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The institution of a national referendum in Poland after 1945

Keywords: referendum, direct democracy, constitution

Słowa kluczowe: referendum, demokracja bezpośrednia, konstytucja

Abstract

The institution of a nationwide referendum has taken root in the Polish democratic system, but it is not often used. There may be several reasons for this condition. These include the existing representative system, which makes it possible to settle matters without recourse to the will of citizens who have chosen their representatives. Another reason is the party system – parties in power often block the possibility of holding a referendum, especially when such a proposal is made by the opposition or by citizens. The subject of the article is the analysis of cases of the use of a nationwide referendum in Poland after 1945.

Streszczenie

Instytucja ogólnokrajowego referendum w Polsce po 1945 roku

Instytucja referendum ogólnokrajowego zakorzeniła się w polskim systemie demokratycznym, jednak nie jest ona często wykorzystywana. Przyczyn tego stanu może być kilka. Należy do nich zaliczyć obowiązujący system przedstawicielski, który umożliwia rozstrzygnięcie spraw bez odwoływania się do woli obywateli, którzy wybrali swoich przedstawicieli. Innym powodem jest system partyjny – partie będące u władzy często

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blokują możliwość przeprowadzania referendum, szczególnie gdy z takim wnioskiem występuje opozycja lub obywatele. Tematem artykułu jest analiza przypadków wykorzystania ogólnokrajowego referendum w Polsce po 1945 r.

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I.

The term of referendum goes back to the sixteenth century and comes from Switzerland. It derives from the principle of direct exercise of power by the citizens of a given community, which remained in force in the two cantons of Graubünden and Wallis². Representatives of municipalities elected to federal assemblies submitted reports to their mandatenders and received instructions. It was the original form of referendum³, to some extent similar to the Confederation referendum before the introduction of the Constitution of 1848 (order to take *ad audiendum et referendum* – Latin: *refero* – refer, ask)⁴. Currently, the referendum has clearly the characteristics of folk legislation and only the name shows its origin⁵.

At present, the notion of a referendum should be understood as the possibility of expressing its standpoint in a given matter in voting by all persons⁶ entitled to do so. From a technical point of view, the ability of citizens to respond to the subject of reference is very limited. It comes down to choosing between two or several alternatives. Most of them, the choice ends with selecting the answer “yes” or “no” to the question⁷.

² S. Grabowska, *Formy demokracji bezpośredniej w wybranych państwach europejskich*, Rzeszów 2009, pp. 37–47.

³ S. Grabowska, *Instytucja ogólnokrajowej inicjatywy ludowej w wybranych państwach europejskich. Studium prawno – porównawcze*, Rzeszów 2005.

⁴ W. Woodrow, *Ustrój państwowy Szwajcarii*, Warsaw 1916, p. 158.

⁵ J. Steiner, *Demokracje europejskie*, Rzeszów 1993, pp. 239–243.

⁶ A. Kulig, B. Naleziński, *Referendum w systemie ustrojowym Polski*, „Przeгляд Sejmowy” 1996, No. 5, p. 25, A. Kulig: *Formy demokracji bezpośredniej*, [In:] *Prawo konstytucyjne RP*, ed. P. Sarnecki, Warsaw 1999, p. 159.

⁷ B. Banaszak, *Prawo konstytucyjne*, Warsaw 1999, p. 242.

A referendum is not an institution often used in practice. The exception in this respect is Switzerland⁸. However, it is noticeable that institutions use a referendum more frequently⁹ in relation to the crisis of representative democracy. Opponents of the referendum negatively assess the replacement of parliament by referendums¹⁰. They argue that referendums are expensive and time-consuming, and citizens are usually poorly informed about matters related to resolving state problems, which results in low turnout during popular votes¹¹. In turn, advocates of referendums argue that the referendum is “the most democratic form of governance, which in its assumption is not to resolve conflicts arising between members of representative bodies and give full expression to the will of sovereign”¹².

Discussions related to the hundredth anniversary of Poland regaining independence prompted me to reflect on the referendum and the analysis of cases of holding a general-national referendum in Poland after 1945.

II.

The referendum is a young institution in Poland. None of the constitutions of the interwar period provided for a referendum. After the end of World War II, in the period between the adoption of the Constitution of July 22 1952¹³, it was carried out on June 30 1946 a nationwide referendum. The legal base for its implementation were two laws: on April 27 1946 on the popular vote¹⁴ and on April 28 1946 on the conduct of the popular vote¹⁵. However, the ref-

⁸ W. Linder, *Demokracja szwajcarska. Rozwiązywanie konfliktów w społeczeństwie wielokulturowym*, Rzeszów 1996.

⁹ A. Kulig, B. Naleziński, op.cit., pp. 23–40.

¹⁰ *Granice wolności. Rozmowa z sir Ralphem Dahrendorfem*, „Wprost” 1998, No. 10, p. 78.

¹¹ G. Brunner, F. Höfer, *Organizacja państwa i administracji w Niemczech*, Monachium 1996, p. 21, M. Jabłoński, *Referendum de lege lata i de lege ferenda*, „Przegląd Prawa i Administracji”, vol. XXXIX, Wrocław 1997, p. 75ff., B. Banaszak, *Prawo...*, p. 243.

¹² M. Jabłoński, op.cit., p. 78; A. Kulig, B. Naleziński, op.cit., p. 23, 24; B. Banaszak, *Prawo...*, p. 243.

¹³ Dz.U. No. 33, item 232.

¹⁴ Dz.U. No. 15, item 104.

¹⁵ Dz.U. No. 15, item 105.

erendum can be described as an “episode” which was forced by the situation and political interest. This is also confirmed by the fact that the regulations of the referendum institution were not among the provisions of the Constitution of 1952.

The introduction of this institution to Polish legislation took place only in 1987, when Polish communist authorities, wanting to secure a mandate to carry out difficult economic reforms, decided to ask citizens about it¹⁶. Due to the fact that the legal system did not provide for a referendum institution, The Sejm of the Polish People’s Republic on May 6 1987 adopted a law amending the Constitution of the Polish People’s Republic¹⁷ and a law on social consultations and referendum¹⁸. The act introduced two forms of citizen participation in the exercise of power. These were social consultations and a referendum. According to the above –mentioned regulations, on November 29 1987, a referendum was held.

The new political situation after 1989 required a change to the current constitution. Numerous projects of the new constitution¹⁹ were submitted, which envisaged the introduction of a referendum to the Polish system. On April 23 1992, the Sejm adopted a law on the mode of preparation and adoption of the Constitution of the Republic of Poland²⁰, according to which the new Constitution will be subject to a nationwide referendum. The adoption of the Constitution will be subject to a nationwide referendum. The adoption of the Constitution will take place when the majority of those taking part in the referendum prevails.

On October 17 1992, the Sejm adopted the Constitutional Act on mutual relations between the legislative and executive power of the Republic of Poland and on local self-government²¹, the so called The Little Constitution. This

¹⁶ T. Mołdawa, *Referendum w projektach konstytucyjnych lat 1989–1995*, [In:] *Referendum w Polsce i w Europie wschodniej*, eds. M.T. Staszewski, D. Waniek, Warsaw 1996, pp. 121–134.

¹⁷ Dz.U. No. 14, item 82. The change concerned supplementing Art. 2 of the Constitution by adding § 3 with the wording “The exercise of state power by working people also takes place by expressing the will by means of a referendum. The rules and procedure for holding a referendum are specified in the Act.

¹⁸ Dz.U. No. 14, item 83.

¹⁹ R. Chruściak, *Projekty Konstytucji 1993–1997*, t. 1, Warsaw 1997.

²⁰ Dz.U. No. 67, item 336.

²¹ Dz.U. No. 84, item 426.

Act regulated the use of a referendum institution, which may apply to matters of particular importance for the state. The right to its management is vested in the Sejm, by a resolution adopted by an absolute majority of votes by the President with the consent of the Senate taken by an absolute majority of votes. A referendum is considered valid if more than half of those entitled to vote take part in it²².

As a result, the new referendum act of June 29 1995²³ was adopted. This bill was prepared with a view to the necessity of holding a referendum in the future approving the new constitution. Pursuant to the Act, the referendum has the right to order the Sejm to be passed by an absolute majority of votes, in the presence of at least half of the statutory number of deputies or the President of the Republic of Poland with the consent of the Sejm taken by an absolute majority of votes, in the presence of at least half of the statutory number of deputies or the President of the Republic of Poland with the consent of the Senate taken by an absolute majority in the presence of at least half the statutory number of senators. The referendum would be binding if more than half of those entitled to vote took part in the voting or one of two solutions was in favor of the largest number of those taking part in the vote. The Act also provided for a constitutional referendum. The right to participate in the constitutional referendum was granted not only to Polish citizens residing in the territory of the state, but also Polish citizens staying abroad. The difference with the previous legal regulations referring to determining the validity of a referendum was that the constitution was approved in a referendum when the majority of those taking part in the vote voted for it. On the basis of these provisions, on May 25 1997, a constitutional national referendum was held.

The Constitution of April 2 1997²⁴, underlined the importance of the referendum as an institution of direct democracy. Articles 90, 125, 170 and 235 contain regulations concerning this institution. Article 90 permits the transfer of international state competence on certain matters by agreement of an international organization or an international body. Article 125 contains provisions relating to the national refinery and Art. 170 to the local

²² M.T. Staszewski, J.B. Falski, *Referendum w praktyce parlamentarnej X, I i II kadencji Sejmu Rzeczypospolitej Polskiej*, [In:] *Referendum w Polsce i w Europie...*, pp. 11–78.

²³ Dz.U. No. 99, item 487.

²⁴ Dz.U. No. 78, item 483.

referendum. Article 235 § 6 states that if the Sejm adopts an amendment to the constitution concerning chapters I, II or XII of the Constitution, deputies, senators or the President of the Republic of Poland may request an approval referendum.

The new law of the nationwide referendum of March 14 2003 began functioning on the eve of the Polish accession referendum. This Act sets out in detail the rules and procedure for holding referendums. A referendum on matters of special importance to the state may be ordered at the request of the Sejm or by the President with the consent of the Senate. The Act also allows the possibility of holding a nationwide referendum ordered by the Sejm at the request of citizens who for their application will receive the support of at least five hundred thousand citizens entitled to participate in the referendum. In addition, the Act regulates the manner of holding a referendum regarding the consent to ratify an international agreement and a referendum approving a change to the Constitution of the Republic of Poland.

The above analysis indicates an increase in the importance of the nationwide referendum in lawmaking in Poland. This institution, absent from the constitutions of the interwar period and in the Constitution of 1952, began to gain more and more importance in the period of 1980s. The importance of this institution is demonstrated by its inclusion in the Constitution of 1997. In accordance with the Constitution, decisions taken in general national referendums may have an impact on law-making in international, national and local self-government relations.

Since 1945, six nationwide referendums have been conducted in Poland. These were: the People's Referendum on June 30 1946, the Referendum of November 29 1987, the Referendum of February 18 1996, the Referendum of May 25 1997, the Referendum of June 7 and 8 2003 and the Referendum of September 6 2015.

III.

After the end of the war and the establishment of the Provisional Government of National Unity (TRJN), the situation in the country was complicated. In addition to parties operating legally, there were illegal parties

and armed forces that sought to overthrow²⁵. In addition to legally operating parties, there were illegal parties and armed forces that sought to overthrow the communist authorities. Therefore, the parties forming the TRJN tried to delay the holding of free elections. There was also the question of conducting a referendum put forward by Mikołajczyk, who was then picked up by PPS (Polish Socialist Party) activists as substitute for elections. On April 26–28 1946, the People's Voting and Executing of the People's Voting laws were adopted at the session of the National Council. The People's Voting Act contains the capacity of questions and the date of voting, while the law on the conduct of voting includes technical solutions related to referendum.

Pursuant to the Act of April 27 1946, the referendum was to answer the following questions: 1) Are you for the abolition of the Senate? 2) Do you want to consolidate in the future Constitution the economic system introduced by the agricultural reform and the nationalization of the basic branches of the national economy, while maintaining the statutory powers of the private initiative? 3) Do you want to consolidate the western borders of the Polish State in the Baltic, Oder and Nysa Łużycka?

The referendum took place in the atmosphere of intimidation of citizens. In some polling stations, pressure was put on citizens to vote openly, i.e. 3x YES²⁶. After the end of the vote, often in the premises of the electoral commissions, the "right" results were established.

On July 12 1946, the official results of the popular vote were announced in "Monitor Polski". According to the published data, 13 160 451 people were entitled to participate in referendum. 11 857 986 votes were valid. Another 11 530 551 votes were valid, and 327 435 votes were invalid. 7 844 522 persons answered "YES" on question 1 whereas 3 686 029 valid votes responded "NO". 8 896 105 people responded "YES" on question 2 and 3 686 029 answered "NO". 10 534 697 people responded "YES" to question 3, whereas 995 854²⁷ valid votes responded "NO". 90,10% of citizens entitled to voting in the referendum according to the official data.

²⁵ A. Paczkowski, *Referendum z 30 czerwca 1946 r. Próba wstępnego bilansu*, [In:] *Referendum w Polsce współczesnej*, eds. D. Waniek, M. T. Staszewski, Warsaw 1995, pp. 59–76.

²⁶ S. Wójcik, *Sfałszowane wybory*, Warszawa 1984.

²⁷ M.P. No. 61, item 115.

The results of the voting were presented as the success of the party, the so-called democratic block: PPR (Polish Workers' Party), PPS (Polish Socialist Party), SL (People's Party) and SD (Alliance of Democrats), but in reality this block suffered defeat. The authorities faked the results of the vote, as evidenced by recent scientific research. According to the unofficial answers "YES" gave the first question 26,9%, the second 42% and the third 66,9%²⁸.

The legal opposition, as well as the independence underground from the very beginning expressed opinions about the falsification of the voting results, reporting an electoral protest to the General People's Commissar. The experience taken by the communists during falsifying the results of the June referendum was used in future elections in the Sejm. The falsified results of the voting, which were officially announced, were used by the communist party to legitimize its power. It should be assumed that the "bad" experiences related to the popular vote in which society opted in a different way than the popular authority propagated could have an impact on the fact that the institution of the referendum was not included in the provisions of the Constitution of 1952.

IV.

The socio-political crisis in Poland in the 1980s forced the PZPR (Polish United Workers' Party) to search for new ways of democratizing the political system. One of the manifestations of this was the debate on the introduction of a referendum, both local and national, into the system of PRL (Polish People's Republic), which was the debate on the introduction of a referendum, both local and national, into the system of PRL, which was perceived as "a way of expressing the will of citizens"²⁹. The first assumptions of the law regulating the referendum were developed by the Patriotic Movement of National Rebirth (PRON) in 1983. In subsequent years, the PRON carried out work on the preparation of the referendum act, which resulted in the preparation of social bill in 1984 and

²⁸ C. Osękowski, *Wybory do Sejmu z 19 stycznia 1947 r. w Polsce*, Poznań 2000.

²⁹ A. Rytel-Warzocho, *Referendum ogólnokrajowe w państwach Europy Środkowo-Wschodniej*, Warszawa 2011.

1987³⁰. On May 6 1987, the Sejm adopted a change of constitution and a law on social consultations and a referendum, according to which the participation of citizens in the exercise of power was to take place and that matters important for the state and citizens could be resolved in a referendum. The first referendum initiative appeared on October 7 1987. The National Council of the PRON appealed to the Speaker of the Sejm with a proposal to consider the possibility of holding a nationwide referendum which was supposed to concern reforming the economy and democratizing social life. This initiative was supported by the Central Committee of PZPR and the Sejm on October 10 on the deputies' initiative, passed a resolution to hold a referendum. On October 23 1987, the parliament adopted a resolution on the detailed determination of the subject of the referendum, which set the date of its re-run on November 29 1987, and presented the content of the questions³¹.

In the resolution of October 23 1987, the Sejm defined questions that constituted the content of the referendum: 1) Are you in favor of the implementation of the program of radical economic recovery aimed at clearly improving the society's life, knowing that this requires going through a difficult two-three-year period of rapid change? 2) Do you support the Polish model of deep democratization of political life, which aims to strengthen self-governance, expand citizens' rights and increase their participation in governing the country?

On November 30 1987, the Central Commission for Referendum announced its results. The turnout was at 67,32%³². 1 601 975 people answered "YES" to the first question, which was 66,04% of valid votes. The answer "NO" was provided by 4 866 207 people which constitutes 27,70% of valid votes. 1 100 781 people did not respond to the question answered incorrectly which constituted 6,26% of valid votes. 1 27 621 people responded "YES" to the second question which constituted 69,03%. 4 317 401 people responded "NO" which constitutes 24,57% of valid votes. 1 123 941 people did not answer or they answered incorrectly on the card which was noted as 6,40% of valid votes.

³⁰ J. Jaskiernia, *Prawnoustrojowe i społeczno-polityczne doświadczenia referendum z 29 listopada 1987 r.*, [In:] *Referendum w Polsce współczesnej...*, pp. 77–88.

³¹ M.P. No. 32, item 245.

³² *Zarys instytucji referendum jako formy demokracji bezpośredniej. Referendum ogólnokrajowe w Polsce*, Kancelaria Senatu. Biuro Analiz i Dokumentacji, May 2013.

In connection with the fact that the first question was addressed by 44,28% and the second 46,29% of people from the total number of persons entitled to vote, i.e. the required threshold was not reached, the Commission stated that for both questions the results of the referendum were not binding³³.

The introduction of a referendum institution was supposed to weigh the democratization of political life by allowing citizens to participate in making decisions. Conducting a referendum and making a positive decision in it by the public could be treated by the PZPR as a legalization of planned painful reforms and at the same time as a strengthening of its image. The combination of low attendance and the adoption of the absolute majority requirement for the PRL's experience made the referendum not binding³⁴. Low attendance can be seen in distrust of the ruling party, vaguely formulated questions and fear of deterioration of living conditions associated with reforms.

V.

After 1989, the Polish political scene was very unstable. In 1989–1995, various circles and political parties tried to take the initiative of conducting nationwide referendum. On October 19 1995, a residential draft of a nationwide³⁵ referendum regarding common enfranchisement was submitted to the Speaker of the Senate which had two different variants of solutions. The subject of enfranchisement should be – the property owned by the State treasury and municipal property. This Project was rejected due to vagueness. On November 3 1995, the Senate modified by President Lech Wałęsa received a question about the attitude to universal enfranchisement. The revised referendum management project despite the negative opinion of a government representative was successfully voted in the Senate. The date of referendum was scheduled

³³ The announcement of the Central Commission for Referendum of November 30, 1987 on the result of the general-national referendum held on November 29, 1987 (M.P. No. 34, idem 294).

³⁴ *Zarys instytucji referendum jako formy...*

³⁵ A. Piasecki, *Referenda w III RP*, Warszawa 2005.

for February 18 1996. On December 2 in the parliament a draft resolution was passed by SLD (Democratic Left Alliance) deputies to conduct a nationwide referendum regarding the distribution of the state property containing three questions. On December 21 the Sejm adopted a resolution adding the fourth question by the Members of the Union Freedom. Two referendums were ordered from the legal point, which were to take place at one time and related to convergent matters.

After the defeat of Lech Wałęsa in the presidential election, the referendum lost its main supporter. Right-wing groups called for participation in voting, while left-wing parties were in favor of its boycott³⁶.

Pursuant to the Ordinance of the President of the Republic of Poland of November 29 1995 regarding the referendum on Universal citizenship ordered on February 18 1996, the ballot paper contained only one question: Are you for the widespread citizens' enfranchisement³⁷?

Pursuant to the Resolution of the Sejm of the Republic of Poland of December 21 1995 on conducting a referendum on certain directions of using state assets, the ballot contained four questions: 1) Do you agree for the obligations towards pensioners and employees of the budget sphere resulting from judgments of Constitutional Court to be covered from the privatized state property? 2) Are you in favor of part of the state's privatized state subsidized by universal pension funds? 3) Are you in favor of increasing the value of participation certificates of the National Investment Funds by including further enterprises in this program? 4) Are you considering inclusion in privatization bills in the expropriation program?

The referendums were held on February 18 1996. According to previously conducted surveys, the turnout of both referendums was low. On February 20 1996, the Announcement of the National Electoral Commission was issued in which results of referendums³⁸ were given.

³⁶ Those groups were: Independent Self-governing Labour Union "Solidarity", Movement for Reconstruction of Poland (ROP), Christian National Union (ZChN), Movement of Hundredth and Confederation of Independent Poland (KPN).

³⁷ <http://dokumenty.rcl.gov.pl/D1995138068501.pdf> (10.12.2018).

³⁸ The announcement of the Central Commission for Referendum of February 20 1996 on the result of the general-national referendum held on February 18 1996, (Dz.U. No. 22, item 101).

According to the published data, in a referendum on appropriation ordered by the President, the voting was conducted in 22 459 voting districts, 28 009 715 persons were entitled to vote, while the valid cards gave 9 076 004 persons, which was 32,40% of those entitled. 8 923 326 voters (94,54%) answered "YES" and 343 197 voters answered "NO".

In the referendum conducted on the basis of the resolution of the Sejm of December 21 1995, there were 28 009 715 persons entitled to vote and 9 085 145 persons participated i.e. 32,44% of those entitled. 8 876 924 valid votes were provided to question one. The answer "YES" was given by 8 439 458 voters and the answer "NO" was given by 437 466 voters. 8 868 294 valid votes were provided to question two. The answer "YES" was given by 8 812 931 voters and 355 363 voters answered "NO". 8 574 126 valid votes were provided to question three. The answer "YES" was given by 1 985 567 voters and the answer "NO" was given by 6 588 559 voters. 8 785 258 valid votes were provided to question four. The answer "YES" was given by 8 022 353 voters and "NO" by 762 905 voters.

The National Electoral Commission stated that for questions 1,2 and 4, the majority of voters provided a positive answer "YES", 92.89%, 93.70% and 88.30% respectively and to question 3, the majority of voters gave a negative answer "NO" 72,52%. As in the case of the presidential referendum, due to the fact that less than half of the eligible voters participated in the vote, the National Electoral Commission stated that the result of the referendum is not binding.

The referendums held on February 18 1996 were the first in the Third Republic of Poland. Their result was influenced by the socio-political and economic situation, the complexity of the questions posed and the lack of an information campaign. In the years 1989–1995, seven election campaigns and the general votes (including second round)³⁹ took place. In addition, the information campaign was carried out too late and did not allow the public to be prepared for education before voting, unaware of the law the referendum institution gave them decided that the majority would not go to the polls.

³⁹ A. Piasecki, *op.cit.*, p. 17.

VI.

The next national referendum took place over a year after the referendums were held. The subject of the referendum was the approval of the new Constitution of the Republic of Poland adopted by the National Assembly.

Pursuant to the Ordinance of the President of the Republic of Poland of April 2 1997 on conducting a constitutional referendum, the ballot paper contained only one question: Are you in favor of the Constitution of the Republic of Poland adopted by the National Assembly on April 2 1997⁴⁰. The date of voting was set for May 25 1997.

On May 26 1997, the Announcement of the National Electoral Commission on the results of the vote and the result of the constitutional referendum held on May 25 1997⁴¹ was issued and then on July 8 issued a new announcement⁴², which contained adjusted data by the Supreme Court in three districts. There were 28 319 650 persons entitled to vote, 12 137 136 persons voted, which constituted 42,86% of those entitled. The question asked in the referendum was answered by 6 396 641 voters and 5 570 493 answered "NO". The National Electoral Commission stated that the majority of voters gave a positive answer. On July 5 1997, the Supreme Court passed a resolution on the validity of the constitutional referendum⁴³. It was because according to Art. 11 § 1 of the Constitutional Act of April 23 1992, the referendum is binding since the majority of those taking part in the voting voted in favor of the adopting the new constitution.

Interestingly, supporters of the constitution did not receive such strong support, as could have been expected. One can risk saying that the votes were spread almost evenly and given the low turnout, there were more opponents of the new constitution than supporters. The result of the referendum and in particular the large share of negative responses was influenced not by the at-

⁴⁰ Ordinance of the President of the Republic of Poland, April 2 1997 on conducting a constitutional referendum. (Dz.U. No. 31, item 174).

⁴¹ Dz.U. No. 54, item 353.

⁴² Announcement of the National Electoral Commission of 8 July 1997 on the adjusted results of voting and the result of the constitutional referendum held on 25 May 1997. (Dz.U. No. 75, item 476).

⁴³ Resolution of the Supreme Court of July 15, 1997 on the validity of the constitutional referendum held on May 25, 1997. (Dz.U. No. 79, item 490).

titude to the constitution itself, but by the polarization of the political scene. This referendum was treated by many citizens as an opportunity to oppose the government.

VII.

Democratic changes that took place in Poland after 1989 initiated transformations throughout Central and Eastern Europe. During this period, efforts were made to establish political, economic and military cooperation with the countries of Western Europe from NATO and the European Union⁴⁴. In parallel with the negotiations, both in the media and in the parliament, discussions were held on Poland's accession to the European Union. There have been several failed attempts to order a nationwide referendum in which citizens could comment on matters related to integration. Such attempts were undertaken by opponents of Poland's accession to the Union. Their goal was to suspend or block the integration process⁴⁵.

On April 16th, 2003, the accession treaty was signed in Athens. On April 17 the Sejm adopted a resolution by an absolute majority of votes to order a nationwide referendum on consent to the ratification of the Treaty and petitioned the Legislative Committee to prepare and present a draft resolution to hold a referendum. Such a project was prepared on the same day. The adoption of the resolution on the accession referendum coincided with the entry into force of the new Act of March 14 2003 on the nationwide referendum.

In accordance with the resolution of the Sejm 17 2003 on ordering a nationwide referendum on granting consent for the ratification of the Treaty regarding the accession of the Republic of Poland to the European Union, the ballot card contained only one question: Do you agree to the accession of the Republic of Poland to the European Union⁴⁶? The ref-

⁴⁴ A. Piasecki, op.cit.

⁴⁵ J. Marszałek-Kawa, *Od idei „powrotu do Europy” do Traktatu Konstytucyjnego*, [In:] *Idee – Instytucje – Demokracja. Instytucjonalizacja polskiej transformacji estrowej*, ed. L. Rubisz, Toruń 2006, pp. 301–334.

⁴⁶ Dz.U. No. 66, item 613.

erendum was held on June 7 and 8 2003⁴⁷. The voting took place without major disruptions. A huge organizational challenge was securing the ballot boxes between the hours of 22.00 and 6.00⁴⁸. On June 9 2003, the Announcement of the National Electoral Commission⁴⁹ was published, in which she gave the results of the referendums. According to the published data, in the referendum ordered by the Sejm of the Republic of Poland, there were 29 868 474 people entitled to vote and 17 578 818 people participated in the voting. The turnout was 58,85%. The question asked in the referendum was answered by 13 516 612 voters, which constituted 77,42% and the answer “NO” was given by 3 936 012 voters, which accounted for 22,5%.

The National Electoral Commission in the announcement stated that more than half of those entitled to vote took part in the referendum in connection with which the result of the referendum is binding. She also stated that in the referendum the majority of valid votes were cast in favor of a positive response, therefore the President of the Republic of Poland obtained permission to ratify the Treaty on the accession of Poland to the EU.

In the accession referendum, the required threshold of 50% of frequency was exceeded. A large electoral campaign, which really started during the Polish negotiations on joining the Union, contributed to this. In the campaign for Poland’s accession to the Union, the government, the president, political parties, associations and public figures were involved.

Undoubtedly, a strong influence on the result of the referendum had to be adopted formula of a two-day referendum, which also allows for the publication of partial results after the end of the first day of voting.

⁴⁷ Announcement of the National Electoral Commission on the result of a nationwide referendum on granting consent for the ratification of the Treaty regarding the accession of the Republic of Poland to the European Union, (Dz.U. No. 103, item 953).

⁴⁸ <http://www.bankier.pl/wiadomosc/Komendant-Kowalczyk-o-pierwszym-dniu-referendum-756433.html> (10.12.2018).

⁴⁹ Announcement of the National Electoral Commission of June 9 2003 on the result of the nationwide referendum on granting consent for the ratification of the Treaty regarding the accession of the Republic of Poland to the European Union, (Dz.U. No. 103, item 953).

VIII.

The referendum in 2015 was somewhat the result of the election campaign for the office of president. Before the second round of voting, President Bronisław Komorowski willing to take over the electorate supporting Paweł Kukiz in the first round, ordered a referendum under the slogan of improving the citizen-state relationship. One of the questions was about conducting elections in single-member constituencies.

On May 13 2015, the President applied to the Senate for permission to hold a nationwide referendum to be held on June 6 2015. (Senate Print 889)⁵⁰. The referendum was to deal with matters of particular importance to the state and aimed at “enabling citizens to express their preferences in problem-related matters of significant importance for the state, such as the shape of the electoral system, the functioning of political parties and protection of the individual’s interest in the process of establishing and applying tax law”. On May 21 2015, the Senate of the Republic of Poland decided to grant permission for the President of the Republic of Poland to order a nationwide referendum⁵¹.

On June 19 2015, the decision of President Bronisław Komorowski of 17 June 2015 was announced to order a nationwide referendum⁵² as of September 6 2015. According to the decision of the President, three questions were put on the ballot. 1) Are you in favor of introducing single-member electoral districts to the Sejm of the Republic of Poland? 2) Are you in favor of maintaining the current method of financing political parties from the state budget? 3) Are you in favor of introducing the general rule of doubts about the interpretation of tax law in favor of the taxpayer? In line with earlier predictions and polls, the referendum was of little interest and it attracted a small number of eligible citizens⁵³.

⁵⁰ <https://www.senat.gov.pl/prace/senat/posiedzenia/tematy,418,1.html> (10.12.2018).

⁵¹ Resolution of the Senate of the Republic of Poland of 21 May 2015 regarding the consent for the President of the Republic of Poland to order a nationwide referendum, <https://www.senat.gov.pl/prace/senat/posiedzenia/tematy,418,1.html> (20.12.2018).

⁵² Resolution of the President of the Republic of Poland of 17 June 2015 on the ordering of a nationwide referendum. B. Banaszak, *Możliwość uchylecia lub zmiany postanowienia Prezydenta w sprawie zarządzenia referendum ogólnokrajowego*, [In:] *Aktualne problem referendum*, eds. B. Tokaj, A. Feja-Paszkiewicz, B. Banaszak, Warsaw 2016, pp. 23–30.

⁵³ Cf. *Projekt postanowienia Prezydenta RP o zarządzeniu ogólnokrajowego referendum – opinie prawne*, Office of Analyzes and Documentation. Team of Analyzes and Thematic Studies.

On September 7 2015, the announcement of the National Electoral Commission on the results of voting and the results of the referendum held on September 6 2015⁵⁴ was published. According to published data, 30 565 826 people were entitled to vote. The turnout was 7,80% which of course resulted in the fact that the result of the referendum was not binding. The answer “YES” to the first question was given by 1 829 95 voters which constitutes 78,75% and the answer “NO” was given by 793 935 voters. 404 515 voters responded “YES” to question two and the answer “NO” was given by 1 923 994 voters which amounted to 82,63%. 2 194 689 voters responded “YES” to question three, which constituted 94,51% and the answer “NO” was provided by 127 395 voters⁵⁵.

The situation before the referendum in 2015 resembled the one before the referendum of February 18 1996 (the so-called “referendum of enfranchisement”), ordered by President Lech Wałęsa. Like then, it was held after the presidential election lost by the President. The referendum was treated by the President who applied for re-election as a “tool” used to take over the votes of another candidate who received great support in the first round of elections. The referendum campaign, unlike the two previous referendums, i.e. approving the Constitution of the Republic of Poland and regarding Poland’s accession to the European Union was carried out without a momentum. It seems that the political parties did not care about the success of this referendum and even they were interested in its failure. The ideas of single-mandate electoral districts, changing the rules of party financing, as well as strengthening the citizen’s position in relation to the official apparatus were contrary to the interest of the political parties in power.

IX.

The experience so far shows that politicians are trying to use the referendum as a tool to pursue their own interests and to improve their position on the

The Chancellery of the Senate May 2015 and legal opinions contained therein.

⁵⁴ Dz.U. item 1375.

⁵⁵ Announcement of the National Electoral Commission of 7 September 2015 on the results of the vote and the result of the referendum held on 6 September 2015.

political scene⁵⁶. This is clearly visible in the case of referendums organized in 1946, 1987, 1996 and 2015.

It can be concluded that if the conduct of reference is in the interest of the government, then they support it. However, if a referendum motion is formulated by the opposition or by citizens, which usually means that it is contrary to the program or the interests of the rulers, then such a motion is rejected.

The previous referendum campaigns, as well as the referendums themselves were treated by particular parties as a form of a plebiscite and voting against something and someone, which was very clearly visible on the example of a constitutional referendum. Experiences related to the possibility of submitting citizens' applications for a referendum show that such an initiative is often used by the parties as a useful tool to focus on specific problems (and indeed around the party), groups of active citizens who may be the potential electorate of these parties.

In conclusion, it should be noted that the institution of a nationwide referendum has taken root in the Polish democratic system, but it is not often used⁵⁷. There may be several reasons for this condition⁵⁸. These include the existing representative system, which makes it possible to settle matters without recourse to the will of citizens who have chosen their representatives. Another reason is the party system – parties in power often block the possibility of holding a referendum, especially when such a proposal is made by the opposition or by citizens.

In order for the institution of a nation-wide referendum to fulfill its task, politicians must encourage citizens to take part in the vote. This is possible only when the persons in power are genuinely interested in getting to know citizens' opinions and taking them into account when making decisions, regardless of their current interests. Matters subjected to a referendum must actually be important so that the institution "does not devalue

⁵⁶ I. Molasy, *Poglądy na demokrację głównych ugrupowań opozycji politycznej w Polsce lat osiemdziesiątych*, [In:] *Demokracja. Teoria. Idee. Inspiracje*, eds. T. Biernat, A. Siwik, Toruń 2000.

⁵⁷ A. Gajda, A. Rytel-Warzocho, P. Uziębło, *Referendum ogólnokrajowe w Polsce. Zagadnienia wybrane*, Gdańsk 2016.

⁵⁸ A. Malinowski, *Spoleczne uwarunkowania referendum*, [In:] *Referendum w Polsce i w Europie...*, pp. 77–120.

itself". The referendum questions must be clear and give an unambiguous answer⁵⁹. The referendum itself must always be preceded by an appropriate information campaign, raising awareness of citizens and encouraging them to take part in the vote.

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⁵⁹ A. Rytel-Warzocho, P. Uziębło, *Kilka uwag o referendum ogólnokrajowym (wnioski de lege ferenda w oparciu o doświadczenia referendum z 2015 r.)*, [In:] *Aktualne problem...*, pp. 81–98.

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