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The Institution of Election Silence in Political Preferences

Keywords: election silence, elections, electoral campaign, political preferences

Słowa kluczowe: cisza wyborcza, wybory, kampania wyborcza, preferencje polityczne

Abstract

Election silence is the time when any form of political campaigning is banned. It is the time that should be spent on peaceful reflection before making a conscious and well-thought electoral decision. The aim of this paper is to seek the answer to the question whether Polish voters – in the era of development of modern information and communication technologies – find it rational to have the institution of election silence as an element of the electoral system. In the article, I present the findings of the study carried out as part of a nationwide project, *Political Preferences*. The research was conducted in autumn 2019 by way of a survey method on the representative random sample of 1,072 adult residents of Poland.

Streszczenie

Instytucja ciszy wyborczej w preferencjach politycznych

Cisza wyborcza to czas, w którym zakazana jest jakakolwiek forma agitacji politycznej. Jest to czas, który ma służyć spokojnej refleksji, zastanowieniu, pozwalający na podjęcie świadomej i przemyślanej decyzji wyborczej. Celem niniejszego artykułu jest próba

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udzielenia odpowiedzi na pytanie, czy zdaniem polskich wyborców w dobie rozwoju nowoczesnych technologii informacyjnych i komunikacyjnych racjonalne jest utrzymanie takiego elementu systemu wyborczego jak instytucja ciszy wyborczej. W artykule przedstawiono wyniki badania przeprowadzonego w ramach ogólnopolskiego projektu *Political Preferences*. Badanie przeprowadzono jesienią 2019 r. w wykorzystaniem metody ankietowej na liczącej 1072 osób reprezentatywnej próbie losowej dorosłych mieszkańców Polski.

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I.

The institution of election silence² has been the subject of lively debate for years. Electoral law experts, as well as politicians, journalists and citizens, raise a question whether – in the age of the Internet and social media – election silence should be upheld since it is actually very difficult to enforce in practice. Before I present the results of the nationwide questionnaire survey conducted in 2020 within the framework of the project entitled *Political Preferences*, it is worth quoting a few electoral law researchers' views on this issue. The aim of this paper is to seek the answer to the question whether Polish voters – in the era of development of modern information and communication technologies – find it rational to have the institution of election silence as an element of the electoral system.

Election silence is the time when any form of political campaigning is banned. It is the time that should be spent on peaceful reflection before making a conscious and well-thought electoral decision. As Marcin Zaborski rightly points out, election silence does not have a universal character – the objective, subjective, time, territorial and penal scope of this institution may vary³. What is more, in many democratic countries, lawmakers did not introduce

² For more details see: M.M. Wiszowaty, *Instytucja ciszy wyborczej – geneza, regulacja prawna, ratio existendi*, "Studia Wyborcze" 2012, vol. 14, p. 8.

³ M. Zaborski, *Strażnik demokracji czy relikwiarz przeszłości? Dyskusje nad zasadnością stosowania ciszy wyborczej*, "Political Preferences" 2013, no. 7, pp. 26–26. See also: M.M. Wiszowaty, *op.cit.*, p. 31.

this institution. For example, campaign silence is absent in the electoral laws of Germany or the USA.

According to the authors of "*Leksykon prawa wyborczego i systemów wyborczych*", election silence is defined as "the time -provided by the law – which begins before the voting day (then it is also referred to as pre-election silence) or at the beginning of voting and lasting until its end"⁴. B. Michalak indicates that election silence should serve the purpose of calming and cooling, controlling emotions and moods both among the candidates and the voters⁵.

In the Polish electoral law, the legislator did not include the legal definition of the institution of election silence. It was defined in the provisions of the Electoral Code of January 5, 2011 (EC)⁶. Under art. 104 of the EC, "an electoral campaign begins on the day the competent authority calls an election and ends 24 hours before the voting day." During this time, political campaigning in legally accepted forms is allowed. According to the EC⁷, election silence applies for parliamentary, presidential and local elections, and for elections to the European Parliament. Under the binding law and jurisprudence, what is considered to be the violation of election silence are, among others, publishing pre-election polls, putting up posters, broadcasting election programmes, and activity in social media and the broadly defined Internet, i.e., uploading and sharing posts, liking and commenting politicians' profiles, secretly publishing polls, e.g., through the use of vegetable (*bazarek*⁸) or sports code. The violators of election silence will be fined. Under art. 500 of the EC, in the period from the end of the electoral campaign to the end of voting, the publishing of pre-election polls concerning the predicted voters' behaviours or the forecasts of election results, or the results of election polls conducted on the voting day are subject to a fine of 500,000–1,000,000 zlotys⁹.

⁴ B. Michalak, A. Sokala, *Leksykon prawa wyborczego i systemów wyborczych*, Warsaw 2010, p. 20; B. Michalak, *Czy polski model ciszy wyborczej wymaga zmiany?*, "Przegląd Prawa Konstytucyjnego" 2017, no. 3 (37), p. 9.

⁵ B. Michalak, *op.cit.*, p. 12.

⁶ Act of January 5, 2011, Election Code (cons. text Dz.U. 2020, item 1319, as amend.).

⁷ See: K. Czapliski, B. Dauter, S. Jaworski, A. Kisielewicz, F. Rymarz, J. Zbieranek, *Kodeks wyborczy. Komentarz*, Warsaw 2018.

⁸ See: A. Borkowska-Minko, *Ograniczenia prawne agitacji wyborczej ze szczególnym uwzględnieniem sądowego trybu wyborczego*, Białystok 2020, p. 116.

⁹ Art. 500 of EC.

The institution of election silence is referred to in § 1 art. 107 Kw, under which “on the voting day (*election silence*) and within 24 hours before this day (*pre-election silence*), it is forbidden to run political campaigning, including organizing rallies, making speeches and distributing election materials.” In line with §2 of the quoted article, “it is forbidden to try to convince people to vote on a specific candidate at a polling station or in the building where the polling station is located.” By political campaigning forbidden during election silence we mean publicly influencing voters’ decision, encouraging them to make specific choices or discouraging them from making other decisions. It should be pointed out that the publication of a retraction, a response or an apology is a legally accepted exception from the restriction stipulated by art. 107 (art. 111 of the EC).

In the justification of its order of July 31, 2020, the Supreme Court stated: “During election silence, any political campaigning is strictly forbidden at a polling station or in the building where the polling station is located; a violation of this ban is subject to criminal sanctions (see. Art 494 of the EC and art. 498 of the EC). The reason behind the regulation introducing the ban on political campaigning in a statutory period is that voters should have time to think over their electoral decision and reflect on the significance of the voting act and emotions accompanying an intense pre-election campaign should be calmed down”¹⁰.

The institution of election silence has been present in the Polish electoral law for years¹¹. Public opinion polls show that this concept is strongly rooted in voters’ awareness¹². The Polish regulations related to election silence, however, seem to be lagging behind newly created information channels and the imaginativeness of campaigns, politicians and voters themselves. The arising difficulties in the interpretation of the existing principles – as Agata Pyrzyńska points out – “are thus settled in the non-regulatory sphere, through the case

¹⁰ The order of the Supreme Court, I NSW 4032/20, <https://sip.lex.pl/orzeczenia-i-pisma-urzedowe/orzeczenia-sadow/i-nsw-4032-20-postanowienie-sadu-najwyzszego-523131527>; Supreme Court judgment of February 18, 1947, K 2251/46, “Państwo i Prawo” 1948, no. 2, p. 149, Public campaigning – when it is done in the place available for the whole society, in the conditions enabling “people to make a conscious choice.”

¹¹ See: art. 64 of the Decree of the Head of State on the electoral legislation to the Legislative Sejm of November 28, 1918 (Dz.U. 1918, No. 18, item 46).

¹² B. Michalak, *op.cit.*, p. 26.

law of courts, the doctrine, or, sometimes, by the National Electoral Commission (pol. *Państwowa Komisja Wyborcza* – PKW)¹³.

Nowadays, as new media have developed, the opponents of election silence are increasingly often undermining the point of its existence¹⁴, providing numerous examples of floating it (see, for example: comments and opinions on politicians' blogs, chats, communicators, or crypto-campaigning in the form of pro-turnout campaigns¹⁵). It is emphasized that the development of modern information and communication technologies affects the efficacy of the existing legal regulations in this respect, limiting or even preventing their full implementation¹⁶. A. Pyrzyńska raises another significant argument for the illusory character of election silence in this present form – there seems to be no point maintaining this tool since the materials introduced to public space during the electoral campaign may be still there also during the voting¹⁷. What is more, as Magdalena Musiał-Karg indicates, temporal restrictions, particularly bans on political campaigning, are seen as the violation of the right to freedom of expression¹⁸, thus being the action inconsistent with the provisions of democratic states' constitutions¹⁹.

On the other hand, the advocates of this institution quote the arguments of the necessity of ensuring conditions for voters in which they could rationally make their electoral choice without any external pressure. They perceive election silence as a tool strengthening the principle of free elections, as an element preventing harmful disinformation, limiting the flow of fake news and minimiz-

¹³ A. Pyrzyńska, *Cisza wyborcza w Internecie. Argumenty za i przeciw*, "Refleksje. Pismo naukowe studentów i doktorantów WNPiD UAM" 2016, no. 14, p. 133.

¹⁴ See: Ł. Buczkowski, *Uwagi w sprawie propozycji zmian Kodeksu wyborczego*, "Przegląd Prawa Konstytucyjnego" 2018, no. 3 (43), pp. 120–128, P. Kowalczyk, C. Gmyz, *Cisza wyborcza psuje demokrację?*, <http://www.rp.pl/arttykul/316207.html> (2.11.2011).

¹⁵ A. Rakowska-Trela, *Kampania wyborcza w regulacji prawnej i w praktyce*, Łódź 2015, p. 119.

¹⁶ G. Kryszewski, *Standardy prawne wolnych wyborów parlamentarnych*, Białystok 2007, p. 186.

¹⁷ A. Pyrzyńska, *op.cit.*, p. 142.

¹⁸ See: art. 54 sec. 1 of the Constitution of the RP of April 2, 1997: "The freedom to express opinions, to acquire and to disseminate information shall be ensured to everyone" (Dz.U.No. 78, item 483, as amend.).

¹⁹ M. Musiał-Karg, *Cisza wyborcza w dobie Internetu*, "Przegląd Sejmowy" 2013, no. 3 (113), p. 32.

ing the negative effects of cyberattacks and controlled information leaks during the campaign – especially shortly before the voting day, when citizens do not have time to verify them and candidates cannot defend themselves effectively²⁰.

It is also worth quoting B. Michalak, who believes that the institution of election silence is politically and socially important. Therefore, its imperfections do not have to mean that there are no reasons for maintaining it today²¹. Ryszard Balicki and Karolina Piech rightly point out that the existing regulations concerning election silence need clarifying to be fully implemented. In the era of new media, the legislator should precisely identify the behaviours which are acceptable and those which constitute the violation of election silence and, thus, are subject to criminal liability²².

The debate on election silence is fuelled by new proposals of the electoral law reform in this respect. One example was the draft act abolishing election silence, which was submitted to the Sejm of the RP on January 13, 2016²³. It was prepared by deputies of the Modern party²⁴. As the justification of the new regulation, they argued that the existing electoral law “must be adapted to deep changes in voters’ behaviours, stemming from changes in social relations and the development of electronic media.” The Modern’s draft act abolished the bans on: “1. political campaigning on the day preceding elections and referenda and on the day of elections and referenda outside polling stations; 2. publishing election and referendum polls or public opinion surveys concerning voters’ behaviours on the day preceding elections and referenda.” However, the authors of the proposal stuck to “the ban on political campaigning related to elections and referenda at a polling station and in the building

²⁰ Ł. Olejnik, *Cisza wyborcza lekiem na dezinformację*, 15.10.2020, <https://www.gazetaprawna.pl/wiadomosci/artykuly/1493530,lukasz-olejnik-cisza-wyborcza-lekiem-na-dezinformacje-opinia.html> (15.09.2021).

²¹ B. Michalak, *op.cit.*, p. 9, 25.

²² R. Balicki, K. Piech, *Ograniczenia swobody prowadzenia kampanii wyborczej w świetle regulacji Kodeksu Wyborczego*, “Polityka i Społeczeństwo” 2005, no. 3 (13), p. 43.

²³ The first reading of the draft act took place on 2 February 2016. At the 12th sitting on February 25, 2016, the Sejm rejected it in the first reading. 245 deputies voted for the rejection, 192 were against, while four MPs abstained from voting. The course of the legislative process, print no. 224, www.sejm.gov.pl (20.10.2021).

²⁴ Draft of January 12, 2016, Act... amending the Act – Electoral Code, the act on local referendum and the act on nationwide referendum (print no. 224/VIII cad.).

it is located at, and the other bans concerning campaign activities in offices, workplaces and uniformed service units”.

Moreover, the draft act limited “the scope of the ban on publishing election polls, public opinion polls and voters’ preferences, restricting it only to voting days. Since there is a possibility of voting on two consecutive days in elections and nationwide referenda, if this is the case, the ban will concern the whole of the first day and the second day until the end of voting”²⁵. The authors also pointed out that “election silence in its current form favours the parties in power, which control public media”²⁶. What is more, “the institution of election silence is absent in almost a half of the European Union states – which often have long parliamentary traditions. There are no such restrictions in countries such as the United Kingdom, Belgium, the Netherlands, Denmark, Sweden, Finland, Estonia and Ireland”²⁷.

Thus, what do voters think about the legitimacy of this institution in the Polish electoral law? Do the participants of the election market believe that election silence should be maintained, continuing to be the element of the electoral system which helps to calm down emotions and make a rational choice? Or do the respondents find election silence an archaic solution, not suited to the current challenges of the electoral law in the age of new media and modern communication channels?

II.

In the study conducted within the framework of the nationwide project *Political Preferences*, we used the survey questionnaire method. Out of over 1,000 distributed questionnaires, 1,072 were filled in and returned. In order to gather data, we applied qualitative stratified sampling. 16 provinces were separate strata, while variables such as age, gender, place of residence (city-country) were controlled by way of quota sampling. The process of data collection in provinces was supervised by 16 trained interviewers.

²⁵ The justification of the purpose and need of passing the act, <https://nowoczesna.org/projekt-ustawy-o-zniesieniu-ciszy-wyborczej> (20.10.2021), [http://orka.sejm.gov.pl/Druki8ka.nsf/0/4995F012F7211962C1257F4E003531A9/\\$File/224-ustawa.docx](http://orka.sejm.gov.pl/Druki8ka.nsf/0/4995F012F7211962C1257F4E003531A9/$File/224-ustawa.docx), pp. 7–8 (20.10.2021).

²⁶ Ibidem, p. 6.

²⁷ Ibidem, p. 7.

The respondents' answers were divided into five categories in line with the five selected variables: 1. support to a political party in local elections, 2. support to a political party in nationwide elections, 3. declared views, 4. declared religiosity, and 5. age. The collected data was verified, e.g., we checked whether the form was filled in correctly, whether the instructions were followed, etc.

III.

Here, we should refer to the findings of the study entitled, *Polacy o proponowanych zmianach w prawie wyborczym* (Poles on the proposed changes in the electoral law), conducted by the Centre for Public Opinion Research and the Centre for Electoral Studies of the Nicolaus Copernicus University in 2014²⁸. The authors of the report – Beata Rogucka and Jarosław Zbieranek – found that 72% of the respondents support the institution of election silence and only 18% were against maintaining it²⁹.

Table 1. The institution of election silence should be maintained in the Polish electoral system (question 7)

Important	Frequency	Percent	Accumulated percent
Definitely yes	398	37,1	37,1
Rather yes	306	28,5	65,7
Difficult to say	226	21,1	86,8
Rather not	65	6,1	92,8
Definitely not	76	7,1	99,9
No answer	1	0,1	100,0
Total	1072	100,0	

Source: own study.

²⁸ B. Rogucka, J. Zbieranek, *Polacy o proponowanych zmianach w prawie wyborczym*, Report of the CBOS (Centre for Public Opinion Research) survey, no. 65/2014, pp. 3 and 8, https://www.cbos.pl/SPISKOM.POL/2014/K_065_14.PDF (20.10.2021).

²⁹ R. Balicki, K. Piech, op.cit., p. 39.

The results of the study carried out as part of the project *Political Preferences* show that in 2019 r. 65.6% of the respondents (definitely yes and rather yes) were in favour of maintaining election silence. Its opponents (definitely not and rather not) represented 13.2% of the total.

Table 2. The distribution of answers to the question: “The institution of election silence should be maintained in the Polish electoral law” among different electorates in the election to the Sejm of 2019

Parliament 2019		Question 7						Total
		No answer	Definitely not	Rather not	Difficult to say	Rather yes	Definitely yes	
Citizens' Coalition (Citizens' Platform, Modern, Polish Initiative, Greens)	Number	0	17	13	58	86	108	282
	% of 2019 Parliament	0,0%	6,0%	4,6%	20,6%	30,5%	38,3%	100,0%
Polish Coalition (Polish Peasants' Party – Kukiz'15)	Number	0	7	8	22	24	22	83
	% of 2019 Parliament	0,0%	8,4%	9,6%	26,5%	28,9%	26,5%	100,0%
Confederation Freedom and Independence	Number	0	12	7	10	17	26	72
	% of 2019 Parliament	0,0%	16,7%	9,7%	13,9%	23,6%	36,1%	100,0%
Left (Together Party, Democratic Left Alliance, Spring)	Number	0	11	10	23	52	66	162
	% of 2019 Parliament	0,0%	6,8%	6,2%	14,2%	32,1%	40,7%	100,0%
Law and Justice	Number	0	17	20	63	86	131	317
	% of 2019 Parliament	0,0%	5,4%	6,3%	19,9%	27,1%	41,3%	100,0%
Other party	Number	0	1	1	2	5	0	9
	% of 2019 Parliament	0,0%	11,1%	11,1%	22,2%	55,6%	0,0%	100,0%

Parliament 2019		Question 7						Total
		No answer	Definitely not	Rather not	Difficult to say	Rather yes	Definitely yes	
I did not vote	Number	1	6	4	34	27	32	104
	% of 2019 Parliament	1,0%	5,8%	3,8%	32,7%	26,0%	30,8%	100,0%
I do not remember	Number	0	5	2	14	9	13	43
	% of 2019 Parliament	0,0%	11,6%	4,7%	32,6%	20,9%	30,2%	100,0%
Total	Number	1	76	65	226	306	398	1072
	% of 2019 Parliament	0,1%	7,1%	6,1%	21,1%	28,5%	37,1%	100,0%

Source: own study.

When analysing the opponents of election silence as an element of the electoral law among the electorates of particular parties, it can be seen that the largest group is composed of left-wing voters and the proponents of the largest coalitions. We observe biggest support for maintaining election silence among the supporters of the Left (the coalition of Together Party, Democratic Left Alliance and Spring) – 72.8% of the respondents. A bit fewer advocates of this institution are among the electors of the Citizens' Coalition (Citizens' Platform, Modern, Polish Initiative, Greens) – 68.8% and the Law and Justice – 68.4%. As many as 26.4% of the followers of the Confederation Freedom and Independence are against the institution of election silence. Among the electorate of the Polish Coalition (Polish Peasants' Party – Kukiz'15), its opponents accounted for 18%. 10.6% of the supporters of the Citizens' Coalition, 11.7% of the electorate of the Law and Justice and 13% of those voting for the Left answered “definitely not” or “rather not” to the question whether election silence should be maintained.

Table 3. The distribution of answers to the question: “The institution of election silence should be maintained in the Polish electoral law” according to declared political views

Views		Question 7						Total
		No answer	Definitely not	Rather not	Difficult to say	Rather yes	Definitely yes	
Far-left	Number	0	3	1	1	7	3	15
	% of Views	0,0%	20,0%	6,7%	6,7%	46,7%	20,0%	100,0%
Left	Number	0	6	4	23	35	48	116
	% of Views	0,0%	5,2%	3,4%	19,8%	30,2%	41,4%	100,0%
Centre-left	Number	0	11	9	14	35	55	124
	% of Views	0,0%	8,9%	7,3%	11,3%	28,2%	44,4%	100,0%
Centre	Number	0	12	20	45	57	67	201
	% of Views	0,0%	6,0%	10,0%	22,4%	28,4%	33,3%	100,0%
Centre-right	Number	0	10	8	20	30	46	114
	% of Views	0,0%	8,8%	7,0%	17,5%	26,3%	40,4%	100,0%
Right	Number	0	20	14	36	55	93	218
	% of Views	0,0%	9,2%	6,4%	16,5%	25,2%	42,7%	100,0%
Far-right	Number	0	4	3	3	6	9	25
	% of Views	0,0%	16,0%	12,0%	12,0%	24,0%	36,0%	100,0%
I do not know/ cannot say	Number	1	10	6	84	81	77	259
	% of Views	0,4%	3,9%	2,3%	32,4%	31,3%	29,7%	100,0%
Total	Number	1	76	65	226	306	398	1072
	% of Views	0,1%	7,1%	6,1%	21,1%	28,5%	37,1%	100,0%

Source: own study.

The results presented in the above table show that it is the electorates of the far-left and far-right that include the biggest number of the opponents of election silence – 26.7% and 28% of the respondents, respectively. What is interesting is the fact that the left-wing voters who answered “definitely not”

and “rather not” represented only 8.6% of the people under survey. The largest number of hesitant respondents were found among centre (22.4%), centre-right (17.5%) and left-wing (19.8%) voters. The most numerous group of the advocates of election silence originated from the left (71.6%) and centre-left (72.6%).

Table 4. The distribution of answers to the question: “The institution of election silence should be maintained in the Polish electoral law” according to declared religiosity

Religiosity		Question 7						Total
		No answer	Definitely not	Rather not	Difficult to say	Rather yes	Definitely yes	
No answer	Number	0	1	0	0	0	0	1
	% of Religiosity	0,0%	100,0%	0,0%	0,0%	0,0%	0,0%	100,0%
Non-believer	Number	0	12	7	16	24	26	85
	% of Religiosity	0,0%	14,1%	8,2%	18,8%	28,2%	30,6%	100,0%
Non-practising	Number	0	7	8	11	23	38	87
	% of Religiosity	0,0%	8,0%	9,2%	12,6%	26,4%	43,7%	100,0%
Practising occasionally on church ceremonies, such as weddings, christening, festivals	Number	0	16	6	50	66	94	232
	% of Religiosity	0,0%	6,9%	2,6%	21,6%	28,4%	40,5%	100,0%
Practising irregularly	Number	0	12	21	56	77	94	260
	% of Religiosity	0,0%	4,6%	8,1%	21,5%	29,6%	36,2%	100,0%
Practising frequently	Number	0	20	19	71	87	89	286
	% of Religiosity	0,0%	7,0%	6,6%	24,8%	30,4%	31,1%	100,0%

Religiosity		Question 7						Total
		No answer	Definitely not	Rather not	Difficult to say	Rather yes	Definitely yes	
Practising very frequently	Number	1	8	4	22	29	57	121
	% of Religiosity	0,8%	6,6%	3,3%	18,2%	24,0%	47,1%	100,0%
Total	Number	1	76	65	226	306	398	1072
	% of Religiosity	0,1%	7,1%	6,1%	21,1%	28,5%	37,1%	100,0%

Source: own study.

A thorough analysis of the results presented in the above table, concerning the approach to the issue of maintaining election silence according to the respondents’ declared religiosity level, shows that the largest number of its supporters is found among people non-practising religiously (70.1%) and those practising very often (71.1%). What is interesting, the most numerous group of the opponents of election silence refer to themselves as non-believers – 14.1% of the respondents answered “definitely not”, while 8.2% – “rather not”. Moreover, 17.2% of non-practising respondents are against election silence. The highest percentage of hesitant respondents was observed among those who practise occasionally (21.6%), irregularly (21.5%) and frequently (24.8%); while the lowest – among non-practising 12.6%) and practising very often (18.2%).

Table 5. The distribution of answers to the question: “The institution of election silence should be maintained in the Polish electoral law” according to gender

Gender		Question 7						Total
		No answer	Definitely not	Rather not	Difficult to say	Rather yes	Definitely yes	
Female	Number	1	26	28	121	161	222	559
	% of Gender	0,2%	4,7%	5,0%	21,6%	28,8%	39,7%	100,0%

Gender		Question 7						Total
		No answer	Definitely not	Rather not	Difficult to say	Rather yes	Definitely yes	
Male	Number	0	50	37	105	145	176	513
	% of Gender	0,0%	9,7%	7,2%	20,5%	28,3%	34,3%	100,0%
Total	Number	1	76	65	226	306	398	1072
	% of Gender	0,1%	7,1%	6,1%	21,1%	28,5%	37,1%	100,0%

Source: own study.

It should be stressed that the vast majority of women participating in the study, i.e., 68.5% of the female respondents, declared they were in favour of maintaining election silence. 6% fewer men were of the same opinion. Almost 10% of the women believe that election silence is an unnecessary element of the electoral law (9.7%). 16.9% of the men believe there is no reason to maintain this institution.

Table 6. The distribution of answers to the question: “The institution of election silence should be maintained in the Polish electoral law” according to age

Age		Question 7						Total
		No answer	Definitely not	Rather not	Difficult to say	Rather yes	Definitely yes	
18–24	Number	0	16	5	16	28	38	103
	% of Age	0,0%	15,5%	4,9%	15,5%	27,2%	36,9%	100,0%
25–34	Number	0	13	11	39	59	76	198
	% of Age	0,0%	6,6%	5,6%	19,7%	29,8%	38,4%	100,0%
35–44	Number	0	11	18	44	60	71	204
	% of Age	0,0%	5,4%	8,8%	21,6%	29,4%	34,8%	100,0%
45–54	Number	0	14	6	25	54	61	160
	% of Age	0,0%	8,8%	3,8%	15,6%	33,8%	38,1%	100,0%

Age		Question 7						Total
		No answer	Definitely not	Rather not	Difficult to say	Rather yes	Definitely yes	
55–64	Number	0	8	13	39	51	72	183
	% of Age	0,0%	4,4%	7,1%	21,3%	27,9%	39,3%	100,0%
Over 65	Number	1	14	12	63	54	80	224
	% of Age	0,4%	6,3%	5,4%	28,1%	24,1%	35,7%	100,0%
Total	Number	1	76	65	226	306	398	1072
	% of Age	0,1%	7,1%	6,1%	21,1%	28,5%	37,1%	100,0%

Source: own study.

The analysis of the above data shows that there are no significant differences among age groups when it comes to negating the need for election silence. People aged 18–24 represent the most numerous group of sceptics (20.4%). The largest number of hesitant respondents was found in the group of people over 65 years old (28.1%). People aged 45–54, in turn, have the strongest conviction that the institution under discussion must be maintained – 71.9% of the respondents answered “definitely yes” or “rather yes”.

Table 7. The distribution of answers to the question: “The institution of election silence should be maintained in the Polish electoral law” according to education

Education		Question 7						Total
		No answer	Definitely not	Rather not	Difficult to say	Rather yes	Definitely yes	
No answer	Number	0	0	0	2	0	0	2
	% of Education	0,0%	0,0%	0,0%	100,0%	0,0%	0,0%	100,0%
Undereducated	Number	0	0	0	0	1	2	3
	% of Education	0,0%	0,0%	0,0%	0,0%	33,3%	66,7%	100,0%
Primary/ Lower secondary	Number	0	0	2	13	9	15	39
	% of Education	0,0%	0,0%	5,1%	33,3%	23,1%	38,5%	100,0%

Education		Question 7						Total
		No answer	Definitely not	Rather not	Difficult to say	Rather yes	Definitely yes	
Vocational	Number	1	8	3	54	55	59	180
	% of Education	0,6%	4,4%	1,7%	30,0%	30,6%	32,8%	100,0%
Secondary/ Upper secondary	Number	0	29	20	81	94	144	368
	% of Education	0,0%	7,9%	5,4%	22,0%	25,5%	39,1%	100,0%
Higher	Number	0	39	40	76	147	178	480
	% of Education	0,0%	8,1%	8,3%	15,8%	30,6%	37,1%	100,0%
Total	Number	1	76	65	226	306	398	1072
	% of Education	0,1%	7,1%	6,1%	21,1%	28,5%	37,1%	100,0%

Source: own study.

The study results show that all undereducated voters want election silence to be maintained. The respondents with primary/lower secondary and vocational education represent the most numerous groups that have no opinion on this issue – 33.3% and 30% of the respondents, respectively. Importantly, the percentage of people with a negative attitude to election silence was lower in the groups with poor education – 5.1% of the respondents with primary/lower secondary education and 6.1% of those with a vocational degree do not see the need to maintain this institution. The best educated people are more critical – 13.3% of the respondents with secondary/upper secondary education and 16.4% of those with a university degree negate the point of existence of election silence. It should also be emphasized that in all the examined groups (with the exception of the group of undereducated people), the level of support for this tool is similar, ranging from 61.6% to 67.7%.

IV.

As it was mentioned before, as the authors of the study within the framework of the *Political Preferences* project, we decided to fill in a gap in the ongoing

discussion on the challenges of the contemporary electoral law, specifically the need for maintaining the institution of election silence in the existing regulations, asking the Poles for their opinions in this regard. The analysis of data gathered in the study reveals a few trends. Thus, among the proponents of the institution of election silence, the followers of the largest political parties in Poland prevail. Left-wing voters also appreciate the advantages of this tool and are in favour of maintaining it. The most numerous group of the opponents of election silence is composed of people with far-left and far-right views. It should also be stressed that the respondents who declare to be non-practising religiously or very often practising religiously have a generally positive attitude to the institution in question. Furthermore, the youngest respondents (aged 18–24) represent the largest (20.4%) group advocating the abolition of election silence, although still 64.1% of young voters believe there is a reason behind maintaining this tool. Middle-aged people (45–54) constitute the biggest group of supporters of election silence (71.9% of the respondents were in favour of maintaining this element of the electoral system). It must also be pointed out that the higher the educational level the more numerous the opponents of election silence are.

To sum up, the institution of election silence has been the subject of lively debate and dispute for years. It should be pointed out that no significant changes in public opinion concerning the legitimacy of this institution have occurred since 2014. The results of our study confirm previous findings, which clearly show that the vast majority of Polish voters are in favour of maintaining election silence part of the law. Hence, Łukasz Buczkowski is right in arguing that in “young democracies, with no fully established legal culture, the abolition of election silence, which – because of the significant length of election campaigns – is not particularly burdensome to political circles or voters, may bring more harm than benefit. Instead of contributing to the development of civil society through raising interest in participation in elections and referenda, such an act will lead to an increase in the amount of negative political campaigning, marked with emotions rather than the high quality of discussion, which does not help to improve the electoral procedure”³⁰. On the other hand, one must

³⁰ Ł. Buczkowski, *Uwagi w sprawie propozycji zmian Kodeksu wyborczego*, “Przegląd Prawa Konstytucyjnego” 2018, no. 3 (43), p. 128.

agree with the view that election silence – as an element of the electoral system in a democratic state – should be subject to changes that take into consideration the modern circumstances of the electoral battle, so that it could be effective in accomplishing the goals that underlay its establishment³¹.

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³¹ Ibidem, pp. 128–129.