



SENAT RP

## NOTES ON THE SENATE

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OF POLAND

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# Legislative Initiatives of the Fifth and Sixth Term Senate

As in previous terms, the Fifth Term Senate of the Republic of Poland has come forward with many legislative initiatives. During its four years in office, it worked on 34 draft legislations of which 26 were submitted to the Sejm. The Sejm adopted 16 Senate-sponsored projects, including three it considered jointly with projects submitted by deputies and the government, and rejected one. Nine bills were left unconsidered owing to the end of parliament's term in office.

The first project – the **Law on Setting Aside 2 May as the Day of Polish Émigré and Expatriate Communities** took up the initiative of the Fourth Term Senate, which the previous Sejm had not have time to consider before the expiry of its term. The Sejm passed it on 20 March 2002.

The amendment to the **Law on Regional Financial-Audit Chambers** adapted existing legislation to the standards required of modern public administration, particularly with respect to methods and areas of financial audits, auditors' privileges and responsibilities of the personnel of audited units. It changed the procedure of appointing the chairman and members of the board of a regional financial-audit chamber (henceforth they would be appointed through a competition). On 11 June 2003, the Sejm passed a bill amending the Law on Regional Financial-Audit Chambers, the Law on Remuneration in the Public Sector and related laws.

The Senate has come forward with legislative initiatives associated with water and waste management twice. In the first draft amendment to the **Environmental Protection Law and Water Management Law**, the Senate proposed systemic changes to the accretion method of collecting water and waste management fees, meant to improve the functioning of the environmental protection and water management fund. These changes referred to fees charged for using the natural environment and to administrative fines associated with water uptake and waste discharge into the water or soil. Fee and fine rates were made dependent on the intended use of water, type of discharged waste and type of end user. The Sejm adopted that proposal on 23 November 2002.

The amendment of the **Law on Collective Water Supply and Collective Waste Discharge** and of the **Water Law** enabled water companies to become involved in the business of collective water supply and waste discharge, and broadened the definition of a water-supply and waste-disposal enterprise. The Sejm adopted the proposal on 5 December 2002.

The Senate has initiated amendments to the **Law on Public Procurements** twice. The first project was rejected whereas the second, which was adopted, restricted the scope of the existing law by making it non-applicable to procurements involving staging and production or co-production of play, opera and operetta performances by theatre companies and to procurements by research & development units, state-run higher educational institutions and the Polish Academy of Sciences, in cases where the procurement value did not exceed 130,000 Euro. The Sejm considered the Senate bill jointly with a government proposal and passed the relevant law on 23 July 2003.

The Senate amendment to the **Law Requiring Persons in Public Office to Report Having Worked for, Served in or Collaborated with State Security Organs between 1944 and 1990** did away with vetting reconnaissance, counter-reconnaissance and border guard personnel of communist Poland. It also largely modified the definition of collaboration with state security organs between 1944 and 1990. The Sejm adopted the proposal on 13 September 2002.

The Senate-sponsored proposal to **set 22 February aside as the Crime Victims Day** aimed at drawing attention to the suffering of victims of crime and adapting to European standards (execution of Council of Europe recommendations – 22 February has been hosted in EU and Council of Europe countries as the Crime Victims Day for four years already). The Sejm adopted the relevant legislation on 12 February 2003.

The Senate-proposed amendment to the **Law on Property Management** and the **Law on Amending the Law on the Management of State Treasury Agricultural Property and Related Laws** adapted that legislation to the relevant decision of the Constitutional Tribunal. It enabled persons who as a result of World War II lost their property in eastern Poland to receive equivalent property also from agricultural real property resources belonging to the State Treasury and to establish perpetual usufruct right on property belonging to the State Treasury Agricultural Real Property Resources. The Sejm considered the Senate project jointly with a government proposal and, on 12 November 2003, adopted a law that took into account the value of real property located outside the current borders of the Polish State in the calculation of the sale price or the fee for perpetual usufruct of real property owned by the State Treasury.

The Senate amendment to the **Law on Court Enforcement Officers and Procedures and on Amending the Code of Civil Proceedings** changed the legal status of a court enforcement officer (it became a free profession), terms of operating a court enforcement business, definition of a court enforcement district, terms of financing court enforcement operations and entitlements of an appeal court president. The Sejm considered the Senate project jointly with a government proposal and passed the relevant bill on 16 July 2004

The Senate proposal to amend the **Accountancy Law** provided for correlation of that piece of legislation with VAT regulations so that a VAT invoice not signed by the issuer or recipient would be recognized as bookable accounting evidence. The Sejm considered the Senate project jointly with a government proposal and passed the relevant bill on 5 November 2004.

The Senate proposal to amend the **Law on the Council of Ministers' Collaboration with the Sejm and Senate in Matters Related to Poland's Membership in the European Union** granted the Senate the same privileges as those enjoyed by the Sejm in terms of opining draft laws of the European Union and positions that the Council of Ministers intended to take with respect to draft legislation considered by the Council of the European Union. The Sejm examined the Senate project jointly with a government proposal and adopted the relevant bill on 17 June 2005.

The Senate also proposed an amendment to the **Taxation Law** as concerned compensatory liability for damage incurred as a result of issuing a decision that was subsequently quashed or found invalid. The Sejm considered the Senate project jointly with a government proposal and adopted the relevant bill on 20 May 2005.

The Senate draft proposal to amend the **Code of Civil Proceedings** aimed at changing regulations governing enforcement against real property when its buyer is in arrears with applicable fee payments. The Sejm considered the Senate project jointly with a government proposal and passed the relevant bill on 30 June 2005.

The Senate-proposed amendment to the **Law on Universal Obligation to Defend the Republic of Poland** made it possible to promote in rank those former professional soldiers who were active as volunteers in soldiers' associations or who held paid positions related to national defence or public security in central or territorial administration, or in the state school system. The Sejm considered the Senate project jointly with a government proposal and passed the relevant legislation on 1 July 2005.

The Senate draft proposal to **amend laws related to acquisition of the title to real property** dealt with legal acts that governed acquisition of the title to a workplace-owned dwelling and with conversion of the right of perpetual usufruct to the right of ownership. The Sejm adopted the relevant bill on 7 July 2005.

The Senate worked on the draft proposal to **set aside 16 October as the Pope John Paul the Second Day** on two separate occasions. No resolution was adopted in this matter the first time and the Senate closed proceedings in relation to this bill; the second time, however, the bill was passed by the Sejm (on 27 July 2005).

The Senate initiative to legislate the **equal status of women and men** substantiated constitutional provisions to this effect, introduced a definition of gender discrimination and prohibited its use. Public authorities were to be made responsible for advancing the cause of gender equality. The draft bill introduced parity of gender participation in collective organs elected or appointed by public administration, and called for establishment of the Office for Equal Status of Women and Men. The Sejm rejected that initiative on 17 June 2005.

Nine legislative initiatives brought forward by the Senate failed to be considered by the Sejm either because they got stuck in Sejm committees or because the Sejm's term had expired.

The objective of the Senate-sponsored legislative proposal to extend **financial benefits to underage victims of the war of 1939–1945 repressed by the USSR or Nazi Germany** was to specify the terms and procedures of extending financial benefits to children who had been victims of war.

The Senate legislative initiative to create a **National Council on Bioethics** was submitted to the Sejm on two occasions. The project called for establishing a consultative body that would advise the cabinet on basic ethical, legal and social issues associated with the advancement of biological and medical sciences.

The Senate-sponsored draft legislation on **same-sex marriages** was aimed at standardizing the legal situation of homosexuals in Poland.

The Senate-initiated draft amendment to the **Law on Bio-Components Used in Liquid Fuels and Biofuels** proposed introducing a protection period of up to 30 April 2011 for agricultural raw materials harvested in Poland as well as their by-products and discards by way of legislating production of bio-components only from these raw materials, by-products and discards.

The Senate's draft amendment to the **Law on the Educational System and Related Laws** proposed postponing the deadline for the take-over of the management of schools and educational institutions operating at the regional or higher level by provincial governments.

The draft amendment to the **Law on Real Property Management**, aimed at granting maximum entitlements to former owners of expropriated real property who were asserting their ownership right thereto.

The pending Senate draft amendment to the **Personal Income Tax Law** makes it possible to reduce one's taxable income by the equivalent of the value of donated blood pursuant to executive provisions of the Law on the Public Blood Service.

The Senate-sponsored proposal to amend the **Civil Code** calls for relaxing the rules depositing declarations of will by individuals who are not able to read and admits, a verbal declaration of will deposited in the presence of a person of trust, provided that the text of the declaration is written down and that the depositor confirms his or her will on that document by way of a signature or fingerprint.

The proposal to amend the **Law on War Veterans and Certain Categories of Victims of War and Post-War Repression** calls for extending the veteran status to civilians and Polish military personnel who between 1945 and 1956 were directly involved in mine detection and disposal within the framework of the nationwide mine-clearing military operation.

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Although its sixth term was reduced to only two years, the Senate nonetheless found time to draw up as many as 39 legislative initiatives. Nineteen were forwarded to the Sejm, which adopted three including one considered jointly with a deputy's bill. The work on remaining initiatives was not completed.

The first among three Senate's bills that became binding in Polish law was an amendment of the Act on **Protection and Care of Historical Monuments**. The Senate initiative enabled provincial parliaments to subsidise the maintenance and restoration of national heritage sites. That bill was adopted by the Sejm on 12th May 2006.

Many Senate legislative initiatives concerned elimination of laws judged inconsistent with the Constitution by the Constitutional Tribunal. That was the case of the **Act on Proceedings before the Administrative Court**. The Senate initiative broadened the catalogue of reasons for excluding a judge from proceedings under circumstances that could question his or her impartiality. The Sejm adopted that amendment on 22nd September 2006.

The Senate initiative adopted by the Sejm on 17th February 2007 concerned an amendment of the **Act on Performance of Underwater Works**. The bill normalized the range of permits required by employees engaged in work under water and adapted them to the existing practice, thus raising diver safety to world standards.

The Sejm did not consider other legislative proposals tabled by the Senate because of the reduced term in office. Some bills proposed by the Senate dealt with regulating various social and welfare issues. The amendment of the **Act on Proceedings against Alimony Payment Evaders and on Alimony Advance Payments** was meant to provide for the use of advance payments by children raised in marriage unions. In its initiative of the amendment

of the **Act on Family Allowance** the Senate proposed additional financial support for poor multi-child families and a new pregnancy and childbirth benefit. The Senate also suggested extending maternity leave and the period of the father's justified leave of absence on birth of his child in the amended **Labour Code** and in the **Act on Pecuniary Social Insurance Benefits in Case of Sickness and Maternity**. The amendment of the **Act on Social Assistance** followed the decision of the Constitutional Tribunal and proposed a change in defining revenue of certain categories of individuals engaged in running a business. Pursuant to a decision of the Constitutional Tribunal, the proposal of an amendment of the **Act on Pecuniary Social Insurance Benefits in Case of Sickness and Maternity** eliminated unjustified discrimination in access to caregiver benefits of persons voluntarily contributing social insurance premiums as opposed to persons required to make such contributions. In implementing the decision of the Constitutional Tribunal concerning the **Workplace Social Insurance Fund Act**, the Senate proposed a re-introduction of employee vacation subsidies irrespective of the place where vacations are taken (in Poland or abroad).

Other initiatives concerned diverse issues. In the **Act on the Amendment of Certain Acts on Real Estate Ownership Transformations**, some provisions were made more specific for the purpose of simplifying ownership transformation procedures in respect of company and cooperative dwellings.

The amendment of the **Act on Terms of Transferring Company Residential Buildings by State Enterprises** made it possible for the commune government to either take over or refuse to take over such real estate, whichever served better the interest of the commune.

The Senate twice initiated changes in the **Act on the Agrarian System**: the first initiative was meant to improve trading in real property intended for construction development while at the same time reinforce the role of statutory regulations governing the agrarian system; the second initiative was meant to standardize the preferential treatment of private farmers who were enlarging their farming operation by way of purchasing land through limited tenders (and at the same time amend the **Act on the Management of State Treasury Agricultural Real Property**).

In the amendment of the **Act on the Election of the President of the Republic of Poland and on Certain Other Acts**, the Senate suggested introduction of the requirement to notify every voter of having been placed on the voters' list and establishment of the institution of voters' commissioner (tasked with assisting certain groups of voters such as seniors).

The legislative proposal **on the Senate's Care for Polish Émigré Communities and Poles Abroad** aimed at regularizing Senate activities associated with the assistance extended to Polish émigré communities account taken of current practices, experience and achievements in building ties between the Upper House and Polish communities and Poles across the world.

The proposal to amend the **Personal Income Tax Act** referred to allowing a taxable base deduction of the financial equivalent of donated blood specified in executive orders accompanying the Public Blood Service Act.

The bill on the **Consequences of the Expiry of Material Rights to Real Property Situated on Territories that Became Part of the Republic of Poland after World War II, Disclosure of the State Treasury Property Rights in Land and Mortgage Registers and Amendment of the Act Introducing the Civil Code and the Act on Land and Mortgage Registers and Mortgages** provided for the possibility of disclosing in and supplementing land and mortgage registers by State Treasury rights acquired under separate regulations after World War II on territories annexed to Poland.

Two other legislative initiatives were meant to implement Constitutional Court decisions related to the unconstitutionality of certain binding laws. The amendment of the **Act on the Common Law System** made it possible to appeal a court decision that modified the penalty of a fine into one of imprisonment, whereas the amendment of the **Civil Procedure Code** allowed for re-institution of proceedings when the grounds of the appeal for re-institution concerned unconstitutional regulations that served as the basis in issuing the final and binding judgement.