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Holding elections in the context of the COVID-19 epidemic (ECPRD Request No. 4586)¹

Przeprowadzenie wyborów w warunkach epidemii COVID-19
(wniosek ECPRD nr 4586)

The authors present information on holding presidential elections in Poland in 2020 in the context of the COVID-19 pandemic. They indicate, among other things, what anti-epidemic measures were taken to ensure the protection of life and health of voters, members of election commissions and other participants in the election process. Moreover, they present issues on how to ensure voting for voters under compulsory quarantine or mandatory isolation and indicate voting rules adopted specifically in connection with the COVID-19 pandemic and legislative changes made, including amendment to the Electoral Code.

Keywords: ECPRD, coronavirus, elections

Autorki przedstawiają informacje dotyczące przeprowadzenia wyborów prezydenckich w Polsce w 2020 r. w warunkach pandemii COVID-19. Wskazują m.in., jakie działania przeciwepidemiczne zostały podjęte w celu ochrony życia i zdrowia wyborców, członków komisji wyborczych i innych uczestników procesu wyborczego. Ponadto prezentują kwestie dotyczące zapewnienia możliwości głosowania wyborcom objętym obowiązkową kwarantanną lub obowiązkową izolacją oraz wskazują zasady głosowania przyjęte specjalnie w związku z pandemią COVID-19 i dokonane zmiany legislacyjne, w tym nowelizację Kodeksu wyborczego.

Słowa kluczowe: ECPRD, koronawirus, wybory

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■ **How is the conduct of the 2020 elections in your country organized in the context of the COVID-19 epidemic?**

The presidential election in Poland was held on 28 June 2020. The second round was organised on 12 July. Elections were held on the basis of the Act on special rules for the organisation of general elections for the President of the Republic of Poland ordered in 2020 with the possibility of postal voting (*Ustawa o szczególnych zasadach organizacji wyborów powszechnych na Prezydenta Rzeczypospolitej Polskiej zarządzonych w 2020 r. z możliwością głosowania korespondencyjnego*) of 2 June 2020 (*Dziennik Ustaw* [Journal of Laws] item 979)². The Act specified the principles and procedure for organizing the elections of the President of the Republic of Poland in connection with the announced state of the epidemic on the territory of the Republic of Poland. In matters not covered by this Act, the provisions of the Act of 5 January 2011 – the Electoral Code³ shall apply accordingly.

The Act introduced, inter alia:

- the possibility of hybrid voting (voting both postal and in the polling station),
- the possibility to order only postal voting in specific municipalities by the National Electoral Commission, at the request of the Minister of Health (postal voting in 2020 elections was ordered in two municipalities),
- rules for postal voting,
- rules for postal voting for persons in quarantine,
- provisions on the composition of election commissions and on sanitary regime.

The Act of 2 June 2020 was an incidental act and applied only to presidential elections held on the 28 June 2020. For details concerning the provisions of the Act see reply of the Polish Sejm to ECPRD Request 4425.

■ **What anti-epidemic measures have been taken to ensure the life and health of voters, members of election commissions and other participants in the election process?**

Protection measures were adopted on the basis of the Regulation of the Minister of Health on the list of personal protection measures related to combating the COVID-19 epidemic for members of electoral committees and detailed rules of sanitary safety at the polling station (*Rozporządzenie Ministra Zdrowia w sprawie wykazu środków ochrony osobistej związanej ze zwalczaniem epidemii COVID-19 dla członków obwodowych komisji wyborczych oraz szczegółowych za-*

² Available in Polish: <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20200000979>.

³ Ustawa z 5 stycznia 2011 r. – Kodeks wyborczy, consolidated text *Dziennik Ustaw* [Journal of Laws] of 2020 item 1319, Available in Polish: <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20110210112/U/D20110112Lj.pdf>.

sad bezpieczeństwa sanitarnego w lokalu wyborczym)⁴ as well as the Guidelines of the Minister of Health and the Chief Sanitary Inspector concerning the principles of epidemiological safety during the presidential elections (*Wytyczne Ministra Zdrowia i Głównego Inspektora Sanitarnego dotyczące zasad bezpieczeństwa epidemiologicznego podczas wyborów prezydenckich*)⁵. According to those documents the following protective measures and recommendation were adopted:

1. it was recommended to keep a 2 m distance from other people in the polling station;
2. voters were obliged to have their mouth and nose covered (with clothing or parts of clothing, a mask or a visor) in the polling station; the obligation did not apply in the case of a voter who cannot cover his or her mouth or nose because of his or her health (no statement or certificate was required in this respect). However, it was then recommended to keep as far away as possible from other people at the polling station, but not less than 2 m;
3. at the entrance to the polling stations hand disinfectants were placed and it was recommended that voters use them or wear disposable gloves;
4. it was recommended that a disinfectant be provided specifically for disinfection of objects used during voting, such as pens and ballot boxes walls;
5. the voters were allowed to use their own pens;
6. no more than 1 person per 4 m² (excluding electoral commission members and other persons involved in the election process) could be at the polling station at the same time;
7. it was recommended that the door to the polling station and other doors to the rooms where voters move around be open as far as possible so that they did not have to be touched; in cases, when for security reasons the doors couldn't be opened, it was recommended that the handles etc. be regularly disinfected not more often than every hour, but at least 6 times during the voting;
8. members of the electoral commissions were equipped with disposable protective gloves, hand disinfectant, medical masks and visors;
9. work stations of members of the electoral commission were organised in such a way as to allow a minimum distance of 1.5 m between members;
10. tables at polling stations were not covered with cloth or any other material;
11. at each polling station, air exchange was ensured by ventilating the space before the electoral commission's work and at least once per hour for at least 10 minutes (without interrupting voting).

In voting districts established abroad, there was no obligation to apply the personal protective measures and detailed health and safety rules if, due to the

⁴ Available in Polish: <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20200001046>.

⁵ Available in Polish: <https://www.gov.pl/web/zdrowie/wytyczne-mz-i-gis-dotyczace-zasad-bezpieczenstwa-epidemiologicznego-podczas-wyborow-prezydenckich>.

state of epidemic in the host country, the legislation of that country did not impose such an obligation and rules in closed spaces.

■ **How is the voting of the voters placed under obligatory quarantine or obligatory isolation (sick and contact persons) ensured?**

The Chief Sanitary Inspector (*Główny Inspektor Sanitarny*) or another authority of the State Sanitary Inspectorate (*Państwowa Inspekcja Sanitarna*) acting under his authority had to provide the relevant municipal office, between 12 and 2 days before polling day, with information on voters subject to mandatory quarantine, isolation or home isolation on polling day.

Voters placed under quarantine or isolation were allowed to vote by correspondence with extended deadline to report their intention to vote this way (by the 5th day before polling day) to the appropriate municipal office. A voter who had begun to be subject to mandatory quarantine or isolation after the deadline could report an intention to vote by mail until the 2nd day before election. The election packages were delivered to voters who were subject to mandatory quarantine or isolation no later than two days before polling day. Voters were supposed to complete the ballot paper immediately after receiving the package, put the ballot paper in the provided envelope, affix it and place it in a return envelope together with the completed and signed declaration of personal and secret ballot papers. Then the package was returned to authorised person who delivered it.

■ **Have special voting rules been adopted in the context of the COVID-19 epidemic – a change in the electoral law or rules adopted by the central election administration body or another body?**

Yes, the Act on special rules for the organisation of general elections for the President of the Republic of Poland ordered in 2020 with the possibility of postal voting (see answer to question 1) was adopted to lay down the principles and procedure for the organisation of the elections of the President of the Republic of Poland ordered in 2020, in connection with the announced state of the epidemic on the territory of the Republic of Poland.

Due to the Covid-19 pandemic changes have been also introduced in the Electoral Code by the Act of 31 March 2020 amending the act on special solutions related to the prevention, counteracting and combating of COVID-19, other infectious diseases and crisis situations caused by them, as well as some other acts (*Ustawa o zmianie ustawy o szczególnych rozwiązaniach związanych z zapobieganiem, przeciwdziałaniem i zwalczaniem COVID-19, innych chorób zakaźnych oraz wywołanych nimi sytuacji kryzysowych oraz niektórych innych ustaw*)⁶. Simultaneously, according to Article 102 of the Act of 16 April 2020 on specific

⁶ Journal of Laws [*Dziennik Ustaw*] of 2020, item. 568, available in Polish: <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20200000568>.

support instruments in connection with the spread of the SARS-CoV-2 virus [*Ustawa o szczególnych instrumentach wsparcia w związku z rozprzestrzenianiem się wirusa SARS-CoV-2*]⁷ during the period of the state of epidemic threat or the state of epidemic, when conducting general elections for the President of the Republic of Poland ordered in 2020, some provisions of the Electoral Code were not applicable, *inter alia* provisions on postal voting, but also provisions on voting by proxy or on issuing certificates on the right to vote. For details concerning the changes introduced in the Electoral Code see reply of the Polish Sejm to ECPRD request no. 4425.

⁷ Journal of Laws [*Dziennik Ustaw*] of 2020, item. 695, available in Polish: <http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20200000695>.