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How long can the term of office of the Polish parliament last? A legal-constitutional analysis

Abstract: The main research aim of this article is an analysis of the length of the parliamentary term of office in Poland based on the analysis of legal rules. According to the art. 98 para. 1 of the Constitution, the parliamentary term of office starts on the day on which the Sejm assembles for its first sitting and ends on the day preceding the first assembly of the newly elected Sejm. Although the mentioned rule also expressly states that parliamentary term of office lasts 4 years, the length of the particular terms of office could be very different. If the parliamentary term of office is shortened, it could last even less than two months. If it is prolonged because of the introduction of the extraordinary measure, it could last approx. 5 years (in case of emergency state), or its maximal length can not be defined. Moreover, even in case of the “normal” terms of office they could have different length – slightly less than 4 years or longer than 4 years by even a few weeks. The presented considerations lead to the conclusion that there is need to make certain amendments of the rules of law concerning this area, which would ensure minimal 4 years length of the “normal” parliamentary term and regulate the organisation of the parliamentary elections after the termination of the extraordinary measure. Author analysed the legal rules basing on legal-dogmatic method and interpreted them by using such methods of their interpretation as: language-logical, teleological and systematic.

Key words: Sejm, Senate, parliament, term of office, The Constitution of the Republic of Poland from 1997

Introductory remarks

The focus of this article is the analysis of the legal problem of how long a term of office of the Polish parliament¹ can last. Although Art. 98 para. 1 of the Constitution of the Republic of Poland from 1997 states that the “Sejm and the Senate shall be chosen each for a 4-year term of office,” the reality is much more complicated. The term of office of the Polish parliament could last much less than 4 years if it is cut short for some reason. This analysis is focused on the question of the shortest possible term of office in accordance with legal provisions. The parliamentary term of office could also last much more than 4 years if it is extended due to the introduction of extraordinary measures. Even if we consider the length of the “normal” parliamentary term of office (Art. 98 para. 1–2 of the Constitution) it could, as confirmed by the political practice, last slightly less than 4 years or slightly more (by as much as a few weeks). To study this question,

¹ The term “Polish Parliament” is used in this article to describe the Sejm and Senate (that is the lower and upper chamber, respectively). This could cause controversy, because the term “parliament” is not used in the Polish Constitution (Mołdawa, 1995, p. 160; Orłowski, 2003, p. 131). Nonetheless, most constitutional law experts seem to accept this approach and support describing the Sejm and Senate as a parliament (Garlicki, 2011, pp. 189–191; Litwin, 2016, pp. 46–48).

the author uses a dogmatic legal approach towards particular constitutional rules, rules of the Electoral Code and rules of the other legal acts mentioned in the article. The legal rules are interpreted by language-logical, teleological and systematic methods.

The parliamentary term of office could be defined as “the legally described (most frequently in the Constitution) duration of the mandate of the chamber or parliament which has the particular composition constituted in one election” (Banaszak et al., 1995, pp. 34–35). The immediate consequences of the termination of the parliamentary term of office are parliamentary elections, which establish the composition of a new parliament, and, often, a new political majority. If the parliamentary system of governance is present in a particular state, such as in Poland, the government will be appointed according to the will of the parliamentary majority. This means that the result of the parliamentary elections has a direct and crucial influence on the state policy. Therefore, the parliamentary term of office is one of the most important issues for parliamentary law and the electoral system, due to the constitutional principles of the sovereignty of the nation and democratic state ruled by law. The appropriate length of the parliamentary term of office enables citizens to regularly evaluate the parliament and state policy by way of voting in parliamentary elections. It also enables politicians to present their achievements to potential voters, especially given the fact that some political activities will give results not immediately but in the near or more distant future.

The limited length of this article does not allow the classifications of parliamentary terms of office proposed by constitutional law experts to be discussed in detail; however, this article will present the basic characteristics of the Polish parliamentary term of office according to this classification. In Poland, the terms of office of both parliamentary chambers, Sejm and Senate, start and end at the same time, and the elections are held on the same day. The term of office of the Polish parliament, like the terms of most parliaments, could be regarded as “rigid.” This means that its length is expressly defined (in years). The parliamentary term of office can be shortened or extended, but this is regarded as an extraordinary situation. According to Art. 98 para. 1 of the Polish Constitution the, terms of office of the Sejm and Senate last 4 years. Therefore, they can be regarded as “long” (Rączka, 2010, pp. 27; Zientarski, 2011, p. 173).

The beginning and end of the terms of office of the Sejm and Senate are issues that require broader consideration. The Polish Constitution directly regulates this issue in Art. 98 and Art. 109 para. 2. The Constitution declares that the start of the term of office of both Sejm and Senate is the day of the first sitting of the newly elected (“new”) Sejm. The end of the term of office of the “old” parliament is the day preceding the day of the first sitting of the “new” Sejm (Art. 98 para. 1, second phrase). This rule concerns every parliamentary term of office, no matter if it is normal, shortened or extended.

The rules of the Polish Constitution do not mandate a parliamentary inter-term break (or, to be more precise, limit it to less than 24 hours) (Garlicki, 1999, pp. 4–5), i.e. a break between the day after the end of a parliamentary term of office (or the day of adoption of a parliamentary resolution on shortening its term of office, or the day of the Presidential order shortening the parliamentary term of office, or of the publication of the order or resolution) and the day of the first sitting of the “new” parliament (Rączka, 2010, p. 35).

The analysis of constitutional rules allows three types of the parliamentary term of office to be distinguished. The “normal” (full, permanent, unbroken) parliamentary term

of office should last 4 years in accordance with Art. 98 para. 1–2 of the Constitution. The shortened parliamentary term is a term which is cut short by the adoption of an appropriate resolution by the Sejm (Art. 98 para. 3) or by Presidential order, when the Council of Ministers receives a vote of no confidence from the Sejm at any stage of the procedure of appointing the new government, or when the parliament does not adopt a budgetary bill within the constitutionally mandated term (Art. 98 para. 4 in connection with Arts. 154–155 and Art. 225 of the Constitution). An extended term of office is a term that lasts more than 4 years. The Constitution allows this kind of extension only in the case of the introduction of extraordinary measures (Witkowski, 2015, pp. 275–278).

The shortest parliamentary term of office accepted by law

When we consider the circumstances of the shortest possible parliamentary term of office that is allowed by law, we should consider the following scenario. During its first sitting, the Sejm adopts a resolution to shorten its term of office and the President orders new parliamentary elections and summons the first sitting of the new Sejm in the shortest possible period of time.

According to Art. 98 para. 3 of the Constitution, the “Sejm may shorten its term of office by a resolution passed by a majority of at least two-thirds of the votes of the statutory number of Deputies. Any shortening of the term of office of the Sejm shall simultaneously mean a shortening of the term of office of the Senate. The provisions of para. 5 above shall apply as appropriate.” Therefore, for this resolution to be adopted, the support of at least 307 deputies is required. Neither the Constitution, the Electoral Code nor Sejm by-laws expressly preclude the possibility of adopting this resolution during the first sitting of the Sejm. So it seems, were the Sejm to do this during its first sitting, it would be fully in accordance with the law (Rączka, 2010, p. 164). The Sejm would not be allowed to adopt this resolution during its first sitting only in a situation when, at the same time, extraordinary measures are introduced, or 90 days have not passed since the termination of extraordinary measures, according to Art. 228 para. 7 (Witkowski, 2015, p. 277).

The rules of the Constitution and of the Electoral Code do not precisely state when the President should order new parliamentary elections in this situation. Therefore, it could be hypothetically assumed that, if the first sitting of the Sejm, resulting in the resolution shortening its term of office, begins in the morning and lasts no more than two hours, this resolution can be promulgated the same day. This means that it could come into force on the day of its adoption. Moreover, Garlicki, in his comment on Art. 98 of the Constitution, states that the resolution of Sejm shortening its term of office does not require the promulgation to be binding law. According to Art. 195 para. 1 of the Electoral Code, “[i]n the case of the shortening of the term of the Sejm on its own resolution or by order of the President of the Republic, the President shall call elections, setting the date of the election no later than within 45 days of the date of entry into force of the Sejm’s resolution on the shortening of its term or the date of issuance of the order of the President of the Republic on the shortening of the term of the Sejm.” This rule also does not clearly define the time limits within which elections should be called. It seems, in the opinion of Garlicki, that “the date of entry into force of the Sejm’s resolution on the

shortening of its term should be understood as the day of its adoption and not the day of its promulgation” (Garlicki, 1999, pp. 19–21). Therefore, there are no legal limitations preventing the President from ordering parliamentary elections on the same day when the Sejm’s resolution was adopted.

The Constitution (Art. 98 para. 3) and the Electoral Code (Art. 195 para. 1) gives an express deadline before which new elections must take place – within 45 days of the day of adoption of Sejm’s resolution to shorten its term of office (Garlicki, 1999, p. 20). However, the legal rules do not state *expressis verbis* the time frame of the new parliamentary elections. It seems that, in the described situation, the parliamentary elections could not, in principle, be held earlier than on day 42 after the adoption of the aforementioned resolution by the Sejm, according to the rules of the Electoral Code – Art. 202 para. 3 in connection with Art. 195 para. 2 point 1 letter c and Art. 195 para. 1 in connection with Art. 4 para. 1 – the judgement of the Constitutional Tribunal (K 9/11). The first of the aforementioned rules obliges the National Electoral Commission to publish information about constituencies in the form of official announcements no later than 40 days prior to the election day. This means that, in accordance with this legal norm, it will be required that the period between the adoption of Sejm’s resolution on shortening its term of office and the day of the parliamentary elections should be at least 40 days. A period shorter than 40 days would make this legal rule non-executable and meaningless. As previously noted, the parliamentary elections cannot be held more than 45 days after the day of the adoption of the Sejm’s resolution on shortening its term of office. According to Art. 4 para. 1 of the Electoral Code and the aforementioned Constitutional Tribunal judgement, parliamentary elections must be held on one single non-working day. The term “non-working day” should be regarded as a legal term. Such days are precisely described in the act on non-working days, and include every Sunday and about a dozen official public holidays.

These considerations lead to the conclusion that the shortest possible term of office of the Polish parliament would be 43 days. This would be possible assuming that the first sitting of the Sejm is held on Sunday, and the Sejm adopts the resolution on shortening its term of office immediately. As previously described, the parliamentary elections should be held between days 40 and 45 after the day of the adoption of the Sejm’s resolution. Therefore, the 40th day would be Friday, so the elections could be held on Sunday (42nd day).² According to Art. 98 para. 5 *in finé*, in such a situation “[t]he President of the Republic shall summon the first sitting of the newly elected Sejm no later than the 15th day after the day on which the elections were held.” However, this rule does not precisely state what the earliest possible time is when the President can summon the first sitting of the new Sejm. It seems that the National Electoral Commission would need at least one day to count the votes and to officially announce results of the elections.³ Therefore, the first sitting of the “new” Sejm could be held on the 44th day after the adoption of the

² Calculations presented in this article are based on an assumption that the first non-working day to hold the parliamentary elections is the first Sunday after the passing of the appropriate periods of time regulated by law. The other non-working days are much less numerous, so there is little chance that elections will be held on one of these days.

³ The results of the last parliamentary elections in France (both rounds) were officially announced the day after the voting day.

term of office-shortening resolution by the “old” Sejm. In such circumstances, according to the legal rule that the term of office of the Sejm starts on the day of its first sitting and lasts until the day preceding the day of the first sitting of newly elected Sejm, the shortest possible term of office of the Sejm would last 43 days.

Normal term of office of the Sejm: how long can it last?

According to Art. 98 para. 1 of the Constitution, the normal parliamentary term of office should last 4 years. The term of office of the Sejm and Senate shall begin on the day on which the Sejm assembles for its first sitting and shall continue until the day preceding the assembly of the Sejm for the next term of office. However, the rules of the Constitution concerning the ordering of the elections and summoning the Sejm for its first sitting (Art. 98 para. 2 and Art. 109 para. 2) could cause a situation in which the Sejm’s term of office could expire before the 4-year maximum, or last a few weeks longer than the 4-year maximum.

When we consider the question of the shortest possible “normal” term of office, we should make the assumption that parliamentary elections would be held on the 30th day before the expiry of the 4-year period beginning from the commencement of the Sejm’s and Senate’s terms of office. On the next day, the votes would be counted and the results of the elections would be officially announced. Therefore the “new” Sejm could hold its first sitting on the 28th day before the expiry of the 4-year period.

When we consider the question of the longest possible full parliamentary term of office, we should make an assumption that the election would be held one day before the expiry of the 4-year period. In this case, the first sitting of newly elected Sejm could be held on the 29th day after the 4-year period at the latest.

Therefore the shortest and the longest full parliamentary term of office could last 3 years and 336 days (337 days if it is leap year) and 4 years and 28 days, respectively.

Due to its incompatibility with Art. 98 para. 1, which clearly states that a parliamentary term of office lasts 4 years, the possibility that it could last less or more than 4 years (Art. 98 para. 2 in connection with Art. 109 para. 2 of the Constitution) brings controversies among constitutional law experts. The predominant opinion is that the President is subject to many restrictions regarding setting the date of the elections and the first sitting of the newly elected parliament. The supporters of that opinion claim that the President should make both decisions in such a manner that the term of office of the “old” parliament lasts at least 4 years or more, according to Art. 98 para. 2 and Art. 109 para. 2 of the Constitution. This opinion was supported by Garlicki, Jarosz and Granat (Garlicki, 1999, pp. 8–10; Garlicki, 2001, pp. 8–9; Granat, 2001, pp. 79–81; Jarosz, 2001, pp. 69–71). However, the latter author stated that the extension of the parliamentary term of office could last only a few days over the 4-year period and not a dozen or more (Granat, 2001, p. 80). According to another opinion, the parliamentary term of office should last exactly 4 years, and the Sejm should be summoned for its first sitting on the next day after the deadline passes. The sitting can be delayed only if this day (or, rarely, successive days) are non-working days (Kudej, 2001, p. 71; Winczorek, 2001, pp. 78–79; see also: Naleziński, 2016, pp. 275–276; Witkowski, 2011, pp. 275ff.). Yet another opinion on the

analyzed subject was presented by Zubik and Rączka. They found the summoning of the first sitting of the newly elected Sejm both before and after expiry of the 4-year period to be acceptable (Rączka, 2010, pp. 32–34; Zubik, 2001, pp. 75–77).

Unfortunately the length limit of this article does not allow the arguments of all the mentioned authors representing three different views on the acceptable length of the normal parliamentary term of office, remaining in accordance with the Constitution,⁴ to be presented in detail. Therefore, this article will deal only with arguments supporting the opinion, shared by the author of this article, that the normal parliamentary term of office should last at least 4 years but – if the circumstances so require – it could last a few weeks more, which remains completely in accordance with Art. 98 para. 2 and Art. 109 para. 2 of the Constitution.

Articles 98 and 109 of the Constitution are both mutually connected in terms of logic and they cannot be interpreted individually. The term “4-year term of office” is not a binding interpretational directive but an element of the legal principle – the principle of the 4-year parliamentary term of office. Therefore, Articles 98 and 109 of the Constitution should be interpreted including the principle that a parliamentary term of office lasts at least 4 years. The possible shortening of the Sejm’s term of office according to Art. 98 is exceptional and should be regarded as a clear departure from the principle of the parliamentary term of office lasting 4 years. The possibility of the extension of the parliamentary term of office reflects the flexible approach of the constitutional legislators to the question of the date of summoning the Sejm for its first meeting, which is derived from Art. 109 of the Constitution. There is also a day for elections and a day for summoning the “new” Sejm for its first meeting, which meets the principle of the continuity of parliament and the necessity of a full 4-year term of office. Nevertheless, a possible extension of the parliamentary term of office for a few or a dozen days does not bring any problems as far as the theories of representation or political practice are concerned (Garlicki, 1999, pp. 8–10; Garlicki, 2001, pp. 8–9; Granat, 2001, pp. 79–81; Jarosz, 2001, pp. 69–71; see also: Gierach, 2016, p. 372).

The opinion presented above can also be supported by other arguments. Constitutional rules concerning the length of the parliamentary term of office, calling elections and summoning the Sejm for its first sitting are logically connected and cannot be interpreted separately. One of the basic principles of the systematic method of legal interpretation is an approach assuming that all legal rules, in particular legal acts, are logically connected and together create a logical system. Therefore, the President should respect the 4-year period of the term of office of the “old” Sejm when ordering the parliamentary elections and summoning the Sejm for its first sitting. The shortening of the term of office is an exception from the constitutional principle of the 4-year period of the parliamentary term of office and can be introduced only on the basis of clear rules of the Constitution, and such exceptions should be interpreted strictly. Moreover, the principle of the 4-year term enables better planning of parliamentary work: near the end of their term of office, the Sejm and Senate should finish their legislative activities concerning the most important bills. The legislative veto of the President should be taken into consideration in this case, especially with regard to the discontinuity principle of the parliamentary proceedings,

⁴ The mentioned arguments were presented in detail in Litwin, 2016, pp. 102–105.

as a method of ensuring the appropriate substantial and legislative quality of these bills. However, the extension of the parliamentary term of office beyond the 4-year limit, according to the rules of Art. 98 para. 2 and Art. 109 para. 2, could be accepted. This extension could be justified by the needs of the political parties present in the Sejm to have enough time to establish a stable governmental coalition that will have the support of a majority of deputies. The time limit to appoint the Prime Minister and Council of the Ministers is counted from the first sitting of the parliament. The consequences of not appointing the government, or the government not receiving a vote of confidence from the Sejm by a particular date are, according to Art. 155 para. 3 of the Constitution, the obligatory shortening of the parliamentary term of office and new parliamentary elections. Important issues, such as the stability of the government and the political system, should be, in this case, regarded as more important than very “rigid” and doctrinal interpretation of the 4-year period of the parliamentary term of office, especially since such an interpretation of the mentioned principle is not in accordance with the fact that the constitutional legislators gave the President a degree of freedom in ordering the date of the parliamentary elections and the date of the summoning the Sejm for its first sitting.

Last but not least, it should also be noted that the current practice concerning the length of parliamentary terms of office under the Constitution of the Republic of Poland from 1997 is not uniform. The third (1997–2001) and fourth (2001–2005) Sejms’ terms of office lasted a little less than 4 years. The most recent two Sejms’ terms of office lasted a little more than 4 years. Even though a slight shortening of the parliamentary term of office is not, as demonstrated by the analysis presented above, in accordance with constitutional rules, this did not pose any threat to democracy and did not have any destabilizing effect on the Polish political system.

Extension of the parliamentary term of office resulting from the introduction of extraordinary measures

The longest possible parliamentary term of office in accordance with the legal rules can exceed 4 years and 28 days, i.e. the maximal duration of the “normal” term of office, after the introduction of extraordinary measures. According to the first sentence of Art. 228 para. 7, during a period of extraordinary measures, as well as within the period of 90 days following its termination, the term of office of the Sejm (and, consequently, the Senate) cannot be shortened (Wolpiuk, 2002, p. 84) and elections to the Sejm and Senate cannot be held.

If extraordinary measures are introduced on the last day before the parliamentary elections (let us assume that this would take place on a Monday) and this day is also the last day before the 4-year time limit from the beginning of the Sejm’s term office expires, the term of office of both chambers would be extended. Such an extension has a legal basis in Art. 228 para. 7, first sentence, *in fine* of the Constitution. According to this rule, the extended parliamentary term of office would include the whole duration of the extraordinary measures, as well as the period of 90 days following its termination. The Polish Constitution describes three categories of extraordinary measures: a state of martial law (Art. 229), a state of emergency (Art. 230) and a state of natural disaster (Art. 232).

According to Art. 8 para. 1 of the act on martial law and the powers of the Commander in Chief, and her/his subordination to the constitutional authorities of the Republic of Poland, the procedure in which the President of the Republic of Poland, on the request of the Council of the Ministers, ends a period of martial law by issuing the appropriate regulation is described. Martial law can be lifted if the causes of its introduction no longer exist, and the state is able to function normally once again. Therefore, the lifting of martial law depends mainly on the arbitral decision of the Council of Ministers, since the President cannot lift martial law without its request. No legal rules limit the duration of a period of martial law (Kurzepa, 2017, pp. 154–155; Mażewski, 2010, pp. 240, 260; Steinborn, 2016a, p. 1618) or, therefore, the duration of the parliamentary term of office under martial law.

Article 230 of the Constitution states that a state of emergency can be introduced for a definite period no longer than 90 days, and can be extended for another 60 days. In this case, according to Art. 228 para. 7, the term of office of the parliament would be extended for 90 days after its termination. Hence, the parliamentary term of office would be maximally extended for 240 days (Prokop, 2005, p. 39; Kurzepa, 2017, pp. 90–91) and in the analyzed case (state of emergency introduced on the last day before the parliamentary elections) it would last 4 years and 239 days.

Unfortunately, the legal rules do not precisely describe what should happen next as far as the organization of parliamentary elections is concerned. It seems that, since the President's executive order concerning the organization of the parliamentary elections did not come into force, the President should once again set the date of the parliamentary elections. According to constitutional law experts, the President, without any delay, should do it after the termination of extraordinary measures and the expiry of the mentioned 90 day period (Garlicki, 1999, p. 11; Skotnicki, 2010, pp. 38–39; Szmyt, 2010, pp. 45–46).⁵

It also seems that, in this case, the legal solutions concerning the parliamentary elections after the expiry of a full normal term of office (Art. 98 para. 1–2 of the Constitution) should be used *per analogiam*. Therefore, the period between the day on which fresh elections are announced and the day of the elections should be at least 60 days. This period should not be regarded as incidental, because the organization of parliamentary elections is a complicated process which requires an appropriate amount of time. Moreover, some procedures require that the period between ordering and holding the parliamentary elections lasts over 50 days. For example, according to Art. 202 para. 3 of the Electoral Code, information regarding constituencies should be communicated to voters, in the form of an official announcement of the National Electoral Commission, no less than 52 days prior to the election day. If this rule is to be followed, this period should last at least 52 days. The constitutional 60 day period allows all proceedings concerning the organization of the parliamentary elections to be carried out. Therefore the elections could be held, in principle, after 66 consecutive days on Sunday (since the 60-day period would terminate on Monday). The President, according to Art. 109 para. 2 of the Constitution, can summon the Sejm for its first sitting on the 30th day after the

⁵ However, Eckhardt presents the opinion that the date of the elections should be fixed during the 90 day period after termination of extraordinary measures, but other activities concerning the organization of the elections should begin after the stipulated 90 days has passed (Eckhardt, 2014, p. 786).

elections. This means that the first sitting of the “new” Sejm would be held 4 years and 335 days after the beginning of the “old” Sejm’s term of office, which would last one day less than this.

Article 232 of the Constitution deals with the basic legal issues concerning the state of natural disaster. This extraordinary measure can be introduced for a definite period of no longer than 30 days, but it can also be extended. The aforementioned rule of the Constitution and also the Act on the state of the natural disaster, unlike Art. 230 of the Constitution concerning the state of the emergency, do not limit the extension. Therefore, the Sejm is free to determine the duration of the state of natural disaster (Mażewski, 2010, pp. 246, 251–252), it has only to respect the requirement that the extension should be ordered for a definite period (Art. 6 para. 1 of the Act on the state of natural disaster) (Kurzepa, 2017, pp. 167–169; Prokop, 2005, p. 119). However, the rules do not limit the number of extensions. Hence, as a consequence of successive extensions of the state of natural disaster, the parliamentary term of office could be extended for an unlimited period.

Final remarks

Although Art. 98 para. 1 of the Constitution of the Republic of Poland clearly states that the parliamentary term of office lasts 4 years, other constitutional provisions allow it to be shortened or extended. The shortening of the parliamentary term of office could lead to a situation in which it could last less than two months. The extension of the parliamentary term of office, caused by the introduction of extraordinary measures (martial law or state of natural disaster), can be ordered without a definite end date. If the President came from the same political formation as the majority in the parliament and the government, which happens in Poland very often, it could lead to an abuse of the law: the mentioned legal provisions could be used to extend the parliamentary term of office in order to avoid parliamentary elections that would lead to a change of the political majority in the parliament and a change of government (Kurzepa, 2017, p. 91; Mażewski, 2010, p. 246; Prokop, 2005, p. 40; Steinborn, 2016b, p. 1629). In addition, no clear legal principles exist regarding the organization and holding of parliamentary elections after the termination of extraordinary measures. Moreover, in political practice, full (normal) parliamentary terms of office have lasted less than 4 years, which seems unacceptable from a constitutional perspective.

The presented critical observations concerning possible deviations from the constitutional principle of 4-year parliamentary terms justify the proposal of new legal solutions. It seems that acts introducing extraordinary measures should be controlled by organs of the judicial branch, e.g. the Constitutional Tribunal or the Supreme Court. This control should include the authority to question if the desire to bring in extraordinary measures is in fact an attempt by the political majority to achieve its own ambitions – the abuse of the power to extend the parliamentary term of office to avoid new elections. Legal rules that clearly describe the procedure of organizing and holding parliamentary elections after the termination of extraordinary measures should be introduced to the Electoral Code, which should also contain a regulation concerning the full (normal) parliamentary term

of office, to ban the practice of summoning the newly elected Sejm for its first sitting before the end of the 4-year period of the parliamentary term of office of the previous Sejm.

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Jak dобра jest kadencja polskiego parlamentu? – analiza prawno-ustrojowa

Streszczenie

Główym celem naukowym artykułu jest analiza zagadnienia dłużności kadencji polskiego parlamentu w oparciu o analizę przepisów prawnych. Zgodnie z art. 98 ust. 1 Konstytucji kadencja parlamentu rozpoczyna się w dniu pierwszego posiedzenia Sejmu, a kończy w dniu poprzedzającym pierwsze posiedzenie nowo wybranego Sejmu. Pomimo, że przepis ten również wyraźnie stwierdza, że kadencja parlamentu trwa 4 lata, dłużności poszczególnych kadencji mogą być bardzo różne. W przypadku skrócenia kadencji parlamentu może ona trwać nawet mniej niż 2 miesiące. Natomiast w przypadku jej przedłużenia w wyniku wprowadzenia stanu nadzwyczajnego może ona trwać nawet około 5 lat (stan wyjątkowy) lub też jej maksymalna dłużność nie jest określona. Co więcej, nawet w przypadku „normalnych” kadencji mogą one mieć różne dłużności – trwać krócej niż 4 lata lub dłużej niż 4 lata, nawet o kilka tygodni. Przedstawione rozważania prowadzą do wniosku, że w omawianym zakresie należałoby dokonać pewnych zmian w przepisach prawnych, które gwarantowałyby co najmniej 4-letnią dłużność „normalnej” kadencji parlamentu oraz regulowałyby organizację wyborów po zakończeniu stanu nadzwyczajnego. Autor analizując przepisy prawne bazował na metodzie prawno-dogmatycznej, a dokonując interpretacji przepisów prawnych korzystał z następujących metod wykładni: językowo-logicznej, celowościowej i systemowej.

Slowa kluczowe: Sejm, Senat, parlament, kadencja, Konstytucja RP z 1997 r.

