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Co-ordination of Poland's European Integration Policy

1. Substance of the problem of co-ordination of the integration policy

Realisation of undertakings of strategic and long-term character encompassing almost all spheres of state activity and engaging all of the most important national institutions, to which the integration of Poland with the European Union undoubtedly belongs, requires co-ordinated actions based upon stable legal foundations and on appropriate programmes.

The membership of the European Union is the strategic goal of Poland and its foreign policy, being at the same time one of the major challenges facing the Polish policy and economy, striving to fulfil the provisions of the Europe Agreement and to prepare for the membership.

The Europe Agreement, establishing the association between the Republic of Poland and the European Communities, as well as their Member States, has introduced an appropriate framework for the political dialogue and has specified a set of numerous tasks, which combine to form the adjustment programme for Polish economy and legal system to the requirements of the membership. The realisation of the request for the membership in the EU is achieved by means of adjustment programmes in line with the membership criteria adopted in 1993 by the Copenhagen European Council. Nonetheless, all the actions and processes related to Poland's preparation for the membership in the European Union also have their external aspect: they are the subject of information exchange, promotion, consultations, negotiations and agreements with the institutions of the European Union (European Communities), as well as with its Member States, being at the same time in the last resort subject to their approval.

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Instead, the final effect of these actions i.e. the membership in the EU, will result from Polish actions undertaken in the framework of bilateral relations with other states, as well as on the forum of international organisations. The fact that the borderline between internal and external actions in the process of European integration can only be drawn arbitrarily, brings about the problem of allocation of competencies between the state institutions in implementing the integration policy. Therefore, a necessity emerges for a thorough analysis of the legal and actual state of the functioning of state institutions in this respect, as well as for the search for new and effective solutions. This is not a specifically Polish problem, and it applies to all the candidate countries, as well as to the Member States of the European Union.

The co-ordination is a formalised process regulated by relevant constitutional legal norms, laws or subordinate legal acts binding all the parties engaged in the shaping of the policy in a given area. A comprehensive co-ordination should in this case include all the stages of the formulation of such a policy, i.e. programming, decision-making process, realisation, and monitoring.

In the light of such an understanding of the notion of co-ordination, the realisation of the adjustment processes to the requirements of the Europe Agreement and to the future membership in the EU constitutes a wide, though separable, sphere of the policy of the state and in this scope can be subject to the co-ordination by an appropriate subject acting within and on behalf of the Council of Ministers.

However, in the area of Polish foreign policy, including the policy of European integration, its basic stages i.e. programming and decision-making process remain in the area of the realisation of the adjustment processes with which a subject (organ) other than that responsible for the co-ordination of the external policy can be charged. At the same time, realisation and monitoring of the adjustment processes fall within the domain of agreements with the European Union, thus into the domain of the foreign policy. In practice, this indicates the existence of an area of overlapping competencies of different organs and arising of competence disputes, which can result in parallel actions undertaken without mutual consultations.

Separate problems, although similar to the ones in the foreign policy, result from the necessary co-ordination of internal adjustment processes in the economic, financial, social and cultural spheres. The functioning of an organ responsible for the co-ordination of actions of other organs, which are bestowed with their specific competencies regulated by law in each of the sectors, gives rise to fears and sometimes leads to real cases of infringement of competencies, what in turn causes resistance against the submission to the mechanism of co-ordination.

The aim of this study is to discuss the role of the major state institutions in implementing the Polish integration policy and to evaluate the legal and organisational framework for carrying out co-ordinated actions both in the domain of foreign policy and in the implementation of the adjustment processes in Poland. The subject to the analysis will be the competencies of the state organs engaged in the realisation of the Polish integration policy as specified in the relevant legal acts as well as the relations between the major actors of this policy forming part of the Council of Ministers, i.e. the Minister of Foreign Affairs and the Committee for European Integration (KIE).

2. Actors of the integration policy in Poland

The Europe Agreement establishing a regular political dialogue between Poland and the Community has at the same time defined its forms and its actors. Relevant consultations take place first of all between the President of the Republic of Poland and the representatives of the Community (EU) i.e. the Presidency of the European Council and the President of the European Commission.

The political dialogue on the ministerial level, in turn takes place within the Association Council which is chaired on the Polish side by the Minister of Foreign Affairs alternately with the relevant Minister of Foreign Affairs, who at that moment presides over the Council of the European Union. Additionally the following actors also participate in the political dialogue: the Political Director nominated by the Minister of Foreign Affairs, other civil servants, and diplomatic representatives. Consecutive decisions of the European Council and the Council of the EU have extended the forms of this dialogue to include at first the so-called European Correspondents within the Ministries of Foreign Affairs and experts and, following that, meetings of the ministers representing particular provinces with their counterparts from the Member States of the EU in the framework of the so-called structural dialogue. From December 1994 onwards the Prime Minister of the Republic of Poland is also invited to the meeting with the European Council. He also participates in the meetings with the Heads of Governments of the Member States in the framework of bilateral relations.

Since 1994 the Sejm Speaker participates in the meetings with the presidents of the parliaments of the associated countries organised by the President of the European Parliament. The activities of the Polish Sejm and Senate, including both Parliamentary Committees on External Relations, in the relations with the parliaments of the Member States by their nature also touch upon the issues of the European integration. Starting from 1998 a delegation of the Polish parliament takes part in the meetings of organs specialised in the issues related to the Community, known under the name COSAC.

The developing political dialogue with the European Union embraces a growing number of representatives of the state organs and the growing scope of issues discussed, which fall into the competencies of all the three pillars of the Union. This indicates an unavoidable simultaneous engagement of many Polish institutions and spheres of life in the stream of integration processes on a European scale. It creates an increasingly growing need for preparation and co-ordination of foreign visits, and a need to secure the presentation of a unified and coherent position of Poland *vis À vis* the Union and its Member States.

The organs created by the Association constitute a group of special subjects participating in the formulation and realisation of the Polish foreign policy (cf. Scheme 1). Here belong: the above-mentioned Association Council in which representatives of ministries participate and which is chaired on the Polish side by the Head or the Secretary of the Committee for European Integration, as well as the Poland-EU Joint Parliamentary Committee,¹ constituted by the permanent delegation of the Sejm and of the Senate. Mutual relations between the organs of the Association have been regulated by the Europe Agreement. The Association Council is the main, supreme organ, supported by the Association Committee, whose task is, among others, to prepare the meetings of the Council. The Joint Parliamentary Committee acts on the basis of information supplied by the Association Council and the executive organs of the Republic of Poland and the EU. At the same time, it enjoys the right to submit opinions and conclusions to the Council and to give it recommendations.

Because the organs of the Association are subjects formed jointly by Poland and the EU and, according to the Europe Agreement, decisions taken by them are binding for both sides, a co-ordinated position of the representatives of Poland is indispensable for the effectiveness of their actions within this common forum.

The reform of the central administration carried out in 1996 has established – what can be concluded from the “National Strategy for Integration” (NSI)² – a new institutional arrangement, which described the conditions for co-operation, information exchange and the division of tasks between the ministries and offices engaged in the relations with the EU. Into these subjects the following can be included: the Council of Ministers, the Committee for European Integration, the Ministry of Foreign Affairs, the remaining ministries and central offices as well as Polish diplomatic representations, especially in the Member States of the EU and the countries associated with the Communities.

¹ The Europe Agreement established the Parliamentary Association Committee which according to the nomenclature in use in the European Parliament bears the name Poland-EU Joint Parliamentary Committee.

² “National Strategy for Integration” was adopted by the Council of Ministers in January 1997. For the full text of the document see: *Yearbook of Polish European Studies*, vol.1 1997.

According to the “National Strategy for Integration” in the existing institutional system the main co-ordinating function rests upon the Committee for European Integration. It may be assumed that the co-ordination by the KIE is confined exclusively to the internal preparations of Poland for the membership in the EU. However, extension of this co-ordination for the Ministry of Foreign Affairs and Polish diplomatic representations suggests a possibility of entering independently into relations with foreign subjects by the Committee. Whereas, as regards the tasks of the Polish foreign policy, the NSI defines that it is the Foreign ministry and Polish diplomatic representations abroad which will be the basic organs entrusted with the implementation of the tasks ordered by the President, Government and the Committee.

As can be seen on Scheme 2, the flow of information between the state institutions and the institutions of the EU takes place in the form of direct visits and meetings, participation in the ministerial meetings in the framework of the structural dialogue, as well as through the Permanent Representation of Poland by the EU in Brussels, the Permanent Representation of the EU in Warsaw, Polish diplomatic representations in the capitals of the Member States and their representations in Warsaw. A separate and specific form of information exchange and decision-making is provided by the co-operation in the framework of the above-mentioned Association organs.

Mutual relations and competencies of the institutions active in the framework of and on behalf of the European Union have been regulated by the Community law and a long-standing practice based on the institutional balance. This, in turn implies that Polish institutions, seeking to achieve the most favourable course of the process of integration, must act within the framework of clearly defined and co-ordinated competencies on the levels corresponding to these on which decisions are taken and positions are formulated in the European Union.

The shaping of the institutional structure responsible for the creation and realisation of the Polish policy of integration with the EU should, therefore be based on:

- clearly defined and mutually harmonised legal acts,
- hierarchy and flexibility of state institutions,
- balance between the responsibilities and competencies,
- compatibility with the EU institutions,
- evolutionary character of institutional change,
- use of experience of the Member States of the EU and the countries associated with the Communities.

3. The co-ordinating role of the Minister of Foreign Affairs

In Poland, the legal foundations for the co-ordination of decision-making process in the area of foreign policy consist of:

- the Constitution of the Republic of Poland of the 2 April 1997,³
- the Law of the 29 May 1974 on the Office of the Minister of Foreign Affairs,⁴
- the Regulation of the Council of Ministers of the 31 May 1974, concerning the detailed scope of activity of the Minister of Foreign Affairs.⁵

According to the Constitution, the President is the representative of Poland in its external relations. He co-operates in the area of foreign policy with the Prime Minister and the relevant minister. The “National Strategy for Integration” assumes the duties related to the accession of Poland to the EU will be performed by the state organs in agreement and co-operation with the President and his Chancellery. In particular the “Strategy” points to the possibility of his personal engagement in the promotion of Polish interests *vis à vis* the Member States of the EU, as well as in the realisation and monitoring of the process of approaching the membership of the EU by the country.

Both the domestic and the foreign policy of Poland is implemented by the Council of Ministers. In the area of foreign policy, its competencies are confined to the general management of the relations with foreign countries and organisations, as well as to concluding, validating and renouncing of international agreements. In the light of the Constitution the position of the Minister of Foreign Affairs and the Head of the Committee for European Integration (appointed by an act of law), both being part of the Council of Ministers, is equal. It has an undoubtedly significant impact on their mutual relations.

In the countries of the European Union, the Minister of Foreign Affairs is one of the essential components of the system of foreign policy co-ordination as regards the integration. It finds its justification in the construction of the prime decision-making organ – the Council of the European Union and especially the General Affairs Council, which fulfils a co-ordinating function for the meetings in which other ministers participate. Therefore, owing to the position of the Polish Minister of Foreign Affairs in both the Association Council and, in the future, in the Council of the EU, but also taking into account its exclusive rights in the issues of Common Foreign and Security Policy (the Second Pillar of the EU), an important role of the Ministry of Foreign Affairs remains unquestionable.

Respectful of the legal and functional in terms of the European integration, competencies of the Minister of Foreign Affairs, the “National Strategy for

³ “*Dziennik Ustaw*” (“*Journal of Laws*”), 16.07.1997, no. 78, item 483.

⁴ “*Dziennik Ustaw*”, 04.06.1974, no. 21, item 115 (as amended in 1984).

⁵ *Ibid.*, item 121 (amended in: “*Dziennik Ustaw*”, 26.09.1984, no. 44, item 230).

Integration” charges him and the diplomatic representations responsible to him, with the fulfilment of external tasks entrusted to him by the President, the Government, and the Committee for European Integration. The external actions are adjusted to respective levels on which decisions are taken or positions are formulated in the EU and in Poland and are carried out on the plane of: the EU institutions, its Member States, and international organisations.

Although the Law on the Office of the Minister of Foreign Affairs does not mention the European Union by name in the context of actions related to it, it does not provide for a possibility to transfer its competencies to other principal organs of the state administration. It seems therefore, no without merit to decide, with regard to the multi-dimensional character of the contacts of Poland with the EU, whether all the decisions of the Council of Ministers should be transmitted to the Community institutions, with the Ministry of Foreign Affairs being informed of and having accepted them or via the Foreign Affairs Ministry. The above law does not answer this question unequivocally and provides only for a universal framework for the realisation of the overall foreign policy.

The indispensable precondition for a transformation of the formal competencies of the Ministry of Foreign Affairs in the area of integration with the European Union into the real ones is the use of all the available instruments of co-ordination both in supporting the ministries and central offices in maintaining the necessary relations with the European Union and in supplying them with competent counselling, taking into account the development of the integration processes. In this context, the Ministry of Foreign Affairs is undoubtedly faced with financial, staffing and organisational barriers. It should be underlined, however, that this type of barriers is common to all the state administration units in their striving to meet the obligations related to the membership in the EU. Thus, overcoming these barriers with respect to the Ministry of Foreign Affairs will pave the way for analogous adjustments in other ministries and central offices.

“Commission Opinion on Poland’s Application for Membership of the European Union”,⁶ referring to the aforementioned membership criteria adopted by the Copenhagen European Council, contains a general assessment of Polish constitutional structures from the point of view of the functioning of stable institutions safeguarding the democracy and the rule of law, as well as the ability to fulfil the obligations stemming from the membership. For obvious reasons, the “Opinion” does not examine the system of co-ordination of Polish actions in the sphere of integration, as it is in the self-interest of Poland that the integration processes runs as properly as possible, that our membership is complete and the profits are the highest possible.

⁶ The “Opinion” was published in July 1997 as part of the “Agenda 2000”.

4. Committee for European Integration

The mechanism of co-ordinating the implementation of the Europe Agreement and of steering the process of the European integration in 1991-1996 was based on Government Plenipotentiary Office for European Integration and Foreign Assistance anchored in the structure of the Council of Ministers⁷.

The experiences of the accession negotiations, as well as of the ratification and subsequent initial period of implementation of the Europe Agreement, unfortunately, have not been properly documented in the literature on the subject, although they seem to be very instructive and interesting from the point of view of modelling the system of co-ordinating the preparations for the membership. The most comprehensive analysis of the system of co-ordination of the provisions of the Europe Agreement is included in the report of the Supreme Chamber of Control⁸ based on the results of inspection for the years 1994-1995. The wide scope of tasks entrusted to the Government Plenipotentiary, combined with limited instruments of implementation and accompanied by low effectiveness of the co-ordination process appeared to be an argument strong enough to justify the creation in 1996 of the Committee for European Integration (Komitet Integracji Europejskiej · KIE).⁹

According to the Law, the Committee is the supreme organ of the Government administration charged with programming and co-ordination of the policy related to the integration of Poland with the European Union and actions Poland takes to adjust to European standards, as well as with co-ordination of actions of the state administration as regards the received foreign aid.

Although the tasks of the KIE have been described according to the stage of integration of Poland with the EU achieved so far, the above mentioned Law is formulated in a very vague way in regards to the specific tasks. It also lacks specification as to the appropriate instruments of inter-ministerial co-ordination, can result from experiences gathered from the work of the Government Plenipotentiary. The solutions to this problem have not been found in the legal acts of lower rank either.

Almost two years of functioning of the KIE allows to point to its numerous weaknesses in regards to the inter-ministerial co-ordination, which originate in its very construction as provided for in the above Law.

⁷ Cf. Resolution no 11/91 of the Council of Ministers of 26 January 1991.

⁸ *Informacja o wynikach kontroli systemu koordynowania i finansowania postanowień Układu Europejskiego (Information on the results of control of the co-ordination system and financing of the realisation of the provisions of the Europe Agreement)*, NIK, Warszawa 1996.

⁹ By the Law of 8 August 1996 on the Committee for European Integration (*"Dziennik Ustaw"*, 30.08.1996, no 106, item 494). A commentary to this law can be found in: *"Yearbook of Polish European Studies"*, vol. 1 1997, p.234-238.

Primarily, KIE is, just like the ministers forming the Council of Ministers, a supreme organ of the Government administration, therefore it cannot influence the decisions of ministers in their respective provinces, acting on the basis of separate legal acts. Thus, it becomes a forum of discussion and information exchange with restricted decision-making competencies, since in each case decisions taken by KIE, which creating legal obligations lack their binding character, as first they have to be approved by the Council of Ministers. Although the preparation of documents for the Council of Ministers takes place at a high inter-ministerial level, KIE in its basic form is composed of only eight selected ministers, despite the fact that some of the adjustment tasks fall within the competencies of the remaining ministers, as it is required by the Europe Agreement and by the future membership in the EU. The status of the remaining members and participants of the meetings of KIE varies significantly. This diminishes the importance of its decisions and conclusions. As easy as it is to defend the political priority of the issues of European integration when seen from the point of view of the existence of KIE, it is not possible to point to any real advantage of the decisions taken in this forum in comparison to e.g. a permanent Committee for European Integration of the Council of Ministers alternative to KIE.

KIE performs its duties through its Office (UKIE) managed by the Head of the Committee or, in case, this function is held by the Prime Minister, by the Secretary (empowered by the Head). The wide and ever growing spectrum of integration problems which require prompt decisions, indicates the necessity of taking immediate actions in close co-operation between the relevant ministries and central offices on the one side and the co-ordinating organ on the other. In fact, it transfers the decision-making competencies from the Committee to the Office of KIE and to the specialised ministerial units responsible for the process of integration and adjustment. The current problems of particular ministries can be practically solved with participation of the Committee with full awareness of and authorisation from the Head of KIE exclusively as member of the Council of Ministers and not as an independent organ. The Committee as an organ can participate in the co-ordination of actions exclusively in the meeting or as a result of it. This decision-making procedure, however, does not find any justification in the light of the experience of the Member States.

The Office of KIE is based on the foundations laid by the former Government Plenipotentiary but due to its functions and the scope of responsibilities, it was shaped as a structure similar to the ministries. In fact, the effectiveness of the functioning of the whole Committee depends on its efficiency. Therefore, the methods and instruments of inter-ministerial co-ordination used in UKIE deserve special analysis.

The sheer fact that the decision-making process concentrates increasingly more upon KIE, does not transfer the relevant responsibilities to this organ since in practice it divides the responsibility for the realisation of the current integration processes between the Head and the Office of KIE on one hand and the relevant ministries, on the other hand. Consequently, the system of co-ordination of the integration policy should be evaluated in the light of the general rules of organisation and management with issues of political nature left aside.

In the context of the above remarks it seems that it is the inter-ministerial relations and not the Poland-European Union relations that one should concentrate on. Therefore, given the existing institutional structure (KIE + ministries and central offices) the precondition for an increase of the effectiveness of the integration actions in Poland, is the improvement of the functional organisation and promotion of professionalism of the Office of KIE, as well as its close co-operation with the specialised units for European integration in all the ministries.

According to the provisions of the "National Strategy for Integration" the co-ordination of works related to the preparation of Poland for the membership in the EU carried out by the government administration should continue to be realised on three planes:

- strategic: on the level of the Committee for European Integration,
- operational: on the level of Secretaries or Under-Secretaries of State responsible for the issues of integration in the respective ministries,
- working: on the level of Chiefs of Units for the European Integration (departments and sections) of the respective ministries and offices.

The partners of for Poland in the European Union are, in the first place, the strong European Commission's Services dealing with the problems remaining in the competence of almost all Polish ministries. In order to avoid diverging opinions presented by different ministries and the jeopardising of Polish interests, there is a need to build up a proficient centre, which would perform the function of a provider of information necessary to take the right actions by the ministries and which would store all the information concerning the relations Poland-European Union. This requirement can only be met by an office and not by a state organ.

5. Final remarks

The above-described problems of overlapping competencies and the difficulties in co-ordinating the integration policy can lead to two different conclusions.

Primarily, there is a need to make use of and improve the already existing and available methods, mechanisms and instruments of co-ordination. Its low implementation cost in the financial and political sense seem to favour the use of this possibility. The stability of the existing structures favours also the stability of personnel, what seems significant, taking into account a permanent shortage of public administration personnel highly qualified in the area of European integration. The fact that the processes of preparation of Poland for the membership of the EU has just entered a very important and advanced stage, during which conditions of the accession are being discussed, seems also to speak for an evolutionary modelling of the co-ordination system. Finally, the existence of a certain balance of political powers of the given government deal, is important. Eventual organisational changes would require new legal foundations and the legislative process could appear to be too long.

The creation of new or a significant modification of the existing organisational structures is another issue. The number of possible variants seems significantly restricted. In this context, it is indispensable to make use of all the experiences gathered in Poland and other countries, to evaluate them objectively, independently of political interests and to adopt an organisational model, which would be desirable also from the point of view of the future membership of Poland in the European Union.

The integration of Poland with the EU requires such an organisation of the government administration which would be able to effectively implement the adjustment process, not only in the framework of the Association but also during the period of accession negotiations and after the state of full membership is achieved. Therefore, the ultimate goal of the adjustment procedures of the Polish public administration should be to ensure its effective participation in the decision-making process and in the permanent process of shaping the common policies on the European level. While the co-ordination plays a pivotal role in this context, so far the state of organisation and functioning of the government administration leaves one with the impression that more functional and effective forms and methods of formulation and implementation of the integration policy should be sought.