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## INTERNATIONAL ELECTION OBSERVATION MISSION Republic of Poland, Parliamentary Elections, 15 October 2023

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### STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

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#### PRELIMINARY CONCLUSIONS

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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. While amendments adopted in 2023 amendments incorporated some previous ODIHR recommendations, their adoption just months prior to the elections without meaningful public consultation were 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. New provisions aimed at increasing turnout predominantly benefitted rural areas, which was perceived by some to advantage the ruling party. The *Sejm* did not consider the changes to the distribution of seats among electoral constituencies proposed by the election administration as legally mandated. This, as well as the legal provision adding all *Sejm* and *Senat* out-of-country votes to the respective Warsaw constituencies, had a negative impact on the equality of the vote, which is at odds with international standards.

The election administration, led by the National Election Commission (NEC), carried out preparations efficiently and within the legal deadlines. The election administration generally enjoyed the trust of most ODIHR IEOM interlocutors. However, some raised questions about their impartiality in view of the more political composition of the NEC and changes to the appointment criteria of Constituency Election Commissions. The NEC's and CECs' 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, possibly weakening mutual oversight and the balance among members nominated by the contestants.

For these elections, 29,091,621 voters were registered including 606,265 persons who applied to vote abroad. Restrictions remain on voting rights of those declared legally incompetent by a court, at odds with international obligations and OSCE commitments. The new Central Register of Voters (CRV) was put in operation just days before calling the election. Despite concerns expressed by some election

stakeholders before the elections, its operability was satisfactory. However, ODIHR IEOM interlocutors reported some problems with incorrect addresses included in the CRV in cases where voters had multiple addresses.

In an open and inclusive process, the CECs registered 320 candidate lists for the *Sejm* nominated by 13 electoral committees, as well as 359 *Senat* candidates proposed by 49 committees. Altogether, 56 lists and 27 *Senat* candidates were denied registration because of rejected support signatures largely related to issues with the registered address.

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 improve women's participation. In total, 44 per cent of the *Sejm* candidates and only 19 per cent of Senatorial candidates were women. 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 marked by the misuse of administrative resources and an uneven playing field. There was a notable overlap between the ruling party's campaign messages and information campaigns of the government as well as state-controlled companies and their foundations, including on 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. Reflecting the overall polarization, the campaign, including on social platforms, was highly confrontational and negative, often with inflammatory rhetoric.

With a few exceptions, recent amendments to the campaign finance legislation did not address longstanding ODIHR recommendations. The lack of detailed 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, state-owned companies and their foundations 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 does not interpret this to extend to controlling campaign finance prior to election day.

Freedom of expression and the right to receive information are constitutionally guaranteed rights, but defamation and public insult remain criminal offences, despite previous ODIHR recommendations. The media landscape is pluralistic and includes diverse sources and perspectives, but the purchase of most regional daily newspapers and many other regional media outlets by the national energy company, attempts to limit foreign media ownership, and protracted license renewal processes indicate increasing political control of the media market by the government. ODIHR LEOM media monitoring found that public television met its requirements for free airtime to all contestants. However, its news coverage consistently presented socio-political events in a distorted and openly partial manner. Despite legal requirements of impartiality, in its political coverage, the public broadcaster clearly promoted 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 Council 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 clearly 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, a general concern

persists over the independence of the judiciary following recent reforms. 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 recordings, 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.

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. A number of civil society organizations observed election day proceedings and conducted parallel tabulations of votes and some focused on monitoring campaign coverage in the media, campaign finance and the use of public resources. Recent amendments, which expanded the rights of citizen observers to record voting and counting procedures, were welcomed, but some ODIHR IEOM interlocutors were concerned about the requirement to transmit these recordings to the Ministry of Digital Affairs.

The IEOM observed opening, voting and closing in a number of polling stations across the country, however it did not undertake systematic or comprehensive observation of election day proceedings. Voters turned out in high numbers and despite the polarized campaign, the process was calm and orderly. In the polling stations visited, the process was efficient and well organized, PEC members were knowledgeable and procedures were largely followed. Secrecy of the vote was frequently undermined by overcrowding, voting booths not being spacious enough to conceal large ballots, and voters marking ballots outside the booths. The limited number of counts observed were generally assessed as transparent, but often slow, largely due to the concurrent referendum. The turnout was announced at 72 per cent.

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## PRELIMINARY FINDINGS

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### Background and Political Context

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 is the first time a referendum would be held together with an election in Poland. The referendum addressed four questions submitted by the Prime Minister on accepting immigrants from the Middle East and Africa, removing a fence on the Belarus border, selling state assets, and raising the retirement age. Most ODIHR IEOM 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>1</sup>

In a highly polarized political environment, the Law and Justice Party (*Prawo i Sprawiedliwość*, PiS) has held a majority in the *Sejm* since 2015.<sup>2</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 legislative changes limiting abortion rights and regulating the judiciary and public media. The latter led to the European Commission (EC) opening infringement procedures against

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<sup>1</sup> The ODIHR LEOM followed the referendum to the extent to which it impacted the parliamentary elections.

<sup>2</sup> In 2019, PiS gained 235 seats; 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.

Poland.<sup>3</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>4</sup> The law was subsequently amended particularly to remove provisions which would have authorized the special Commission to disqualify electoral contestants. In March, prosecutors launched an investigation into possible corruption connected to issuing Polish visas for foreign workers by the Ministry of Foreign Affairs (MFA), resulting in dismissal of a deputy foreign minister and charges against seven individuals.<sup>5</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 make up 28.5 per cent in the *Sejm*, and 24 per cent in the *Senat*. In the government, out of 28 ministers, only 5 are women.

## Legal Framework and Electoral System

The electoral legal framework forms a sufficient basis for the conduct of democratic elections.<sup>6</sup> However, it contains some provisions that fall short of international standards and obligations, including on the suffrage rights of persons with intellectual disability. In addition, the law prohibits persons deprived of legal capacity from forming or joining public associations or initiating public assemblies.<sup>7</sup>

The Election Code was substantially amended in March 2023.<sup>8</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 (CECs); 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.

These amendments incorporated some previous ODIHR recommendations related to a centralized voter register and the access for persons with disabilities. However, adoption of these amendments occurred soon before elections and lacked meaningful consultation with relevant stakeholders, contrary to international commitments and good practice.<sup>9</sup> Moreover, they did not address a number of previous ODIHR recommendations to bring the law further in line with international obligations and commitments, including those related to suffrage rights, prevention of the misuse of administrative resources, and enhancing campaign finance transparency. The legal framework does not regulate key aspects of conducting a referendum campaign, particularly reporting requirements on campaign

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<sup>3</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 appeals in other election-related cases.

<sup>4</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. Please see also [the EC Infringement procedure](#).

<sup>5</sup> 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 [statement](#) in connection to this issue.

<sup>6</sup> Elections are primarily regulated by the 1997 Constitution, the 2011 Election Code, the 1990 Law on Assemblies and the 1997 Political Parties Act. The National Election Commission (NEC) issues resolutions and binding guidelines for lower election commissions, as well as clarifications for administrative bodies, electoral committees, and media outlets. Poland is party to major international and regional instruments related to the holding of democratic elections.

<sup>7</sup> Article 29 of the Convention on the Rights of Persons with Disabilities (CRPD) requires States to "promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including [...] [p]articipation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties." See also paragraph 51 of the 2018 CRPD concluding observations.

<sup>8</sup> See [ODIHR Legal Opinion](#) on the draft act amending the Election Code and certain other legal acts. Amendments also affected other acts including the 1997 Political Parties Act.

<sup>9</sup> 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.

donations and expenditures. By holding the referendum concurrently with elections, these gaps exacerbated the shortcomings in the election legislation and negatively impacted the electoral process.

Legislative power is vested in the parliament, comprised of the lower chamber (*Sejm*) and the upper chamber (*Senat*), elected for 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. Except for lists registered by national minorities, 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 constituencies are created within the boundaries of voivodeships. *Sejm* mandates are allocated proportionally to constituencies based on the population size.

Contrary to a legal obligation for reviewing boundary delimitation to accommodate population shifts, and despite a previous ODIHR recommendation, no changes have been made to *Sejm* and *Senat* constituency boundaries since 2011. In October 2022, the NEC proposed adjustments to the distribution of *Sejm* seats affecting 21 constituencies and a slight redistribution of *Senat* seats among three voivodeships.<sup>10</sup> However, these were not considered by the *Sejm*. There are no legal limits on maximum deviations from the average number of inhabitants per *Sejm* seat, and 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>11</sup> These additional votes, based on registered voters, reduced the weight of the 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>12</sup>

## Election Administration

Elections were administered by the NEC, the National Election Office (NEO) and its 49 delegate offices, 41 CECs, and 31,073 Precinct Election Commissions (PECs).<sup>13</sup> In addition, the MFA established 416 PECs in diplomatic representations in 91 countries. In general, all technical preparations were carried out efficiently and in line with the electoral calendar. Women were underrepresented in the election administration: all NEC members are men, 37 per cent of CEC members are women, the head of NEO is a woman.

The NEC is a permanent decision-making and supervisory body responsible for the overall conduct of elections and referendums. These are the first parliamentary elections under the new composition of the NEC consisting of two judges appointed for nine years (nominated by the Constitutional Tribunal and the Supreme Administrative Court) and seven members appointed for a four-year term by political parties in proportion to their representation in the *Sejm*. The election administration generally enjoyed the trust of most ODIHR IEOM interlocutors. However, some raised questions about their impartiality in view of the more political composition of the NEC and changes to the appointment criteria of CECs.<sup>14</sup>

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<sup>10</sup> The NEC proposed adjustments to seat distribution for the *Sejm* adding 1 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 voivodships is in breach of the law, suggesting that *Małopolskie* and *Mazowieckie* are attributed one seat each at the expense of the *Śląskie*.

<sup>11</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>12</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>13</sup> This includes 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>14</sup> The political appointees must qualify for the office of a judge or have a professional or academic legal background. No parliamentary group can nominate more than three members. Currently, three members were nominated by PiS, two by KO and one by each New Left and Kukiz’15/PSL. Only the judicial appointees can be elected as the NEC’s chair. Until 2019 the NEC was composed of nine active or retired judges appointed by the president, with three members nominated from each of the Constitutional Tribunal, Supreme Court and Supreme Administrative Court.

In total 100 Election Commissioners (31 women), about two thirds of whom had served in previous elections, were appointed for a five-year term from among candidates with higher legal education. These were preselected by the Minister of Interior and Administration (MoI) to represent the NEC on the sub-national level. Over a third these commissioners were judges, appointed since the 2016 judicial reforms, which some ODIHR IEOM interlocutors perceived as casting doubts about their impartiality. Their tasks include selecting CEC members, chairing CECs and establishing PECs.

The NEO, the NEC's permanent executive arm, 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. The NEO has 49 permanent delegate offices around the country, to support the CECs and PECs. 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. Competencies and terms of cooperation among election officers and municipality election teams were not always clearly defined.

CECs, which have between 5 and 11 members, were established on 28 August as temporary bodies mandated with registering candidates, printing ballots, handling complaints related to decisions of PECs, and tabulating constituency results. Following the 2023 amendments, the CEC members were no longer required to be acting or retired judges; still, four in five of them 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 as deemed necessary without prior announcement of their timing or agenda, and were not open to citizen observers or contestants, nor broadcast online; and session minutes were not published. This negatively impacted the transparency and stakeholders' awareness of the NEC's and CECs' decision-making. While, adopted resolutions, guidelines and explanations were promptly published on their website, some NEC guidelines failed to provide sufficient clarity, including on issues that were challenged before the Supreme Court. The cooperation among different parts of the election administration was smooth.

Depending on the number of voters assigned, regular PECs were comprised of 7 to 13 members. By law, up to two-thirds of the statutory number of members were reserved for representatives of electoral committees that have elected members in the *Sejm* or the *Sejmik* of the respective voivodeship. 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 appointed by electoral committees that did not present candidates for the elections and may have been registered solely for this purpose. ODIHR IEOM interlocutors were of the opinion that some of these committees were aligned with the ruling party, thus weakening mutual oversight and the balance among poll workers nominated by contestants.<sup>15</sup> To facilitate access to polls and as a result of lowering the minimum number of inhabitants per precinct, 3,872 new regular polling stations (PS) (98 per cent of which were in rural areas) were created. In addition, the new legislation introduced mandatory free transportation to and from the PS in areas with no public transportation on election day. These changes largely benefitted rural constituencies, which many ODIHR IEOM interlocutors perceived as

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<sup>15</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 appointing electoral committee. This information was only available on CECs' subpages in a not easily surveyable format.



advantaging the incumbent party given that the ruling party had better results in rural areas in recent elections.<sup>16</sup>

PEC members were trained, including on the recent changes in election day procedures. The ODIHR LEOM observed inconsistent instructions between constituencies concerning the modalities for recording of polling and counting by observers and party agents, the handling of refused referendum ballots, or reconciliation of voter list marks and ballots. Both the NEC and CECs conducted voter education activities and many municipalities conducted get-out-the-vote campaigns and informed voters about new PSs locations.

## Voting Rights and 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. Restrictions on electoral rights based on intellectual disability contradict international obligations.<sup>17</sup>

The 2023 amendments provided a legal basis for the creation of a CRV to replace the 2,477 separate voter registers previously maintained by individual municipalities. The integration of all necessary data for the CRV was carried out by the Ministry of Digital Affairs between April and July. The principal sources were the electronic civil registry, maintained by the Ministry of Digital Affairs, which includes data on permanent residence and a unique 11-digit identification number (*PESEL*) assigned to all Polish citizens and foreign residents; the so-called *de facto* residential addresses provided by the municipalities, and the data on legally incapacitated persons supplied by courts. While the introduction of the CRV was generally welcomed by the election administration and municipalities, some ODIHR IEOM interlocutors voiced concerns that its introduction less than 3 months before the election and a lack of sufficient testing may have reduced its operability and accuracy. Others reported that errors, especially in connection with the addresses under which voters were listed in the CRV, became apparent during the verification of support signatures during the candidate registration process.

By default, voters were assigned in the CRV to a specific PEC based on their last voting address (permanent or, if applicable, the *de facto* address).<sup>18</sup> One-time changes could be made up to three days before election day: over 900,000 voters requested voting at a temporary residence, and 450,540 collected Absentee Voter Certificate's (AVC) permitting them to cast the vote in any PS in Poland. In total 606,265 citizens residing or planning to be abroad on election day registered for voting abroad in-person, via email or using the online portal of the MFA. Voter lists were finalized and printed two days before election day by the municipalities (and consulates). The final number of eligible voters was 29,091,621. The 2023 amendments eliminated all possibilities for public scrutiny of the voter lists; only individual inquiries about one's own entry could be submitted at corresponding municipalities or via the government portal (*mObywatel*). Voters could file complaints with the competent mayor in case of irregularities or their non-inclusion in the CRV.

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<sup>16</sup> In a further attempt to increase the turnout in mainly rural areas, the government launched a [competition](#) granting PLN 1 million for the renovation of fire stations to the municipality with fewer than 20,000 inhabitants in each of 314 districts which achieves 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 surpasses 60 per cent, would receive PLN 250,000 for rural women's groups, folk bands and sport teams, with additional an additional PLN 1 million allocated to municipalities with the highest turnout.

<sup>17</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 Ministry of Digital Affairs, 95,680 persons were deprived of their voting right following a court decision.

<sup>18</sup> According to the Ministry of Digital Affairs, there were 2,622,135 persons without any residence specified in the CRV, who did not actively register with a municipality or consulate nor requested AVC.

## 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 or incapacitated by a final court decision including on the basis on mental disability, forfeit this right.<sup>19</sup> Restrictions on candidacy based on intellectual disability are at odds with the principles of non-discrimination and proportionality provided by OSCE commitments and international standards.<sup>20</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>21</sup> These committees could then nominate candidates or lists of candidates to the respective CEC, with 2,000 supporting signatures of voters registered within the given constituency for the *Senat* and 5,000 for the *Sejm*.<sup>22</sup> In four *Sejm* and in eight *Senat* constituencies the number of required signatures is higher than one per cent of registered voters, against the international good practice.<sup>23</sup> In an inclusive process, the CEC registered 6,655 candidates on 320 list for the *Sejm* presented by 13 electoral committees and 359 candidates for the *Senat* (from 49 committees).<sup>24</sup> In total, 56 *Sejm* lists and 27 senatorial candidates were rejected largely due to a mismatch between the stated address and the CRV, leaving a significant number of signatures inadmissible. 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.<sup>25</sup>

*Sejm* lists have to include at least 35 per cent of candidates of each sex, but there are no requirements on their ordering on the lists. In total, 44 per cent of the *Sejm* candidates were women and women led 83 out of the 320 lists. The share of women candidates in the first fifth of the positions on candidate lists varied from 52 to 11 per cent.<sup>26</sup> Only 19 per cent of the Senatorial candidates were women.

## Election Campaign

The official campaign period commenced on 8 August and continued until 24 hours before election day.<sup>27</sup> The Election Code does not explicitly regulate campaigning by public officials, despite a previous ODIHR recommendation; however, they are obliged to maintain impartiality when performing official

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<sup>19</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. The case law of the ECtHR 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>20</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>21</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 were rejected for insufficient number of signatures or other unresolved irregularities or omissions. One application was withdrawn.

<sup>22</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>23</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>24</sup> On 13 October, *Polska Liberalna* requested the dissolution of the electoral committee, effectively cancelling their 17 *Sejm* candidate lists.

<sup>25</sup> Up to four different addresses can be associated with a person, but only up to two appear in the CRV and a voter is automatically assigned for voting according to a single address (normally that at which they voted last time).

<sup>26</sup> Confederation has the lowest and KO the highest share of women in the first fifth of the positions.

<sup>27</sup> Campaign activities for the general elections are prohibited in schools, in government administration offices, courts, and military units and at the workplace, if it interferes with normal functioning.



duties and to strictly separate official acts from campaigning activities.<sup>28</sup> There had been intensive pre-campaigning in the period leading up to the elections, with some publicly funded events demonstrably espousing campaign messages of the incumbent party.<sup>29</sup> While the campaign 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 these activities.<sup>30</sup> The government is also eligible to campaign for the referendum and there are no requirements for the government to remain neutral in the referendum campaign. Many ODIHR IEOM interlocutors suggested that the referendum was intended to mobilize voters sympathetic to the ruling party. 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>31</sup> Some individual candidates used the referendum campaign to promote themselves.<sup>32</sup>

Fundamental freedoms were generally respected, and voters had a genuine choice between political alternatives. All contestants campaigned actively throughout the country, focusing on small local outreach efforts and events. In addition, KO organized a rally in Warsaw drawing hundreds of thousands, and PiS held large conventions across the country. All conducted extensive social network campaigns and used online advertisements.<sup>33</sup> 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. 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 Jarosław Kaczyński, actively engaged on these platforms, focusing on video messages and live video conferences, sharing content from campaign events, reflecting on political developments, and promoting campaign promises. Overall, the tone of posts was often negative, with mutual accusations, mirroring the offline campaign.

The campaign was highly confrontational and often negative. Contestants repeatedly used inflammatory and discriminatory rhetoric.<sup>34</sup> Nevertheless, the campaign period was largely peaceful, with only

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<sup>28</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 others. See also Article 84(1), Election Code, and Article 78, Public Service Act.

<sup>29</sup> Billboard and poster campaigns for PiS deputies were set up in [Wrocław](#) and [Wałbrzych](#) starting in June and July. The government had organized a nationwide campaign of ‘family picnics’ to promote its child benefit program 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](#).

<sup>30</sup> See the 28 August NEC [guidelines](#).

<sup>31</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.”, and at a 5 October [press conference](#), the Prime Minister discussed the EU migration pact, repeatedly referencing the European ‘party of Tusk’.

<sup>32</sup> The ODIHR LEOM observed referendum billboards of a PiS candidate, who is also the president of the Chamber of Economy and Trade that also promoted the candidate. A PiS candidate in Puck district also [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>33</sup> Since 4 September, the ODIHR LEOM followed the campaign activities of the accounts of 10 political parties or coalitions, and 22 accounts of key politicians and political actors on X and Facebook.

<sup>34</sup> On 2 September at a campaign event in Katowice, the prime minister [called](#) Donald Tusk “the leader of the party of crooks.” 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.”

isolated incidents and threats.<sup>35</sup> 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>36</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 and misogynistic.<sup>37</sup> Personal verbal attacks against the main party leaders were prevalent.<sup>38</sup> Criticism against the government's foreign policy, its handling of COVID-19, and controversies regarding alleged corruption, including 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, which although not prohibited, many ODIHR IEOM interlocutors found to provide a clear advantage.<sup>39</sup>

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 commitments.<sup>40</sup> Several government officials, including ministers, campaigned at such events.<sup>41</sup> Some municipal governments amplified the messages of KO.<sup>42</sup> The ruling party's campaign was mirrored in government

<sup>35</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. The PiS in Przemyśl reported anonymous threats during the campaign, and a KO candidate in Opole reported threats and damage to his property. Affected parties appeared reluctant to report such cases to competent authorities, questioning the availability of timely remedies.

<sup>36</sup> ODIHR LEOM has 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>37</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>38</sup> 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." 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](#), Donald Tusk accused Jarosław Kaczyński and 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 PiS campaign [spot states](#) "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>39</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 ruling party.

<sup>40</sup> The 2016 ODIHR and [Venice Commission's Joint Guidelines](#) on 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 [Kraków](#) and in [Podkarpacie](#); on 11 September in [Kalisz](#), [Jędrzejów](#) and [Dywity](#); 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>41</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, ODIHR LEOM observed a signing ceremony for a new station by the Polish State Railways was used for campaigning by a PiS candidate. On the same day, an event funded by the ministry of culture used for campaigning for PiS *Sejm* candidates. On 29 September, the ODIHR LEOM observed the opening ceremony of a school in Ogrodniczki attended by the Deputy Minister of Education, where speakers advocated for the ruling party.

<sup>42</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.

information messages as well as the advertisement and information campaigns of state-controlled companies.<sup>43</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>44</sup> All these practices blurred the line between party and State, contrary to OSCE commitments.<sup>45</sup>

Several 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>46</sup>

## 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 2023 introducing the possibility for electronic reporting.<sup>47</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.

Provisions of the Election Code on campaign financing do not apply to referendums and there are no limits on donations or expenditures and no reporting requirements for referendum campaigns.<sup>48</sup> Further, there are no prohibition against the government spending on the referendum campaign or limits on the amounts they can spend. The nominal campaign finance regulation for the referendum compared to that for elections, meant that holding these concurrently negatively affected the transparency and accountability of political party and campaign finance and several ODIHR IEOM interlocutors perceived the holding of the referendum as a deliberate means of by-passing election campaign finance regulations.<sup>49</sup>

Political parties can receive public and private funding and may apply for loans. Parties maintain permanent Election Funds from which they transfer financial resources to their electoral committees. Parties that received more than three per cent of the votes cast (six per cent for coalitions) in the previous *Sejm* election are entitled to an annual state allocation. Parties of these electoral committees, as well

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<sup>43</sup> The [New Specifics](#) of 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](#) were 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>44</sup> On 7 August, the President signed legislation to increase the child benefit pension. 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>45</sup> Paragraph 5.4 of the 1990 OSCE Copenhagen Document provides for "a clear separation between State and political parties."

<sup>46</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 25 September, a woman KO *Sejm* candidate was physically [attacked](#) in Opole Lubelskie. Paragraph 10 of the General recommendation No. 25 on Paragraph 1 of Article 4 of the Convention on the Elimination of All Forms of Discrimination Against Women 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."

<sup>47</sup> Despite this amendment, the Ministry of Finance issued a detailed, more complex 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>48</sup> Art. 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.

<sup>49</sup> There are no legal limits for expenditures on referendum.

successful committees of voters, are eligible to receive a one-time state subsidy for electoral campaign expenses.

The Election Code requires that all campaigns are financed through electoral committees.<sup>50</sup> Only citizens who reside permanently in Poland are permitted to donate to parties and their Election Funds, as well as electoral committees of voters, restricting the rights of those who forfeit their residence.<sup>51</sup> Electoral committees may also accept certain types of in-kind contributions.<sup>52</sup> Anonymous and cash donations as well as contributions from foreign sources and legal entities are prohibited.

Spending limits are determined for each electoral committee, based on the number of contested *Sejm* and the *Senat* seats.<sup>53</sup> 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>54</sup> In addition, there are no sanctions for third-party campaigning, particularly impacting online campaigning.<sup>55</sup> Combined, these issues negatively affected the transparency and accountability of campaign finances.<sup>56</sup>

Despite previous ODIHR recommendations, there are no requirements for parties and electoral committees to report their incomes or expenditures to the NEC before election day. Parties are required to maintain publicly available registers of donations received and contracts entered while electoral committees of voters are 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. Post-election audits may be unable to detect excessive spending and misuse of public resources.<sup>57</sup> The lack of comprehensive, detailed, user-friendly and timely disclosure of campaign donations and expenditures detracts from the transparency of campaign finance and means that voters may not be aware of potential financial influence of various parties and candidates.<sup>58</sup> In addition, sanctions for inaccurate reporting are neither graduated nor proportional, contrary to international standards and previous ODIHR recommendation.<sup>59</sup> Overall, the

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<sup>50</sup> Candidates from electoral committees of voters can contribute to their committee up to 45 times the minimum monthly salary (PLN 162,000). Individuals can 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>51</sup> Paragraph 230 of the [ODIHR and Venice Commission's 2020 Guidelines on Political Party Regulation](#) (Guidelines) states that "donations from citizens, regardless of their place of residence, should not be restricted if they are allowed to [vote]."

<sup>52</sup> In-kind contributions may 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.

<sup>53</sup> In these elections, the highest limit for an electoral committee is PLN 38,781,152 and the lowest limit is PLN 69,834.

<sup>54</sup> In total 58 entities were registered by the NEC after applying to participate in the referendum campaign, including 7 parties, 25 associations 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>55</sup> Legislation on media does not explicitly address new forms of campaigning and fails to take into account electioneering on the internet. 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.

<sup>56</sup> Paragraph 219 of the [Guidelines](#) 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."

<sup>57</sup> Article 7.3 of the United Nations Convention Against Corruption 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>58</sup> Paragraph 247 of the [Guidelines](#) 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>59</sup> If a political party's general financial report is rejected, it loses its state allocation for three years. The rejection of a political party's report on the spending of a specific allocation expenditures results in the loss of its allocation for one year. Upon rejection of an electoral committee report, the committee must forfeit the amount rejected and a fine of three times that amount is removed from their public funds. Paragraph 275 of the [Guidelines](#) states that "[s]anctions should always be compatible with the principle of proportionality."



NEC, entrusted with oversight, does not have the resources, nor does it interpret its limited mandate with few investigatory powers to extend to controlling campaign finance during the campaign period.<sup>60</sup>

## Media

Freedom of expression and the right to receive information are constitutionally guaranteed rights, but some legal provisions continue to restrict their exercise. Defamation and public insult remain criminal offences, despite previous recommendations of ODIHR and the OSCE Representative on Freedom of the Media (RfOM). While the advertisement market provides a degree of economical sustainability and relative independence for major private outlets, the selective allocation of advertisements by government institutions and state-controlled companies serves as an instrument to support favourable editorial policies rather than critical independent media.

The media landscape is pluralistic and diverse but sharply polarized along political lines. The broadcast media are highly developed, as are the print media, which includes several traditional political publications with diverse perspectives. While there is a steady shift towards online media and social networks, television remains the primary source of political information. Public *Telewizja Polska* (TVP) attracts the largest number of viewers, through a total of 39 national, regional and thematic channels, and is followed by the private TVN and *Polsat*.<sup>61</sup> In 2022, the Electronic Communication Office, citing national security interests, decided to exclusively permit TVP to continue to broadcast on the old digital format until the end of 2023, following the transition deadlines, effectively leaving 900,000 households with direct television access only to the public broadcaster.

In February 2021, the state-controlled fuel company *PKN Orlen* purchased the *Polska Press*, a media company that operates 20 out of 24 regional daily newspapers, some 120 regional weekly and several online portals. The change in ownership was followed by a major overhaul of senior newsroom personnel. Many ODIHR interlocutors perceived the takeover as entrenching political control by the governing party over local media. Several opposition political parties reportedly encountered delays or refusals when seeking to place paid election campaign advertisements in publications acquired by *Polska Press*.<sup>62</sup> In July 2021, the *Sejm* adopted a law based on the ruling party's proposal aimed to limit foreign media ownership. The initiative was widely criticized, including by the OSCE RfOM.<sup>63</sup> While the President vetoed the bill in December 2021, TVN24 underwent a lengthy process of a license renewal that was only completed two days before its expiration.

From 30 September, both *TVP* and *Polskie Radio* have 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>64</sup> On 9 October, public television fulfilled its legal obligation by holding a debate including electoral committees that registered candidate lists in all constituencies.<sup>65</sup> However, its format did not allow for a meaningful exchange between the participants on the elections with four out of six questions framed around referendum topics. There were multiple

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<sup>60</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."

<sup>61</sup> The TVP budget grew significantly during the recent years. It is financed through state allocations that for 2023 constitute over 60 per cent of its annual budget. Other sources of income are license fees, advertising and commercial activities.

<sup>62</sup> On 4 and 5 October, *Lewica* and *Third Way* were informed by the *Polska Press* that its newspapers *Echo Kieleckie* and *Nasze Miasto Gorzow* will not accept their election advertisements due to their "left-wing" values.

<sup>63</sup> The OSCE Representative on Freedom of the Media [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."

<sup>64</sup> The 2011 [NBC regulation, amended](#) in July 2023, required the public television to air free-of-charge materials in TVP1 in two daily time windows, between 6:00-10:00 and 16:00-23:00. Public television was obliged to allocate in total 900 minutes free of charge via TVP1, TVP2 and TVP *Polonia*, while *Polskie Radio* was obliged to allocate in total 1,800 minutes free of charge on its 5 stations. Regional public television and radio were obliged to allocate in total 600 and 900 minutes, respectively.

<sup>65</sup> Four out of six qualified electoral committees were represented by their leaders, with exception of *PiS* and *Lewica*.



debates organized by other national media.<sup>66</sup> According to 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 foreign countries.

Public television, in the monitored newscasts of its main channels (TVP1, TVP2 and TVP Info) exhibited an editorial policy to deliberately distort and present socio-political events through the promotion of the ruling party, the government and its policies while heavily attacking its main political rival KO and its leader, further deepening the political polarization in society.<sup>67</sup> In so doing 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, PiS and the government received 28 and 9 per cent of political coverage on *TVPI*, which was almost entirely positive and often framed to mirror referendum topics and amplify the party’s campaign messages.<sup>68</sup> By contrast, KO received 43 per cent of political coverage on *TVPI*, which 80 per cent of which was negative in tone. In addition, the ODIHR LEOM media monitoring of primetime programming noted extensive advertisement campaigns by state-controlled entities and ministries. Conversely, most monitored private media was observed to be notably critical of the authorities and the ruling PiS. News coverage on the private *TVN* allotted the government and PiS 14 and 29 per cent of airtime, mostly of which was 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.

The National Broadcasting Council (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 opted not to conduct its own media monitoring and only acted upon the complaints received, despite having received a formal request from the NEC to do so. In total it reviewed 44 complaints, including 40 concerning the public broadcaster. NBC met four times during the campaign period, in closed sessions, to discuss the allocation of frequencies and licenses-related matters. Overall, the body failed to curtail the evidently partial and biased coverage of the public television despite its constitutional obligation to safeguard the public interest in broadcast media.

## Electoral Dispute Resolution

The legal framework generally provides opportunities to seek legal redress, with both judicial and administrative channels available for voters and electoral contestants. However, some NEC decisions can only be challenged by the contestants, undermining the right to effective legal remedy.<sup>69</sup> 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. 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

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<sup>66</sup> *Polsat*, TVN24, and *Super Express* organized more than one debate with by *Super Express* and *WP.pl* holding three debates that featured only female *Sejm* candidates. The public *Polskie Radio 24* also organized a debate.

<sup>67</sup> From 12 June, public television channels have aired a documentary series titled ‘Reset’ that covers 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. It was followed by another five-part documentary ‘Migrants’ highlighting dangers and threats of Muslim migration.

<sup>68</sup> This includes public television TVP1, TVP2 channels and radio *Jedynka*; private *Polsat*, TVN and radio station RMF FM; newspapers *Gazeta Wyborcza*, *Fakt*, *Rzeczpospolita*, *SuperExpress* and online news websites [interia.pl](http://interia.pl), [Onet.pl](http://onet.pl) and [WP.pl](http://wp.pl).

<sup>69</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 [...]”

and campaign finance reporting. Candidates or representatives of electoral committees may seek legal redress with district courts for dissemination of false information.<sup>70</sup> Election results can be challenged within 7 days from their announcement to the Supreme Court's Chamber of Extraordinary Control and Public Affairs, which is also mandated with validating the election results within 90 days of the elections.

The NEC handled 42 appeals against CEC decisions denying registration to candidate lists and candidates, mostly for not meeting the signature requirements. These cases were considered in closed sessions and were either not considered on procedural grounds (19) or dismissed on the merits (22) while only one was upheld.<sup>71</sup>

The Supreme Court dealt with over 60 election-related cases.<sup>72</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>73</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 referendum, as well as on aspects of video recordings, subsequently repealing certain provisions from the Guidelines.<sup>74</sup> While the Supreme Court partially accepted one appeal, the other was dismissed for lack of legal standing.<sup>75</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.

Both NEC and Supreme Court decisions on appeals were 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 contributed to the transparency of the process. However, a general concern persisted over the independence of the judiciary following recent reforms.<sup>76</sup> Interlocutors also criticized what they saw as politicized positions the Supreme Court took in specific cases in the run up to the elections.

## Citizen and International Observers

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. 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, to CECs and PECs. There is no formal accreditation procedure for citizen observers. However, they have to present a certificate from their nominating organizations. Citizen observers have

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<sup>70</sup> This includes district courts in Warsaw, Krakow, Legnica, Łódź, Opole and Poznan. In some cases, courts issues orders for corrective statements, apologies or payments to non-profit organisations.

<sup>71</sup> . Most appeals concerned rejection for insufficient number of valid supporting signatures.

<sup>72</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>73</sup> Despite a legal requirement, the [NEC explanation](#) was not repealed or amended on the NEC website at the time of this reporting, which may have caused uncertainty about the admissibility and presence of observers at CECs' sessions.

<sup>74</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>75</sup> 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>76</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 court established by law.

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. Recent amendments expanded the rights of electoral committees' and citizen observers to record voting procedures in addition to the counting procedures as previously allowed, but also require that such recordings be transmitted to the Ministry of Digital Affairs and deleted from the original devices. On 30 August, the NEC issued an explanation concerning the scope of activities of citizen observers, in effect limiting them only to election day. While this decision was overturned by the Supreme Court, NEC did not remove it from its website, leading to uncertainty of the possibility to observe. Recent amendments, which expanded the rights of citizen observers to record voting and counting procedures, were welcomed, but some ODIHR IEOM interlocutors were concerned about the requirement to transmit these recordings to the Ministry of Digital Affairs. A number of civil society organizations observed the election day and conducted parallel tabulations of votes. Some organizations also monitored the campaign coverage in the media, campaign finance and use of public resources.<sup>77</sup>

## Election Day

The IEOM observed voting in over 500 polling stations across the country as well as following opening, voting and counting throughout election day. However, it did not undertake systematic or comprehensive observation of election day proceedings. The atmosphere in and around the limited number of polling stations visited by IEOM observers 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>78</sup> The NEC announced that over 300 incidents, mostly related to misdemeanours, and some 100 criminal offences were reported throughout the day.<sup>79</sup>

The limited number of 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 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 addressed by including them on supplementary voter lists, following confirmation of their registration by the municipality. A large number of voters took advantage of possibilities to vote using absentee voter certificates or by registering at a temporary residence.

Polling stations visited by the IEOM were suitable for voting, but frequently overcrowding detracted from the orderliness of the process. In addition, the secrecy of the vote was compromised by the poorly laid out premises, voting booths not spacious enough to conceal the large ballot papers, and voters marking ballots outside the booths. 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.<sup>80</sup> In the morning hours, the NEC issued an instruction prohibiting PEC members from asking voters to choose among ballots, reflecting lack of clarity on this matter.

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

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<sup>77</sup> These include the Accountability Foundation, Electoral Observatory and the Committee for the Defence of Democracy (KOD).

<sup>78</sup> No instances of the recording of voting process were noted by the IEOM. One civil society organization KOD closely coordinated the deployment of its observers with the opposition.

<sup>79</sup> In addition, some breaches of the campaign silence were [reported](#) on in the media, and observed on social networks.

<sup>80</sup> The Code of Good Practice in electoral matters considers abstention as a political choice. See paragraph 54 of the [Explanatory Report](#). Many IEOM 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.

stations was provided for voters in areas where there was no public transport available on election day.<sup>81</sup> Braille ballot overlays were available at the PECs visited by IEOM observers.

Despite concerns that the addition of the referendum ballot would delay the transmission of results from abroad, out of country voting results from the western hemisphere, where the elections took place one day earlier, were transmitted within the legal 24-hour deadline with no technical problems reported. The limited number of counts observed were 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 counting ballots in a different order, and splitting into groups in order to accelerate the counting. The NEC announced preliminary voter turnout at 72 per cent and published preliminary results, disaggregated by polling station, throughout election night further enhancing transparency.

*The English version of this Statement is the only official document.  
An unofficial translation is available in Polish.*

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<sup>81</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.

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## MISSION INFORMATION AND ACKNOWLEDGEMENTS

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Warsaw, 16 October 2023 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the OSCE Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE). The assessment was made to determine whether the elections complied with OSCE commitments, international obligations and standards for democratic elections, and with national legislation. Each of the institutions involved in this International Election Observation Mission has endorsed the 2005 Declaration of Principles for International Election Observation.

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. Douglas Wake is the Head of the ODIHR LEOM, deployed from 4 September.

This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the electoral process, including the count, tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some two months after the completion of the electoral process. The OSCE PA will present its report at its next statutory meeting. The PACE will present its report at its Standing Committee Meeting on 28 November in Vaduz.

The ODIHR LIEOM includes 11 experts in the capital and 20 long-term observers deployed throughout the country. 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 observers wish to thank the authorities of Poland for the invitation to observe the elections, and to the Ministry of Foreign Affairs, National Election Commission and the National Election Office for their assistance. They also wish to express their appreciation to other state institutions, political parties, civil society organizations and international community representatives for their co-operation.

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