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Twenty Years of the Sejm and the Senate in the European Union. Analysis From the Point of View of Universalist and Particularist Approaches

Abstract

The activities of the two chambers of the Polish parliament – the Sejm and the Senate – during the twenty years of Poland’s membership in the European Union can be analysed by taking two research approaches, the first of which is universalism, which addresses the civilisational need to build, harmonise, and unify. Universalism, which refers to the neo-functionalism paradigm, has characterised the European activity of both chambers of the Polish parliament. The other perspective is provided by neo-realist particularism, which takes an anti-idealist and anti-utopian stance. It is distinguished by national egotism expressed as an attachment to achieving the nation’s own interests. Today, particularism understood in this way is based on sovereign distinctiveness, independence, and self-reliance.

The purpose of this article is to positively verify the hypothesis that the parliamentary dimension of Poland’s membership in the EU observed through the participation of the Sejm and Senate in the process of Europeanisation and de-Europeanisation simultaneously contributes to the dependence and independence of both chambers on the European Union and its institutions.

The universalist and particularist approaches have allowed the author of this analysis to reach an empirically-confirmed conclusion that both chambers of the Polish parliament in the period under study had an influence on the following: (1) the political power of the government, reinforcing or sapping it during negotiations; (2) the effectiveness or ineffectiveness of coalition-building in the EU; (3) cooperation with or resistance to the dominance of the parliaments of large EU states; (4) varied responsibility for the integrative system as a united and harmonious whole; and (5) the

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preferred model of European integration as either an increasingly closer union of the peoples of Europe or a Europe of Homelands.

Keywords: Parliament, Universalism, Particularism, Neofunctionalism, Neorealism

Introduction

The research problem and purpose of this article is to positively verify the hypothesis that the parliamentary dimension of Poland's membership in the EU observed through the participation of the Sejm and Senate in the process of Europeanisation and de-Europeanisation simultaneously contributes to the dependence and independence of both chambers on the European Union and its institutions.

In relation to the purpose and research intent of this article, the activity of the Sejm and the Senate during the twenty years of Poland's membership in the European Union can be analysed by taking two approaches. One is universalism, which addresses the civilisational need to build, harmonise and unify. It has been expressed by the human need to live in groups and communities that form compact and organised wholes. Inclusive universalism, which emerged mainly in the 20th century and relied on the timeless principles of Roman law, ancient Greek democracy, and Judeo-Christian values, consisted of the collective creation of reality through the power of collective reason. Universalist thinking produced freedom, the rejection of war and aggression, and the solidarity and protection of human and civil rights. As an expression of timeless values and truths, universalism made it possible to apply a common axiological toolbox while producing a catalogue of universal laws and principles for states and nations (Wallerstein, 2007, pp. 11–15; Delsol, 2022, pp. 5–8).

Universalism, which refers to the neo-functional paradigm, was included in Poland's EU Accession Treaty which entered into force on May 1st, 2004 (Risse, 2006, pp. 25–43). It fully confirmed the words in the preamble of the Treaty on European Union (The Treaty on European Union, 2012, pp. 3–5) as regards the following: (1) drawing inspiration from the cultural, religious, and humanist inheritance of Europe, out of which the universal values of the inviolable and inalienable rights of the human being, and freedom, democracy, equality, and subsidiarity have developed; (2) attachment to the principles of the rule of law and *acquis communautaire*; (3) deepening the solidarity between peoples while respecting their history, their culture, and their traditions; (4) strengthening economies and establishing an economic and monetary

union including a single and stable currency; (5) promoting economic and social progress for EU peoples through the accomplishment of the internal market and of reinforced cohesion and environmental protection while complying with the principle of sustainable development, and implementing policies ensuring that advances in economic integration are accompanied by parallel progress in other fields; (6) establishing a common citizenship; (7) reinforcing European identity and its independence in order to promote peace, security, and progress in Europe and in the world; (8) facilitating the free movement of persons, while ensuring the safety and security of their peoples, by establishing an area of freedom, security, and justice; and (9) continuing the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen and in accordance with the principle of subsidiarity (Preamble, 2016, pp. 15–16).

The other perspective is provided by neo-realist particularism, which takes an anti-idealist and anti-utopian stance (cf. Collard-Wexler, 2006). This approach should not be forgotten, as the unity of Europe has not always been concomitant with the development of European civilisation. For hundreds of years, especially from the 17th century to the end of the first half of the 20th century, this way of thinking prevailed in Europe. It was distinguished by national egotism, expressed as attachment to achieving a nation's own interests (including the emphasis on the "rights" of special – dominant – nations). Particularism also led to isolationism, intolerance, and discrimination. It emphasised selfishness and individual advantage at the expense and even the exclusion of the common good. Today, it is about sovereign separateness, independence, and self-reliance. It is primarily concerned with self-interest. The language of particularism is dominated by categories such as: "our own", "ours", "self-interest", and "individual interest". On the other hand, it can be crucial for maintaining the security of Member States and of the European Union as a whole (cf. Delanty, 2002).

Universalism and particularism have been present in the activities of the Sejm and the Senate, during the twenty years of Poland's membership in the EU, which could be observed in the simultaneous processes of Europeanisation and de-Europeanisation, and of becoming dependent on, and gaining independence from, EU institutions (Domaradzki, 2019, pp. 155–173). The process of the ratification of the Lisbon Treaty by the Polish parliament exemplifies this best. In the years after the fact, universalism and particularism appeared in parliamentary and senatorial debates, where not only European values, but also national sovereignty *and* the constitutional obligations of the state were stressed at the same time.

Identifying these universalist and particularist views, examined with an inductivist (generalisation-based) methodology, has made it possible to analyse the influence of the Sejm and the Senate on the following (Pabjan, 2023, pp. 96–104): (1) the political power of the government, reinforcing or sapping it during negotiations (e.g., on the multiannual financial framework); (2) the effectiveness or ineffectiveness of interparliamentary coalition-building; (3) cooperation with or resistance to the dominance of the parliaments of large EU states (primarily Germany and France); and (4) varied responsibility for the integrative system as a single united and harmonious whole (Bonelli, 2020, pp. 938–940).

This article relies on a research program to examine the participation of national parliaments in the power system of the European Union using the example of the Sejm and the Senate, and taking into account an epistemological approach which seeks to answer the questions of which directions the scientific investigation of national parliaments in the EU should take. In terms of the ontological level, the general question is whether to treat national parliaments (including the Sejm and the Senate) theoretically and empirically as a subject, or only as an object of policy of/ in the European Union.

Formal Justification for the Presence of the Sejm and Senate in the System of Power of the European Union

In the first period of EU membership, the Law of March 11th, 2004 on the Cooperation of the Council of Ministers with the Sejm and the Senate in Matters Relating to the Membership of the Republic of Poland in the European Union (Ustawa, 2004) was in force. It was replaced by another law with the same name on October 8th, 2010. The new Cooperation Law came into force on February 13th, 2011, and takes into account the changes introduced by the Lisbon Treaty. It stipulates that the Council of Ministers is obliged to cooperate with the Sejm and the Senate on matters relating to EU membership. In view of this obligation, at least once every six months, the Council of Ministers reports to the Sejm and the Senate on the participation of the Republic of Poland in the work of the European Union. In addition, at the request of the Sejm or the Senate, the Council of Ministers shall present information on any matter related to the Republic of Poland's membership in the European Union (Ustawa, 2010).

By virtue of this law, and from the universalist and particularist research perspective, the Council of Ministers has an important obligation to submit to the Sejm and the Senate, immediately upon receipt, the following: (1) European Union documents subject to consultation

with Member States, excluding documents submitted to the Sejm and the Senate directly by the European Parliament, the Council, and the European Commission; (2) assessments of these documents made by the relevant institutions or bodies of the European Union; (3) work plans of the Council of the EU and assessments of the annual legislative plans of the European Commission made by the European Parliament and the Council; (4) information on the position of a Member State other than the Republic of Poland, taken under a special treaty procedure; (5) drafts of the European Union acts adopted pursuant to Article 352(1) of the Treaty on the Functioning of the European Union (The Treaty on the Functioning of the European Union, 2012, p. 196); (6) draft international agreements to which the European Union or the European Atomic Energy Community are to be parties; (7) draft decisions of government representatives of Member States in the Council; (8) draft acts of the European Union that do not have the force of law, in particular proposals for guidelines adopted as concerns the Economic and Monetary Union and employment; and (9) acts of the European Union that are relevant to the interpretation or application of European Union law.

The same law makes it obligatory for the relevant body indicated by Sejm Regulations to give an opinion on candidates for the positions of: Member of the European Commission; Member of the Court of Auditors; Judge of the Court of Justice of the European Union; Advocate-General of the Court of Justice of the European Union; Member of the Economic and Social Committee; Member of the Committee of the Regions; Director at the European Investment Bank; and Permanent Representative of the Republic of Poland to the European Union.

Functional Justification for the Presence of the Sejm and Senate in the System of Power of the European Union

The functional justification for the presence of the Sejm and Senate in the European Union's system of power is related to the need to redefine the functions of national parliaments in the EU integration system. From the point of view of the scope of powers exercised by national parliaments, these functions are broadly understood as being all the capacities and abilities of parliaments whose roles are to accomplish the integration goals and tasks identified in relation to Member States as well as the EU institutions. These functions are designed to stimulate the currently insufficient EU-based activity of the Sejm and Senate and to ensure their genuine participation in the exercise of power in the integration system. This is in line with the Lisbon Treaty that has encouraged national

parliaments to participate more actively in the activities of the European Union. It has increased their capacity to express their positions in the legislative process, as well as to participate in solving problems that are of common interest to them (Protocol No. 1, 2016).

As a result of their new positioning by the treaty, both chambers of the Polish parliament have functionally become not only places for debating and enhancing pluralism in the EU and its Member States, but also collective institutional actors, expert fora, and bodies that control EU governments and institutions, based on their full democratic legitimacy (Senat, 2015, p. 10).

In the universalist and particularist research perspective, the integrating function of the Sejm and Senate is to consolidate cooperation, mobilise their operating measures, and focus around important values. The functions of ensuring stabilisation, programming, and operationalisation should be distinguished among the functions of both chambers of the Polish parliament's participation in the decision-making system of the European Union. The stabilising function is complemented by negotiating and mediating functions, which are of vital importance for the reduction of integration disorders and anomalies (i.e., successive crises). The programming function, on the other hand, facilitates the identification of horizontal and sectoral (specific) priorities in the activity of the Sejm and Senate. This activity mainly consists of identifying (initiating) new issues and matters that have not been addressed before and introducing them into the agenda of national parliaments in the EU and recalling problems and issues that have not been resolved despite the attempts taken to this end (European Parliament resolution, 2014, pp. 1–5).

In order to perform their communication and information function, the Sejm and the Senate, including parliamentary presidia, relevant committees (mainly the Sejm Committee on EU Affairs and the Senate Committee on Foreign Affairs and the European Union), and Members of Parliament, supported by their administrative and organisational personnel and experts, could effectively use all communication methods and acquire information and know-how on any topic that could facilitate Poland's activity and strengthen its position in the EU. In this way, the transfer of information and know-how would take place alongside that of the best practices and experiences to be used by all relevant parties of national parliaments in the EU.

As concerns the information function, it should be borne in mind that the Sejm and Senate not only provide but also receive information. Currently, in accordance with EU law, they are direct recipients of the following documents (information): (1) draft and amended draft

legislation, no matter who its author is; (2) legislative resolutions of the European Parliament and positions of the Council; (3) EP reports on cooperation with national parliaments; (4) Commission consultation documents (green papers, white papers, communications); (5) the annual agenda of legislative work and other documents on legislative planning or political strategy; (6) agendas and results of Council meetings, including minutes of Council meetings on draft legislative acts; (7) annual reports of the Court of Auditors; (8) reports of the European Commission on the application of Article 5 TEU (principle of subsidiarity); (9) information on applications for accession to the EU; (10) information within the Area of Freedom, Security, and Justice of the EU (OWBIS); and (11) information on the initiatives of the European Council in connection with proposals to amend the treaties (Pozycja parlamentów narodowych, 2023, p. 5).

Further functions of the Sejm and Senate in the EU power system involve identifying, analytical, and recommending functions. This complicated reality, both in terms of issues addressed and institutions involved, of the two parliamentary chambers' relations with the EU institutions means that, in order to operate in an effective and responsible manner, the ability to gain knowledge and experience from very different sources is needed, as is the ability to apply this knowledge and experience, or actually to process them comparatively, thereby properly identifying problems and so facilitating appropriate decisions. Based on their analytical function, the Sejm and Senate (together and separately) must redefine fundamental problems, recommend specific solutions, and, on the basis of their diagnoses, analyses, and studies, develop optimal tactical plans (including ad hoc measures) and long-term strategies for their position in the EU. This task must be spread across both the existing and the new forms of institutionalising the activity of national parliaments in the EU (more on this below) and translate it into their internal structures (the strengthening of internal units/bodies responsible for coordinating EU issues).

Another important function of the Sejm and Senate in the EU concerns stimulating and mobilising national and EU actors – from public and private sectors to business and social circles – to participate in the process of the socialisation of the European Union, including minimising its technocratic and elitist character. It is also about stimulating modernisation, creation, and operating where nation-states in the EU have no other choice but to face top-down Europeanisation by EU institutions and other supranational and transnational actors.

The initiating and representative function has so far consisted of national parliaments and their representatives presenting their

independent positions, participating in EU debates and fora, and often initiating them, in the course of their activity in the EU. Added to this was the organisation of and participation in specially established (Article 10 of Protocol No. 1 on the Role of National Parliaments in the European Union) inter-parliamentary conferences (IPCUE, COSAC, etc.), fora and meetings, which led to their active involvement in the formation of European policy – especially in relation to the European Parliament and the European Commission. Today, this scope of activity is no longer sufficient, especially since it has not had much real effect.

As part of the promotional and forecasting function, building the position (image) of the state through the European/EU activity of the Sejm and the Senate is significant. The involvement of parliaments takes the form of promoting and disseminating standards and values among societies and nations. This means, on the one hand, explaining them to the people along with interpreting them and their meaning while, on the other hand, consolidating the relevance of specific standards and values and initiating interest in and action in order to maintain them. Undoubtedly, one of these values is permanent parliamentary deliberation, along with participatory democracy and the socialisation of European politics (Czachór, 2023, pp. 7–34).

The Sejm and Senate's Activity in the Shaping of the Concept of Reinforcing National Parliaments in the European Union

Applying the universalist and particularist approaches leads to the belief that the formal and informal presence of the Sejm and Senate in the system of power of the European Union, based on treaties and national regulations, has meant that both chambers of the Polish parliament have promoted and advocated many changes in the European Union system over the past two decades, resulting in the empowerment, participation, and reinforcement of national parliaments, including in the national system of managing European integration (Czachór, 2023, pp. 12–54).

Those national parliaments' activity in the area under discussion demonstrates that lessons have been learnt from the changes in the world around us, which are related not only to European integration, but also to the process of globalisation and threats to the international order. The twenty-year experience of Poland's EU membership clearly shows that the full integration of the Polish parliament into the integration system at the national and EU levels has to be completed (Sejm, 2016). Therefore, their participation and reinforcement has made it possible to eliminate: (1) the

mismatch between the EU's legal framework and national parliaments' current intensity of activity; (2) the asymmetry in the legal status of national parliaments and the European Parliament; (3) the low level of national MPs' participation in the process of European integration, including in domestic relations; (4) the lack of forward-looking planning and strategic thinking in the activity of national parliaments in the EU; (5) the inability to demonstrate assertiveness when accepting the actions of EU institutions that are not always justified (not only in the sense of subsidiarity and proportionality) nor consistent with each other; (6) problems with understanding that, for many reasons, it is worthwhile remaining only at the level of individual actions or projects in relations with the EU without the need to engage in long-term agreements; (7) parliaments taking risks without examining intentions or introducing a trial period for activities undertaken; (8) the rivalry of parliaments among themselves; (9) concerns about emphasising national interests in relations with the EU; (10) different approaches to national parliaments' participation in the exercise of power in the EU and inter-parliamentary cooperation between the legislature and the executive, i.e., between the government (central) administration and parliament, concerning the scope of cooperation, but also certain substantive and formal issues; and (11) coordination and communication deficits, including within parliaments (European Parliament resolution, 2017, pp. 1–4).

In the view of the Sejm and Senate, the activity of national parliaments in reinforcing (rather than weakening) the European Union is to serve the states and societies of Member States. It is supposed to meet European expectations and the needs of citizens, along with bringing about real, tangible benefits. Unfortunately, consistently low turnouts in European parliamentary elections make it necessary to resort to democratic legitimacy derived from national parliamentary elections in order to influence the state of affairs in the EU in this way. The number of voters in national parliamentary elections is far greater than in elections to the European Parliament, and the number of national MPs (several thousand people) testifies to their influence.

National parliaments are linked to the European Commission in implementing the principle of subsidiarity through an early-warning mechanism known as the “yellow card procedure” (*Protocol No. 2*, 2016). But this mechanism, or the issuing of yellow and orange cards, is not working as expected by the parliaments, in the sense that the issuing of a yellow card has proved ineffective in every case. Therefore, the Polish parliament supports the calls for the yellow card procedure to be improved as proposed by a COSAC Conference. Some of these improvements do not

require treaty changes, yet it is necessary to resume discussions on the introduction of red and green card mechanisms. A red card, i.e., the veto power of national parliaments, can strengthen their democratic control over the EU's legislative process. This is another solution that does not require treaty changes. The implementation of the green card procedure, i.e., the legislative initiative of national parliaments, is also worth taking into consideration, as it would enhance cooperation between national parliaments and the European Parliament and the EU Council (European Parliament resolution, 2018, pp. 1–9).

Conclusions

Over the past twenty years, both chambers of the Polish parliament, namely, the Sejm and the Senate, have pursued numerous political and legal actions of a general or particular nature to simultaneously increase and sap their potential to influence the state of affairs in the European Union. Functional empowerment, participation, and cooperation have alternated with isolationism, assertiveness, and a vision of Europe's future that differs from that which the EU's supranational institutions have.

The content of this article proves that the parliamentary dimension of Poland's membership in the EU observed through the participation of the Sejm and Senate in the process of Europeanisation and de-Europeanisation simultaneously contributes to the dependence and independence of both chambers on the European Union and its institutions.

The universalist and particularist approaches have also allowed the author of this analysis to reach an empirically-confirmed conclusion that both chambers of the Polish parliament in the period under study have had an influence on the following: (1) the political power of the government – reinforcing or sapping it during negotiations; (2) the effectiveness or ineffectiveness of coalition-building in the EU; (3) cooperation with or resistance to the dominance of the parliaments of large EU states; (4) varied responsibility for the integrative system as a single united and harmonious whole; and (5) the preferred model of European integration as either an increasingly closer union of the peoples of Europe or a Europe of Homelands (Borońska-Hryniewiecka, 2021).

Participatory observation by the author in both the Sejm and the Senate has led to the next conclusion that under the current circumstances, both chambers of parliament should focus on their new roles as: (1) a guardian, defender, and checker which upholds the competencies delegated to the Communities and the Union; (2) a creator and legislator which, being part of the integrating collective entity, creates supranational and

intergovernmental policies and forms of cooperation; (3) a supporter for EU actors in achieving integration goals; (4) a player, i.e., an independent entity that interacts with the integration system as a whole; (5) a moderniser; (6) a negotiator; and (7) a promoter of (its own and common) ideas and concepts on current and future integration and the European Union.

The article has also shown that the practice of the Sejm and Senate during the twenty years of Poland's membership in the EU has made it necessary for them to try to be far more actively involved in maintaining (building) a Europe of equality, cohesion, justice, and solidarity. The EU institutions and the governments of Member States have not handled this task very well over the past years. The EU needs parliamentary democratic legitimacy, but also needs a forum for political communication between national parliaments and European institutions and the people of Europe (cf. Kuchciński, 2016, pp. 1–3).

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