

Dominik Szczepański¹

**The reasons of invalidity of votes in elections
to voivodeship councils in 2014 in the light of the study
of voting papers in the National Archive in Kielce**

Keywords: spoilt votes, municipal elections, voivodeship council, voting papers study

Słowa kluczowe: głosy nieważne, wybory samorządowe, sejmik wojewódzki, badanie kart wyborczych

Summary

The aim of the article is to present results of the study done on voting papers in the National Archive in Kielce, that concerns the phenomenon and reasons of spoilt votes in the elections to voivodeship councils in 2014. 29 electoral districts that included: 10 districts from the Lesser Poland voivodeship, 7 from the Lublin voivodeship, 6 from Subcarpathian voivodeship and 6 from the Holy Cross voivodeship, were subjected to a detailed analysis.

Apart from exact indication of the reasons for spoilt votes in elections to voivodeship councils themselves a detailed classification of those votes was done by dividing them into votes with excessive “x” signs, empty votes, votes with other signs than “x”, votes with multiple “x” signs and strikethroughs, protest votes and the so-called different votes. On this basis a description of regional differentiation of those votes was made. The whole study was done within the framework of the research project “Your vote, your choice”, realized by Stefan Batory Foundation in collaboration with the National Electoral Office, the National Election Commission and the Head Office of the State Archives.

¹ The author is a PhD in Institut of Political Science of the Faculty of Sociology and History of University of Rzeszow. E-mail: dominik1947@tlen.pl.

Streszczenie**Przyczyny nieważności głosów w wyborach
do sejmików województw w 2014 r. w świetle badania
kart wyborczych w Archiwum Państwowym w Kielcach**

Celem artykułu było przedstawienie wyników z przeprowadzonego badania kart wyborczych w Archiwum Państwowym w Kielcach dotyczącego zjawiska i przyczyn głosów nieważnych w wyborach do sejmików województw w 2014 r. Szczegółowej analizie poddano 29 obwodów wyborczych, na które złożyły się: 10 obwodów wyborczych z województwa małopolskiego, 7 z województwa lubelskiego, 6 z województwa podkarpackiego i 6 z województwa świętokrzyskiego.

Oprócz szczegółowego wskazania samych powodów nieważności głosów w wyborach do sejmików województw dokonano szczegółowej klasyfikacji tychże głosów z ich podziałem na głosy z nadmiarowymi znakami „x”, głosy puste, głosy stanowiące inny znak niż „x”, głosy z wieloma znakami „x” i przekreśleniami, głosy protestu i tzw. głosy różne. Na tej podstawie dokonano charakterystyki zróżnicowania terytorialnego tych głosów. Całość badania realizowana była w ramach projektu badawczego pt. „Masz Głos, Masz Wybór” zrealizowanego przez Fundację im. Stefana Batorego we współpracy z Krajowym Biurem Wyborczym, Państwową Komisją Wyborczą oraz Naczelną Dyрекcją Archiwów Państwowych.

✱

I.

The municipal elections held in 2014 raised a series of controversies because of at least several mutually correlated factors. Firstly, the system of electronic counting of votes developed by Nabino company failed, which significantly prolonged the time of waiting for the announcement of the official results by the National Election Commission².

² A direct consequence of the prolonged time of waiting for the election results was resignation of almost all judges of the National Election Commission from the office. This situation also led to arising by Polish President Bronisław Komorowski the issue of stabilizing personal and organisational situation of the Commission; introduction of terms of office of

Secondly, there appeared a quite significant discrepancy between exit poll results, given by IPSOS, and eventually election results, due to which a large number of commentators of the political scene, as well as party leaders argued about “doctored” or “distorted” elections or “irregularities”, “malpractice” and “unreliability” of counting the votes. This discrepancy concerned in particular Polskie Stronnictwo Ludowe (Polish Peasants Party), which noted significantly higher social support in elections to voivodeship councils than it was expected in surveys. Thirdly, after municipal elections in 2014 attention was paid to the relatively high percentage of spoilt votes, which amounted nearly 2,5 million votes, so almost 18% of all the votes casted. As pointed by Adam Gendźwiłł “some commentators related this increase with the change of voting papers, namely their booklet structure”. Which in consequence could contribute to misleading the citizens who came to ballot box to cast votes³. A source of additional confusion that appeared in relation to the analysis of municipal election results in 2014 was the fact of not providing by PWK (National Election Commission) protocols with information about the reasons of spoilt votes as well as their detailed classification. This situation resulted directly from the Election Code that had been in force since 2011, in which the previous duty to provide, detailed information concerning the reasons of spoilt votes in protocols of Precinct Election Commissions was withdrawn, due to which it was not possible to compare these proportions with municipal election results from previous years.

The previously mentioned imponderabilia contributed in 2015 to initiation of the research project “Your vote, your choice”, realised by the Stefan Batory Foundation in collaboration with the National Electoral Office, the National Election Commission and the Head Office of the State Archives. Its originators were 13 experts – political scientists, sociologists and lawyers from the area of electoral issues, who represented academic centres from Warsaw, Cracow, Torun and Wrocław. Among the most important assumptions, that laid the foundation of this project, was getting answers for the following questions: what were the reasons of the high ratio of spoilt votes casted during municipi-

the judges as well as the Commission members, strengthening position of the Commission Head as well as updating the Election Code.

³ A. Gendźwiłł, *Skąd się biorą głosy nieważne w wyborach do sejmików województw?*, “Studia socjologiczne” 2015, No. 4, p. 54.

pal elections in 2014? What influence on the final result of the elections had the new sort of voting papers in a form of a booklet? What actions should be undertaken in future to avoid similar situation?

For the needs of the abovementioned research a special procedure was assumed, according to which election papers from randomly chosen sample of 1000 polling stations from all of 27 435 polling stations in Poland and then 100 electoral districts were chosen at random, that provided material for a detailed study.

The following analysis comprise only a fragmentary sample of all-Poland study of election papers, which was done in the National Archive in Kielce 5–9 October 2015. Altogether, 29 electoral districts from Lublin, Lesser Poland, Subcarpathian and Holy Cross voivodeships were subjected to the study. The body of experts consisted of the employees of the Department of Political Science at the University of Rzeszów: prof. dr hab. Radosław Grabowski, prof. dr hab. Sabina Grabowska, dr Tomasz Koziełło and dr Dominik Szczyński, supported by students associated in Koła Naukowe Politologów (Academic Circle of Political Science) of the University of Rzeszów: Dominik Boratyn, Karol Piękoś, Jacek Sułuja and Damian Wicherek⁴.

The basis for presenting the results of the studies done comprised documents from the National Archive in Kielce, as well as reports prepared by experts from the Stefan Bathory Foundation.

II.

Before one can discuss conclusions of the research on causes of the appearance of spoilt votes during the municipal elections of 2014 based on the analysis of ballots from the National Archives in Kielce, it is important to explain the meaning of what is understood as a spoilt vote⁵.

⁴ A. Gendźwiłł, M. Cześniak, J. Flis, J. Haman, A. Materska-Sosnowska, B. Michalak, P. Pietrzyk, J. Zbieranek, *Nieważne głosy, ważny problem. Wyniki badania kart do głosowania z wyborów do sejmików województw 2014*, Warszawa 2016, p. 13. The document is available also on the website of the foundation: http://www.batory.org.pl/aktualnosci/prezentacja_rapor-tu_niewazne_glosy_wazny_proble-m (15.11.2016).

⁵ P. Śleszyński, *Hipotezy głosów nieważnych w wyborach powszechnych po 1989 r.*, "Prze-strzeń społeczna" 2015, No. 2, pp. 60–90.

Previous rules of carrying out elections in Poland until the end of 2010 were regulated by various legal instruments, starting with the Constitution of the Republic of Poland from 2 April 1997, and followed by multitudinous laws and regulations⁶. They were passed at various times, were often amended, which resulted in limiting their readability and made the whole electoral system inconsequent⁷. It is worth to agree with Andrzej Stelmach that after 1989 we faced three periods of evolution of the voting systems. Those were: 1) the period of searching (1989–1991); 2) the period of alternate stabilization (1993–1997–2001), and 3) the period of concentration (2005–2007)⁸. Only when the Election Code was enacted on 5 January 2011, the methods and conditions of carrying out each of the elections separately was comprehensively regulated⁹. As the source literature points out, the adoption of the single normative act did not entail broader reflection or a deeper analysis of the effective regulations but only led to complication of the foregoing solutions from the previous regulations in one document with simultaneous complementation and modification of the effectual procedures¹⁰.

⁶ Generally, there were separate legal acts. Elections to the Sejm and the Senate of the Republic of Poland were regulated by the Act of 12 April 2001: *Ordynacja wyborcza do Sejmu Rzeczypospolitej Polskiej i do Senatu Rzeczypospolitej Polskiej*, Journal of Laws 2007, No. 190, item 1360 as amended; presidential elections were regulated by the Act of 27 September 1990 *o wyborze Prezydenta Rzeczypospolitej Polskiej*, Journal of Laws 2010, No. 72, item 467 as amended; local self-government elections were regulated by the Act of 16 July 1998: *Ordynacja wyborcza do rad gmin, rad powiatów i sejmików województw*, Journal of Laws 2010, No. 176, item 1190 as amended and by the Act of 20 June 2002: *o bezpośrednim wyborze wójta, burmistrza i prezydenta miasta*, Journal of Laws 2010, No. 176, item 1191. On the other hand, elections to the European Parliament were carried out in accordance to the Act of 23 January 2004: *Ordynacja wyborcza do Parlamentu Europejskiego*, "Journal of Laws" 2004, No. 25, item 219 as amended.

⁷ As Andrzej Antoszewski pointed out: "in every country that carries out elections, there is a need for a system of rules that extensively regulates the right to active and passive participation in those elections, a method of converting the votes into mandates, and control over the correctness of electoral proceeding". The totality of cited norms is generally called the electoral system. Idem, *System polityczny RP*, Warszawa 2012.

⁸ A. Stelmach, *Zmiany prawa wyborczego w Polsce a legitymizacja władzy*, [In:] *Prawo wyborcze i wybory. Doświadczenia dwudziestu lat procesów demokratyzacyjnych w Polsce*, ed. A. Stelmach, Poznań 2010, p. 9 and next.

⁹ The Act of 5 January 2011 – Election Code, Journal of Laws 2011, No. 21 item 112.

¹⁰ D. Sieklucki, *Praktyczne konsekwencje zmian samorządowego systemu wyborczego w Kodeksie wyborczym – uwagi i refleksje na tle wyborów z 2014 roku*, "Polityka i Społeczeństwo" 2015,

Not aspiring in this text to analyze the electoral system of local governments, I would like to concentrate on the phenomenon of spoilt votes and on the major reasons why they appear. The scale of this process is highly diversified, and depends on the type of election. As Arkadiusz Ptak pointed out, after the elections to local governments in 2010, the phenomenon of spoilt votes began to be used as one of the political games¹¹.

The electoral system functioning until 2010 in a clear and articulated way specified in what situations we could say that a vote is spoilt. During the city council elections, where usually the majority or quasi-proportionality rule was applied, a vote was considered to be spoilt if on the ballot one wrote “x” next to the names of more candidates than there were to be chosen in a given district, and where there was no “x” written on the ballot next to any of the candidates’ names. In other local government elections, where the elections were carried out in accordance with the proportionality rule, a vote was considered to be spoilt if on the ballot there was “x” next to the names of more than one candidate from different lists of candidates, and where there was no “x” written next to any of the candidates’ names from the list. Additionally, a vote was considered to be spoilt if the “x” was written next to the name of a candidate who was removed from the list after lists of candidates had been printed.

As it was previously mentioned, in the Act of 2011 (The Election Code), the issue of specifying what was considered to be a spoilt vote was omitted. Only as a result of the events connected with the local governments elections of 2014, the Election Code was amended. The prime conclusion included in the *Opinion on Amendments to the Act – the Election Code (901)* was to “indicate in the protocols prepared by election boards the reasons why given votes were treated as spoilt”¹². Thereupon, there was an agreement that there was a need to introduce regulations which obliged election boards to write in their election protocols next to the number of spoilt votes, the reasons why the

No. 3, pp. 83–84; K. Skotnicki, *Przebieg prac nad kodeksem wyborczym*, [In:] *Kodeks wyborczy. Wstępna ocena*, ed. K. Skotnicki, Warszawa 2011, p. 33.

¹¹ A. Ptak, *Głosy nieważne w elekcjach samorządowych*, “Preferencje Polityczne” 2012, No. 4, p. 58.

¹² *Opinia do ustawy o zmianie ustawy – Kodeks wyborczy (druk nr 901)*, Warszawa 25.05.2015, p. 2.

votes were considered to be spoiled. In the amended Act in chapter 5 concerning the methods of voting and the requirements for validity of a vote, it was stated that a vote is spoiled if on the ballot one wrote “x” in the square on the left next to the name of more than one candidate from different lists of candidates, and where there was no “x” written next to the name of any of the candidates. Moreover, a vote is considered to be spoiled if there is “x” written in the square next to the name of a candidate whose registration has been annulled.

III.

Focusing on the results of the research on the ballots from the voting district elections it is necessary to point out that in 29 voting districts that were analyzed, there was over 2000 spoiled votes in total. According to the protocols of precinct election boards, there was 2336 spoiled votes, however, according to the research, there were only 2188 spoiled votes. The indicated ratio which in total amounted to 148 votes varied from province to province. In Lublin Province, the protocols from the precinct election boards showed 521 spoiled votes, but the research found only 489. In the Lesser Poland voivodeship the protocols stated that there were 900 spoiled votes, while the research found 871. Next, in the Subcarpathian voivodeship according to the precinct election boards there were 342 spoiled votes, while the researched found 337. The ratio of spoiled votes in the Holy Cross voivodeship according to the protocols of the precinct election boards was 573, and according to the calculations of the researchers, there were 82 spoiled votes less, so in total there were 491 spoiled votes. The data is presented in detail in Table 1.

The most interesting research problem was to find the reason behind such a big number of spoiled votes in the analyzed voting districts. Of course, determining the reason why votes were spoiled did not give us reliable information about the intention of the voter. As the authors of the final report about the Polish-nationwide ballot examination pointed out, it was generally assumed that blank ballots were an act of intentional non-voting, and were treated as a manifestation of the alienation of the citizens, who, not knowing who to vote for, submitted ballots with the surplus of marked squares, which was either a result of a mistake made by a voter or of the incorrect information a voter

Table 1. The number of spoiled votes in the studied provinces

Studied voivodeship	Number of examined voting districts	Number of spoiled votes according to the research	Number of spoiled votes according to PWK protocol
Lublin	7	489	521
Lesser Poland	10	871	900
Subcarpathian	6	337	342
Holy Cross	6	491	573
TOTAL:	29	2188	2336

Source: own elaboration based on the analysis of the material from the precinct election boards submitted to the National Archives in Kielce.

received about the methods of voting¹³. From the example presented above it was difficult to univocally determine what were target intentions of voters and what obstacles voters faced that prevented them from successful and correct way of expressing them. In the past, there were many cases of intentional spoiled voting by writing on the ballot various comments or notes. Other examples of such behavior were for example: not checking any of the candidates' names, crossing out names or crossing out the whole list of candidates¹⁴.

When it comes to voting techniques in Poland, it is worth pointing out that we have a rather strict method of voting that relies on picking one of the candidates by writing "x" in the square next to his or her name. In reality, one could note creativity in the way the voters vote, namely, in writing symbols different than "x". Even though the intention was clear, in the official context it was often considered to be a spoiled vote.

Due to this fact, within the framework of the "Your Vote, Your Choice" program the spoiled votes were classified in detail. In such a way the following were distinguished: ballots with multiple crosses – ballots that had multiple crosses only in the squares (i.e. voting for multiple candidates); empty ballots – it is a type of ballots where the voter decided not to write "x" or any other symbol next to the name of any of the candidates; other symbol – writ-

¹³ A. Gendźwił, M. Cześnik, J. Flis, J. Haman, A. Materska-Sosnowska, B. Michalak, P. Pietrzyk, J. Zbieranek, *Nieważne głosy...*, pp. 63–64.

¹⁴ *Ibidem*, p. 64.

Table 2. Reasons behind the invalidity of votes from provincial elections of 2014 in the light of research on ballots in the National Archives in Kielce

Studied voivodeship	Multiple crosses	Blank ballots	Other symbol	Other	Ballot with multiple symbols in the squares or with crossing outs	Protest ballots
Lublin	231	236	11	7	4	-
Lesser Poland	367	472	18	2	7	5
Subcarpathian	148	171	5	4	9	-
Holy Cross	324	145	13	-	3	6
TOTAL:	1070	1024	47	13	23	11
	2188					

Source: Own elaboration based on the analysis of the material from the precinct election boards submitted to the National Archives in Kielce.

ing other, so called illicit symbols (other than “x”); ballots with multiple symbols in the squares or ballots with crossing outs – writing on the ballot multiple crosses or other symbols in the squares or other places that often express creativity of voters (comments, doodles); other – this category is understood as more than one reason of invalidity of a vote (i.e. multiple symbols other than “x” written in the squares or in other places), and the so called protest ballots – ballots that have one or more names crossed out, or even the whole list of candidates is crossed out, or comments and drawings that tend to indicate an act of protest¹⁵.

From the research of ballots from the National Archives in Kielce it could be concluded that the biggest number of spoiled votes was connected with writing multiple crosses on the ballot and with submitting empty ballots, and there was a visibly smaller number of ballots with different symbols, multiple symbols in the square or outside it, and crossing outs, other ballots and protest ballots. Noting the territorial diversity of submitting spoiled votes (see Table 2), it is necessary to point out that most of them could be found in Lesser Poland voivodeship, where there were 472 empty ballots, 367 multiple “x” ballots, 18 ballots with other symbol than “x”, 7 ballots with multiple “x” and crossing outs, 6 protest

¹⁵ Ibidem.

ballots and 2 so called other ballots. The second when it comes to the number of spoiled votes is the Holy Cross voivodeship, where there were 145 empty ballots, and almost twice as many ballots with multiple crosses (324), and also 13 ballots with other symbols, 6 protest ballots and 3 ballots with multiple symbols in the squares and outside them or with crossing outs.

On the other hand, in Lublin voivodeship there was a small difference between the number of ballots with multiple crosses and empty ballots. The ratio was 231 to 236, and here it is necessary to point out that in the analyzed voting districts from the area there were no protest ballots. However, there were 11 ballots classified as other symbol, 7 other ballots and 4 ballots with multiple symbols in the square or outside it and with crossing outs. On the other hand, in the Subcarpathian voivodeship there were 148 ballots with multiple crosses, 171 ballots, 9 classified as ballots with multiple symbols in the square or outside it and with crossing outs, 6 belonging to other symbol category, and 4 other ballots. The research of the ballots from this province did not find any protest ballots.

IV.

The conclusion that emerges from the study of 29 precinct election boards complies with the thesis presented by the experts from the Stefan Batory Foundation, according to which one of the two most important reasons of the invalidity of votes in the provincial assembly elections of 2014 was writing more than one “x” symbols on the ballots in the squares next to the names of candidates from various lists¹⁶. The number of such ballots was as many as 1070. The second important reason of invalidity of votes, similarly like in the elections of 2006 and 2010, was submitting blank ballots, which meant the lack of choosing a candidate. In the case of analyzed provinces, the number of empty ballots was 1024. In the case of other reasons for invalidity of votes which are classified as a symbol other than “x”, ballots with multiple symbols in the squares or with crossing outs, other ballots treated as more than one reason of invalidity, e.g. multiple symbols other than “x” written in the squares or outside them, and the protest votes distinguished by, for example crossing out the name or the whole list of candidates, there had only a very small influence on the growth of the total number of spoiled votes.

¹⁶ Ibidem, p. 85 and next.

Focusing on the two biggest reasons of invalidity of votes from the provincial assembly elections of 2014, one could come up with a few important conclusions. Firstly, the citizens participating in the voting wrote “x” on every list, and as the research showed, at least a few “x” symbols on the same list. It was caused by the lack of sufficient information concerning the voting techniques or confusing voting instructions provided by the National Election Commission, or it was conscious and intentional act of the voter, who in such a way wanted to show that he or she participates in the voting process with the intention of submitting a spoiled vote.

Secondly, because of such a great number of blank ballots it was difficult to make a synthetic and substantive analysis since the empty ballots turned out to be material that had a lot of unknown factors. On that basis, one could only form hypothesis relating for example to the tradition of voting. The citizens who put their ballots into the ballot box presented the interest only in the organs elected directly in their town. Generally, those were: president, vogt, mayor, less often the city council, town council and powiat council. The provincial assembly was in the last place. It was mostly caused by the lack of interest and understanding of the role and duties of the organ, and treating it as a distant and shady institution.

Third, submitting spoiled votes could also function as an act of disapprobation of the current polity, the politicians themselves and their parties, showing disappointment of social, political and economic situation of the country, or could be caused by discontent connected with the situation present in the town the voters live. Regardless of the reasons mentioned here concerning spoiled votes, it would be difficult to start divagations concerning intentional and unintentional voting behaviors of citizens, which in accordance with their mood, personal political beliefs and many other factors, eventually influenced them to participate in voting.

Literature

- Antoszewski A., *System polityczny RP*, Warszawa 2012.
- Gendźwił A., *Skąd się biorą głosy nieważne w wyborach do sejmików województw?*, “Studia socjologiczne” 2015, No. 4.
- Gendźwił A., Cześnik M., Flis J., Haman J., Materska-Sosnowska A., Michalak B., Pietrzyk P., Zbieranek J., *Nieważne głosy, ważny problem. Wyniki badania kart do głosowania z wyborów do sejmików województw 2014*, Warszawa 2016.

- Ptak A., *Głosy nieważne w elekcjach samorządowych*, "Preferencje Polityczne" 2012, No. 4.
- Sieklucki D., *Praktyczne konsekwencje zmian samorządowego systemu wyborczego w Kodeksie wyborczym – uwagi i refleksje na tle wyborów z 2014 roku*, "Polityka i Społeczeństwo" 2015, No. 3.
- Skotnicki K., *Przebieg prac nad kodeksem wyborczym*, [In:] *Kodeks wyborczy. Wstępna ocena*, ed. K. Skotnicki, Warszawa 2011.
- Stelmach A., *Zmiany prawa wyborczego w Polsce a legitymizacja władzy*, [In:] *Prawo wyborcze i wybory. Doświadczenia dwudziestu lat procesów demokratyzacyjnych w Polsce*, ed. A. Stelmach, Poznań 2010.
- Śleszyński P., *Hipotezy głosów nieważnych w wyborach powszechnych po 1989 r.*, "Przestrzeń społeczna" 2015, No. 2.