



Office for Democratic Institutions and Human Rights

## REPUBLIC OF POLAND

### PRE-TERM PARLIAMENTARY ELECTIONS

21 October 2007

#### OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

4-5 October 2007



Warsaw  
9 October 2007

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**THE REPUBLIC OF POLAND  
PRE-TERM PARLIAMENTARY ELECTIONS  
21 October 2007**

**OSCE/ODIHR Needs Assessment Mission Report**

**I. INTRODUCTION**

In response to the invitation from the Ministry of Foreign Affairs of the Republic of Poland on 2 October to the Organization for Security and Co-operation in Europe's (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) to observe the pre-term parliamentary elections scheduled for 21 October 2007, the OSCE/ODIHR undertook a Needs Assessment Mission (NAM) on 4 and 5 October 2007. The OSCE/ODIHR NAM was comprised of Mr Gerald Mitchell, Head of the OSCE/ODIHR Election Department, and Ms Nicola Schmidt, OSCE/ODIHR Election Adviser.

The purpose of the OSCE/ODIHR NAM was to assess the conditions and preparations for the forthcoming parliamentary elections, and advise on modalities for a possible election-related activity with regard to these elections.

The OSCE/ODIHR NAM held meetings in Warsaw with representatives of the National Election Commission, political parties represented in the Sejm and the media.

The OSCE/ODIHR would like to thank the Ministry of Foreign Affairs for its assistance in organizing the NAM. The OSCE/ODIHR would also like to thank the representatives of political parties, the election administration and media who took the time to meet the NAM.

**II. EXECUTIVE SUMMARY**

Pre-term elections to the bicameral parliament are scheduled in Poland for 21 October 2007. Polish voters will vote to elect 460 members of the Sejm (the lower chamber of the national parliament) and 100 members of the Senate (the upper chamber of the parliament). Members of the Sejm are elected through a proportional party-list system in 41 multi-mandate constituencies; and members of the Senate through a majority system in 40 multi-mandate constituencies.

The applicable legislation for the upcoming elections comprises the Constitution, the Parliamentary Election Law, the Law on Political Parties and the Law on Broadcasting and Television.

International election observation is not foreseen in the legislation; however, possible observation activity by experts of the OSCE/ODIHR was welcomed by all NAM interlocutors. The NAM was assured that instructions regulating such observation would be passed by the responsible bodies when applicable.

Political parties and media representatives expressed a high level of confidence in the election system and the election administration. It was emphasized that no problems were to be expected on election day. Interlocutors were satisfied with existing provisions such as the composition of higher-level election commissions by judges and the participation of representatives of political parties in precinct election commissions.

A number of interlocutors expressed concern with regard to aspects of the pre-electoral environment and equal access to the media, especially public media, during the course of the campaign. While equal access is ensured by law, and broadcasting of election advertisements free-of-charge is provided for during the two weeks preceding election day, media coverage of the campaign to date was described as unbalanced, with a distinct advantage in coverage on public television reportedly going to the incumbent Law and Justice Party.

The OSCE/ODIHR NAM recognizes the high level of confidence in the election system and administration expressed by all interlocutors. At the same time, as part of an effort by the OSCE/ODIHR to follow electoral processes in a broader range of participating States, and with a view to following specific questions identified during the NAM, such as the media coverage of the campaign, the OSCE/ODIHR recommends the deployment of an Election Assessment Mission (EAM). The OSCE/ODIHR EAM should deploy immediately and remain until shortly after the elections. A media monitoring component would be needed in line with the OSCE/ODIHR standard media monitoring methodology. No systematic or comprehensive election day observation of polling station procedures is envisaged.

### **III. FINDINGS**

#### **A. BACKGROUND**

Although Poland has a long history of a parliamentary electoral system, the recent history of parliamentary elections in Poland include those in 1989 which marked the end of the socialist period, and subsequently in 1991, 1993, 1997, 2001 and 2005. Previous invitations to the OSCE/ODIHR to observe elections in Poland were declined due to the respective workload and priorities at the time of invitation.

As a result of internal disagreements in the ruling coalition, the Sejm voted for self-dissolution on 7 September. On 8 September, President Lech Kaczynski announced pre-term parliamentary elections for 21 October 2007. Polish voters will vote to elect 460 members of the Sejm and 100 members of the Senate.

#### **B. POLITICAL PARTIES AND CANDIDATES**

Election committees of six parties and one coalition have registered candidate lists in all 41 constituencies for these elections. Election committees are defined by article 95 of the election law as those entities that shall “in the name of political parties and voters, engage in electoral activities, in particular the nomination of candidates for deputies to the Sejm and candidates for senators, and shall exclusively conduct the election campaign on their behalf”.

The parties competing in the upcoming elections are the six parties currently represented in the parliament, including Law and Justice (PiS), Civic Platform (PO), the Coalition of Left and Democrats (LiD), the Polish People's Party (PSL), the League of Polish Families (LPR) and the Self-Defense of the Republic of Poland/ Samoobrona). In addition, the Polish Labour Party (PPP) has registered candidate lists in all 41 constituencies. Three other election committees have registered candidates in some regions of the country, including the Women's Party, Patriotic Self-Defense and an election committee representing the German minority. A party's candidate lists for the elections can also include members of other political parties and individuals not affiliated with political parties.

### **C. ELECTORAL SYSTEM**

The legislative body of Poland is a two chamber parliament including a 460 member lower chamber, the Sejm, and a 100 member upper chamber, the Senate. Members of both houses are elected by popular vote conducted on the same day, for four year terms.

The 460 members of the lower house of parliament, the Sejm, are elected through a proportional party-list system in 41 multi-mandate constituencies. To be elected, a party must pass a five per cent threshold determined state-wide. For coalitions, the threshold is eight per cent. For registered ethnic minority election committees the threshold does not apply. Seats are allocated to eligible parties and coalitions using the D'Hondt method for each individual electoral constituency. In the Polish electoral system, each voter votes for a particular candidate and it is only through the candidate of choice that a vote is attributed to the respective list.

The 100 members of the upper house of parliament, the Senate, are elected through a first-past-the-post majority system in 40 multi-mandate constituencies. Candidates elected as senators in a constituency must receive the successive highest numbers of valid votes cast.

Parties and coalitions that receive 3 or more per cent of the valid votes in the Sejm elections are eligible for reimbursement of electoral expenses.

### **D. LEGAL FRAMEWORK**

The legal framework for the upcoming elections comprises the Constitution, the Parliamentary Election Law, the Law on Political Parties and the Law on Broadcasting and Television, as well as regulations issued by the National Election Commission.

The official election campaign starts on the day of the announcement of the elections by the president and ends 24 hours before election day. Political parties and candidates may incur campaign-related expenses from the day of their registration as an election committee with the National Election Commission. The limit for expenditure for a party contesting the election in all constituencies is fixed at the sum of one Polish Zloty per eligible voter, in total around 30 million Polish Zloty (approximately EUR 8 million). Other limits apply to parties contesting in fewer constituencies. Campaign expenditure is monitored by the National Election Commission to which election

committees have to submit reports on their expenditure. Campaign material must be clearly marked and identified as such from the day an election is called.

Election committees are entitled to free airtime on public television and radio in the last 14 days before election day. The total time of free broadcasting for election committees that registered candidate lists nationwide amounts to 15 hours on nation-wide television channels, including up to three hours for satellite TV Polonia, and 30 hours on public radio, including up to five hours broadcast abroad. Election committees that registered candidate lists in at least one electoral constituency are entitled to 10 hours of free broadcast on regional public television and 15 hours on regional public radio. The timeslots for free-of-charge broadcasts were distributed by lottery on 3 October in the presence of representatives of election committees.

Complaints can be submitted by any election participant, i.e. political parties, candidates, or voters, to the higher-level election commissions or the courts. Election results can be appealed to the Supreme Court within seven days of the announcement of the results. The Supreme Court has to render a decision on the complaint within 60 days from the announcement of the election results. A quick complaints procedure has been established for complaints concerning libel in the election campaign. In such cases, complaints can be submitted within 24 hours while the court has to review these within another 24 hours. Appeals against the court decision can be lodged within another 24 hours and have to be decided again within 24 hours.

#### **E. ELECTION ADMINISTRATION**

The parliamentary elections are administered by a three-tiered structure which involves the National Election Commission, 41 District Election Commissions, and Precinct Election Commissions at polling station level. The National Election Commission (NEC) is a permanent institution responsible for the overall administration of elections in the Republic of Poland. It is assisted in this task by the National Election Office. The NEC is composed of three judges of the Constitutional Tribunal, three judges of the Supreme Court, and three judges of the Supreme Administrative Court. The Secretary of the NEC is at the same time the Head of the National Election Office who participates in NEC meetings in an advisory capacity. District Election Commissions consist of 7 to 11 judges while Precinct Election Commissions are made up of 7 to 11 members, proposed by election committees and appointed by the local government office.

The election administration enjoys a high level of trust as expressed by all OSCE/ODIHR NAM interlocutors, and also due to the tradition of an independent judiciary in Poland.

Thirty million Polish citizens are eligible to participate in the upcoming parliamentary elections, including those living abroad. Around 25,000 polling stations will be established in Poland and 204 abroad, mostly in other European countries, the United States of America and Canada. Polish citizens are obliged to register their residence with the authorities, on the basis of which the permanent voter register is drawn. Voter lists are provided from the voter register for each specific election for the respective

polling stations. These voter lists are available for public review 14 days before election day and voters can request inclusion in a voter list from local government authorities.

There are no provisions for electronic voting procedures for these elections and counting is performed manually at polling station level, however data on the results of the elections will be transmitted electronically. Preliminary results are expected on the day after election day, while final results will only be announced once the data transmitted electronically has been compared to the original data.

## **F. MEDIA**

Poland has a diverse media landscape with over 300 broadcast media outlets, including 51 television stations and 251 radio stations. Public media includes one public television broadcaster (TVP) and one public national radio broadcaster, as well as several regional TV and radio stations. In addition, there are several private nationwide television channels including TVN, Polsat, and TV Puls. There are more than 300 newspapers, although mostly local or regional. However, the main source of information is television.

Public broadcast media is financed through obligatory subscriptions by residents as well as commercial income through advertising. Public media have a special obligation during an election period of providing equal access for all election contestants and providing balanced information to voters. They are obliged to broadcast free-of-charge election advertisements by election committees without being responsible for their content. These broadcasts will take place during prime time in the early evening and in another half-hour bloc at different times of the day. The sequence of broadcasts for each bloc has been established by lottery. Additionally, public television covers the election campaign in their regular news and information programmes.

One debate has already occurred on 1 October between the Prime Minister Jaroslaw Kaczynski and the former President and representative of the Coalition of Left and Democrats, Aleksander Kwasniewski, and public television could screen additional debates between election contestants.

Media is overseen by the National Radio and Television Broadcasting Council (NRTC). The five members of the NRTC are appointed by the president, the Sejm and the Senate. The NRTC specifically monitors and reports on the performance of public broadcasters during the election campaign. Parties' share in the broadcast programmes on public television is currently monitored on a weekly basis. The NRTC can receive and rule on complaints by election committees regarding the performance of public broadcasters and their coverage of the election campaign.

A number of interlocutors have raised concern about unbalanced coverage of the election campaign especially by public television, claiming that the amount of time allocated to the governing Law and Justice Party to date was extraordinarily higher than that allocated to other parties contesting the elections.

#### **IV. CONCLUSIONS AND RECOMMENDATIONS**

The OSCE/ODIHR NAM noted a high level of confidence in the overall integrity of the election process and particularly in the election administration. However, the concerns raised by interlocutors about aspects of the pre-electoral environment, in particular with regard to media coverage of the election campaign, could warrant more in-depth analysis.

As part of an effort by the OSCE/ODIHR to follow electoral processes in a broader range of participating States, and with a view to following specific questions identified during the NAM, such as the media coverage of the election campaign, the OSCE/ODIHR recommends the deployment of an Election Assessment Mission (EAM). The OSCE/ODIHR EAM should deploy immediately and remain until shortly after the elections. A media monitoring component would be needed in line with the OSCE/ODIHR standard media monitoring methodology. No systematic or comprehensive election day observation of polling station procedures is envisaged.



## **ANNEX 1: LIST OF MEETINGS**

### Parliament/ Sejm/ Senate

Polish People's Party:	Mr. Waldemar Pawlak
Law and Justice Party:	Ms. Malgorzata Maria Gosiewska Mr. Marek Suski
Civic Platform:	Mr. Jakub Szulc
Coalition of Left and Democrats:	Mr. Ryszard Kalisz
Samoobrona:	Mr. Mateusz Piskorski Ms. Anna Milewska
League of Polish Families:	Mr. Marcin Frydrych

### Election Administration

Mr. Ferdynand Rymarz, Chairman of the National Electoral Commission  
Mr. Kazimierz W. Czaplicki, Secretary of the National Electoral Commission, Head of the National Electoral Office

### Media

Telewizja Polska  
National Radio and Television Broadcasting Council