

Anna Młynarska-Sobaczewska

Polish Academy of Sciences, Poland

anka.sobaczewska@gmail.com

ORCID: 0000-0003-3029-2836

Jacek Zalesny

University of Warsaw, Poland

jacekzalesny@uw.edu.pl

ORCID: 0000-0002-8231-4454

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Deputies as Subjects of Parliamentary Accountability – Means of Action¹

Introduction

Parliamentary-cabinet systems of government, irrespective of the manner and degree of arrangement (such as prime ministerial government in the UK or the chancellor system in Germany), are based on relations of dependency between parliament (or its first chamber) and government. Fundamental to these relationships is the multi-stream flow of information and associated assessments. The flow of information occurs at three levels: parliament (the lower house), the internal bodies of parliament (essentially parliamentary committees) and members of parliament (MPs). We are interested in this last dimension, particularly the accountability between MPs and government.² We also answer the question of how the process of MPs posing questions and members of government responding to them is shaped.

1. Interpellation procedures as tools for accountability – the historical dimension

The doctrines of legal studies and political sciences treat interpellation procedures as one of the most distinctive, established, key institutions of parliamentary law.³ They are

¹ This article was written as part of the project “Accountability as a category of constitutional law”, funded by NCN, UMO 2018/29/B/HS5/01771.

² For more on the institution of parliamentary accountability see e.g. *Democracy, Accountability, and Representation*, eds. A. Przeworski, S.C. Stokes, B. Manin, New York 1999; K. Strøm, W.C. Müller, D.M. Smith, *Parliamentary Control of Coalition Governments*, “Annual Review of Political Science” 2010, Vol. 13; Z. Machelski, *Rozliczalność jako element jakości procesu demokratycznego w systemie instytucjonalnym III Rzeczypospolitej*, “Przegląd Sejmowy” 2018, No. 1(144).

³ See M. Kruk, *Funkcja kontrolna Sejmu RP*, Warszawa 2008, p. 63; L. Garlicki, *Komentarz 3 do art. 25 [in:] idem [et al.], Konstytucja Rzeczypospolitej Polskiej. Komentarz. Tom III*, Warszawa 1997, p. 1; J. Kuciński, *Sejmowa kontrola działalności rządu z perspektywy prawnoustrojowej i praktyki politycznej*, Warszawa 2017, p. 347 et seq.

activities in which information, explanations and justifications are obtained. The nature of the principal-agent relationship as in the relationship characteristic of members of parliament (MPs) and government is fully revealed in interpellation procedures.⁴

Through the process of evolution, which has taken place primarily based on English parliamentarism and that of the French Third Republic, to which legal regulations adopted in other countries refer, interpellation procedures have assumed different forms and perform slightly different functions.

In England, from the 1880s onwards, the practice of MPs asking for information on cabinet business, to which the cabinet would briefly respond, and then the speaker moving on to the next item on the agenda reduced to a minimum the importance of interpellation as a means of controlling cabinet policy. The stable and predictable balance of party forces in the House of Commons meant that, regardless of the content of the government's response to an MP's question, there was no change in the balance of power in parliament. There was therefore no need to attribute to them a significance that they did not have and, at the same time, there was no mechanism capable of giving them more significance.

By contrast, in continental European states, including France of the Third and Fourth Republics and Belgium, the debate on an answer to an interpellation and the related criticism of a government or minister could lead to a request to change the composition of the government and its reconstitution. Since the debate on an interpellation could lead to a change of political alignment in parliament or even to the fall of a cabinet, there was a rationalisation of parliamentary proceedings in the form of a restriction on the use of this instrument. Unlike in England, from which it originated, the interpellation, and the subsequent submission of a report by a government minister on key issues of state, became a lever for triggering political accountability, containing a powerful charge of influencing the composition of the personnel of and the public policies implemented by the government. Care had to be taken, therefore, to ensure that a fortuitous voting pattern, often triggered by specific and non-recurring events, such as the absence of several government majority MPs, did not lead to the downfall of a minister or government. For this reason, for example, during the founding of the Fifth French Republic, a deputy presenting an interpellation was obliged to accompany it with a motion of censure signed by at least $\frac{1}{10}$ of the members of the National Assembly.⁵ According to Section 122 of the 1938 Constitution of Lithuania, at least $\frac{1}{4}$ of the members of the *Seimas* could move a motion to declare the prime minister's response to an interpellation unsatisfactory. If such a motion was supported by at least $\frac{1}{4}$ of the MPs, then the president of Lithuania either dismiss the prime minister or dissolved parliament.⁶ Thus, the evolution of interpellation procedures as

⁴ R. Serban, *The practice of accountability in questioning prime ministers: Comparative evidence from Australia, Canada, Ireland, and the United Kingdom*, "British Journal of Politics and International Relations" 2021, Vol. 25(1).

⁵ J. Stembrowicz, *Rząd w systemie parlamentarnym*, Warszawa 1982, p. 215.

⁶ Verfassung des Litauischen Staates vom 12. Februar 1938, <https://www.verfassungen.eu/lt/verf38-i.htm> [accessed: 2023.09.21].

instruments of government accountability corresponded rationally with the evolution of parliamentary-cabinet systems themselves.

2. Interlocutory procedures as tools for accountability – the present day

The addressees of interpellation procedures are governments, as executive authorities, and their members. They are, in turn, concerned with issues within the remit of the interpellated bodies, the powers they have and how they exercise them. The subject matter of interpellation procedures depends on the scope of the government, its constituent persons, subordinate bodies or bodies otherwise connected with the government. They can only be matters that are directly or indirectly the responsibility of the government or its agencies.

Formally, in principle, MPs acting either individually or collectively are the exclusive holders of interpellation instruments. In exercising their representative mandate,⁷ MPs may use these instruments at their own discretion and for a variety of reasons.⁸ However, this formal freedom to use interpellation procedures must be superimposed on conditions resulting from the political organisation of MPs into political factions.⁹ Thus, in Germany, for example, an interpellation can only be requested by a group of MPs in the number required to form a parliamentary faction (at least 26 MPs). The government replies to an interpellation in a plenary session of the *Bundestag*. If the number of MPs required to form a parliamentary group so requests, the government's reply is debated.

Given the politically fundamental division of MPs in parliament into MPs of the parliamentary majority and the parliamentary opposition, interpellation procedures are instruments of accountability used mainly by the opposition. They are means of gathering knowledge about the activities of the government and its agencies in order to verify the regularity and expediency of these activities. An important feature is the openness of the proceedings, both with regard to MP's speech and the reply they receive. In particular, it is important with regard to another form of accountability, namely that of MPs to the sovereign power – the people.

Questions and interpellations are the classic instruments of accountability used by MPs (either individually or collectively) *vis-à-vis* the government in a parliamentary-cabinet system. They have developed as basic forms of relations between MPs and

⁷ For an extensive discussion of the representative mandate see, e.g. *Mandat przedstawicielski w teorii, prawie i praktyce poselskiej*, ed. M. Kruk, Warszawa 2013 and the imperative mandate as its negation: P.-H. Zaidman, *Le mandat impératif. De la Révolution française à la Commune de Paris*, Paris 2008.

⁸ For more on interpellation procedures as a form of communication between MPs and their constituents, see, for example, S. Bailer, *People's Voice or Information Pool? The Role of, and Reasons for, Parliamentary Questions in the Swiss Parliament*, "The Journal of Legislative Studies" 2011, Vol. 17, Issue 3.

⁹ See L. de Winter, *Parliament and Government in Belgium: Prisoners of Partitocracy* [in:] *Parliaments and Governments in Western Europe*, ed. P. Norton, London 2004, p. 111; S. Otjesa, T. Louwerse, *Parliamentary questions as strategic party tools*, "West European Politics" 2018, No. 41(2), p. 1.

the executive. In this relationship, MPs seek to know what the government is doing within the scope of its powers. The essence of enquiries is to request information from the government on its activities and those of its agencies. But parliaments, in addition to their legal law-making function, also perform political functions by articulating the political preferences of citizens. Hence, in addition to the question of what the government and its agencies are doing, another question is posed by MPs: whether governments are pursuing the right policies and hold them to account for these policies.

MP interpellations are used to make manifest the executive's accountability for its policies and often to question them. They are an instrument for triggering a discussion in parliament about the policies pursued by the government and for evaluating these policies. This tool is regulated separately in many orders and often limited legally by the realities of political factions and their strengths. For example, according to Article 90 of the Bulgarian Constitution of 12 July 1991, deputies of the national assembly have the right to interpellate the council of ministers or individual ministers. At the request of at least $\frac{1}{5}$ of the deputies, an interpellation is discussed and a resolution is adopted.¹⁰ In individual cases, votes of confidence in the government or ministers are linked to the discussion of the answer to the interpellation. According to Section 43 of the Constitution of the Republic of Finland of 11 June 1999, a group of at least twenty MPs may submit an interpellation to the government or a minister on matters within the competence of the government or the minister. The interpellation is answered in the plenary session of the *Eduskunta* within fifteen days of its receipt by the government. The debate on the interpellation is followed by a vote of confidence in parliament for the government or minister, unless a motion of no confidence in the government or minister is tabled during the debate.¹¹ In turn, according to Article 80 of the Constitution of the Slovak Republic of 1 September 1992, a deputy may submit an interpellation to the government, a member of the government or the head of another central state administrative body on matters within their competence. The MP should receive an answer within 30 days. The answer to the interpellation is debated in the national council of the Slovak Republic, which may be combined with a vote of confidence.¹²

3. Interpellation procedures – distinction

In the historical development of parliamentary-cabinet systems, interpellation procedures were subject to modification (e.g. in Poland, interpellation took the form of writ-

¹⁰ Конституция на Република България в сила от 13.07.1991 г., <https://www.justice.government.bg/home/normdoc/521957377> [accessed: 2023.09.21].

¹¹ Suomen perustuslaki, <https://www.finlex.fi/fi/laki/ajantasa/1999/19990731> [accessed: 2023.09.21].

¹² Ústava Slovenskej Republiky z 1. septembra 1992, <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1992/460/> [accessed: 2023.09.21].

ten questions on issues of importance for state policy¹³) and supplementation. Today we can aggregate them into written interpellation procedures and oral interpellation procedures in the forum of parliaments or their committees.

The first are typical requests submitted to governments or individual ministers for information on specific areas of government or minister activities or actions. These are of general application. Exceptions include some of the presidential systems of government where, because of the strict separation of powers, no provision is made for MPs to ask questions of the government (Mexico and Nicaragua).

Within the framework of the questions, and within a legally stipulated timeframe, members of governments report on an area of interest to MPs concerning the competences of the governments. In addition to its informative purpose, the potential to inspire governments to take specific actions, in particular concerning events of a concrete or local nature, is important, thus such questions acquire the status of an intervention. At the request of citizens or their associations, MPs address governments on issues of interest to them, and in the response they receive information about the governments' attitudes to issues of interest to citizens or their associations.¹⁴

A written question from an MP is usually answered in writing. In some countries, the answer is given in writing or orally, whereby the choice of the form of answer is decided by the MPs in some countries and by the addressee of the question in others. In contrast, in some countries (the Philippines, Lithuania), a member of the government responds orally to a written question. In Bulgaria, on the other hand, a member of the government answers in writing or orally, unless the deputy has stipulated the written form, in which case it is mandatory to answer in writing. From the point of view of receiving a report from the principal, the form in which the answer is given is not irrelevant. The oral form, by its very nature, is more ephemeral, non-formalised. It is difficult to recall the source material with which the response is presented. It is also less effective when there is a disagreement between the principal and the agent about the content of the answer given. A written answer is devoid of such inconveniences and, as such, has a higher utility value for deponents than an oral answer.

In an interpellation, the essence of an MP's question is to obtain a response from the government. Given the multifarious nature of interpellations, what most often distinguishes them from MP questions is the procedure for asking them, their content and their implications. In modern states, an interpellation, more often than an MP's question, is a collegial right of MPs or their factions. More often than questions, it deals with issues relevant to state policy and more often than questions, the answer to an interpellation may lead to a parliamentary debate (e.g. Estonia) or, as in Sweden, where there is a cyclical parliamentary debate on interpellations. In this way, the interpellation takes on partisan significance. It becomes a form of government reporting not so

¹³ We share M. Kruk's view that in this way the interpellation has been "ripped out the teeth" and made similar to a question. M. Kruk, *Funkcja kontrolna Sejmu RP...*, p. 67.

¹⁴ L. de Winter, *Parliament and Government in Belgium...*, p. 111.

much to individual MPs or groups of MPs, but to parliamentary factions, in their political diversity and differing perceptions of government activity.

Formally, replying to an interpellation is not only a political obligation, but also a legal one. If an answer is not provided, inaction or ostensible activity of the addressee of the speech may be stated, and thus a violation of the applicable legal provision (e.g. in Poland – committing a constitutional tort). However, given the pragmatics of political action, in practice, such far-reaching consequences are not drawn from an unsatisfactory assessment of the submitted report or its failure to present it. More often than not, the failure to provide a written answer to an MP's question results in parliament being able to demand an oral answer.

In the practice of countries such as Poland and South Africa, there has been a kind of explosion in MPs using various types of interpellation procedures. Below we show the quantitative development of interpellation procedures by juxtaposing two terms of the Polish *Sejm*: *Sejm* IV term (19 October 2001 – 18 October 2005) and *Sejm* VIII term (12 November 2015 – 11 November 2019). During the IV *Sejm*, 10,660 parliamentary interpellations,¹⁵ 4,386 parliamentary questions, 710 questions on current affairs¹⁶ and 57 requests for current information¹⁷ were submitted. In contrast, in the VIII *Sejm*, 34,043 parliamentary interpellations, 9,955 parliamentary questions, 835 questions on current affairs and 76 requests for current information were submitted.¹⁸ This is similar to the Parliament of South Africa. During its fifth term (2014–2019), MPs asked 18,823 written questions.¹⁹ In comparison, for example, in the twelfth term of the National Assembly of Kenya (2017–2022), MPs asked the government only 1,941 questions.²⁰

To avoid the excessive use of interpellation procedures, some countries limit the right of MPs to request information from the government. In these, interpellation is

¹⁵ In Poland, parliamentary interpellations are similar to parliamentary questions. They differ in that, according to *Sejm* rules of procedure, parliamentary interpellations are to be tabled on matters of a fundamental nature and relating to problems of state policy, while parliamentary questions are to be tabled on other matters relating to the activities of the government or individual ministers. In practice, the distinction between the subject matter of interpellations and queries is not respected: parliamentary questions on secondary issues are titled by MPs as “interpellations,” and vice versa: questions on issues relevant to government policy are sometimes referred to as “queries.” The failure to distinguish in practice between “interpellations” and “queries” is of little relevance to the government's accountability, since in each of these two forms (“parliamentary interpellations” and “parliamentary queries”) the same circle of actors (members of the Council of Ministers) are asked by the same actors (MPs), in the same form (written) and with the same consequences (obligation to reply in writing within 21 days).

¹⁶ They are raised orally by Members during each sitting of the *Sejm* and require a direct response from a member of the Government. They relate to current government issues.

¹⁷ Current information is presented orally by members of the government at a sitting of the *Sejm*. A parliamentary discussion shall be held on the information presented. *Sejm Rzeczypospolitej Polskiej: IV kadencja. Informacja o działalności Sejmu (19 października 2001 r. – 18 października 2005 r.)*, Warszawa 2006, pp. 35–36.

¹⁸ https://www.sejm.gov.pl/sejm8.nsf/page.xsp/prace_sejmu [accessed: 2023.09.21].

¹⁹ <https://pmg.org.za/parliament-review/statistics/questions> [accessed: 2023.09.21].

²⁰ *The National Assembly. Report of the Affairs of the National Assembly of the 12th Parliament (31st August 2017 – 8th August 2022)*, p. 33.

not an individual MP's right, but one that is exercised collectively. In Austria, the government can be asked a question by at least five members of the National Council, similarly in Latvia. In some parliaments, quantitative limits have been adopted for putting questions to the government. In Germany, for example, a member of the *Bundestag* is entitled to ask the government no more than four questions per month.

In Poland, the quantitative growth of MP interpellations and queries has generated the material problem of responding to them within the legal deadline. Despite the employment in individual ministries and in the Prime Minister's Office of additional staff specialised in preparing replies to MP interpellations and queries,²¹ it has become common practice not to reply on time. At the same time, the multiplicity of MP queries has become an excuse for some ministers not to answer interpellations or queries that are problematic for them because of the work overload of individual ministers. In response to such behaviour, MPs have started to make use of the generally applicable provisions on access to public information and the court action provided for, under them, for the failure of a public authority to act in providing public information. Thus, in parliamentary practice, the use of specialised mechanisms of accountability of executive bodies (interpellation procedures) is mixed with general mechanisms of accountability of public authorities (general access to public information).

4. Question hour, news hour – clearing hour

A key institution of accountability used by MPs in parliament is the "question hour," based on English solutions (Question Time in the British parliament, *Questions au gouvernement* in the French parliament or *Frågestund* in the Swedish *Riksdag*). It is a tool for ongoing communication between MPs and the government, typically carried out at every parliamentary sitting, which is a permanent flow of information necessary for properly shaping decision-making processes, both parliamentary and governmental. It is realised with varying frequency, from once a month (Tunisia) to every working day of parliament (Australia). With that said, the predominant frequency today in many countries is to conduct the question hour once a week in which parliament is in session. As a rule, the question is called by proclamation. In most countries, the questioner has the right to ask a supplementary question when he or she considers the answer to be incomplete. Holding the government to account requires taking into account the political organisation of MPs. For this reason, it is prevalent to maintain factional parity when asking questions. In parliaments with a tradition of bipartisanship, such as Australia's, MPs from the ruling and opposition parties take turns asking questions.

In the UK, when a question relates to government policy, the Prime Minister answers. Other questions are answered by other members of the Cabinet. They typically do this on a rotating basis. Each minister answers MP questions approximately once

²¹ The occurrence of a similar process in the UK is indicated by P. Giddings, H. Irwin, *Objects and Questions* [in:] *The Future of Parliament. Issues for a New Century*, ed. P. Giddings, New York 2005, p. 76.

a month. In Bulgaria, on the other hand, the National Assembly listens to questions and answers during the last three hours of the session every Friday. The prime minister is the first to answer, followed by the deputy prime ministers and ministers, with the ministers' answers rotating. Questions to members of the government are asked in the order in which they are received. A prime minister, deputy prime minister or minister who fails to provide an answer is obliged to appear in person before the National Assembly within 10 days and give an explanation for failing to fulfil his or her duty. In addition, under Rule 107a of the Rules of Procedure for the organisation and activities of the National Assembly,²² during the last two hours of the session on the first Thursday of every month, the prime minister and deputy prime ministers (but not ministers) appear before the National Assembly and answer orally topical questions on general government policy posed by MPs directly to the parliament. With a view to maintaining a level playing field and not reducing the question hour to a questioning exercise, the questions asked must not ask for specific figures. Each parliamentary group is entitled to two topical oral questions and MPs who are not members of a parliamentary group are entitled to a total of two questions.

According to Article 48 of the French Constitution, at least one meeting per week is reserved for questions from MPs and replies from the government. They are not combined with a vote as an expression of formal assessment of the answers given.

In some countries, a so-called "news hour" (in Germany *Aktuelle Stunde*) is known to discuss the current activities of the government. In Austria, it is conducted at the request of at least five deputies.²³ In Poland, there is a similar procedure, called current information; the request for which is submitted by 21:00 on the day before the beginning of the sitting of the *Sejm*, together with a justification and an indication of its addressee. The Bureau of the *Sejm*, after consulting the Council of Seniors, determines which of the information proposals submitted will be taken into account and considered at the next sitting of the *Sejm*. The Presidium of the *Sejm* is guided by its importance and topicality, but it also takes into account the size of the club or circle proposing the question. In the absence of a unanimous opinion of the Council of Seniors, the *Sejm* decides by a majority of votes (or by an absolute majority if there are more than two requests for information. The formula adopted in Poland does not guarantee the parliamentary opposition (as the main entity predestined to request the government to submit activity reports) the ability to provoke discussion in the *Sejm* on key issues of the government's current policy. In a parliament with an established government majority, it determines not only the content of the decisions to be taken, but also the space for parliamentary discussion. It has the tools to prevent demands for information and discussions of events that are problematic for the government and unfavourable to it.

²² Правилник за организацията и дейността на Народното събрание в сила от 2.05.2017 г., <https://parliament.bg/bg/rulesoftheorganisations> [accessed: 2023.09.21].

²³ In Austria, the so-called 'European hour' is convened independently of the 'news hour'. It deals with questions from MEPs on Austria's EU membership and related European policy priorities of the country.

At each sitting of the Polish *Sejm*, a maximum of 90 minutes is devoted to government information. The *Sejm* holds a time-limited discussion on the information presented, while no resolution is foreseen on either taking note of the information or on the *Sejm* approving the conduct of the government or individual ministers. The relatively extensive timeframe for current information requests of up to 90 minutes and the discussion factor make the information a convenient platform for the flow of information and its assessment between the government and its parliamentary support and the opposition. Following the English model, it can serve the bipolar construction of the political scene, with its division into majority and minority government. The procedure for so-called current affairs questions is carried out in a similar way, except that they are tabled orally and not debated. There can be a maximum of 11 such questions, with the Bureau of the *Sejm* deciding which questions are posed and which are not. Questions which have not been posed lapse. This competence is often of a nature to limit the ability of the parliamentary minority to ask the government about matters which are inconvenient for it.

Conclusions

An essential feature of interpellation procedures is providing information on government actions. The addressee of the question is obliged to provide an answer and this answer must be complete, i.e. it must take into account the essence of the addressee's knowledge of the issues about which he or she is being asked. In the case of written interpellations, if the answer is considered unsatisfactory, the interpellant may ask the speaker of parliament to request additional explanations in writing, and to provide reasons for not accepting the answer.²⁴ The accompanying current information discussion allows cabinet members to provide additional explanations. These instruments are therefore the primary form of receiving highly detailed accounts of the authority exercised.

The analysis conducted of interpellation procedures renders it possible to ascertain their extensive and varied nature. To a large extent, they facilitate receiving a report from an agent – ministers or government as a whole. In terms of accountability mechanisms, interpellation procedures are well established and anchored in the constitutional practice of modern states. On the legal level, MPs have extensive instruments for obtaining a report from an agent, while in practice the effectiveness of its application, although subject to variation, is high. It is relatively rare that agents fail to report to deputies.

At the same time, it should be borne in mind that the mechanism for providing information and reporting on activities is distinct from the practice of using it.

²⁴ In Poland, such a request may be made only once, no later than within 30 days of receiving an unsatisfactory reply. Additional explanations shall be provided by the addressee within 21 days of receipt of the request for additional explanations.

The general conclusion that emerges from the analysis of the implementation of accountability by MPs concerns the dependence of the effectiveness of the instruments cited here on the will of the parliamentary majority. The ruling majority may prevent MPs from requesting information, as, among others, the Polish example of topical questions and the French restrictions on questioning show.

Importantly, however, from the point of view of accountability mechanisms, the conclusions reached by the principal upon receipt of the report and the possible sanctions against the agent (being held legally or politically responsible) must be separated from the agent's report to the principal.

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Summary

Anna Młynarska-Sobaczewska, Jacek Zaleśny

Deputies as Subjects of Parliamentary Accountability – Means of Action

The article presents the most important issues in the accountability relationship between MPs and governments and their members. The various instruments of accountability at the disposal of MPs are comparatively identified and characterised. On this basis, the article argues that MPs have the instrumentality to hold the government and its agendas to account. They have tools at their disposal to obtain information on specific events concerning governments and their agencies, individual policies pursued by governments and their agencies, as well as the overall activities of governments.

Keywords: MPs, interpellation procedures, accountability, government.

Streszczenie

Anna Młynarska-Sobaczewska, Jacek Zaleśny

Deputowani jako podmioty rozliczalności parlamentarnej – środki działania

Celem artykułu jest przedstawienie najważniejszych zagadnień związanych z problematyką rozliczalności pomiędzy parlamentarzystami a rządem (jego członkami) z perspektywy porównawczej. Autorzy zidentyfikowali i scharakteryzowali różne instrumenty odpowiedzialności, którymi dysponują parlamentarzyści, dochodząc do wniosku, że są to narzędzia pozwalające im rozliczać rząd i jego agencje. Dzięki tym instrumentom parlamentarzyści mogą uzyskać informacje na temat konkretnych wydarzeń dotyczących rządu (jego agend), konkretnych polityk realizowanych przez rząd (ministrów), a także ogólnych działań rządu.

Słowa kluczowe: odpowiedzialność, parlamentarzyści, procedury interpelacji, rząd.