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**The Reform of the State According to Law and Justice
and the Civic Coalition in the Election Programmes
of the Parliamentary Elections in 2019**

Keywords: parliamentary elections, political parties, programmes, state, state system

Słowa kluczowe: wybory parlamentarne, partie polityczne, programy, państwo, ustrój państwa

Abstract

The article analyzes the election programmes of the two largest political parties in Poland, namely, Law and Justice and the Civic Platform (Civic Coalition) from the 2019 parliamentary elections, referring to the proposals of these parties to change the functioning of the state, in particular the scope of legislative, executive and judicial power. The conclusion summarizes the presented programme proposals, considering whether their implementation would be possible under the current political conditions.

Streszczenie

**Reforma Państwa według Prawa i Sprawiedliwości
oraz Koalicji Obywatelskiej w programach wyborczych
z wyborów parlamentarnych w 2019 r.**

W artykule dokonano analizy programów wyborczych dwóch największych partii politycznych, czyli Prawa i Sprawiedliwości oraz Platformy Obywatelskiej (Koalicja Obywatelska) z wybo-

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rów parlamentarnych w 2019 roku odnosząc się do propozycji tych partii dotyczących zmiany funkcjonowania państwa, w szczególności zakresu władzy ustawodawczej, wykonawczej i sądowniczej. W zakończeniu podsumowanoprezentowane propozycje programowe z uwzględnieniem tego, czy ich wprowadzenie było możliwe w obecnych warunkach politycznych.

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I. Introduction

On October 13, 2019, another parliamentary election was held in Poland. Based on the provisions of the Constitution of the Republic of Poland of April 2, 1997, and in particular Art. 98, para. 2: “Elections to the Sejm and Senate shall be ordered by the President of the Republic no later than 90 days before the expiration of 4 years from the beginning of the term of office of the Sejm and Senate, setting the election as a day off, falling within 30 days before the expiration of 4 years from the beginning of the term of office of the Sejm and Senate”².

Moreover, according to the Art. 98, para. 1 of the Constitution of the Republic of Poland, the four-year terms of office of the Sejm and the Senate “start on the day the Sejm meets for the first meeting and last until the day preceding the day the next term of office of the Sejm meets”³. As indicated by Wiesław Skrzydło, the President may call inaugural sessions of the Sejm and Senate on the same day or, for example, call the first session of the Senate on the day following the session of the Sejm. If such a situation occurs, it does not affect the date of the beginning of the new parliament’s term of office, because in this case the date of the first meeting of the newly elected Sejm counts⁴. This should be understood as the subordination of the term of the Senate to the term of the Sejm, therefore elections to the first and second chamber of parliament are held on the same day⁵. President An-

² Art. 98 (2) Constitution of the Republic of Poland of 2 April 1997 (Dz.U. No. 78, item 483), further: [Constitution of the Republic of Poland]; W. Skrzydło, *Ustrój polityczny RP w świetle Konstytucji z 1997*, Warsaw 2009, p. 127.

³ Art. 98 (1) Constitution of the Republic of Poland.

⁴ W. Skrzydło, *Konstytucja Rzeczypospolitej Polskiej – Komentarz, komentarz do art. 98 Konstytucji RP*, Warsaw 2013, p. 121; J. Marszałek-Kawa, D. Plecka (eds.), *Dictionary of Political Knowledge*, Toruń 2019.

⁵ L. Garlicki, *Polskie prawo konstytucyjne – zarys wykładu*, Warsaw 2010, p. 204.

drzej Duda after the 2019 parliamentary elections decided that the first meeting of the Sejm and Senate will be held on the same day, which was November 12, 2019⁶.

An important issue in the parliamentary elections is the barrier clause, i.e. exceeding the threshold of 5% or 8% of the valid votes cast required by the Electoral Code. It depends on whether a given political grouping is running as a committee or an electoral coalition in parliamentary elections⁷. In the October 13, 2019 parliamentary elections, the Law and Justice Party (org. *Prawo i Sprawiedliwość* – PiS) voted 43.59% of the vote, which translated into 235 seats, and the Civic Coalition PO .N IPL Green (org. *Koalicja Obywatelska* – KO) voted 27.40% of the vote, which gave 134 seats⁸.

The aim of the article is to verify the research hypothesis that the election programmes PiS and KO were a negation of the proposals of political opponents. In order to verify the hypothesis the article answers the following research question: 1) were they qualitatively new proposals compared to the previous years?; 2) what were they about?; 3) what methods were they intended to bring about their implementation?

A content analysis was used to present the programme assumptions of PiS and KO and an institutional-legal analysis to discuss individual articles of the Polish Constitution and Electoral Code.

II. State Reform in the Law and Justice Programme

The parliamentary election held on 13 October 2019 was won by Jarosław Kaczyński's grouping, which gained a parliamentary majority of 235 seats⁹.

⁶ Home page of the Chancellery of the President of the Republic of Poland, *W przyszłym tygodniu Prezydent formalnie zwoła pierwsze posiedzenia Sejmu i Senatu*, <https://www.prezydent.pl/kancelaria/aktywnosc-ministrow/art,1917,w-przyszlym-tygodniu-prezydent-formalnie-zwoła-pierwsze-posiedzenia-sejmu-i-senatu.html> (18.08.2020).

⁷ Art. 196 (1) (2) of the Act of 5 January 2011, Electoral Code (Dz.U. No. 21, item 112); G. Kryszewski, *Prawo wyborcze do parlamentu. Status prawny posłów i senatorów*, [in:] *Prawo konstytucyjne*, ed. M. Grzybowski, Białystok 2009, p. 189.

⁸ Home page of the National Election Commission, *Wybory do Sejmu i Senatu Rzeczypospolitej Polskiej 2019*, <https://sejmsenat2019.pkw.gov.pl/sejmsenat2019/pl/wyniki/sejm/pl> (17.08.2020).

⁹ Ibidem.

It should be noted that the politicians of Solidary Poland – Zbigniew Ziobro’s party (org. *Solidarna Polska*) and Jarosław Gowin’s Agreement (org. *Porozumienie Jarosława Gowina*) – took part in the list of this political party¹⁰.

On September 7, 2019, in Lublin, the party’s programme convention took place, during which the party’s most important politicians, such as PiS President J. Kaczyński, Prime Minister Mateusz Morawiecki and MEP Beata Szydło, presented the main programme assumptions. In the parliamentary elections in 2019, PiS proposed a programme entitled “Polish model of the welfare state”¹¹. As it was noted in it, by winning the 2015 elections, PiS had to definitely change the way of governing the state as practiced by the government of the Civic Platform (org. *Platforma Obywatelska* – PO) and the Polish People’s Party (org. *Polskie Stronnictwo Ludowe* – PSL) by rejecting the “system of late post-communism”, determinism and social engineering as a certain way to establish communication with the public. Moreover, it was noted that the coalition government of the PO-PSL wanted to shape the composition of the Constitutional Tribunal in such a way as to block legislative changes in the government of the United Right¹².

The Law and Justice programme of 2019, in the context of the state reform, summarized the period of government from 2015–2019. It emphasized that the government administration was reorganized by strengthening the Prime Minister’s position “both in terms of administration, decision-making and in the context of shaping state ownership policy toward subordinate entities, including companies with Treasury shareholding, which have an impact on the significant economic development of the state. The Chancellery

¹⁰ [b.a.], *Ziobro ma w Sejmie 17 posłów. Gowin 18*, rp.pl, <https://www.rp.pl/Polityka/191019607-Ziobro-ma-w-Sejmie-17-poslow-Gowin---18.html> (18.08.2020).

¹¹ [b.a.], *Konwencja programowa PiS w hali Globus w Lublinie. „Hat Trick Kaczyńskiego”. Premier Morawiecki obiecał sto obwodnic*, dziennikwchodni.pl, <https://www.dziennikwchodni.pl/polityka/konwencja-programowa-pis-w-hali-globus-w-lublinie-jaroslaw-kaczynski-i-nowe-propozycje-przed-wyborami,n,1000250143.html> (18.08.2020); Home page of the Law and Justice party, *Program Prawa i Sprawiedliwości 2019 – Polski model państwa dobrobytu*, <http://pis.org.pl/aktualnosc/program-prawa-i-sprawiedliwosci> (18.08.2020).

¹² M. Tyrała, *Wpływ postulatów programowych na sukces wyborczy – na przykładzie partii: PiS, PO, ZL w wyborach parlamentarnych w Polsce w 2015 roku*, “Środkowoeuropejskie Studia Polityczne” 2018, No. 1, p. 67; Home page of the Law and Justice party, *Program Prawa i Sprawiedliwości 2019...*, pp. 34, 37.

of the Prime Minister was made the central center for the essence of government policy implementation, and was given additional substantive and managerial powers¹³. Among the changes that took place in the Chancellery of the Prime Minister one should mention the return to the office of the Minister Coordinator of Special Services and the establishment of the Centre for Strategic Analysis. In addition, new ministries such as the Ministry of Energy, the Ministry of Maritime Economy and Inland Navigation, the Ministry of Investment and Development, the Ministry of Entrepreneurship and Technology were established, and the Ministry of the Interior and Administration was returned to the Ministry in exchange for the Ministry of Administration and Digitization operating under the PO-PSL. Moreover, it was emphasized that one of the most important promises of PiS, the reform of the justice system, including the Constitutional Tribunal and the Supreme Court, in which two new chambers were established, have been fulfilled. The new law enforcement agencies were established, including the Disciplinary Reform, as well as the Extraordinary Control and Public Affairs Reform, while at the request of President Andrzej Duda an appeal, i.e. an emergency complaint, was introduced. The ruling party also decided to merge the offices of the Minister of Justice and the General Prosecutor¹⁴.

On September 28, 2019 J. Kaczyński said at the convention in Zielona Góra that if PiS reaches a constitutional majority, the party will be able to introduce changes in the state of a systemic character¹⁵. However, as the President of the PiS party in Zielona Góra explained, the political changes also referred to a “certain social mechanism that functions in the society, which separates various kinds of goods, from material goods to cultural goods, and finally prestige, and how individual people and social groups are treated”¹⁶.

The changes proposed by PiS in the election programme for the 2019–2023 term included strengthening the Prime Minister’s position in the context of

¹³ Home page of the Law and Justice party, *Program Prawa i Sprawiedliwości 2019...*, pp. 44–45.

¹⁴ *Ibidem*, pp. 45–49.

¹⁵ K. Sobczak, *Prezes PiS zapowiada zmiany ustrojowe*, prawo.pl, <https://www.prawo.pl/prawo/program-pis-kaczynski-zapowiada-zmiany-ustrojowe,479969.html> (19.08.2020).

¹⁶ B. Bodalska, *Lider PiS zapowiada zmiany ustrojowe w Polsce*, euractiv.pl, <https://www.euractiv.pl/section/demokracja/news/lider-pis-zapowiada-zmiany-ustrojowe-w-polsce> (19.08.2020).

supervision of individual ministries, and the appointment of the Minister – Head of the Center for Strategic Analysis – was announced. The provincial offices were also to be strengthened by granting them additional powers. The party announced that it will continue the reform of the justice system, including the reform of the criminal law, and in case of obtaining a majority in the 9th term of the Sejm, it would submit a motion to change the content of the Art. 105 para. 2, 3, 5 of the Polish Constitution so that a parliamentarian could, for example, be detained under a decision made at the request of the Attorney General, who will be sent to the Supreme Court. Another change was to be made to the Art. 181 of the Constitution of the Republic of Poland and the statutory regulations “so that the immunity of judges and prosecutors is lifted, subject to a special procedure in case that criminal proceedings are instituted against a judge or prosecutor. Decisions to initiate proceedings will be made by the General Prosecutor, decisions on temporary arrest – the Supreme Court”¹⁷. Law and Justice also announced the implementation of the programme “A simple law, a friendly office” because, according to politicians, “Citizens have the right to expect that communication with the offices will be comprehensible and that the office will be focused on clarifying complex issues and the applicable law”¹⁸.

III. State Reform in the Civic Coalition Programme

The largest opposition party, i.e. the PO, which ran in the parliamentary elections in 2019 as part of the KO of the “Your Poland”, presented during the election convention in Warsaw on September 6, 2019. Party leaders such as Grzegorz Schetyna or the KO candidate for Prime Minister Małgorzata Kidawa-Błońska spoke about the main proposals for changes in Poland¹⁹. As the KO included groups opposed to PiS, the periods of government in 2015–2019

¹⁷ Home page of the Law and Justice party, *Program Prawa i Sprawiedliwości 2019...*, pp. 49–53.

¹⁸ Ibidem, p. 50.

¹⁹ [b.a.], *Konwencja programowa Koalicji Obywatelskiej. „Mamy plan na jutro i na pojutrze”*, polsatnews.pl, <https://www.polsatnews.pl/wiadomosc/2019-09-06/schetyna-wolalbym-mowic-o-siodemce-kidawa-blonskiej-niz-o-szostce-schetyny-dzis-konwencja-ko> (19.08.2020).

were criticized. According to the politicians of the KO, it was a time of breaking the Constitution, the principles of democracy, and the creation of a party state by the rulers²⁰.

KO politicians announced the adoption of the Act of the Renewal of Democracy as a guarantee of rights and freedoms that they believed were being restricted. The Act was also intended to ensure the right to privacy and freedom of assembly “We will pass the Act of Renewal of Democracy, which will not only be a set of laws abolishing all violations of the principles of the democratic state in laws and decisions of the last four years, but will also introduce mechanisms to strengthen the democratic state system and the triple division of power adopted after 1989”²¹. Moreover, KO politicians proposed to adopt a Code of Legislation that would ensure reliability and transparency in the lawmaking process and enable greater involvement of non-governmental organizations, as well as guarantee dialogue between the rulers and citizens on matters of state importance. The groups within the framework of the KO stated in the programme that “breaking the Polish Constitution is a crime of state. We will introduce responsibility for all those who violated the standards of the rule of law”²².

In the “Your Poland” programme, KO politicians criticized the reform of the justice system. Therefore, KO announced the separation of the office of the Minister of Justice and the Public Prosecutor General, as well as the reconstruction of the Constitutional Tribunal and the removal of double judges and the guarantee of independence of the Supreme Court. Further proposals included the transfer of administrative oversight of common courts to the Supreme Court, the popularization of mediation and the transfer of some judicial powers to the registry office or notary and a reduction of court fees. The changes were also to include the National Council of the Judiciary, and the KO, which declared that it would be repulsed and that politicians would not be able to elect judges to it²³.

²⁰ Home page of the Civic Platform, *Program Koalicji Obywatelskiej 2019 – Twoja Polska*, <https://platforma.org/dokumenty/program-koalicji-obywatelskiej> (19.08.2020), p. 9.

²¹ Home page of the Civic Platform, *Program Koalicji Obywatelskiej 2019...*, p. 10.

²² *Ibidem*, p. 12.

²³ *Ibidem*, pp. 10–13.

In addition, KO announced the dissolution of the Central Anti-Corruption Bureau (CBA), and the scope of duties related to the fight against corruption was entrusted to the Police. In 2016, during the PO Convention in Gdansk, Grzegorz Schetyna said: “We will not be allowed to establish a “superintendent police force”, which is conducting operational activities in order to evoke fear and paralyze its political opponents by those currently in power”²⁴. In addition to the elimination of the CBA, the programme also includes the liquidation of Province Offices and the transfer of their scope of competence to Marshal Offices²⁵.

IV. Conclusions

The 2019 parliamentary elections showed two visions of Poland presented by PiS and KO. There is no doubt that a reform requiring a change in the Polish Constitution in the current political conditions is impossible because PiS not only does not have a constitutional majority, but also lacks a simple political consensus that could lead to the consolidation of parliamentary groups and thus lead to systemic changes.

Based on the analyzed PiS and KO election programmes, the hypothesis put forward at the outset has been verified positively. This was demonstrated, among others, by proposals from both parties. Law and Justice decided to combine the functions of the Minister of Justice and the Public Prosecutor General, while the KO announced their separation and return to the model from the period of the PO-PSL rule. Another argument are the proposals concerning the administration of justice and KO’s postulates, which can be read as a negation of PiS’s proposals and an announcement of changes introduced by the rulers in case of KO winning the election. Answering the first and the second question, the proposals presented in the 2019 election programmes in the case of PiS can be considered a continuation of the policy pursued in 2015–2019. In the 2014 programme, PiS announced changes in the Prime Minister’s Chancellery or changes in ministries in the government, as

²⁴ [b.a.], *Platforma Obywatelska chce zlikwidować IPN i CBA*, wprost.pl, <https://www.wprost.pl/kraj/10025484/platforma-obywatelska-chce-zlikwidowac-ipn-i-cba.html> (19.08.2020).

²⁵ Home page of the Civic Platform, *Program Koalicji Obywatelskiej 2019...*, pp. 26, 41.

well as the need to reform the judiciary and the prosecutor's office²⁶, which was continued in the 2019 programme. The ruling party also proposed new solutions involving, among others, the amendment of articles of the Constitution or the appointment of the Minister – Head of the Center for Strategic Analyzes. In the announcements of the leaders of the ruling party, there were also systemic changes that could be implemented, only if a majority was won in the election, which was ultimately not achieved.

In the case of the PO, which in 2015 was a party that tried to win the elections once again through the programme “Poland of the Future”²⁷ and continue its policy, in 2019 the PO (KO), as an opposition group, had to convince voters that it was necessary to change the government, so that the proposals presented in the election programme could be considered qualitatively new compared to previous years. This was due to the fact that the PO (KO) as an opposition focused mainly on the criticism of the rulers, postulating the need to repair the judiciary, which was dictated by the PiS reform, but also presented new proposals such as the Democracy Renewal Act or the Legislative Code.

Answering the third research question, it should be noted that PiS and KO drew attention to the necessity to win parliamentary elections as a necessary condition for the implementation of the election programme or for achieving a parliamentary or constitutional majority. In the case of PiS, which won the elections and obtained a parliamentary majority, it is much easier to implement the election postulates than in the case of the PO (KO), which postulates and bills are lost in parliamentary votes.

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²⁶ Home page of the Law and Justice party, *Program Prawa i Sprawiedliwości 2014 – Zdrowie, Praca, Rodzina*, <http://pis.org.pl/dokumenty?page=2> (29.08.2020), pp. 48, 64; R. Miernik, *Reformy Prawa i Sprawiedliwości – nowy kierunek rozwoju państwa czy skuteczna strategia wyborcza?*, “*Studia Politicae Universitatis Silesiensis*” 2018, vol. 20, p. 110.

²⁷ Programme of the Civic Platform 2015 – *Polska Przyszłości*, <http://www.michalstopka.pl/wp-content/uploads/2015/10/Polska-Przyszlosci-Program-PO.pdf> (19.08.2020).

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