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ARTYKUŁY

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THE CONSTITUTIONAL-LEGAL ANALYSIS OF "COMMUNICATION", "MEANS OF SOCIAL COMMUNICATION" AS WELL AS "SOCIAL DIALOGUE", AND "CITIZENS' DIALOGUE"

KONSTYTUCYJNO-PRAWNA ANALIZA POJĘĆ 'KOMUNIKOWANIE', 'ŚRODKI SPOŁECZNEGO PRZEKAZU' ORAZ 'DIALOG SPOŁECZNY I OBYWATELSKI'

Abstrakt

Artykuł wyjaśnia i opisuje pojęcia 'komunikowania', 'środków społecznego przekazu', 'dialogu społecznego' i 'dialogu obywatelskiego' w świetle przepisów Konstytucji RP z 1997 r. W pracy wykorzystano podejście prawno-dogmatyczne oraz następujące metody wykładni przepisów prawnych: językowo-logiczną, celowościową oraz systematyczną.

Słowa kluczowe: dialog społeczny, dialog obywatelski, komunikowanie, media, obywatelstwo

KOMUNIKACJA SPOŁECZNA

Introduction

The terms "social dialogue" and "citizens' dialogue" are very often used in the public debate, yet they are applied a range of different meanings. They can be commonly understood as communication between the citizens with regard to some public issue. These terms can also mean a public expression of some postulates by a group of citizens demanding a particular course of action of the public authorities. The above-mentioned terms can also be understood as a type of negotiations be-

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tween an organised group of citizens and the public authorities. Such a broad understanding of the analysed terms can also be observed in social science, but the precise understanding of these terms depends on the research perspective and the scientific branch represented by a given researcher. The aim of the present paper is to explain 'social dialogue' and 'citizens dialogue' from the constitutional-legal perspective. Therefore, the author will analyse how the articles of the 1997 Constitution of the Republic of Poland describe the terms in question and what their basic elements – in accordance with jurisprudence – are. It also seems necessary to analyse the legal meaning of the terms "communication" and "means of social communication" (media). Many ways of 'communication' allow public actors to conduct social dialogue. "Means of social communication" should be regarded as one of such ways. Thus, such a research perspective, i.e. one based on the relations between communication, media, and social dialogue, is seemingly gaining more and more currency among Polish researchers[1]. The article presents the legal dogmatic research approach towards the analysed problems, with the use of linguistic-logical, teleological, systematic, legal-historical, and authentic (judicial) methods of legal rule interpretation.

"Communication" from the legal-constitutional perspective

According to the Constitutional Tribunal verdict (Tribunal Judgement K23/11, 2014)[2], the term "communication" means "inter-personal contacts", "to reach a consent or to dialogue" or "to deliver information" is present in Art. 49 of the Constitution. Such interpretation of the term in question is not precise; it seems that "communication" should be understood as "inter-personal contacts" between two parties – one sending the message (communique) and the other receiving it. Many subjects can simultaneously participate in this process (Banaszak, 2012, pp. 303–304). The above-mentioned constitutional provision ensures "freedom and privacy of communication". The freedom concerns not only individuals but also other organized subjects of law (private companies, associations, etc.), but it does not concern public authorities (Banaszak, 2012, p. 303; Bartoszewicz, 2014). Thus, freedom should be understood as freedom from intervention of public authorities concerning the process

[1] For example, the Institute of Journalism, Media, and Social Communication of the Jagiellonian University organized a scientific conference 'Communication and Media in Citizens 'Dialogue' in May 2018.

[2] The Polish Constitutional Tribunal judgements are available at: www.tribunal.gov.pl.

of communication but also as freedom from intervention of private subjects (Bartoszewicz, 2014). The state is obliged to protect an individual from such intervention (Banaszak, 2013, p. 105). Such prohibited intervention should be broadly understood as forcing the participants in an act of communication to make the details of their communication public or even to reveal details concerning circumstances of the act of communication (e.g. identities of parties participating in an act of communication), changing or nullifying the communique and also accessing it or spying on it (Banaszak, 2012, p. 304). The freedom and privacy of communication is rightly regarded by Tribunal (Tribunal Judgement K23/11, 2014) as concerning all sorts or forms of communication: direct, indirect, or even non-verbal (Banaszak, 2012, pp. 303–304). However, some constitutional law experts claim that Art. 49 concerns only "communication" made by some means of the communication (Jarosz-Żukowska, 2008, pp. 11–12; Sarnecki, 2016, p. 260). The constitutional protection concerns not only the contents of the particular message, but also all the circumstances of the communication process, such as personal data of the communicating persons, their phone or IP numbers. The protection concerns the act of communication, regardless of its subjects' private life, professional or economic activity. Freedom and privacy of communication should be ensured in all places, even those accessible publicly. On the basis of this assumption, the Constitutional Tribunal defined two main classes of communication: direct communication and long-distance communication, i.e. executed by means enabling it over a great distance between people involved in an act of communication. The Tribunal also defined the type of communication that could be kept in privacy and such that could not because of its basic characteristics (Tribunal judgement K 23/11, 2014). The latter class includes, for example, a newspaper interview, press/tv conference or an online blog article. However, whether one side of an act of communication can make its content public without any specific agreement of the other side constitutes a difficult question concerning freedom and privacy of communication (Banaszak, 2012, pp. 304–306). It seems that such conduct would constitute an infringement of freedom, but it could as well be justified by the protection of another constitutional good (Art. 31 para. 3 of the Constitution). Therefore, for example, making a communique that would inform about the possibility of crime public would be constitutionally justified. Other constitutional values that justify limitation of the communication freedom include protection of dignity of an individual and protection of child and its good (Banaszak, 2013, pp. 107–108). It also seems that freedom of communication is limited in the workplace. It especially concerns

employer's access to an employee's work e-mail account and employer's monitoring of an employee's work e-mails. However, employee's private e-mail correspondence, even made with the use of the employee's work e-mail account, is protected by Art. 49 and such protection also concerns phone talks made by an employee (Jarosz-Żukowska, 2008, pp. 20–23). Obviously, the participants in the communication process can effectively express consent for limiting the privacy of their communication (Banaszak, 2013, pp. 109–110).

"Means of social communication" from the legal-constitutional perspective

The characteristics of the term "means of social communication" can be found in the verdicts of the Constitutional Tribunal concerning Art. 14 of the Constitution. The mentioned rule states that "The Republic of Poland shall ensure freedom of the press and other means of social communication". The Constitutional Tribunal describes this rule in one of its judgements as "the freedom of the means of social communication", which is also directly and expressly connoted by the Tribunal in the same verdict as "the freedom of the media". Therefore, it seems that the Tribunal regards the terms "the means of social communication" and "media" as synonyms. According to Banaszak, the Constitution distinguishes the term "press" from other "means of social communication", which as a result means that the term "press" should be understood traditionally as printed periodical publications that have a title, a current number (issue), and a date of issue. Therefore, almost all existing periodical forms that are disseminated by means of mass communication, such as radio and TV programmes, newsreel screened at the cinema or other forms of online broadcasting, cannot be understood as "press" (Banaszak, 2012, p. 128). It has to be emphasised that "press" should be regarded as a sort of "means of social communication" (Sokolewicz, 2011, p. 51). Generally, Banaszak is right, however, the requirement that only "printed" periodicals should be defined as "press" seems too strict and this narrow view is not shared by other law experts (Sokolewicz, 2011, pp. 53–54). The Constitutional Tribunal also defined the term "the mean of the mass communication", which was used in the Polish penal code. The Tribunal negatively evaluated the use of such a term by the legislator, as it differs from the term "means of social communication" used in Art. 14 and Art. 54 para. 2 of the Constitution, i.e. the prohibition of preventive censorship of the means of the social communication. It can be thus assumed that all the statements concerning "means of mass

communication" also concern "means of social communication". The Tribunal holds the view that "means of mass communication", as "means of social communication" includes press/ "media", should have all the following characteristics: mass audience, up-to-date and short-lived information delivered in some sort of package, public access to such information, institutionalisation of the broadcaster and the existence of a gatekeeper (a person who controls the delivered information and the programme broadcast, e.g. editor-in-chief). In the opinion of the Tribunal, TV and newspapers should be regarded as "media". In another judgement, Tribunal seems to regard also the internet as "media", claiming that Art. 14 and Art. 54 also concern the internet (Tribunal judgement P 10/06, 2006; Tribunal judgement SK 43/05, 2008; Tribunal judgement K 23/11, 2014).

The requirements which the Constitutional Tribunal provides in its afore-mentioned judgements, i.e. defining the particular means of communication as the media, appear apposite. However, its conclusions with regard to which particular means of the communication can be subsumed under the "media" category are too general, especially as far as the internet is concerned. The current technology enables private persons to disseminate online programmes aimed at mass audiences. However, such broadcasters need not have to be institutionalized and do not have a gatekeeper. The "mass audience" should be regarded in the context of describing the media as "means of social communication". Therefore, every member of the society should be regarded as a potential audience of any given type of "media". Such an understanding leads to the conclusion that not every newspaper, radio station or TV broadcaster could be regarded as "media", but only such that are easily accessible on the territory of Poland by all members of the society (Garlicki, Sarnecki, 2016, p. 455; Święcka & Święcki, 2006, p. 455). It should also be mentioned that the gatekeeper cannot be a person who is mainly responsible for preparing and producing the potential programme. The main task of such a person is evaluation whether the material (programme / content) prepared and produced by other persons should be published or not. Therefore, whether a particular broadcaster can be considered a type of "media" should be evaluated individually, regardless whether it makes use of traditional or modern means of communication. For example, internet portals which are generally accessible could be regarded as means of social communication, but such a term would not define internet blogs (no gate-keeper), books (no later revisions) (Sokolewicz, 2007, p. 456), billboards or leaflets (only local reach, no later revisions), as some authors claim (Garlicki & Sarnecki, 2016, p. 457) or so-called citizens'

journalism (local reach, no gatekeeper). A different position towards defining the term "means of social communication", directly supported by Banaszak (2012), is presented by Jacek Sobczak. He claims that "social" character of the media could be understood as a requirement for the means of mass communication to express the needs of their audience and an obligation for public authorities to use the means of mass communication for the common good (Sobczak, 2008, p. 72). Sobczak is right that Art. 14 of the Constitution considers not only media that have such a "social" character. In a modern democratic state, the society has a pluralistic character and people have different opinions and expectations concerning media, so it is impossible to produce a broadcast or publications that would satisfy all the audience / readers. It also seems impossible to include "common good" in the work of the media, because it could be understood differently by people. Last but not least, in a democratic state media can have different profiles, focused on politics, economy or entertainment, hence they do not realize broadly regarded "social" aims defined by Sobczak (Sadomski, 2016, p. 394). Sobczak, however, seems to be wrong naming the use of the term "social" in Art. 14 as "a blunder" and claiming that Art. 14 concerns all means of mass communication (such an opinion seems also to be shared by Sadomski, 2016, p. 394). First of all, it should be mentioned that the term "means of social communication" was used in the Constitution not just once, but twice. As a result, it does not seem to be incidental. Furthermore, Sobczak's opinion does not obey the general legal principle of the interpretation of legal rules stating that every single legal rule and its construction is made consciously on purpose by the lawgiver. Moreover, the term "social" was used in the Constitution a few times, so according to the systematic interpretation of its rules it should be interpreted every time in a similar manner (Święcka & Święcki, 2006, p. 455). All these considerations lead to the conclusion that the term "means of social communication" was used in Art. 14 for a particular purpose and concerns only such types of media which have a potential to reach every member of the society or a significant majority of members of society. Hence, this term differs from the term "means of mass communication", because "mass" does not specify the quantity of the audience of a particular media format. Moreover, it allows to apply Art. 14 to newly appearing forms of media as well as to those that will be used in the future (Lis, 2012, p. 22).

The media are significant participants in the social dialogue. In the opinion of the Constitutional Tribunal, Art. 14 of the Constitution should ensure such activities of the public authorities that would allow to conduct a pluralistic discourse in the press and in other media. Freedom of

the media is also closely linked to freedom of speech (Art. 54). The possibility to formulate and express their opinions also in media enables citizens to be active in the public life and to conduct social dialogue (Tribunal judgement K 13/16, 2016). In this context, it seems that the Tribunal understands the term "social dialogue" as the possibility of free expression of the opinions in the public sphere, where they could be confronted with the opinions of other people. So, the basis of the "social dialogue" in question would be "public discourse" and the most important element of it would be an exchange of opinions concerning the public sphere. In the light of the above, the media constitute the basic tool of such discourse (dialogue) and also its platform, i.e. the area where people could get acquainted with the opinions of other people.

"Social dialogue" and "citizens' dialogue" from the legal-constitutional perspective

According to Bogusław Banaszak, the term "citizenship" can be defined as the relation of the affiliation of an individual to a particular state, which has legal consequences regulated by the internal law of the state in question. This relation has a permanent character, not influenced by the passage of time or place of living (the state of citizenship or residence abroad) of the citizen (Sandorski, 2006, p. 54). The legal consequences for an individual are the rights (but also freedoms) and obligations that are common for every citizen of the particular state. The citizenship status allows an individual to fully use the constitutional rights and freedoms, which could be limited for a foreigner (Garlicki & Zubik, 2016, p. 152). The citizen is also automatically a member of the collective subject of the sovereignty in the democratic state (Banaszak, 2012, p. 242). It means that every citizen has a guaranteed influence on exercising her/his power in the state generally by using the electoral rights.

Art. 34 para. 1 of the Constitution states that "Polish citizenship shall be acquired by birth to parents being Polish citizens. Other methods of acquiring Polish citizenship shall be specified by statute". Pursuant to Art. 137 and Art. 144 para. 3 point 19 of the Constitution, the President of the Republic of Poland grants Polish citizenship and gives consent for renunciation of Polish citizenship; such competences of President are her/his prerogatives. The Constitutional Tribunal after analysis of the above-mentioned rules stated that there are three modes to become the Polish citizen: (1) directly from Art. 34 – to be born to parents being Polish citizens, no matter if in Poland or abroad (Banaszak, 2012,

p. 243); (2) directly from Art. 137 – to be granted Polish citizenship by the President; (3) based on the provisions of a relevant statue. The Tribunal analysed in detail the two last modes of receiving the citizenship. It stated that the use of terms "acquire" in Art. 34 and "grant" in Art. 137 was made on purpose to express the notion that both modes of becoming Polish citizen are different. Therefore, granting the Polish citizenship by the President cannot be subsumed under "other methods of acquiring Polish citizenship specified by statute". Moreover, the mode described in Art. 34 para. 1 second phrase should be regarded as the ordinary mode for foreigners and the mode described in Art. 137 as the extraordinary one. The bill on Polish citizenship (unified text, Journal of Laws 2017, item 462, with amendments) précises the requirements necessary for granting Polish citizenship. The Tribunal also stated that participation of the President in the procedures and modes of acquiring Polish citizenship regulated by the appropriate statutory regulations is not obligatory and that the law-giver has a substantial freedom to construct detailed rules. However, their construction should include general constitutional principles, such as concern for the interest and safety of the state, obligation to respect human dignity, prohibition of discrimination, and obligation of equal treatment. The President is not bound by any substantial requirements that would concern granting the citizenship, it is her/his discretional act depending entirely on her/his will. Such an act, especially refusal to grant the citizenship cannot be appealed (Banaszak, 2012, p. 761; Tribunal judgement Kp 5/09, 2012).

According to Art. 14 point 1 of the bill on Polish citizenship, it does not concern an adult person whose one parent is a Polish citizen. In the opinion of constitutional law experts, Art. 34 para. 1 of the Constitution concerns only a child whose both parents are Polish citizens, whereas the citizenship status of a child whose only one parent is a Polish citizen should be regulated in the bill (Garlicki & Zubik, 2016, p. 153; Kubuj, 2016, pp. 873–874). However, the analysis of the mentioned rule could lead to other conclusions. Such understanding of Art. 34 para. 1 would mean that in a situation when mother of a child born in Poland is a Polish citizen and the child's father is unknown, the Constitution allows to regard such a child not as a Polish citizen. Also, considering mass emigration of Poles, it should be mentioned that lack of constitutional guarantees of Polish citizenship for a child of a Polish citizen and a foreigner would weaken the bonds of the child with Poland. Such a situation would be against the preamble of the Constitution which confirms the obligation of Republic of Poland to show concern for Poles living abroad and their bonds with the state. Therefore, it seems that Art. 34 para. 1

concerns a child whose at least one parent is a Polish citizen. The term "parents" was used in this rule to emphasize that there are two natural parents – a mother and a father and it does not matter if only the mother or only the father of the child has a Polish citizenship.

The institution of the Polish citizenship is very often linked to the conception of citizens' rights. Such a type of human rights belongs only to the citizen of the particular state and is directly described in many rules of the Constitution: Art. 11, Art. 35, Art. 36, Art. 51, Art. 52, Art. 55, Art. 60, Art. 61, Art. 62, Art. 67, Art. 68, Art. 70, Art. 74, Art. 99, Art. 118, and Art. 127 (Garlicki & Zubik, 2016, p. 152). The citizenship of the particular state is also connected with specified citizens' obligations, in Poland described in Art. 82 and Art. 85 of the Constitution. However, because of Poland's membership in the EU and the institution of the EU citizenship functioning alongside the national citizenship, as well as because of the respective international and national judgements, the number of freedoms and rights that concern only Polish citizens has been gradually decreasing, especially of those concerning political, social and economic rights. Moreover, cancelling of the obligatory military service for Polish male citizens made the loyalty to the Republic of Poland and concern for the common good the only "serious" obligations for the Polish citizens (Complak, 2014). However, cancelling of the obligatory military service in peacetime does not exclude the obligations for Polish citizens concerning "homeland defence" during wartime.

The term "dialogue", which is generally understood as a conversation between two or more participants (Matey-Tyrowicz, 2002, p. 81), is used two times in the Constitution: in the preamble and in Art. 20. The Constitution, however, does not use directly the term "citizens' dialogue". The preamble states that the 1997 Constitution was established as the principal law for the state, based, among others, on the principle of social dialogue. The Constitutional Tribunal and most constitutional law experts accept the normative character of the preamble (Garlicki & Derlatka, 2016, pp. 36–40; Tribunal judgement Kp 5/08, 2009). According to Art. 20 of the Constitution: "A social market economy, based on the freedom of economic activity, private ownership, and solidarity, dialogue and cooperation between social partners, shall be the basis of the economic system of the Republic of Poland". The analysis of both fragments of the Constitution generally lead researchers to the conclusion that they establish the principle of social dialogue. However, some experts emphasize that the preamble uses the term "social dialogue" and that Art. 20 of the Constitution uses the term "dialogue between social partners". Since the two terms are different, they should not be under-

stood in the same way. The "social dialogue" in effect means a dialogue between some social organisations, associations or representations. The phrase "dialogue between social partners" should be understood as a dialogue between organisations of employers and employees concerning problems relevant to their professional relations. Therefore, "dialogue between social partners" could be regarded as a form of "social dialogue" (Sanetra, 2010, pp. 23–24). This would mean that some general opinions on "social dialogue" also concern the practice of "dialogue between social partners".

The term "social dialogue" directly used in the preamble to the 1997 Constitution is generally interpreted as the fulfilment of the constitutional principle of the democratic state (Art. 2). Therefore, according to the Constitutional Tribunal, the connection of the two constitutional principles, i.e. social dialogue and democratic state, gives an edge of the deliberative model of democracy over the majoritarian model (Tribunal judgement K 43/12, 2014). The term "deliberative democracy" is often used in political science. Andrzej Antoszewski, who analysed this model of democracy, stated that its basic assumption is that decision of the majority is the source of pathology in politics, leading to the domination of the interests of particular groups or individuals over the public interest. In this understanding of democracy, the most important is not the effect of particular decisions but the method of making such decisions: it should be a public debate using rational arguments, leading to a widely accepted compromise – a consensus of opinion. Such a process should form the basic mode of solving social conflicts. The deliberative model of democracy regards "people (nation)" as the community of citizens acting for the common good and, as such, should allow to identify the interests that go beyond individual private interests. This model of democracy supports such institutional solutions that would limit the majoritarian method of decision-making: judicial control of the constitutionality of law, symmetrical bicameralism, independent financial audit. Other institutional solutions should ensure the conditions of free public debate that would lead to acceptance of profitable solutions for the whole community (Antoszewski, 2016, pp. 119–122).

The principle of social dialogue should be regarded as a means of influence on the model of the democratic state in Poland, supporting the deliberative model of democracy rather than the majoritarian one. According to the Constitutional Tribunal judgement, it establishes an obligation for organs of the public authority not to take arbitrary decisions by simple majority vote, but to consult them with all the interested persons, groups, and organisations. The Constitutional Tribunal emphasised

that such public consultations should be conducted especially if the particular legal rules obliged the organs of public authority to organize them. However, this requirement cannot be understood as a requirement to reach a consensus. Such an interpretation of the principle of social dialogue would negate the role of the organs of public authority, especially organs of legislative and executive power. The Polish term "władza" in English can be understood as both "authority" and "power" (legislative power – władza ustawodawcza; executive power – władza wykonawcza) and it means that the particular subject has the ability to conduct effective work on the basis and within the limits of the law. Hence, the above interpretation implicates that if the result of the consultation was binding but would not lead to a solution of a particular problem, the organs of state authority could not then undertake a decision to solve a particular problem. Moreover, it would negate the constitutional competence of the Council of Ministers to conduct the internal policy of the state. The legislative solutions concerning social dialogue should preserve the balance between efficiency and democratism (Tribunal judgement K 34/97, 1998; Tribunal judgement K 37/06, 2009).

The Constitutional Tribunal also regards Art. 20 of the Constitution as expressing the principle of social dialogue. It defines the economic system of Poland as "social market economy". This means that such a model of the economic system has two joint aspects: "market economy" and "social economy". The "market economy" is based on the principle of "freedom of economic activity and private ownership", while "social economy" is based on the principles of "solidarity, dialogue, and cooperation between social partners" (Sanetra, 2010, p. 14). Thus, the dialogue between the social partners should concern only socio-economic issues and not the issues that would be of social importance only (Sanetra, 2010, p. 18). In this context, analysing Art. 20 and the principle of social dialogue, the Tribunal stated that the issue implicates creation of a negotiation mode aimed at solving disputable public affairs, as well as of forms of information exchange, presentation of particular positions and also institutional guarantees of social discourse, including legislative discourse. Social dialogue can thus have many forms, but it should not lead only to exchange of information or opinions. Instead, it should also accept binding regulations that concern employers, employees, and public authorities (Sanetra, 2010, pp. 19–21). Maria Matey-Tyrowicz distinguishes three basic forms of social dialogue: (1) communication and reaching agreement by the social partners; (2) negotiations leading to collective labour agreements (Art. 59 para. 2 of the Constitution); and (3) information exchange and consultation with employees

(Matey-Tyrowicz, 2002, p. 82). According to the Constitutional Tribunal, "social partners" are public authorities, trade unions, organisations of employers, economic self-government or organisations of the producers of goods. In the course of the dialogue between the social partners in question an attempt should be made to reach an agreement concerning social and economic order. Therefore, all the interests of the participants should be regarded as balanced and the final decisions should include equal share of their profits and concessions. This means that all participants of the dialogue should respect their mutual interests and needs. Another aim of the social dialogue would be ensuring social order (Sanetra, 2010, pp. 17–18). However, the Tribunal also stated that even though Art. 20 should be interpreted as an order to conduct social dialogue, it should not be understood as an order to establish the texts of the bills by way of consensus (Tribunal judgement K 43/12, 2014). The state, represented by public authorities, plays a special role in social dialogue. The authorities are at liberty to execute their legislative and regulatory competences to establish and institutionalize the conditions of dialogue as well as to regulate the affairs and issues that are its subjects. The public authorities and their representatives participate in the dialogue, generally playing the role of a dialogue initiator but also of an arbiter between the sides. Last but not least, the state can also be regarded as a direct or indirect employer (Wronikowska, 2003, pp. 4–6).

There are some slight differences between the terms "social dialogue" and "citizens' dialogue". Some authors suggest that "citizens' dialogue" could be considered a sort of "social dialogue" along with corporate dialogue and denominational dialogue. This sort of social dialogue concerns dialogue between public authorities and citizens' organisations (Mazuryk, 2009, pp. 101–103). Such an approach, however, seems wrong if both terms were to be analysed from the constitutional-legal perspective. As previously mentioned, the terms "citizen" and "citizenship" are legal terms but "citizens' organisation" is not. The activity of that type of organisations, which could be called non-profit organisations, non-governmental organisations (NGOs) or the third sector, is based on freedom of association established in Art. 12 and Art. 58 of the Constitution. Such a type of freedom can be exercised by "everyone", i.e. Polish citizens or non-citizen. Therefore, the term "citizens' organisation" is incorrect from the constitutional-legal perspective. Both terms, i.e. "citizens' dialogue" and "social dialogue", include the noun / subterm "dialogue", so the legal principles and characteristics of the dialogue remain the same. The difference between the terms would concern the subject of the dialogue which, respectively, would be "citizens" or

"society". According to Heywood, the term "society" means a group of people living on the same territory. The society is characterised by a regular model of social interactions, structure, a shared consciousness of being members of the same society and some level of cooperation (Heywood, 2006, p. 241).

The Polish society is mainly composed of Polish citizens, so the term "social dialogue" and "citizens' dialogue" should be regarded as very similar. However, many Poles live outside Poland. The Polish Constitution in its preamble but also in Art. 6 para. 2 and Art. 36 expresses an obligation for the Polish authorities to care about the Polish citizens living abroad. Therefore, there is no obstacle to using the principle of the social dialogue not only in the case of Polish citizens living in Poland but also in the case of Polish citizens living abroad.

Final remarks

The term "citizens' dialogue" was not directly used in the Constitution, however, the Constitution includes the term "social dialogue" with a very similar meaning. The constitutional principle of social dialogue has two aspects. It obliges public organs of the authority, especially the government and the parliament, to conduct consultations on introducing a new law, to institutionalise the mechanism of broadly regarded dialogue, and to solve social conflicts by the way of negotiations and compromise, i.e. not by dint of arbitrary decisions. Such methods of conducting public affairs could concern not only members of the Polish society living in Poland but also Polish citizens living abroad. The media are the tools of social dialogue, enabling the communication between the citizens and also between the citizens and the public authorities. From the legal-constitutional research perspective, the media include only such means of communication that have a social reach, update their broadcast, and have a gate-keeper controlling their content. Communication relies on exchanging the broadly regarded communiques with all sorts of content between the two sides of the act of communication in all accessible forms or places.

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