent monitoring of the Sejm website and the Government Legislation Centre.

As the spectrum of regulation in the drafts under consultation is broad, I am going to mention three legislative processes in which the legal profession self-governments have clearly indicated their participation, given the importance of the legal solutions adopted for practicing the professions of attorney-at-law and advocate. The choice has been made according to the varied behavior of the self-governments, as well as on the timeline on which, from 2016 onwards, there is seen a gradual marginalization of the positions proposed (which does not mean that they had been taken into account in the previous period).

Examples are the work carried out in 2015 on the Act on free legal assistance and legal education of the public.¹⁰ The self-governments of attorneys-at-law and advocates, whose members were to be involved in the provision of legal aid under the system being introduced, sought to present their position. The position was basically coherent, differing in detail and as such presented during the fervent work of the relevant Sejm committee. This draft, in the course of the legislative process has been subject to numerous modifications, including in terms of the catalogue of entities entitled to run facilities that provide legal aid (included non-governmental organizations running an activity of public benefit).¹¹ The basic postulates of the self-governments of legal professions were rejected in the Sejm. At the stage of the work in the Senate, there was only submitted and accepted a comment (supported by the Association of Polish Poviats) concerning the substantive scope of the legal aid to be provided, which could—in the assessment of the proponents—block the first system of free legal aid in Poland.¹² However, when an amendment of this act was proposed at the initiative of the President of the Republic (which was also a consequence of a report of the Supreme Audit Office) in 2017, the legislative process were considerably different. The aim of the President of the Republic's initiative was to introduce changes that would lead to solving the problems insufficient system efficiency identified in practice. The original version of the bill met with the approval of the self-governments. Unfortunately, the competing and far-reaching proposals for the amendment put forward by MPs of various political options, have choked up the chance of any substantive discussion, and the comments made by legal profession self-governments were not taken into account at all.

The active participation of the legal profession self-governments could also be observed during the work on amending the Act on Police and certain other acts carried out by the Sejm of the previous term and completed during the current term. The draft was supposed to adapt the system of law to the judgment of the Constitutional Tribunal of 30 July 2014 (case ref. no. K 23/11), but

10. See: Ustawa z dnia 5 sierpnia 2015 r. o nieodpłatnej pomocy prawnej oraz edukacji prawnej [the Act of 2015.08.05 on free legal assistance and legal education of the public]. *DzU* z 2015 r. poz. 1255.

11. See: Projekt z 2014.12.12 ustawy o nieodpłatnej pomocy prawnej i informacji prawnej [Draft of 2014.12.12 of the Act on free legal assistance and legal information]; Stanowisko z dnia 5 stycznia 2015 r. dotyczące projektu ustawy o nieodpłatnej pomocy prawnej i informacji prawnej [Position of OBSiL KRRP dated 5 January 2015]. Available at <http://obsil.pl/opinie-i-stanowiska/proces-legislacyjny/stanowisko-5-stycznia-2015-r-dotyczace-projektu-ustawy-o-nieodplatnej-pomocy-prawnej-informacji-prawnej/>; see also: draft acts of 6 February, 24 March and 8 April 2015 on free legal assistance, free legal information and legal education of the public.

12. See: Stanowisko z dnia 10 kwietnia 2015 r. w sprawie przebiegu prac legislacyjnych nad projektem ustawy o nieodpłatnej pomocy prawnej [Position of KRRP of 2015.04.10]. Available at <http://obsil.pl/opinie-i-stanowiska/proces-legislacyjny/stanowisko-10-kwietnia-2015-r-sprawie-przebiegu-prac-legislacyjnych-nad-projektem-ustawy-o-nieodplatnej-pomocy-prawnej/>; Opinia z 22 maja 2015 r. do projektu ustawy o nieodpłatnej pomocy prawnej, nieodpłatnej informacji prawnej i edukacji prawnej społeczeństwa z 16 kwietnia 2015 r. [Position of OBSiL KRRP of 2016.05.22]. Available at <http://obsil.pl/opinie-i-stanowiska/proces-legislacyjny/opinia-22-maja-2015-r-projektu-ustawy-o-nieodplatnej-pomocy-prawnej-nieodplatnej-informacji-prawnej-edukacji-prawnej-spoleczenstwa-16-kwietnia-2015-r/>; Position of NRA (Polish: Naczelna Rada Adwokacka) of 2015.04.21, available at <http://orka.sejm.gov.pl/Druki7ka.nsf/0/36C27858A29C515FC1257E3C0037749B/%24File/3338-001.pdf>.

the content of the draft was going far beyond the initial purpose of the regulation. Expressing a position by the legal profession self-government was in this case particularly important because of the need to protect the secrecy of defense counsels (Article 178 of the Code of Criminal Procedure) and professional secrecy (Article 180 paragraph 2 of the Code of Criminal Procedure). The draft provided for that the persons obliged to keep this secrecy are also subject to operational control, which in the assessment of the legal profession self-government raised doubts, in particular from the point of view the right to defense and related substantive and procedural guarantees, expressed in Article 42(2) of the Constitution.¹³ The remarks of the legal profession self-governments were not taken into account during the work on the Act, and the Act, once adopted, was signed by the President of the Republic on 3 February 2016.¹⁴

Apart from similar positions presented by legal profession self-governments during the legislative process, there were also disputes between them, which was particularly evident in the work on two major amendments to the Code of Criminal Procedure—i.e., the amendment of 27 September 2013¹⁵ introducing an adversarial model of criminal trial and granting attorneys-at-law the powers to act as defense counsel in cases of criminal offences and fiscal criminal offences, and the amendment of 11 March 2016, which largely rescinded this reform.¹⁶ During the work on the first of these amendments, the self-government of advocates strongly opposed granting attorneys-at-law the rights as defense counsels,¹⁷ while the self-government of attorneys-at-law supported the amendment and presented broad argumentation for adopting this solution, stressing that this change is in the public interest.¹⁸ The conflict between proposals of two local governments ended with the success of attorneys-at-law who were granted the above-mentioned powers and these were not changed during the work on the amendment of the Code of Criminal Procedure in 2016.

The self-governments of attorneys-at-law and advocates also present their opinions on draft legal acts not directly related to the practice of the profession by their members. In the previous and current term of the Sejm, a number of important opinions for such drafts were presented. They included both draft amendments to codes and systemic acts (including critical opinions on amendments to the Act on the Constitutional Tribunal, which were dealt with by the Sejm of the previous and current term),¹⁹ as well as legislation regulating narrow spheres of social and economic life. The legal profession self-governments' comments, sometimes ignored, turned out to be correct in the light of the decisions of the Constitutional Tribunal (e.g., in the opinion on the Act amending the Act—Code of Civil Procedure and certain other acts in which it was signaled that bank enforcement title is a creditor's declaration and should not remain outside judicial control).

Giving opinions on legal acts as part of public consultations is not the only form of participation of legal profession self-governments in law-making. The fundamental bye-laws of legal profession self-governments provide for the obligatory cooperation of the self-governments in the process of issuing ordinances by the Minister of Justice, which is based on the obligation to seek an opinion of the competent body of the self-government of a legal profession. Such opinions are statements of

13. See: Stanowisko OBSiL KRRP z dnia 30 grudnia 2015 r. dotyczące poselskiego projektu ustawy o zmianie ustawy o policji oraz niektórych innych ustaw (druk nr 154) [Opinion of OBSiL KRRP dated 2015.12.30]. Available at <http://obsil.pl/opinie-i-stanowiska/proces-legislacyjny/stanowisko-obsil-krrp-30-grudnia-2015-r-dotyczace-poselskiego-projektu-ustawy-o-zmianie-ustawy-o-policji-oraz-niektorych-innych-ustaw-druk-nr-154/>.

14. See: Ustawa z dnia 15 stycznia 2016 r. o zmianie ustawy o Policji oraz niektórych innych ustaw [the Act of 2014.11.07 on the amendment of the Act on the Police and certain other acts]. DzU z 2016 r. poz. 147.

15. See: Ustawa z dnia 27 września 2013 r. o zmianie ustawy — Kodeks postępowania karnego oraz niektórych innych ustaw [the Act amending the Law — Code of Criminal Procedure and certain other laws]. DzU z 2013 r. poz. 1247.

16. See: Ustawa z dnia 11 marca 2016 r. o zmianie ustawy — Kodeks postępowania karnego oraz niektórych innych ustaw [the Act of 2016.03.11 on the amendment of the Act—Code of Criminal Procedure and certain other acts]. DzU z 2016 r. poz. 437.

17. See: Letter of the NRA President of 2012.05.14. Available at <https://legislacja.rcl.gov.pl/docs//2/4804/4805/31912/31915/dokument46847.pdf>.

18. See: Uchwała nr 120/VIII/2012 KRRP z 2012.07.04 w sprawie opinii o projekcie ustawy o zmianie ustawy — Kodeks karny, Kodeks postępowania karnego i niektórych innych ustaw [Resolution no 120/VIII/2012 of KRRP of 2012.07.04 on the opinion on the draft act amending the Act—Penal Code, Code of Criminal Procedure and certain other laws]. Available at <https://legislacja.rcl.gov.pl/docs//2/4804/4805/31912/31915/dokument46659.pdf>.

19. To the Act of 2015.05.27 on the Constitutional Tribunal, the content of which was submitted to the Senate, and the draft of 2015.12.15 of the Act amending the Act on the Constitutional Tribunal (see: Sejm Papers no. 122).

knowledge that are not binding for the Minister of Justice, but the consultation itself is a formal requirement. The result of not getting such an opinion is that the legal act does not come into effect. This applies to ordinances regarding the payment by the State Treasury of costs of unpaid legal aid provided ex officio by an attorney-at-law and determining the amount of fees for actions performed by attorneys-at-law before judicial bodies (until 22 October 2015 it was one ordinance based on two separate statutory delegations),²⁰ as well as ordinances governing the amount of the annual fee for the training of trainee attorneys-at-law or fees for the entrance examination.²¹ Usually, the content of opinions of legal profession self-governments when issuing this secondary legislation or amending them is not taken into account, which does not change the fact that there is a formal requirement of consultation. It sometimes happened in practice that requests for expressing such an opinion were served after the time limit for the issuance of the opinion. Of course, this does not mean that the formal requirement was not met, because in the reported case, the ordinances were issued after receiving such late opinion (Araszkiewicz et al. 2016, 197–199).

4 Significance and effectiveness of public consultations

Conducting public consultations may affect the quality of law, especially when comments on the proposed changes are submitted by professional self-governments, whose representatives not only have adequate theoretical background, but also have the opportunity to assess the proposed solutions in the context of the practice of law application. Moreover, consultations may also form a kind of social acceptance of the changes to be introduced. The effectiveness of consultations largely depends on the attitude of public authorities and the involvement and initiative of the organizations involved in the process.

Since 2016, the importance of public consultations has significantly decreased, with the emergence of the phenomenon of “law manufacturing” as the number of laws passed by the Sejm is the largest among the countries of the European Union. This is accompanied not only by a poorer quality of legislation, but also by a sense of instability.

More and more rarely, drafts were subject to consideration at parliamentary committees. In 2016, the committee stage of work—after the first reading—was omitted for 46% of drafts, and after the second reading as many as in 85% of cases, not to mention the often observed superficiality character of legislative work. However, these indicators have decreased in 2017 and 2018. Such a shortening of the legislative process at its individual stages was applied by the Sejm at will, without any broader substantiation. The Senate was slowly losing its role of a “chamber of reflection and reasonable review”, which as a rule should carry out a thorough analysis of the proposed legal solutions. This is confirmed by the fact that in 2016 the Senate did not propose any amendments to 2/3 of the number of laws passed by the Sejm, in 2017—to 3/4, and in 2018 to approximately 4/5 of the number of laws (Słowik 2017).²²

At the same time, the consultative role of legal profession self-governments was weakening, despite opinions on the drafts that are the subject of the work of the parliamentary committees being still submitted. In 2017, no public hearing was organized, despite request to do so. Some draft acts, although prepared in ministry offices, were submitted to the Sejm not upon the initiative of the Council of Ministers, but as bills proposed by MPs or senators. This procedure accelerated the legislative process, allowing, among other things, for the bypassing of the assessment of the impact of regulation and consultation, which limited the influence of legal profession self-governments on the shape of the law being enacted (which does not mean that MPs’ projects were not sent for an opinion). Thus, in 2016 about 23% of all draft bills were submitted to the Sejm, in 2017—15%, and in 2018 the figure approached that of 2016 (Wójcik 2017).²³

20. Art. 22(3) para. 2 and Art. 22(5) para.s 2 and 3 AAL.

21. Art. 32(1) para. 3 and Art. 33(4) para. 2 AAL.

22. See also: *Produkcja prawa w Polsce spowolniła, ale nadal przytłacza. Barometr stabilności otoczenia prawnego w polskiej gospodarce*. Edycja 2018. Barometr Prawa, Grant Thornton, pp. 13–14, [@:] <https://grantthornton.pl/wp-content/uploads/2018/02/Barometr-prawa-raport-2018-GRANT-THORNTON-27-02-2018.pdf>.

23. See also: *Produkcja prawa w Polsce spowolniła...*, op. cit., p. 17.

In 2017, a total of 398 drafts (of which 322 were draft acts) were sent to the self-government of attorneys-at-law for an opinion. Only 28 positions were submitted concerning these drafts (approximately 2 a month). Finally, minor secondary comments on 4 draft acts were taken into account.²⁴ In the next year 2018, 411 drafts were sent (of which 338 are draft acts). There were 33 opinions submitted concerning them, of which only comments to 3 draft acts²⁵ and 1 draft ordinance were taken into account.²⁶

This data means that in the period 2017–2018 the obligation to submit draft acts for an opinion to the self-government of attorneys-at-law and advocates was formally met, but the comments submitted in this manner were usually ignored by “draft owners.”²⁷ This creates an impression of futility of the activity of legal profession of self-governments, which may lead to the actual limitation of its activities in this area. It should be noted that taking into account the comments made is sporadic, which, as an exception to the rule, is publicized at the initiative of the self-governments of legal professions. This leads to the disappearance of reliable arrangements and public consultations, often to the detriment of the quality of law. Furthermore, the time limit to send opinions has traditionally been shortened, sometimes making their submission impossible, not to mention the fact that in principle the process of giving opinions was carried out pro forma, as the comments submitted were not substantively considered. Often, they were not reflected in consultations reports (published on the websites of the Government Legislation Centre), which were sometimes even not drawn up (in 2016 this concerned 26% of projects and this rate increased in the following years).²⁸

Conclusions

Soon signals on the need of changes in the law-making process began to appear. As early as in January 2016, the Union of Professional Self-Governments and Associations of Legal Professionals commented on the principles of the legislative process, critically assessing the practice of consultations on draft legal acts and called for genuine consultation of legal communities and due consideration of their opinion.²⁹ In 2017 Andrzej Zwara, the head of the Research Centre of the Bar Association of Advocates, when speaking at the European Economic Congress in Katowice, called for using the assistance of experts. It was proposed that the so-called small constitution of legislation be adopted, which would contain provisions regarding a reliable procedure of law-making with the participation of entities taking part in public consultation (Prawnicy i przedsiębiorcy... 2017). At the same time, some research legal centers became active (e.g., the Forum of Heads of Commercial Law Departments), which saw in the current manner of law-making a threat to legal clarity and stability of business transactions (Kidyba 2017).

24. See draft acts: (1) on the succession management of an undertaking of a natural person, (2) on claims for compensation for damage caused by an infringement of competition law, (3) on combating money laundering and terrorist financing, (4) provisions introducing the Act on the protection of personal data (adopted as an act amending certain laws in connection with the provision of the application of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

25. See drafts: of 2017.12.05 amending the Act on Combating unfair competition and certain other acts; amendment of the Act—Code of Civil Procedure and certain other acts (draft of 2017.11.27); of 2018.07.04—Tax ordinance act (no. from the list of legislative works: UD 409).

26. See draft of 2018.10.05 of the Ordinance of the Minister of Justice on the manner of providing and documenting free legal aid and free civic counselling. In this case, the assessment is based on a comparison of the text of the issued normative act and the comments submitted, as the public consultation report is lacking, which unfortunately sometimes happens.

27. In 2017, 338 draft acts were submitted, while in 2018, 351 draft laws were given a number of Sejm Papers—information published at http://www.sejm.gov.pl/sejm8.nsf/page.xsp/prace_sejmu, as on 2018.12.30.

28. See: *Produkcja prawa w Polsce spowolniła...*, op. cit., p. 20.

29. See: Stanowisko nr 1/2016 Porozumienia samorządów zawodowych i stowarzyszeń prawniczych dotyczące zasad tworzenia prawa w Rzeczypospolitej Polskiej z 13.01.2016 [Position no 1/2016 of the Union of Professional Self-Governments and Associations of Legal Professionals on the principles of law-making in the Republic of Poland of 2016.01.13].

In 2018, even representatives of the parliamentarians who back the government and of the presidential center began to notice the shortcomings of the fast legislative path and its negative impact on the quality of law-making, which gives hope for a return to a proper law-making standard, with the use of all the instruments offered by our legal system and the participation of a wide range of experts, also those representing self-governments of legal professionals.

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