

# NOTES ON THE SENATE



SENATE  
OF THE REPUBLIC  
OF POLAND

## *Legislative initiatives of the Senate of the first-to-fifth terms*

Reborn in 1989, the Senate makes great use of its right of legislative initiative. What we present here is only a part of the Chamber's legislative activity, only some of the multitude of socially or economically important bills. It should be noted that the principle of discontinuation, according to which a parliament that ends its term closes all the matters it has been working on, caused the Senate to revisit multiple initiatives many times in subsequent terms, although – regrettably – to no avail.

CHANCELLERY OF THE SENATE  
6 WIEJSKA ST. | 00-902 WARSAW  
TEL. 48 22 694 93 34  
senat@senat.gov.pl  
www.senat.gov.pl  
www.senat.edu.pl

The term of the Sejm and Senate elected in June 1989 was cut short when the Sejm dissolved itself in November 1991. The volume of legislative work carried out by the parliament during these two and a half years was enormous. The need for such intense parliamentary work was dictated by the political and economic changes that were taking place in Poland at the time. The Senate put forward 27 legislative initiatives (one was withdrawn), of which the Sejm adopted 17 and rejected one.

**ACTS ON THE LOCAL GOVERNMENT, ON THE MUNICIPAL ELECTORAL SYSTEM, ON LOCAL GOVERNMENT EMPLOYEES AND ON AMENDING THE CONSTITUTION OF THE REPUBLIC OF POLAND** made the reform of the local government system possible. The Senate proposed a model of local government with municipality (*gmina*) as its basic unit. The first elections to Gmina Councils were held shortly after, on 27 May 1990. The Senate also proposed the **ACT ON THE MUNICIPAL REFERENDUM**.

The initiative of the Senate also resulted in the **INVALIDATION OF JUDGEMENTS AGAINST PERSONS REPRESSED FOR THEIR ACTIVITIES FOR THE INDEPENDENCE OF THE POLISH STATE, REINSTATEMENT OF MAY 3 AS A NATIONAL HOLIDAY**, which was observed since 1919 and outlawed in 1945, as well as establishment of the **AWARD OF THE CROSS FOR PARTICIPATION IN THE 1918–1921 WAR**.

Senate bills also led to the adoption of the **Act ON THE REPAYMENT OF UNLAWFULLY OBTAINED GAINS AT THE EXPENSE OF THE STATE TREASURY OR OTHER STATE LEGAL PERSONS**, which made it possible to recover assets unlawfully lost because of undervaluation of State property, as well as on **EMPLOYERS' ORGANISATIONS AND THE RESOLUTION OF COLLECTIVE DISPUTES**.

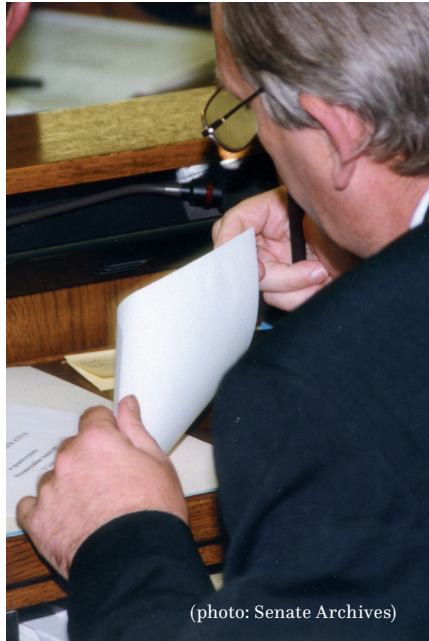
The only Senate initiative rejected by the Sejm was the one on streamlining financial liabilities, which was meant to alleviate inflationary processes.

A number of acts drafted by the Senate were considered but not passed by the Sejm, including two bills on reprivatisation, providing for the restitution of property in kind or compensation in the form of capital bills; on compensa-

(photo by J. Zawadzki)



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tion for accidents at work and occupational diseases; on scientific institutes, under which some State-owned research and development institutions could be transformed into non-State ones; on combating the negative effects of tobacco use. In contrast, the bill on the legal protection of the unborn child proved to be so controversial that the Sejm gave up its work on the draft.

The next term of the parliament was also cut short, this time by order of President Lech Wałęsa. It lasted from November 1991 to May 1993. The Senate of the second term put forward nine legislative initiatives. Four of them were adopted by the Sejm: **AMENDMENT TO THE ACT ON LOCAL GOVERNMENT**, aimed to ensure the proper functioning of local government bodies; **ACT ON REGIONAL ACCOUNTING CHAMBERS**, appointing bodies for the control of local government finances; **AMENDMENT TO THE ACT ON CHANGES TO THE ORGANISATION AND ACTIVITIES OF COOPERATIVE SOCIETIES** to prevent agricultural cooperatives from circumventing the law when selling real property; **AMENDMENT TO THE ACT ON INVALIDATION OF JUDGEMENTS AGAINST PERSONS REPPRESSED FOR THEIR ACTIVITIES FOR THE INDEPENDENCE OF THE POLISH STATE**, extending the group of persons entitled to claim compensation and the time limit for seeking compensation.

In addition, the Senate drafted two acts associated with “settling historical accounts” in legislation after 1989. The draft of the so-called decommunisation Act, i.e. Act on the preconditions for taking up certain functions in the Republic of Poland, concerned holding of public offices by people who had been employees or collaborators of the security services or high ranking communist party officials. Whereas the draft act on prosecuting Stalinist crimes and other crimes against human life, health and freedom and the administration of justice, not prosecuted for political reasons in 1944–1989 allowed for the persecution of those crimes that had lapsed or were covered by amnesty provisions. The Sejm did not complete its work on these two initiatives. The Senate bill on economic self-government met a similar fate, as did the drafts that had been worked on by the first term Senate – on combating the negative effects of tobacco use and on scientific institutes.

The Senate of the third term (1993–1997) submitted 19 draft acts to the Sejm, of which seven were adopted and four were rejected.

The initiative of the Chamber led to **THE GRANTING OF COMBATANT RIGHTS TO PERSONS WHO HAD DECEASED OR HAD BEEN SERIOUSLY INJURED IN THE EVENTS ON THE POLISH COAST IN DECEMBER 1970, AND THE FOUNDING OF THE “OSSOLIŃSKI” NATIONAL INSTITUTE FOUNDATION** as well as an **IMPROVED USE OF ACTIVE FORMS OF COUNTERACTING UNEMPLOYMENT**.

The Sejm rejected the Senate’s proposals to grant combatant rights also to individuals directed to the so-called work battalions between 1949 and 1956 or to prohibit persons without proper credentials from offering healthcare services.

In the interest of the wellbeing of the family and children and to improve the situation of women in Poland, the Senate initiated a number of activities resulting in three bills. They focused on empowering children in Polish law, establishing the institution of Commissioner for Children's Rights and granting special rights to pregnant women and women caring for young children. The bill amending the Act – Family and Guardianship Code was rejected by the Sejm, while the draft acts on the National Fund to Assist Pregnant Women and on the Commissioner for Children's Rights were not considered.

The Senate bills on which the Sejm did not complete its work, also included: draft act on providing financial benefits for children-victims of the war of 1939–1945; draft act amending the Act on invalidation of judgements against persons repressed for their activities for the independence of the Polish State,

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which aimed to extend the time limit for submission of compensation claims by victims of repression on the part of the Soviet prosecuting authorities; draft act amending the Act on election of the President of the Republic of Poland, enabling Polish citizens residing abroad to vote in the second round of presidential elections.

The **DRAFT ACT AMENDING THE CONSTITUTIONAL ACT ON MUTUAL RELATIONS BETWEEN THE LEGISLATIVE AND EXECUTIVE POWERS OF THE REPUBLIC OF POLAND AND ON THE LOCAL GOVERNMENT** had an interesting history. Its authors advocated for extending the period for the Senate to consider urgent legislative proposals of the Council of Ministers from 7 to 14 days. Although not considered by the Sejm, the initiative was included in the agenda of the National Assembly, a fact reflected in the Constitution of the Republic of Poland adopted on 2 April 1997.

The Senate of the fourth term (1997–2001) submitted 27 draft acts to the Sejm, 15 of which were adopted and three were rejected by the Sejm.

On the initiative of the Chamber, the **ACT ON INVALIDATION OF JUDGEMENTS AGAINST PERSONS REPRESSED FOR THEIR ACTIVITIES FOR THE INDEPENDENCE OF THE POLISH STATE** was amended to also apply to Poles who lived in the areas east of the Curzon line. Moreover, it was decided to discontinue the use of a limitation period for submission of claims. **THE AMENDMENT TO THE ACT ON DISCLOSURE OBLIGATIONS OF PUBLIC OFFICE HOLDERS WHO WORKED FOR OR SERVED IN THE STATE SECURITY AUTHORITIES OR COLLABORATED WITH THEM BETWEEN 1944 AND 1990** instituted the office of Commissioner for the Public Interest and introduced a principle under which vetting cases were to be resolved by the Court of Appeal in Warsaw. The following initiatives were adopted by the Sejm: **AMENDMENT TO THE ACT ON SOCIAL ASSISTANCE**, which set out the rules for the award of the guaranteed allowance for the unemployed; **AMENDMENT TO THE ACT ON PHYSICAL CULTURE**, which granted a financial benefit to former athletes who won at least one Olympic medal; **AMENDMENT TO THE ACT ON THE ELECTION OF THE PRESIDENT OF THE REPUBLIC OF POLAND**, intended to enable Polish citizens residing abroad to vote in the second round of presidential elections; **AMENDMENT TO THE ACT ON RADIO AND TELEVISION BROADCASTING**, instituting the office of social broadcaster and specified entities qualifying for the status of social broadcaster and its financial privileges.

Fulfilling the obligation of the third term Senate, the fourth term Chamber created a comprehensive regulatory framework for issues related to the Polish citizenship and repatriation. The Senate put forward four bills: on the Pole's Card and the procedure for confirmation of affiliation with the Polish Nation of persons of Polish nationality or of Polish background; on Polish citizenship; on the establishment of May 2 as the Day of the Polish Diaspora and Poles Abroad; and **ON REPATRIATION**. However, only the latter was adopted. Under this Act, and owing to the efforts of the local governments and social organisations, some of the Polish families from Kazakhstan returned to Poland.

A noteworthy legislative proposal was also the draft amendment to the Penal Code, which called for the reinstatement of the ban on production, import and dissemination of pornographic materials in any form. The Sejm first adopted the Act, but failed to adopt it again after the President's veto.

Other important and interesting proposals of the Senate included proposals on the property of the Workers' Holiday Funds or the establishment of the National Bioethics. The Sejm failed to consider these draft acts.

The Senate of the fourth term made another attempt to provide financial benefits for children-victims of the war of 1939–1945. This time, the Sejm did consider the draft act, but ultimately rejected it. Neither did it accept the Senate proposal to grant combatant rights to military engineers who took part in the demining of the Polish territory in 1945–1956, nor to introduce a 40-hour working week.



(photo by S. Kaczorek)

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During its four years in office, the Senate of the fifth term (2001–2005) worked on 34 draft acts, 26 of which were submitted to the Sejm. The Sejm adopted 16 of them, and rejected one.

On the initiative of the Senate, May 2 was established as the **DAY OF THE POLISH DIASPORA AND POLES ABROAD**, February 22 was established as the **DAY OF THE VICTIMS OF CRIME**, and October 16 was to be celebrated as the **DAY OF POPE JOHN PAUL II**.

The **AMENDMENT TO THE ACT ON THE COOPERATION OF THE COUNCIL OF MINISTERS WITH THE SEJM AND SENATE IN MATTERS ASSOCIATED WITH THE MEMBERSHIP OF THE REPUBLIC OF POLAND IN THE EUROPEAN UNION** provided the Senate with the same rights as those enjoyed by the Sejm to express opinions on draft legislation of the European Union and on positions that the Council of Ministers intends to take with respect to a legislative proposal of the Council of the EU. Under **THE AMENDMENT TO THE ACT ON DISCLOSURE OBLIGATIONS OF PUBLIC OFFICE HOLDERS WHO WORKED FOR OR SERVED IN THE STATE SECURITY AUTHORITIES OR COLLABORATED WITH THEM BETWEEN 1944 AND 1990**, the intelligence, counter-intelligence and border protection services of the Polish People's Republic were excluded from the vetting. It also modified the definition of collaboration with state security services between 1944 and 1990. **THE ACT ON CREDITING THE VALUE OF REAL ESTATE LEFT OUTSIDE THE PRESENT BORDERS OF THE POLISH STATE TOWARD THE SALE PRICE OR PERPETUAL USUFRUCT FEES IN RESPECT OF STATE TREASURY PROPERTY** enabled persons who as a result of World War II lost their property in the Eastern Borderlands (Zabużanie) to receive an equivalent from agricultural real estate assets of the State Treasury. By **AMENDING THE ACT ON PUBLIC PROCUREMENT**, the Senate excluded from its scope procurement associated with the staging and production or co-production of play, opera or operetta performances by theatres, and procurement associated with research and development entities, State-run institutions of higher education and the Polish Academy of Sciences, in cases where the value of procurement does not exceed EUR 130,000. The **AMENDMENT TO THE ACT ON COURT ENFORCEMENT OFFICERS AND PROCEDURES AND ON AMENDING THE ACT – CODE OF CIVIL PROCEDURE** changed the legal status of a court bailiff, turning it into a liberal profession. The **AMENDED ACT ON UNIVERSAL OBLIGATION TO DEFEND THE REPUBLIC OF POLAND** made it possible to promote in rank former professional soldiers who are active as volunteers in soldiers' associations or who work in government or local government administration. The Act **AMENDING CERTAIN ACTS CONCERNING THE ACQUISITION OF REAL ESTATE OWNERSHIP** regulated such issues as transforming the ownership of company apartments.

The draft act on equal status of women and men, which introduced a definition of gender discrimination and prohibited it, was rejected by the Sejm. It provided for an obligation of public authorities to support gender equality.

Due to the lengthy work of the Sejm committees and because its term of office came to an end, nine acts drafted by the Senate were never considered by the Sejm. They proposed, among other things: allowing former owners of expropriated real estate to pursue the restitution of property also in the case of real estate serving a different purpose than specified in the decision on expropriation; awarding benefits to children-victims of the 1939–1945 war and granting combatant rights to people who took part in the demining operations of 1945–1956; establishing a National Bioethics Council in the office of the Prime Minister; deducting the financial equivalent of donated blood from the taxable base; regulating the legal situation of same-sex couples in Poland.