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United for the Common Cause:

Thoughts on the *Act on Petitions* of July 11, 2014

Abstract: The paper investigates legal funding of the right to petition in Poland. It starts from a comparative background and it introduces the institution in a wider context, as a transparent and accessible for citizens legal solution, that has become an essential instrument of contemporary direct democracy and civic society. The author discusses regulations of the 2014 Acts on Petitions with reference to the Constitution of Poland and organisation of the Sejm and the Senate proceedings. Moreover, the study has placed the right to petition in a fieldwork of Polish system of human rights protection and Polish legal system in general. Finally, the paper presents results of opinion polls on direct democracy and civic engagement in Poland to discuss them with reference to previously presented construction of the right to petition as a legal institution. The author concludes with a relevant question on its further development in times of deep polarisation of Polish politics and during the Constitutional Crisis in the country.

Keywords: *right to petition; direct democracy; civic society; law-making; Polish constitution*

Never Was a Right So Much Mystified and Magnified
John C. Calhoun, Senate, 1840 (Higginson, 1986)

Introduction

The right to petition, alongside the freedom of religion, speech and assembly is one of the foundations of liberty. This institution dates back to the 10th Century in England. However, what really reinforced its importance was the adoption of *Magna Carta* in 1215 and of the English Declaration of Rights in 1689 (the document which states

that subjects of the King are entitled to petition the King without fear of prosecution), as well as the Bill of Rights to the U.S. Constitution in 1789 (Hahnenberg, no date; Kuennen, 2012, p. 846). By the time of the American Revolution, petitioning was extremely popular and widespread in England.

What is important, also the First Amendment to the Constitution of the United States stipulates that “People have the right to appeal to government in favour of or against policies that affect them or in which they feel strongly. This freedom includes the right to gather signatures in support of a cause and to lobby legislative bodies for or against legislation” (Hahnenberg, no date; Kuennen, 2012, p. 846).

It should be noted that in 1875, the Supreme Court in *United States v. Cruikshank* ruled that “the right of the people peaceably to assemble for the purpose of petitioning Congress for a redress of grievances, or for anything else connected with the powers or duties of the National Government, is an attribute of national citizenship, and, as such, under protection of, and guaranteed by, the United States”. According to Justice Waite, when interpreting this ruling, we should consider “the right to peaceably assemble as a secondary right, while the right to petition was labelled to be a primary right” (Boundless, 2016). In Tamara Kuennen’s (2012, p. 845) opinion, scholars share a popular view, which perceives petitions as “oft-forgotten, a constitutional footnote, and the poor stepchild of the First Amendment”.

The aim of this paper is to present the assumptions of the new Polish act on petitions, the provisions of which develop the constitutional regulation, and to try to diagnose citizens’ awareness of the importance of this institution. The hypothesis assumes that petitions may become an effective tool in Poland as they help to increase social status and citizens’ social involvement. It is thus worth considering whether the new legal solutions are transparent for people and if procedures applied for implementing them are not subject to specific formal requirements imposed by the lawmaker. Moreover, it is important to find the answer to the question to what degree citizens are aware of their rights when it comes to influencing the government, asking it questions, and to present their own initiatives. It is also essential that we find out whether people in Poland are aware of the strength of their opinion and are convinced that they can take part in the decision-making process both in national and local politics. In the paper, we used the method of text analysis and the institutional-legal method.

Together We Can Do More: Comments on the Regulations of the Right to Petition

The right to petition is an institution deeply rooted in democratic regimes and it also has a long history in the Polish constitutional order. As the Article 107 of the 1921 Constitution of Poland stipulated, “The citizens have a right to petition individually or jointly to all representative bodies and public, state and local authorities” (Dziennik Ustaw, 1821). In the period of the People’s Republic of Poland, Articles 73–82 of the fundamental law of 1952, amended on February 16, 1976, expressed “the right to submit complaints, petitions and applications to the organs of state and local government” (Dziennik Ustaw, 1976).

There are a number of different systems for implementing the right to petition in the world and each of them has its specific characteristics. Under the Article 63 of the 1997 Constitution of the Republic of Poland, “Everyone shall have the right to submit petitions, proposals and complaints in the public interest, in his own interest or in the interests of another person – with his consent – to organs of public authority, as well as to organizations and social institutions in connection with the performance of their prescribed duties within the field of public administration. The procedures for considering petitions, proposals and complaints shall be specified by statute” (Dziennik Ustaw, 1997).

It was not until 20 years later that these constitutional provisions were implemented by the Polish legislator with respect to the procedure of considering petitions by way of an act, through establishing principles of submitting and considering petitions, and courses of action and competences of organs in matters concerning petitions. In the end, on July 11, 2014 (Dziennik Ustaw, 2014; 2016), after long years of efforts and having rejected a few earlier proposals, the Sejm passed the *Act on Petitions*¹ (referred to as AOP hereinafter), which provides citizens with a wide range of possibilities of active participation in public life, as well as giving them an opportunity to contribute to the development of the existing social relations. The work on the act was initiated in the Senate of the RP by the Parliamentary Team for Cooperation with Non-Government Organisations in 2011. It was based on the proposals submitted by NGOs. The act on petitions finally entered into force on September 6, 2015, thus putting an end to the campaign of numerous non-government organisations, including the Helsinki Foundation for Human Rights, which struggled for passing a new law that would develop citizens’ constitutional guarantees with a great deal of determination.

¹ The Senate adopted the *Act on Petitions* on August 7, 2014, while the President Bronisław Komorowski has signed it on August 27, 2014.

According to Hubert Izdebski's (2015, p. 3) accurate interpretation of the regulations adopted in the act, which elaborate on the constitutional provisions, everyone, i.e. "also a legal entity and an organisational unit which is not a legal entity, [may submit a petition] individually or jointly to the body of state authority, as well as to an organisation or social institution with respect to public tasks in the sphere of public administration that it performs". What is important, under the Article 2.2 of the Act, petitions are submitted for the sake of the implementation of public interest, the interest of the entity submitting the petition, or, by courtesy, the interest of the third party, the name of whom or which, and the place of living or seat, and postal address or e-mail address of this entity is specified in the text of the petition (AOP, Article 5).

As Michał Bernaczyk (2015, p. 449) indicates, a petition may be retrospective or prospective. In other words, it may also express proposals for the future, e.g. the ones concerning necessary reforms. A petition also refers to the individual solution of a given task, as a certain model of solving a specific group of issues. A petition is important to the extent that it may "provide information, e.g. evaluations, statements of facts, and specialist knowledge, which are necessary or useful (in the opinion of the entity submitting the petition) for the current matter under consideration or any future case to be considered".

In its ruling of November 16, 2004, the Constitutional Court stated that "a petition [...] does not involve the possibility of initiating court proceedings" (File Ref. No. P 19/03, 2004; Izdebski, 2015, p. 4). A petition may also be a demand, especially, of changing the law or undertaking an effort related to an issue concerning the entity submitting the petition, collective life or values requiring special protection in the name of common good, included in the scope of tasks and competence of the recipient of the petition (AOP, Article 3).

In his comment on the Constitution of Poland, Piotr Winczorek (2008, p. 151) explains that a petition is "a request submitted to the authorities; its aim is to make the government take a particular stance on a given matter or make a decision that is desired by the petitioner".

The existing body of literature in Western countries provides an even broader definition, stating that a petition is "any nonviolent, legal means of encouraging or disapproving government action, whether directed to the judicial, executive, or legislative branch. Lobbying, letter-writing, e-mail campaigns, testifying before tribunals, filing lawsuits, supporting referenda, collecting signatures for ballot initiatives, peaceful protests and picketing: all public articulation of issues, complaints and interests designed to spur government action qualifies under the petition clause" (Boundless, 2016; Kuennen, 2012, p. 843).

A petition may be considered to be citizens' demand to solve a specific issue in a way that would not entail any repression or penalty from authorities. It should be emphasised here that the Polish fundamental law grants citizens a wide range of possibilities of participating in decision-making processes, i.e. citizens' legislative initiative, a referendum or a constitutional appeal. However, these powers may be exercised only if a number of conditions are met; to hold a referendum, 500 thousand signatures must be collected (Article 63.1 of the Act on a Nationwide Referendum and Article 125.2 of the Poland's Constitution); in the case of a legislative initiative 100 thousand signatures are needed (Article 118.1 of the Constitution). The constitutional appeal, in turn, as described in Constitution's Article 79.1, which stipulates that „everyone whose constitutional freedoms or rights have been infringed, shall have the right to appeal to the Constitutional Tribunal for its judgment on the conformity to the Constitution of a statute or another normative act upon which basis a court or organ of public administration has made a final decision on his freedoms or rights or on his obligations specified in the Constitution” has ceased to be effective in the face of current turbulence in the Constitutional Court. As the initiators of the adopted act on petitions emphasised, the new solutions have significantly strengthened direct democracy in Poland (“Ustawa o Petycjach podpisana”, no date).

It should be pointed out that in line with the binding regulations, a document can be recognised as a petition on the basis of its content (AOP, Article 3). The provisions of the act explicitly define the form and essential components of a petition. In accordance with the legislator's intention as expressed in Article 4, a petition is submitted in writing – it can be signed by the person submitting it or a representative of a group of petitioners – or in electronic form. In the latter case, a petition may include the qualified electronic signature and electronic mail address of the entity.

Article 4.2 of this act specifies the requirements concerning the essential elements of a petition submitted by citizens, which include: (1) the identification of the entity submitting the petition; if the petition is submitted by a group of entities, each of these entities and their representative must be identified in the petition; (2) the identification of the place of living or seat and the postal address of the entity submitting the petition; if the petition is submitted by a group of entities, the place of living or seat of each of these entities must be identified in the petition. It should be noted here that, as Article 7 par. 1 of aop stipulates – if any of the above conditions fails to be fulfilled, the petition will not be considered. When filing a petition, one should also indicate its recipient (AOP, Article 4.2.3) and define its subject (AOP, Article 4.2.4).

What is important, the legislator assumes that the failure to submit a petition in the proper form, without indicating its recipient and subject, as well as the lack of other information specified in the act in the case of filing a petition in the name of

the third party, as specified in Article 5.1.2, require complementing or explaining. The entity considering a petition calls for the fulfilment of this duty within 30 days from submitting it. It should be pointed out here that under the existing law, this deadline is deemed to be met if the appropriate letter is sent in a Polish post office of the operator designated with the meaning of *the Postal Law* (Dziennik Ustaw, 2012). Moreover, the statutory deadline is met if the letter is filed:

1. in a Polish consular office,
2. by a soldier in the command headquarters of his military unit,
3. by a member of the crew of a sea boat to the boat captain,
4. by a prisoner in the administration of a prison (Article 15 in relation to Article 57.5.2–6 of the *Code of Administrative Proceedings*) (Bernaczyk, 2015, p. 454).

Under the provisions of Article 6, if the petitioner addresses the wrong recipient, the legislator obliges him or her to submit it immediately, no later than 30 days from the date of filing it, to the entity competent to consider it. The relevant information should be given to the petitioner. If another petition is submitted on the issue already heard, and the petitioner does not supply any new, unknown before, facts or evidence, the competent body is justified to reject it (AOP, Article 12.1). The information about the rejection of the petition, alongside with the information on the manner of considering it, should be passed on to the entity submitting the petition immediately (AOP, Article 13.1).

Art. 8 of this act imposes an important obligation on the entity competent to consider it. Under this article, it is obliged to upload the scan of the petition together with the information on the date of submitting it on its website. The legislator also points out that all data concerning the course of proceedings must be updated continually.

Under the Article 9, a petition submitted to the Sejm or the Senate is considered by these bodies, unless the standing orders of these chambers specify another organ competent in this respect. In turn, a petition submitted to a local government body, adopted in accordance with the adopted regulation, is considered by this body, unless the statute of a given body specifies another competent internal organ.

According to Senator Mieczysław Augustyn, one of the initiators of the adopted regulations, the act on petitions is a law which “makes it possible to draw from a large reservoir of ingenuity that people have” (Dobranowska-Wittels, 2014). It is a significant and useful solution both for citizens, who, not having statutory guarantees of their work until recently, submitted petitions concerning issues important for them to the representatives of public authorities, who in turn had no obligation to take further action in these matters (Dobranowska-Wittels, 2014). The procedure

specified in the act involves the transparency of proceedings and defines deadlines of replying to a petition.

Bernaczyk (2015, p. 456) indicates that the existing act “does not provide for the possibility of ‘suspending’ the course of action [deadline] for considering a petition, adopting the ‘prolongation’ of considering it on account of circumstances independent from the entity that considers it”. Under the Article 10.1, a petition should be considered immediately, no later than three months from the day it was submitted. If any circumstances preventing the petition from being considered occur, this period may be prolonged, but by no more than three months. The prolongation of the deadline is also justified if the petition is submitted to an improper body or if the entity submitting it has failed to meet statutory requirements concerning its form and content.

It should be pointed out that, as the Article 11.1 stipulates, if a few petitions on the same matter have been submitted within one month, the competent body may issue a decision to consider them jointly (a multiple petition). If this is the case, the competent body or office announces a deadline for submitting other petitions which will be no longer than two months. The deadline for considering a multiple petition thus begins after the period of waiting for petitions (AOP, Article 11.2).

Under the Article 13.1 of the act on petitions, the entity considering a petition informs, in the written or electronic form, on the manner of considering it together with justification. The legislator also makes a reservation that the manner in which the respective body considered a petition cannot be subject to a complaint (AOP, Article 13.2).

Additional, the legislator obliged the Sejm of the RP, the Senate of the RP and a body representing local government units to publish – by 30 June each year – information on the number, subject and manner of consideration of all petitions submitted throughout this period on its website (AOP, Article 14). It should be noted that in the Article 17 the legislator provided for a 12-month-long *vacatio legis*.

The standing orders of both chambers specify details of statutory regulations in the case of petitions submitted to parliaments. Experts emphasise that it takes time to consider a petition in an in-depth and reliable manner². The procedure of considering petitions by the Sejm of the RP is specified in its standing orders in chapter 9a, *Proceedings in relation to petitions*. In the case of petitions, however, the principle of the discontinuity of parliamentary work does not apply, under the Article 126g of the standing orders, “in the event that proceedings in relation to a petition have not

² It should be pointed out that the Bureau of Research of the Sejm commissions a legal opinion for each petition.

been concluded before the end of the term of office of the Sejm, such proceedings shall be conducted by the Committee in the next term of office of the Sejm”.

Petitions in the Sejm are dealt with by the Petitions Committee, appointed under the Article 18.1.1a of the Standing orders of the Sejm of July 30, 1992 (The Resolution of the Republic..., 2016; “Odpowiedź szefa Kancelarii Sejmu RP...”, 2016). The Marshal of the Sejm supervises the consideration of petitions submitted to the Sejm (AOP, Article. 10.1.8b). The Marshal of the Sejm: refers petitions to the Petitions Committee, at the same time specifying the deadline for considering it. He or she may also order joint consideration of a few petitions if they concern the same matter; if a petition does not meet the formal requirements, he or she may decide not to proceed with the petition or request the entity submitting it to supplement it or explain the content of the petitions. Moreover, the Marshal informs the entity submitting a petition on the manner of considering it, and if a petition of such meaning has already been considered, inform on the previous manner of considering it, together with justification.

As a result of its work, the Petitions Committee may draw up a new bill or draft resolution, submit an amendment or motion to the bill or resolution in the course of consideration by another Sejm committee or during the second reading, pass an opinion to another Sejm committee on the bill or resolution it is considering, or not accept the demand contained in the (Article 45 and Article 126c of the Standing Orders of the Sejm).

In the case of the Senate, a petition is considered – under Articles 15.1.6 and 90 of the Standing Orders of the Senate of the Republic of Poland of November 23, 1990 (Rules and Regulations of the Senate of the RP..., 2014) – the Human Rights, the Rule of Law and Petitions Committee (HRRLPC). The scope of work of Senate committees is specified in the Attachment the Resolution of the Senate of the Republic of Poland of November 23, 1990 – the Rules and Regulations of the Senate.

Thus, the Human Rights, the Rule of Law and Petitions Committee is responsible for the following subject matters: “civil rights and freedoms and their institutional guarantees, issues related to the administration of justice and public safety, compliance with the law and human rights, civil society institutions and non-governmental organizations, consideration of petitions addressed to the Senate and its bodies” (Regulamin Senatu..., 2015).

The procedure of consideration a petition by the Senate is specified in Section 10a of the rules and regulations of the chamber. The Marshal of the Senate immediately refers all the submitted petitions to the HRRLPC.

Moreover, the Chairman of the Committee shall refer the petition to be considered at the Committee sitting or submits the petition to a competent public authority body

if he deems its matter to be beyond the Senate competence. He or she notifies the Marshal of the Senate and Committee members of that fact (Article 90b of the Rules and Regulations of the Senate). The Human Rights, the Rule of Law and Petitions Committee is also entitled to ask another Committee to issue an opinion regarding the petition under consideration (Article 90c). As a result of its work, the Committee may also: submit to the Marshal of the Senate a motion to undertake a legislative (resolution) initiative, prepare a draft bill (draft resolution), present to the Marshal of the Senate an opinion on the justifiability for the Senate or its body to exercise its rights set forth in the Constitution of the Republic of Poland, in a statute or the Rules and Regulations of the Senate (Article 90d). According to the rules and regulations, the Chairman of the Committee should inform the entity submitting a petition of referring the petition to a competent public authority body, actions undertaken or reasons for not taking any such actions (Article 90e). The Human Rights, the Rule of Law and Petitions Committee submits to the chamber an annual report on the petitions examined by the committee (Article 90f).

Under the Article 90g of the Rules and Regulations of the Senate, just like in the case of the Sejm, the principle of the discontinuity of parliamentary work does not apply to the proceedings concerning petitions.

Citizens' Participation in Political Affairs and Public Opinion Polls in Poland

The adoption of the new statutory regulation concerning the procedure of submitting petitions was positively received by many experts, lawyers and representatives of non-government organisations. The enthusiasts of the new solutions include, among others, Joanna Duda (2015), who notes that the provisions of the act on petitions may trigger favourable changes in actions undertaken by their recipients and make officials more involved in dialogue, especially at the level of local communities (Rytel-Warzocho, 2015). Representatives of NGOs indicate that the new regulations concerning the transparency of the process of considering petitions may contribute to improving citizens' knowledge of the application of law and may additionally become a perfect form of civil education (Schimanek, 2015). It should be noted here that the results of numerous studies show that the Polish society – as a result of many social campaigns showing citizens that they can have a real impact on the government – is becoming increasingly aware that joint action may bring positive effects.

On May 20, 2015, the Chancellery of the Senate, together with the Office of the Commissioner for Human Rights and the Institute of Public Affairs, launched an information campaign entitled *Petition – Your Right*. Non-government organisations

were also invited to participate in this initiative (Schimanek, 2015; “Petycja. Twoje prawo”, no date). On November 25, 2016, the Senate was the venue of the conference *The experience of the implementation of the act on petitions. Good and bad practices, question marks, proposals for changes*, which summed up the 18-month period in which the act had been in force. Danuta Antoszkiewicz, head of the Petitions and Correspondence Section of the Chancellery of the Senate, reporting on the course of the campaign, informed that a special website, www.petycje.pl, was launched, the contest *Petition and responsible civil activity* was held and a number of training courses were organised. What is more, “a coalition for the dissemination of the act on petitions was organised. It was composed of the invited social organisations, representing various groups of interest towards authorities and public administration” (“Zakończenie kampanii...”, 2016). In his speech, the Commissioner for Human Rights Adam Bodnar informed that approximately 100 petitions had been submitted to this office in 2016. He noted, however, that the Commissioner was not the proper institution to consider them. These petitions were referred to competent bodies (“Zakończenie kampanii...”, 2016). Moreover, it was announced that 186 petitions had been submitted to the Senate in 2016.

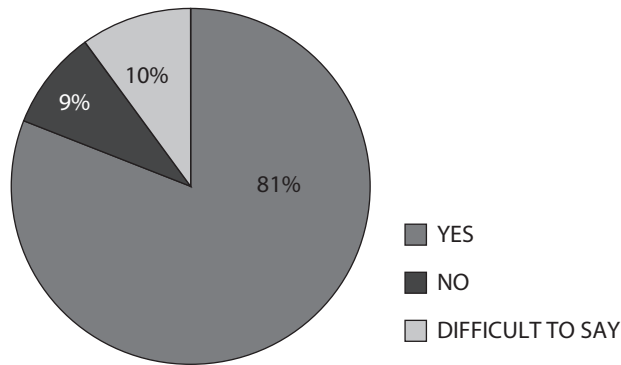


Diagram 1. Can joint efforts be effective?

Source: “Sondaż CBOS: Polacy...”, 2016.

The collective data on the petitions considered by the Sejm in 2015 show that just in the four-month period from the date the act entered into force to the end of 2015, 40 petitions were submitted to the Marshal, which should be deemed an important signal reflecting the growing awareness of the strength and significance of this instrument in the society.

Table 1. Petitions Submitted to the Sejm from September 6, 2015 to December 31, 2015

No.	Marshal of the Sejm's decision	Number of petitions
1.	Referral to the Petitions Committee	26
2.	Taking no action due to formal reasons	2*
3.	Lack of decision concerning further action	12

* Two petitions in the matter of amending the act of August 25, 2006 on the safety of food and nutrition (Dziennik Ustaw, 2015) by excluding requirements concerning the nutrition of children and youth as part as institutional catering in secondary schools (BKSP-145–16/15 and BKSP-145–17/15) (“Zbiorcza informacja...”, 2016).

Source: “Zbiorcza informacja o petycjach...”, 2016, p. 1.

The subjects of petitions submitted to the Sejm by associations³ included mainly: “perpetual usufruct, taxation, social security benefits, status of anti-Communist opposition activists and oppressed people, principles of institutional catering in secondary schools, foreigners’ stay on the territory of the Republic of Poland” (“Zbiorcza informacja o petycjach...”, 2016, pp. 1–2). It should be noted that in the following years when the act on petitions was in force the frequency of using this instrument increased, both in the Sejm and in the Senate. 177 individual and eight joint petitions were submitted to the Sejm itself from September 6, 2015 to February 14, 2017. It must also be emphasised that it is citizens who are becoming petitioners more and more frequently (“Petycje jednostkowe – wykaz,” no date). Moreover, the report of the Human Rights, the Rule of Law and Petitions Committee shows that, in 2015, the majority of correspondence that initiating entities referred to as petitions were in fact opinions, comments or critical remarks concerning the use of and obedience to the law (“Sprawozdanie Komisji Praw Człowieka, Praworządności i Petycji...”, 2016).

The report of the Institute of Public Affairs prepared within the framework of the project “The dissemination of knowledge of a petition as an instrument which strengthens citizens’ influence on decisions made by public administration” shows that yearly *vacatio legis* specified in the act on petitions has not contributed to the progress in the process using them by obliged and interested entities. It was not until this act entered into force, as Jarosław Szymanek notes, that this situation changed. The authors of the report list the following mistakes usually made by the authors and recipients of petitions: „exceeding the time limit for considering them, too brief

³ Natural persons were the authors of only five petitions.

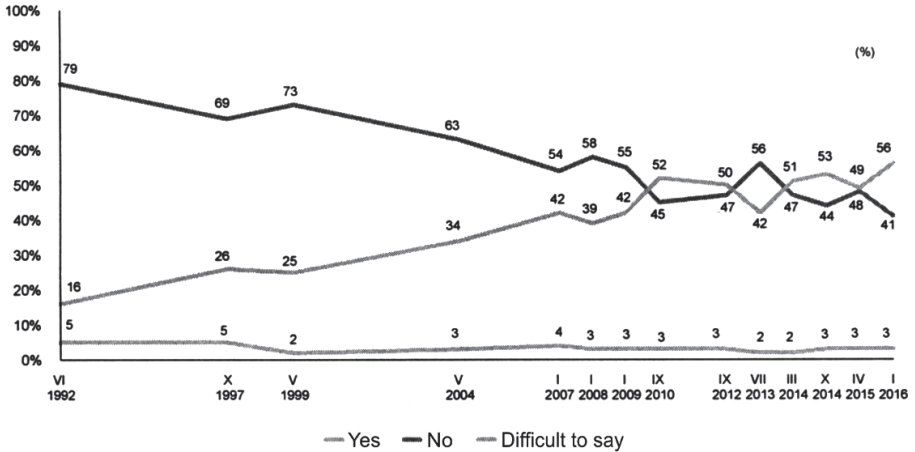


Diagram 2. In your opinion, do people like you have a real influence on the affairs of your town or commune?

Source: Roguska, 2016, p. 3.

justification of the subject matter of a petition, lack of information about the recipient’s reaction to the petitions which he or she has positively considered, insufficient data concerning all entities in the name of whom the petition has been submitted, lack of justification, difficulties in distinguishing a petition from a complaint or a motion, viewing a petition as a form of promoting oneself or even forcing their recipients to buy them” (Kuennen, 2012, p. 850).

According to experts, petitions strengthen democracy by promoting citizens’ participation and engagement in political affairs, narrow the distance between those represented and their representatives, promote greater transparency, and ensure information flows (The Right to Petition, 2015, p. 16; Higginson, 1986). T. Kuennen (2012, p. 846) points out that petitions “serve not merely the governed; they also serve the governors. It is a two-sided coin. Petitions provide »an important stream of information about the views and concerns of the people, informing government decisions about individual cases and the need for generalized policymaking«”.

Petitions “give citizens the right to appeal to the government to change its policies, [...] to present requests to the government without punishment or reprisal” (Boundless, 2016). They contribute to the development of civil society. It is obvious that it is better to listen to a few people as a single voice is hardly audible. This is why

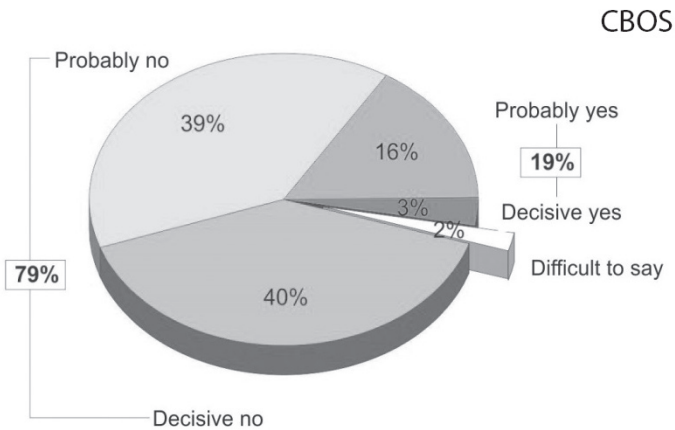


Diagram 3. In your opinion, do people like you have a real influence on state affairs?

Source: Pankowski, 2013, s. 1.

petitions constitute an effective tool for fighting for one’s rights both at the national and local level.

Poles are much less involved in public affairs than Western societies. The results of research conducted in 2008 show that almost 40% of Danish citizens sign petitions on a regular basis, while only 7% of Polish people do the same (“Data from the European Social Survey”, 2008). Over the last decade, a change of attitude might be observed in Poland though. In 2002, 50% of the respondents believed that joint efforts may help to solve problems concerning people’s environment, estate, village or city. In 2011, 63% of the people under survey were of this opinion. The growing awareness of citizens’ strength latent in different tools of influence on authorities is also confirmed by the research conducted by the Centre for Public Opinion Research. Data concerning citizens’ sense of having influence on national affairs, which reflect the abovementioned trends, are presented in the diagrams.

As the presented analyses show, the trend reflecting the growing confidence of Poles when it comes to making decisions in public affairs was maintained in subsequent years. It should be noted that as Poles’ social, political and civil activity has increased, they are beginning to feel that they have influence on public affairs. The research conducted by the Centre for Public Opinion Research (Centrum Badania Opinii Społecznej, CBOS) in February 2017 shows that among various forms of civil activity (such as membership in non-government organisations, voluntary work, social activity,

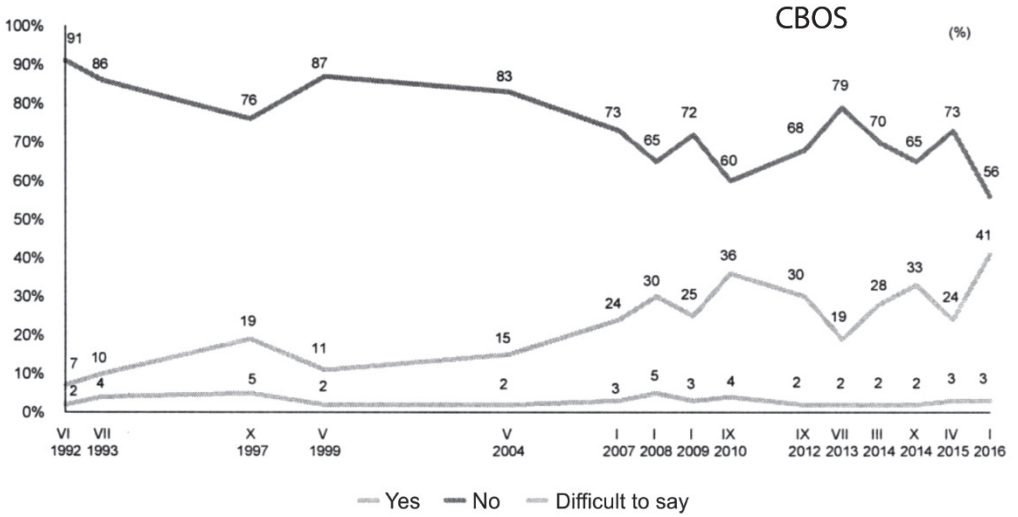


Diagram 4. In your opinion, do people like you have a real influence on state affairs?

Source: Roguska, 2016, p. 2.

participation in rallies and demonstrations), 18% of the respondents declared that they had signed a petition in the previous year (“Aktywność społeczno-polityczna Polaków,” 2017, pp. 3–7).

Conclusion

There is no doubt that petitions contribute to the improvement of law-making. They ensure more transparency of the legislative process and help to remove errors, loopholes and contradictions in the existing regulations. When wondering whether petitions will become an important tool for citizens to take part in law-making, one should look into statistics. They show that petitioners usually submit them to the Human Rights, the Rule of Law and Petitions Committee of the Senate. In the 2011–2015 term of office this committee met 299 times. As W. Gąsior (2015) points out, on the basis of the committee’s motions, the Senate, which has considered petitions since 2008, has prepared 17 draft acts, five of which entered into force (some bills have been submitted to the Sejm or rejected by the Senate; one has been introduced to a government bill as an amendment).

As the Report *Summing Up the Monitoring of the Introduction of the Law on Petitions*, prepared by the experts of the Institute of Public Affairs, shows, in the period from November 2015 to November 2016, although the number of submitted petitions

rose, this increase was not significant enough to be seen as a signal that petitions had become part of Polish public reality. Such a conclusion would be premature. It must be noted that what remains to be a problem is the fact that a lot of citizens do not have sufficient knowledge of this institution. Moreover, in the above period, not all obliged subjects (ministries, offices, institutions) prepared widely available information about the procedure of submitting petitions by interested parties. It should be indicated here that practice shows that petitions are first of all submitted to the Sejm, the Senate and the President of Poland. In the monitored period, 120 petitions were submitted to the Sejm (five of them multiple⁴), 59 petitions were forwarded to the Senate (including five multiple), while 113 petitions were sent to the president (including 19 multiple). The authors of petitions, sending them to the abovementioned state authorities, usually expect changes in the existing law. Following the analysis of data collected in the analysis of the situation in 30 biggest Polish cities, experts indicate, however, that the number of petitions submitted to city presidents and city councils is gradually and consistently, though still quite slowly, increasing. While 84 such petitions were submitted in 2015, the number rose to 384 in 2016 (Banul et al., 2016, pp. 14, 16–17).

It should be mentioned here that the authors of petitions mostly include private persons, non-government organisations, labour organisations, local government units and research institutions. In practice, petitions are usually submitted by their authors or the community they represent. Motions prepared by experts with specialist knowledge are a rare occurrence.

The fact that petitions are significantly deformalized acts and their preparation does not require expert knowledge as compared to citizen bills has an impact on the strength and popularity of this institution. In the literature, it is assumed that a petition may be a presentation of a concrete life situation, which then becomes the basis for preparing proposals of changes in law. In the years 2011–2015, petitions, submitted mostly by the representatives of organisations defending rights of specific social groups, particularly concerned such issues as:

- the situation of war veterans and repressed people 914);
- pensioners' privileges (11);

⁴ It should be noted here that a few subjects can be the co-authors of a petition. It may be a case, however, that one author prepares a few petitions. For example, Ogólnopolskie Stowarzyszenie Rodzin Osób Niepełnosprawnych (en. Polish Association of the Families of Disabled People) „Razem Możemy Więcej” sent four petitions to the Senate of the eight term; Stowarzyszenie Rodu Rodziewiczów (en. Association of the Rodziewicz Family), which also submitted four petitions (concerning the commemoration of historical events) in this period, or the Helsinki Foundation of Human Rights, the experts of which prepared one petition concerning the principles of evicting tenants, and supported another one concerning one's criminal responsibility for words (Gašior, 2015).

- problems of disabled people and their guardians (7);
- teacher's privileges (3);
- politics of memory, e.g. occasional resolutions, orders, benefits, veteran status, etc. (13);
- human rights, e.g. concerning the protection of personal data (5);
- ideological and religious issues (2) (Gąsior, 2015).

The value of a petition as a tool which provides citizens with real powers in the sphere of law-making has not been fully used in Poland yet. It results both from citizens' low degree of awareness and the specific acts or omissions of their recipients. Thus, Gąsior (2015) aptly argues that a lot depends on "the will of officials, MPs and the government", who may reduce or extend the time of proceeding on the petitions submitted to the parliament. The legislative practice shows that petitions often lie in the Sejm archives for years (such as in the case of the draft act on the Border Guard prepared on the basis of a petition submitted by the Human Trafficking Studies Centre). It often happens, however, usually when party divisions are not an obstacle, that they become part of the legislative process within a very short time (that was the case with the petition on the protection of personal data when it comes to the address of witnesses to the crime, which became the amendment to a law within just a month). Moreover, problems connected with the application of the law on petitions are also caused the tardiness of their recipients as regards the obligation to publish decisions concerning them; the use of succinct justifications regarding the manner of considering a petition or the inactivity of an institution; lack of information in the Internet on the course of proceedings; ignoring the statutory requirement of publishing a yearly report on petitions; the inability to differentiate a motion from a petition both by recipients and by subjects preparing it, and, finally, the lack of possibility to submit a petition in person (Banul et al., 2016, pp. 28–30).

Will petitions become an effective mechanism of influencing decisions in state and community matters in Poland, which will consequently lead to the constant increase in the level of citizens' involvement in social and political affairs? It seems that they will. The results of public opinion polls confirm it as they reflect citizens' growing conviction that they need to scrutinise the government's actions and establish guidelines of its policy. Although the new act entered into force not a long time ago, which does not allow us to accurately predict the future of this institution, in the face of the constitutional judiciary crisis in Poland and the polarisation of the political scene after the parliamentary election of 2015, we may expect that the number of petitions submitted by citizens will rise steadily, especially as the procedures introduced by the new regulations are transparent and they do not involve complicated requirements for petitioners.

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