

Eliza Nowacka, M.A.

THE ROLE OF THE SENATE OF THE REPUBLIC OF POLAND IN CREATING SOCIAL AND ECONOMIC POLICY COMPARED TO OTHER SECOND CHAMBERS OF PARLIAMENT IN CENTRAL EUROPE

A Ph.D. thesis in the field of social sciences, the discipline of public policy sciences, written under the supervision of dr hab. prof. SGH Joachim Osiniński

ABSTRACT:

Second Chambers of Parliament are common for many political systems of contemporary states. The ideal of bicameralism comes from the concept that constitutes the foundations of modern democracy. While writing about a bicameral parliament, Charles Montesquieu claimed that: Legislative authority will be entrusted and nobility and body elected to represent the people; each of these bodies will have their separate assemblies and meetings and separate views and interests ¹.

Bicameralism in Parliament is equally implemented in monarchies, republics, as well as unitary and complex states. Similarly to their different names in different countries, second chambers are diverse in terms of their functioning. Those differences deal both with the appointment of the chambers, where they are appointed either in a non-election or electoral way, and also in terms of the functions second chambers perform and the dependencies between the two chambers. Actually, each state adopted its own bicameral model. There are systems where both chambers are equivalent and in order to make an important decision each chamber has an equal influence. In other states, the position of the second chamber is definitely weaker than the one of the higher one.

Functions of second houses also differ. Second chambers can, for example, participate in the process of presidential election or government control, but their functions can be, on the other hand, limited only to legislative procedures with no right to legislative initiative. The reasons why many states decided to introduce the second house to their parliament are also

¹ Ch. Montesquieu, *De l'esprit des lois*, Hachette Livre Poland, Warsaw 2009, p. 203.

varied. It can be, for example, due to a complex structure of a given country but it could be done in reference to traditional values or an argument that the law enacted by a bicameral parliament is more elaborated than the one of a unicameral governments. In that way it can be claimed that there is a variety of solutions in that matter and it hard to produce universal generalizations. Second houses of parliament are interesting in particular due to their diversity. "There is probably in the contemporary comparative constitutional law, the second such body, which, though common, would occur at the same time in so many different variants in many different combinations ..."².

Currently, the number of bicameral parliaments is second than the number of unicameral ones. Bicameral parliaments constitute about 40% of all parliaments in the world while 60% of all the parliaments are of the unicameral type. In Europe there are 17 bicameral and 31 unicameral parliaments³. The analysis of the functioning of the second houses seems to be an interesting field of research because, despite their relatively low number, diversity both in the creation and implementation of constitutional functions is enormous.

The main aim of the thesis is to present the dynamism of shaping the legal basis for social politics in the field of socio-economic issues. This paper aims also at embarking on socio-economic initiatives of the Polish government compared with similar dynamism in Czech Republic and Romanian senates. Second chambers of parliament in Poland, Czech Republic and Romania display numerous similarities. Senates in those countries were reborn in comparable periods of time, after the time when a democratic state was non-existent and there was only an unicameral parliament. All of the three countries justify the restoration of the second chamber in their parliaments. They often refer to constitutional tradition. The way in which both chambers in Poland and Czech Republic are appointed is also similar. In both of the cases we deal with asymmetric bicameralism. All the other constitutional resolutions of both chambers in Poland and in Czech Republic also seem to be similar. There are, however, differences between the senates in Poland, Czech Republic and Romania. Terms in office in compared countries is different and so are the functions of second chambers. In the field of creation of the socio-economic policy, senates in Poland, Czech Republic and Romania also have diverse possibilities. The Senate in Czech Republic, for example, does not deal with the budget act. Romanian Senate is different from the senates in Poland and Czech Republic mainly with regard to symmetrical model of parliament in Romania, which means that it has

² L. Garlicki, *Idea dwuizbowości w parlamentarystyce europejskiej – wizje przyszłości*, in: *Zagadnienia dwuizbowości w europejskich systemach parlamentarnych, Seminarium*, Warsaw, April 26 – 27 1994 (transcript), Biuro Studiów i Analiz Kancelarii Senatu, Warsaw 1994, p. 4.

³ Dane za www.ipu.org, oficjalna strona internetowa Unii Międzyparlamentarnej, [dostęp 17.11.2011].

a more significant influence on policy creation than senates in Poland and Czech Republic. Romanian senate appointment is also different because it is created in proportional elections.

The main aim of the thesis is to analyze legal and organizational dynamics of the Polish senate as compared with senates in Romania and Czech Republic. The main stress is put on the role of the second chambers in the process of creating the socio-economic policy of a country. Contemporary readings on the matter subjects to analysis second chambers of parliament in terms of their formation or participation on the legislative process in many European countries. The majority of scientific literature often presents the concept of second chambers as an addition to the analysis of the tasks and choices attributed to the parliament in general. It does not, however, elaborate on the above concept as a body taking part in the process of creation of the legal foundations of a state in terms of crucial questions of society and economics.

The creation of socio-economic policy is not, however, the main domain of the second chamber, especially in those systems, where the model of asymmetric bicameralism is implemented. The limitation of the process of creating economic policy is observable in the Czech Republic in particular, where the Senate does not participate in passing of the budget act.

Socio-economic policy of a state is not the main scope of interest of the Polish Senate either. The majority of legislative initiatives results in creation of a new law and it does not treat about socio-economic policy of a country directly. There are to be found, however, some initiatives that aim at changing the taxation law, labour law, social care law or in the area of retirement and pensions. Owing to the legislative initiatives of the Senate accounting chambers and employers' associations were created. While analyzing the role of the Senate in socio-economic policy of a state it is worth to underline the actions of senate committees, especially of Committee on Budget and Public Finances, Committee on National Economy and its subcommittee Friendly State, Committee on Family and Social Policy, Committee on Agriculture and Rural Development. Those committees put forward amendments to the budget act criticize the laws passed by Sejm, or the international contracts dealing with socio-economic policy. Some of the effects of the Polish Senate's committee work is, among many, suggesting by the Budget and Public Finance Committee on behalf of the Senate many amendments to consequent budget acts.

The existence of the current second chamber in the Polish parliament has many opponents. Almost all of the political parties have different views on how to reform it. However, in order to do it, it is essential to become familiar with exact powers of the current

chamber and compare them with chambers that function in other countries. It needs to be examined in what way the Senate really exercises its constitutional rights. In that way the subject seems to be interesting not only from a cognitive point of view but also it can become the beginning of further debates on possible changes to functioning of the Senate. The analyzed issue is important to the public political science because it is meant to discuss the shaping of the legal sources of this discipline, its procedural and substantial foundations and practical effects (positive and negative) connected with the position and activity of the Senate in Polish political system as compared to other second chambers.

In my thesis, I used readings mainly from the area of political science, constitutional law and the economic analysis of the law. I also based my research on economic works presenting both economic and socio-economic policy (the term used currently in economic readings and others), as well as on publications discussing public policies and the history of politics of states. In the parts dealing with the analysis of socio-economic policy I refer mostly to readings on theoretical and practical aspects of macro and micro economy but also to books on economic and financial policies (budget policy in particular).

I based my work also on deeds: the constitution, electoral legal deeds, acts and documents used for analyzing the role of second chambers of parliaments in the process creation of the legal foundations of a country and shaping its socio-economic policy (legal initiatives, conference materials, the Senate work data, transcripts of the Senate's and Senate's committees meetings, reports on the work done by the senates in Romania and the Czech Republic). Also current legal acts on procedures of the decision-making process in socio-economic policy matters were used here.

Additionally, I based my analysis on scientific articles and materials from scientific conferences. In order to make the thesis and up-to-date research paper I used official Internet websites of the Polish, Czech and Romanian Senate, the National Electoral Committee and the websites of the political parties and of the business associations. In terms of broader analysis of bicameralism it was also useful to find the data published by the Interparliamental Union.

The research aim of this thesis is to present a multifaceted analysis of the Polish Senate with stress on the role of the second chamber while creating legal foundations for public policy and socio-economic policy of a country. The analysis of the Polish Senate will be supplemented with the analysis of senates in Romania and the Czech Republic in order to present background and also to compare those chambers of the above countries. The research encompasses the relation between the chambers of the parliament, the means of creating

second chambers, their functions and roles in creating the socio-economic policy of a country. Presentation of bicameralism and its possible variants aims at discussing both strong and weak points of such solution.

The thesis statement of this paper states that to some extent, in given countries, the role of second chambers of parliament in Unitarian countries is structurally and functionally limited in terms of creating legal foundations and socio-economic policy.

The research that was conducted aims at providing answers to more specific research questions:

- What is the role of socio-economic policy of a state, as one of public policies and where to look for the actions of second chambers so that the influence of the Polish Senate on the process of creation of the legal foundations and the socio-economic policy can be determined.
- Does the way in which second chambers are organized allows for their functional efficiency and effectiveness in the future?
- Does the way in which senates are created and organized influence the role that second chambers play compared to the first ones and, as a result, on the way they take part in creating social and economic policy?
- What are the relations and dependencies between both chambers in discussed countries? Do those dependencies influence the role the second chamber plays in creating socio-economic policy of a state?
- What is the polity practice of applying the public policy functions by senates of the three countries? Which ones of the functions presented by the constitutions are implemented in reality?
- In what way precisely, have the practical actions of the Polish Senate contributed to the process of creating legal foundations and socio-economic policy of a given country?

The basic method of research applied in the thesis is the quality analysis of secondary data sources included in a continual records. The analysis will encompass the documents dealing with the actions of the Senate. Those documents are mainly the projects of acts suggested by the Senates but also transcripts of senate committees and of plenary deliberations of the Senate. In parts dealing with the creation of second chambers as well as constitutional rights of second chambers, the analysis embraced fundamental acts of chosen

countries, electoral law acts, and normative acts dealing with organization of second chambers.

As an addition, the method of critique literature analysis was used, especially in the theoretical part which allowed to indicate the level of knowledge on the subject. The legal-institutional analysis was used while researching the way of creating, functioning and constitutional functioning of second chambers. This method was applied in order to determine the background of legal norms characteristic for a given domain. This part describes legal norms which regulate questions of creation, organization and functioning of second chambers. This comparative method dealt with determining similarities and differences between the second chambers in Poland, the Czech Republic and Romania.

The thesis consists of introduction, five chapters, and conclusion. This structure of a paper allows for presentation of both theoretical and practical aspects of bicameralism. It also enables the reader to notice the influence that second chambers have on creation of the legal basis and the socio-economic policy of a country.

Chapter one: The idea and definitions of socio-economic Policy, as one of public policies. This chapter is devoted to theoretical aspect connected with a socio-economic policy. It attempts at indicating the definition and the idea of this form of policy as one of public policies. As the term itself comprises of two aspects, the chapter discusses economic policy first and then moves on to social one. Eventually, the chapter provides the definition of the term “socio-economic policy of a country” with the use of selected literary works on the subject.

Both economic as well as social policy are one of the most important public policies. Economic policy influences the social one in many aspects. For instance, since the main role of economic policy is to provide a state with financing enabling it to run its internal and external affairs, then, in that way, one of the functions of a state is to carry out social policy. As a result, economic and social policy work like a communicating vessels. They do not only influence but are also dependant on one another.

Chapter two: Ways of creation and organization of second chambers of parliament in Poland, the Czech republic and Romania constitutes a kind of introduction to the subject of bicameralism. This part of the paper analyzes basis assumptions of bicameralism, which is the means of both creation and organization of second chambers. Firstly, the chapter deals with bicameralism of contemporary European countries, and then it moves on to discussing the origins, creation and organization of senates in chosen countries.

The way in which senates in Poland, the Czech Republic and Romania are organized is compared to the solutions implemented in other European countries. The elections in Poland were discussed here on the basis of the electoral law and the Electoral Code, in force since August 1, 2011. The way in which senates in the Czech Republic and Romania are organized are organized is discussed on the basis of current legal acts in force. It seems to be particularly interesting to compare elections in Poland on the basis of two documents.

The means of organizing second chambers brings about the question of senate's position compared to the position of the first chamber. It can also illustrate the way in which second chambers can perform assigned constitutional functions. It is crucial to underscore the role of the leader of a second chamber because his position can, to some extent, define the relation of the second chambers to the first one. The question of the second chamber committees is also worth underscoring because it is the place where all the work of a chamber is done. The committees work on creating the basis of the law and socio-economic policy of a country.

The diversity of second chambers of parliament is also visible in any aspect of analysis. Despite the fact that second chambers originate in the same theories of trisection of power, they differ in terms of history, way of election, organization and, finally, functions they perform. There are some chambers to be found whose tradition dates back to the 14th century as well as those which started functioning in the 20th century. The term of second chambers can be related to the term of the first ones, as well as it can be completely different. The greatest diversity, however, is observable in the way those chambers are created, which cannot only be electoral or non-electoral, but in each one of those elements presents a different way of forming a second chamber. Senates in the Czech Republic and in Poland are quite similar in many aspects. This similarity stems from the fact that while forming the reborn Czech Senate, the creator of the political system used the model of the Polish Senate. The Romanian Senate was recreated on the same basis as the French parliament was created on and that explains the differences here. In spite of many distinctions between the Polish and Czech Senate many similarities can be also observed, for instance while determining the term of a chamber. The Romanian Senate displays many diversities in this aspect.

Chapter three: Constitutional and legal role of the parliament and its part in creating socio-economic policy of a country. This chapter focuses on the roles and duties that are performed by second chambers of parliament. The first two points are of introductory character which aims at leading the reader in to different models of parliament, kinds of bicameralism, and the functions of second chambers in modern states. Particular attention has

been attached to relations between the two chambers of parliament. The points that follow discuss constitutional roles of senates in Poland, the Czech Republic and Romania with reference to current legal constitutions of Poland (1997), the Czech Republic (1992) and Romania (1991, amended 2003). In addition, the chapter presents systemic practice applied by second chambers in chosen countries. The comparison of asymmetric bicameralism (carried out in the Czech Republic and Poland) with symmetric bicameralism (of Romania) is particularly interesting. Varied functions of senates in Poland, the Czech Republic and Romania were also discussed in this chapter. Those functions are formed in completely different ways. The Czech parliament, as the only one of the three discussed, participated in presidential elections. It does not mean, however, that the this chamber has a high position among state authorities. The Romanian government adheres to the rule of symmetry between the two chambers. This symmetry, however, was followed until 2003 because the position of the Senate has been diminished slightly after the constitution had been amended.

While comparing the Romanian senate to the Polish and Czech one the higher position of the chamber in Romania can be noticed. The implemented sort of bicameralism makes the Romanian Senate equal to the House of Deputies. It can be observed in the legislative process, where the Romanian Senate has a definitely higher rank than the Senates of Poland and the Czech Republic. In Romania, it is common to put an initiative forward to the Senate first, and next give it to the House of Deputies. It makes the chance of passing the initiatives of the Senate more probable. It also needs to be mentioned that the position of the Romanian Senate is definitely the highest among all the three senates discussed in the paper. The Romanian Senate , as equal to the House of Deputies, participates in passing of the budget act, while the Senate of the Czech Republic does not have that chance. In Poland, the Senate works with a law which was already passed by the Sejm (the higher chamber), and the possible amendments propounded by the Senate may not be taken into account. The Romanian Senate also has more powers in terms of government control.

Chapter four: The implementation of political system policies in terms of carrying out legislative, budget and finance, and controlling functions of second chambers. This part of the thesis presents constitutional functions of second chambers in Poland, the Czech Republic and Romania and, additionally, it demonstrates how those functions are applied in socio-economic policy of a country.

This chapter presents also dealings of the Polish Senate when it comes to matters connected with shaping a country and creating a socio-economic policy of a state. The

analysis reflects upon both the possibilities that the Senate has in this matter as well as its precise actions. In that way, this part of the paper often refers to selected legislative initiatives that the Senate put into debate that dealt with socio-economic policy. The dealings of selected senatorial committees also find their reflection in this part of the paper. Those actions include, for instance, participation in the elections of government authorities, amending legal acts of Sejm, or organizing conferences. Those tasks are implemented in different way in all of the three countries and those differences are discussed in this part of the thesis as well. The extent to which second chambers are active in those dealings, especially in shaping socio-economic policy in their countries, is also subject to analysis in this chapter.

While comparing the number of legislative initiatives in discussed senates it is essential to observe that the Romanian Senate is the most active chamber of the three. Undoubtedly, this disproportion results from different foundations of senates in Poland and in the Czech Republic form the one in Romania. In that way it can be easily noticed that symmetrical and asymmetrical bicameralism are two divergent concepts.

While discussing the level of influence second chambers have in the process of creation of socio-economic policy it needs to be remembered that the Czech Senate does not hold the right to take part in the process of passing the budget act. In that way, it is the Czech Senate that has the least influence on the creation of socio-economic policy of a country. The comparison between the three senates shows that the Romanian Senate deals with all the matters connected with socio-economic policy of a country equally to other policies while the senates in Poland and the Czech Republic diminish their role in this field.

Chapter five: The participation of the Polish government in lawmaking and socio-economic creation processes – case studies. This chapter deals with precise dealings of the Polish Senate in the field of lawmaking and socio-economic creation processes. This part discusses given legislative initiatives of the Senate. They have been discussed thoroughly, starting from an idea, committee debates, plenary sessions, and finishing with the results those initiatives achieved. However, it is not only the legislative initiatives that are discussed but it also dealings of senatorial committees in the scope of socio-economic policy that are presented in this part of the thesis.

The examples of Senate's actions performed in the domain of socio-economic policy position the Polish Senate in the role of a chamber of reflections. Discussed examples of the legislative initiatives and amendments passed by Sejm show that that the Senate tries to respond to the needs streaming from different environments. Only by analyzing quantitative

juxtaposition of both legislative initiatives and amendments one can wonder why the Senate takes advantage of its powers.

The final part presents conclusions reached from the research. It also answers the research questions and evaluate the thesis statement of the paper. The conclusion deals with the role second chambers play in the parliament with particular consideration of the influence the Polish Senate has on creating legal basis of public policy and socio-economic policy of a country. All of the above aim at substantiation of the main thesis of the paper.