



LIMITED ELECTION OBSERVATION MISSION Republic of Poland, Parliamentary Elections, 13 October 2019

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

PRELIMINARY CONCLUSIONS

The 13 October parliamentary elections were prepared well, but media bias and intolerant rhetoric in the campaign were of significant concern. While all candidates were able to campaign freely, senior state officials used publicly funded events for campaign messaging. The dominance of the ruling party in public media further amplified its advantage. Election day was orderly, although secrecy of the vote was not always enforced. Timely publication of preliminary results ensured transparency.

The electoral legal framework is comprehensive and provides detailed regulation of key components of the electoral process. While amendments to the Election Code in 2018 addressed some prior ODIHR recommendations, including the introduction of provisions for citizen observation, others remain unaddressed, and the reform lacked inclusive and meaningful consultations.

The election administration fulfilled its mandate in a professional and transparent manner, met all legal deadlines related to technical preparation of the elections and enjoyed overall confidence among stakeholders. Recent changes to the responsibilities of election staff, including the introduction of a new tier of election officers, complicated the division of tasks at the local level but did not appear to impact the quality of preparations for election day. The reduced availability of postal voting adversely affected the accessibility of the voting process for persons with disabilities. Changes to the composition of the National Election Commission (NEC), which will take effect after these elections, risk undermining the independence of the election administration and the oversight of campaign financing.

Voter registration is passive, and there is overall trust in its accuracy and maintenance. Citizens could review their inclusion in the voter list and could apply to vote in a place of temporary stay. Persons deprived of legal capacity remain disenfranchised, despite international standards, prior ODIHR recommendations, and repeated criticism by the Human Rights Commissioner and international organizations.

In an inclusive process, 5,112 candidates (on 234 candidate lists) for the *Sejm* and 278 candidates for single mandate constituencies for the *Senat* were registered for the elections. Despite a prior ODIHR recommendation, the process of verification of supporting signatures lacks strict rules and uniformity, which resulted in varied degrees of scrutiny by election commissions.

All contestants were able to campaign freely and fundamental freedoms were respected. The campaign environment reflected a high degree of political polarization and campaign messages included nationalist and homophobic rhetoric. Several high-ranking public officials who were also candidates at time made promises to locally distribute public funds, blurring the line between state and party. Many stakeholders questioned the active role of the Catholic Church during the campaign.

Apart from a few prominent party members, women did not enjoy significant visibility in the campaign, including in media. With the exception of one contestant no campaign platforms addressed issues related to women's rights and socioeconomic empowerment. The law requires that each gender must be represented by at least 35 per cent of candidates on each constituency list in *Sejm* elections, and while this requirement was fulfilled, women comprised only 16 per cent of *Senat* candidates. There are no requirements for the representation of each gender in election commissions and no member of the NEC is a woman.

Campaign financing permits public and private sources of funding and sets limits on donations and spending. Oversight carried out by the NEC is based on post-election audits of contestants' financial reports. There are no reporting requirements before election day, nor mechanisms to monitor and investigate potential violations during the campaign, which does not ensure adequate transparency and oversight of campaign financing.

Although pluralistic, the diverse media were sharply divided along different political ideologies. The distinct editorial bias of the media, especially the public broadcaster, and the absence of active oversight, adversely impacted the opportunity of voters to make an informed choice. Furthermore, existing criminal penalties for defamation and limited access to public information undermine freedoms of expression and of the press.

The law affords legal redress against decisions of the election administration. The NEC reviewed the small number of complaints it received in due course, but the absence of clear responsibilities and procedures for some campaign abuses detracted from the effectiveness of legal redress. In addition, many stakeholders expressed doubts in the impartiality of prosecutors and courts following the merger of the functions of the prosecutor general with the minister of justice and other judicial reforms.

Election day was calm and polling staff were generally knowledgeable about their responsibilities, although some procedures were not implemented consistently. Secrecy of the vote was not always enforced, instances of group voting were noted, and the layout of polling stations did not always provide for the autonomous participation of persons with limited mobility. The NEC released preliminary results disaggregated by polling station on election night, contributing to the overall transparency of the process.

PRELIMINARY FINDINGS

Background

The 13 October parliamentary elections took place at a time of economic growth, as well as deep political polarization, heightened by instances of intolerant rhetoric as well as controversial legislative changes and corruption allegations against government officials. On 9 August 2019, following allegations of abuse of state resources for private purposes, the speaker of the *Sejm* resigned and a new speaker was elected the same day.

Since coming to power in 2015, the Law and Justice (*Prawo i Sprawiedliwość*, PiS) party has introduced a number of substantive changes to laws regulating the judiciary and public media which have increased the scope of political appointments and created a perception of government

control over these institutions.¹ While the principle of separation of powers between the executive, legislature and judiciary is enshrined in the Constitution, many ODIHR LEOM interlocutors criticized the recent legislative measures as undermining the independence of the judiciary, echoing concerns expressed previously by several international organizations.² In 2016, the European Commission launched an investigative inquiry into adherence to the principle of rule of law and in December 2017 initiated Article 7 of the Treaty on European Union (Lisbon Treaty), a procedure to suspend certain rights of a member state.³ In June 2019, the European Court of Justice found that by lowering the retirement age of Supreme Court judges and granting the President of the Republic the discretion to extend their term beyond the newly fixed retirement age, Poland acted in breach of European Union law.⁴ On 10 October 2019 the European Commission again referred Poland to the European Court of Justice, stating that the new disciplinary regime for judges does not safeguard against political control.

The previous parliamentary elections in October 2015 resulted in PiS securing a majority of seats in both chambers and forming a government.⁵ The then-ruling Civic Platform (*Platforma Obywatelska*, PO) party came in second, becoming the primary opposition party. In the 2018 local elections, PiS won the largest number of seats in most regional parliaments but lost to independent or PO candidates in major cities and towns. In the May 2019 European Parliament elections, PiS won 27 seats, the PO-led coalition won 22, and *Wiosna*, a party registered in 2018, won 3.

Legal Framework and Electoral System

Poland is party to major international and regional instruments related to the holding of democratic elections.⁶ Parliamentary elections are regulated by the Constitution, Election Code and other legislation.⁷ The National Election Commission (NEC) has the authority to issue binding instructions for election commissions and officials, as well as clarifications pertaining to election regulations for broadcasters, governmental authorities, and electoral committees.

The electoral legal framework is comprehensive and provides detailed regulation of key components of the electoral process. However, some aspects are not sufficiently elaborated,

¹ Changes, among others, included the appointment of an “acting president” of the Constitutional Tribunal, a term not recognized by the Constitution; the terms of several members of the National Council of the Judiciary, responsible for judicial appointments, were prematurely terminated, and the structure amended so that these 15 of 25 members are appointed by the *Sejm* rather than by judges; the role of minister of justice was merged with the prosecutor general.

² See the [2017 ODIHR Opinion on Certain Provisions of the Draft Act on the Supreme Court of Poland](#), the [2017 Opinion of the Council of Europe’s European Commission For Democracy Through Law \(“Venice Commission”\)](#), and the [2018 Report of the UN Special Rapporteur on the Independence of Lawyers and Judges in Poland](#).

³ The procedure was initiated following passage of a bill which lowered the mandatory retirement age of Supreme Court Judges and granted the president with power to prolong judicial terms; these provisions were suspended.

⁴ See judgment in *Commission v Poland*, 24 June 2019, case no. C-619/18.

⁵ As a result of 2015 elections, the *Sejm* was comprised of deputies from PiS (235), PO (138), the association Kukiz’15 (42), *Nowoczesna* (“Modern” in Polish, 28), the Polish People’s Party (PSL, 16), and the German Minority (1). The *Senat* was comprised of 61 senators from PiS, 34 from PO; one member elected from each of the PSL and four electoral committees. Among elected members to the *Sejm* and *Senat*, 125 (27 per cent) and 13 (13 per cent), respectively, are women, including the speaker of the *Sejm*.

⁶ These include the 1966 International Covenant on Civil and Political Rights (ICCPR), 1979 Convention for the Elimination of All Forms of Discrimination against Women, the 2003 Convention Against Corruption, 2006 Convention on the Rights of Persons with Disabilities (CRPD), and 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

⁷ Other relevant legislation includes the Law on Political Parties, Law on Broadcasting and Law on Assemblies.

including the rules with respect to campaigning by public officials and provisions on third party campaigning and financing. Certain other gaps, including a lack of clearly defined responsibilities and procedures for campaign-related complaints, undermined the effectiveness of legal redress (see *Complaints and Appeals*).

The Election Code underwent considerable revision in January 2018, which included changes in campaign and campaign financing rules, the composition and competencies of election management bodies, and election day procedures.⁸ Some of these changes, such as the expansion of judicial remedies against the decisions of election administration and the introduction of provisions on citizen election observation, are in line with prior ODIHR recommendations.⁹ A number of other recommendations remain unaddressed, including those related to the abolition of criminal liability for defamation, additional gender requirements for candidate lists, alternatives to proxy voting, and suffrage rights for persons deprived of legal capacity.¹⁰

This electoral reform process was criticized by many ODIHR LEOM interlocutors for its rushed adoption without meaningful public debate and consultations with stakeholders.¹¹ In addition, changes to the composition of the NEC, which will take effect after these elections, risk undermining the independence of the election administration.¹² These changes were characterized by many ODIHR LEOM interlocutors as indicative of the government's steps to erode the political independence of institutions, undermining the principle of rule of law.¹³

Members of the *Senat* and *Sejm* are elected for four-year terms. Members of the *Senat* are elected through a first-past-the-post system in 100 single-mandate constituencies, with seats awarded to candidates who receive the largest number of votes in each constituency. All 460 members of the *Sejm* are elected through a proportional open list system from 41 multi-member constituencies. Electoral committees whose lists receive at least five per cent of valid votes nationwide (eight per cent for coalitions) participate in seat distribution. Electoral committees registered by recognized national minorities are exempt from any threshold requirement.¹⁴

Election Administration

Elections are administered by the NEC and National Election Office (NEO), 41 Constituency Election Commissions (CEC), and 27,089 Precinct Election Commissions (PECs). The Ministry of Foreign Affairs established an additional 320 PECs in diplomatic representations and other designated locations in 92 countries. The election administration met all legal deadlines related to

⁸ Further amendments, mostly technical in nature, were made in June 2018 and January and July 2019.

⁹ See all previous [ODIHR election reports on Poland](#).

¹⁰ 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.

¹¹ In paragraph 17.1 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".

¹² The new NEC will include two judges (from the Constitutional Tribunal and the Supreme Administrative Court) and seven members appointed by political parties in proportion to their representation in the *Sejm*. The 2018 amendments also limited the choice of candidates for the head of the National Election Office (NEO), the executive body of the NEC, to the nominees by the interior minister.

¹³ The 2018 electoral reform follows legislative changes which extended the government's influence over the Constitutional Tribunal, National Council for the Judiciary, courts, prosecution service, civil service, and the public media. In paragraph 3 of the [1990 OSCE Copenhagen Document](#), the participating States reaffirmed "that democracy is an inherent element of the rule of law. They recognize the importance of pluralism with regard to political organizations".

¹⁴ The Law on National and Ethnic Minorities and Regional Languages recognizes the Armenian, Belarusian, Czech, German, Jewish, Lithuanian, Russian, Slovak and Ukrainian ethnic minorities.

the technical preparation of the elections and most ODIHR LEOM interlocutors expressed confidence in their work.

The NEC is a permanent body 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. All current members of the NEC are men; there are no legal requirements for the representation of each gender in election commissions, and no such data is aggregated by the NEC. Six days prior to election day, the NEC elected a new chairperson from amongst the 9 members, a position that had remained vacant since March. The NEC adopted numerous decisions and regulations related to the organization of the elections, all of which were published in a timely manner, contributing to transparency.¹⁵

The NEO is a permanent executive body responsible to the NEC and has 49 delegate offices around the country. The chairperson of the NEO was appointed by the NEC upon nomination by the Minister of Interior and Administration. Following 2018 amendments to the Election Code, the NEO appointed some 2,600 election officers from among public employees to assist with PEC formation and training and other logistical tasks. In practice, the functions of election officers varied throughout the country, with many duties, including PEC training, co-ordination of postal voting, and distribution of electoral materials, often being carried out by the local administration. Several municipalities reported too few or late appointments of election officers, which created difficulties in executing these tasks. These issues, however, did not appear to impact the overall quality of administration of the elections.

CECs are temporary bodies consisting of 5 to 11 members nominated by the Minister of Justice. They are responsible for registering candidates and lists, supervising the work of PECs, and establishing results within their respective constituencies. CECs are chaired by election commissioners who have been appointed by the NEC upon nomination of the Minister of Interior and Administration in early 2018 for a five-year term. Thirty five per cent of all CEC members are women, however, around 30 per cent of CECs are composed entirely of men or have only one woman member. Women chair 15 of the 41 CECs.

PECs are formed from the nominees of electoral committees and consist of 5 to 13 members, depending primarily on the number of voters assigned to the precinct.¹⁶ Some officials described difficulties to the ODIHR LEOM in recruiting PEC members, due to a lack of electoral committee nominations and of citizen interest, combined with a number of resignations. Positively, a reserve of citizen PEC-member applicants was maintained to address any staffing shortfalls or resignations.¹⁷ The NEO developed a standardized training curriculum and materials for PEC members, who were trained by a combination of election officers, NEO representatives and local administration. Training sessions observed by the ODIHR LEOM were comprehensive and well-attended, though their formats varied.

The NEC and NEO published voter information on their website as well as in traditional and social media, supplemented by information published by municipalities and other state agencies.

¹⁵ Decisions were published on the NEC website and included those relating to the appointment of CECs, voting procedures, provisions for persons with disabilities and appeals of CEC decisions.

¹⁶ The PiS and the PSL electoral committees were first eligible to have a PEC member due to the fact that they previously won seats in the *Sejm* in the same political configuration. Additional PEC members were determined by applications from any remaining electoral committees, including those not fielding candidates, using a lottery if necessary. In some cases electoral committees who did not field candidates in a constituency received places on a PEC, while electoral committees who fielded candidates did not.

¹⁷ Recent changes to the Election Code also introduced the possibility of recruiting PEC members from anywhere in the province.

Municipalities also published important details about the election day and voting, and delivered leaflets to residents containing similar information. The law obligates municipalities to provide information to voters with disabilities in alternative accessible formats, on request. Positively, voter education videos were aired on public television featuring sign language interpretation, and various information was published on the NEC website in multiple accessible formats, including high contrast and large print text, as well as audio content, for persons with visual impairments.

NEC regulations require Braille ballot readers be available at polling stations or brought from the municipality upon request on election day, a practice which some interlocutors highlighted as posing an additional burden to the voter. The ODIHR LEOM observed that the Braille templates were not uniformly designed by municipalities, in some cases featuring only the number and not the name of the candidates. Positively, some municipalities provided transportation for persons with limited mobility, upon request. Although the NEC designated 14,498 polling stations as independently accessible for persons with physical disabilities, exceeding the statutory requirement, many interlocutors including the Human Rights Commissioner noted continued challenges for accessibility posed by the current infrastructure (see also *Election Day*). Additionally, recent amendments reduced the availability of postal voting to those who can produce a disability certificate, which together with an increased reliance on proxy voting, raised concerns about the autonomous participation of persons with limited mobility or other physical impairments.¹⁸

Voting Rights and Voter Registration

Citizens at least 18 years of age have the right to vote, unless this right is revoked by decision of a court or state tribunal, including on the basis of mental disability, despite international obligations and a previous ODIHR recommendation.¹⁹ The Human Rights Commissioner has previously called on the authorities to review the Constitution, the Civil Code and other acts related to the legal incapacitation of persons with disabilities in order to, among other things, lift the restriction on voting rights.²⁰

Voter registration is passive. A permanent register of voters, based on data from the national population register, is maintained by municipalities under the supervision of the NEC together with the respective NEO delegate offices. Preliminary voter lists were derived from this registry on 23 September, and lists were finalized two days prior to election day and contained a total of 30,173,043 voters. In addition, some 332,000 citizens registered to vote abroad at designated diplomatic representations. ODIHR LEOM interlocutors expressed overall trust in the accuracy and maintenance of the voter lists.

¹⁸ Only 1,093 persons in the country registered to vote by post for these elections, compared with 9,927 in 2015. The number of persons registered for proxy voting increased by 24 per cent to 12,388, up from 10,020 in 2015.

¹⁹ ODIHR LEOM interlocutors estimated that some 100,000 persons were disenfranchised on the basis of legal incapacity in these elections. See Articles 1, 12 and 29 of the 2006 UN Convention on the Rights of Persons with Disabilities (CRPD). Paragraph 9.4 of the 2013 CRPD Committee's Communication No. 4/2011 provides that "an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability". See also Paragraphs 7.3 and 24 of the 1990 OSCE Copenhagen Document.

²⁰ See also paragraph 52 of the 2018 UN CRPD Committee concluding observations recommended the authorities to "[r]epeal all provisions that deny persons with psychosocial or intellectual disabilities and persons deprived of legal capacity their right to vote and all other political rights".

Voters could verify their inclusion in the voter list at their local municipality.²¹ Voters could apply until 8 October to be included in the voter list at a place of temporary stay, without justification.²² Voters could do this in person, or through the Electronic Platform of Public Administration Services (ePUAP) online system managed by the Ministry of Digital Affairs. Voters also had the possibility to obtain Absentee Voting Certificates, enabling them to vote at any polling station in the country or abroad. These voters were removed from the voter list at their place of residence and were added to the voter list of the precinct where the vote was cast on election day.

Candidate Registration

The right to stand in *Sejm* and *Senat* elections is granted to citizens with the right to vote and who have reached 21 and 30 years of age by election day, respectively. Citizens sentenced to imprisonment for an intentional offence or fiscal crimes are deprived of this right, as are those revoked of legal capacity by a court decision, including on the basis of mental disability, at odds with international obligations.²³ In addition, persons subject to lustration provisions are prohibited to stand as candidates.²⁴

Electoral committees representing political parties, coalitions or groups of voters have the exclusive right to nominate candidates.²⁵ Eighty-eight electoral committees that registered with the NEC were eligible to apply to CECs to register their candidates, accompanied by at least 5,000 supporting signatures for candidate lists for the *Sejm* and 2,000 signatures for *Senat* candidates.²⁶ Ten electoral committees registered candidate lists, including one candidate list from the German minority. Five of these electoral committees registered candidate lists for the *Sejm* in more than half of the 41 constituencies and, as a result, their candidate lists were registered in all other constituencies without requiring supporting signatures.²⁷

The Election Code regulates the verification of supporting signatures, which is further clarified by NEC regulations; however, CECs have discretion in how thoroughly they examine the data contained in a list of signatures, and practices of CECs varied.²⁸ Citing irregularities in the submitted documents of two electoral committees, the NEC requested CECs to scrutinize the supporting signatures of one committee and verify them in a central database of personal

²¹ The NEO and local municipalities informed the ODIHR LEOM that voter lists are not otherwise published, citing personal data protection rules.

²² In such cases, the municipality where the voter is registered is notified of the voter's request to be included in another voter list.

²³ See Articles 3, 12 and 29 of the CRPD.

²⁴ Article 11.2 of the Election Code provides that persons who took part in the activities of security services between 1944 and 1990 may have the right to be elected revoked by a court decision. The case law of the European Court of Human Rights (ECtHR) provide that lustration provisions should be constantly reviewed. See *Zhdanoka vs. Latvia*, ECtHR, App. no. 58278/00, 16 March 2006; *Adamsons vs. Latvia*, ECtHR, App. no. 3669/03, 24 June 2008.

²⁵ Candidates cannot run independently in the *Sejm* elections but only in list-sharing with other candidates.

²⁶ By election day, there were 85 election committees, as 3 committees dissolved themselves.

²⁷ These were Civic Coalition (*Koalicja Obywatelska*, KO), *Konfederacja* ("Confederation" in Polish), Democratic Left Alliance (*Sojusz Lewicy Demokratycznej* or SLD, which campaigned under *Lewica* or "The Left"), PiS, and Polish Peoples' Party (*Polskie Stronnictwo Ludowe*, PSL), all of which included members of several parties within their respective lists.

²⁸ Section 1.3.iii of the [2002 Venice Commission Code of Good Practice in Electoral Matters](#) recommends that the "checking of signatures must be governed by clear rules".

identification numbers.²⁹ CECs rejected a total of 12 candidate lists for the *Sejm* and 19 candidates for *Senat* after the verification process. Two-thirds of rejections were from these two electoral committees.

In an inclusive process, CECs ultimately registered 5,122 candidates (on 234 lists) for the *Sejm* and 278 candidates for the *Senat*.³⁰ Information on registered candidates was immediately published on the NEC website and in the media, providing voters with an opportunity to familiarize themselves with the contestants. While the Election Code requires that each gender be represented by at least 35 per cent of candidates on each constituency list, it has no requirements regarding the placement of candidates by gender within the lists, which are open and subject to preferential voting.³¹ For these elections, women represent 46 (16 per cent) of *Senat* and 2,163 (42 per cent) of *Sejm* candidates.³² Women headed only 46 of 236 *Sejm* lists and comprised 28 per cent of the first three listed candidates across all lists.

Election Campaign

The official campaign period started from the announcement of the elections, on 9 August, and lasted until 24 hours before election day. All contestants were able to campaign freely and fundamental freedoms were respected. The campaign environment was highly polarized and became increasingly negative. Some contestants' campaign messages were inflammatory, including instances of nationalist and homophobic rhetoric and hate speech.³³ Such messages provoked a sense of threat and elicited negative emotions towards the LGBTI community, non-Christians, and other minorities.³⁴

Campaign activities commenced with large-scale conventions organized in major cities. Campaigning was mostly done on the local level by organizing meetings with voters and press

²⁹ In a letter to CECs on 4 September 2019, the NEC referred to instances of invalid supporting signatures submitted by the electoral committee of Non-partisan Self-government representatives in Tarnów and Piotrków Trybunalski, and requested CECs to verify all support signatures submitted by this committee in the database of personal identification numbers. In Gdansk, this additional verification led to a reversal of an earlier decision to register the committee's list. The same letter also requested scrutiny of candidates nominated by the electoral committee of Piotr Liroy-Marzec due to instances of ineligible candidates on its lists in Tarnów and Konin. The CEC in Siedlce similarly reversed its initial decision to register this committee's list following the additional scrutiny, which was prompted by a phone call from the NEO.

³⁰ Based on Article 265a, the CEC in Białystok accepted the replacement of a PiS candidate for *Senat* District 59 who passed away two weeks prior to election day. This decision was questioned by KO who claimed the CEC had incorrectly calculated the legal deadline for replacing a candidate in such a case.

³¹ However, the rules on counting votes give preference to the highest placed candidate in cases where the voter selects marks more than one candidate on the same list.

³² Total number of women on candidate lists by electoral committee: KO 395 (43 per cent); *Konfederacja* 349 (40 per cent); *Lewica* 424 (46 per cent); PiS 358 (39 per cent); PSL 381 (41 per cent).

³³ For example, a KO candidate filed a complaint after receiving a message threatening to kill her unless she withdraw her candidacy, and warning that the fate of the murdered mayor of Gdańsk awaits her. *Lewica* candidates informed the ODIHR LEOM of receiving death threats because of their stance in support of equal rights for LGBTI individuals or being members of the community. *Konfederacja* pledged to separate LGBTI individuals from the state and remove members of the community from public space.

³⁴ Paragraph 15 of the [2016 CCPR concluding observations](#) noted a "reported increase in the number of incidents of violence, hate speech and discrimination based on race, nationality, ethnicity, religion and sexual orientation and the insufficient response by the authorities to such incidents". Paragraph 7.7 of the [1990 OSCE Copenhagen Document](#) commits participating States to ensure that "political campaigning [is] conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution".

conferences, as well as distributing leaflets.³⁵ The majority of campaign events observed by the ODIHR LEOM were accessible for persons with physical disabilities; however, no speakers were accompanied by display of text or sign language interpretation. Furthermore, persons deprived of legal capacity are prohibited by law from forming or joining public associations or initiating public assemblies, which contravenes international standards.³⁶

Contestants also relied on social media to amplify their reach. ODIHR LEOM interlocutors noted that while Facebook was used extensively by contestants to cover or announce events, Twitter served as the primary online platform for promoting political views. The ODIHR LEOM observed widespread use of inflammatory language related to the campaign on social media platforms.

Campaign events were conducted in a way that did not foresee substantive discussion or an opportunity for voters to challenge candidates on details of their electoral platforms. Several ODIHR LEOM interlocutors opined that there was a lack of broad public debate on important policy issues. As campaigning progressed, the visibility of billboards and posters, especially of Civic Coalition (*Koalicja Obywatelska*, KO), PiS, and *Lewica* increased. Campaign materials of several candidates were defaced, suggesting politically motivated vandalism.³⁷

Most contestants focused their speeches on social protection, standards of living and healthcare, as well as cultural and ideological values. Campaign messages were frequently tailored to local issues, addressing specific concerns of voters in different regions. KO, in addition to general statements on economy, environment and programmes to support youth and pensioners, emphasized its plans to reinstate the rule of law. The ruling party stressed its achievements, making promises of higher wages and pensions as well as increased subsidies for farmers, and also highlighted its commitment to the traditional family structure and pledged to defend Polish identity and Christian culture against the imposition of “gender and LGBT ideologies”. During campaign events, the chairperson of the ruling party often deployed homophobic rhetoric in his speeches, suggesting that LGBT individuals are a threat to families and the Polish identity, urging voters to defend traditional values over Western influence.³⁸

The ruling party’s platform and campaign highlighted the importance of the Catholic faith in preserving Polish traditions as well as the role the Catholic Church plays in building the political identity of the nation. Several PiS campaign events observed by the ODIHR LEOM were organized inside religious institutions, and campaign materials of the party were observed on walls

³⁵ The ODIHR LEOM observed 16 campaign events of PiS, KO, *Lewica*, and *Konfederacja* in Elbląg, Gdańsk, Gdynia, Katowice, Konin, Kraków, Leszno, Lublin, Poznań, Sosnowiec, Szczecin, Wadowice and Warsaw.

³⁶ Article 29 of the 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, which raised concern with “the Law on Associations, which does not allow persons deprived of legal capacity to found an association, to be a member of one, or to organize public assemblies”.

³⁷ For example, a full-size stand figure of the KO candidate with a partially cut-off head and legs tangled with a tape was hung on a tree in a park in Kielce. The candidate filed an official complaint with the prosecutor’s office. In Bełuty, anti-semitic language covered the KO candidate’s banner. Banners of PiS candidates in Szczecin were painted with swastikas.

³⁸ These remarks were made at campaign events on 18 September in Stalowa Wola, on 22 September in Tarnów and on 29 September in Szczecin. A complaint on the offensive content in the speech in Stalowa Wola was submitted by a civil society organization and rejected by the prosecutor’s office. The [2019 UN CERD concluding observations](#) raised concern that “leading public figures, including politicians and media officials, are frequently the source of such offensive statements or fail in their responsibility to strongly denounce hate speech”.

and fences of places of worship. Public statements by Church officials echoed the political programme and messages of PiS, and in some cases explicitly discouraged voting for other parties. Many ODIHR LEOM interlocutors expressed concerns that the Church had an active role in the campaign, raising questions about the separation of church and state.

The legal framework does not adequately regulate the campaign activities of public officials or the use of state resources in election campaigns. At the beginning of the campaign period, the NEC issued guidance that candidates who perform public functions should maintain a distinction between their official and electoral activities.³⁹ Several high-ranking public officials, including ministers and deputy ministers, were also candidates and were active in their respective constituencies on an almost daily basis at publicly funded events, including high-level forums and the inauguration of infrastructure projects and new police and fire stations. Some of these events were accompanied by promises to locally distribute public funds.⁴⁰ The frequency and publicity of such activities, which often included political messaging, created an undue advantage and blurred the line between state and party.⁴¹

With the exception of *Lewica*, which made gender equality an integral component of its platform and campaign, issues related to women's rights and gender equality did not feature regularly in the campaign and, when present, were limited to family issues and reproductive rights. Days before the election, KO also appealed to women voters to participate in the election. Women candidates did not enjoy significant visibility in the campaign apart from a few prominent party figures. At rallies observed by the ODIHR LEOM, some 35 per cent of participants were women, and some 40 per cent of speakers. *Konfederacja* explicitly targeted male voters and campaigned against gender equality, including through video advertisements which objectified women and included condescending language.

Campaign Finance

Financing of campaigns is primarily regulated by the Election Code and the Law on Political Parties, which provide for both public and private sources of funding. Political parties that received more than three per cent of the votes cast (six per cent for coalitions) in the previous *Sejm* elections are entitled to annual public funding.⁴² Each political party, coalition or voters' electoral

³⁹ In NEC guidance issued on 13 August 2019.

⁴⁰ For example, on 6 September, a Deputy Minister of Internal Affairs and Administration announced that Lublin *voivodeship* will receive PLN 473 million for road construction and improvements; on 16 September, the Minister of Infrastructure announced the distribution of PLN 38 million for infrastructure projects in Kraków *powiat*; on 20 September, in Warsaw, a Deputy Minister of Internal Affairs and Administration announced that PLN 72 million were distributed to volunteer fire brigades in the framework of 5000+ programme.

⁴¹ Sections B.1.1. and B.1.3. of the [ODIHR and Venice Commission Joint Guidelines for Preventing and Responding to Misuse of Administrative Resources in Electoral Processes](#) states that “[t]he legal framework should provide effective mechanisms for prohibiting public authorities from taking unfair advantage 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. [...] In order 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”. Paragraph 5.4 of the 1990 OSCE Copenhagen Document prescribes “a clear separation between the State and political parties; in particular, political parties will not be merged with the State”.

⁴² After the 2015 *Sejm* elections, ten political parties were entitled to receive annual public funding. In total, approximately PLN 58 million was allotted for such funding each year, equivalent to some EUR 13.2 million (EUR 1 is some PLN 4.38).

committee which obtains at least one seat in the *Sejm*, *Senat*, or European Parliament is eligible for a subsequent one-time state subsidy.⁴³

Voters' electoral committees may be financed from private donations or loans, while party and coalition electoral committees are financed only from the designated electoral funds of political parties.⁴⁴ The law sets limits on private donations and prohibits anonymous donations, as well as contributions from foreign sources and legal entities.⁴⁵ Electoral committees may accept in-kind contributions to their campaigns only from individuals, who may volunteer to distribute election materials, assist in offices, make available vehicles free of charge, and give access to private spaces for displaying campaign materials.

The Election Code requires that all campaigns are financed through electoral committees. All electoral committees are required to declare on their websites loans and private donations exceeding one minimum monthly salary within seven days of receipt.⁴⁶ It is prohibited to transfer funds and in-kind donations from one electoral committee to another, as well as to carry out public collections. A sanction on third party campaigning was repealed in 2018 without additional clarity introduced on the legality of such campaigning. Spending limits are based on the number of registered voters and the number of mandates contested by the electoral committee.

There are no reporting requirements or oversight over campaign expenditures before election day. Within 3 months from the date of the elections, electoral committees must submit audited financial reports on their campaign incomes and expenditures to the NEC, which may approve or reject the report. Rejection of the report leads to a decrease in state subsidies, as well as other sanctions for specific irregularities.⁴⁷ Parties whose annual financial reports are rejected by the NEC are deprived of annual public funding for three years.⁴⁸ As these sanctions may be imposed for the same offences, the issue of their constitutionality was referred by the Supreme Court to the Constitutional Tribunal in 2016, where it remains pending.

While campaign financing regulations are stringent, the current oversight system lacks mechanisms to monitor and investigate potential violations during the campaign. The absence of reporting requirements before election day detracts from the transparency of campaign financing and voters' ability to make a fully informed choice.⁴⁹ Post-election audits may be unable to detect excessive spending and misuse of public resources, which were alleged by some contestants. In addition, many ODIHR LEOM interlocutors questioned the NEC's future suitability as the oversight body due to insufficient guarantees of political independence following the 2018 legal amendments regarding its composition.

⁴³ This subsidy is proportionate to the number of mandates obtained and is calculated on the basis of the committee's campaign expenses, which are not to exceed the spending limits.

⁴⁴ Private donations are only permitted from Polish citizens with permanent domicile in the country.

⁴⁵ Candidates can contribute to their electoral committee up to 45 times the minimum monthly salary, equivalent in total to PLN 101,250. Individuals can donate to an electoral committee or the party's electoral fund up to 15 times the minimum monthly salary, or PLN 33,750.

⁴⁶ Out of 56 electoral committees, only 25 published this information prior to election day. The Election Code foresees a fine for non-compliance with this requirement; no fines were imposed as of election day.

⁴⁷ The amount of subsidies for the eligible party is decreased by threefold the amount of incorrectly spent or received funding, up to 75 per cent of the total due amount of the subsidy.

⁴⁸ All registered political parties are obliged to submit annual financial reports to the NEC by 31 March each year or face deregistration. Unlike the Election Code, the Law on Political Parties provides that even small amounts of irregularities may lead to the rejection of the annual report.

⁴⁹ Article 7.3 of the United National 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 candidatures for elected public office and, where applicable, the funding of political parties". See also paragraphs 201-206 of the [2011 ODIHR and Venice Commission Guidelines on Political Party Regulations](#).

Media

Although pluralistic, the diverse media were sharply divided along different political ideologies, with the majority of the media, most notably the public broadcaster, taking distinct sides in their coverage rather than providing objective and comprehensive information. The developed advertisement market provides a degree of economical sustainability for major media outlets; however, selective allocation of paid advertisements by government institutions and government-affiliated companies is perceived by some ODIHR LEOM interlocutors as promoting editorial policies which favour the government.

The Constitution guarantees the freedom of expression and prohibits censorship. Defamation remains punishable with imprisonment under the Criminal Code, despite previous recommendations of ODIHR and the OSCE Representative on Freedom of the Media (RFoM).⁵⁰ The ODIHR LEOM noted an increased number of criminal defamation cases initiated against journalists in recent years, which undermines freedom of expression.⁵¹ Additionally, a constitutionally-enshrined right to obtain information is supplemented by the Act on Access to Public Information. However, many ODIHR LEOM interlocutors noted that in practice information requests are often left without response from public officials, forcing media to undergo lengthy court procedures, undermining the accessibility of public information.⁵²

The National Broadcasting Council (NBC) is mandated by the Constitution to safeguard freedom of speech and public interest. In these elections, the NBC did not monitor campaign coverage in the media but reacted to complaints brought to its attention.⁵³ Election contestants could also seek an injunction from regional courts to retract false information disseminated in the media.⁵⁴

Amendments to the Broadcasting Act in 2016 resulted in the replacement of the management of the public broadcaster with government appointees. According to the ODIHR LEOM interlocutors the managerial changes precipitated the departure of more than 200 journalists. The amendments

⁵⁰ See statements of the OSCE RFoM from [9 July 2004](#), [25 January 2005](#), [18 January 2006](#), [6 August 2007](#), [17 September 2012](#), [3 August 2017](#), [28 June 2018](#) and [6 June 2019](#).

⁵¹ *Gazeta Wyborcza* informed the ODIHR LEOM of 12 criminal and over 35 civil cases of defamation ongoing against its journalists, initiated by public and ruling party officials and by state-affiliated companies. According to the Ministry of Justice, a total of 137 defamation cases resulted in conviction in 2017 and 118 defamation cases in 2018, compared to 58 such convictions in 2014. Paragraph 47 of the [2011 UN CCPR General Comment 34](#) on Article 19 of the ICCPR states 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”.

⁵² The Ministry of Justice informed the ODIHR LEOM that between 1 January and 10 October 2019 a total of 1,148 cases were initiated related to access to public information. Paragraph 26.2 of the 1991 [Document of the Moscow Meeting of the Conference on the Human Dimension of the OSCE](#) provides that “[t]he participating States will not discriminate against independent media with respect to affording access to information, material and facilities”. Article 19.2 of the ICCPR states that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”.

⁵³ The NBC informed the ODIHR LEOM it received four complaints during the election campaign, mainly regarding the coverage of national or regional public television. None of these cases were resolved before election day.

⁵⁴ The ODIHR LEOM is aware of five complaints filed to various district courts by *Konfederacja* and KO candidates against national channels of the public television, *Telewizja Polska (TVP)*. In four of these cases, the courts ordered the *TVP* to air an apology and a correction. *TVP* complied in only three cases, and supplemented its apologies with strong criticism of the judiciary and personal attacks against the respective judges. *TVP* also characterized these decisions as censorship and announced plans to contest the relevant provision to the Constitutional Tribunal.

also established a new supervisory body – National Media Council (NMC). The NMC is composed of five political appointees; two of these members represent PiS in the *Sejm*, and were also candidates in these elections.⁵⁵ On 13 December 2016, the Constitutional Tribunal concluded that amendments to the Broadcasting Act, which exclude the NBC from appointing and dismissing the management of the public broadcaster, were unconstitutional. However, the new management structure remains in place, raising concerns related to the independence of the oversight of public media.

Television is the primary source of information, with the public television *Telewizja Polska (TVP)* together with private *TVN* and *Polsat* attracting some 75 per cent of all viewers combined.⁵⁶ As required by law, free air time was allotted on *TVPI* and *TVP2* to five *Sejm* and two *Senat* electoral committees. All actively used this opportunity during the last two weeks of the campaign, however, the majority of free air time was allotted outside of primetime, per an NBC regulation from 2011. The public broadcaster organized one national debate required by the Election Code, in which no women candidates participated, and which was limited to a 46-minute session that lacked meaningful discussion or interaction between candidates.⁵⁷ A number of debates were also organized in national private media and regional public broadcasters in the days prior to the election.

The ODIHR LEOM media monitoring⁵⁸ results indicate that, contrary to their legal obligations and public mandate, in their newscasts *TVPI* and *TVP Info* displayed a clear bias against KO and Polish Peoples' Party (*Polskie Stronnictwo Ludowe*, "PSL") candidates; journalists often referring to them as "pathetic," "incompetent" or "lying."⁵⁹ During the monitored period, KO and PSL received 40 and 6 per cent of political coverage on *TVPI* and 40 and 4 per cent of coverage on *TVP-Info*, which was predominantly negative in tone. By contrast, PiS and the government received 17 and 24 per cent of political coverage on *TVPI* and 25 and 18 per cent on *TVP Info*, which was mainly positive. The coverage of the ruling party was often intertwined with the coverage of the government, with activities and programmes of the latter often being explicitly attributed to achievements of PiS.⁶⁰ On 10 October *TVPI* and *TVP Info* aired during primetime a 30-minute film entitled "Invasion", which targeted the LGBTI community, who were portrayed as a threat to Polish culture and identity, echoing a primary campaign message of the ruling party.

Although private media generally demonstrated a less prejudiced approach, the news coverage of private *TVN* and *TVN24* were mainly critical of the government and PiS, which received 32 and 30 per cent on *TVN* and 29 and 23 per cent on *TVN24*. The same media outlets devoted 18 and 20 per cent of coverage to KO, however, while the coverage of KO was predominantly neutral and

⁵⁵ Paragraph 8.20 of the [2008 PACE Resolution No 1636](#) provides that "public service broadcasters must be protected against political interference in their daily management and their editorial work. High management positions should be refused to persons with clear party political affiliations".

⁵⁶ All three broadcasters have limited the political programming on their main channels to main newscasts, providing political coverage on their news channels – *TVP Info*, *TVN24* and *Polsat News*.

⁵⁷ During the debate each candidate was allotted a single opportunity for a 30 second response.

⁵⁸ From 18 September until 11 October ODIHR LEOM monitored primetime of five television stations (public *TVPI* and *TVP Info*; private *TVN*, *TVN24* and *Polsat*) and five daily newspapers (*Fakt*, *Gazeta Polska Codziennie*, *Gazeta Wyborcza*, *Rzeczpospolita* and *Super Express*).

⁵⁹ Article 21.1 of the Broadcasting Act requires the programmes of Public Broadcaster be "pluralistic, impartial, well-balanced, independent and innovative." Paragraph 8.10 of the [2019 PACE Resolution 2254](#) calls on states to "guarantee the editorial independence of public service media, putting an end to any attempts to influence them or transform them into governmental media: the use of public service media to promote a specific political party or candidate must be classified as illegal misuse of public funds".

⁶⁰ Paragraph 10.3 of [2019 PACE Resolution 2254](#) calls on the media to "clearly distinguish between the activities of those in power and the activities of representatives of political parties running for election, ensuring that no preferential treatment is given to those in power".

positive on TVN, it was more balanced on TVN24. Other contestants were also visible on *TVN* and *TVN24*, with *Lewica* receiving 10 and 14 per cent of coverage, and PSL receiving 6 and 7 per cent, respectively. *Polsat* devoted only a marginal portion of their mainly neutral news coverage to politics, and allotted some 23 per cent of political coverage to the government, 24 per cent to PiS, 31 per cent to KO, 8 per cent to *Lewica* and 7 per cent to PSL.

Among the monitored print media, *Fakt* was largely critical of the government and of PiS while providing more favourable coverage to KO and to a lesser extent to PSL and *Lewica*. *SuperExpress* visibly supported the government while covering PiS and KO in a balanced manner. *Gazeta Polska* shows explicit support of the government and PiS, while covering KO negatively.⁶¹ By contrast, *Gazeta Wyborcza* was extensively critical towards the government and PiS.⁶² While *Rzeczpospolita* provided more balanced coverage of the two main contestants, it was more critical of PO and supportive towards *Lewica*.

Complaints and Appeals

The law affords opportunities for legal redress against decisions related to the registration of voters and election contestants, as well as rejection of campaign finance reports by the NEC. In line with a previous ODIHR recommendation, the Election Code now provides for appeals against NEC instructions, as well as decisions related to constituency boundaries.

Complaints challenging election results may be filed with the Supreme Court within seven days from their announcement; they are reviewed by three-judge panels who issue opinions. On the basis of these 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 newly established Supreme Court chamber which is responsible for the validation of election results.⁶³ Taken together with the merged function of the Prosecutor General and the Minister of Justice, these changes detract from the perceived independence of the entities responsible for the validation of election results and adjudication of other election-related disputes.⁶⁴

In these elections, no appeals were filed against NEC decisions regarding the registration of electoral committees. Rejections of candidates and lists by CECs were appealed by several electoral committees to the NEC and further to the Supreme Court.⁶⁵ All appealed decisions were upheld. The narrow timeframe (two days) for reviewing these appeals effectively precludes the

⁶¹ On 9 October *Gazeta Polska* has published a 2,000,000 copies special edition, which was distributed for free. It strongly praised PiS activities and achievements and alleged KO's intentions to reverse them. *Gazeta Wyborcza* also published another 1,100,000 copies special edition on 7 October, also distributed for free, that focused on PiS alleged abuse of power and described negative consequences of the continued PiS rule.

⁶² During the monitored period *Gazeta Wyborcza* has published four special inserts, 20-28 pages each that highlighted alleged abuse of power and corruption by PiS Government.

⁶³ A new Chamber on Extraordinary Control and Public Affairs was introduced to the Act on the Supreme Court in December 2017. See the [2017 Venice Commission Opinion](#) which expressed concern that "judges appointed by a [National Council on Judiciary] dominated by the current political majority would decide on issues of particular importance, including the regularity of elections." See also the [2017 ODIHR Opinion](#) on Certain Provisions of the Draft Act on the Supreme Court of Poland.

⁶⁴ In its [2017 Opinion](#) the Venice Commission remarked that the merger of political and prosecutorial functions creates "insurmountable problems as to the separation of the prosecution system from the political sphere (as required by Article 103 of the Constitution)" and recommended their separation. See also the [Report](#) of the Commissioner for Human Rights of the Council of Europe on visit to Poland from 28 June, 2019.

⁶⁵ The NEC received 18 appeals against CEC decisions, three of which were not admitted due to late or incorrect submission. Eight NEC decisions were further appealed to the Supreme Court.

possibility of a hearing.⁶⁶ The relevant decisions of election commissions and judgments of the Supreme Court were promptly posted by the NEC on its website, enhancing the transparency of electoral dispute resolution.

During the campaign, complaints alleging unlawful use of public resources and other irregularities were made to different institutions, including election commissioners, CECs, NEC, police, and prosecutors. In the absence of clear responsibilities and procedures, including legal deadlines, the ODIHR LEOM observed that some of these complaints did not receive a response prior to election day.⁶⁷ Many ODIHR LEOM interlocutors expressed doubts that electoral offenses would be investigated independently and effectively by prosecutors, given the political function of the Prosecutor General as the Minister of Justice. These circumstances undermined the effectiveness of legal redress.⁶⁸

Citizen and International Observers

In line with previous ODIHR recommendations, recent amendments to the Election Code provide for citizen observation of the electoral process. Citizen observers, in addition to party and candidate proxies, may follow most aspects of election preparations and election day procedures; however, unlike proxies, citizen observers may not enter comments on PEC protocols or follow the transport and handover of protocols to higher commissions.⁶⁹ For the first time in parliamentary elections, several civil society organizations recruited observers in different regions of the country, despite noting a lack of funding for these activities. Some of these organizations also trained observers who served as party proxies, or PEC members, including those members nominated by political parties. While such practices do not violate the legal provisions on citizen observation, they blurred the distinction between citizen observation and partisan activities. Civil society organizations also monitored the campaign coverage by public and private broadcasters and in social networks.

Election Day

In accordance with standard 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 as well as tabulation in some constituencies.

In the polling stations visited, the voting process was calm despite occasional overcrowding. All visited polling stations opened on time, and voting proceeded uninterrupted.⁷⁰ PEC members were generally knowledgeable about specific tasks and responsibilities and the PECs were equipped with all necessary materials. Many polling stations visited by the ODIHR LEOM were too small to

⁶⁶ Section 3.3.g of the [Code of Good Practice](#) suggests a period of three to five days for filing and reviewing appeals.

⁶⁷ For example, KO representatives filed complaints to the local prosecutor and the election commissioner regarding campaigning by the Minister of Justice, who is also a PiS candidate, in the city hall of Zamość on 4 September. *Konfederacja* complained to the election commissioner in Poznań about the distribution of poster space in the city and the in-kind contribution to the PiS campaign by the public media. Both complaints remain unaddressed.

⁶⁸ Paragraph 5.10 of the [1990 OSCE Copenhagen Document](#) requires everyone to “have an effective means of redress against administrative decisions.” [UN CCPR General Comment 31](#) to ICCPR refers to the “obligation to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies.”

⁶⁹ Citizen observers must present a letter from their nominating organization to the PEC on election day.

⁷⁰ The NEC reported on the morning of election day that all polling stations opened, including two that were relocated the day prior due to fires in the buildings.

accommodate the number of assigned voters in an orderly way, especially given the high turnout rate.⁷¹ Recent amendments to the Election Code increased the maximum size of a precinct from 3,000 to 4,000 inhabitants, contrary to a prior ODIHR recommendation. Additionally, the arrangements in the vicinity and layout of many polling stations visited by the ODIHR LEOM did not allow for independent access by persons with physical disabilities or limited mobility.⁷²

Despite new requirements introduced in the Election Code and in NEC instructions, and contrary to international standards, many of the PECs visited by the ODIHR LEOM did not enforce the secrecy of the vote.⁷³ While voting booths or tables with voting screens were available in all visited polling stations, inadequate positioning of the screens or layout often compromised secrecy. Many voters opted to mark their ballot in the open or in groups, and numerous instances of family voting were observed.

Throughout the day, the NEC provided regular updates on voter turnout per constituency and polling stations, as well as election-related incidents. A small number of violations, mostly related to breaking the electoral silence and the destruction of campaign materials, were reported by the NEC.

The counting process in visited PECs was conducted in a transparent manner, but a few procedural errors were noted. Law requires that the protocol be posted at the polling station, and ODIHR LEOM observed that this was followed in the polling stations where the count was witnessed. The NEC reported the preliminary voter turnout at 61 per cent and published preliminary results disaggregated by polling station throughout election night, further enhancing transparency.

⁷¹ Many PECs reported that voters often arrived in large groups after attending mass or social engagements.

⁷² For example, the placement of voting booths often could not accommodate a person in a wheelchair. The dimensions of the ballot box also complicated accessibility.

⁷³ Paragraph 7.4 of the 1990 OSCE Copenhagen Document commits participating States to “ensure that votes are cast by secret ballot or by equivalent free voting procedure”. See also Article 25 of the ICCPR and Article 3 of the ECHR.

MISSION INFORMATION AND ACKNOWLEDGEMENTS

Warsaw, 14 October 2019 – This Statement of Preliminary Findings and Conclusions is the result of observation by the Limited Election Observation Mission (LEOM) deployed by the OSCE Office for Democratic Institutions and Human Rights (ODIHR). The assessment was made to determine whether the elections complied with OSCE commitments, other international obligations and standards for democratic elections, and with national legislation.

Ambassador Jan Petersen is the Head of the ODIHR LEOM, deployed from 10 September. The ODIHR LEOM includes ten experts in the capital and ten long-term observers deployed throughout the country. Observers were drawn from 14 OSCE participating States.

ODIHR has endorsed the 2005 Declaration of Principles for International Election Observation. 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 tabulation of results and the handling of possible postelection day complaints and appeals. ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the electoral process.

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