



SENAT RP

NOTES ON THE SENATE

**SENATE
OF THE REPUBLIC
OF POLAND**

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Rights and Obligations of a Senator

Both the rights and the obligations of a senator are strictly regulated by the provisions of the Constitution of the Republic of Poland, by various legal acts – particularly the Act on Exercising the Mandate of a Deputy or Senator – and by the Rules and Regulations of the Senate.

Work at the Senate

Senators are required to actively participate in Senate sessions and in meetings of the Senate's various bodies (committees, Presidium, Council of Seniors, etc.). The salary of senators who violate this obligation and miss meetings without justification, or come to meetings but do not bother to vote, is reduced for the month when these violations have occurred. At Senate plenary sessions, senators can speak on the issue at hand, submit motions relative to the examined legislation or resolution (i.e. propose its rejection or adoption without amendments, or suggest amendments thereto), present what is called "formal" motions (e.g. calls for a recess or for limiting the length of speeches, etc.) and submit motions concerning the agenda. When the Senate is examining a bill, the senator who has presented a Senate committee's assessment thereof on the Senate floor must, after the Senate has finished dealing with the bill, also explain its final decision to the appropriate committees.

A senator is entitled to propose a bill on behalf of a group consisting of 10 senators or draft resolution. If the bill passes the Senate, it is subsequently sent to the Sejm (*Lower House*) as a legislative initiative.

A senator must submit his candidature for membership in at least one standing Senate committee. As a committee member, the senator is entitled to speak out on issues included on the agenda, submit motions relative to legal acts under examination and offer comments and suggestions concerning the committee's work and deliberation procedures. Senators may also actively participate in the work of any other committee of which they are not members, but are not entitled to vote at its sessions.

One of the entitlements ensuing from exercising the senatorial mandate is the opportunity to make a senator's statement at the end of each Senate sitting. If the senator's statement contains motions or comments directed to the government or other institutions, the statement is handed over to that party, which is then obligated to respond.

Work Outside the Parliament

Independently from speaking at Senate sittings, senators are entitled to request information or clarifications in matters associated with the performance of their parliamentary functions from members of the Council of Ministers and representatives of other state or local self-government bodies and institutions. A senator is entitled to examine the documentation and performance of public administration authorities, enterprises in which the State Treasury has a share, as well as plants and enterprises owned by the state or a local self-government. Moreover, senators may come forward with the so-called "intervention" – i.e. they can look into a particular matter

(for example, on behalf of their constituents) and request a report on how it has been solved. This entitlement enables senators to assist citizens in situations where a government department or another public institution delays decisions that affect them without a due cause.

A senator may open an office in his electoral district to help him with his tasks. The amount of funds allocated to running a senatorial office is determined by the Senate Presidium. The Senate Chancellery assists senators in organising, equipping and running their offices.

Since a large proportion of a senator's tasks is accomplished in his electoral district, he is entitled by law to participate in sessions of provincial self-governments as well as regional and municipal councils located in that district. While taking part in these sessions, a senator has the right to submit comments and motions.

Immunity

The so-called "immunity" is an extremely important senatorial entitlement. Its objective is to provide a senator with a guaranteed protection and independence in the performance of his tasks. In other words, a senator cannot be held accountable for any action taken in connection with the execution of his mandate. He is accountable for any such action only to the Senate. This protection is guaranteed both during and after a senator's term of office. However, if a senator infringes personal interests, then the Senate may agree to hold the senator accountable. A senator's immunity also extends to criminal matters, and so he cannot be held criminally responsible without the Senate's approval, unless he himself acquiesces thereto. If a criminal proceeding has been launched against a candidate to the Senate prior to a senatorial election, then, it must be suspended following the date that person is elected, until the expiry of his mandate, provided that the Senate submits such motion to the authority conducting the proceedings. This does not mean that he will escape being judged by a court of law. Matters that cannot be pursued while a senator is protected by the parliamentary immunity are not subject to the statute of limitations. Therefore, if a proceeding against a senator cannot be continued during his term of office (i.e. he is not willing to forfeit his right to immunity and the Senate does not agree to revoke it), then it can be resumed after the term of office ends.

A senator cannot be arrested or retained without the Senate's permission unless he is caught in the commission of an offence, and that only if the arrest is indispensable to ensuring a proper course of the criminal proceeding.

Interdiction to combine the mandate

As in many modern democracies, the Polish governance system is founded on the principle of the separation and mutual control of the legislative, executive and judicial power. At the same time, parliamentarians are discouraged from engaging in occupations that might interfere with their time-consuming civic duties or compromise their independence. This objective is achieved by the interdiction to combine the senatorial mandate with certain other functions or occupations.

The senator's mandate must not be combined:

- with the office of National President, mandate of a Sejm or European Parliament Deputy, office of President of the National Bank of Poland, Supreme Chamber of Control or Institute of National Remembrance, Commissioner for Citizens' Rights Protection, Ombudsman for Children, ambassador, member of the Monetary Policy Council, National Radio and Television Council, Council of the Institute of National Remembrance, councilperson or member of a local self-government;
- with employment in the central government (except members of the Ministers' Council and secretaries of state) and the local self-government, chancelleries of the President, Sejm or Senate, in the Supreme Chamber of Control, in the office of the Constitutional Tribunal, Supreme Chamber of Control, Commissioner for Citizens' Rights Protection, Ombudsman for Children, National Radio and Television Council, Institute of National Remembrance, National Election Bureau, State Labour Inspectorate, in civil service and in court and prosecutor's office administrations;
- judges, prosecutors, civil servants, active soldiers, police and state security officers must not be elected to the Senate (if elected, they must resign their current position).

Before becoming a senator one must give up his or her aforementioned position or function within 14 days of the announcement of election results – a failure to do so causes expiry of the senator's mandate. Conversely, the mandate expires on the date the senator is appointed to any of the aforementioned positions or functions.

Involvement in Paid Activities

A senator holds a position of public trust and participates in the exercise of the legislative power. Therefore, he is subject to special restrictions as concerns his involvement in business activities. He must not carry out activities that would entail benefiting from state or local self-government (i.e. municipal, regional or provincial) assets. A senator must not be a member of the governing body of an enterprise in which the State Treasury or local self-government hold shares, cannot be involved in a business where he would be using State Treasury or communal property, is not allowed to manage or represent such business (even if he is not its owner), and cannot own more than 10% of shares in a business where the state or a communal legal person is a shareholder. In case of transgressing this interdiction, a senator is liable to be brought before the State Tribunal, which may revoke his mandate.

A senator must inform the Senate Speaker of any additional activities he is planning to undertake. The only exception to this rule is an activity associated with author's rights, such as writing books, articles, etc. Senators involved in such additional activities, or in running a business, are not entitled to use their mandate with a view to obtaining special privileges. Moreover, senators must not undertake any activities that could result in losing the public trust or accept gifts that could impair it.

At the beginning and at the end of each Senate term, and also at the beginning of the calendar year, senators file a financial statement specifying their personal assets and those held jointly with their spouse. The statement must include assets such as properties, corporate stocks and shares, and pecuniary resources, as well as liabilities (debts) in excess of a specified amount. This information is reviewed by the Rules, Ethics and Senatorial Affairs Committee as well as the taxation authority, and the result of these reviews is reported to the Presidium of the Senate. Beginning with the Fifth Term Senate, information provided in senators' financial statements, except the address of residence and location of properties, is subject to public scrutiny and can be looked up on the internet.

In addition, the Senate Speaker maintains a so-called "register of benefits" (*Rejestr Korzyści*), in which every senator enters all benefits received personally or by his or her spouse, such as positions or activities for which they are paid, gifts they have received, as well as domestic and foreign trips they have made (except for those associated with official travel on Senate business), which were not paid for personally, by the institution for which they work or by their political party. The register is open to the public. Moreover, the Senate Speaker makes the register's content publicly known in a special annual publication.

A senator who does not abide by restrictions relating to the involvement in paid activities, or does not acquit himself of his responsibilities, risks being subjected to the regulatory accountability (specified in the Rules and Regulations of the Senate) and other legal sanctions. For example, a failure to file the financial declaration within the prescribed period results in the loss of pecuniary benefits until the declaration is filed whereas not disclosing the required information or providing false information in the financial statement is subject to criminal prosecution.



A room in MPs' Hotel
(Fot. J. Zawadzki)

In order to ensure the proper execution of a senator's tasks, the law compels employers to provide subordinates who have been elected to the Senate with a leave without pay extending throughout their mandate and three months thereafter. Furthermore, these persons are entitled to return to their workplace after the expiry of the mandate. Getting a leave without pay is a senator's privilege (except for persons who are bound by the interdiction to combine the mandate, as described earlier, and are obligated to take it). If he chooses not to get it while fulfilling his mandate, his employer must give him enough time off to be able to perform his parliamentary tasks (for example, to travel to the Senate with a view to participating in its sittings or in Senate committee meetings).

Salary

A senator who is on leave without pay from his usual employment while fulfilling his mandate, who does not operate a private business and who is not entitled to a retirement or disability pension receives a monthly salary. Its amount is equivalent to the salary of an under-secretary of state (deputy minister). Chairmen and deputy chairmen of Senate committees receive a supplement amounting to 20% and 15% of their basic salary respectively. Chairmen of Senate standing subcommittees, secretaries of Senate and members of the European Union Affairs Committee receive a supplement of 10% of their basic salary. The total of supplements ensuing from holding several concurrent functions cannot exceed 35% of the basic salary.

At the end of the mandate, senators receive a so-called "parliamentary allowance", equivalent to three monthly wage payments. However, this allowance does not apply to senators re-elected for another term.

All senators are entitled to a parliamentary per diem allowance regardless of whether they are "professional" senators (i.e. receive a senator's salary) or continue holding a paid employment outside the parliament (and so do not receive a senator's salary). The per diem is meant to cover expenses incurred while fulfilling the senatorial mandate. The monthly per diem allowance is equivalent to 25% of a senator's salary.

Other Entitlements

Senators perform their duties not only in the Parliament but also in their electoral districts and in other locations, inside the country as well as abroad. Therefore, they must often travel, particularly to the Senate (several times in a month) with a view to participating in its sittings and in committee meetings. This is why senators are entitled to free travel by urban and public transportation (using the state railway and road transportation systems), and to free airline tickets on domestic flights.

Senators who do not live in Warsaw permanently use the assistance of the Senate Chancellery in finding accommodation in the capital. Most stay at Dom Poselski (a hotel located in the Sejm Chancellery that caters to MPs and senators). Others use different hotels or rent apartments. Their accommodation is paid by the Senate Chancellery. Accommodation expenses incurred by senators who must travel away as part of their official duties are reimbursed by the Senate Chancellery up to an annual limit set for that purpose.

The task of the Senate Chancellery is assist senators in the performance of their duties. The staff of its various bureaux provides senators with information support (for example, concerning legal provisions in various European countries in relation to the topic of interest to a senator), prepares opinion statements on subjects indicated by senators or contract that work out to external experts, provides legal advice, and assists in the preparation of legislative amendments or new bills.

Senators receive, free of charge, all printed matter relative to the Parliament's legislative activities, such as bills and Sejm committee opinion statements relative thereto, laws passed by the Sejm, various expert opinions, comments, support documentation, etc. In addition, senators do not need to pay for special official gazettes that carry currently binding legal acts ("Journal o Laws" – "Dziennik Ustaw", "Monitor Polski"). If a senator's duties include writing correspondence, he or she may use special letterhead envelopes and paper supplied by the Senate Chancellery. There is no fee for mailing such letters.