

Support of civic participation by Information and Research Services in the decision-making and law-making process in the Senate of the Republic of Poland

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Abstract:

An important element of civic participation are social consultations. Consultations include hearing, sharing information and knowledge, dialogue, debate and an analysis of problems by the participants. This model of holding social consultations in Senate of Poland has become possible thanks to, among other things, changes in the organisational structure of its administration. These changes were also necessary due to increased interest of the citizens in the work of the Chamber. They consisted in dividing the Information and Documentation Office in two units defined in the by-laws: Analyses and Documentation Office and Office for Citizen Relations.

This paper presents three selected public consultation tools in Polish Senate: 1. examining petitions, 2. organising conferences, seminars and thematic committee meeting, 3. work of the Parliamentary Unit for Cooperation with Non-Governmental Organisations.

The Analyses and Documentation Office provides expert input at every stage of using the described social consultation tools. Providing specialised and expert service brings twofold benefits, as there are two recipients/users/beneficiaries of specialised information: senators (the Senate) and citizens (the society). Opinions and other auxiliary material, records/minutes of conferences, post-conference materials as well as bulletins documenting work of the Parliamentary Unit and Senate committees are publicly available.

Keywords: Senate of Poland, law and decision-making civic participation, consultations, petitions,

Introduction

Civic participation is part of the modern public sphere management, where diverging interests and expectations cannot be reconciled solely by means of administrative decisions – rather, they should be agreed upon. From this perspective, participatory mechanisms not only ensure greater social acceptance, but also optimisation of the decisions made. One of the tools of civic participation is public consultation.

Consultation is about more than just access to information and sending a document to several selected partners hoping that they will not submit any remarks. The goal of a consultation is to reach the widest audience possible and learn their opinions in order to improve the quality of the prepared solutions, even if this may mean abandoning them. On the other hand, it should be emphasised that consultations are not negotiations – the final decision is in the hands of the decision-maker (public administration).

In relation to different groups one should use different techniques and have different expectations as to what opinions can be obtained. For example, persons who are familiar with the issue in question can be invited to submit written comments to the proposed solutions. In relation to persons who are not directly involved in implementing or using the given solution other techniques should preferably be used, such as meetings, exhibitions or focus group interviews. It should be emphasised that the administration of the Polish Senate takes these factors into consideration in its work.

The decision-making and law-making process in place in the Senate effectively diversifies public consultation methods, techniques and tools. The goal of consultation – respecting the fundamental characteristic of genuine public consultation – eliciting opinions from specific actors. Consultation includes hearing, sharing information and knowledge, dialogue, debate and an analysis of problems by the participants. At the end of the process, the outcome of the consultation is made public – an element that has recently gained particular importance.

This model of holding public consultation has become possible thanks to, among other things, changes in the organisational structure of the Chancellery of the Senate. These changes were also necessary due to increased interest of the citizens in the work of the Chamber. They consisted in dividing the Information and Documentation Office in two units defined in the internal regulations: Analyses and Documentation Office and Office for Citizen Relations. Apart from organisational changes, the scope of employees' responsibilities and tasks has also been modified. In the context of this reorganisation, the flexible approach of civil servants to these novelties deserves a particular mention.

Our intention is to present three selected public consultation tools: 1. examining petitions, 2. organising seminars and conferences as well as committee meetings on specific themes, 3. work of the Parliamentary Unit for Cooperation with Non-Governmental Organisations.

Examining petitions

Petitions are a form of citizens' direct participation in the exercise of power. A petition is a request to competent (central or local) authorities to change law in force or to make specific decisions, submitted individually or by a group.

The right to submit petitions, proposals and complaints is enshrined in Article 63 of the Constitution of the Republic of Poland, which stipulates that "everyone shall have the right to submit petitions, proposals and complaints in the public interest, in his own interest or in the interests of another person – with his consent – to organs of public authority, as well as to organisations and social institutions in connection with the performance of their prescribed duties within the field of public administration. The procedures for considering petitions, proposals and complaints shall be specified by statute." Although no such statute has been adopted so far, citizens submit petitions to authorities at different levels.

Petitions in the Senate

The Senate has always been the addressee of various petitions, but only 5 years ago was the mode and form of examining them systematised. It was then that a relevant provision was added to the Rules and Regulations of the Senate and the obligation to examine petitions submitted to the Senate was imposed on the Human Rights, Rule of Law and Petitions Committee.

According to the division of responsibilities in the Chancellery of the Senate, the Committee is assisted by the Petitions and Correspondence Department in the Office for Citizen Relations, which organises the petition examination process. Apart from organising the process of examining petitions by Senate bodies, the responsibilities of the Department include ensuring the availability of public information concerning the activity of the Senate and its bodies and answering non-official letters addressed to the Senate and its bodies.

The Marshal of the Senate, the Human Rights, Rule of Law and Petitions Committee and other Senate bodies and units of the Chancellery of the Senate receive many letters, which are redirected to the Petitions and Correspondence Department. Last year over 2000 traditional and electronic letters were received. In a vast majority of letters directed to the Petitions and Correspondence Department the authors present their individual problems, express their dissatisfaction or dispute judgements and decisions made by authorities at different levels, share their opinions or criticise violations of law. Such letters, even those entitled "petition", are not treated as petitions because they do not contain legislative proposals. The senders of all such letters receive a written response from the Petitions and Correspondence Department, containing exhaustive information or explanation.

For letters classified as petitions the Department prepares "Information on the subject of the petition". It is intended to be used by the Committee as an auxiliary material. The information contains, among other things, a description of the proposals, an analysis of the current legal situation, information on earlier actions or legislative work concerning the subject of the petition, if any, as well as judgements

passed by the Constitutional Tribunal and courts and actions taken by the government or organisations interested in the matter.

The information package is supplemented with materials containing: a copy of the petition, selected legislative acts, court judgements, legislative bills, publications or information on actions taken in the past concerning the subject of the petition. Last year the Department prepared 24 such reports, which were presented at the meetings of the Human Rights, Rule of Law and Petitions Committee.

The meetings are attended by employees of the Petitions and Correspondence Department who present the petitions and, after work on a bill has started, employees of the Legislative Office. The Committee may also seek opinions of external experts. External experts are indicated by the Analyses and Documentation Office, following a detailed analysis of their scientific and research achievements. The meetings of the Committee are open to the public and broadcast on the Senate website.

Having examined the proposals, the Human Rights, Rule of Law and Petitions Committee decides if a motion should be presented for a legislative initiative to be exercised by the Senate. It can also pass the petition to a relevant institution or reject it, indicating the reasons for such a decision. The petitioners are each time notified of the actions taken. The Human Rights, Rule of Law and Petitions Committee files a report to the Senate on examined petitions. This report and the list of petitions with supplementary materials are published on the Senate website.

Information and educational campaign "Petition-your right"

On 6 September this year, the Petitions Act, initiated by the Senate, will enter into force. The Office for Citizen Relations of the Chancellery of the Senate has undertaken to promote the right to petitions and is currently holding a social information and educational campaign.

The primary aim of the campaign is to disseminate knowledge of possibilities offered to citizens by the Petitions Act. We also want to reach local self-governments and public administration with information on their new obligations and the principles of submitting and examining petitions stipulated in the Act.

The campaign is co-organised with a non-governmental organisation (Institute of Public Affairs), office of the Polish Ombudsman and an organisation of Polish local media (Polish Media Association). The media sponsors of the campaign are a TV news channel (TVP INFO) and a news agency (Informacyjna Agencja Radiowa). Additionally, we are building a voluntary coalition of institutions and non-governmental organisations pursuing the informational and educational goals of the campaign on a partnership basis. The coalition is gaining new members all the time. It is anticipated that the campaign, officially launched on 20 May 2015, will last until the end of November 2016.

We have prepared varied information and promotional materials: leaflets with basic information, bookmarks, a comic strip, a poster, mugs, pens, T-shirts, etc. The slogan and logo of the campaign were selected in a competition.

For the purposes of the campaign, we have created the website www.petycje.edu.pl. It contains information on petitions and on various projects and actions taken by us, our partners and coalition members. Another tab is addressed to local self-governments. Support for local self-governments will be provided mainly by our coalition partner – the Institute of Public Affairs. The website also contains downloadable presentations which can be used for training purposes, legal opinions and advice, suggestions concerning actions to be taken by local self-governments, etc.

The main forms of activity are:

- workshops for journalists of regional media; we will use this channel to spread information on the new Act to local communities,
- training for employees of Senators' offices, who can provide information and advice to people they meet as part of their duties,
- open lectures and presentations in libraries, community centres, etc.
- workshops, classes, lectures for secondary school and university students,
- conferences in the Senate and at the premises of the coalition members,
- supporting Senators in activities taken by them in their constituencies.

The Petitions Act enters into force on 6 September 2015 and after that date (probably on 15 September) a debate is planned with the participation of representatives of local self-governments, the main recipient of citizens' petitions. It is intended to enable an exchange of experiences concerning the organisation of the petition examination process. It is assumed that the functioning of the Petitions Act will continue to be monitored after the end of the campaign. Every year a debate will be organised in the Senate devoted to the exercise of the civic right to petitions and the condition of civil society.

Holding conferences, seminars and committee meetings on specific themes as a form of consultation with representative groups.

Conferences (seminars) and committee meetings on specific themes take place upon the initiative of Senate bodies (most often Committees) or upon request of an entity (representative group) from outside of parliament. It should be pointed out that the Senate is a prestigious and comfortable place to present the ideas, opinions and positions of representative groups, such as associations uniting representatives of the so-called professions of public trust. This is why such groups often put forward ideas to organise such events, leading to an increase in the number of such meetings. This is one of the observed (not just in Poland) manifestations of the "parliaments opening up to citizens" trend.

The most important examples of meetings on specific themes include:

- a series of meetings of the Budget and Public Finance Committee on the Payment Services Act that was inspired by numerous letters sent directly to the Committee and ongoing discussion in professional (financial and banking) media. As a result of these meetings, a legislative initiative was prepared to lower the so-called

interchange fee. The basic objective of the bill was to introduce a statutory maximum interchange fee, i.e. the fee charged by the bank that issued the card and incurred by the settlement agent during each card-based transaction. Furthermore, the bill assumed eliminating mechanisms that limited competition on the market of card-based payment transaction services (card payment market). External experts were consulted during work on the bill. Their participation was ensured by the Analyses and Documentation Office (BAD). BAD also prepared information materials supporting the Committee's work.

- a series of meetings organised by the Marshal and Deputy Marshal of the Senate (who were both underground activists and members of "Solidarity" in the 1980s) concerning aid for democratic opposition activists and persons repressed for political reasons. As a result of these meetings, the Senate prepared a relevant bill that was subsequently introduced to the Sejm. These works were accompanied by a turbulent public debate. An unprecedented and unconventional sociological study was prepared and commissioned at the Analyses and Documentation Office (in cooperation with the Institute of National Remembrance). It was to help establish a group of beneficiaries of the future act and, consequently, the financial effects of its enactment. The bill was aimed at ensuring aid to democratic opposition activists and persons repressed for political reasons between 1 January 1957 and 4 June 1989, who are in particular financial hardship. As a prerequisite for granting aid, the interested person will have to obtain an opposition activist or repressed person status and meet the income criterion. Aid will be granted in two ways: as a special benefit and financial aid. The act will enter into force on 31 August 2015.

In the course of work on the bill, an information and analytical report (highly valued by senators) was prepared at the Analyses and Documentation Office under the title "The forms and rules of supporting persons aggrieved and repressed by communist regimes on the example of selected European Countries. We were able to prepare it at the Office thanks to cooperation with other research and analyses offices within the ECPRD framework.

Among conferences held during this term of office of the House, it is worth to point out the series of conferences on dependent and disabled persons. They gave rise to work on introducing the so-called care (senior's) voucher in Poland. External experts appointed by the Analyses and Documentation office pointed out that countries such as France managed to successfully implement similar solutions. At the stage preceding the introduction of a legislative initiative, BAD analysts prepared an information material on the functioning of such solutions in other European countries.

One of the outcomes of conferences organised in the Senate is also the introduction of the Large Family Card. This solution was demanded by associations uniting large families. They managed to convince the Senate of the Republic of Poland to become their partner in organising a conference on the theme. The conference concluded with a clear recommendation to introduce the Card. Initially, this was not done on the level of legislative solutions (some communes were introducing this regulation within their area, based on varied principles). Subsequently, allowances for large families were redefined in a government programme of 27 May 2014 and in the programme implementing act. The next stage consisted in introducing the government bill on the Large Family Card to the Sejm. The act entered into force on 1 January 2015.

The gradual introduction of the Large Family Card – from the local to the national level – is an interesting example of the evolution of ideas born as a result of broadly understood public consultation. It is worth emphasising that also in this case the Analyses and Documentation Bureau developed a very detailed legal and comparative analysis, presenting solutions implemented in other European countries.

Work of the Parliamentary Unit for Cooperation with Non-Governmental Organisations – another tool to consult representative organisations.

The Parliamentary Unit is chaired by the Marshal of the Senate. It is worth noting that the traditions of the Senate's cooperation with non-governmental organisations date back to the 1990s. The tasks of this unit are:

- cooperation with NGOs and Public Benefit Works Council (this body drafts opinions for, and provides advice to, the Minister of Labour in the scope of public benefit and volunteer work),
- monitoring legislation on NGOs,
- supporting actions that foster civic dialogue,
- removing barriers in the activity of NGOs.

Schedule of the Parliamentary Unit's work includes:

- the mechanism of transferring 1% of personal income tax for public benefit organisations – summary of the mechanism and preparing solution proposals concerning the most important problems,
- monitoring legislative work on bills e.g. on associations and unions,
- analysing educational law in terms of promoting voluntary work at schools.

Selected results of the Parliamentary Unit's work:

- abolishing VAT tax on donations in the form of food offered for charity purposes;
- initiating a debate on regulating the citizen institution in the Polish legal system; together with the Association for the Non-Governmental Initiatives Forum, the Unit organised a public consultation of assumptions to the act on the right to petitions; this contributed to a public debate on the mechanism of citizen petitions, and – in consequence – to the preparation of the aforementioned Senate legislative initiative;
- during the parliamentary legislative work on amending the Public Benefit Work Act, the Parliamentary Unit met with NGOs and started discussions on matters that raised their doubts; work of the Parliamentary Unit was the last stage of consulting NGOs before taking up legislative work by the Sejm Social Policy and Family Committee.

There is currently a vast amount of information in public circulation that is difficult to verify, as a result of which in-depth analysis of the majority of themes and problems is impossible without the participation of experts specialising in a given field. We are all aware that, first of all, reliable information is important at every stage of the decision-making process and, secondly, that this process may be threatened by excessive information. This is why hiring experts and their participation in both the decision-making and legislative processes is so important. It creates a possibility for expert opinions to influence decisions taken by the legislator, which, in turn, affect the enacted law.

The general principles of providing expert advice to the Senate and its bodies (ordering expert opinions/opinions and appointing teams of advisors) are contained in Resolution 49 of the Presidium of the Senate of 17 November 1995. Based on the aforementioned resolution, the Chief of the Chancellery of the Senate enacted an implementing act that forms part of internal legislation. The document in question is the Order no 20 of 20 November 1995 on the detailed principles and procedure of concluding agreements with experts and members of adviser teams as well as the detailed provisions of such agreements. It defines the detailed principles of cooperation with experts. Pursuant to the text of the aforementioned order, organisational matters related to advising the Senate and its bodies are managed by the Analyses and Documentation Office.

The Analyses and Documentation Office provides expert input at every stage of using the described social consultation tools. As has been mentioned above, the Chancellery of the Senate cooperates with external experts in a formalised manner. We use tried and tested methods of sourcing experts, based first and foremost on the academic merits (analysing academic output). Sometimes experts are hand-picked by the entity entitled to commission expert opinions (most often: a committee). This is how the committee acknowledges the particular competence of external experts. The selection of the committee is final – this is a manifestation of its full autonomy. The status of expert may be summarised in one word: independent. He/she is not instructed by the body ordering the opinion (i.e. the content of the order does not determine the content of the opinion) and is fully independent in the selection of research or comparative methods.

The work of the Analyses and Documentation Office does not consist solely in ensuring the above-mentioned academic consulting for the Senate.

BAD employees also prepare analyses (including comparative ones), expert opinions, information and statistics. In our work, abiding by the principle of political neutrality is important: the drafted information, studies, opinions and expert opinions include all available sources and materials and are free from political evaluations.

We follow the principle that opinions and expert opinions, records/minutes of conferences, post-conference materials as well as bulletins documenting work of the Parliamentary Unit and Senate committees are publicly available. In principle they are made available online in real time.

Ensuring specialist and expert management by the Analyses and Documentation Office in the public consultation process brings twofold benefits. This is the case as there are two recipients/users/beneficiaries of specialised information: senators (the Senate) and citizens (the society).

The working model of the information and research services is adapted to the growing need for specialist, processed information, which – in our opinion – has an influence on the effectiveness and reliability of the Senate's work.