



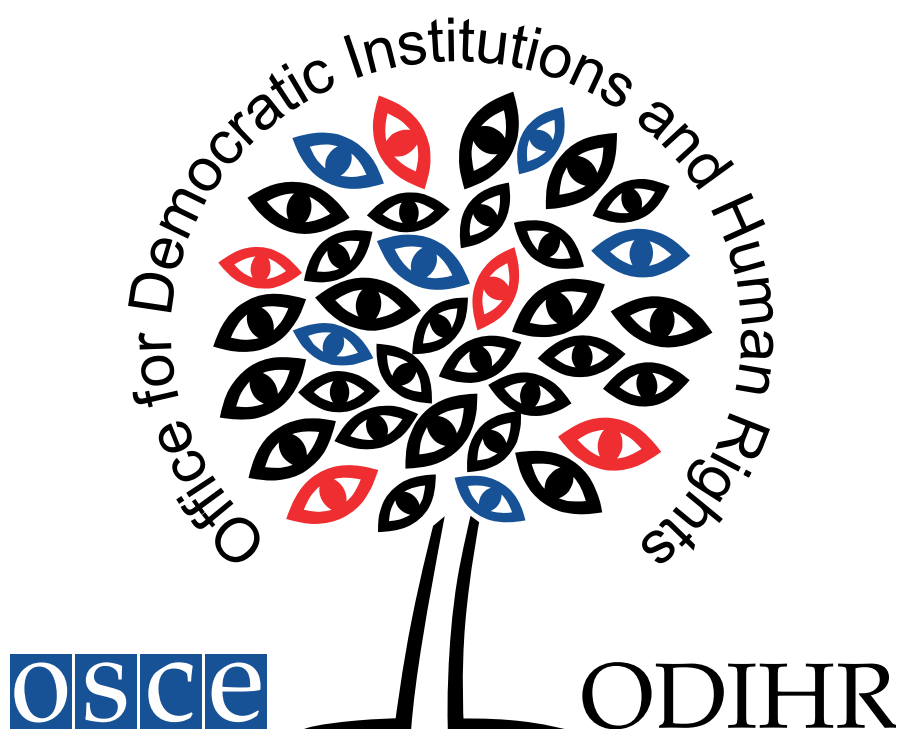
Office for Democratic Institutions and Human Rights

REPUBLIC OF POLAND

PARLIAMENTARY ELECTIONS 2023

ODIHR NEEDS ASSESSMENT MISSION REPORT

18-24 May 2023



Warsaw
10 July 2023

TABLE OF CONTENTS

I. INTRODUCTION	1
II. EXECUTIVE SUMMARY	1
III. FINDINGS	4
A. BACKGROUND	4
B. LEGAL FRAMEWORK AND ELECTORAL SYSTEM	5
C. ELECTION ADMINISTRATION	6
D. VOTER REGISTRATION	8
E. CANDIDATE REGISTRATION	8
F. ELECTION CAMPAIGN	9
G. CAMPAIGN FINANCE	9
H. MEDIA	10
I. ELECTION DISPUTE RESOLUTION	12
J. CITIZEN AND INTERNATIONAL OBSERVERS	12
IV. CONCLUSIONS AND RECOMMENDATIONS	13
ANNEX: LIST OF MEETINGS	14

**REPUBLIC OF POLAND
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2023**

ODIHR Needs Assessment Mission Report

I. INTRODUCTION

In anticipation of an official invitation from the Ministry of Foreign Affairs of the Republic of Poland to observe the upcoming parliamentary elections, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 18 to 24 May. The NAM was composed of Vladimir Misev, ODIHR Senior Adviser on New Voting Technologies, and Hamadziripi Munyikwa, ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and preparations for the elections. Based on this assessment, the NAM recommends whether to deploy an ODIHR observation activity for the forthcoming elections and, if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions as well as with representatives of political parties, media, and civil society. A list of meetings is annexed to this report.

ODIHR would like to thank the Ministry of Foreign Affairs for its assistance and co-operation in organizing the NAM. ODIHR would also like to thank each of its interlocutors for taking the time to meet with the NAM and for sharing their views.

II. EXECUTIVE SUMMARY

Poland is a semi-presidential republic with a government led by the prime-minister, who is confirmed by the parliament, and a directly-elected president serving as head of state. The bicameral parliament comprises the upper chamber (*Senat*) with 100 seats and the lower chamber (*Sejm*) with 460 seats, with members of both houses elected for four-year terms, all of which will be contested for in the upcoming elections.

The electoral legal framework was amended in March 2023. The amendments introduce a central voter register, increase the number of polling stations in some areas, broaden the qualifying requirements for membership in Constituency Election Commissions (CECs), and reduce the timeframe for decisions on appeals by a day. The amendments also allow for public transportation of voters in some areas, permit recording of voting processes by observers, while also requiring that such recordings be transmitted to the Ministry of Digitalization and through this instituting a centralized register of some contestants' proxies and citizen observers. Several ODIHR NAM interlocutors cited concerns with the lack of meaningful public consultation prior to the adoption of these changes, the short time frame for centralizing the voter register and the potential for a lack of uniformity in application of measures for increasing voter turnout. A number of prior ODIHR recommendations remain unaddressed, including those proposing stricter regulation of campaigning by public officials, as well as repealing criminal prosecution for defamation, libel, insult and slander.

Elections are administered by the National Election Commission (NEC) and its executive body the National Election Office (NEO), as well as 41 CECs and more than 27,000 Precinct Election Commissions (PECs). ODIHR NAM interlocutors were generally satisfied with the professionalism

of the election administration, but noted that a potential increase in the number of polling stations and broadening of qualification requirements for membership of CECs may result in limited capacity of some election workers, potentially affecting election day proceedings. Some ODIHR NAM interlocutors were concerned about the application of the Electoral Code requirement that if results for polling stations abroad are not transmitted to the relevant CEC within 24 hours they will be considered invalid in light of recent legal changes requiring that all PEC members count the ballots together, clearly showing each ballot.

Citizens of at least 18 years of age have the right to vote, though courts can revoke this right on mental disability grounds among other possible justifications. Voter registration is passive and following amendments to the Electoral Code in 2023, is centralized with municipalities tasked with collecting and updating the information on their residents, and the Ministry for Digitalization responsible for maintaining the voter register. While several ODIHR NAM interlocutors and the NEC expressed confidence that the changes will not impact the accuracy of the voter list, some other interlocutors noted concerns that the introduction of a large scale changes closer to the elections may negatively affect the process of voter registration and identification. Additional concern was expressed regarding the removal of the ability to examine the voter lists beyond an individual voter's own data, including by candidates, as removing an important measure of transparency.

Candidate lists are registered on the constituency level based on nominations by electoral committees representing political parties, coalitions and groups of voters. Despite a prior ODIHR recommendation, the law does not prescribe specific standards or procedures for signature verification. ODIHR NAM interlocutors did not raise any concerns related to party or candidate registration processes. However, there are concerns about the establishment of a committee to investigate Russian influence on the internal security of Poland. The opposition publicly criticized this committee as potentially serving to prevent the registration of some candidates. However, some of these concerns may be addressed in amendments to the law, recently proposed by the President that would remove the impact on the right to stand.

Women remain underrepresented in public life with 132 women holding seats in the *Sejm* and 24 in the *Senat*. The current speaker of the *Sejm* is a woman while only four out of 28 members of the Council of Ministers are women. None of the current members of the NEC are women and no requirements exist on the representation of each gender within the election administration.

There is broad public consensus on the war in Ukraine which is a dominant issue in the political debate. However, the political atmosphere remains notably polarized. Issues of public disagreement are related to the independence of media and judiciary, the relationship with the European Union (EU), as well as state or political party sponsored initiatives regulating personal and societal values. The campaign activities of public officials are not strictly regulated, and several ODIHR NAM interlocutors were concerned with the potential misuse of state resources in campaigns, including through favourable public media coverage. Political parties met with by the ODIHR NAM were confident in the freedom to campaign although several interlocutors noted concern with the prevalence of inflammatory speech in the current political environment.

Political parties receive annual public funding and state subsidy for winning at least one seat in the *Sejm*, *Senat* or European Parliament. Private donations are permitted from citizens who are permanently domiciled in the country. Anonymous donations, contributions from foreign sources and legal entities are prohibited. Third party campaigning is legally prohibited but there are no sanctions for these activities. The NEC oversees political and campaign finances. Electoral committees are required to submit financial reports on campaign income and expenditures, together with an external

audit of their financial reports, to the NEC within three months of the elections. Violations of campaign finance regulations result in a decrease in state subsidies and parties whose annual financial reports are rejected are deprived of public funding for three years, regardless of the severity of the violation.

The media landscape is diverse but notably polarized. The purchase of the company that owns the majority of regional daily newspapers by the national energy company, the protracted process for reissuing TVN's licence and attempts to pass a law barring entities from outside of the European Economic Area from owning Polish media companies, were seen by some ODIHR NAM interlocutors as demonstrating diminishing independence and freedom of the media. Many ODIHR NAM interlocutors perceive a pro-government bias in the reporting of the public broadcasters, as well as in the appointment procedures for its management and oversight bodies. The main oversight authority, the National Broadcasting Council does not systematically monitor public or private media for compliance with electoral obligations. Defamation and public insult are criminal offenses subject to imprisonment, and these provisions have resulted in recent litigation against media outlets and activists which many ODIHR NAM interlocutors interpreted as deliberately intended to intimidate and silence journalists.

The Election Code provides that decisions of election commissions may be appealed to the corresponding higher-level commissions up to the level of the NEC. NEC decisions on the voter register can be appealed to the regional court, and the court's decision are final. Decisions on rejected candidate lists may be appealed to the NEC and further to the Supreme Court. Although stakeholders did not raise specific concerns about election dispute resolution procedures, several ODIHR NAM interlocutors noted concerns over the functioning of the judiciary and legal actions brought to international courts, including the one to the European Court of Human Rights (ECtHR) related to the method of appointment of the Supreme Court chamber responsible for validating election results which may diminish public confidence in its decisions.

The Election Code provides for citizen and international observation of elections and permits electoral committees to nominate representatives at all election commissions, including polling stations on election day. Several ODIHR NAM interlocutors expressed concerns in recent changes to the Electoral Code that provide for candidate proxies to be paid by the local mayor upon approval of PEC chairpersons, permit the recording of voting processes while requiring that all such recordings either be transmitted to PECs or to the Ministry of Digitalization and subsequently deleted from the proxies' own devices, or simply deleted.

The ODIHR NAM noted general confidence in the conduct of the election administration, although interlocutors raised concerns related to the implementation of recent amendments to election legislation, in particular the centralization of the voter register shortly before the elections. Stakeholders also highlighted media coverage of the elections, the effectiveness of campaign finance oversight, the possible misuse of state resources including on the local level, and the role of the judiciary in the resolution of election-related disputes as areas of particular concern. Many interlocutors welcomed a long-term ODIHR activity, to observe the implementation of recent changes to the legal framework in particular in relation to observation of the process, the pre-election campaign environment throughout the country and to systematically assess the public and private media coverage of the elections.

On this basis, the ODIHR NAM recommends the deployment of a Limited Election Observation Mission (LEOM), to assess the forthcoming parliamentary elections. In addition to a core team of experts, the ODIHR NAM will request the secondment of 18 long-term observers from OSCE

participating States to follow the electoral process countrywide. While the mission would visit a limited number of polling stations on election day, comprehensive and systematic observation of election day proceedings is not envisaged. In line with ODIHR's standard methodology, the LEOM would include a media monitoring element.

III. FINDINGS

A. BACKGROUND

Poland is a semi-presidential republic with a government led by the prime-minister, who is confirmed by the parliament, and a directly-elected president serving as head of state. The bicameral parliament comprises the upper chamber (*Senat*) with 100 seats and the lower chamber (*Sejm*) with 460 seats, with members of both houses elected for four-year terms, all of which will be contested for in the upcoming elections.

In the last parliamentary elections, held in October 2019, candidates from six lists won seats in the *Sejm*. The Law and Justice Party (*PiS*) maintained the majority it had garnered in 2015, winning 235 seats. The remainder of the seats, went to the Civic Platform (*PO*) with 134 seats, the Democratic Left Alliance (*Lewica*) with 49, the Polish People's Party (*PSL*) 30, while the Confederation (*Konfederacja*) won 11 and the German Minority won a single seat. Eight lists won seats in the *Senat*.¹ *PiS* formed a government led by Mateusz Morawiecki who has been by Prime Minister since 2017. Women remain underrepresented in the legislature as they hold 132 seats in the *Sejm* (28 per cent) and 24 seats in the *Senat* (24 per cent).

The political atmosphere remains notably polarized. Since February 2022, political discourse has been dominated by the war in Ukraine and there is public consensus in favour of providing support to Ukraine. Issues of public disagreement are related to the independence of media and judiciary, the relationship with the European Union (EU), state and political party sponsored initiatives regulating personal and societal values,² as well as concerns over a lack of an inclusive public debate.³ The procedures for appointment of judges has been in the center of the public discourse for several years and has been seen by many as affecting the rule of law. The issue has also precipitated protracted

¹ *PiS* won 48 seats, *PO* 43 seats, the *PSL* 3 seats, the Democratic Left Alliance 2 seats, and one candidate from each of four voters committees.

² In October 2020 the [Constitutional Tribunal ruled](#) that provisions of the 1993 Family Planning Act which permitted abortion where a fetus was found to have disability or an incurable illness to be unconstitutional arguing that they had the effect of "legalising eugenic practices with regard to unborn children, thus denying those children respect for human dignity and the protection thereof". The ruling [met with protests](#) in 2020 and 2021, with [political parties](#) likely to [campaign on the subject](#) for the 2023 elections.

³ On 23 May the *Sejm* passed a [law](#) establishing a committee to investigate Russian influence on the internal security of Poland between 2007 and 2022 and to propose "remedial measures applied to persons who were public officials or members of the company's senior management ... who under Russian influence acted to the detriment of the interests of the Republic of Poland". The law resulted in [large rallies](#) by opposition political parties and was criticized by the [European Commission](#) on the basis that it "could be used to affect the possibility of individuals to run for public office, without fair trial." The President signed the law on 29 May but on 2 June, [proposed that the Sejm enact](#) urgent changes to the some elements of the law. Among the suggested changes, which were adopted by the *Sejm* on 16 June and are pending consideration by the *Senat*, were excluding legislators from the membership of the commission and removing clauses which would have prohibited the registration of candidacy in an election. The president also submitted the law for consideration to the Constitutional Tribunal on 16 June 2023.

deadlock between the government of Poland and the European Commission.⁴ Several ODIHR NAM interlocutors noted that the issues around the judiciary might affect election related aspects of election management and election dispute resolution.

ODIHR has observed four parliamentary elections in Poland and deployed a Limited Election Observation Mission (LEOM) to the 2019 parliamentary elections and a Special Election Assessment Mission (SEAM) to the 2020 presidential election.⁵ The opening paragraph of Preliminary Statement to the 2019 elections read: “the parliamentary elections were prepared well, but media bias and intolerant rhetoric in the campaign were of significant concern. While all candidates were able to campaign freely, senior state officials used publicly funded events for campaign messaging. The dominance of the ruling party in public media further amplified its advantage. Election day was orderly, although secrecy of the vote was not always enforced. Timely publication of preliminary results ensured transparency.”

B. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

Parliamentary elections are primarily regulated by the Constitution and the 2011 Election Code (last amended in 2023).⁶ These rules are supplemented by non-binding guidance and instructions of the National Election Commission (NEC). Poland is party to major international and regional instruments related to the holding of democratic elections.⁷

Extensive changes to the election legislation were adopted in March 2023.⁸ In line with previous ODIHR recommendations, changes brought about by the amendments include the introduction of a central register of voters, increasing the number of polling stations in some areas, broadening the qualifying requirements for membership in Constituency Election Commissions (CECs), and mandating public transportation of voters in some areas. Amendments reduce the timeframe for Supreme Court decisions on electoral appeals from three to two days, and require the registration of contestants’ proxies and citizen observers, expand current limits to recording electoral processes by observers, while also requiring that such recordings be transmitted recordings to the Ministry of Digitalization. Several ODIHR NAM interlocutors cited concerns with the lack of meaningful public

⁴ The [initiation](#) and continuance of proceedings under Article 7 of the Treaty of Europe suspending certain rights of member states related to the procedures for appointment of judges and the [primacy of the EU law](#) and the “decline in rule of law” have also resulted in the Court of Justice of the European Union (CJEU) [issuing of a daily penalty](#) of EUR 1 Million (subsequently reduced to EUR 500,000 [in April 2023](#)), as well as the [blocking](#) of 35.4 billion EUR in EU COVID-19 recovery funds. On 13 January 2023, the Sejm [adopted an act amending the Supreme Court Act](#) intended to fulfil milestones set by the European Commission as prerequisite for the release of the funds from the EU recovery plan. The law was submitted to the President for signature on 9 February but has not been signed.

⁵ See all previous [ODIHR election-related reports on Poland](#).

⁶ Other relevant legislation includes the 1990 Law on Assemblies (amended in 2016), 1997 Political Parties Act (last amended in 2015), 1992 Broadcasting Act (last amended in 2015), 1984 Press Law (last amended in 2013), and the penal and criminal codes.

⁷ Including the 1966 International Covenant on Civil and Political Rights (ICCPR), 1979 Convention for the Elimination of All Forms of Discrimination against Women (CEDAW), 1965 Convention on the Elimination of All Forms of Racial Discrimination (CERD), the 2003 Convention Against Corruption (CAC), and the 2006 Convention on the Rights of Persons with Disabilities (CRPD). Poland is also a party to the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms and the 1995 Framework Convention for the Protection of National Minorities.

⁸ In addition to the Election Code [the amendments](#) also affect the 1997 Political Parties Act, the 1997 Law Restriction Business Activity by Persons Performing Public Functions, the 2000 Act on the National Criminal Register, the 2000 Act on Local Referenda, the 2003 Act on National Referenda, the 2006 Disclosure Act on Information on Documents of State Security Organs, the 2009 Finance Act and the 2010 Act On the Population Register.

consultation prior to the adoption of these changes. A number of ODIHR NAM interlocutors expressed concerns that the adoption of substantive changes close to the elections as well as the impact that these changes may have on the conduct of the election process, in particular to the formation of election commissions, the implementation of the changes related to the voter list, the implementation of the provisions related to the transportation of voters on election day and the role of the party observers during the election day.⁹

Members of the *Sejm* are elected through a proportional open list system from 41 multi-member constituencies. Candidates for the *Senat* are elected through a first-past-the-post contests in 100 single-mandate constituencies. The NEC is legally responsible for delimiting electoral constituency boundaries but despite a proposal submitted by the NEC in 2022, the *Sejm* boundaries were last adjusted in 2015 and the *Senat* boundaries were adjusted in 2011.¹⁰ Seats are distributed proportionally to electoral committees whose lists surpass a 5 per cent threshold of valid votes nationwide (8 per cent for coalitions). Electoral committees registered by recognized national minorities are exempt from the threshold requirement.

C. ELECTION ADMINISTRATION

Elections are administered by the NEC and NEO, 41 (CECs), and Precinct Election Commissions (PECs).¹¹ The NEC is a permanent structure responsible for overseeing the implementation of election legislation, registration of electoral committees, oversight of campaign finance, and the announcement of final election results. These will be the first parliamentary elections managed by the restructured NEC, composed of two judges (from the Constitutional Tribunal and the Supreme Administrative Court) and seven members appointed by political parties in proportion to their representation in the *Sejm*.¹² All current members of the NEC are men. The NEO, is the executive body within the NEC, and is responsible for the administrative, financial and logistical organization of the elections.¹³ The current chairperson of the NEO is a woman.

⁹ At the request of the *Senat* Legislative Committee, ODIHR published [an opinion](#) on the draft noting that in order “to provide for stability of electoral law, in line with international good practice, it is not advisable that changes to fundamental elements of the electoral legal framework be adopted within one year ahead of the next regular elections”. Other recommendations in the opinion included ensuring adequate time for the development, testing, and implementation of the central register of voters, lowering the maximum number of inhabitants per electoral precinct and maintaining the possibility for scrutiny of the voter lists with measures for the protection of private data. See also the Commissioner for Human Rights [opinion](#) on the draft emphasizing the need for accessibility of persons with disabilities, including through postal voting, and the potential that recording polling procedures may diminish the secrecy of the vote.

¹⁰ The NEC sent a proposal to the *Sejm* in November 2022 indicating the necessary changes to the seats apportioned to constituencies, that would result in 10 constituencies losing a single mandate, while nine would increase by one and a single constituency would gain two seats in the *Sejm*. The NEC emphasised that the deadline for making changes in the division into electoral constituencies expires on 14 May 2023 but these changes were not adopted by the legislature.

¹¹ The Ministry of Foreign Affairs (MFA) establishes additional PECs in diplomatic representations abroad to implement out-of-country voting.

¹² Until 2019 the NEC was composed of nine active or retired judges appointed by the president, with three members nominated from each of the Constitutional Tribunal, Supreme Court and Supreme Administrative Court. The chairperson and one deputy chairperson have been members of the NEC since 2014, while the member representing the Constitutional Tribunal and the remaining members selected by political parties were appointed in 2020.

¹³ The NEO chairperson is appointed by the NEC from among three candidates presented by the minister responsible for internal affairs, in an application submitted after consulting the Head of the Chancellery of the *Sejm*, the Head of the Chancellery of the *Senat* and the Head of the Chancellery of the President.

Constituency Election Commissions (CECs) are temporary bodies comprised of nine members appointed by the NEC 48 days ahead of the elections. Their functions include supervising the implementation of election legislation by the PECs, registering candidate lists, and handling complaints related to decisions of PECs, which oversee election day procedures. The most recent amendments repealed the requirement that the CEC members are serving or retired judges and require members of CECs nominees to hold a “university degree in law” and submit “a guarantee of due execution of this function”. While some ODIHR NAM interlocutors noted that this change will increase the pool of eligible candidates, many ODIHR NAM interlocutors noted concerns that these changes may lead to recruiting less experienced CEC members.

PECs are established at least 21 days before election day, and are comprised of 9 members nominated by electoral committees, with a chairperson nominated by the local administration. Due to the changes in the minimum threshold for establishment of electoral precincts from 500 to 200 voters, between 6,000 and 10,000 additional PECs are expected to be created compared to the last elections.¹⁴ Some political parties, with which the ODIHR NAM met, highlighted that they would face challenges in nominating PEC members, given the increase in the overall number of precincts, including those in special voting locations such as hospitals and prisons. ODIHR NAM interlocutors also noted that the numbers of voters per precinct in some, particularly urban, districts remains very high posing challenges for election management. ODIHR NAM interlocutors also noted that newly recently clarified procedures requiring all PEC members to count ballots together showing each ballot to all PEC members may result in a laborious counting process.

Voters living abroad cast their ballots in person at consulates and embassies and must actively register for each election.¹⁵ Voters can apply in-person, via email or using an online portal and the MFA is responsible for determining and establishing polling stations in embassies. Votes cast abroad are allocated to the fourth constituency of the Warsaw municipality. Some ODIHR NAM interlocutors were concerned about longstanding legal provisions invalidating all votes for any out-of-country precincts where the results are not received by the respective CEC within 24 hours of the close of polls in light of the recently clarified counting procedures and the effect these would have on a number of very large polling stations in embassies.¹⁶

Voters with disabilities may also vote via proxies or by mail, upon provision of a certificate of physical disability, this was previously criticized by ODIHR due to concerns related to the secrecy and equality of the vote. The most recent amendments require the provision of free transport to and from polling stations in areas where public transportation is not available on election day for voters with disabilities and those over the age of 60. Some ODIHR NAM interlocutors were of the opinion that in some districts this may increase access to polling stations though some reiterated concerns related to the accessibility of polling stations for persons with physical disabilities.¹⁷ The election administration plans to conduct voter education, including related to the rights and options of voters with disabilities, and produce some materials in accessible formats including Braille overlays.

¹⁴ The number of PECs during the 2019 elections was 27,415.

¹⁵ The number of people entitled to vote abroad in the elections to the *Sejm* and *Senat* in 2019 was 350,000.

¹⁶ The Commissioner for Human Rights issued an [opinion](#) in relation to Article 230 § 2 of the Electoral Code criticizing the 24 hour timeline, by emphasizing that “the Constitution does not differentiate the right to participate in elections depending on the place of residence”. On 25 April 2023, [the NEC responded](#) by pointing that the articles have long been in the Election Code and stating that repealing these limits would “pose a threat to the functioning of the state and lead to paralysis of the activities of its organ’s”. On May 11, 2023 the *Senat* [submitted a legislative initiative](#) to the *Sejm* proposing amendment to the Electoral Code to extend the time for counting votes cast in out of country PECs from 24 to 48 hours.

¹⁷ See [the Commissioner for Human Rights’ opinion](#) related to the 2023 amendments citing NEC data that 43 per cent of election precincts were not adapted to the needs of persons with disabilities.

While most ODIHR NAM interlocutors expressed trust in the capacity and integrity of the election administration, including in relation to the management election day procedures, some were concerned that the increase in the number of polling stations along with the lowering of qualifying requirements for PEC membership may result in less qualified polling staff.

D. VOTER REGISTRATION

Citizens of at least 18 years of age have the right to vote. Courts may revoke the voting rights on the basis of mental disability, this was previously criticized by ODIHR as contravening international standards.¹⁸

Voter registration is passive. Following the 2023 amendments, and in response to a previous ODIHR recommendation, voter registration for these and subsequent elections will be centralized. Overall responsibility for maintaining and developing the Central Register is vested with the Ministry for Digitalization and the municipalities retain the task of updating the information on their residents.¹⁹ A voter may request to be included in a voter list at a place of temporary residence. Absentee Voter Certificate's (AVC) are issued by municipalities and permits voters to cast a ballot at any polling station in the country.

According to the NEC, there are currently some 30.1 million registered voters. The NEC informed the ODIHR NAM that the planning for the centralization of the voter register had been taking place over the last three years and the commission was confident that process would be efficiently implemented ahead of the parliamentary elections. Some ODIHR NAM interlocutors were concerned that the introduction of a large scale change to the management of the register may affect the operability of the voter register. Furthermore, ODIHR NAM interlocutors noted that the elimination of the ability to scrutinize the accuracy of electoral lists, including by contestants, significantly diminishes transparency.²⁰

E. CANDIDATE REGISTRATION

Citizens with the right to vote who are at least 21 and 30 years of age have the right to stand as candidates for the *Sejm* and the *Senat*, respectively. Citizens who are serving a prison sentence for certain intentional crimes or fiscal crimes and those revoked of legal capacity by a court decision, including on the basis of intellectual or psychosocial disability cannot stand.

Electoral committees representing political parties, coalitions and groups of voters can register candidates for the *Senat* and/or lists for the *Sejm*. Candidate lists are submitted to the respective CEC at least 40 days ahead of election day, with a requirement of 5,000 supporting signatures for *Sejm* candidate lists and 2,000 signatures for each *Senat* candidate. Electoral committees that register

¹⁸ Articles 12 and 29 of the [2006 CRPD](#). See also paragraph 9.4 of the [2013 CRPD Committee's Communication No. 4/2011](#), which states that "Article 29 does not foresee any reasonable restriction, nor does it allow any exception for any group of persons with disabilities. Therefore, an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability, within the meaning of Article 2 of the Convention". Paragraph 41.1 of the [1991 OSCE Moscow Document](#) commits participating States "to ensure protection of the human rights of persons with disabilities".

¹⁹ Previously voter lists were derived from the national electronic population register and for each election, voter lists were drawn from the register by local government authorities in co-operation with the NEC.

²⁰ Voters have the right verify their inclusion in the voter list or obtain information on their voter record by submitting a request to the municipal authority.

candidate lists for the *Sejm* in more than half of all constituencies are automatically registered nationwide, without requiring supporting signatures from the other constituencies. The law does not prescribe specific standards or procedures for signature verification, despite a prior ODIHR recommendation.

The Election Code provides for 35 per cent representation of either gender on each candidate list, but does not require specific ordering based on gender on the lists. Some parties indicated that they have internal requirements on the ordering of candidates to increase representation.

ODIHR NAM interlocutors did not raise any concerns related to the party or candidate registration processes. However, the initially adopted law establishing a committee to investigate Russian influence on the internal security of Poland between 2007 and 2022, was interpreted by opposition political parties as serving to prevent the registration of some candidates.

F. ELECTION CAMPAIGN

By law, the official campaign period begins upon the announcement of elections, and contestants may campaign upon registration, with a campaign silence period, including the prohibition of publishing opinion polls, taking effect 24 hours before election day. The regulation of the use of public space for contestants during the campaign is under the purview of the municipalities. The Election Code restricts campaign activities in public institutions and schools, and identifies specific locations for posters and other electoral materials.

Public officials are legally required to take leave from office while campaigning but their conduct during the campaign periods is not regulated in detail. Some ODIHR NAM interlocutors cited examples of coverage of some incumbent politicians on promotional material for state owned enterprises as a potentially inappropriate use of state resources.

The political landscape is highly polarized. Political parties met with by the ODIHR NAM did not expect any hindrances to their freedom to campaign, but expressed concerns about biased media coverage. Important economic topics expected to feature in the campaign include inflation and rising energy costs and cost of living and as well as proposed social protection measures.²¹ Other anticipated campaign topics include women's rights and LGBTI rights.

G. CAMPAIGN FINANCE

The Election Code and the Political Parties Act provide the legal framework for the regulation of political and campaign financing, establish public financing and set the permissible sources of private funding. Annual public funding is given to parties that receive more than 3 per cent and coalitions that garnered more than 6 percent of the votes in the previous *Sejm* elections. Further, a one-time state subsidy is awarded to political parties, coalitions or group of voters' electoral committees that obtain at least one seat in the *Sejm*, *Senat* or European Parliament.

The Election Code stipulates that all campaigns should be financed through electoral committees and can be drawn from private donations or loans. Citizens who are permanently resident in the Poland are permitted to donate to electoral committees, but anonymous donations, as well as contributions from foreign sources and legal entities are prohibited.

²¹ Among the important social protection issues is the proposal to increase the family benefit allowance from PLN 500 to PLN 800 from January 2024.

Specific campaign spending limits are determined for each election committee on the basis of the number of registered candidates (for the *Sejm*) or contested constituencies (for the *Senat*). Electoral committee's may not spend more than 80 per cent of the expenditure limit on campaign advertising. Third-party campaigning is prohibited, but there are no sanctions and certain forms of in-kind contributions to electoral committees are permitted, a point of concern raised by many ODIHR NAM interlocutors, including the election administration.²²

The NEC oversees political and campaign finances. Following the 2023 changes to the Electoral Code, committees are required to electronically submit financial reports on campaign income and expenditures, and an external audit of their financial reports to the NEC within three months of the elections. There is no requirement for campaign finance reporting before the elections. Violations of campaign finance regulations result in a decrease in state subsidies and parties whose annual financial reports are rejected are deprived of public funding for three years, regardless of the severity of the violation.²³

H. MEDIA

Poland's media environment is diverse but highly polarized. Online sources, including social media, are the most prevalent means of accessing news, with television remaining relevant for large sections of the population and radio and print and media declining in influence.²⁴ The public television, *Telewizja Polska*, operates 14 national channels (including *TVPI*, *TVP2*, *TVP3* and the news channel *TVP Info*), in addition to 16 regional channels, while *Polskie Radio* comprises eight national stations and 44 regional and local stations. The National Broadcasting Council (NBC) register includes over 200 private television and radio outlets respectively.²⁵

While the physical circulation of print news media has been declining, regional newspapers remain primary sources of local news. In March 2021, the National Energy Company *Orlen*, purchased the *Polska Press* company that owns 20 out of 24 regional daily newspapers and a further 120 regional weekly publications.²⁶ Many ODIHR NAM interlocutors perceived the takeover as entrenching political control by the governing party over local media and essentially channelling public resources into political campaigning through the media. In December 2021 the *Sejm* passed a law barring entities from outside of the European Economic Area from owning Polish media companies, which was perceived as a deliberate attempt to force the sale of the US owned *TVN* which has a record of airing coverage critical of the government.²⁷ The bill was ultimately vetoed by the president.

²² In March 2023, the NEC issued an [explanatory note](#) on the activities of third parties campaigning on behalf of political parties on the internet, highlighting that these are subject to the same rules as the provision of services to political parties by commercial entities.

²³ On 16 January 2023, the NEC rejected *Lewica's* report on expenses incurred from the Election Fund in 2021 related to a failure to meet the deadline for reimbursement indicated by the Act for an amount of PLN 338.48. The party appealed to the Supreme Court which [found](#) that the reports should not have been rejected citing the "insignificant nature of the infringement".

²⁴ See 2021 data on [media reach](#) and [changes in the newspaper market](#).

²⁵ See the NBC's annual report for 2022 [here](#). In February 2022, following the commencement of the war in Ukraine, the NBC deregistered seven tv channels on the basis that the channels aired content "threatening the security and defense of the Republic of Poland".

²⁶ The [Commissioner for Human Rights](#) stated that the purchase was an "unacceptable restriction of press freedom" and contravenes provisions of the constitution protecting freedom of expression and the right to reliable information. The purchase was approved by the Court of Competition and Consumer Protection, which saw no impact on the grounds of competition. The Commissioner for Human Rights appealed the decision, to the Warsaw Regional Court but was ultimately rejected.

²⁷ See statements by the [European Parliament](#), and the [International Press Institute](#).

The Constitution guarantees media freedom and censorship is prohibited.²⁸ Defamation and public insult are criminal offenses subject to imprisonment for up to one year, with the penalty of up to three years imprisonment for defaming or insulting the state or head of state or on the basis of religion, despite a previous ODIHR recommendations.²⁹ Several ODIHR NAM interlocutors cited recent cases of journalists charged with defamation, often initiated by public officials.³⁰ Many ODIHR NAM interlocutors interpreted targeted litigation against media outlets and activists, as deliberately intended to intimidate and silence journalists, citing the extreme costs of legal defence, particularly on smaller outlets, potentially resulting in self-censorship.³¹

The NBC is constitutionally mandated with safeguarding freedom of speech and public interest.³² Although the NBC is mandated by the law to monitor media, it does not systematically monitor public or private media for compliance with electoral obligations, despite prior requests from the NEC.³³ Some ODIHR NAM interlocutors questioned the NBC's independence, arguing that it disproportionately targets media critical of the government.³⁴ The National Media Council (NMC) appoints and replaces the management of the public television and radio broadcasters on the national and local levels. Many ODIHR NAM interlocutors, perceive this body and its powers as a means of exerting political influence over public service broadcasters.³⁵

The legal framework requires that public media should be impartial and provide balanced coverage, though many ODIHR NAM interlocutors highlighted concerns over what they see as systemic pro-government bias in the public broadcasters, including in news programmes.

Electoral committees contesting at least half the available constituencies in the *Sejm* are entitled to a total of 15 hours of free airtime on national public television and 30 hours on national public radio and a cost-free allocation of 5 hours and 10 hours on television and radio respectively for *Senat* contestants. Contestants for the *Sejm* and *Senat* are also legally entitled to free airtime on regional public media. Private media are obliged to provide the same conditions to all electoral contestants for purchasing airtime for paid political advertising. Broadcasters must report to the NBC on their apportionment of airtime to electoral contestants.

²⁸ The legal framework for media includes the 1992 Broadcasting Act, and the 1984 Press Law.

²⁹ See also paragraph 37 of the [2016 CCPR concluding observations](#), in which “the Committee reiterates its concern that the offence of defamation is still penalized with deprivation of liberty for one year, as specified in article 212 (2) of the Penal Code. The Committee is also concerned about other laws imposing criminal responsibility for insulting State symbols, senior officials and religion”.

³⁰ For details on recent cases against journalists see reports by the [UN Special Rapporteur on Human Rights Defenders](#), and [Reporters Without Borders](#), and the [Polish Society of Journalists](#).

³¹ Such strategic lawsuits against public participation (SLAPPs), have become quite common and often multiple lawsuits are filed regarding a single article. See 2021 [Rafto Foundation Report](#) and a proposal for a [proposed European Commission Directive against SLAPPs](#).

³² The NBC is composed of five members serving six year terms (two appointed by the *Sejm* and two by the President and one by the *Senat*). All current members of the NBC were appointed in October 2022.

³³ See the 11 February 2019 [letter from the NEC to the NBC](#).

³⁴ ODIHR NAM interlocutors noted a PLN 80,000 NBC fine on TOKFM, perceived delays in renewing broadcasting licences for [TOKFM](#) and for channels under the [TVN banner in 2021](#), and an investigation into the [content of a documentary programme](#). See a record of correspondence between TOKFM and the NBC [here](#). Also see reports by the [Batory Foundation](#) and the [European Federation of Journalists](#).

³⁵ The National Media Council is composed of five members appointed to six year terms (three appointed by parliament and two representing members of the opposition parties who are appointed by the president). Four members were appointed in 2022 and one was appointed in 2020. See report on the appointment of new commissioners by the [International Press Institute](#). The independence of the NMC has been a point of contention between Poland and the European Parliament with the latter stating that it lacks “[adequate safeguards for the functional independence from political parties and the government](#)”.

I. ELECTION DISPUTE RESOLUTION

Decisions of election commissions may be appealed to each respective higher-level commissions up to the NEC. NEC decisions related to a voter's exclusion from the voter register may be appealed to the regional court. Decisions related to rejected candidate lists may be appealed initially to the NEC and subsequently to the Supreme Court. Electoral Committees can file complaints related to the distribution of free public airtime to the NEC. Certain election related crimes such as interference, violation of the freedom of the vote, and electoral bribery, all of which are punishable by imprisonment, are elaborated in the criminal code.

Complaints pertaining to the validity of the elections may be lodged with the Supreme Court by any registered voter, a chairperson of an election commission, or by a representative of an electoral committee, within seven days from the announcement of the results. The Chamber of Extraordinary Review and Public Affairs, is authorized with validating elections within 90 days following the election. Although stakeholders did not raise specific concerns about election dispute resolution procedures, some ODIHR NAM interlocutors noted that debates and legal action brought to the European Court of Human Rights (EcHR) in relation to the method of appointment of the Supreme Court chamber responsible for validating election results, may diminish public confidence in its decisions.³⁶ The 2023 changes to the Election Code reduced the time for Supreme Court decisions on appeals against the rejection of an electoral committee from three to two days, which some ODIHR NAM interlocutors observed may diminish the effectiveness of this judicial remedy.

J. CITIZEN AND INTERNATIONAL OBSERVERS

The Election Code provides for citizen and international observation of elections and permits electoral committees to nominate representatives at all election commissions, including polling stations on election day. Contestants' proxies may serve as observers in polling stations and are entitled to follow the activities of the election commissions to which they are delegated. ODIHR NAM interlocutors noted that citizen observer groups would conduct observation with an emphasis on campaign finance, in particular the observation of the use of state resources as well as election day procedures.

The 2023 amendments provide for candidate proxies to be paid an allowance for observing election proceedings.³⁷ ODIHR NAM interlocutors noted that this may diminish the independence of candidate proxies by creating a transactional relationship between them and the PECs they are meant to observe. The 2023 amendments also permit proxies and citizen observers to record the voting process in polling stations, but mandate that all such recordings be transmitted to PECS or to a database held by the Ministry of Digitalization and in all cases be deleted from the proxies' own devices. ODIHR NAM interlocutors were concerned by the combination of these changes, noting that

³⁶ See the ODIHR [Urgent Interim Opinion On The Bill Amending The Act On The Supreme Court And Certain Other Acts Of Poland \(2023\)](#) and the Judgement of the ECtHR in [Dolińska-Ficek and Ozimek v. Poland \(Application nos. 49868/19 and 57511/19, 8 November 2021\)](#) which found that "there was a manifest breach of the domestic law which adversely affected the fundamental rules of procedure for the appointment of judges to the Chamber of Extraordinary Review and Public Affairs of the Supreme Court". Also see paragraph 43 of the [2017 Council of Europe's Venice Commission opinion on draft judicial legislation](#) which stated: "it is of particular concern ... that judges appointed by a [National Council on Judiciary] dominated by the current political majority would decide on issues of particular importance, including the regularity of elections, which is to be decided by the Extraordinary Chamber".

³⁷ Proxies are to be paid by the local mayor, at a rate of 40 per cent of the allowance payable to PEC members upon certification by the PEC chairperson that the proxy observed at least five hours of voting, and the entire process of determining voting results in the polling station.

recording of polling procedures would diminish the secrecy of the vote by taking records of those who voted at certain polling stations. Requiring the deletion of recordings from candidates' proxies and citizen observers' devices and mandating that recordings to be kept must be transmitted to the PECs or the Ministry of Digitalization, thereby registering those candidates' proxies and citizen observers could have the effect of intimidating observers while restricting the collection and retention of important evidence for use in court cases.

IV. CONCLUSIONS AND RECOMMENDATIONS

The ODIHR NAM noted general confidence in the conduct of the election administration, although interlocutors raised concerns related to the implementation of recent amendments to election legislation, in particular the centralization of the voter register shortly before the elections. Stakeholders also highlighted media coverage of the elections, the effectiveness of campaign finance oversight, the possible misuse of state resources including on the local level, and the role of the judiciary in the resolution of election-related disputes as areas of particular concern. Many interlocutors welcomed a long-term ODIHR activity, to observe the implementation of recent changes to the legal framework in particular in relation to observation of the process, the pre-election campaign environment throughout the country and to systematically assess the public and private media coverage of the elections.

On this basis, the ODIHR NAM recommends the deployment of a Limited Election Observation Mission (LEOM), to assess the forthcoming parliamentary elections. In addition to a core team of experts, the ODIHR NAM will request the secondment of 18 long-term observers from OSCE participating States to follow the electoral process countrywide. While the mission would visit a limited number of polling stations on election day, comprehensive and systematic observation of election day proceedings is not envisaged. In line with ODIHR's standard methodology, the LEOM would include a media monitoring element.

ANNEX: LIST OF MEETINGS

Ministry of Foreign Affairs

Marcin Jakubowski, Director Department of Consular Affairs
Renata Kowalska, Head of Legal Section, Department of Consular Affairs
Sebastian Kurek, Counsellor, Unit for Human Rights and Promotion of Democracy

National Election Commission

Sylwester Marciniak, Chairman of the National Election Commission

National Election Office

Magdalena Pietrzak, Chief of the National Election Office, Secretary of the National Election Commission
Dorota Tulczyńska – Director of the Presidential Unit of the National Election Office

Supreme Court

Joanna Lemańska, President of the Supreme Court, Extraordinary Review and Public Affairs Chamber
Aleksander Stępkowski, Supreme Court Judge, the Supreme Court Spokesperson

Constitutional Tribunal

Bartosz Skwara, Director of the Legal Service Office
Weronika Ścibor, Legal Service Office

Commissioner for Human Rights

Mirosław Wróblewski, Director Constitutional, International and European Law
Maciej Kruk, Deputy Director Presidential Affairs and International Cooperation

National Broadcasting Council (KRRiT)

Maciej Świrski, Chairman of the National Broadcasting Council
Hanna Karp, NBC Member
Marzena Paczuska-Tętnik, NBC Member
Maciej Myszka, Director of the NBC Office
Anna Szydłowska-Żurawska, Director of the Presidential Department
Krzysztof Jankowski, Chief Specialist in the Department of Strategy
Teresa Brykczyńska, Spokesperson
Dominika Gajewska, Translator

National Media Council

Tomasz Giziński, Advisor to the National Media Council

Media Representatives

Polish Television

Michał Adamczyk, Acting Director of the Television Information Agency
Irmina Płowiec, Legal Advisor
Marek Solon-Lipiński - Deputy Director of the Sales and International Cooperation Office

Polish Radio

Paweł Kweciński, Head of the Programme Office

Adam Szczurzewski, Plenipotentiary for electoral campaigns
Tomasz Kowalski, International Cooperation Office

Gazeta Wyborcza

Roman Imielski, National Editor
Piotr Stasiński, Journalist
Bartosz T. Wieliński, Journalist

TVN

Konrad Piasecki, Journalist

National Journalists Association (SDP)

Jolanta Hajdasz, Director of the Press Freedom Monitoring Center

Society of Journalists

Krzysztof Bobiński, Member of Board
Andrzej Krajewski, Head of Monitoring Team

Political Parties³⁸

Sławomir Nitras, MP, Civic Platform
Anna Maria Żukowska, Member of the Sejm

Civil Society Organizations

Jakub Karyś, Committee for the Defence of Democracy
Michał Leśniak, Committee for the Defence of Democracy
Magdalena Bielska, Committee for the Defence of Democracy
Marta Krzynówek, Citizen's Watchdog Poland
Zofia Lutkiewicz, Political Accountability Foundation
Robert Lech, Political Accountability Foundation
Jacek Kcuharczyk, Institute of Public Affairs
Filip Pazderski, Institute of Public Affairs

International and Diplomatic Community³⁹

Representatives of resident embassies of OSCE participating States: Germany, Ireland, Italy, Norway, Romania, the Russian Federation, Türkiye, Sweden, Switzerland, and the United States of America.

³⁸ The ODIHR NAM offered meetings to all parliamentary political parties, among others.

³⁹ The ODIHR NAM extended an invitation to representations of all OSCE participating States resident in Poland.