



Office for Democratic Institutions and Human Rights

# REPUBLIC OF POLAND

## PARLIAMENTARY ELECTIONS 15 OCTOBER 2023

ODIHR Limited Election Observation Mission  
Final Report



Warsaw  
27 March 2024

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**REPUBLIC OF POLAND**  
**PARLIAMENTARY ELECTIONS**  
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**ODIHR Limited Election Observation Mission Final Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Following an invitation from the authorities of Poland to observe the 15 October 2023 parliamentary elections, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established a Limited Election Observation Mission (LEOM) on 4 September. The ODIHR LEOM assessed compliance of the electoral process with OSCE commitments, other international obligations and standards for democratic elections as well as national legislation. For election day, the ODIHR LEOM joined efforts with delegations of the OSCE Parliamentary Assembly, and the Parliamentary Assembly of the Council of Europe, to form an International Election Observation Mission.

The Statement of Preliminary Findings and Conclusions issued on 16 October concluded that “the 15 October parliamentary elections were competitive, and voters had a wide choice of political alternatives, but the ruling party enjoyed clear advantage through its undue influence over the use of state resources and the public media. The elections took place in a highly polarized environment and were perceived as being critical to Poland’s future on key matters, including the resilience of democratic institutions, personal freedoms and foreign policy. Contestants campaigned freely in a contest that was, unfortunately, characterized by the wide use of intolerant, xenophobic and misogynistic rhetoric. Holding a government-initiated referendum concurrently served to amplify the ruling party’s campaign messages, including through the support of state controlled companies, thereby undermining the separation of state and party and enabled some circumvention of campaign finance regulations. In a politically polarized media environment, and a generally narrowing space for independent journalism, the public broadcaster openly favoured the ruling party. The election administration performed its work efficiently, but its decision-making processes were not transparent. While questions remain about the independence of the judiciary, the handling of election-related cases by the Supreme Court was transparent and supported greater participation by observers. Election day was calm, voters enthusiastically turned out in large numbers, and the process was well-managed in the limited number of polling stations visited.”

The electoral legal framework provides a sufficient basis for the conduct of democratic elections. Amendments introduced in 2023 incorporated some previous ODIHR recommendations, but these were adopted just months prior to the elections and lacked meaningful public consultation, which is not in line with OSCE commitments, Council of Europe and other international standards and good practice. A number of prior ODIHR recommendations remain unaddressed, including those related to suffrage rights, preventing the misuse of administrative resources, and enhancing campaign finance transparency.

Citizens voted to elect all 100 members of the upper chamber of the parliament (*Senat*) through a first-past-the-post system in single-mandate constituencies, and the 460 members of the lower chamber (*Sejm*) through a proportional open list system from 41 multi-member constituencies. The *Sejm* did not consider the changes to the distribution of seats among electoral constituencies proposed by the election administration, despite the legal obligation to do so. This, as well as the legal provision adding all *Sejm* and *Senat* out-of-country votes to the Warsaw constituency, impacted the equality of the vote, at odds with international standards.

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<sup>1</sup> The English version of this report is the only official document. An unofficial translation is available in Polish.

The National Election Commission (NEC) and its executive National Election Office (NEO), managed preparations for the elections efficiently and within the legal deadlines. The election administration generally enjoyed the trust of most ODIHR LEOM interlocutors. However, some ODIHR LEOM interlocutors raised questions about its impartiality in view of the political composition of the NEC and recent changes to the appointment criteria of Constituency Election Commissions (CEC). NEC and CEC sessions were not open to the public, and their agendas and meeting minutes were not published, to the detriment of transparency. A considerable number of Precinct Election Commission (PEC) members were from electoral committees that had not registered any candidates. Many ODIHR LEOM interlocutors were of the opinion that some of these committees were aligned with the ruling party, thus weakening mutual oversight and the political balance among poll workers nominated by contestants.

Continued restrictions on the voting rights of individuals declared legally incompetent by a court are at odds with international standards and OSCE commitments. For these elections, 29,091,621 voters were registered including 636,009 persons who applied to vote abroad. The new Central Register of Voters (CRV) was introduced less than three months before election day. While some ODIHR LEOM interlocutors voiced concerns that a lack of sufficient testing could have reduced its operability and accuracy, the CRV worked effectively for voter identification in the limited number of polling stations observed on election day.

In an open and inclusive process, the CECs registered 303 candidate lists for the *Sejm* nominated by 12 electoral committees, as well as 359 *Senat* candidates proposed by 49 committees. Altogether, 56 lists and 32 *Senat* candidates were denied registration predominantly because of rejected support signatures largely owing to more rigorous verification of supporters' data, as well as the fact that due to the introduction of the new CRV some voters may have been unaware that they were not registered in a given constituency while providing their signature.

The Constitution guarantees the equality of men and women. However, women are underrepresented in politics and leadership positions, including in election administration, reflecting the need for further efforts to promote greater women's participation. In total, 1471 (44 per cent) *Sejm* candidates and only 69 (19 per cent) Senatorial candidates were women. Following these elections, 136 women were elected to the *Sejm* and 17 to the *Senat*. Positively, several parties emphasized the importance of women's participation in politics and assured visibility to their women candidates. However, some female candidates reported general fear and some incidents of gender-based violence or harassment during the campaign.

Freedoms of association and assembly were respected, and contestants were able to campaign freely. However, while the campaign was pluralistic, it was marred by the misuse of administrative resources and an uneven playing field. There was a notable overlap between the ruling party's campaign and information campaigns of the government as well as state-controlled companies and their foundations, including about the referendum organized upon the government's initiative. This provided a significant advantage to the ruling coalition, blurring the line between state and party in contravention with OSCE commitments and other international standards. The campaign, including on social platforms, was highly confrontational, negative and often with inflammatory rhetoric, reflecting the overall political polarization.

Recent amendments to the campaign finance legislation did not address most longstanding ODIHR recommendations. The absence of a requirement for reporting prior to election day, and unregulated third-party campaigning, combined with insufficient campaign finance regulation for the referendum, negatively affected the transparency and accountability of political party and campaign finance. In addition, the foundations of state-owned companies engaged in the referendum campaign, which

served as a way to by-pass campaign finance regulations, thereby undermining spending limits. While the NEC is mandated with campaign finance oversight, it is not explicitly mandated to monitor campaign finance prior to election day.

ODIHR LEOM media monitoring found that public television met its requirements to provide free airtime to all contestants. Despite legal requirements of impartiality, it consistently presented socio-political events in a partial manner, promoting the ruling party and its policies while demonstrating open hostility towards the opposition and casting the most prominent opposition leader as a threat to national security. The National Broadcasting Commission (NBC) failed to curtail the evidently partial and biased coverage of the public television despite its constitutional obligation to safeguard the public interest. Most monitored private media adopted a critical editorial line against the ruling party and some openly favoured the opposition.

The legal framework provides adequate opportunities to seek legal redress, with both judicial and administrative channels available for voters and electoral contestants. However, some NEC decisions can only be appealed by contestants, undermining the right to effective legal remedy of other participants, at odds with OSCE commitments and other international standards. The NEC and Supreme Court dealt with numerous cases, largely related to candidate registration, with most challenges rejected on substantive or procedural grounds. The Supreme Court also adjudicated appeals against NEC decisions restricting the rights of citizen observers, and on some aspects of video recording in polling stations (PS), overturning the NEC instructions. The law provides that cases are considered in closed proceedings, giving discretion to the Supreme Court to review them in public session as needed, which they did on three occasions, increasing the transparency of election dispute resolution. However, general concerns persisted over the appointment mechanisms and independence of the judiciary following reforms which took place between 2016 and 2017.

The Election Code provides for both citizen and international observers. While international observers are accredited by the NEC, delays and the lack of transparency during the accreditation process for a significant number of international parliamentary and non-governmental observers negatively impacted their work. There is no formal accreditation procedure for citizen observers and citizen observers did not have full access to observing the work of the election commissions at all levels. A number of civil society organizations observed election day proceedings, conducted parallel tabulations of votes while some focused on monitoring campaign coverage in the media, campaign finance and the use of public resources.

Voters turned out in high numbers and election day was calm and orderly. In the PSs visited by the ODIHR LEOM, the process was efficient and well-organized, PEC members were knowledgeable and procedures were largely followed. However, in the PSs observed, the secrecy of the vote was frequently undermined by overcrowding, voting booths not being spacious enough to conceal large ballots, and voters marking ballots outside of the booth. In the limited number of PSs where the ODIHR LEOM observed counts, they were generally transparent and procedures were followed; minor inconsistencies included not counting ballots in the same order in all PSs visited and splitting into groups to accelerate counting. Voter turnout was 74 per cent.

This report offers a number of recommendations to support efforts to bring elections in the Republic of Poland further in line with OSCE commitments and other international obligations and standards for democratic elections. Priority recommendations focus on the need to undertake in an inclusive process for legislative changes, define campaign activities of public officials and prohibit the use of administrative resources in the campaign adequately, introduce more transparent campaign finance regulations, institute safeguards to guarantee the independence of public media, and revise the legal framework to require sufficient impartiality in campaign coverage in the public media. ODIHR stands

ready to assist the authorities in improving the electoral process and addressing the recommendations contained in this and previous reports.

## II. INTRODUCTION AND ACKNOWLEDGMENTS

Following an invitation from Polish authorities, through the Permanent Mission of the Republic of Poland to the Organization for Security and Co-operation in Europe, and based on the recommendation of a Needs Assessment Mission (NAM) conducted from 18 to 24 May 2023, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established a Limited Election Observation Mission (LEOM) on 4 September. The ODIHR LEOM, headed by Douglas Wake, consisted of 11 experts based in Warsaw and 20 long-term observers deployed across Poland on 9 September. Observers were drawn from 18 OSCE participating States, and 45 per cent of mission members were women. In line with ODIHR's methodology, the LEOM did not carry out a comprehensive or systematic observation of election day proceedings but visited a limited number of polling stations on election day.

For election day, the ODIHR LEOM was joined by delegations from the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE) to form an International Election Observation Mission (IEOM). Pia Kauma was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator and leader of the OSCE short-term observer mission. The OSCE PA delegation was led by Pere Joan Pons. Mireille Clapot headed the PACE delegation. On election day, 154 observers from 44 countries were deployed, including 33 observers deployed by ODIHR, as well a 91-member delegation from the OSCE PA and a 27-member delegation from the PACE. There were 40 per cent of women among observers.

The ODIHR LEOM assessed compliance of the electoral process with OSCE commitments, other international obligations and standards for democratic elections as well as with national legislation. This final report follows a Statement of Preliminary Findings and Conclusions, which was released at a press conference in Warsaw on 16 October.<sup>2</sup> ODIHR wishes to thank the authorities of Poland for the invitation to observe the elections, as well as the Ministry of Foreign Affairs (MFA), the National Election Commission (NEC) and the National Election Office (NEO) for their assistance. It also expresses its appreciation to other state institutions, political parties, candidates, media, civil society organizations and international community representatives for sharing their views.

## III. BACKGROUND AND POLITICAL CONTEXT

Poland is a semi-presidential republic. The government is led by the prime minister, confirmed via vote of confidence by the parliament. The president is directly elected and serves as the head of state. Legislative power is vested in the parliament, comprised of the lower chamber (*Sejm*) and the upper chamber (*Senat*).

On 8 August, President Andrzej Duda called parliamentary elections for 15 October. On 17 August, the *Sejm* decided to hold a referendum together with the parliamentary elections; this was the first time a referendum was held together with an election in Poland. The referendum addressed four questions related to accepting immigrants from the Middle East and Africa, removing a fence on the Belarus border, selling state assets to foreign entities, and raising the retirement age. Most ODIHR

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<sup>2</sup> See all previous [ODIHR election reports on Poland](#).

LEOM interlocutors considered the referendum to have been designed to amplify the ruling party's election campaign and several opposition leaders called for a boycott of the referendum.<sup>3</sup>

The Law and Justice Party (*Prawo i Sprawiedliwość*, PiS) had held a majority in the *Sejm* since 2015.<sup>4</sup> Since the 2019 elections, Poland has faced a number of challenges including the COVID pandemic, a crisis involving third-country migrants on its border with Belarus, and the ramifications of the war caused by the Russian Federation's invasion of neighbouring Ukraine, including the influx of several million Ukrainian refugees since February 2022. After coming to power, PiS implemented polarizing legislative changes limiting abortion rights and changing appointment mechanisms of the judiciary and public media regulatory body. Both of the latter changes led to the European Commission (EC) opening infringement procedures against Poland.<sup>5</sup> On 8 June 2023, the EC also launched an infringement procedure for violating European Union (EU) law after the Polish government established a special commission to investigate Russian influence in Poland.<sup>6</sup> The law was subsequently amended particularly to remove provisions which would have authorized the special Commission to disqualify electoral contestants. During the election campaign, public controversy connected to issuing Polish visas for foreign workers by the MFA occurred, resulting in the dismissal of a deputy foreign minister and charges against seven individuals.<sup>7</sup>

The Constitution provides for the equality of men and women. However, women are underrepresented in public life and leadership positions. In the outgoing parliament, women held 132 seats (28.5 per cent) in the *Sejm*, and 24 seats (24 per cent) in the *Senat*. In the outgoing government, out of 28 ministers, only 5 were women. The results of these elections saw 136 women elected to the *Sejm* and 17 to the *Senat*.

*To enhance women's participation in public life the authorities should make comprehensive efforts to increase women representation in politics and effectively address existing gender-based barriers.*

#### IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

Poland is party to major international and regional instruments related to the holding of democratic elections.<sup>8</sup> The Constitution also reaffirms that international law binding upon it should be respected. At the national level, elections are primarily regulated by the 1997 Constitution, the 2011 Election Code, the 1990 Law on Assemblies and the 1997 Political Parties Act. The NEC issues resolutions and binding guidelines for lower election commissions, as well as explanations for state and local

<sup>3</sup> The ODIHR LEOM followed the referendum to the extent to which it impacted the parliamentary elections.

<sup>4</sup> In 2019, PiS gained 235 seats; Civic Coalition (*Koalicja Obywatelska*, KO) 134; Democratic Left Alliance (*Sojusz Lewicy Demokratycznej*, SLD) 49; the Polish People's Party (*Polskie Stronnictwo Ludowe*, PSL) 30; Confederation (*Konfederacja Wolność i Niepodległość*) 11, and the German minority 1 seat. In the *Senat*, PiS secured 48 seats, KO 43, PSL 3, SLD 2, with four voters' committees gaining one seat each.

<sup>5</sup> Judicial reforms which began in 2016 altered the appointment mechanisms for judges. See also the Poland Chapter in the European Commission's 2023 [Rule of Law Report](#). A new Chamber on Extraordinary Control and Public Affairs was introduced in 2017 with a mandate that includes the validation of final election results and consideration of appeals in other election-related cases.

<sup>6</sup> The Law on the State Committee for the Examination of Russian Influence on the Internal Security of Poland between 2007 and 2022 came into force on 31 May 2023. Despite [concerns](#) of the Council of Europe's Commission for Democracy through Law (Venice Commission), the commission was set up on 30 August. Also see [the EC Infringement procedure](#).

<sup>7</sup> In March 2023, prosecutors launched an investigation into possible corruption in connection with this issue. Anti-corruption agency personnel searched the MFA on 31 August and a deputy foreign minister was reportedly dismissed the same day. On 15 September, the MFA issued a public [statement](#).

<sup>8</sup> 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 International Convention on the Elimination of All Forms of Racial Discrimination ([CERD](#)), the 2003 United Nations Convention Against Corruption (UN [CAC](#)), and the 2006 Convention on the Rights of Persons with Disabilities ([CRPD](#)). Poland is 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.

administration, electoral committees and media outlets. The NEC supplemented the legal framework with regulations, guidance and clarifications on various aspects of the electoral process.

The electoral legal framework is comprehensive and provides a sufficient basis for the conduct of democratic elections. However, some aspects of the process could benefit from further elaboration or revision. In March 2023, the Election Code was substantially amended.<sup>9</sup> Among other changes, these amendments introduced a Central Register of Voters (CRV); decreased the minimum number of inhabitants per precinct from 500 to 200; changed the qualifications for membership in the Constituency Election Commissions (CEC); introduced organized public transportation for voters in rural areas; and extended the rights of party and citizen observers to record voting procedures, while requiring that such recordings be transmitted to the Ministry of Digital Affairs (MDA), or Precinct Election Commission (PEC), in order to be considered as election material, and deleted from the original devices. This electoral reform took place only a few months before the elections in a process that lacked meaningful consultation with relevant stakeholders, contrary to international commitments and good practice.<sup>10</sup>

*The process of considering and adopting election-related legislative changes should involve inclusive public consultation and should be undertaken well in advance of the election and at a stage that allows for proper and effective implementation.*

While the 2023 amendments incorporated some previous ODIHR recommendations related to the introduction of CVR and access for persons with disabilities, a number of prior recommendations to bring the law further in line with international obligations and commitments remain unaddressed. These include recommendations to restore suffrage rights for persons deprived of legal capacity, removing criminal liability for defamation, and the introduction of measures to prevent the misuse of administrative resources and to enhance transparency in campaign finance.<sup>11</sup> In addition, key aspects of conducting a referendum campaign, particularly campaign finance reporting requirements, are not regulated; holding a referendum concurrently with elections exacerbated the shortcomings in the legislation, and further negatively impacted the electoral process.

*To ensure democratic and transparent conduct of referenda the legislation should be amended to comprehensively regulate all aspects of the referendum processes.*

Parliament has a four-year term. Members of the *Senat* are elected through a first-past-the-post system in 100 single-mandate constituencies. All 460 members of the *Sejm* are elected through a proportional open list system from 41 multi-member constituencies. Only electoral committees that receive at least five per cent of valid votes nationwide (eight per cent for coalitions) participate in the distribution of seats for the *Sejm*. Electoral committees registered by recognized national minorities are exempt from

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<sup>9</sup> Amendments also affected the 1997 Political Parties Act, the 1997 Law on Restriction Business Activity by Persons Performing Public Functions, the 2000 Act on the National Criminal Register, the 2006 Disclosure Act on Information on Documents of State Security Organs, the 2009 Finance Act and the 2010 Act on the Population Register.

<sup>10</sup> See [ODIHR Legal Opinion](#) on the draft act amending the Election Code and certain other legal acts. Section II.2.b. of the Venice Commission's 2002 [The Council of Europe's Venice Commission Code of Good Practice in Electoral Matters](#) recommends that "the fundamental elements of electoral law [...] should not be open to amendment less than one year before an election." Paragraph 63 of the [Explanatory Report to the Code of Good Practice](#) states that "[s]tability of the law is crucial to credibility of the electoral process, which is itself vital to consolidating democracy." Paragraph 5.8 of the [1990 OSCE Copenhagen Document](#) states that the legislation should be adopted at the end of a public procedure. In paragraph 18.1 of [1991 OSCE Moscow Document](#), the participating States have specifically committed to ensure that "[l]egislation will be formulated and adopted as the result of an open process reflecting the will of the people, either directly or through their elected representatives."

<sup>11</sup> In paragraph 25 of the [1999 OSCE Istanbul Document](#), all OSCE participating States committed themselves to follow up promptly on ODIHR's election assessments and recommendations.



threshold requirements.<sup>12</sup> Electoral constituencies are created within the boundaries of *voivodeships*. *Sejm* mandates are allocated proportionally to constituencies based on population.

Contrary to a legal obligation to review constituency boundaries to reflect population shifts, and despite a previous ODIHR recommendation, no changes have been made to *Sejm* and *Senat* constituency boundaries or the distribution of mandates among constituencies since 2011. In October 2022, the NEC proposed adjustments to the distribution of *Sejm* seats affecting 21 constituencies and a redistribution of *Senat* seats among three *voivodeships*.<sup>13</sup> However, as was the case with the lead-up to the 2015 and 2019 elections, these were not considered by the *Sejm*. While there are no legal provisions on the maximum deviation from the average number of inhabitants per *Sejm* seat (as these are allocated proportionally to constituencies by a formula), the law permits considerable deviations in the size of *Senat* constituencies. By law, all out-of-country votes for both houses are added to one *Sejm* and one *Senat* constituency in Warsaw, which further distorts the equality of the vote.<sup>14</sup> These additional votes, based on registered voters, reduced the weight of an individual vote in those constituencies by 31 per cent in the *Sejm* and 66 per cent in the *Senat* elections, contrary to international standards and good practice.<sup>15</sup>

*To ensure the equality of the vote, the authorities should periodically redistribute mandates among the constituencies to adjust to population shifts.*

*Consideration could be given to allocating out-of-country votes through a more equitable system, which should be decided upon through an inclusive and consultative process.*

## V. ELECTION ADMINISTRATION

Elections were conducted by the NEC, the NEO and its 49 delegate offices, 41 CECs, and 31,073 Precinct Election Commissions (PECs).<sup>16</sup> In addition, the MFA established 416 PECs in diplomatic representations in 91 countries.<sup>17</sup> In general, all technical preparations were carried out efficiently and in line with the electoral calendar. Women were underrepresented in the higher levels of election administration: all NEC members were men (while the NEO head was a woman) and 37 per cent of CEC members were women. The different parts of the election administration co-operated effectively.

The NEC is a permanent decision-making and supervisory body responsible for the overall conduct of elections and referendums. These were the first parliamentary elections under a new composition of the NEC consisting of two judges nominated for nine years by the Constitutional Tribunal and the Supreme Administrative Court and seven members nominated for a four-year term by political parties

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<sup>12</sup> Article 2.2 of the [2005 Act on National and Ethnic Minorities and Regional Languages](#) recognizes the Armenian, Belarusian, Czech, German, Jewish, Lithuanian, Russian, Slovak and Ukrainian ethnic minorities. Only the Electoral Committee of German Minority Voters ran for these elections.

<sup>13</sup> The NEC proposed adjustments to seat distribution for the *Sejm* adding one seat in 9 constituencies and 2 seats in Warsaw II while deducting 1 seat in 11 constituencies. It also pointed out that the current distribution of *Senat* seats among *voivodeships* is in breach of the law, suggesting that *Małopolskie* and *Mazowieckie* are attributed one seat each at the expense of the *Śląskie*.

<sup>14</sup> Deviations in *Sejm* constituencies range from - 6.2 to + 6.0 per cent. Deviations in *Senat* constituencies range from - 47 to +74 per cent, which is legally permissible but not in line with good practice.

<sup>15</sup> [Paragraph 21 General Comment on article 25 of the ICCPR](#) provides that “[t]he drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters. See also Section 2.2 of the [Council of Europe’s Venice Commission Code of Good Practice in Electoral Matters](#) which provides that “seats must be evenly distributed between the constituencies.”

<sup>16</sup> This included 1,781 special PECs created in hospitals (892), social welfare homes (705), student compounds (15) and different types of prisons and detention centres (169).

<sup>17</sup> This number does not include the planned PEC in Tel Aviv where voting was cancelled three days before election day.. Voting was organized on eight sea ships or platforms by the Ministry of Maritime Economy.

in proportion to their representation in the *Sejm*. The political appointees for the NEC must qualify as a judge or have a professional or academic legal background. No parliamentary group can nominate more than three members.<sup>18</sup> The election administration generally enjoyed the trust of most ODIHR LEOM interlocutors. However, some raised questions about their impartiality due to the more political composition of the NEC and changes to the appointment criteria of CECs.

A total of 100 Election Commissioners (31 women) were appointed by the NEC for five-year terms from candidates with higher legal education.<sup>19</sup> These were preselected by the Minister of Interior and Administration (MoI) to represent the NEC at the sub-national level. Over a third of these commissioners were judges appointed since the 2016 judicial reforms, which some ODIHR LEOM interlocutors perceived as casting doubt over their impartiality. Their tasks included proposing CEC members who were then approved by the NEC, chairing CECs and establishing PECs.

The NEO supports the work of the NEC and is tasked with the administrative, financial and logistical organization of elections. At the proposal of the MoI, the NEC appoints the head of the NEO for a seven-year term.<sup>20</sup> The NEO has 49 permanent delegate offices to support the CECs and PECs.<sup>21</sup> Additionally, the NEO appointed around 2,600 civil servants as election officers to train PEC members and coordinate election day logistics. By law, election officers cannot serve in their own municipality. Municipalities appointed *ad hoc* election teams which provided substantial logistical support to the election administration. The terms of co-operation among election officers and municipality election teams were not always clearly defined.

CECs are temporary bodies mandated to register candidates, print ballots, handle complaints related to decisions of PECs, and tabulate constituency results. They were established on 28 August and had between 5 and 11 members. Following the 2023 amendments, the CEC members were no longer required to be acting or retired judges, but still had to possess a higher legal education. Nevertheless, four in five of these were judges and approximately one-third of their members had previous CEC experience. Most CECs were chaired by election commissioners and the directors of the NEO delegate offices acted as their secretaries.

The NEC has regulatory powers, with resolutions adopted by a simple majority under a two-thirds quorum. NEC and CEC sessions were held *ad hoc* without prior announcement of their timing or agenda, and were not open to citizen observers or contestants, nor broadcast online; session minutes were not published. This contravenes international standards, commitments and good practice and negatively impacted transparency and stakeholders' awareness of the NEC's and CECs' decision-making processes.<sup>22</sup> Adopted NEC resolutions, guidelines and explanations were promptly published on the NEC website.

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<sup>18</sup> Currently, three members were nominated by PiS, two by Civic Coalition (KO) and one by each New Left and Kukiz'15/PSL. Only the judicial appointees can be elected as the NEC's chair. Until the beginning of 2020, 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.

<sup>19</sup> Approximately two thirds of the Election Commissioners had served in previous elections.

<sup>20</sup> The current chairperson was appointed in February 2018.

<sup>21</sup> In general, the election administration structure does not follow the country's administrative division. However, the 49 delegate offices reflect the former 49 *voivodeships* before their merger into 16 by the 1998 administrative division reform.

<sup>22</sup> [Paragraph 19 General Comment on article 34 of the ICCPR](#) provides that "States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information. As well as Article 10(a) of the [UNCAC](#) states: "Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and (...) on decisions and legal acts that concern members of the public." See also the Section II.3.1. of [the Council of Europe's Venice Commission Code of Good Practice in Electoral Matters](#) recommends that "[t]he meetings of the central electoral commission should be open to everyone, including the media."

*In order to enhance transparency of the NEC's decision-making process and increase public trust, its sessions including their agendas should be announced in advance and be open to the media, citizen and international observers, as well as interested members of the public.*

PECs were responsible for the overall conduct of election day procedures in polling stations (PS). Depending on the number of voters assigned, regular PECs were comprised of seven to 13 members. By law, up to two-thirds of the members were reserved for representatives of electoral committees that have elected members in the *Sejm* or the *Sejmik* of the respective *voivodeships*. The remaining PEC member slots were assigned to the other electoral committees, using a lottery where necessary. While not prohibited by law, a significant number of PEC members were nominated by electoral committees that did not present candidates for the elections. ODIHR LEOM interlocutors surmised that these may have been registered solely for this purpose and that many of these committees were aligned with the ruling party, thereby weakening mutual oversight and the balance among poll workers nominated by contestants.<sup>23</sup>

*To ensure efficient functioning of PECs and their balanced composition, the law should limit the role of the members of the committees that are not contesting the elections.*

To facilitate access to the polls and as a result of lowering the minimum number of inhabitants per precinct, 3,872 new regular PSs (98 per cent of which were in rural areas) were created. In addition, the new legislation introduced mandatory free transportation to and from PSs in areas with no public transportation on election day. These changes largely benefitted rural constituencies, which many ODIHR LEOM interlocutors perceived as advantaging the incumbent party given that the ruling party had better results in rural areas in recent elections.<sup>24</sup>

Training of PEC members covered the recent changes in election day procedures. The ODIHR LEOM observed inconsistent instructions between constituencies concerning the modalities for video recording of polling and counting or the handling of refused referendum ballots. There was also considerable variation in duration and the outreach of training sessions, as in some areas only PEC chairs and deputies were trained, while the remaining members were left to self-study of the guidelines which used overly legalistic language and were difficult to understand.<sup>25</sup>

*To ensure consistent application of election procedures, the National Election Commission could adopt a more timely, comprehensive and user-friendly training programme, providing clarity on issues not regulated by the law. Training sessions should be compulsory for all members of lower-level election administration bodies and offer more interaction of participants.*

Both the NEC and CECs conducted voter education activities and many municipalities conducted voter mobilization campaigns and informed voters about new PS locations. Sign language

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<sup>23</sup> Out of 85 registered electoral committees, 31 did not register any candidates. The NEC published a full list of appointed PEC members, though without reference to the nominating electoral committee (this information was only available on CECs' subpages in a format that is difficult to analyse). However, the aggregated data provided by the NEC to the ODIHR LEOM, showed that these 31 electoral committees altogether nominated 55,009 PEC members (38,459 of which were appointed). And the three largest *Odpowiedzialność*, *Niepodległa Żyje* and *Uwierz w Polskę* nominated 19,670 PEC members (of which 14,080 were selected).

<sup>24</sup> In order to increase the turnout in mainly rural areas, the government also launched a [competition](#) awarding PLN 1 million for the renovation of fire stations to the municipality with fewer than 20,000 inhabitants in each of 314 districts which achieved the highest turnout in the 15 October elections, with over PLN 300 million to be disbursed in total. On 9 October, the government announced that municipalities with up to 20,000 inhabitants, where voter turnout surpassed 60 per cent, would receive PLN 250,000 for rural women's groups, folk bands and sport teams, with an additional PLN 1 million allocated to municipalities with the highest turnout.

<sup>25</sup> The official NEC training presentation was usually not used with ODIHR LEOM interlocutors citing its lack of clarity. Instead, trainers developed their own simplified versions resulting in a lack of consistency of the information conveyed.

interpretation was available in video spots, as well as on the NEC webpage. In addition, civil society organizations organized different voter information tours throughout the country.

## VI. VOTER REGISTRATION

Citizens who are at least 18 years of age on election day have the right to vote, unless this right has been revoked by a decision of a court or State Tribunal, including on the basis of mental disability. This restriction contravenes principles of universal and equal suffrage, as provided for in the 1990 OSCE Copenhagen Document, UN treaties, and other international obligations.<sup>26</sup>

*The law should be amended to remove restrictions on voting rights on the basis of intellectual or psychosocial disability.*

In line with a previous ODIHR recommendation, the 2023 amendments provided a legal basis for the creation of a CRV to replace 2,477 separate voter registers previously maintained by individual municipalities. The integration of all necessary data for the CRV was carried out by the MDA between April and July. The principal sources were the electronic civil registry, maintained by the MDA, which includes data on permanent residence and a unique 11-digit identification number (*PESEL*) assigned to all Polish citizens; the so-called *de facto* residential addresses provided by the municipalities; and the data on legally incapacitated persons supplied by courts.

The introduction of the CRV was welcomed by the election administration and municipalities, as it automatically tracks and incorporates changes in address thus improving the accuracy of the data overall. However, the process of creating the CRV lacked transparency and was rolled out without independent audit. While some ODIHR LEOM interlocutors voiced concerns that its introduction less than 3 months before the election and a lack of sufficient testing could have reduced its operability and accuracy, the performance of the CRV for identifying voters on election day was satisfactory in the limited number of polling stations observed on election day.<sup>27</sup>

By default, the CRV assigned voters to a specific PEC based on their last voting address (permanent or, if applicable, the *de facto* address).<sup>28</sup> Changes to the CVR could be made from 44 up to 3 days before election day: over 900,000 voters requested voting at a temporary residence, and 451,389 collected Absentee Voter Certificate's (AVC) permitting them to cast the vote in any PS.<sup>29</sup> In total 636,009 citizens residing or planning to be abroad on election day registered in-person, via email or using the online portal of the MFA in order to vote at a polling station outside Poland. An additional 342 persons registered for voting on sea ships or platforms. Voter lists in 1,781 special precincts were submitted to municipalities by the respective institutions three days prior to elections. The final number of eligible voters announced by the NEC was 29,091,621; this number, however, did not include almost half a million voters who collected AVCs.<sup>30</sup> Voter lists were finalized and printed two

<sup>26</sup> Article 29 of the CRPD requires States Parties to “guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others”. Paragraph 7.3 of the [1990 OSCE Copenhagen Document](#) provides that OSCE participating States will “guarantee universal and equal suffrage to adult citizens”. See also Paragraph 48 of General Comment No. 1 to Article 12 of the [CRPD](#) and the and European Court of Human Rights (ECtHR) jurisprudence concerning blanket restrictions on the right to vote (see, for example, [Anatoliy Marinov v. Bulgaria](#)). According to the MDA, 95,680 persons were deprived of their voting right following a court decision.

<sup>27</sup> Some parties noted that the use of multiple addresses on the CRV negatively affected verification of support signatures submitted for the registration of candidates as some voters with more than one address or who recently changed residence may have been unaware of the rules applied for their listing under specific addresses in the CRV.

<sup>28</sup> However, according to the MDA, 2,622,135 persons remained without any residence specified in the CRV and neither actively registered with any municipality or consulate nor requested an Absentee Voter Certificate (AVC) permitting them to cast the vote in any PS.

<sup>29</sup> In total, 369,757 persons with, and 81,632 persons without an address listed in the CRV requested an AVC.

<sup>30</sup> This is a notable decrease from 30,253,556 eligible voters in 2019. According to the MDA, this could be attributed to the COVID19-related excess mortality, and emigration, but also to the cleaning of possible multiple entries in the CRV.

days before election day by the municipalities and consulates. As of these elections, voters could file complaints with the competent mayor in case of irregularities or their omission from the CRV. The 2023 amendments removed all options for public scrutiny of the voter lists; and only individual inquiries about one's own entry could be submitted at corresponding municipalities or via the government portal (*mObywatel*).<sup>31</sup>

## VII. CANDIDATE REGISTRATION

Citizens with the right to vote, who have reached 21 and 30 years of age by election day, have the right to stand in *Sejm* and *Senat* elections, respectively. Those who have been sentenced to imprisonment for an intentional offence or fiscal crime, as well as incapacitated by a final court decision, including on the basis on mental disability, forfeit this right.<sup>32</sup> Restrictions on candidacy based on mental and intellectual disability are at odds with the principles of non-discrimination and proportionality provided by OSCE commitments and international standards.<sup>33</sup>

The process of candidate registration was open and inclusive. Candidates can only be nominated by electoral committees formed by political parties, coalitions or by groups of over 15 voters, the latter having to present at least 1,000 supporting signatures. By the 28 August deadline, 85 electoral committees had registered with the NEC.<sup>34</sup> These committees could by 6 September nominate candidates or lists of candidates to the respective CECs, with 2,000 supporting signatures of voters registered within the given constituency for the *Senat* and 5,000 for the *Sejm*.<sup>35</sup> In four *Sejm* and in eight *Senat* constituencies the number of required signatures is higher than one per cent of registered voters, which is not consistent with international good practice.<sup>36</sup> While there is no specific procedure prescribed in the law, in case of reasonable doubts about the veracity of signatures, the CECs were entitled to compare the data with the CRV by entering their *PESEL* numbers with specialized software.<sup>37</sup>

In an inclusive process, the CEC registered 6,655 candidates on 303 lists for the *Sejm* presented by 12 electoral committees and 359 candidates for the *Senat* (from 49 committees).<sup>38</sup> PiS fielded candidates in all constituencies. The most prominent opposition to PiS in these elections came from three electoral committees - Civic Coalition (*Koalicja Obywatelska*, KO), Third Way and the New Left - that publicly pledged ahead of the election to form a coalition government were they to garner

<sup>31</sup> Previously, municipalities were obliged to provide access to voter lists for consultation at the municipality to anyone upon a written request. In this way, the legitimacy of the inclusion or the absence of third persons could be verified.

<sup>32</sup> In addition, the right to stand may be revoked by a court decision based on a lustration law related to the activities of security services between 1944 and 1990. ECtHR case law indicates that lustration proceedings have been held in violation of the Convention for the Protection of Human Rights and Fundamental Freedoms and that such provisions should be constantly reviewed. See, for example *Matyjek v. Poland* and in *Zdanoka v. Latvia*.

<sup>33</sup> In paragraph 7.5 of the 1990 OSCE Copenhagen Document, participating States committed "to respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination". See also Articles 3, 12 and 29 of the CRPD and section I.1.1.d of the [Council of Europe's Venice Commission Code of Good Practice in Electoral Matters](#).

<sup>34</sup> In total 40 were presented by political parties, 2 by coalitions and 43 by electoral committees of voters. Eight applications of electoral committees of voters had been rejected for insufficient number of signatures or other unresolved irregularities or omissions. One application was withdrawn.

<sup>35</sup> Seven electoral committees registered their *Sejm* lists in more than half of constituencies by which they were exempt from submitting any further signatures in the rest of constituencies. There is no analogous rule for the *Senat*.

<sup>36</sup> [The Council of Europe's Venice Commission Code of Good Practice in Electoral Matters](#) recommends that "law should not require collection of the signatures of more than 1% of voters in the constituency concerned."

<sup>37</sup> Liberal Poland Entrepreneurs' Strike (*Polska Liberalna Strajk Przedsiębiorców, PL*) informed the ODIHR LEOM, that after having successfully registered *Sejm* lists in 17 constituencies, a thorough full-scale verification of signatures was applied to their not-yet-approved lists. While they were waiting for the results of verification, the CECs in Katowice III and Warsaw I and II issued a series of contradictory decisions related to the registration of PL's lists (without support signatures) simultaneously with ongoing appeals procedures at the NEC and the Supreme Court in the same matter.

<sup>38</sup> On 13 October, PL requested the dissolution of the electoral committee, effectively cancelling their 17 *Sejm* candidate lists with 320 candidates.

a sufficient number of seats to do so. The same parties formed a single list of candidates (*Pakt Senatski*) to compete in all 100 *Senat* constituencies. The only other electoral committees to compete in all *Sejm* constituencies and many *Senat* races were Confederation (*Konfederacja*) and the Non-Party (*Bezpartyjni Samorządowcy*).

In total, 56 *Sejm* lists and 32 senatorial candidates were rejected mostly due to a mismatch between stated addresses and the CRV, which left a significant number of signatures inadmissible, thus falling below the required minimum.<sup>39</sup> While established contestants often submitted many more signatures than required, less prominent electoral committees often only submitted a small margin of additional signatures which eventually led to refusals of their candidacies. Representatives of electoral committees attributed the rejection of lists to the more rigorous verification of supporters' data, as well as the fact that some voters may have been unaware that they were not registered in a given constituency while providing their signature in good faith.<sup>40</sup> The position of candidate lists on the ballot was determined by a public lottery at the NEC for the 10 electoral committees running in more than one constituency.

By law, *Sejm* lists had to include at least 35 per cent of candidates of each gender. There were no requirements on their ordering on the lists; however, two electoral committees alternated each gender on their lists. In total, 44 per cent of the *Sejm* candidates were women and women led 83 out of the 303 lists. The share of women candidates in the first fifth of the positions on candidate lists varied from 52 to 11 per cent.<sup>41</sup> Only 19 per cent of the Senatorial candidates were women.

## VIII. ELECTION CAMPAIGN

The legal framework for elections provides for equal campaign opportunities for all contestants. The official campaign period commenced on 8 August and continued until 24 hours before election day. Campaign activities are prohibited in schools, in government administration offices, courts, and military units and at the workplace, if it interferes with normal functioning. The legislation does not explicitly regulate campaigning on Internet and its specific aspects related to social networks, including third-party campaigning and online advertising. Despite a previous ODIHR recommendation, the Election Code does not explicitly regulate campaigning by public officials; however, they are obliged to maintain impartiality when performing official duties and to strictly separate official acts from campaigning activities.<sup>42</sup> A number of ODIHR LEOM interlocutors noted that there had been intensive pre-campaigning in the period leading up to the elections, with some publicly funded events espousing campaign messages of the incumbent party.<sup>43</sup> While the campaign

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<sup>39</sup> The vast majority of the rejected *Sejm* lists were presented by the electoral committee of voters Poland of Prosperity and Peace (*Polska Dobrobytu i Pokoju*) (26) and PL (24) that were planning to achieve a nationwide registration by having lists accepted in 21 constituencies based on support signatures. However, they did not succeed and subsequently all their remaining lists not backed by support signatures were rejected. The rejected senatorial candidates were proposed by 12 committees, the majority of them by Confederation (8) and Non-Partisan Government Officials (*Bezpartyjni Samorządowcy*) (7).

<sup>40</sup> Up to four different addresses can be associated with a person, but only up to two (permanent or *de facto* residence) appear in the CRV and a voter is automatically assigned for voting according to a single address (normally that at which they voted in the most recent elections).

<sup>41</sup> Confederation had the lowest and KO the highest share of women in the first fifth of the positions.

<sup>42</sup> On 18 August, the NEC issued an [explanation](#) regarding the participation of public figures in the election campaign with guidelines on the separation of election activities from the ordinary duties of public officials, among other provisions. See also Article 84(1), Election Code, and Article 78, Public Service Act.

<sup>43</sup> Billboard and poster campaigns for PiS deputies were set up in [Wrocław](#) and [Wałbrzych](#) starting in June and July, according to media reports. The government had organized a nationwide campaign of 'family picnics' to promote its child benefit programme from 15 July, which were at times used explicitly for campaigning, including by the prime minister on July 22 in [Krotoszyn](#) and on July 29 in [Tychy](#), and were attended by deputies from the given constituency, including on July 19 in [Tomaszów Lubelski](#).

was pluralistic, the playing field was uneven, as the incumbent party benefited in multiple ways from the use of state resources.

The Referendum Act provides for the campaign to be conducted by citizens, political parties, associations, foundations, and other entities. The NEC issued guidelines stating that participants of both campaigns should strictly separate their election campaigns from their referendum campaign activities.<sup>44</sup> The government was also eligible to campaign for the referendum but with no requirements to remain neutral in the referendum campaign, not in line with international good practice.<sup>45</sup> Holding the referendum concurrently with the election campaign resulted in an overlap of messages between the two campaigns. A number of foundations of state-owned entities registered to conduct a referendum campaign using free airtime on public television and radio, and the referendum campaign of a state-owned energy group amplified the messages of the ruling party, as did some public officials.<sup>46</sup> Some individual candidates used the referendum campaign to promote themselves.<sup>47</sup> Many ODIHR LEOM interlocutors suggested that the referendum was intended to mobilize voters sympathetic to the ruling party.

Fundamental freedoms were generally respected, and voters had a genuine choice between political alternatives. During the first weeks of the campaign, contestants used a variety of traditional methods to campaign, including rallies and door-to-door campaigning.

During the electoral period, the ODIHR LEOM followed the campaign activities of 40 accounts of political parties or coalitions and key politicians and political actors on X and Facebook. All contestants conducted extensive social network campaigns and used online advertisements. While most politicians relied more heavily on X, promotion of events was also prevalent on Facebook. Political parties, as well as their leaders, with the notable exception of the PiS leader Jarosław Kaczyński, actively engaged on these platforms through video messages, content from campaign events, and reflecting on political developments. Overall, the tone of posts was often negative, with candidates leveling personal attacks and mutual accusations, including on their opponents' past policy decisions, campaign promises. From the observed accounts, the two largest contestants, PiS and KO generally had the highest rate of engagement with their posts, and along with Confederation were most active in publishing content.<sup>48</sup> Poland 2050 and PSL posted less frequently throughout the campaign and achieved moderate engagement with its followers.

Throughout the entire period, the campaign was highly confrontational and often negative. Contestants repeatedly used inflammatory and discriminatory rhetoric.<sup>49</sup> Nevertheless, the campaign

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<sup>44</sup> See the 28 August NEC [guidelines](#).

<sup>45</sup> Sections I.2.2 and I.3.1 of the Venice Commission's 2022 [Revised Code of Good Practice on Referendums](#) respectively require that administrative authorities remain neutral in keeping with the principles of equality of opportunity and the freedom to form an opinion.

<sup>46</sup> See the online advertisement campaign on referendum topics [launched](#) on 2 October by the Polish Energy Group PGE. For example, at a 21 August press conference, the Deputy Minister of Climate [stated](#) "Orlen is a symbol of the independence of Polish capital, and the referendum concerns the sale. Tusk equals the sale of Polish assets." At a 5 October [press conference](#), the Prime Minister discussed the EU migration pact, repeatedly referencing the European 'party of Tusk'.

<sup>47</sup> ODIHR LEOM observed referendum billboards of a PiS candidate, who is also the president of the Chamber of Economy and Trade, that promoted the candidate. A PiS candidate in Puck district [used](#) a billboard campaign on the referendum to promote himself, according to a media report. At least two PiS candidates appeared on the online referendum campaign of Solidarity Poland. Individual candidates from other electoral committees also [used](#) the referendum campaign to promote themselves.

<sup>48</sup> PiS, KO, and Confederation posted in average 11 to 20 and 20 or more posts per day per account, while the parties that formed Third Way Coalition generally posted 6 to 10 posts per day.

<sup>49</sup> On 2 September at a campaign event in Katowice, the Prime Minister [called](#) Donald Tusk "the leader of the party of crooks." On 4 September, Civic Platform (*Platforma Obywatelska*, PO) shared a [post](#) on X: "Kaczyński is a threat! A danger to your children. A threat to your family." On 25 September, a PiS video, in reference to KO [stated](#): "These are dangerous people." On 1 October, the Prime Minister [stated](#): "beware of them, and especially beware of Tusk. This dangerous man has destroyed everything in Poland." On 4 October, PO [shared](#) a post on Instagram "We will chase them away."

period was largely peaceful, with isolated incidents and threats.<sup>50</sup> The campaign intensified in the run-up to the elections, which was also reflected in the visibility of campaign materials. KO organized a rally in Warsaw drawing hundreds of thousands, and PiS held large conventions across the country. At the campaign events observed by ODIHR long-term observers, the main topics included the economy, national security, migration, the state of democracy, relations with the EU and with Ukraine, and personal freedoms.<sup>51</sup> The ruling party's campaign focused on its achievements in office and recent social benefit promises, as well as messages on national sovereignty and security, often overlapping with the topics of the referendum. PiS and Confederation used anti-migrant narratives, some of them highly negative and at times xenophobic.<sup>52</sup>

Personal verbal attacks against the main party leaders were prevalent.<sup>53</sup> Criticism against the government's foreign policy, its handling of COVID-19, and controversies regarding alleged corruption, including related to issuance of visas by the MFA, were prominent topics in the campaign of opposition groups. KO's campaign also pledged to reverse judicial changes and improve relations with the EU, to implement health care and education reform, and to ensure women's rights. Confederation's main messages revolved around limiting the country's welfare system and limiting assistance to Ukraine and to refugees, while the Third Way and the New Left focused on social welfare issues and women's rights. Some members of the Roman Catholic clergy campaigned for the ruling party; although not prohibited, many ODIHR LEOM interlocutors considered this to provide a clear advantage.<sup>54</sup> Other instances of third-party campaigning were also observed during the election campaign.<sup>55</sup>

*To enhance public confidence in the electoral process, electoral contestants should refrain from using inflammatory and discriminatory speech. Public officials and authorities should promptly condemn such rhetoric and political parties could consider making commitments to each other to refrain from use of such rhetoric in the campaign.*

Candidates of the incumbent party often attended publicly funded events, inaugurations and opening ceremonies in their own constituencies, at odds with international standards and OSCE

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<sup>50</sup> On 3 September, the campaign bus of a KO candidate was allegedly [attacked](#) with stones. On 22 September, a KO candidate was [verbally assaulted and pushed](#) in Katowice. The ODIHR LEOM observed several instances of defaced posters. Affected parties appeared reluctant to report such cases to competent authorities, questioning the availability of timely remedies. The PiS in Przemysle reported anonymous threats during the campaign, and a KO candidate in Opole reported threats and damage to his property.

<sup>51</sup> The ODIHR LEOM observed 73 campaign events, of which 45 featured women speakers. 64 of these events were accessible to persons with disabilities and 2 included sign-language interpretation.

<sup>52</sup> On 14 September, the Prime Minister stated in a video on X: "invasion of thousands of young men, migrants from Africa, is the price of the disastrous immigration policy of Donald Tusk's friends: Merkel and Weber... Fear, chaos, riots, demolition." The same day Sovereign Poland posted a video of migrants in Lampedusa, Italy, with the caption "Security or invaders?". On 24 September, the Prime Minister stated that the KO "wanted to bring anyone from Africa to Poland without checking or verification. They wanted to bring dangerous people to Poland". Confederation launched an [online petition](#) against 'mass immigration' and on 2 October a Confederation MP [stated](#) in a radio show that irregular migrants should be shot at the border.

<sup>53</sup> At a 7 October campaign event in Płock, Donald Tusk [referred](#) to Mateusz Morawiecki as "the chief liar of the Republic of Poland". On 8 October, a Confederation candidate [stated](#) "Kaczyński and Tusk - they are the threat!". On 9 October, a KO MP [called](#) Jarosław Kaczyński a 'pest'. On 9 October in a [televised debate](#), Mateusz Morawiecki accused Donald Tusk of being a coward. PiS candidates regularly criticized the KO leader by alternatively employing anti-German tropes and linking him with the Russian Federation. On 24 September, the Prime Minister [stated](#) regarding Donald Tusk: "The dyed fox from Brussels only came here to implement the guidelines of Weber and Merkel [...] [h]e will not do anything against the will of his German principals". On 26 September, a PiS campaign [spot stated](#) "Donald wants to introduce order. German orders". On 25 September, the Minister of Justice stated: [Germany] wants to put their own man, Donald Tusk, in office as Polish prime minister."

<sup>54</sup> On 21 September, the Council for Social Affairs of the Polish Episcopal Conference circulated [election guidance](#) for the upcoming elections. Radio *Maryja*, a Roman Catholic radio station, consistently aired messages in favor of the ruling party.

<sup>55</sup> For example, ODIHR LEOM observed direct and indirect campaigning by the Independent and Self-Governing Trade Union *Solidarność* in Płock. In addition, the charitable non-profit organization Great Orchestra of Christmas Charity launched a nationwide billboard and poster campaign with messaging and imagery mirroring the KO campaign.



commitments.<sup>56</sup> Several government officials, including ministers, campaigned at such events.<sup>57</sup> Some municipal governments amplified the messages of KO.<sup>58</sup> The ruling party's campaign was mirrored in government information messages as well as the advertisement and information campaigns of state-controlled companies.<sup>59</sup> A number of significant social benefit programmes were announced or implemented during the campaign period, or in the months leading up to it.<sup>60</sup> All these practices blurred the line between party and State, contrary to OSCE commitments.<sup>61</sup>

*To ensure a clear separation between state and party, measures should be taken to keep party campaigning separate from government administration at the national and local level. These include amending respective laws to adequately define and regulate campaigning by public officials, explicitly prohibiting the abuse of state resources in election campaigns, as well as limiting the initiation or announcement of new state spending during the official campaign period.*

Several political parties emphasized the importance of women's participation in politics and ensured the visibility of women candidates. Women's issues featured prominently in several parties' campaign messages, especially regarding reproductive health, access to abortion and childcare support. However, some women candidates experienced online and physical harassment during the campaign, while some noted enduring sexist attitudes towards women both within their party and among the electorate.<sup>62</sup>

*Political parties should consider further mechanisms to promote greater participation of women. Such mechanisms could include internal policies that work to facilitate women's advancement in party leadership and decision-making positions and give greater visibility to women in the campaign. Authorities could also consider incentives to increase inclusion and visibility of women in party structures.*

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<sup>56</sup> The [2016 ODIHR and Venice Commission's Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes](#) states that "the legal framework should provide effective mechanisms for prohibiting public authorities from taking unfair advantages of their positions by holding official public events for electoral campaigning purposes, including charitable events, or events that favour or disfavour any political party or candidate." PiS candidates, including ministers, attended opening ceremonies and government events in their own constituencies: on 7 September in [Krakow](#) and in [Podkarpacie](#); on 11 September in [Kalisz](#), [Jędrzejów](#) and [Dywidów](#); on 25 September in [Racibórz](#); on 25 September in [Staszów](#) and [Bałtów](#); on 25 – 27 September in [Koszalin](#), [Kępno](#), [Krotoszyn](#), [Ostrów Wielkopolski](#), and [Pleszew](#), and on 29 – 30 September in [Kamienna Góra](#) and [Solina](#).

<sup>57</sup> On 16 September, the ODIHR LEOM observed the Prime Minister and Minister of Agriculture campaigning at a publicly funded event in Miętne. On 24 September, the ODIHR LEOM observed a signing ceremony for a new station by the Polish State Railways that was used for campaigning by a PiS candidate. On the same day, an event funded by the Ministry of Culture was used for campaigning for PiS *Sejm* candidates. On 29 September, the ODIHR LEOM observed a school opening ceremony in Ogrodniczki attended by the Deputy Minister of Education, where speakers advocated for the ruling party.

<sup>58</sup> On 22 September, the municipal government of Warsaw [organized](#) a conference on women's issues, giving a platform to KO. On 1 October, the city of Warsaw [invited](#) citizens for a walk at the location of the KO rally. The Warsaw municipal government launched a campaign on its accomplishments, including on issues relevant to the election and prominently featuring images of the mayor, who also serves as vice chair of the largest opposition party.

<sup>59</sup> The [New Specifics website](#) by the Office of the Prime Minister provides information on three recent state subsidies, the Polish Electricity Association [advertised](#) the government's subsidies for household electricity consumption during the campaign. On 29 August, the Polish Energy Group [launched](#) its advertisement campaign with the slogan "[Energy security for Poland](#)". Free [publications](#) available at petrol stations of a state-controlled oil refinery company and leaflets distributed by the State Forests promoted candidates of the incumbent party.

<sup>60</sup> On 7 August, the President signed legislation to increase the child benefit subsidies. On 8 August, the Prime Minister [signed](#) regulations to allow for the 14<sup>th</sup> month pensions to be paid from the beginning of September. On 30 August, legislation was [signed](#) providing for free medicines for persons over 65 and under 18. On 14 September, the Prime Minister announced a raise in the minimum wage to PLN 4,242 from January 2024 and to PLN 4,300 from 1 July 2024. The [2016 ODIHR and Venice Commission's Joint Guidelines](#) stipulate that "to prevent the misuse of administrative resources to imbalance the level playing field during electoral competitions, the legal framework should state that no major announcements linked to or aimed at creating a favourable perception towards a given party or candidate should occur during campaigns."

<sup>61</sup> Paragraph 5.4 of the [1990 OSCE Copenhagen Document](#) provides for "a clear separation between State and political parties."

<sup>62</sup> On 17 September, inaccurate social media posts [attacked](#) a woman KO candidate for the *Sejm*. Graphic violent threats [were targeted](#) at another woman KO candidate for the *Sejm*. On 27 September, a man was [charged for assaulting](#) a woman KO *Sejm* candidate Opole Lubelskie on [25 September](#). Paragraph 10 of the General recommendation No. 25 on Paragraph 1 of Article 4 [CEDAW](#) notes that "[t]he position of women will not be improved as long as the underlying causes of discrimination against women, and of their inequality, are not effectively addressed."

## IX. CAMPAIGN FINANCE

The financing of political parties and electoral campaigns are primarily regulated by the Election Code and the Political Parties Act. Amendments were made to the Political Parties Act in 2021 requiring political parties to publish registers of donations and contracts, and to the Election Code in 2023, introducing the possibility for electronic reporting.<sup>63</sup> However, recent amendments did not fully address longstanding ODIHR recommendations pertaining to the need for detailed reporting prior to election day, as well as the regulation of third-party campaigning. The legislation does not include explicit regulations for effective oversight and transparency of campaign advertising on the Internet, including for third-party campaigning.<sup>64</sup>

Provisions of the Election Code on campaign finance do not apply to referendums and there were no limits on donations or expenditures and no reporting requirements for referendum campaigns, which is not in line with international good practice.<sup>65</sup> Further, there were no prohibitions against the government spending on the referendum campaign or limits on the amounts it could spend. As campaign finance for referenda is not regulated adequately, holding the referendum on matters that overlap with the parties' election campaigns concurrently to parliamentary elections effectively circumvented the transparency and accountability safeguards of political and election campaign finance. Several ODIHR LEOM interlocutors perceived the holding of the referendum as a deliberate means of by-passing election campaign finance regulations.

*The legislation should be amended to comprehensively regulate funding of referendum campaigns including clear rules on incomes, spending and reporting.*

### A. CAMPAIGN INCOMES AND EXPENDITURES

Political parties can receive public and private funding, and apply for loans. Parties maintain permanent Election Funds from which they transferred resources to their electoral committees. Parties that receive more than three per cent of the votes cast (six per cent for coalitions) in the *Sejm* election are entitled to an annual state funds allocation.<sup>66</sup> Parties that receive state funding must submit annually audited financial reports on their allocation expenditures by 31 March. The parties of composing any electoral committees or committee of voters, which receives at least one mandate in the *Sejm* or *Senat* are eligible to receive a one-time state subsidy for electoral campaign expenses after the elections.

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<sup>63</sup> Despite this amendment, the Ministry of Finance issued a detailed mandatory reporting form less than three weeks before election day that can be filled out by hand or typed into a *PDF* document and forwarded it to the NEC.

<sup>64</sup> 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. Spending by electoral committees on Google and Meta advertising included PiS at about PLN 6,350,678, KO at about PLN 2,687,971, New Left at about PLN 1,231,987, Third Way at about 547,204, and Confederation at about 521,597. In addition to the formal Internet spending, at least PLN 7.5 million in third-party spending on the Internet was not formally accounted for.

<sup>65</sup> Article 47(1) of the Law on National Referendums states that expenditures incurred by entities registered to participate in the referendum campaign are covered from their own sources and in accordance with the regulations governing their financial activities. Sections I.3.3.35 of the Venice Commission's 2022 Revised Code of Good Practice on Referendums states that "General national rules on both public and private funding of political parties and election campaigns must also be applicable to referendum campaigns, including the rules on transparency and limitation of spending and individual donations."

<sup>66</sup> Each allocation is determined in inverse proportion to the number of valid votes cast for the constituency lists. The annual subvention prior to the elections for PiS was PLN 23,499,528 (EUR 5,340, 801) and for KO - PLN 19,800,329 (EUR 4,500, 074). EUR 1 equals approximately PLN 4.4.

The Election Code requires that all campaigns are financed through electoral committees.<sup>67</sup> Only citizens who reside permanently in Poland can donate to parties and their Election Funds, as well as electoral committees of voters.<sup>68</sup> Electoral committees can also accept certain types of in-kind contributions but the Election Code does not provide for contribution limits for permissible in-kind donations and these donations are not included into overall expenditure limit contrary to international standards.<sup>69</sup> Anonymous and cash donations as well as contributions from foreign sources and legal entities are prohibited.

*To improve the effectiveness of existing campaign contribution and expenditure limits, the legal framework should be amended to provide limits on permissible in-kind donations.*

Spending limits are determined for each electoral committee, based on the number of contested *Sejm* and the *Senat* seats.<sup>70</sup> All parties must submit audited financial statements on donations and loans, as well as expenditures from their Election Funds to the NEC by 31 March of each year. However, the effectiveness of these limits was undermined to the advantage of the ruling party, by the foundations of state-controlled companies espousing positions in referendum campaigns which amplified the ruling party's electoral campaign messages.<sup>71</sup> Further, the ruling party was financed in part by executives of state-controlled companies making large donations, thereby creating the appearance of patronage politics. In addition, there were no sanctions for the third-party campaigning that occurred, particularly impacting online campaigning. Taken together, these factors negatively affected the transparency and accountability of campaign finances and the level playing field.<sup>72</sup>

*Consideration should be given to regulation of campaigning by third parties including setting requirements for registration, financing and disclosure of third-party campaigners, and proportionate sanctions should be in place to aid in the enforcement of these rules.*

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<sup>67</sup> Candidates from electoral committees of voters could contribute to their committee up to 45 times the minimum monthly salary (PLN 162,000). Individuals could make monetary donations up to 15 times the minimum monthly salary (PLN 54,000) to parties and electoral committees of voters and up to 25 times the minimum monthly salary (PLN 90,000) to Election Funds.

<sup>68</sup> Paragraph 230 of the [ODIHR and Venice Commission's 2020 Guidelines on Political Party Regulation](#) states that "donations from citizens, regardless of their place of residence, should not be restricted if they are allowed to [vote]."

<sup>69</sup> In-kind contributions were permitted to come from individuals in the form of volunteers to distribute election posters and leaflets; office support; use of objects, devices, and vehicles free of charge; and access to private space to display campaign materials. Paragraph 175 of the [2010 ODIHR and Venice Commission Guidelines on Political Party Regulation](#) states that "reasonable limitations on private contributions may include the determination of a maximum level that may be contributed by a single donor. Such limitations have been shown to be effective in minimizing the possibility of corruption or the purchasing of political influence [...]". Additionally, paragraph 216 also states: "In addition to regulating financial donations, legislation should regulate in-kind support by private donors, both by individuals and by legal persons. [...] Generally, this type of support should follow the same rules and be subject to the same restrictions as financial donations. For that purpose, the monetary value of in-kind donations should be determined based on market price and should be listed in funding reports." Article 9 of the [2003 Council of Europe Recommendation Rec\(2003\)4 of the Committee of Ministers on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns](#) provides that "states should consider adopting measures to prevent excessive funding needs of political parties, such as, establishing limits on expenditure on electoral campaigns".

<sup>70</sup> In these elections, the highest limit for an electoral committee was PLN 38,781,152 and the lowest limit was PLN 69,834.

<sup>71</sup> In total 58 entities were registered by the NEC to participate in the referendum campaign, including 7 parties, 25 associations, and 26 foundations (of which 12 were affiliated with state-controlled companies). Most of these entities called for participation in the referendum, supporting the government, while opposition parties and a few associations and foundations highlighted the right of citizens to refrain from voting in the referendum.

<sup>72</sup> Paragraph 219 of the [ODIHR and Venice Commission's 2020 Guidelines on Political Party Regulation](#) notes that "[T]he involvement of third parties as an expression of political pluralism and citizen involvement [...] can create loopholes in the area of political and campaign finance, which should be regulated by legislators." Paragraph 256 further notes that "it is important that some forms of regulation, [...] be extended to third parties that are involved in the campaign, to ensure transparency and accountability."

## B. REPORTING AND OVERSIGHT

The NEC exercises oversight over party and campaign finance. Parties are required to maintain publicly available registers of donations over PLN 10,000 and contracts entered into while electoral committees of voters were only required to publish loans and private donations exceeding one minimum monthly salary on their websites within seven days of their receipt. All electoral committees submit audited financial reports within three months after election day. However, post-election audits may be unable to detect excessive spending and misuse of public resources resulting from the lack of regulation for referendum campaigns.<sup>73</sup> The lack of comprehensive, detailed, user-friendly and timely disclosure of campaign donations and expenditures detracted from the transparency of campaign finance and meant that voters may not have been aware of the potential financial influences on various parties and candidates.<sup>74</sup>

*To enhance transparency and accountability, all political party and campaign finance income and expenditure reports should be made public in a timely, detailed, comprehensive, easy-to-understand manner with interim reporting requirements before election day.*

The NEC is legally obligated to publish all political party and electoral committee reports within 30 days of their submission.<sup>75</sup> For certain minor violations, the NEC can accept the reports in a way that acknowledges shortcomings without imposing major sanctions but sanctions for rejected reports are neither graduated nor proportional, contrary to international standards and previous ODIHR recommendations.<sup>76</sup> In these elections, the NEC did not have the resources, nor did it interpret its limited mandate to extend to controlling campaign finance during the campaign period.<sup>77</sup>

*To ensure effective oversight during the campaign, the legal and institutional framework should clearly stipulate an independent oversight body provided with adequate powers and resources to properly monitor and expeditiously address campaign finance-related complaints and enforce proportionate sanctions.*

## X. MEDIA

### A. MEDIA ENVIRONMENT

Both the broadcast and print media landscape are pluralistic and diverse but sharply polarized along political lines. Online sources, including social media, are the most prevalent means of accessing

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<sup>73</sup> Article 7.3 of the [UNCAC](#) provides that “[e]ach State Party shall also consider taking appropriate legislative and administrative measures [...] to enhance transparency in the funding of candidates for political office and, where applicable, the funding of political parties.”

<sup>74</sup> Paragraph 247 of the [ODIHR and Venice Commission’s 2020 Guidelines on Political Party Regulation](#) states that “[t]ransparency in party and campaign finance, [...] is important to protect the rights of voters, prevent corruption and keep the wider public informed. Voters must have relevant information as to the financial support given to political parties, as this influences decision-making and is a means of holding parties accountable.”

<sup>75</sup> The last published political party reports are from 2021.

<sup>76</sup> If a political party’s general financial report is rejected, the subsidy allocated to the political party or committee is reduced by three times the amount of funds raised or spent in breach of the law. If the rejected report was from an electoral committee of a political party eligible for state allocation, the allocation is also reduced by three times the amount obtained or spent in violation of the law. The forfeiture may not exceed 75 per cent of the subsidy or 75 per cent of the allocation. Paragraph 275 of the [ODIHR and Venice Commission’s 2020 Guidelines on Political Party Regulation](#) states that “[s]anctions should always be compatible with the principle of proportionality.” Rejections may be appealed to the Supreme Court within seven days for parties and 14 days for electoral committees.

<sup>77</sup> Article 14 of [Recommendation Rec\(2003\)4](#) of the Council of Europe’s Committee of Ministers advises that: “The independent monitoring should include supervision over the accounts of political parties and the expenses involved in election campaigns as well as their presentation and publication.”

news, with television remaining relevant for large sections of the population and radio and print and media declining in influence.<sup>78</sup>

Public *Telewizja Polska (TVP)* attracts the largest number of viewers through a total of three major national (*TVP1, TVP2, TVP Info*) and 16 regional channels, with a significantly growing financial dependency on the state budget.<sup>79</sup> Additionally, public *Polskie Radio* has 17 affiliated regional public radio stations. 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.<sup>80</sup> Public television has had significant managerial and editorial changes since 2016 and has been widely perceived as openly supporting the policies of the ruling party. In 2022, the Electronic Communication Office, citing national security interests, decided to permit TVP (but not other television stations) to continue to use an old broadcast format until the end of 2023, after the deadline for transition to more modern digital technology, effectively leaving 900,000 households with direct television access only to the public broadcaster.<sup>81</sup>

*To strengthen the public broadcaster's editorial independence, the management should be selected through an inclusive, competitive and transparent process.*

Private television channels, notably *TVN* and *Polsat* as well as their news channels (*TVN24* and *Polsat News*), offered alternatives to the public broadcaster. *TVN* and *TVN24*, in particular, provided critical views of the government and ruling party while reporting positively about the opposition. While advertising provides a degree of economic sustainability and relative independence for major private outlets, the selective allocation of advertisements by government institutions and state-controlled companies, since 2019, has reportedly served to support media with favorable editorial policies at the expense of critical independent media.

In February 2021, the state-controlled fuel company *PKN Orlen* purchased *Polska Press*, a media company that operates 20 out of 24 regional daily newspapers, some 120 regional weekly and numerous online portals. The change in ownership was followed by a major overhaul of senior newsroom personnel. Many ODIHR LEOM interlocutors perceived the takeover as entrenching political control by the governing party over local media. During the campaign, two opposition political parties were not allowed to place paid election campaign advertisements in publications acquired by *Polska Press*.<sup>82</sup> In July 2021, the *Sejm* adopted a law proposed by the ruling party aiming to limit foreign media ownership 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. The initiative was widely criticized, including by the OSCE Representative of Freedom of the Media (RFoM).<sup>83</sup> While

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<sup>78</sup> See 2021 data on [media reach](#) and [changes in the newspaper market](#).

<sup>79</sup> The [TVP budget](#) increased more than 110 per cent between 2017 (1.597 mil. PLN) and 2022 (3.414 mil. PLN). Besides license fees and commercial activities, it is financed through state allocations that, between 2021 and 2022 constituted around 60 per cent of its annual budget.

<sup>80</sup> 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”](#).

<sup>81</sup> Council of Europe [Recommendation CM/Rec\(2012\)1 of the Committee of Ministers](#) on public service media governance in its paragraph 17 envisages that “[a]n interlocking set of criteria that public service media organisations can use to assess their system of governance [...] relate respectively to the principles of independence, accountability, effective management, transparency and openness [...]”

<sup>82</sup> *Lewica* and *Third Way* informed the ODIHR LEOM that on 4 and 5 October *Polska Press* newspapers *Echo Kieleckie* and *Nasze Miasto Gorzow* notified the parties that they would not accept their election advertisements due to their ‘left-wing’ values.

<sup>83</sup> The OSCE RFoM [warned](#) that “it would affect Poland’s largest private television news channel, *TVN24*, known for its critical coverage, thus harming media pluralism in the country.”

the President eventually vetoed the bill in December 2021, *TVN24* underwent a lengthy process of a license renewal process that was only completed two days before its expiration in September 2021.

## B. LEGAL FRAMEWORK

Freedom of expression and the right to receive information are constitutionally guaranteed rights, but some legal provisions continue to restrict their exercise. Contrary to previous ODIHR and OSCE RFoM recommendations and contrary to international standards, defamation and public insult of the president remain criminal offences, with maximum penalties of one and three years of imprisonment, respectively.<sup>84</sup>

*The legal framework should be revised to decriminalize defamation and insult in order to bring the relevant legal framework in line with international standards on freedom of expression.*

Lawsuits, including Strategic Lawsuits Against Public Participation (SLAPP) intended to intimidate journalists, have become commonplace, regularly targeting the critical media outlets.<sup>85</sup> Many ODIHR LEOM interlocutors highlighted the intimidatory effects of such litigation, requiring costly and time consuming legal defences and potentially resulting in self-censorship, particularly by smaller outlets.<sup>86</sup> Others also complained about widespread difficulties with the access to public information from official sources that undermines the constitutionally guaranteed right of access to information.<sup>87</sup>

Coverage of the campaign is mainly regulated by the Broadcasting Act and the Election Code. The latter provides for the allocation of free airtime to contestants, which is further detailed by the media regulatory body, the National Broadcasting Commission (NBC).<sup>88</sup> From 30 September, both *TVP* and *Polskie Radio* formally adhered to their legal obligation to provide free airtime to all electoral committees with registered candidate lists and candidates in at least 50 per cent of constituencies, for both *Sejm* and *Senat*.<sup>89</sup> However, the second daily free airtime slot was in afternoon television broadcasts aired before 17:00, with significantly low viewership, limiting potential reach to wider audiences.

On 9 October, public television also fulfilled its legal obligation by holding a debate including electoral committees that registered candidate lists in all constituencies.<sup>90</sup> However, four of the six questions framed around referendum topics limited the opportunity for a meaningful exchange on

<sup>84</sup> Paragraph 47 of the [2011 General Comment No.34](#) concerning the ICCPR's Article 19 (Freedoms of opinion and expression) stipulates that "[...] States parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty.[...].]" In addition, paragraph 17.1 of the [2007 PACE Resolution 1577](#) calls for the immediate abolition of prison sentences for defamation and paragraph 17.6 calls on member states to "remove from their defamation legislation any increased protection for public figures."

<sup>85</sup> The leading daily newspaper, *Gazeta Wyborcza*, has faced some 130 lawsuits over several years, brought against it by politicians, persons with close ties to the ruling party or state-owned companies. See the [2023 report](#) by the Coalition Against SLAPPS in Europe.

<sup>86</sup> According to [the 2023 report by the Coalition against SLAPPs in Europe](#), Poland had the highest number of such lawsuits in Europe between 2010 and 2022, with most of them initiated since 2018.

<sup>87</sup> Paragraph 19 of [UN HRC General Comment No. 34](#) provided that "[t]o give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information."

<sup>88</sup> The 2011 [NBC regulation, amended](#) in July 2023, required the public television to air free-of-charge materials in *TVPI* during two time windows daily, between 6:00-10:00 and 16:00-23:00. Public television was obliged to allocate in total 15 hours (900 minutes) free of charge via *TVPI* (6 hours), *TVP2* (6 hours) and *TVP Polonia* (3 hours) for citizens living abroad, while *Polskie Radio* was obliged to allocate in total 30 hours (1,800 minutes) free of charge on its 5 stations. Regional public television and radio were obliged to allocate in total 10 and 15 hours, respectively.

<sup>89</sup> According to the Referendum Law, free airtime for the referendum campaign is divided equally between the committees registered for the referendum. This includes 15 hours on public television, 30 hours on radio and 5 hours in programmes intended for citizens living abroad.

<sup>90</sup> Four out of six qualified electoral committees were represented by their leaders, with the exception of *PiS* and *Lewica*.

broader election related topics. Positively, there were multiple debates organized by other national and also local media.<sup>91</sup>

The NBC is a media licensing and regulatory body that consists of five members, appointed for six-year terms: two by the president, two by the *Sejm*, and one by the *Senat*. The NBC, despite having received a formal request from the NEC to do so, opted not to conduct its own media monitoring and only acted upon the complaints received. In total it reviewed 44 complaints, including 40 concerning the public broadcaster. The NBC met four times during the campaign period, in closed sessions, to discuss the allocation of frequencies and license-related matters. Overall, the body failed to curtail the evidently partial and biased coverage of the public media despite its constitutional obligation to safeguard the public interest.<sup>92</sup>

*Authorities should consider legally requiring the NBC to oversee the broadcast media for their compliance with the legal requirements, including through systematic media monitoring. It should be mandated to offer remedy for identified violations in a timely and effective manner.*

### C. MEDIA MONITORING FINDINGS

On 13 September, the ODIHR LEOM commenced its quantitative and qualitative assessment of political and election-related coverage by major media outlets.<sup>93</sup> The political reporting of the main public media (*TVP1*, *TVP2*, *TVP Info*, *Jedynka*) often presented socio-political events in a manipulative and distorted manner promoting the ruling party, the government and its policies. It conversely consistently attacked the main opposition KO and its leader, and rarely mentioned other contesting parties, further deepening the political polarization in society.<sup>94</sup> In doing so, and contrary to the internationally recognized duty of public media to be independent and serve all segments of society, it violated the Broadcasting Act that requires the programmes of the public broadcaster to be “pluralistic, impartial and well-balanced.”

During the monitored period, the government and PiS received 9 and 28 per cent of political news coverage on *TVP1*, and 21 and 28 per cent of political news coverage on *TVP2*, which was almost entirely positive and often framed to mirror referendum topics and amplify the party’s campaign messages. By contrast, KO received 43 per cent of political coverage on *TVP1*, and 26 per cent on *TVP2*, of which some 80 per cent, on both channels was negative in tone. The public radio station *Jedynka* gave 45 and 31 per cent of predominantly positive coverage to the authorities and the ruling party, while the KO was allotted 11 per cent of coverage which was heavily critical coverage.<sup>95</sup> In

<sup>91</sup> For instance, *Super Express*, *TOK FM* and *WP.pl* organized debates that featured only female *Sejm* candidates.

<sup>92</sup> Paragraphs 18 and 24 of the Council of Europe [Recommendation Rec \(2000\) 23 of the Committee of Ministers on the independence and functions of regulatory authorities for the broadcasting sector](#) provides that “...[a]nother essential function of regulatory authorities should be monitoring compliance with the conditions laid down in law...”, “...[r]egulatory authorities should have the power to consider complaints, within their field of competence, concerning the broadcasters’ activity and to publish their conclusions regularly...”, “...[w]hen a broadcaster fails to respect the law or the conditions specified in his licence, the regulatory authorities should have the power to impose sanctions, in accordance with the law.”

<sup>93</sup> Public television channels *TVP1*, *TVP2* (main evening news programme) and public radio station *Jedynka* of *Polskie Radio* (three daily news segments); private television channels *Polsat*, *TVN* (main evening news programme) and radio station *RMF FM* (three daily news segments); newspapers *Fakt*, *Gazeta Wyborcza*, *Rzeczpospolita*, *Super Express* and online news websites [Interia.pl](#), [Onet.pl](#) and [WP.pl](#) (selected politics-related sections).

<sup>94</sup> From 12 June, *TVP* channels aired a documentary series ‘*Reset*’ that covered Polish-Russian relations from 2007 to 2015 and which cast Donald Tusk as having undermined national interests in his relations with the Russian Federation. On 9 October, in the evening after the debate *TVP1* aired a documentary ‘*For sale*’ describing negative consequences of privatization organized by the government of Donald Tusk. *TVP* anchors and journalists, when referring to the KO leader, regularly used various disparaging labels, or subliminally discrediting comparisons, such as “Tusk, that is pure evil”, “the line of Tusk betrayal”, “Tusk equals Lampedusa”, or “...für Deutschland...” implying that the candidate is beholden to German influence.

<sup>95</sup> On a regular basis, public radio station *Jedynka* in its news programme aired excerpts of PiS advertisement spots that attacked the KO and its leader.

addition, ODIHR LEOM media monitoring noted extensive advertisement campaigns by state-controlled entities and ministries.<sup>96</sup>

*Consideration should be given to introducing sanctions for media violating the legal requirement for impartial political programming during an election campaign.*

Most monitored private media were notably critical of the authorities and PiS. News coverage on the private *TVN* allotted the government and PiS 14 and 29 per cent of airtime, respectively, most of which was mostly negative in tone. The same media outlets devoted 21 per cent of coverage to KO, most of which was either neutral or positive in tone. *Polsat* devoted only a smaller portion of its news coverage to politics and allotted some 13 per cent of political coverage to the government, 31 per cent to PiS, 26 per cent to KO, mainly in a neutral manner.

During the monitoring period, two popular online outlets *Onet.pl* and daily *WP.pl* presented a similar portrayal of political events with critical coverage of the ruling PiS and the government. The ruling party received 30 and 31 per cent, while the government 10 and 8 per cent, respectively, of their politics-relevant materials. Another highly popular news portal, *Interia.pl*, showed a more balanced campaign coverage of major rivals.<sup>97</sup> *Gazeta Wyborcza* presented the most critical tone towards the government and PiS, by allotting them 13 and 36 per cent of coverage respectively, while covering KO in an overwhelmingly neutral and positive tone, with 16 per cent of coverage. The other popular dailies: *Super Express*, *Fakt*, and *Rzeczpospolita* also presented generally critical accounts of the ruling party and the government.

## XI. ELECTORAL DISPUTE RESOLUTION

The legal framework generally provides opportunities to seek redress, with both judicial and administrative channels available for voters and electoral contestants. Election related offenses such as violations of campaign or campaign finance regulations or the secrecy of the vote, as well as electoral bribery, subject to fines and/or imprisonment, are listed in the Election Code and the Criminal Code. NEC resolutions refusing the registration of an electoral committee may be appealed to the Supreme Court. CEC decisions to reject candidate registration may be appealed to the NEC and further to the Supreme Court, as the last instance. While the Election Code provides for appeals against NEC decisions, it also offers a narrow interpretation by granting this right only to contestants, as well as providing that only the decisions specifically indicated in the law are subject to judicial review. These limitations undermine the right to effective legal remedy of all participants, at odds with OSCE commitments and other international standards.<sup>98</sup>

Electoral Committees can file complaints related to the distribution of free airtime on public media to the NEC, which is also competent for reviewing objections on political party and campaign finance reporting. Candidates or representatives of electoral committees may seek legal redress for

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<sup>96</sup> During the last two campaign weeks, some 30 per cent of spots within the main evening primetime segment (19-22:00) were advertisements of state-controlled companies (19 per cent) and ministries (11 per cent).

<sup>97</sup> In terms of space, all three monitored online media showed very comparable ways of presenting the two largest parties, with the ruling PiS receiving 30 to 32 per cent and the opposition KO 23 to 24 per cent. The next four contestants, in terms of popular support, received cumulatively 20 per cent in *WP.pl* and *Interia.pl*, and 14 per cent in *Onet.pl*.

<sup>98</sup> Paragraph 5.10 of the [1990 OSCE Copenhagen Document](#) commits participating States to ensure that “everyone have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity”. Principle 1A of [Recommendation Rec \(2004\)20](#) of the Council of Europe’s Committee of Ministers advises that “all administrative acts should be subject of judicial review”.



dissemination of false information with regional courts, whose rulings are subject to appeal. Several such cases were reported by ODIHR LEOM interlocutors.<sup>99</sup>

*The Election Code could be reviewed to provide for judicial review of administrative decisions throughout the electoral process as well as expanding legal standing to anyone whose rights may be affected.*

The CEC rejections of candidates and candidate lists can be appealed by an electoral committee to the NEC within two days of the CEC decision, and further to the Supreme Court within two days of the NEC decision. The NEC handled 42 such cases, mostly related to rejections for not meeting the signature requirements. These cases were examined in closed sessions and were either not considered on procedural grounds (19) or dismissed on the merits (22) while only one was upheld.<sup>100</sup> Until election day, the Supreme Court dealt with over 60 election-related cases.<sup>101</sup> The vast majority concerned appeals against NEC resolutions on candidate registration, some also questioning NEC and CEC decision-making processes. The Supreme Court upheld most NEC resolutions on candidate registration. On 7 September, the Supreme Court overturned a NEC explanation limiting citizen observation to election day.<sup>102</sup> On 5 October, the Supreme Court, in public sessions, reviewed two appeals challenging the NEC Guidelines to PECs which imposed additional restrictions on citizen observers, specifically on their right to observe the referendum, as well as on aspects of video recordings, subsequently repealing certain provisions from the Guidelines.<sup>103</sup> While the Supreme Court partially accepted one appeal, the other was dismissed for lack of legal standing.<sup>104</sup> On 6 October, it dismissed an appeal which challenged procedural aspects of handling election and referendum ballots concurrently, among others, relating to secrecy of the vote for those who would choose not to vote in the referendum.

Positively, both NEC and Supreme Court decisions on appeals were in most cases adequately reasoned, rendered in a timely manner and promptly published on their respective websites, which along with the Supreme Court's decision to review three cases in public hearings while not legally required to do so contributed to the transparency of the adjudicating process. It should be noted, however, that at times the court took different approaches in deciding on similar cases.<sup>105</sup>

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<sup>99</sup> Over 60 cases were reported to ODIHR LEOM by district courts in Bielsko-Biala, Jelenia Gora, Krakow, Legnica, Leszno, Łódź, Lublin, Opole, Plock, Poznan, Przemysl, Radom, Rybnik, Rzeszów, Siedlce, Sosnowiec, Szczecin, Warsaw and Wrocław. In some cases, courts issued orders for corrective statements, apologies or payments to non-profit organizations.

<sup>100</sup> Most appeals concerned rejection for an insufficient number of valid supporting signatures and were made by the *Polska Liberalna* Electoral Committee.

<sup>101</sup> Including requests for injunctions, such as suspending the NEC drawing of numbering lots for contestants or printing of ballots in CECs as well as 11 motions to exclude judges from adjudicating cases.

<sup>102</sup> Despite a legal requirement, the [NEC explanation](#) was not repealed or amended on the NEC website, which may have caused uncertainty about the admissibility and presence of observers at CEC sessions.

<sup>103</sup> The [NEC Guidelines](#) of 25 September were amended on 2 October, removing a restriction on citizen observers recording the voting process. The points repealed related to the prohibition of citizen observers from observing the referendum as well as the sequence in which recordings of election proceeding should be sent to the PECs and the MDA, on the basis that the latter was not provided by the legislation. One of the appeals also challenged the holding of the referendum.

<sup>104</sup> The Supreme Court acknowledged that the right to appeal certain NEC resolutions only belongs to electoral contestants, however it allowed appeal from organizations who are registered to campaign for the referendum.

<sup>105</sup> For instance, in appeals related to candidate registration the court adopted different approaches on whether the CEC can revoke their own decisions, namely [INSW 44/23](#), [INSW 45/23](#) as opposed to [INSW 36/23](#), [INSW 47/23](#). In all these cases CECs revoked their own decisions pending their appeals to the NEC. The NEC left these cases without consideration on the basis that there was no subject matter. In two cases where challenges also involved aspects of the referendum, the Supreme Court afforded legal standing to citizen observers registered for the referendum campaign. Nevertheless, the court did not follow a consistent approach while the same entity was granted standing in two cases and denied in another ([INSW 14/23](#) and [INSW 70/23](#) as opposed to [INSW 73/23](#), where no reasoning is included in the ruling). In addition, in [INSW 1/19](#) the Supreme Court ruled that there is no legal remedy against a resolution of the NEC included in article 161.2 of the Election Code, noting that "the jurisprudence assumes that the Election Code provisions should be considered exhaustive and there are no grounds to refer in this respect to the general administrative court procedure".

Election results can be challenged with the Supreme Court's Chamber of Extraordinary Control and Public Affairs within seven days following their announcement. Such cases are reviewed by three-judge panels. On the basis of the panels' opinions, as well as reports by the NEC and the Prosecutor General, the Supreme Court is required to validate election results within 90 days. ODIHR and other international organizations have previously criticized the appointment procedure for the new Supreme Court chamber which is responsible for the validation of election results.<sup>106</sup> A number of ODIHR LEOM interlocutors expressed general concern over the independence of the judiciary following these reforms throughout the electoral process.

During the campaign ODIHR LEOM interlocutors reported some minor cases of destruction of posters with the affected parties often reluctant to report to the competent authorities. ODIHR LEOM interlocutors explained that they did not pursue such cases because they doubted that electoral offences would be investigated independently and effectively by prosecutors, given the political nature of the Prosecutor General as the Minister of Justice.<sup>107</sup>

## XII. CITIZEN AND INTERNATIONAL ELECTION OBSERVATION

The Election Code provides for both citizen and international observers. While international observers are accredited by the NEC and can observe all levels of election administration, delays and the lack of transparency during the accreditation process for a significant number of international observers negatively impacted their work.<sup>108</sup>

*Steps could be taken to ensure that accreditation of international observers is issued in a timely manner.*

Associations and foundations registered in Poland and active in democracy, civic rights, and civil society development, in addition to electoral committees, can appoint observers and proxies, respectively, but are limited to following the work of the CECs and PECs. There is no formal accreditation procedure for citizen observers or proxies but they have to present a certificate from their nominating organizations. Citizen observers have the same rights as the proxies of electoral committees, except that they may not enter comments in protocols or follow the transport and handover of protocols to CECs.

The 2023 amendments expanded the rights of electoral committees' and citizen observers to record voting procedures in addition to the counting procedures as previously allowed, but require that such recordings be transmitted to the MDA in order to be considered as election material, and deleted from the original devices regardless of whether or not it was submitted. The names and identification numbers of those intending to record in PECs on election day had to be submitted in advance to the MDA, a *de facto* registration of the observers wanting to record. These new provisions, raised questions about potential infringements of the secrecy of the vote, duty of personal data protection or image rights; while also limiting the use of recorded evidence of possible breaches for any future complaint procedures, as these have to be deleted.

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<sup>106</sup> An action has been brought to the ECtHR regarding the method of appointment of this chamber which may diminish public confidence in its decisions. In the case of [Dolińska-Ficek and Ozimek v. Poland](#) (application nos. 49868/19 and 57511/19, judgment of 8 November 2021), the ECtHR states *expressis verbis* that this chamber "is not a tribunal established by law." See also the 23 November 2023 judgement by ECtHR in [Wałęsa v. Poland](#) (application no. 50849/21) which held that the method of appointment violated Article 6 § 1 of the Convention as regards the right to an independent and impartial tribunal as well as with regards the principle of legal certainty. See the [2017 ODIHR Opinion](#) and [2020 Urgent Opinion](#) on Certain Provisions of the Draft Act on the Supreme Court of Poland.

<sup>107</sup> See Paragraph 5.10 of the 1990 OSCE Copenhagen Document. Paragraph 15 of the [2004 UN CCPR General Comment 31 to the ICCPR](#) prescribes an "obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies".

<sup>108</sup> The ODIHR LEOM received accreditations promptly after establishing the mission without any delays.

After citizen observers from Electoral Observatory tried to observe the initial sessions of several CECs on 29 August, the NEC issued an explanation on 30 August effectively limiting the scope of activities of citizen observers only to election day. While this explanation was overturned by the Supreme Court, the NEC never removed it from its website, leading to uncertainty about the possibility to observe the activities of the election administration prior to election day. A number of civil society organizations observed the election day and one conducted a parallel tabulation of votes. Some organizations also monitored the campaign coverage in the media, campaign finance and use of public resources.<sup>109</sup>

*The rights of citizen observers should be enhanced to allow for meaningful observation of all levels of election administration and at all stages of the electoral process. Citizen observers should also have the same right as electoral committees' proxies, to submit comments to PEC results protocols.*

### XIII. ELECTION DAY

In accordance with the ODIHR methodology for LEOMs, the mission did not undertake comprehensive and systematic observation of election day proceedings. However, mission members followed opening, voting and counting in a limited number of polling stations. The atmosphere in and around the limited number of polling stations visited by International Election Observation Mission (IEOM) which included short term observers from the OSCE PA and the Parliamentary Assembly of the Council of Europe was calm and orderly overall. Voters turned out in high numbers, with queues noted in many instances. Party agents or citizen observers were present in some polling stations visited, contributing to transparency.<sup>110</sup> The NEC announced that over 312 incidents, mostly related to misdemeanors, and some 173 criminal offences were reported throughout the day that were further investigated by the police.<sup>111</sup>

The polling stations visited by the IEOM opened on time and the process was efficient and well organized. PEC members were knowledgeable and well-prepared and voting procedures were largely followed. The necessary election materials were present, and information on withdrawn candidates was correctly displayed, when applicable. Instances observed of voters not appearing on the voter lists were mostly addressed by including them on supplementary voter lists, following confirmation of their registration by the municipality.<sup>112</sup> A large number of voters took advantage of possibilities to vote outside their registered address using absentee voter certificates or by registering at a temporary residence.<sup>113</sup>

Polling stations visited by the IEOM were generally suitable for voting, but frequently overcrowded, detracting from the orderliness and slowing down the process. Despite a previous ODIHR recommendation, the maximum number of voters per precinct was not lowered.<sup>114</sup> In addition, the secrecy of the vote was often compromised by the poorly laid out premises, voting booths not spacious enough to conceal the large ballot papers, voters marking ballots outside the booths and a general tolerance for group or family voting.<sup>115</sup> Voters not wanting to participate in the referendum had to openly decline the referendum ballot, meaning their choice to participate or not was not secret,

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<sup>109</sup> These include the Accountability Foundation, Electoral Observatory and the Committee for the Defence of Democracy (KOD). KOD coordinated their deployment plan and the recollection of results protocols with opposition parties.

<sup>110</sup> No instances of the recording of the voting process were noted by the IEOM.

<sup>111</sup> In addition, some breaches of the campaign silence were [reported](#) on in the media, and observed on social networks.

<sup>112</sup> The 2023 amendments removed the requirement for voters to prove that they reside in a given precinct.

<sup>113</sup> According to the NEC, 398,703 voters used AVC in country and 29,395 abroad.

<sup>114</sup> In total, 1,480 PSs in country had over 2,000 registered voters and 37 over 3,000.

<sup>115</sup> The Article 25 of the [ICCPR](#) mandates that elections be “held by secret ballot, guaranteeing the free expression of the will of the electors”. See also paragraph 7.4 of the [1990 OSCE Copenhagen Document](#).

diverging from international good practice.<sup>116</sup> In the morning hours, the NEC issued a clarification, in keeping with the regulations, that PEC members should not ask voters to choose among ballots.

*To protect the secrecy of the vote, additional measures such as voter education programs, lowering the maximum number of registered voters per precinct, locating polling stations in larger premises and promoting the active role of PEC members in securing the secrecy of the vote should be considered.*

In line with legal requirements, almost 60 per cent of all polling stations were announced by the authorities to be suitable for independent access by persons with disabilities who could request to vote in such polling stations. Following the 2023 amendments, free transportation to and from polling stations was provided for voters with physical disabilities or limited mobility (possessing a disability certificate) and those over 60 years of age in areas where there was no public transport available on election day.<sup>117</sup> The same categories of voters could also vote by a proxy or by post.<sup>118</sup> Braille ballot overlays were available at the PECs visited by IEOM.

The limited number of counts observed was generally assessed as transparent, but often slow, largely due to having to sort and count referendum ballots. Procedures were mostly followed but with some minor inconsistencies observed in the stations visited, including not counting ballots in the same order in all stations visited, and splitting into groups in order to accelerate the counting. Despite a previous ODIHR recommendation, only votes having at least two intersecting lines in a box next to one candidate are considered valid, regardless of the possible clear intention of the voters expressed in a different way.<sup>119</sup>

*Consideration could be given to amending the vote validity rules to allow for ballots where the intention of the voter is clearly expressed to be considered valid.*

PEC results were transferred electronically to CECs which subsequently compared them with the signed physical protocols and tabulated the results using the NEC's information system, which also calculated the distribution of *Sejm* seats using the *d'Hondt* formula. Starting on the election night, the NEC progressively published disaggregated results by polling station on its website, including in easy-to-use spreadsheets, enhancing the transparency and integrity of the process. Despite concerns that the addition of the referendum ballot would delay the transmission of results from abroad, out of country voting results were transmitted just ahead of the legal 24-hour deadline with no major technical problems reported.<sup>120</sup> The full preliminary results were announced by the NEC on the evening of 17 October with a turnout of 74 per cent.<sup>121</sup> Scanned results protocols were uploaded in the following days and original protocols were sent with election materials.

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<sup>116</sup> The Code of Good Practice in electoral matters considers abstention as a political choice. See paragraph 54 of the [Explanatory Report](#). Many LEOM interlocutors opined that revealing one's stance on participation in the referendum may also be interpreted as indicating a preference among contestants in the election.

<sup>117</sup> The same amendment introduced the provision of free transportation for everyone in the rural areas where the distance between the nearest serviced bus stop and the polling station is more than 1.5 km.

<sup>118</sup> A total of 12,136 persons voted by post and 39,983 by a previously appointed proxy.

<sup>119</sup> Paragraph 49, Section 3.2.2.4. of the Venice Commission's 2002 [The Council of Europe's Venice Commission Code of Good Practice in Electoral Matters](#) recommends that "in case of doubt, an attempt should be made to ascertain the voter's intention".

<sup>120</sup> Voting at polling stations organized in the western hemisphere took place on 14 October.

<sup>121</sup> The sum of voters assigned to all PECs and those who voted by AVCs was used as a base for the turnout.

#### XIV. POST-ELECTION DEVELOPMENTS

The post-election environment remained calm, with no contestant publicly questioning the election results. Both Mr. Kaczyński and Mr. Tusk declared victory based on the results of the exit polls. Following the announcement of official results, the KO leader appealed to the President to take rapid action on decisions related to government formation. The constitution mandates the president to designate the prime minister within 44 days, who then proposes the composition of the government within 14 days. The new parliament convened on 13 November. President gave the ruling PiS and its nominee for the Prime Minister - Mateusz Morawiecki, the first chance to form a new government. Mr. Morawiecki has appealed to opposition groups to join a new government; however, all signed their coalition agreement declaring their willingness to form a coalition government led by Donald Tusk. On 13 December, the opposition formed the government, with Mr. Tusk leading the government.

Final *Sejm* results indicate that PiS received 35.4 per cent of votes (194 seats), followed by the KO at 30.7 per cent (157 seats), the Third Way at 14.4 per cent (65 seats), the Left with 8.6 per cent (26 seats) and the Confederation with 7.2 per cent (18 seats). The former opposition also maintained control of the *Senat* with 65 seats over 34 for PiS, with one independent senator supported by a voter's committee. The newly elected *Sejm* saw an increase in the number of elected women, from 132 to 135 (29.3 per cent), while the number of elected women in the *Senat* decreased from 24 to 19 (19 per cent). The low representation of women confirmed the need for political parties and authorities to accelerate efforts to increase women's participation in politics.

By the 25 October deadline, following the announcement of the results, the Supreme Court received 1,175 complaints challenging election results submitted by either electoral committees or voters.<sup>122</sup> Before starting adjudication of these cases, the president of the Supreme Court requested an extended panel of judges to resolve discrepancies concerning election matters in a public hearing held on 25 October. Many of these complaints sought to annul results based on a variety of alleged irregularities in the electoral process. All such cases were reviewed by Supreme Court three-judge panels in non-public sessions. The resultant Court opinions were published on the Court's website, contributing to transparency.

#### XV. RECOMMENDATIONS

These recommendations as contained throughout the text are offered with a view to further enhance the conduct of elections in the Republic of Poland and to support efforts to conduct elections in line with OSCE commitments and other international obligations and standards for democratic elections. These recommendations should be read in conjunction with past ODIHR recommendations that have not yet been addressed.<sup>123</sup> The legislative reforms should be undertaken well in advance of elections and through an inclusive consultation, including with civil society. ODIHR stands ready to assist the authorities of the Republic of Poland to further improve the electoral process and to address the recommendations contained in this and previous reports.

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<sup>122</sup> The results were published in the Official Gazette the 18 October and the deadline expired on the 25 October.

<sup>123</sup> In paragraph 25 of the [1999 OSCE Istanbul Document](#), all OSCE participating States committed themselves "to follow up promptly on ODIHR's election assessments and recommendations". The follow-up of prior recommendations as assessed by ODIHR is as follows: Recommendation 12 from the final report on 2020 presidential election is fully implemented. Recommendations 10 and 13 from the final report on 2020 presidential election are mostly implemented. Recommendations 11, 12, 13, 15 and 17 from the final report on 2019 parliamentary elections, as well as prior recommendations 17 and 27 from the final report on 2020 presidential election are partially implemented. See also the [ODIHR Electoral Recommendations Database](#).

**A. PRIORITY RECOMMENDATIONS**

1. The process of considering and adopting election-related legislative changes should involve inclusive public consultation and should be undertaken well in advance of the election and at a stage that allows for proper and effective implementation.
2. In order to enhance transparency of the National Election Commission's decision-making process and increase public trust, its sessions including their agendas should be announced in advance and be open to the media, citizen and international observers, as well as interested members of the public.
3. To ensure a clear separation between state and party, measures should be taken to keep party campaigning separate from government administration at the national and local level. These include amending respective laws to adequately define and regulate campaigning by public officials, explicitly prohibiting the abuse of state resources in election campaigns, as well as limiting the initiation or announcement of new state spending during the official campaign period.
4. To enhance transparency and accountability, all political party and campaign finance income and expenditure reports should be made public in a timely, detailed, comprehensive, easy-to-understand manner with interim reporting requirements before election day.
5. Consideration should be given to regulation of campaigning by third parties including setting requirements for registration, financing and disclosure of third-party campaigners, and proportionate sanctions should be in place to aid in the enforcement of these rules.
6. To strengthen the public broadcaster's editorial independence, the management should be selected through an inclusive, competitive and transparent process.
7. Consideration should be given to introducing sanctions for media violating the legal requirement for impartial political programming during an election campaign.
8. The rights of citizen observers should be enhanced to allow for meaningful observation of all levels of election administration and at all stages of the electoral process. Citizen observers should also have the same right as electoral committees' proxies, to submit comments to Precinct Election Commission results protocols.

**B. OTHER RECOMMENDATIONS**

**Legal Framework and Electoral System**

9. To enhance women's participation in public life the authorities should make comprehensive efforts to increase women representation in politics and effectively address existing gender-based barriers.
10. To ensure democratic and transparent conduct of referenda the legislation should be amended to comprehensively regulate all aspects of the referendum processes.
11. To ensure the equality of the vote, the authorities should periodically redistribute mandates among the constituencies to adjust to population shifts.

12. Consideration could be given to allocating out-of-country votes through a more equitable system, which should be decided upon through an inclusive and consultative process.

### **Election Administration**

13. To ensure efficient functioning of Precinct Election Commissions and their balanced composition, the law should limit the role of the members of the committees that are not contesting the elections.
14. The National Election Commission could improve the clarity and accessibility of information to lower levels of the election administration and the public.
15. To ensure consistent application of election procedures, the National Election Commission could adopt a more timely, comprehensive and user-friendly training programme, providing clarity on issues not regulated by the law. Training sessions should be compulsory for all members of lower-level election administration bodies and offer more interaction of participants.

### **Voter Registration**

16. The law should be amended to remove restrictions on voting rights on the basis of intellectual or psychosocial disability.

### **Electoral Campaign**

17. To enhance public confidence in the electoral process, electoral contestants should refrain from using inflammatory and discriminatory speech. Public officials and authorities should promptly condemn such rhetoric and political parties could consider making commitments to each other to refrain from use of such rhetoric in the campaign.
18. Political parties should consider further mechanisms to promote greater participation of women. Such mechanisms could include internal policies that work to facilitate women's advancement in party leadership and decision-making positions and give greater visibility to women in the campaign. Authorities could also consider incentives to increase inclusion and visibility of women in party structures.

### **Campaign Finance**

19. The legislation should be amended to comprehensively regulate funding of referendum campaigns including clear rules on incomes, spending and reporting.
20. To improve the effectiveness of existing campaign contribution and expenditure limits, the legal framework should be amended to provide limits on permissible in-kind donations.
21. To ensure effective oversight during the campaign, the legal and institutional framework should clearly stipulate an independent oversight body provided with adequate powers and resources to properly monitor and expeditiously address campaign finance-related complaints and enforce proportionate sanctions.

## **Media**

22. The legal framework should be revised to decriminalize defamation and insult in order to bring the relevant legal framework in line with international standards on freedom of expression.
23. Authorities should consider legally requiring the National Broadcasting Commission to oversee the broadcast media for their compliance with the legal requirements, including through systematic media monitoring. It should be mandated to offer remedy for identified violations in a timely and effective manner.

## **Complaints and Appeals**

24. The Election Code could be reviewed to provide for judicial review of administrative decisions throughout the electoral process as well as expanding legal standing to anyone whose rights may be affected.

## **Citizen and International Election Observation**

25. Steps could be taken to ensure that accreditation of international observers is issued in a timely manner.

## **Election Day**

26. To protect the secrecy of the vote additional measures such as voter education programs, lowering the maximum number of registered voters per precinct, locating polling stations in larger premises and promoting the active role of Precinct Election Commission members in securing the secrecy of the vote should be considered
27. Consideration could be given to amending the vote validity rules to allow for ballots where the intention of voter is clearly expressed to be considered valid.



## ANNEXE I: FINAL ELECTION RESULTS<sup>124</sup>

### *Sejm Elections*

<b>Total number of registered voters</b>	29,532,595
<b>Total number of valid votes</b>	21,596,674
<b>Turnout</b>	74.38 per cent

<b>Electoral Committee</b>	<b>Number of votes</b>	<b>Percentage for votes</b>	<b>Number of seats</b>
The Law and Justice Party	7,640,854	35.38	194
Civic Coalition	6,629,402	30.70	157
Election Coalition Third Way	3,110,670	14.40	65
The New Left	1,859,018	8.61 t	26
Confederation of Freedom and Independence – Confederation	1,547,364	7.16	18

### *Senat Elections*

<b>Total number of registered voters</b>	29,532,595
<b>Total number of valid votes</b>	21,402,998
<b>Turnout</b>	74.31 per cent

<b>Electoral Committee</b>	<b>Number of votes</b>	<b>Percentage for votes</b>	<b>Number of seats</b>
The Law and Justice Party	7,449,875	34.81	34
Civic Coalition	6,187,295	28.91	41
Election Coalition Third Way	2,462,360	11.50	11
The New Left	1,131,639	5.29	9
Voter's Committee, Zygmunt Frankiewicz ( <i>Pakt Senatski</i> )	157,302	0.73	1
Voter's Committee, Krzysztof Kwiatkowski ( <i>Pakt Senatski</i> )	139,689	0.65	1
Voter's Committee, Wadim Tyskiewicz ( <i>Pakt Senatski</i> )	97,636	0.46	1
Voter's Committee, Andrzej Dziuba ( <i>Pakt Senatski</i> )	81,134	0.38	1
Voter's Committee, Jozef Zac	50,763	0.24	1

<sup>124</sup>

See more detailed results per constituency on the [website of the NEC](#).

## ANNEXE II: LIST OF OBSERVERS IN THE INTERNATIONAL ELECTION OBSERVATION MISSION

### OSCE Parliamentary Assembly

Pia	KAUMA	Special Coordinator	Finland
Pere Joan	PONS	Head of Delegation	Spain
Ermonela	VALIKAJ	MP	Albania
Antonela	VESHI	Staff of Delegation	Albania
Dorina	LETI	Staff of Delegation	Albania
Sargis	KHANDANYAN	MP	Armenia
Mariam	HAJY-HAKOBYAN	Staff of Delegation	Armenia
Andreas	MINNICH	MP	Austria
Harald	TROCH	MP	Austria
Hannes	AMESBAUER	MP	Austria
Ewa	ERNST-DZIEDZIC	MP	Austria
Azay	GULIYEV	MP	Azerbaijan
Malik	BEN ACHOUR	MP	Belgium
Celia	GROOTHEDDE	MP	Belgium
Guillaume	DEFOSSE	MP	Belgium
Hana	DOGOVIC	International Secretariat	Bosnia And Herzegovina
Iskren	MITEV	MP	Bulgaria
Davor	BERNARDIC	MP	Croatia
Zvonimir	TROSKOT	MP	Croatia
Olgica	TOLIC	Staff of Delegation	Croatia
Irene	CHARALAMBIDES	MP	Cyprus
Kiriakos	HADJIYIANNI	MP	Cyprus
Soren	SONDERGAARD	MP	Denmark
Andreas	BAKER	International Secretariat	Denmark
Kristo Enn	VAGA	MP	Estonia
Vilhelm	JUNNILA	MP	Finland
Inka	HOPUSU	MP	Finland
Didier	PARIS	MP	France
Stephanie	KOLTCHANOV	International Secretariat	France
Nicoloz	SAMKHARADZE	MP	Georgia
Maka	BOCHORISHVILI	MP	Georgia
Daniela	DE RIDDER	MP	Germany
Dagmar	ANDRES	MP	Germany
Stefan	KEUTER	MP	Germany
Thomas	ROWEKAMP	MP	Germany
Boris	MIJATOVIC	MP	Germany
Malte	KAUFMANN	MP	Germany
Freyja	KOCI	International Secretariat	Germany
Shane	CASSELLS	MP	Ireland
Pauline	O'REILLY	MP	Ireland
Eugenio	ZOFFILI	MP	Italy
Emanuele	LOPERFIDO	MP	Italy
Catia	POLIDORI	MP	Italy
Anna	BILOTTI	MP	Italy
Valeria	GALARDINI	Staff of Delegation	Italy

Pia	CALIFANO	Staff of Delegation	Italy
Anna	DI DOMENICO	International Secretariat	Italy
Edoardo	CASTIGLIONI	International Secretariat	Italy
Sultanbek	MAKEZHANOV	MP	Kazakhstan
Vilija	ALEKNAITE ABRAMIKIENE	MP	Lithuania
Boris	DITTRICH	MP	Netherlands
Madelein	VAN TOORENBURG	MP	Netherlands
Anna	DE VRIJ	Staff of Delegation	Netherlands
Igor	JANUSHEV	MP	North Macedonia
Monika	ZAJKOVA	MP	North Macedonia
Halil	SNOPCHE	MP	North Macedonia
Lidija	KARAKAMCHEVA	Staff of Delegation	North Macedonia
Aleksander	STOKKEBO	MP	Norway
Mahmoud	FARAHMAND	MP	Norway
Marta	FREITAS	MP	Portugal
Andre	COELHO LIMA	MP	Portugal
Ilie-Dan	BARNA	MP	Romania
Costel-Neculai	DUNAVA	MP	Romania
Daniel	FENECHIU	MP	Romania
Gabor	HAJDU	MP	Romania
George-Nicolae	SIMION	MP	Romania
Teodora	MITRU	Staff of Delegation	Romania
Dimitrije	TODORIC	International Secretariat	Serbia
Tine	NOVAK	MP	Slovenia
Janez	ZAKELJ	MP	Slovenia
Ricardo	TARNO	MP	Spain
Artemi Vincent	RALLO	MP	Spain
Bjorn	SODER	MP	Sweden
Johan	BUSER	MP	Sweden
Carina	ODERBRINK	MP	Sweden
Kadir	KASIRGA	MP	Sweden
Margareta	CEDERFELT	MP	Sweden
Ulrik	NILSSON	MP	Sweden
Yasmine	ERIKSSON	MP	Sweden
Simona	DE CIUTIIS	Staff of Delegation	Sweden
Manuchekhr	SALOKHUDINOV	International Secretariat	Tajikistan
Halis	DALKILIC	MP	Turkiye
Murat	BAYBATUR	MP	Turkiye
Ali	OZTUNC	MP	Turkiye
Tugce	OKUMUS	Staff of Delegation	Turkiye
Pavlo	FROLOV	MP	Ukraine
Ivan	KRULKO	MP	Ukraine
Hanna	LICHMAN	MP	Ukraine
Nataliya	PIPA	MP	Ukraine
Mark	PRITCHARD	MP	United Kingdom
Rupa	HUQ	MP	United Kingdom
Royston	SMITH	MP	United Kingdom
Jordan	WARLICK	Staff of Delegation	United States of America

### Council of Europe Parliamentary Assembly

Mireille	CLAPOT	Head of Delegation	France
Blerina	GJYLAMETI	MP	Albania
Stefan	SCHENNACH	MP	Austria
Reinhold	LOPATKA	MP	Austria
Constantinos	EFSTATHIOU	MP	Cyprus
Ivi-Triin	ODRATS	PACE Secretariat	Estonia
Didier	MARIE	MP	France
Marie-Christine	DALLOZ	MP	France
Thibaut	FRANCOIS	MP	France
Carine	ROLLER-KAUFMAN	PACE Secretariat	France
Givi	MIKANADZE	MP	Georgia
Michael	JANSSEN	Venice Commission	Germany
Andrej	HUNKO	MP	Germany
Robert	TROY	MP	Ireland
Aurora	FLORIDIA	MP	Italy
Valentina	GRIPPO	MP	Italy
Andrius	VYŠNIAUSKAS	MP	Lithuania
Chris	SAID	MP	Malta
Corneliu-Mugurel	COZMANCIUC	MP	Romania
Jose Maria	SÁNCHEZ GARCIA	MP	Spain
Óscar	SÁNCHEZ MUÑOZ	Venice Commission	Spain
Azadeh	ROJHAN	MP	Sweden
Jean-Pierre	GRIN	MP	Switzerland
Yunus	EMRE	MP	Türkiye
Lesia	ZABURANNA	MP	Ukraine
Oleksii	GONCHARENKO	MP	Ukraine
Lord Simon	RUSSELL	MP	United Kingdom
Anne	GODFREY	PACE Secretariat	United Kingdom

### ODIHR LEOM Long-term Observers

Andrei	STOICUU	Canada
Henri	NZEDOM	Canada
Natalie	WILSON	Canada
Veronika	HOMOLOVA	Czech Republic
Adam	DRNOVSKY	Czech Republic
Rodolphe	OBERLE	France
Christoph	WIEDEMANN	Germany
Eva	GMELIN	Germany
Brendan	Ó SE	Ireland
Aidos	KENZHEBAYEV	Kazakhstan
Tuul	ERDENEBAATAR	Mongolia
Maja	BJELIC	Montenegro
Daniela	MALIJANSKA-MITEVSKA	North Macedonia
Turid	POLFUS	Norway
Gent	RAMADANI	Norway
Børge	NILSEN	Norway
Jeanne	VU VAN	Switzerland
Fairlie	CHAPPUIS JENJEN	Switzerland
Nadia	ZOUBIR	United States of America
Tanya	KARPIAK	United States of America

**ODIHR LEOM Core Team**

Douglas	WAKE	United States of America	Head of Mission
Kerstin	DOKTER	Germany	
Tamara	OTIASHVILI	Georgia	
Eirini	SKOUZOU	Greece	
Júlia	MANCHIN	Hungary	
Ivana	STANOJEV	Serbia	
Ivan	GODARSKY	Slovakia	
Peter	MICHALIK	Slovakia	
Jeffrey	CARLSON	United States of America	
Kyle	BOWERS	United States of America	

## ABOUT ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 150 staff.

ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE commitments, other international obligations and standards for democratic elections and with national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. ODIHR implements a number of targeted assistance programmes annually, seeking to develop democratic structures.

ODIHR also assists participating States' in fulfilling their obligations to promote and protect **human rights and fundamental freedoms** consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas, including human rights in the fight against terrorism, enhancing the human rights protection of trafficked people, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance and non-discrimination**, ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website ([www.osce.org/odihr](http://www.osce.org/odihr)).