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## **Evolution of the constitutional and legal position of the Marshal of the Sejm of the Republic of Poland**

**Keywords:** Marshal of the Sejm, the Sejm, the internal bodies of the Sejm, heading the works of the Sejm, the Parliament

**Słowa kluczowe:** Marszałek Sejmu, Sejm, organy wewnętrzne Sejmu, kierowanie pracami Sejmu, parlament

### **Abstract**

The subject of this article is to present the evolution of the constitutional and legal position of the Marshal of the Sejm, which covers the time from regaining independence by Poland to 1997 when the current constitution came into force. Assuming that both the scope of the competences connected with the operating of the Sejm and the powers beyond that area decide on the political position of the Marshal, the constitutional and regulatory solutions concerning that office were analysed. The result of those analyses proves that the position of the chairman of the Polish Sejm changed significantly over the analysed time. The changing political trends were the most important factor determining the constitutional and legal position of the Marshal of the Sejm. In the normative perspective they were reflected in the constitutional acts which were binding successively in Poland. The Marshal has always had the status of the constitutional body; however, this fact has not always determined his strong position in the Sejm.

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**Streszczenie****Ewolucja prawnoustrojowej pozycji Marszałka Sejmu Rzeczypospolitej Polskiej**

Przedmiotem artykułu jest ukazanie ewolucji prawnoustrojowej pozycji Marszałka Sejmu, obejmującej okres od odzyskania przez Polskę niepodległości do czasu wejścia w życie obowiązującej obecnie konstytucji z 1997 r. Przyjmując założenie, że o pozycji ustrojowej Marszałka decyduje zarówno zakres jego kompetencji związanych z funkcjonowaniem Sejmu, jak również jego uprawnienia wychodzące poza ten obszar, analizie poddane zostały rozwiązania konstytucyjne i regulaminowe odnoszące się do tego urzędu. Wynik tych analiz wskazuje, że prawnoustrojowa pozycja przewodniczącego polskiego Sejmu, na przestrzeni analizowanego okresu, ulegała istotnym zmianom. Najważniejszym czynnikiem determinującym prawnoustrojowy status Marszałka Sejmu były zmieniające się trendy ustrojowe, które w płaszczyźnie normatywnej, znajdowały odzwierciedlenie w kolejno obowiązujących w Polsce aktach konstytucyjnych. Marszałek zawsze posiadał status organu konstytucyjnego, jednak ten fakt nie zawsze determinował jego silną pozycję w Sejmie.

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The main research aim of this paper is to present the evolution of the office of the chairman of the Sejm in the period from the time when Poland regained independence in 1918 to the entry into force of the constitution of the Republic of Poland of 1997. Determining the constitutional and legal position of the Marshal of the Sejm requires conducting analysis on two levels. The first one is connected with his role as the internal body of the Sejm, and the second one is connected with his tasks exceeding the scope of the Sejm matters, in particular those connected with the functioning of the entire system of the state authorities. The analysis of the changes that occurred over the indicated time will allow to show the political trends defining the constitutional and legal position of the said body.

Regaining independence by Poland on 11 November 1918 was the event whose significance cannot be overestimated. Organising the system of the authorities of the new state became a foreground task of the temporary author-

ities. On 26 January 1919 the Polish people elected the Sejm, which adopted the legal act of constitutional rank stipulating the political system of the state for transitional period<sup>2</sup>. Only one article was devoted to the Marshal of the Sejm, and it vested in him the power to promulgate the laws passed by the Sejm. Accepting such a political construction was an expression of the Sejm's central position in the structure of the state authorities<sup>3</sup>, as generally the said power was granted to the head of the state.

The temporary rules and regulations of the Sejm, which were passed on 14 February 1919, stipulated the competences of the Marshal inside the Sejm<sup>4</sup>. According to it the Marshal was elected by the Sejm by an absolute majority of votes by secret ballot. His competences inside the Sejm were broadly defined. They were mainly the tasks connected with the mode of operation of the Sejm. The Marshal established the agenda of every sitting of the Sejm; however, it had to be presented to the Sejm for its approval. He presided over the debates of the Sejm. Applying the certain disciplinary measures to the members of Parliament was also within his competences. Interpreting the provisions of the rules and regulations of the Sejm was an important entitlement of the Marshal as well.

The constitution of 17 March 1921 was the first legal act fully regulating the political system of Poland after regaining independence. The Marshal of the Sejm had a status of the constitutional body, and he was equipped with the politically essential competences. The most important one was the right to temporarily discharge the duties of the President of Poland. The Marshal performed the function of the head of the state in the event of a vacancy in the office of the President or his inability to discharge the duties. If the office of the head of the state was not vacant, the replacement could take no longer than 3 months. Moreover, the Marshall was entitled to preside over the debates of the National Assembly. If a member of Parliament was detained by the judicial authority because he was caught in the act of committing a common crime, the Marshal could decide to release him until the Sejm gave its consent to the deprivation of liberty of the said member of Parliament.

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<sup>2</sup> The Resolution of the Sejm of 20 February 1919 providing for the continued exercise by Józef Piłsudski of the office of the Head of State (Dz.P.P.P. No. 19, item 226).

<sup>3</sup> See G. Koksanowicz, *Prawnoustrojowa pozycja Marszałka Sejmu w okresie II Rzeczypospolitej*, "Przegląd Sejmowy" 2003, No. 2, p. 64.

<sup>4</sup> The rules and regulations can be seen in "Przegląd Sejmowy" 1993, No. 1, pp. 100–110.

The rules and regulations of the Sejm stipulated the competences of the Marshal connected with the operation of the Sejm<sup>5</sup>. The Marshal presided over the debates of the Sejm, safeguarded its dignity and rights, and represented the Sejm in external relations. Like in the years 1919 – 1921 he was elected by an absolute majority of votes. The Marshal established the agenda of the debates of the Sejm (which required the approval of the Sejm), he was also entitled to interpret the rules and regulations of the Sejm. His competences included the application of administrative and order measures towards the members of Parliament (calling such a person to order and the temporary exclusion thereof from the debates). In the years 1921 – 1935 the parliamentary practice significantly influenced the position of the Marshal. The constitution of 1921 introduced the parliamentary system of the government. Establishing the coalition which was able to form the government resulted from the political consultations which were held inter alia with the participation of the Marshal. As the Marshal represented the Sejm in external relations, he informed the head of the state on the results and chances of forming the coalition around the potential prime minister candidates<sup>6</sup>.

When analysing the factors shaping the constitutional and legal position of the Marshal of the Sejm, the practice that appeared in the Sejm of the 3rd term of office should be mentioned. Its first sitting was held on 9 December 1930, and then the Marshal was elected. Directly after having been elected the Marshal requested for a brake in the debates, and after the debates were resumed he informed the Sejm that he took the office as the President had accepted his candidature. That gesture should be understood as an expression of the subordinate position of the Sejm in the system of the state authorities<sup>7</sup>. The Marshal of the Sejm of the 3rd term of office introduced a practice of consulting the agenda with the Council of Ministers. The political practice in the indicated period shows that the Marshal of the Sejm became a spokesperson of the government interest towards the Sejm.

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<sup>5</sup> In the period in which the constitution of 1921 was binding, the Sejm was operating on the basis of the two rules and regulations. The first one was passed on 16 February 1923 (the text available in "Przegląd Sejmowy" 1993, No. 2, pp. 134–156) and the second one was passed on 16 December 1930 (the text available in "Przegląd Sejmowy" 1994, No. 1, pp. 121–143).

<sup>6</sup> Cf. M. Pietrzak, *Rządy parlamentarne w Polsce w latach 1919–1926*, Warsaw 1969, pp. 158–159.

<sup>7</sup> See A. Ajnenkiel, *Historia sejmu polskiego, v. 2 part 2 II Rzeczpospolita*, Warsaw 1989, p. 168.

The provisions of the next constitution, which was passed on 23 April 1935, considerably modified the political system of Poland. The assumptions of the parliamentary system were replaced with the principle of the unitary and indivisible authority of the President. The constitution assumed the decreasing of the political role of the two houses of the Parliament. The consequence of such decisions was the lowering of the significance of the position of the Marshal of the Sejm in the system of the state authorities. Characteristically, however, the constitution reinforced his position as the internal body of the Sejm. It concerned in particular his “supervisory” powers towards the members of Parliament. The Marshal of the Sejm lost his competence to replace the President of the Republic of Poland. Under the provisions of the constitution of 1935 this function was performed by the Marshal of the second house, i.e. the Senate.

The scope of the rights of the Marshal inside the Sejm was defined in the rules and regulations of the Sejm, which were passed on 5 October 1935<sup>8</sup>. The Marshal was vested with the right to establish the agenda of the debates independently, which was a significant change in comparison to the previous regulations. It did not have to be approved by the Sejm any more. The right to the discretionary assessment of the bills proposed in the Sejm was a new entitlement of the chairman of the Sejm. He could reject a given bill if he decided that it was inconsistent with the constitution<sup>9</sup>. As far as the course of the legislative procedure was concerned, a new entitlement of the chairman of the Sejm was deciding whether a given bill was to be considered as urgent, which determined the course of the parliamentary proceedings. A custom which was previously introduced by practice that the member of Parliament who was elected to be the Marshal of the Sejm was accepted by the President evolved into a legal norm which was added to the rules and regulations of the Sejm in 1938.

The Polish political system in the first years after the World War II (the years 1947–1952) was governed by the constitution of 19 February 1947<sup>10</sup>. Defining the constitutional and legal position of the Marshal of the Sejm it re-

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<sup>8</sup> The text of the rules and regulations is available in “Przegląd Sejmowy” 1994, No. 2, pp. 160–184.

<sup>9</sup> G. Koksanowicz, *Prawnoustrojowa pozycja...*, p. 86.

<sup>10</sup> The Constitutional Act of 19 February 1947 on the political system and the scope of activity of supreme authorities of the Republic of Poland (Dz.U. No. 18, item 71).

ferred to the solutions from the constitution of 1921. The Marshal had a status of the constitutional body, he was also equipped with the right to replace the President. He was also an ex officio member of the Council of State of the Republic of Poland, which was the new executive authority provided for in the provisions of the cited law<sup>11</sup>.

In the said period the position of the Marshal as the internal body of the Sejm was reinforced. Primarily, it resulted from all the solutions adopted in the rules and regulations of the Sejm of 25 June 1948<sup>12</sup>. During the session the Marshal established the dates of the plenary sessions of the Sejm, he independently decided on the agenda, he could also change the order of the items on the agenda, he defined the legislative procedure for every bill<sup>13</sup>, referring it either to the plenary session of the Sejm or directly to the sitting of the Sejm commissions which he supervised.

The period of the Polish political system transformation, which started after the World War II, and the establishment of the grounds for the socialist state were reflected in the constitution of the People's Republic of Poland of 22 July 1952. Its provisions provided for the principle of uniformity of the state power, which assumed the central position of the Sejm in the entire system of the state authorities. Under the provisions of the constitution of 1952 the Marshal performed the two basic functions: he presided over the debates of the Sejm and he supervised the course of its operations. However, it should be noted that none of the three rules and regulations of the Sejm binding in accordance with the constitution of 1952<sup>14</sup> included the Marshal to the structure of the internal bodies of the Sejm. The Marshal, who was the constitutional body, presided over the debates of the Sejm, performed the actions connected with the preparation of the sittings; however, they were mainly the

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<sup>11</sup> *Polskie prawo konstytucyjne*, ed. W. Skrzydło, Lublin 2010, p. 50.

<sup>12</sup> The text of the rules and regulations is available in "Przegląd Sejmowy" 1995, No. 2, pp. 157–175.

<sup>13</sup> J. Ciemniowski, *Zasady organizacji i funkcjonowania Sejmu Ustawodawczego*, [In:] *Sejm Ustawodawczy Rzeczypospolitej Polskiej (1947–1952)*, ed. M. Rybicki, Wrocław–Warsaw–Cracow–Gdańsk 1977, pp. 141–142.

<sup>14</sup> The rules and regulations of the Sejm of 21 November 1952, the text available in "Przegląd Sejmowy" of 1993, No. 2, pp. 155–165; the rules and regulations of the Sejm of 1 March 1957, M.P. No. 19, item 145; the rules and regulations of the Sejm of 17 July 1986, M.P. No. 21, item 151.

actions of technical nature. Additionally, there was another collective body of the Sejm, i.e. the Presidium. It operated under the principle of collegiality and it played a leading role in the process of managing the Sejm proceedings<sup>15</sup>. It was in charge of establishing the agenda of the sittings, safeguarding the progress and timely completion of the work of the Sejm, representing the Sejm in external relations, and safeguarding its rights.

The period of political transformation covering the years from 1989 to 1997 meant gradual restoring the solutions typical for the democratic states. Those changes also had an influence on the constitutional and legal position of the Marshal of the Sejm. His competences not connected with the operations of the Sejm included: convening the National Assembly (joint houses of the Sejm and Senate), ordering general elections for the office of the head of the state, replacing the President of the Republic of Poland, the right to express his opinion on the President's possible decision on dissolution of the Sejm before the expiry of its term of office. The opinion of the Marshal was not binding for the President; however, it could affect the legislature.

The new rules and regulations<sup>16</sup>, which significantly reinforced the position of the Marshal in the Sejm, were passed by the Sejm on 30 July 1992. Primarily, he formally gained the status of the internal body of the Sejm. Under the provisions of the rules and regulations the Marshal safeguarded the rights and dignity of the Sejm. For the first time the rules and regulations vested in him the right to head the work of the Sejm. The Marshal was vested with a very important right to endorse legislative initiatives and to safeguard the progress and timely completion of the work of the Sejm and its bodies. His role as a member of the Presidium of the Sejm increased as well. During the elections taken within that body, in the event of an equal number of votes, the Marshal had a casting vote. The new distribution of competences made between the Marshal and the Presidium of the Sejm resulted in the increase of the role of the Marshal of the Sejm as the governing body of the Sejm.

Passing the constitutional law of 17 October 1992 on the Mutual Relations between the Legislative and Executive Authorities of the Republic of Poland, and the Local Government (so-called small constitution) changed the con-

<sup>15</sup> A. Gwizdź, *Zagadnienia parlamentaryzmu w Polsce Ludowej*, Warsaw 1972, p. 61.

<sup>16</sup> The Resolution of the Sejm of the Republic of Poland of 30 July 1992 – the Rules and Regulations of the Sejm of the Republic of Poland (M.P. No. 26, item 185).

stitutional and legal position of the Marshal of the Sejm<sup>17</sup>. This Law made the Presidium of the Sejm the constitutional body and vested in it the right to convene the sittings and to head the work of the Sejm. It meant deciding on the principle of collegiality, i.e. inter-party heading of the work of the Sejm on the constitutional level<sup>18</sup>. The consequence of such a decision was decreasing the role of the Marshal of the Sejm as the internal body of the Sejm. As a result of the amendment to the rules and regulations of the Sejm of 1992, connected with the small constitution coming into force, the Marshal lost among others the right to endorse legislative initiatives in favour of the Presidium of the Sejm. When it came to his rights not connected with the operation of the Sejm, he retained his previous competences to order the presidential elections, to replace the President, to preside over the debates of the National Assembly, and to express his opinions on the procedure of the Sejm's dissolution by the President's decision.

The period of political transformation in Poland finished with the passing of the currently binding constitution of 2 April 1997<sup>19</sup>. Its entry into force considerably modified the constitutional and legal position of the Marshal of the Sejm. However, this modification did not refer to the basic change of the rights of the Marshal exceeding the scope of the Sejm matters. The chairman of the Sejm retained his previous competences in this respect, which was the right to replace the President in the event of a vacancy in the office of the President or his temporary inability to discharge the duties or the right to preside over the debates of the National Assembly. He was also entitled to initiate the proceedings before the Constitutional Tribunal. The change of his constitutional and legal position was basically a consequence of the fact that the Presidium of the Sejm was deprived of its status of the constitutional body. Such a decision along with the constitutionally stipulated tasks of the Marshal, which included safeguarding the rights and dignity of the Sejm, presiding over the debates of the Sejm and representing the Sejm in external relations, was a reason for a different distribution of the managerial competences between the Mar-

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<sup>17</sup> Dz.U. No. 84, item 426.

<sup>18</sup> L. Garlicki, *Remark 11 concerning Article 10*, [In:] *Komentarz do Konstytucji Rzeczypospolitej Polskiej*, t. II, ed. L. Garlicki, Warsaw 1996, p. 6; cf.: Z. Czeszejko-Sochacki, *Prawo parlamentarne w Polsce*, Warsaw 1997, p. 143.

<sup>19</sup> Dz.U. No. 78, item 483.



shal and the Presidium of the Sejm<sup>20</sup>. The Sejm amended its rules and regulations on 28 October 1997, which resulted in granting the Marshal the basic entitlements concerning heading the work of the Sejm. The majority of the essential entitlements, which were previously exercised by the Presidium of the Sejm, was granted to the said single-person body. The Marshal gained a considerable influence on the process of heading the work of the Sejm through obtaining such competences as convening the sittings of the Sejm, formal supervision (and substantive supervision in the defined scope) of the proposed bills, endorsing legislative initiatives, establishing the agenda of the sittings of the Sejm, and defining the legislative procedure for every bill. The scope and gravity of the competences of the Marshal of the Sejm, which were connected with the operation of the Sejm, prejudged his strong position in the Sejm. The adopted normative solutions make him currently the basic organ which heads the Sejm internally.

For the entire analysed period of the operation of Poland the Marshal of the Sejm had a status of the constitutional body. His constitutional and legal position changed in different periods, which was connected with the periods of validity of the successive constitutional acts.

The period of the Second Polish Republic covering the years 1919 – 1939 was characterised by the strong position of the Marshal as the internal body of the Sejm. The position of this body, as it performed the tasks not connected with the operation of the Sejm, was changeable and it was a derivative of the political position of the Sejm. In the first years after regaining independence, when the constitution of 1921 was binding, the strong position of the Marshal resulted from his politically essential competences (e.g. the replacement of the President) and the political practice (participation in the consultations aiming at the formation of the parliamentary majority). Under the provisions of the constitution of 1935 the position of the Marshal of the Sejm decreased considerably on this level.

In the post-war period, after the initial enforcement of the Marshal's position as the internal body of the Sejm, under the rules and regulations of 1948 the constitutional and legal position of the Marshal of the Sejm decreased

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<sup>20</sup> The Resolution of the Sejm of 28 October 1997 on the amendment to the rules and regulations of the Sejm of the Republic of Poland (M.P. No. 80, item 779).

considerably, despite the fact that the Sejm was formally granted the central position in the system of the state authorities by the constitution of 1952. His constitutionally stipulated functions of presiding over the debates and heading the work of the Sejm in practice meant performing the actions of technical nature. On the level of the operation of the Sejm, the Presidium of the Sejm started to play a dominating role. When it came to the actions not connected with the Sejm, the Marshal did not play any important role.

In the years 1989 – 1997 (political transformation) the role of the Marshal of the Sejm increased on the level of the tasks not connected with the operation of the Sejm. The Marshal became *de facto* the second person in the state after having been provided with the function of the deputy of the President. As far as his position inside the Sejm was concerned, after the initial increase of his role (until the small constitution came into force in 1992), there was a change in the opposite direction resulting from the fact that the Presidium of the Sejm was made the constitutional body and it headed the work of the Sejm.

The currently binding constitution, which came into force in 1997, led to the enforcement of the constitutional and legal position of the Marshal of the Sejm. The chairman of the Sejm retained or even extended the scope of his tasks, which were beyond the field of the operation of the Sejm. Due to the fact that the Presidium of the Sejm was deprived of the status of the constitutional body and the consequent amendment was made to the rules and regulations of the Sejm in this respect, which consisted in the Marshal being vested with the governing competences of that body, his position in the Sejm was reinforced considerably. The Marshal became the single-person managing body of the Sejm, equipped with the most important competences when it came to managing the works of the Sejm.

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