

**SUMMARY REPORT ON THE SEMINAR:
QUALITY OF LEGISLATION –VIEWS FROM POLAND
Brussels, 9 December 2011**

Mr Patrick Hetsch, Deputy Director-General of the European Commission Legal Service, opened the Seminar and welcomed speakers and participants.

Mr Marek Zubik, Judge of the Constitutional Tribunal, presented the characteristics and different stages of the Polish legislative procedure and the participants involved. The participants are the Sponsor, the Sejm, the Senat, and possibly, at a later stage, the President who can introduce the presidential veto, and finally the Constitutional Tribunal, the role of which is to exercise preventive control.

Mr Zubik outlined the different roles of the lower chamber Sejm and the higher chamber Senat in the legislative process. As a rule, a bill is submitted to the Marshall of the Sejm who has the right to consider it as unlawful (eg. contrary to the EU law or legislative drafting rules). Among the formal requirements the submitted bill shall be accompanied by a statement of compliance with EU law. The legislative work in the Sejm consists of three readings (work in the plenary session or in committees, debate and amendments and vote), while the power of the Senat includes adoption of a bill without amendments, or adoption of amendments or complete rejection of the bill.

As potential problems of the legislative procedure in Poland, Mr Zubik mentioned the fact that the government has a limited possibility to influence the parliamentary legislative procedure, the unlimited range and the principle of absolute exclusivity of statutory regulation, frequent statute amendments, which cause lack of stability in the legal system, as well as the excess of adopted regulations and lack of deregulation process. This raises concerns as regard transparency/accessibility of the law. As far as the citizens' initiative is concerned, Mr Zubik underlined that Polish citizens make use of the right to introduce bills: until now 19 bills have been submitted concerning for example retirement and disability pensions, labour law and tax system.

Mr Wiesław Staśkiewicz, Deputy Director of the Parliamentary Library, explained the role of the Polish Parliament in the implementation of the EU law in Poland and in ensuring the respect of the principle of subsidiarity by the EU. Both processes are quite aptly regulated by national law. In both areas the major role is played by specialised parliamentary committees, with only rare cases of debate in the plenary.

Mr Staśkiewicz explained that due to the structure of the Polish legal system (statutory exclusivity), most of the EU instruments needed to be implemented by means of statutory provisions, and thus required parliamentary intervention. This creates certain challenges: highly technical issues already decided on the EU level are once more open to political debate; a substantial quantitative burden is placed on the Parliament; the number of committees involved (different for each subject-matter) makes it difficult to ensure coherence.

With regard to the role of the Parliament as a guardian of subsidiarity, Mr Staśkiewicz stressed the political rather than legal importance of the function. The composition of the competent parliamentary committee (the EU Affairs Committee) must reflect the current party composition of the Parliament. The procedure provided for by the Protocols 1 and 2 to the

Lisbon Treaty being quite recent, so far each chamber of the Parliament adopted only 7 opinions on subsidiarity.

He concluded that the improvement of the Polish Parliament's role in creating and implementing EU law might require a modification of the Parliamentary Rules of Procedure, to reflect the recent changes at the governmental stage of the law-making process (discussed further by Mr Berek). He also hinted at certain far-reaching reform proposals, which would lead to in the increased legislative powers of the government.

Mr Maciej Berek, President of the Government Legislative Centre (GLC), outlined the role of the GLC in the legislative process in Poland.

Since the reform in 2009, the GLC prepares bills on the basis of assumptions accepted by the Council of Ministers, evaluates all drafts of government legislative documents and is responsible for editing the Journal of Laws and the Official Gazette. Mr Berek explained that the preparation of bills requires cooperation within the government and this varies from case to case. As a rule, the GLC should be involved in the legislative process also at the stage of parliamentary works, but it is the government who decides on the GLC's participation in preparation of legislation. This could be considered a weak point of the procedure. In order to improve cooperation, the GLC organises seminars and workshops. Mr Berek stressed the GLC's role as a legislator, but mentioned that the responsibility for the final shape of bills lies with the relevant ministry.

The publication of legal acts in Poland was the last subject developed by Mr Berek: in 2008 the first electronic version of the Journal of Laws was published; as of 2012 the Journal of Laws of the Republic of Poland will only be published in the electronic version.

Ms Anna Dumas, Judge of the Supreme Administrative Court, gave her insight into the way Polish courts deal with cases involving application of EU legislation.

She started by presenting the two-instance structure of the administrative jurisdiction in Poland and the historical background. Ms Dumas then focused on the preliminary questions referred by the Polish administrative courts to the ECJ. She presented recent statistics, mentioned the subject-matters where references are most frequent and explained how the outcome of preliminary rulings is ensured in the Polish legal system.

Having explored this aspect of judicial cooperation, she moved on to the direct application of EU law by Polish courts. She gave an overview of the techniques used by national judges in fulfilling this task (for instance, recourse to explanatory memoranda or correlation tables) and mentioned some particular problems judges were facing (such as errors in different language versions of EU legislation). She underlined the importance of the general principles elaborated by the ECJ's case-law for the judicial activity, also in areas without direct links to EU law. Finally, she discussed in greater detail the area of legislation giving rise to most of the cases before the administrative courts, namely tax law.

In the **question and answers session** which followed, the speakers elaborated further on some of the points of their interventions.

For more information on the Legal Revisers' work contact: Juristes-Reviseurs@ec.europa.eu.