

## **ACT**

**of 8 October 2010**

### **on the cooperation of the Council of Ministers with the President of the Republic of Poland, the Sejm and the Senate in matters relating to the Republic of Poland's membership of the European Union**

#### **Chapter 1**

##### **General provisions**

###### **Article 1.**

This Act sets out the rules for the cooperation of the Council of Ministers with the President of the Republic of Poland, the Sejm and the Senate in matters relating to the Republic of Poland's membership of the European Union.

###### **Article 2.**

The Council of Ministers is obliged to cooperate with the President of the Republic of Poland, the Sejm and the Senate in the matters referred to in Article 1.

###### **Article 3.**

1. At least once every 6 months, the Council of Ministers shall provide the Sejm and the Senate with information on the Republic of Poland's participation in the activities of the European Union.
2. At the request of the Sejm, the Senate, the competent body under the rules of procedure of the Sejm or the competent body under the rules of procedure of the Senate, the Council of Ministers shall provide the Sejm, the Senate, the competent body under the rules of procedure of the Sejm or the competent body under the rules of procedure of the Senate, as appropriate, with information on any matter relating to the Republic of Poland's membership of the European Union.

#### **Chapter 2**

##### **Cooperation in the making of European Union law**

###### **Article 4.**

1. The Council of Ministers shall transmit to the Sejm and the Senate, immediately upon receipt thereof, the documents of the European Union which are subject to consultation with Member States, excluding any documents transmitted to the Sejm and the Senate directly by the European Parliament, the Council and the European Commission.

2. The Council of Ministers shall transmit to the Sejm and the Senate, immediately upon receipt thereof, evaluations of the documents referred to in paragraph 1, made by competent institutions or bodies of the European Union.

#### **Article 4a.**

1. The Council of Ministers shall transmit to the President of the Republic of Poland, immediately upon receipt thereof, the documents of the European Union which are subject to consultation with Member States in relation to the European Council meeting or to an international meeting with participation of the European Union.

2. The Council of Ministers shall transmit to the President of the Republic of Poland, immediately upon receipt thereof, evaluations of the documents referred to in paragraph 1, made by competent institutions or bodies of the European Union.

3. The Council of Ministers shall immediately transmit to the President of the Republic of Poland the draft position of the Republic of Poland to be presented to the European Council or in relation to an international meeting with participation of the European Union.

4. The President of the Republic of Poland may present to the Council of Ministers his or her position on the documents referred to in paragraph 1 or on the draft position of the Republic of Poland referred to in paragraph 3.

5. If the President of the Republic of Poland presents the positions referred to in paragraph 4, a representative of the President of the Republic of Poland shall participate in the meeting of the Council of Ministers at which the position of the Republic of Poland referred to in paragraph 3 is to be considered.

#### **Article 5.**

The Council of Ministers shall transmit to the Sejm and the Senate, immediately upon receipt thereof, work programmes of the Council and evaluations of annual legislative programmes of the European Commission drawn up by the European Parliament and by the Council.

#### **Article 6.**

The Council of Ministers shall immediately transmit to the Sejm and the Senate information on a position of a Member State other than the Republic of Poland, taken as provided for in:

1) Article 3 (2) of Protocol (No. 36) on transitional provisions, annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community,

2) Article 1 or Article 4 of the decision of the Council relating to the implementation of Article 16 (4) of the Treaty on European Union and Article 238 (2) of the Treaty on the Functioning of the European Union between 1 November 2014 and 31 March 2017 on the one hand, and as from 1 April 2017 on the other,

3) Article 48, second subparagraph, first sentence, Article 82 (3), first sentence, or Article 83 (3), first sentence, of the Treaty on the Functioning of the European Union – as well as a substantiation submitted in support of the position.

#### **Article 7.**

1. The Council of Ministers shall transmit to the Sejm and the Senate draft positions of the Republic of Poland on draft legislative acts of the European Union, taking into consideration time limits prescribed by European Union law, but no later than within 14 days of the receipt of such drafts.
2. The Council of Ministers shall transmit to the Sejm and the Senate, immediately upon receipt thereof, draft acts of the European Union adopted under Article 352 (1) of the Treaty on the Functioning of the European Union. The Council of Ministers shall transmit to the Sejm and the Senate draft positions of the Republic of Poland on the draft acts of the European Union, taking into consideration time limits prescribed by European Union law, but no later than within 14 days of the receipt of such drafts.
3. The Council of Ministers shall append to its draft position referred to in paragraphs 1 and 2:
  - 1) a substantiation thereof, including an evaluation of the anticipated legal consequences of the legislative act of the European Union for the Polish legal system as well as its social, economic and financial consequences for the Republic of Poland;
  - 2) information on the type of law-making procedure concerning the adoption of a legislative act of the European Union, as specified by the provisions of the Treaty on European Union and the Treaty on the Functioning of the European Union and on the voting procedure in the Council;
  - 3) information on the compliance of a draft legislative act of the European Union with the principle of subsidiarity referred to in Article 5 (3) of the Treaty on European Union.
4. The competent body under the rules of procedure of the Sejm and the competent body under the rules of procedure of the Senate may express their opinions on the draft act of the European Union mentioned in paragraphs 1 and 2 within 49 days of the transmission of the draft act to the Sejm or to the Senate, as appropriate.
5. If the time limit set by the European Commission for Member States to express their opinion is less than 56 days, the Council of Ministers shall present a draft position of the Republic of Poland within a time limit corresponding to 1/4 of the time set by the European Commission.
6. Failure to express an opinion within the time limits referred to in paragraphs 4 or 5 shall be deemed to be an absence of comments on the draft act.

#### **Article 8.**

1. The Council of Ministers shall transmit to the Sejm and the Senate, immediately upon receipt thereof, draft legal acts of the European Union other than the acts referred to in Article 7 (1) and (2). At the request of the competent body under the rules of procedure of the Sejm or the competent body under the rules of procedure of the Senate, within 14 days of the receipt thereof, the Council of Ministers shall present draft positions of the Republic of Poland on such acts.
2. The competent body under the rules of procedure of the Sejm or the competent body under the rules of procedure of the Senate may express opinions on the draft legal act of the European Union referred to in paragraph 1 within 21 after the transmission of the draft position on the act to the Sejm or to the Senate, as appropriate. Article 7 (3) and (6) shall apply as appropriate.
3. Where a position of the Republic of Poland does not take into consideration an opinion of the competent body under the rules of procedure of the Sejm or the competent body under the rules of procedure of the Senate, a representative of the Council of Ministers shall be required to immediately

explain the reasons for the discrepancy to the competent body under the rules of procedure of the Sejm or to the competent body under the rules of procedure of the Senate.

#### **Article 9.**

The Council of Ministers shall transmit to the Sejm and the Senate, immediately upon receipt thereof:

- (1) draft international agreements to which the European Union or the European Atomic Energy Community are to be parties;
- (2) draft decisions of representatives of the governments of the Member States, assembled in the Council;
- (3) draft acts of the European Union having no legal effect, in particular proposals for guidelines adopted on the economic and monetary union and on employment;
- (4) acts of the European Union bearing significance on the interpretation or application of European Union law.

#### **Article 10.**

1. The Council of Ministers shall inform the Sejm and the Senate in writing on the progress achieved in the process of making European Union law and on the Republic of Poland's positions taken in the course of the process.

2. The competent body under the rules of procedure of the Sejm and the competent body under the rules of procedure of the Senate may express their opinions on the positions referred to in paragraph 1 within 21 days following the communication of such positions.

#### **Article 11.**

1. Prior to considering in the Council a draft legislative act of the European Union or a draft legal act of the European Union adopted under Article 352 (1) of the Treaty on the Functioning of the European Union, the Council of Ministers shall seek the opinion of the body competent under the rules of procedure of the Sejm and the opinion of the body competent under the rules of procedure of the Senate, presenting written information on the position of the Republic of Poland which the Council of Ministers intends to take during the consideration of the draft act in the Council.

2. The Council of Ministers shall append, to the information referred to in paragraph 1, a substantiation of the position of the Republic of Poland and an evaluation of the anticipated legal consequences of the legal act of the European Union for the Polish legal system as well as its social, economic and financial consequences for the Republic of Poland.

3. Having regard to work organisation of the European Union bodies, with the exception of matters in which the Council acts unanimously and matters that pose a substantial burden on the state budget, the Council of Ministers may take a position without seeking the opinions referred to in paragraph 1. In such a case, a representative of the Council of Ministers shall be obliged to immediately present the position taken to the body competent under the rules of procedure of the Sejm and to the body competent under the rules of procedure of the Senate, and to explain the reasons for failing to seek opinions.

#### **Article 12.**

1. Prior to the presentation of a position of the Republic of Poland in the Council under Article 3 (2) of Protocol (No. 36) on transitional provisions annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community, Article 1 or Article 4 of the decision of the Council relating to the implementation of Article 16 (4) of the Treaty on European Union and Article 238 (2) of the Treaty on the Functioning of the European Union between 1 November 2014 and 31 March 2017 on the one hand, and as from 1 April 2017 on the other, and on the draft legal act of the European Union referred to in Article 82 (2) (d) or Article 83 (1), third subparagraph, of the Treaty on the Functioning of the European Union, the Council of Ministers shall seek the opinion of the competent body under the rules of procedure of the Sejm and the competent body under the rules of procedure of the Senate, presenting written information containing a substantiation of the position of the Republic of Poland.

2. Prior to the presentation of a position of the Republic of Poland in the European Council on a draft legal act of the European Union referred to in Article 86 (4) of the Treaty on the Functioning of the European Union, the Council of Ministers shall seek the opinion of the competent body under the rules of procedure of the Sejm and the competent body under the rules of procedure of the Senate, presenting written information containing a substantiation of the position of the Republic of Poland.

3. Having regard to work organisation of the European Union bodies, the Council of Ministers may present the position of the Republic of Poland without seeking the opinion referred to in paragraph 1 or 2. In such a case, a representative of the Council of Ministers shall be obliged to immediately present the position taken to the body competent under the rules of procedure of the Sejm and to the body competent under the rules of procedure of the Senate, and to explain the reasons for failing to seek opinions.

#### **Article 13.**

1. If the competent body under the rules of procedure of the Sejm has given the opinion referred to in Article 7 (4), Article 10 (2), Article 11 (1) or Article 12 (1) and (2), it should provide a basis for the position of the Republic of Poland.

2. If the position referred to in paragraph 1 does not take into consideration the opinion of the competent body under the rules of procedure of the Sejm, a member of the Council of Ministers shall be obliged to immediately explain the reasons for such discrepancy to the competent body under the rules of procedure of the Sejm.

#### **Article 14.**

1. A decision on the position of the Republic of Poland on a draft legal act of the European Union referred to in Article 31 (3), Article 42 (2) or Article 48 (7) of the Treaty on European Union or in Article 312 (2), second subparagraph, of the Treaty on the Functioning of the European Union or in Protocol (No. 9) on the decision of the Council relating to the implementation of Article 16 (4) of the Treaty on European Union and Article 238 (2) of the Treaty on the Functioning of the European Union between 1 November 2014 and 31 March 2017 on the one hand, and as from 1 April 2017 on the other, annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community, shall be taken by the President of the Republic of Poland on proposal of the Council of Ministers, with consent granted by statute.

2. The Council of Ministers' proposal referred to in paragraph 1 shall provide that a representative of the Republic of Poland in the European Council is obliged to:

- 1) support the adoption of a draft legal act of the European Union, or
- 2) abstain.

3. The proposal referred to in paragraph 1 shall be submitted to the President of the Republic of Poland after consent is granted by statute.

4. The representative of the Republic of Poland shall support the rejection of a draft legal act of the European Union if the President of the Republic of Poland has not made the decision referred to in paragraph 1.

#### **Article 15.**

1. A decision on the position of the Republic of Poland on a draft legal act of the European Union referred to in Article 81 (3), Article 153 (2), fourth subparagraph, Article 192 (2), second subparagraph, Article 333 (1) or Article 333 (2) of the Treaty on the Functioning of the European Union, shall be taken by the President of the Republic of Poland on proposal of the Council of Ministers, with consent granted by statute.

2. The Council of Ministers' proposal referred to in paragraph 1 shall provide that a representative of the Republic of Poland in the European Council is obliged to:

- 1) vote for the adoption of a draft legal act of the European Union, or
- 2) abstain.

3. The proposal referred to in paragraph 1 shall be submitted to the President of the Republic of Poland after consent is granted by statute.

4. The representative of the Republic of Poland shall vote for the rejection of a draft legal act of the European Union if the President of the Republic of Poland has not made the decision referred to in paragraph 1.

#### **Article 16.**

1. Prior to the European Council's decision not to convene the Convention referred to in Article 48 (3) of the Treaty on European Union, the Prime Minister shall seek the opinion of the Sejm and the Senate.

2. If the Sejm has given an opinion on the matter referred to in paragraph 1, it should provide a basis for a position of the Republic of Poland.

3. If the position referred to in paragraph 2 does not take into consideration an opinion of the Sejm, the Prime Minister shall be obliged to immediately explain to the Sejm the reasons for discrepancy.

### **Chapter 3**

#### **Cooperation in the lodging of complaints by the Sejm and the Senate with the Court of**

#### **Justice of the European Union**

#### **Article 17.**

1. If the Prime Minister receives a resolution of the Sejm from the Marshal of the Sejm or a resolution of the Senate from the Marshal of the Senate on the lodging of a complaint with the Court of Justice of the European Union concerning the breach by a legislative act of the European Union of the principle of subsidiarity referred to in Article 5 (3) of the Treaty on European Union, together with a complaint, the Prime Minister shall immediately, within time limits prescribed by European Union law, lodge a complaint with the Court of Justice of the European Union.

2. The Marshal of the Sejm or the Marshal of the Senate shall append to the resolution referred to in paragraph 1 a document confirming a mandate to represent the Sejm or the Senate, as appropriate, in proceedings before the Court of Justice of the European Union concerning the complaint. The Prime Minister shall attach the document to the complaint lodged with the Court of Justice of the European Union.

3. The withdrawal of a complaint may be decided upon by the Sejm or by the Senate, as appropriate.

#### **Chapter 4**

##### **Cooperation in the making of Polish law implementing European Union law**

###### **Article 18.**

1. The Council of Ministers shall submit to the Sejm a bill implementing European Union law no later than 3 months before the expiry of a time limit for implementation prescribed by European Union law.

2. If the time limit for implementation referred to in paragraph 1 exceeds 6 months, the Council of Ministers shall submit to the Sejm a bill implementing European Union law no later than 5 months before the expiry of that time limit.

3. In exceptionally justified cases, the Council of Ministers, having sought the opinion of the competent body under the rules of procedure of the Sejm, may submit a bill implementing European Union law without observing the time limits referred to in paragraph 1 or 2.

4. The Council of Ministers shall present to the Sejm and the Senate, no less than once every 6 months, information on legislative work related to the implementation of acts of European Union law, for which the time limit for implementation has expired or will expire within 3 months of the presentation of such information.

#### **Chapter 5**

##### **Cooperation in selecting candidates for certain posts in the**

##### **European Union**

###### **Article 18a.**

1. Taking into consideration time limits prescribed by European Union law, the Council of Ministers shall submit to the President of the Republic of Poland proposed candidatures for the following posts:

- 1) member of the European Commission;
- 2) member of the Court of Auditors;
- 3) judge of the Court of Justice of the European Union;
- 4) advocate general of the Court of Justice of the European Union;

- 5) member of the Economic and Social Committee;
- 6) member of the Committee of the Regions;
- 7) director in the European Investment Bank;

2. The President of the Republic of Poland shall consent or shall refuse to consent to the designation of candidates for the posts referred to in paragraph 1, within 21 days from the submission of proposed candidatures by the Council of Ministers.

#### **Article 19.**

The candidatures for the posts referred to in Article 18a (1) and for the post of Permanent Representative of the Republic of Poland to the European Union shall be subject to the opinion of the body competent under the rules of procedure of the Sejm.

#### **Article 20.**

1. The Council of Ministers shall present to the competent body under the rules of procedure of the Sejm proposed candidatures agreed with the President of the Republic of Poland for the posts referred to in Article 18a (1) or for the post of Permanent Representative of the Republic of Poland to the European Union, taking into consideration time limits prescribed by European Union law.

2. The competent body under the rules of procedure of the Sejm may express its opinion within 21 days of the presentation of proposed candidatures by the Council of Ministers.

3. The Council of Ministers shall not designate any candidates for the posts referred to in Article 18a (1) or for the post of Permanent Representative of the Republic of Poland to the European Union before the expiry of the time limit for expressing an opinion by the competent body under the rules of procedure of the Sejm, unless an opinion on the matter has been expressed earlier.

4. If the opinion referred to in paragraph 2 is not taken into consideration, the Council of Ministers shall provide the competent body under the rules of procedure of the Sejm with information on the designation of the candidate concerned, including an explanation of the reasons why the opinion has not been taken into consideration.

### **Chapter 6**

#### **Cooperation relating to the exercise of the presidency of the Council by representatives of the Council of Ministers**

##### **Article 20a.**

1. The Council of Ministers in agreement with the President of the Republic of Poland shall establish priorities for the exercise by representatives of the Council of Ministers of the presidency of the Council.

2. No later than a month before the commencement of the exercise by representatives of the Council of Ministers of the presidency of the Council, the Council of Ministers shall present to the competent body under the rules of procedure of the Sejm and to the competent body under the rules of procedure of the Senate information on the priorities referred to in paragraph 1.

##### **Article 20b.**



During the exercise by representatives of the Council of Ministers of the presidency of the Council, the President of the Republic of Poland shall take part in meetings of the European Council and in international meetings with participation of the European Union, at which the attendance of the heads of state or government of the Member States is foreseen.

**Article 21.**

1. (repealed)

2. During the exercise by representatives of the Council of Ministers of the presidency of the Council, a representative of the Council of Ministers shall, each month, inform the competent body under the rules of procedure of the Sejm and the competent body under the rules of procedure of the Senate on the progress in the exercise of the presidency.

3. The Council of Ministers shall attach to the information referred to in Article 3 (1), concerning the term of the presidency of the Council exercised by representatives of the Council of Ministers, an evaluation of the achievement of the priorities referred to in Article 20a (1).

**Article 22.**

During the exercise of the presidency of the Council by representatives of the Council of Ministers, the information referred to in Article 3 (2) and Article 11 (1) shall not include matters relating to the exercise of the presidency of the Council.

**Chapter 7**

**Amendments to provisions in force and final provisions**

**Article 23.**

(omitted)

**Article 24.**

The Act of 11 March 2004 on the cooperation of the Council of Ministers with the Sejm and the Senate in matters relating to the Republic of Poland's membership of the European Union (Dziennik Ustaw No. 52, item 515, and Dz.U. of 2005, No. 11, item 89 and No. 160, item 1342) ceases to be effective.

**Article 25.**

This Act shall enter into force 3 months after its promulgation.