

Participation of the Polish Parliament in the Execution of Judgments of the European Court of Human Rights*

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The main aim of this paper is to present the role of parliament in the process of implementation of European Court of Human Rights (ECHR) judgments in Poland. Firstly, the structure of the Polish parliament and the activity of two parliamentary committees dealing with the issue of the execution of ECHR judgments are presented. Then, the implementation by the Polish parliament of two basic tasks in this area is described: (1) participation in the enactment of laws aimed at removing regulations incompatible with the Convention from domestic law; (2) control of draft laws in terms of compliance with the Convention. Other activities undertaken by the Polish parliament to supervise the execution of judgments of the ECHR issued in cases against Poland are also shown. Finally, the actions taken by the Polish parliament are juxtaposed with the recommendations of the Council of Europe bodies. This allows the development of proposals to modify the Polish model and make it more effective in implementing the recommendations of the Council of Europe.

Keywords: ECHR, implementation of the judgments of ECHR, Council of Europe, the Polish parliament, European Convention on Human Rights.

Nacionalinio parlamento dalyvavimas vykdamas Europos Žmogaus Teisių Teismo sprendimus

Straipsnyje pristatomas Lenkijos Parlamento vaidmuo įgyvendinant EŽTK sprendimus šalyje. Pirmiausia pateikiama Lenkijos Parlamento struktūra ir apibūdinama dviejų parlamentinių komitetų, kurie užsiima EŽTK sprendimų vykdymo klausimais, veikla. Toliau aprašomas dviejų pagrindinių šios srities užduočių įgyvendinimas Lenkijos Parlamente: 1. dalyvavimas priimant įstatymus, kuriais siekiama pašalinti iš vidaus teisės aktų normas, neatitinkančias Konvencijos nuostatų; 2. teisės aktų projektų kontrolė laikantis Konvencijos nuostatų. Pristatomi ir kiti veiksmai, kurių ėmėsi Lenkijos Parlamentas, siekdamas prižiūrėti EŽTK sprendimų, priimtų bylose prieš Lenkiją, vykdymą. Galiausiai, Lenkijos Parlamento veiksmai sugretinami su Europos Tarybos organų rekomendacijomis. Tokiu pagrindu parengiami pasiūlymai modifikuoti Lenkijos modelį, kad šis taptų efektyvesnis ir leistų įgyvendinti Europos Tarybos rekomendacijas.

Pagrindiniai žodžiai: EŽTK, EŽTK sprendimų įgyvendinimas, Europos Taryba, Lenkijos Parlamentas, Europos Žmogaus Teisių konvencija.

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Introduction

The Council of Europe bodies, notably the Parliamentary Assembly of the Council of Europe (hereinafter: PACE) and the Committee of Ministers of the Council of Europe (hereinafter: CM), have issued certain recommendations encouraging national parliaments to intensify their participation in the process of implementing the judgments of the European Court of Human Rights (hereinafter: ECHR). National parliaments should play a key role in the effective implementation of international human rights standards at the national level. Meanwhile, national parliaments usually have two main competencies in the implementation of ECHR judgments. The first is to participate in the enactment of laws aimed at changing the legal state that was the cause of the state's violation of individual rights. The second is to check whether draft legislation submitted by the holders of the right of legislative initiative complies with the European Convention on Human Rights (hereinafter: Convention) (Bodnar, 2018, p. 327–328). These are only some of the tasks that parliaments can carry out in the process of implementing judgments. First of all, parliaments should also monitor the implementation of ECHR judgments by the government.

The full potential of parliaments in this regard can be realized in particular through the activities of the relevant parliamentary committees or subcommittees. This is very important, because a greater parliamentary activity in the field of human rights can contribute to a reduction in the number of cases pending before the ECHR, and the number of non-executed ECHR judgments supervised by CM. This will reduce the risk of the inefficiency of the Convention system of human rights protection.

As an initiator of political changes in Central and Eastern Europe, Poland was one of the first countries from this bloc to gain full membership in the Council of Europe. This took place in 1991. The next step was the ratification of the Convention by Poland in 1993 and the acceptance of the jurisdiction of ECHR. The Convention and ECHR quickly gained popularity, and Poland became one of the countries generating the most cases submitted to ECHR. In 2011, Poland was mentioned in PACE Resolution 1787 (2011) as one of the countries with serious problems regarding the implementation of ECHR judgments¹. Since then, measures have been taken to reduce the number of unexecuted judgments of the ECHR against Poland, but the long-term solutions introduced have mainly focused on the competencies of the executive power and the activities of the inter-ministerial Team for the ECHR (pol. *Zespół ds. ETPC*).

At the end of 2020, CM supervised only 89 ECHR judgments issued against Poland (CM, 2021, p. 47). Nevertheless, the duty to implement judgments rests with the executive as well as the legislative and judicial branches. The potential of the Polish bicameral parliament in this area is not fully exploited, and this is even though Poland has a hybrid model for the organization of parliamentary work on the implementation of human rights protection standards². The committees responsible for monitoring

¹ In Resolution 1787 (2011), PACE stated that in Poland, Bulgaria, Greece, Italy, Moldova, Romania, Russia, Turkey, and Ukraine, serious systemic problems causing the failure to properly and promptly implement ECHR judgments into national law had not been eliminated.

² Among the member states of the Council of Europe there are three basic models of organization of parliamentary work on the implementation of standards of human rights protection:

1. Specialized committee model – the monitoring of international human rights obligations is undertaken by a specialized parliamentary committee. This task may explicitly include – or be interpreted by the committee to include – specific functions, such as reviewing legislation for compliance with national, and/or international obligations, and monitoring the implementation of ECHR judgments;
2. Cross-cutting model – there is no specialized human rights committee in parliament. Human rights issues are dealt with by various parliamentary committees insofar as human rights are relevant to their mandates, often committees with broader mandates on justice, legal affairs, and the constitution;
3. Hybrid model – more than one parliamentary committee or subcommittee has a mandate in the area of human rights, which may (but need not) include specific functions, such as monitoring the execution of ECHR judgments.

the execution of ECHR judgments in the Polish parliament are in the Sejm (lower chamber) – the Justice and Human Rights Committee (pol. *Komisja Sprawiedliwości i Praw Człowieka*), and in the Senate (higher chamber) – the Human Rights, Rule of Law, and Petitions Committee (pol. *Komisja Praw Człowieka, Praworządności i Petycji*). Therefore, one of the purposes of this paper is to present proposals for the modification of the Polish model of participation of the national parliament in the execution of ECHR judgments. By implementing the described changes, the Polish model could take into account more recommendations of the Council of Europe bodies and thereby be more effective.

Organization of parliamentary work on the implementation of human rights protection standards in the Polish parliament

In the Polish parliament, there is a hybrid model of organizing parliamentary work in the field of the protection of human rights standards. The development of institutional practice in the Sejm and the Senate in the matter of supervision of government activities concerning the implementation of ECHR judgments took place in 2012–2013 (Bodnar, 2018, p. 352). After PACE issued Resolutions 1787 (2011) and 1823 (2011) in early 2012, the Helsinki Foundation for Human Rights (pol. *Helsinkińska Fundacja Praw Człowieka*, hereinafter: HFHR) asked the Speaker of the Sejm to take action for the effective implementation of ECHR judgments (Radziewicz, 2012, p. 1). Then, the Chief of the Chancellery of the Sejm, on the authority of the Speaker of the Sejm, asked the Bureau of Research of the Sejm (pol. *Biuro Analiz Sejmowych*) to prepare a study on the proper and prompt execution of ECHR judgments in light of the HFHR postulates. As a result of these actions, the Justice and Human Rights Committee in the Sejm and the Senate Human Rights, the Rule of Law and Petitions Committee became interested in the topic of the execution of judgments of the ECHR.

The scope of jurisdiction of the Sejm's Justice and Human Rights Committee provides as one of the main objectives of its activities “matters of respect for human rights” (item 23 of the Annex to the Rules of Procedure of the Sejm). Therefore, this commission is predisposed to deal with the issue of enforcement of ECHR judgments. An analysis of the reports from the meetings of the abovementioned parliamentary committee, as well as analysis of selected regulations of the Rules of Procedure of the Sejm, suggests that the Justice and Human Rights Committee should participate more actively in the process of executing ECHR judgments and monitoring their implementation. First of all, it is disturbing that in the eighth term of the Sejm (2015–2019) meetings concerning the execution of ECHR judgments were rarely organized. Annual reports on Poland's implementation of ECHR judgments during 2017 and 2018 were presented by the Government representative at a single meeting of the Justice and Human Rights Committee in June 2019 (Full transcript of the proceedings..., 2019). The meeting consisted of presenting the contents of the mentioned reports, and the representatives of the HFHR and deputy Robert Kropiwnicki (outside the committee) took a more active part in the discussion than the committee members. It should be mentioned that since 2013, the government has been preparing a report on the execution of ECHR judgments by Poland and presents it at the meetings of the Justice and Human Rights Committee and the Senate Human Rights, the Rule of Law and Petitions Committee. This is a result of the implementation of the desideratum of the Justice and Human Rights Committee to the Prime Minister of 12 April 2012, in which the committee postulated that the Council of Ministers should present annual information on the status of execution of ECHR judgments in Poland to the parliament.

From 5 February 2014 to autumn 2015, the Sejm had a subcommittee for the execution of ECHR judgments by Poland (pol. *Podkomisja ds. wykonywania przez Polskę wyroków ETPC*), and it is worth

adding that the Sejm was one of the first parliaments of the member states of the Council of Europe to establish a permanent subcommittee on the execution of ECHR judgments. The subcommittee was appointed by two parliamentary committees, the Foreign Affairs Committee (pol. *Komisja Spraw Zagranicznych*) and the Justice and Human Rights Committee. The reason for appointing the subcommittee from among the MPs of these two parliamentary committees was the scope of its substantive competence. The Foreign Affairs Committee supervises the Ministry of Foreign Affairs (pol. *Ministerstwo Spraw Zagranicznych*), which has a Plenipotentiary of the Minister of Foreign Affairs for proceedings before the ECHR (pol. *Pełnomocnik Ministra Spraw Zagranicznych ds. postępowanie przed ETPC*), while the Justice and Human Rights Committee supervises the Ministry of Justice (pol. *Ministerstwo Sprawiedliwości*), which is associated with the execution of many ECHR judgments and is competent to consider the majority of cases in the field of human rights protection (Kropiwnicki, 2014, p. 307).

The subcommittee's task was to analyze in detail the information of the Council of Ministers on the status of Poland's execution of ECHR judgments, to monitor ECHR judgments made in cases against Poland, and to prepare opinions of the Justice and Human Rights Committee and the Foreign Affairs Committee on the implementation by the Council of Ministers of its obligation to execute ECHR judgments. As Adam Bodnar points out, the subcommittee on the execution of ECHR judgments by Poland had an auxiliary character in relation to the Justice and Human Rights Committee and the Foreign Affairs Committee (Bodnar, 2018, p. 361). Unfortunately, this subcommittee has not been re-established in subsequent terms of the Sejm, despite the fact that in 2015 PACE positively assessed the solutions adopted in Poland. Moreover, HFHR and the Polish Ombudsman (pol. *Rzecznik Praw Obywatelskich*) called for the re-establishment of the subcommittee after the parliamentary elections of 25 October 2015 (HFHR. Speech to the Parliamentary Justice and Human Rights Committee, 2016; HFHR. Speech to the Parliamentary Foreign Affairs Committee, 2016; Ombudsman. Speech to the Parliamentary Justice and Human Rights Committee, 2016).

The most active Senate committee in overseeing the execution of ECHR judgments is the Human Rights, the Rule of Law and Petitions Committee. This committee was able to undertake this activity in 2012 without amending the Rules of Procedure of the Senate of the Republic of Poland because it is consistent with the range of issues it deals with. This scope includes "civil rights and freedoms and their institutional guarantees, matters relating to the functioning of the judiciary and public security, respect for the law, respect for human rights, civil society institutions and non-governmental organizations, consideration of petitions addressed to the Senate and its bodies" (Rules of Procedure of the Senate of the Republic of Poland, 1990). The activity of the Senate Human Rights, the Rule of Law and Petitions Committee in monitoring the execution of ECHR judgments focuses on the presentation of annual reports on the execution of ECHR judgments by the government at its meetings. These meetings consist of a presentation of the report by a government representative, followed by an analysis of the report. It seems that senators are more willing than deputies to engage in a substantive discussion on the execution of ECHR judgments. This is exemplified by the meeting of the aforementioned Senate committee on 9 July 2019, at which the report on the government's implementation of ECHR judgments for 2018 was presented. At that time, both the guests – the representative of the HFHR, the Ombudsman, the Deputy Ombudsman – as well as the senators willingly participated in the discussion (Stenographic record. Meeting of the Human Rights..., 2019).

Implementation of two basic tasks by the Polish parliament in the process of the execution of ECHR judgments

One of the basic competencies of the Polish parliament in the implementation of the ECHR judgments is its participation in passing laws aimed at changing the legal situation that was the cause of the violation of individual rights by the state. The Sejm performs its legislative function through the following measures: passing laws in three readings, a parliamentary legislative initiative (a project may be proposed by a group of at least fifteen MPs or a standing committee of the Sejm), rejecting proposed amendments or a resolution of the Senate rejecting a law in its entirety, and rejecting a presidential veto. The manner of proceeding in the Sejm with a bill submitted to the Speaker of the Sejm is laid down in the Constitution of the Republic of Poland (Articles 119–122) and the Rules of Procedure of the Sejm of the Republic of Poland (Articles 32–70).

The Senate performs its legislative function through the following means: the right of legislative initiative, the right to table amendments to a bill passed by the Sejm, and the power to reject the bill in its entirety. However, the legislative activity of the Senate consists primarily of the right of legislative initiative³. This right is vested in the Senate as a whole body, so there must be a resolution to this effect (Sarnecki, 1995, p. 44). Article 76(1) of the Rules of Procedure of the Senate provides that this chamber may take a legislative initiative at the request of a committee or at least ten senators.

As Katarzyna Grzelak-Bach and Karol Karski point out, during the eighth term of the Sejm and the ninth term of the Senate (2015–2019), bills aimed at implementing the ECHR judgment were mostly government bills (Grzelak-Bach & Karski, 2020, p. 22). The only exception is the legislative initiative of the Senate aimed at implementing the ECHR judgment in the *Moskal v. Poland* case. The ECHR judgment concerned the reviewability of pension decisions. In 2001, Maria Moskal applied to the Social Insurance Institution (pol. *Zakład Ubezpieczeń Społecznych*) for an early retirement pension on the grounds of caring for her sick child, and after she was granted that benefit she resigned from her job. A year later the Social Insurance Institution withdrew the decision on payment of the early retirement pension, as it found that the medical documentation enclosed with the application was insufficient. After exhausting her legal avenues in Poland, M. Moskal complained to the ECHR that as a result of the unfair procedure she had been deprived of her property (Article 6 of the Convention, Article 8 of the Convention, and Article 1 of Protocol No. 1 to the Convention). The applicant won before the ECHR, which awarded her appropriate compensation. The Senate became interested in the problem considered by the ECHR in the case of *Moskal v. Poland* and prepared a draft law amending Article 114 of the Act on pensions from the Social Insurance Fund by adding premises limiting the revocability of final disability pension decisions. As a result of the action of the Senate, the Act of 10 February 2017 amending the Act on pensions from the Social Insurance Fund, and some other acts, which contributed to the implementation of the ECHR judgment in the *Moskal v. Poland* case, was adopted.

The second basic task of the parliament in the scope of implementation of the ECHR judgments is the control of bills from the point of view of their compliance with the Convention. Draft laws submitted to the Speaker of the Sejm may be subject to such scrutiny both at the stage of initial scrutiny of the draft by the Speaker of the Sejm, and at the stage of legislative work (three readings of draft laws, consideration of drafts by Sejm committees) (Grzelak-Bach & Karski, 2020, p. 24).

According to Article 34(8) of the Rules of Procedure of the Sejm, bills which raise doubts as to whether they contravene the law or basic principles of legislative technique may be referred by the

³ The Senate, the Council of Ministers, the President of the Republic of Poland, MPs, and a group of at least 100,000 citizens with the right to elect to the Sejm are all entities with the right of legislative initiative.

Speaker of the Sejm, after consultation with the Presidium of the Sejm, to the Legislative Committee (pol. *Komisja Legislacyjna*) for an opinion. The Legislative Committee may, by a majority of 3/5 of votes, in the presence of at least half the members of the Committee, express an opinion on the draft as inadmissible. A bill that has been declared inadmissible may be refused further proceedings by the Speaker of the Sejm. Due to the fact that the Convention is a ratified international agreement, the control of the lawfulness of projects should also consist of verifying their compliance with the provisions of the Convention.

The Rules of Procedure of the Sejm also contain other regulations allowing for the verification of bills with the Convention. One of these is the possibility for the committee or subcommittee to hear the opinions of invited experts (Article 42(1) of the Rules of Procedure of the Sejm). In addition, it is possible to organize a public hearing as part of the work of parliamentary committees (Article 70a-70i of the Rules of Procedure of the Sejm). A resolution to hold a public hearing is adopted at the written request of a Member of Parliament to the committee. The public hearing procedure gives everyone who is interested an opportunity to express their opinion on a given draft law.

Another solution allowing verification in the Sejm of the compliance of draft laws with the Convention is the possibility for representatives of constitutional bodies and representatives of other public authorities to speak in the forum of the Sejm, pursuant to Article 186(2) and (3) of the Rules of Procedure of the Sejm. These include the First President of the Supreme Court – President of the State Tribunal, President of the Constitutional Tribunal, and Ombudsman. Speeches may relate to matters within the scope of their statutory activity. The Speaker of the Sejm gives the floor to the abovementioned entities out of the order of the registered speakers.

Also noteworthy is the activity of the Bureau of Research of the Sejm, which supports MPs with their expert knowledge. The basic activities of the Bureau of Research of the Sejm include issuing opinions on draft legislative acts in the course of legislative work, responding to parliamentary questions, and providing substantive services to parliamentary committees. In the seventh term of the Sejm, 79 opinions were issued, and in the eighth term of the Sejm – 48 opinions referring to ECHR case law⁴. In the organizational structure of the Bureau of Research of the Sejm, there are no experts dealing exclusively with Convention law, including the ECHR jurisprudence. The analysis in this area is carried out by experts selected due to the subject scope of the case (belonging to different departments of the Bureau of Research of the Sejm).

Issuing opinions on draft legal acts may also concern their compliance with the Convention. The task of giving an opinion on drafts is also carried out by the Legal and Treaty Department of the Ministry of Foreign Affairs (pol. *Departament Prawno-Traktatowy MSZ*). In 2017, the Department provided opinions on 572 legal acts (Chrzanowska, 2019, p. 55), while in 2019 it carried out approximately 420 analyses of legal acts and government positions on parliamentary drafts, assessing them for compliance with ECHR case law and the Convention (MSZ, 2020, p. 20).

The Senate also possesses powers enabling it to verify the compliance of enacted legislation with the Convention; this most frequently takes place in the Senate committees. The first power is provided for in Article 60(6) of the Rules of Procedure of the Senate. It allows the chairman of a Senate committee to commission opinions and to invite experts, representatives of circles and organizations interested in the subject of the committee's work, and other persons to take part in its meetings. It is also important that representatives of the constitutional bodies listed in Article 33(1) of the Rules of Procedure of the

⁴ This data comes from the response of the Office of Social Communication of the Chancellery of the Sejm of the Republic of Poland to a request for public information, 15.02.2021 [author's archive].

Senate should take part in scheduled meetings of the Senate, as is the case with meetings of the Sejm. These entities may draw attention to the incompatibility of given regulations with the Convention. Furthermore, senators, on the basis of Article 44(6) of the Rules of Procedure of the Senate, may submit questions lasting no more than one minute to guests and representatives of constitutional bodies listed in Article 33(1) of the Rules of Procedure of the Senate who are participating in the proceedings of the Senate.

In addition, the Senate – its bodies and senators – also receives substantive support from the Legislative Bureau of the Polish Senate. However, the Legislative Bureau of the Senate (pol. *Biuro Legislacyjne Senatu RP*) does not employ experts to deal exclusively with matters relating to Convention rights and freedoms and ECHR case law. The Bureau's staff hold clerical positions in the following areas: legislation; constitutional and parliamentary law and the Constitutional Court case law; impact assessment; office support. The Legislative Bureau of the Senate does not prepare separate opinions on the compliance of regulations with the Convention. In their opinions on laws passed by the Sejm and Senate legislative initiatives, if necessary, experts from the Legislative Bureau of the Senate refer to the Convention and make use of ECHR case law.

Other activities of the Polish parliament aimed at enforcing ECHR judgments

The first example of additional activities of the Polish parliament in supervising the execution of judgments of the ECHR is the participation, in an advisory capacity, of representatives of the Chancellery of the Sejm and the Chancellery of the Senate as well as individual deputies and senators, in plenary sessions of the inter-ministerial Team for the ECHR. This team was established in 2007 by the Prime Minister and functions within the Ministry of Foreign Affairs. It is composed of, among others, representatives of ministries, and meets once a quarter in full session. The team was created primarily to develop proposals for positions on the most important problems arising from complaints to the ECHR, and judgments against Poland issued by it, to develop and present to the Council of Ministers proposals for action to prevent Poland from violating the Convention. The aforementioned representatives of the Sejm and the Senate participate in the Team meetings at the special invitation of the Team Chairman, which enables them to explain the intentions of the legislative changes introduced in the form of parliamentary or senatorial amendments (Grzelak-Bach & Karski, 2020, p. 18).

Secondly, the Senate is a body that has the right to present its position on international agreements in the form of resolutions, and it can, therefore, comment on judgments of the ECHR. An example of this is the Senate resolution on the ECHR Chamber judgment of 3 November 2009 in the case *Lautsi v Italy*. This judgment has contributed to the start of a debate on the presence of crucifixes in schools, offices, and public spaces in many countries, including Poland.

Thirdly, the Senate is also an organizer of events aimed at the exchange between representatives of different countries of views on the implementation of ECHR judgments by national parliaments and the implementation of the Convention standards. An example of such an initiative was the international conference, organized on 12 May 2015 in the Senate by Human Rights, the Rule of Law and Petitions Committee in cooperation with the HFHR, the Nuffield Foundation, and Middlesex University in London, titled “Democracy and Human Rights. The Role of National Parliaments in Implementing the Standards of the European Convention on Human Rights and the Decisions of the European Court of Human Rights” (W Senacie o zwiększeniu roli..., 2015).

Fourthly, Article 60(3) of the Rules of Procedure of the Senate provides that Senate committees or committee chairmen, in matters falling within the scope of the committee's activities, may request

information and explanations from certain institutions (e.g., the Council of Ministers) and actively participate in committee meetings.

The Ombudsman, on the basis of Article 212 of the Constitution of the Republic of Poland, is obliged to inform the Sejm and the Senate on an annual basis of its activities and the state of observance of human and civil liberties and rights. This provides the Polish parliament with up-to-date information concerning, *inter alia*, the observance of the Convention on human rights in Poland. This information, used appropriately, may enable the Senate or MPs to prepare draft laws aimed at removing non-compliance with the Convention from the legal system even before ECHR judgments are issued. Moreover, the Ombudsman's annual reports provide the Sejm and the Senate with information on selected cases of Polish citizens before the ECHR (Information on the Ombudsman's activities..., p. 550–558).

Members of Parliament and senators take part in the Warsaw Seminars organized every year by the Ministry of Foreign Affairs in cooperation with national and foreign institutions. This is an event aimed at the dissemination of human rights protection standards. These meetings allow for the exchange of experiences among representatives of various Council of Europe countries regarding the Convention and ECHR case law. In 2018, the main theme of the XII Warsaw Seminar was the 25th anniversary of the Convention in Poland. During this conference, Senator Zbigniew Cichoń (member of the Human Rights, the Rule of Law and Petitions Committee of the Senate) delivered a paper on the role of the Senate in the process of implementing ECHR judgments (Cichoń, 2019, p. 98–104).

It is also worth pointing out a few other solutions included in the Rules of Procedure of the Sejm that allow the Sejm to undertake additional activities in supervising the execution of the ECHR judgments and the promotion of the Convention standards. This is the power contained in Article 69 of the Rules of Procedure of the Sejm to adopt resolutions containing a call on the state body to take some one-off action. In addition, the Sejm may issue appeals containing a call for a specific behavior, initiative, or task.

Additionally, pursuant to Article 191 of the Rules of Procedure of the Sejm, MPs have the right to submit to the Council of Ministers interpellations (on matters of fundamental importance and relating to state policy problems) and parliamentary questions (on matters of an individual character, concerning the domestic and foreign policy pursued by the Council of Ministers and the public tasks undertaken by the government administration); e.g., the interpellation to the Prime Minister on the execution of the ECHR judgment in the case of *R.R. v. Poland*; interpellation to the Prime Minister after the judgment of the ECHR in the case of *M.K. and Others v. Poland*, concerning the violation of the Convention by not accepting applications for granting international protection for foreigners seeking protection in Poland.

Senators do not have the right to submit interpellations or questions, but they can submit senatorial statements to the chamber, which is a substitute for the abovementioned powers of deputies (Sarnecki, 1995, p. 90). At the end of the session, the Speaker of the Senate, after the agenda has been exhausted, gives the floor to senators in order to make senatorial statements (Article 49 of the Rules of Procedure of the Senate). Importantly, senatorial statements are submitted on matters that are not on the agenda of a given session and cannot be longer than 5 minutes. Senators' declarations, if they contain motions and comments addressed to members of the Council of Ministers, representatives of state or local government bodies and institutions, are immediately forwarded by the Speaker of the Senate to the indicated addressees in order to take a position. Responses are provided to senators in writing, no later than 30 days from the date of submitting the statement.

Conclusion and postulates

1. This analysis of the Polish model of parliamentary participation in the process of the execution of judgments of the ECHR shows that the Polish parliament does not fully use its potential in terms of supervising the execution of judgments of the ECHR and promoting the Convention standards. Most of the activities related to the execution of judgments of the ECHR in Poland are undertaken by the executive power – the Plenipotentiary of the Minister of Foreign Affairs for proceedings before the ECHR and the Team for the ECHR.
2. A key issue for the effectiveness of the hybrid model in the Polish parliament in terms of the organization of parliamentary work on the implementation of human rights protection standards is the cooperation of the two main committees involved in the supervision of the execution of ECHR judgments: in the Sejm – the Justice and Human Rights Committee, and in the Senate – the Human Rights, the Rule of Law and Petitions Committee. Currently, the activities of these parliamentary bodies focus primarily on the analysis of the government’s annual reports on the implementation of ECHR judgments against Poland. These committees were more active in the years 2012–2014, the period of developing institutional practice in the field of supervision of government activities in the process of implementation of the ECHR judgments. The organization of joint meetings of these committees would probably contribute to a faster flow of information between these bodies as regards the supervision of the execution of ECHR judgments. Joint meetings would also ensure access to up-to-date information on possible legislative initiatives of the MPs and the Senate taken with the aim of implementing a given ECHR judgment issued against Poland or adjusting Polish law to the standards expressed in an ECHR judgment issued against another state. It could also be valuable to create a joint human rights committee, as in the United Kingdom, consisting of equally elected representatives from both chambers. It could include members of the Justice and Human Rights Committee and the Human Rights, Rule of Law and Petitions Committee.
3. Despite the lack of any obligation to attach to a bill a statement of its compliance with the Convention, the Polish parliament’s control of bills from the perspective of their compliance with the Convention should be assessed positively. This control is possible through a number of means, both at the Sejm stage of the legislative process (e.g., hearing experts during committee meetings, substantive support by experts from the Bureau of Research of the Sejm, giving the floor to representatives of constitutional bodies in the forum of the Sejm), and at the Senate stage (e.g., substantive support by the Legislative Bureau of the Senate, the possibility for committee chairmen to order expert opinions). However, the most important means of control is the right of the Speaker of the Sejm, provided for in Article 34(8) of the Rules of Procedure of the Sejm, i.e., the right to refer to the Legislative Committee for an opinion a bill which is in doubt as to whether it does not violate the law.
4. In order for the parliament to effectively supervise the execution of the ECHR judgments by other bodies, it is necessary for individual parliamentarians, parliamentary committees, and entire chambers to exercise the powers provided for in the Rules of Procedure of the Sejm and the Rules of Procedure of the Senate. In the case of the Sejm, these powers include adopting resolutions and appeals by the Sejm, directing parliamentary interpellations and questions by deputies to the Council of Ministers, requesting ministers’ committees to present reports, providing information, and participating in committee meetings. And in the case of the Senate, these activities are, for example, submitting senatorial statements containing conclusions and comments addressed to the Council of Ministers; requests by committees from representatives of the Council of Ministers to

present information, explanations, and opinions, to provide materials, and to actively participate in committee meetings.

5. In order to encourage the members of the Sejm's Justice and Human Rights Committee to participate more actively in the process of implementation of the ECHR judgments, it is justified to introduce changes to the Rules of Procedure of the Sejm allowing the members of the Justice and Human Rights Committee to table amendments concerning human rights (including the implementation of the ECHR judgments) in every legislative proceeding that takes place in the Sejm.
6. Parliamentary committees should have access to independent expert opinions on human rights. The Bureau of Research of the Sejm and the Legislative Bureau of the Senate should include experts with knowledge of the Convention and ECHR case law. In order to ensure professional external advice on human rights, it is also reasonable to establish stable relations of cooperation between parliamentary committees and human rights NGOs.
7. It is necessary to introduce a requirement for the government to regularly report to the abovementioned Senate and Sejm's committees on specific ECHR judgments and their implementation, rather than just presenting annual reports. Moreover, the Human Rights, the Rule of Law and Petitions Committee and Justice and Human Rights Committee should monitor the ECHR case law (including the most important judgments against other states). The collected information would enable them to ask the Council of Ministers about its plans for legislative work, and then, in the absence of such plans, to take action to implement the ECHR judgments (by preparing draft laws).

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Participation of the Polish Parliament in the Execution of Judgments of the European Court of Human Rights

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S u m m a r y

The Council of Europe bodies (notably the Committee of Ministers of the Council of Europe and the Parliamentary Assembly of the Council of Europe) have issued several recommendations encouraging national parliaments to intensify their participation in the process of implementing ECHR judgments. These recommendations were juxtaposed with the analyzed Polish model of the organization of parliamentary work concerning the implementation of human rights protection standards. It allowed establishing that the Polish parliament does not use its full potential in terms of executing the judgments of ECHR and supervising the execution of these judgments by executive authorities. Therefore, this article presents a proposal for a modification of the Polish model. The first proposed amendment is to establish rules for cooperation between the two parliamentary committees that oversee the execution of ECHR judgments – the Justice and Human Rights Committee in the Sejm and the Human Rights, Rule of Law and Petitions Committee in the Senate. Alternatively, these parliamentary bodies could be transformed into a single joint committee. Moreover, it is necessary to provide parliamentary committees with action plans and reports on actions taken to implement a specific ECHR judgment issued in the cases against Poland. It is also necessary to provide parliamentarians with access to expert knowledge on the Convention system of human rights protection and to organize training for parliamentarians on human rights issues. Parliamentarians must have the possibility to notice any potential non-compliance with the Convention early in the legislative process.

Nacionalinio parlamento dalyvavimas vykdanant Europos Žmogaus Teisių Teismo sprendimus

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S a n t r a u k a

Europos Tarybos organai (ypač Europos Tarybos Ministrų Komitetas ir Europos Tarybos Parlamentinė Asamblėja) pateikė keletą rekomendacijų, skatinančių nacionalinius parlamentus aktyviau dalyvauti įgyvendinant EŽTT sprendimus. Šios rekomendacijos buvo sugretintos su išanalizuotu Lenkijos parlamentinio darbo dėl žmogaus teisių apsaugos standartų įgyvendinimo organizavimo modeliu. Nustatyta, kad Lenkijos Parlamentas neišnaudoja visų savo galimybių EŽTT sprendimų vykdymo ir vykdomosios valdžios institucijų sprendimų priežiūros srityje. Todėl šiame straipsnyje pateikiamas pasiūlymas modifikuoti Lenkijos modelį. Visų pirma siūloma pakeisti dviejų EŽTK sprendimų vykdymą prižiūrinčių parlamentinių komitetų – Seimo Teisingumo ir žmogaus teisių komiteto ir Senato Žmogaus teisių, teisinės valstybės

ir peticijų komiteto – bendradarbiavimo taisyklės. Alternatyvus siūlymas galėtų būti sujungti šiuos komitetus į vieną bendrą komitetą. Be to, Parlamento komitetams būtina pateikti veiksmų planus ir ataskaitas apie veiksmus, kurių imtasi įgyvendinti konkretų EŽTT sprendimą, priimtą byloje prieš Lenkiją. Taip pat būtina suteikti parlamentarams galimybę susipažinti su ekspertinėmis žiniomis apie Konvencijos žmogaus teisių apsaugos sistemą ir organizuoti parlamentarų mokymus žmogaus teisių klausimais. Svarbu, kad parlamentariai turėtų žinių, leidžiančių Konvencijos nesilaikymo grėsmę išvelgti jau įstatymų leidybos proceso pradžioje.

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