

POLAND

2023 Parliamentary Election Report

OCTOBER 2023



Foreword

Silba - Initiative for Dialogue and Democracy, is a Danish non-profit, non-governmental, youth-led organization dedicated to upholding democratic values, whilst promoting dialogue, civic participation, and the defence of civil liberties and equality. This commitment is realized through a combination of domestic initiatives, international partnership projects, and election observation missions (EOM). Over the past 19 years, Silba has conducted more than 50 EOMs in over 20 countries.

In the 2023 Polish parliamentary election, Silba deployed 23 Short Term Observers (STOs) to Poland from the 11th of October to the 16th of October. The in-country team were led by an international group consisting of Head of Mission Víctor Gratacós Chacón (Spain); area coordinator Caroline Ledertoug (Danish); area coordinator Filip Porebski (Danish and Polish); financial coordinator Gustav Rømer (Danish) and press coordinator Stijn van der Veen (Dutch). The in-country team consisted of 23 observers, 12 of whom were male and 11 of whom were female, and was made up of 8 nationalities including Danish, Dutch, Norwegian, German, British, Argentinian, Swiss, British, and Slovakian. In the lead-up to the mission, Miłosz J. Cordes provided an online pre-deployment session on the 5th of October.

The observation mission encountered various challenges and a mix of positive and concerning aspects during the electoral process. Overall, while the electoral process was conducted in a professional and orderly manner, some issues within polling stations raised significant concerns. Inadequate space and a shortage of voting booths compromised the secrecy of the vote, family voting was prevalent without adequate justification, and some practices jeopardized the secrecy of the vote. Challenges in the accreditation procedure for international observers emphasize the importance of timely and efficient accreditation in ensuring the effective assessment of the election process.

This report serves as a comprehensive record of the observations and concerns related to the 2023 Polish elections. On behalf of the Silba team, we wish to convey our heartfelt appreciation to all partners and stakeholders for their support and contributions to the broader discourse on democratic processes and standards during the deployment.

Coordination Team of the Mission

Summary of the Key Findings

Voting and Electoral Administration

- Most polling stations followed electoral administration and voting procedures.
- Irregularities were reported, including early ballot package openings, missing voter counts, and unrecorded ballot numbers in certain polling stations.

Voter Privacy and Secrecy of the Vote

- Inadequate layout planning and a lack of voting booths compromised voter privacy in multiple polling stations.
- Multiple instances of family voting were reported, undermining the secrecy of the vote.
- Concerns about referendum secrecy due to voters audibly declaring their ballot refusal.

Counting Procedures

- Half of the polling stations did not adhere to prescribed counting procedures.
- Polling stations that followed the procedures often experienced significant delays in finishing the count.
- Issues with securing unused ballots, unsecured ballots, grouping of people, and improper ballot separation undermined transparency.

Accreditation and Observer Access

- Major problems with the delay in accreditation distribution, given out only the day before the election.
- Some observers couldn't receive physical accreditation, leading to their subsequent exclusion.
- Observers encountered mixed reactions, with some PEC members being suspicious and others appreciating their presence.

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Poland



Poland is a country in-between Central and Eastern Europe, with a population of approximately 38 million people. The capital and largest city of Poland is Warsaw, and the official language is Polish. The country has a rich and tumultuous history. In the last 250 years, it has endured numerous partitions, occupations, and political transformations. The legacy of historical events, including World War II, the Soviet occupation, and the Solidarity movement, continues to influence Polish politics and society up to this day.

Geographically, the country shares its borders with several neighbouring countries, including Germany, the Czech Republic, Slovakia, Ukraine, Belarus, Lithuania, and Russia's Kaliningrad Oblast. Poland is predominantly a Roman Catholic country, with most of its population adhering to the Catholic faith. Some interlocutors expressed concern with a seemingly recurrent problem of some clergy members having occasionally been observed using religious spaces and ceremonies to influence the voting decisions of their members in more conservative areas.

The 2023 Elections in Poland are widely regarded as the "most pivotal since the collapse of communism", as they not only reflect the ongoing ideological struggle between the PiS and the opposition parties but will also affect the future of the country in regard to its democratic integrity.

Poland operates as a semi-presidential republic. The Prime Minister, confirmed by the parliament, leads the government, and the President serves as the head of state and is elected by popular vote for a five-year term. The President has a largely ceremonial role, but they also have some important powers, including the ability to veto legislation. At the time of publication of this report, the President is Andrzej Duda, and the Prime Minister is Mateusz Morawiecki, who are both members of the Law and Justice (PiS) party.






The primary decision-making power resides in the National Assembly, which includes both the Sejm (lower house) and the Senate (upper house). Notably, the Sejm comprises 460 members who are elected through a proportional open list system from 41 multi-member constituencies, while the Senate has 100 members elected via a first-past-the-post system in 100 single-mandate constituencies (Dziennik Ustaw, 1997)

The political landscape in Poland has been marked by tension and polarization in recent years. The ruling Law and Justice (PiS) party, led by Jarosław Kaczyński, has been in power since 2015. Their government has implemented authoritarian policies, including controversial judicial reforms and media regulation, which have led to concerns about the erosion of democratic standards. Added to other PiS-implemented legislative changes like the limiting of abortion rights led to infringement procedures being initiated by the European Commission (EC) against Poland.

Parties & Coalitions

Parliament's Pre-Election Composition

Following the 2019 Polish parliamentary election, Poland's legislative composition for the 9th term Sejm and the 10th term Senate was established. The distribution of seats in both chambers was as follows:

Sejm			Senate	
Party or Coalition	Number of Mandates		Party or Coalition	Number of Mandates
Law and Justice	235		Law and Justice	48
Civic Coalition	134		Civic Coalition	43
Polish Coalition	30		Polish Coalition	3
The Left	49		The Left	2
Confederation	11		Confederation	0
Independents	1		Independents	4

The political landscape indicated a division, with the Law and Justice Party (PiS) in control of the Sejm but not the Senate. Although the Law and Justice Party (PiS) had to contend with opposition parties in the Senate, their approval was not required for most legislation to become law. Ultimately, it was in the Sejm, where PiS held the majority, that the government was able to pass legislation and implement its policy agenda during the past years.

Parties and Coalitions in 2023 Election:



PRAWO I SPRAWIEDLIWOŚĆ (LAW AND JUSTICE)

A right-wing, national-conservative party that held the presidency and a majority in the Sejm. It is led by Jarosław Kaczyński. The PiS government implemented socially conservative policies and pursued controversial antidemocratic reforms, which proved to cause domestic and international controversy.



KONFEDERACJA WOLNOŚĆ I NIEPODLEGŁOŚĆ (CONFEDERATION LIBERTY AND INDEPENDENCE)

Coalition of right-wing, nationalist, and libertarian parties. It represents the far-right and eurosceptic segment of the political spectrum and is highly critical of the EU and immigration.



TRZECIA DROGA (THIRD WAY)

Consisting of Polska 2050 (Poland 2050) and Polskie Stronnictwo Ludowe (Polish People's Party), which previously ran under Polish Coalition (Koalicja Polska). The PSL traditionally represents rural and agricultural interests, while Polska 2050 adheres to principles of Christian democracy and conservatism. This coalition aims to provide an alternative to the major players in Polish politics.



KOALICJA OBYWATELSKA (CIVIC COALITION)

Big-tent coalition composed of (mainly) the Civic Platform (PO) party and several smaller parties like Nowoczesna (Modern) or Inicjatywa Polska (Polish Initiative). This coalition served as the main opposition to the PiS government. It advocates for a more liberal and pro-European approach and is critical of the PiS's policies, particularly in the areas of the rule of law and social issues.



LEWICA ([THE] LEFT)

Left-wing alliance, composed of the Nowa Lewica (New Left) and Lewica Razem (Left Together). They aim to promote social justice, workers' rights, and progressive policies. While not a dominant force in Polish politics, it had a presence in the Sejm and contributed to the opposition bloc.



BEZPARTYJNI SAMORZĄDOWCY (NONPARTISAN LOCAL GOVERNMENT ACTIVISTS)

Polish political movement operating mainly at the regional level. They run in elections as a national committee but have no central leadership, allowing local groups to work independently. The BS often partners with regional governing coalitions.

Electoral Law

Poland's main electoral framework is composed of the 1997 Constitution, the 2011 Election Code, the 1990 Law on Assemblies, and the 1997 Political Parties Act. Since its first democratic elections in 1989, Poland's electoral system has upheld the principles of free and fair elections. However, organizations like Freedom House have noted that some legal changes, like those carried out between 2017 and 2018, heightened political influence over the National Electoral Commission (PKW), which plays a critical role in election management, party finance oversight, and the allocation of state subsidies (Freedom House, 2023).

In March 2023, significant amendments were introduced to the Election Code. Although some OSCE recommendations were included, such as the establishment of a central voter registry or a reduction in the minimum number of voters per polling station, others remained unaddressed. Of particular concern was that modifying electoral regulations too close to an impending election could potentially cause confusion among voters and raise suspicions that such amendments favour particular political interests (OSCE Office for Democratic Institutions and Human Rights, 2023).

An additional point of controversy was the submission of a referendum proposal by the Prime Minister, which was passed by parliament on August 17, 2023.

The short timeframe between submission and publication (on August 18, 2023) allowed minimal time for preparation.

Unlike general elections, no election silence period was observed in this context. Over 65 organizations registered to run the referendum campaign, with approximately 20% linked to foundations associated with state-owned enterprises. The distinction between election and referendum campaigns was not clearly defined.

The situation was further complicated by the logistical problems posed by the counting of votes from polling stations abroad, which had only 24 hours to count all the ballots for three separate ballots (Sejm, Senate, and the referendum) and transmit them to Warsaw. Voters declining to participate in the referendum were required to openly declare their decision, undermining the secrecy of their choice. On the noon of E-day, the PKW issued instructions prohibiting Polling Station Officials (PSOs) from openly asking voters which ballots they wanted to take.



Key Developments

In the lead-up to the recent parliamentary elections, Poland witnessed a multitude of significant developments and transformations. Beginning in 2015, the right-wing government, spearheaded by the Law and Justice (PiS) party, introduced sweeping reforms that have steered the nation towards an authoritarian trajectory. These noteworthy changes encompass the politicization of the judiciary, the instrumentalization of government-controlled media outlet TVP, the acquisition of local newspapers by state-owned enterprises, substantial alterations to the electoral legislation, the contentious curtailment of women's abortion rights, and actions that undermine the rights of sexual minorities (ex. LGBTQ free-zones).

These transformative measures reflect a substantial shift in the political landscape of Poland and have prompted considerable debate and scrutiny both domestically and internationally.

Changes in Judiciary

Changes in the Prosecution System

The changes began with the prosecution system, which resulted in the subordination of prosecutors to the Minister of Justice, leading to tighter political control of the prosecutor's office. The independence prosecutors once enjoyed during their proceedings was lost after 2015. The key change in the prosecution system was the merger of the positions of the Prosecutor General and the Minister of Justice. These roles had been separate since 2010, a safeguard against political pressure. The changes gave the Prosecutor General, who holds the dual role of Minister of Justice, the power to appoint and dismiss regional, district, and local prosecutors based on their own recommendation. The "reform" abolished the fixed terms of office for the heads of the prosecution at all levels, meaning they could be removed immediately. This goes against the idea of having fixed terms, which are designed precisely to prevent someone from being removed from their position when they become inconvenient or when there's a desire to fill the position with one's own people. Competitions for higher positions within the prosecution were eliminated, which implies that the Prosecutor General and hereby Minister of Justice can appoint whomever they wish, whenever they wish. The law forbade political interference in the prosecutor's office to the extent possible, ensuring that these changes significantly weakened the independence of the prosecutors (Skrzydłowska-Kalukin, 2021).

In 2016, the new "reform" legislation allowed the Minister of Justice to create a Department for Internal Affairs within the Prosecution Service, focusing on crimes committed by judges, prosecutors, and assessors. This move further centralized power. Under the leadership of the Minister of Justice and Prosecutor General Zbigniew Ziobro, most chief prosecutors at the national, regional, and local levels were replaced, favouring those associated with the ruling party. This shift dramatically altered the landscape of the Polish prosecution system (Skrzydłowska-Kalukin, 2021).

Changes in the Courts

Reforms in the court system also claimed to bring improvements but resulted in the slowing down of court proceedings in all departments and instances. Most significantly, these changes opened the door to political influence on judges, undermining the independence of the judiciary, a cornerstone of the rule of law. Poland's constitution and the rule of law principles outline that courts and tribunals should operate independently from other branches of government, with judges performing their duties impartially and without fear of repercussions. The "reform" laws aimed to expand the conditions under which judges could be removed or disciplined. The judiciary reforms included changes to the law on common courts, granting significant powers to the Minister of Justice. These powers allowed the minister to appoint and dismiss presidents of courts, who, in turn, influence the work of judges (Skrzydłowska-Kalukin, 2021).

The Role of the New KRS

The National Council of the Judiciary (KRS) was significantly affected by these reforms, leading to its overtly political orientation. The changes created a second chamber in KRS, with politicians participating. New KRS, or "neo-KRS," is largely composed of individuals associated with Minister of Justice Zbigniew Ziobro and members of the ruling party (Skrzydłowska-Kalukin, 2021).

The new KRS played a significant role in appointing judges to various courts, including the Supreme Court. This move was seen as an attempt to replace independent judges with those more aligned with the ruling party's interests.

Supreme Court (Sąd Najwyższy)

In the context of the so-called "reforms," the Supreme Court underwent substantial changes. Initially, the aim was to reevaluate all Supreme Court judges. These changes were controversial and sparked a series of concerns. Firstly, the retirement age requirement was lowered, and judges were made subject to reappointment by the president, fueling fears about the growing politicization of the judiciary. Moreover, these reforms led to the establishment of new chambers within the Supreme Court, notably the Disciplinary Chamber and the Extraordinary Control and Public Affairs Chamber. These chambers were introduced with the ostensible goal of maintaining order and discipline among judges. However, their presence significantly curtailed the independence previously enjoyed by judges, sparking further debate and criticism. Within this transformation, some appointments were particularly contentious (Skrzydłowska-Kalukin, 2021). The appointment of Małgorzata Manowska as the First President of the Supreme Court was met with skepticism, raising questions about the legality of the appointment process and intensifying concerns about the impartiality and independence of the judiciary under these new regulations. This skepticism was raised as Małgorzata Manowska was former deputy minister of justice in the first PiS government under minister Zbigniew Ziobro where she was responsible for the judiciary. She was also later head of the school for judges and prosecutors subordinated to Minister of Justice Zbigniew Ziobro (Gałczyńska, 2020). Her close affiliation with PiS and Zbigniew Ziobro intensified concerns about the impartiality and independence of the judiciary under her leadership as the First President of the Supreme Court.

"Ustawa Kagańcowa" (Muzzle Law)

In December 2019, the Polish government passed a highly controversial law, known as "Ustawa Kagańcowa" or the Muzzle Law, which came into effect in February 2020. This law significantly expanded the government's authority over the judiciary, giving rise to concerns about the separation of power.

Under this law, the criteria for disciplining judges were broadened, encompassing actions perceived as detrimental to the justice system. It also imposed a requirement for judges to disclose their affiliations with various organizations, leading to debates about privacy and independence.

One of the most significant aspects of the Muzzle Law was its limitation of judges' political involvement. It effectively barred them from participating in decisions concerning the operation of the judiciary, which many saw as a restriction on their autonomy and the separation of powers. Furthermore, the law empowered the Extraordinary Control and Public Affairs Chamber to question decisions made by the Supreme Court and other courts, raising concerns about judicial independence and checks and balances within the legal system (Skrzydłowska-Kalukin, 2021).

In essence, these legislative changes under the Muzzle Law have had far-reaching implications for the Polish judiciary and its role in the nation's democratic framework.

Changes in Media

Media freedom in Poland was under severe threat as the ruling Law and Justice party (PiS) implemented a series of measures aimed at undermining independent journalism and curbing freedom of expression. Since the onset of the COVID-19 pandemic, PiS has consistently intensified its efforts to silence critical voices and weaken civic journalism. Poland has historically maintained a diverse media landscape with significant freedom of expression. However, recent political strategies have been eroding these principles. PiS was pursuing a media reform agenda that included "repolonization" and "deconcentration" of the media market. While these initiatives ostensibly aim to promote diversity, they carry the risk of concentrating media assets in the hands of the ruling party and its allies. PiS has resorted to the nationalization of private media companies through state-owned entities, representing a unique approach within the European Union (International Press Institute, 2021). A notable example is the state energy company's control over Polska Press, effectively giving the government indirect control over a significant portion of the local media landscape.

Particularly targeted by PiS are independent media outlets, especially those critical of the government. They have become the focal point of various tactics, including antitrust proceedings, increased government control over regulatory bodies, and threats to their advertising revenue. Additionally, PiS has launched numerous lawsuits against media outlets, depleting their financial resources and intimidating journalists. The discrimination against journalists also extends to their access to information. Government appointees often refuse to engage with certain media or deny interviews. Journalists frequently find themselves denied legally guaranteed access to public information, and critical reporting can result in the denial of accreditation to political events. Physical violence against journalists has seen an increase, with incidents involving both protesters and the police.

Physical violence against journalists has seen an increase, with incidents involving both protesters and the police. Journalists have sustained injuries while covering protests, underscoring the risks they face while performing their duties (International Press Institute, 2021).

PiS's media reforms are driven by their belief in representing the "will of the people" and their authority to reshape democratic norms. While the government claims to aim for a balanced media landscape, in practice, these reforms undermine critical journalism and fortify outlets that promote nationalist sentiments (International Press Institute, 2021). Poland's media freedom stands at a critical juncture. Nevertheless, there are still opportunities to defend and strengthen it, given the relatively stronger position of private media outlets compared to their counterparts in some other countries, such as Hungary. Safeguarding media freedom and democratic values remains a vital imperative in Poland.

Rights Erosion in Poland

The erosion of rights for women and sexual and gender minorities in Poland has raised significant concerns and controversies in recent years. One of the most notable areas of concern is the restrictive abortion laws. For many years, Poland had a framework often referred to as an abortion compromise. Under this framework, abortion was allowed when:

1. Pregnancy poses a threat to the life or health of the pregnant woman.
2. Prenatal tests or medical conditions indicated a high probability of severe and irreversible fetal impairment or an incurable life-threatening disease.
3. There was reasonable suspicion that the pregnancy resulted from a criminal act.

However, one of these criteria, specifically the one related to severe fetal impairment, was eliminated by a ruling of the Constitutional Tribunal on October 22, 2020 (Matela-Marszałek, 2023).

The current legal landscape in Poland allows abortion only when:

1. Pregnancy poses a threat to the life or health of the pregnant woman.
2. There is reasonable suspicion that the pregnancy resulted from a criminal act.

Moreover, the process for obtaining an abortion requires written consent from the woman, with additional requirements for minors, often involving the consent of a guardianship court.

The interpretation and application of these abortion laws have been the target of several critics. Some argue that the legal framework should be revised to incorporate measurable criteria that would allow legal abortion in situations where the woman's well-being is at stake, including cases affecting her mental health. This is particularly relevant in situations like lethal fetal abnormalities, where a severe and immediate risk to the fetus is not present but the prognosis is grim. It is important to note that any abortion performed without complying with these laws is subject to legal penalties. This includes imprisonment for up to three years for those performing the abortion or assisting a pregnant woman in obtaining one. If the fetus is viable, meaning it could survive outside the mother's body, the potential prison sentence for illegal abortion can be as long as eight years. Additionally, there are severe penalties for forcibly inducing an abortion or doing so without a woman's consent. These offences can result in prison sentences ranging from six months to ten years. In cases where an illegal abortion leads to the death of the pregnant woman, the perpetrator may face up to 12 years in prison (Matela-Marszałek, 2023).

But not only women have experienced an erosion of rights. Sexual minorities have also faced polarization and targeting from the government led by PiS, which has attempted to counter what they refer to as 'LGBT ideology' or 'gay propaganda.'

An example of this would be the creation of LGBTQ-free zones (Picheta, 2023). These LGBTQ-free zones in Poland have garnered widespread international attention and concern. These regions, which have declared themselves "LGBTQ-free," "free from LGBT ideology," or similar terms, have passed resolutions and policies that effectively discriminate against the LGBTQ+ community. The aim of these actions is to limit or prevent LGBTQ+ rights, support, and visibility within those areas.

The rise of LGBTQ-free zones represents a disheartening erosion of rights for sexual minorities in Poland. The European Union, human rights organizations, and activists worldwide have decried these actions as violations of fundamental human rights principles. They argue that such zones contribute to a hostile and discriminatory environment, leading to an increase in hate crimes, stigmatization, and the marginalization of LGBTQ+ individuals. In response to these zones, global advocacy groups, pro-LGBTQ+ associations, and in general people supporting LGBTQ+ individuals have intensified their efforts to raise awareness and advocate for LGBTQ+ rights in Poland.

The existence of these regions underscores the broader challenges faced by LGBTQ+ individuals and the urgent need for legal and societal reforms to protect their rights and ensure equal treatment under the law.

The erosion of rights for women and sexual minorities in Poland is a complex and evolving issue, marked by legal changes and polarizing societal debates. The restrictive abortion laws are just one aspect of this broader problem, which has implications for reproductive rights and individual freedoms in the country. The presence of LGBTQ-free zones highlights the complexity of the issues surrounding the erosion of rights for sexual minorities in Poland. It further emphasizes the importance of combating discrimination, promoting inclusivity, and fostering an environment where all individuals can live free from fear

and prejudice, regardless of their sexual orientation or gender identity. The situation highlights the ongoing struggle to balance cultural and religious values with the protection of individual rights and freedoms.

Changes in the Electoral Law

In Poland, the Law and Justice (PiS) party has initiated a rapid overhaul of electoral laws. These changes have stirred controversy due to their abrupt introduction without thorough consultations. The proposed adjustments primarily aim to simplify the voting process in rural areas, which are strongholds for PiS, by establishing thousands of new precinct electoral commissions, implementing free transportation for voters aged 60 and above, and revising the vote-counting procedures (Jałoszewski, 2022). Critics, however, argue that these modifications might further politicize the electoral process and potentially compromise its fairness.

Furthermore, the proposed modifications aim to alter the process of vote counting. PiS intends to require that all members of the election commission collectively participate in counting votes and assessing their validity. While these adjustments are introduced with the intent to enhance transparency, they may significantly extend the time needed for counting and reporting results, particularly in larger urban areas (Jałoszewski, 2022).

Of significant concern is the potential dilution of professional judges' roles in election commissions, with politically affiliated lawyers being introduced to these positions. The timing of this proposal, unveiled shortly before Christmas 2022, has raised suspicions regarding the government's intentions and the transparency of the process.

Moreover, a particularly contentious element in the proposed electoral law changes pertains to the 24-hour rule for polling stations located outside of Poland. Under this rule, results must be determined within 24 hours of the polling stations closing; otherwise, the votes are deemed invalid. This regulation has ignited controversy and discussions on its practicality and its implications for voters abroad. Critics emphasize the potential challenges and issues that might arise from this strict time constraint (Jałoszewski, 2022).

The proposed electoral law changes have sparked heated debates in Poland, with divided opinions. Some view them as steps toward enhancing transparency and voter participation, while others fear that they could favor the PiS party. The timing of the proposal, released just before the Christmas holiday, has been criticized for limiting public discourse and scrutiny of these substantial modifications to the electoral law.

Silba's EOM Methodology

International observers play a crucial role in safeguarding the integrity and transparency of elections. Their presence is instrumental in ensuring that the electoral process is fair, free, and free from irregularities. Our observers help build public confidence in the electoral system by providing an impartial, third-party assessment of the entire election cycle.

Within Silba, we have developed a comprehensive election observation methodology that enables us to conduct our observations as international observers in a highly professional manner.

This methodology is based on the OSCE's comprehensive handbook on election observation (OSCE Office for Democratic Institutions and Human Rights, 2010) and leverages the GigaTurnip App to collect real-time field observations from our observers. This methodological foundation, combined with the IT tool, ensures that our observers are well-prepared to assess elections thoroughly and efficiently. All of our observers have received certification beforehand for completing OSCE/ODIHR short election observation training, ensuring that they are well-prepared and equipped to carry out their roles effectively in upholding the highest standards of election observation.

In line with best practices in election observation, Silba covers all electoral procedures, from the opening of polling stations to the closing and vote counting. This approach provides a comprehensive and well-rounded assessment of the election day. It encompasses the evaluation of election officials' performance, the conditions at polling stations, the processing of voters, adherence to general electoral procedures, and oversight of the transmission of polling station results.

Our observers strictly adhere to a code of conduct that underscores the importance of impartiality and non-interference in the electoral process. Silba firmly believes that upholding these methodologies is essential for promoting democratic values and transparency in electoral processes worldwide.

Deployment Plan

For this EOM Silba deployed a total of 21 short-term observers, of which two joined from our partner organization Kloop Media Foundation. Ten of these observers were deployed in groups of two in five different cities: **Płock, Białystok, Łódź, Lublin, and Ciechanów**. This was done to get a better representation of the voting procedure and different polling station environments in smaller towns. The other observers were deployed in six groups to **different districts within Warsaw**.



In order to prepare our observers for the election day we conducted interviews and meetings with seven different stakeholders in two days. In addition, they received specific training on how to handle media and how to use our app GigaTurnip.



The GigaTurnip App

In order to report their findings, the observers filled in forms on the app GigaTurnip, provided by our partner Kloop. Through this app, the observers could send in their findings in real-time while they were at the polling stations, attach pictures and videos, send them off, get them verified by the core team, and fix any and all mistakes that were found in the forms. In addition, we had access to a dashboard, on which particular results from our forms were tallied, so we could report our findings live. This also meant that we managed to publish our preliminary findings at 13:30 the day after the election, when some polling stations were still counting and before any other EOM published theirs, including the OSCE or other IEOMs. This methodology and app has proven to be extremely useful in reporting EOM findings and thus we aim to use this to have our preliminary findings out during the news cycle of the elections for future missions as well.

Election Observation

Our observations included 11 at the opening of polling stations, over 100 general observations throughout the day, and 12 closing observations. Our coordinator team also participated in the closing procedure, accounting for the additional closing team.

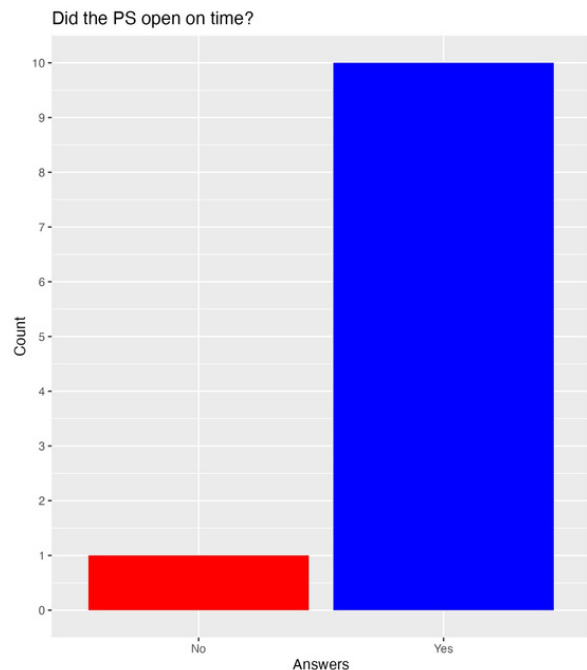
Opening Procedures

The opening procedures were executed effectively.

During the preparations for opening, materials were readily and adequately available, with only one polling station missing its protocol. 100% of our observers witnessed the Polling Station Officials stamping the ballot papers during the preparation, in accordance with legal requirements. However, in two polling stations the packages of ballots were opened before 6:00 (although it is not clear when exactly), and in six polling stations, the PEC staff did not write down the possible number of voters in the protocol. Similarly, in four of the polling stations, the number of ballots was not counted and noted down. On the other hand, information notices were posted in every polling station, ballot boxes were properly sealed and only 1 polling station opened late.

Observer's rights are often respected.

One team noted that some PEC members wanted to confine them to a bench far away from the proceedings, but that the chair defended their rights, whereas another one noted that the officials demanded that the observers show what they wrote down in their forms, which is not in line with international standards or Polish law.



Voting



An example of an inadequate amount of voting booths. While some places designated as voting booths did have screens, sometimes they were set up as in this example

Insufficient Layout Planning in Polling Stations

A common issue observed in several polling stations was inadequate layout planning, which did not provide the necessary space required during the voting process. This occasionally resulted in crowded situations, potentially compromising the secrecy of the vote due to the close proximity of individuals inside the polling stations. Ensuring sufficient space within polling stations is essential to maintain the integrity of the voting process.

Inadequate Number of Voting Booths

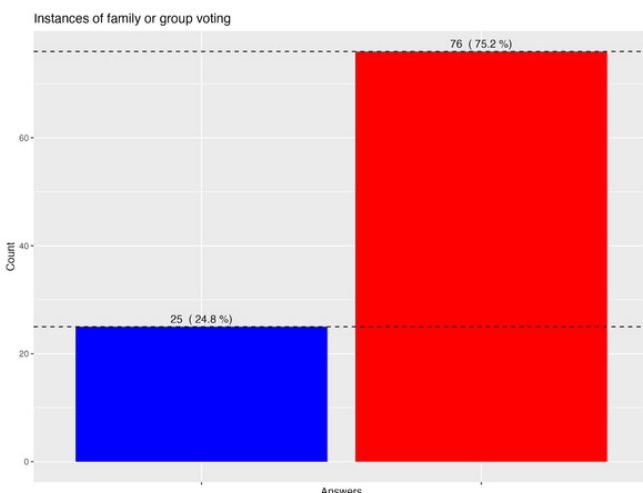
In 50% of the polling stations, our observers noted issues related to the secrecy of the vote. The majority of these issues stemmed from an insufficient number of voting booths and improper placement, enabling other voters or Polling Station Officials to easily see how individuals were voting. This is a fundamental aspect of good democratic practice, as failure to address this issue may lead to voter checks, control, bribery, intimidation, or undue influence.

Rampant Group and Family Voting

One significant concern was the occurrence of family voting, which couldn't be justified as assisted voting. In most cases, polling station staff tolerated this practice, and it was observed in more than 75% of the polling stations. This severely undermines the secrecy of the vote and the fact that it was observed so often is very worrisome. In some instances, the polling station officials told the voters not to discuss their vote or to be in the same voting booth, but they were often ignored.



Examples of both family and group voting and a lack of secrecy of the vote in some of the polling stations.



Concerns over referendum secrecy

During our meetings with stakeholders, we noticed a particular issue that raised concerns about the secrecy of the vote. **In order to refuse a ballot for the referendum, voters had to audibly declare their desire not to receive one.** This practice may inadvertently imply the voter's choice, potentially compromising the secrecy of the vote. During our observations, however, other problems or fights around the referendum were few and far between. There was only one incident where a voter tore up the ballot, which is a criminal offence in Poland, and subsequently left the polling station. Police were called, who made a report and left without further incident.

Police Presence and Behavior

During our observations, we encountered the police a total of four times, each time for justified reasons and handled professionally. This observation was seen as positive, as it contributed to the security of the voting process.

Campaigning Materials in Close Proximity to Polling Stations

In 33% of the polling stations observed, there were campaigning materials located within 30 meters of the entrance. Campaigning materials were of virtually every party and not just one particular one. This proximity may exert undue influence on voters as they enter the polling station.



An example of campaigning material right outside the polling station.

Closing and Counting Procedures

Exit polls while voters queued

It was reported by national media that some voters queued to vote until around 2:00 PM on October 16. Given that the first exit polls were published at 9:00 PM on October 15, this could significantly influence the voting behaviour of those still in the queue, creating unequal conditions for different voters across the country.

Problems with securing unused ballots

In 50% of the polling stations observed, we encountered issues with unused ballots being left outside of sealed packages, and in one instance, they were placed in a package but not sealed. This practice goes against good democratic standards, as it can lead to the falsification of votes by adding newly created votes to the rest of the ballots to be counted.

Opening polling stations too early

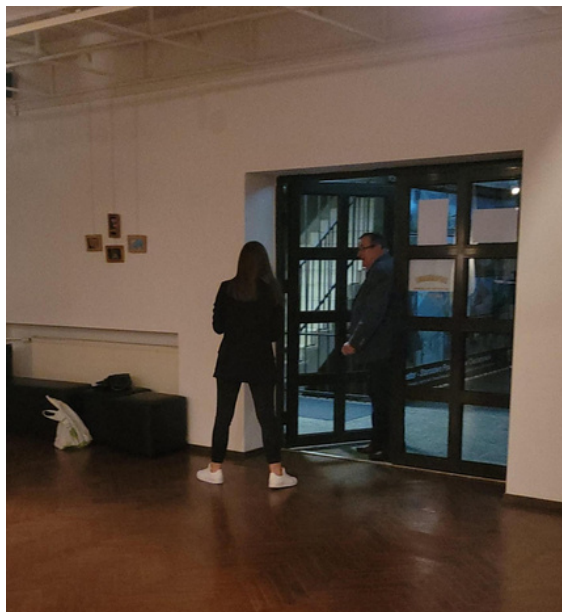
In 5 out of the 12 polling stations we observed, individuals, including Polling Station Officials and Observers, left with the door unlocked. In one instance, a domestic observer re-entered through an insecure window. This lack of security poses a risk, as unauthorized individuals can take advantage of the situation by illegally entering the polling stations, or ballots can be taken outside and prevented from being counted. We did not observe either of these cases, however.

Observers' rights respected

In all polling stations, our observers reported being able to witness all proceedings without distraction. However, this does not account for two polling stations where our observers were denied entry due to the lack of physical accreditation. Overall, this practice enhances transparency in the polling stations.

Counting procedures not followed

In 50% of the polling stations, we observed issues with the conduct of the count, where either unused ballots were left unsecured, people were split into groups, or the ballots were not properly separated by party list and then by candidate. This undermines transparency and can allow mistakes to go unnoticed. Most problems were noted with the polling stations that finished before 3 o'clock, the ones that abided by the procedures often continued counting for a long time. The size of the polling stations, the electoral law change, and the referendum being added next to the election seemed to be major contributors to these problems.









An example of a polling station official opening the door for a partisan observer before the count has finished

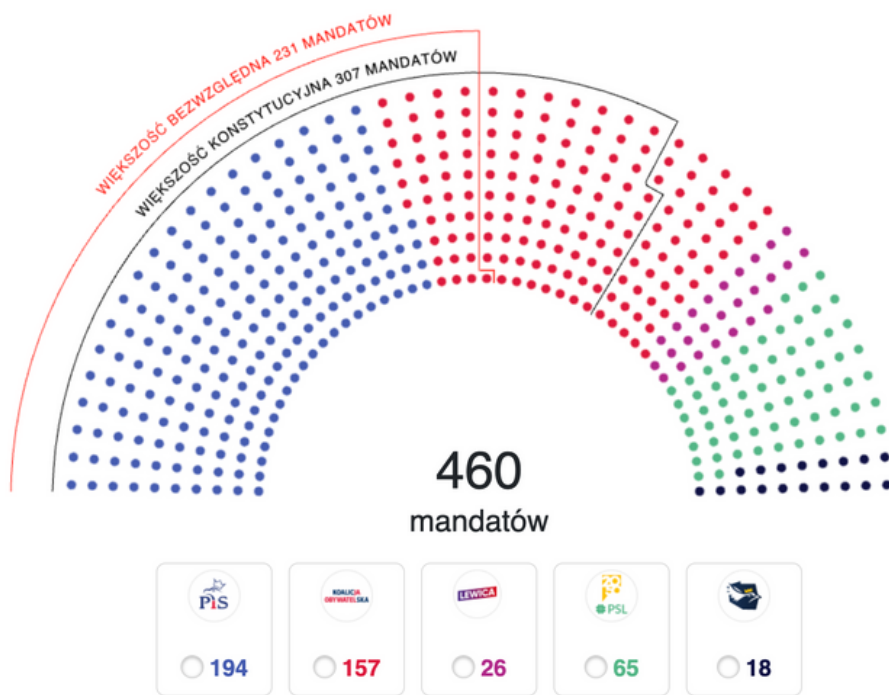
Election Results

The parliamentary election was held on October 15, 2023. Most of the polling stations closed at 9 p.m., but in a few of them, voters waited until 3 a.m. on October 16th to cast their vote. On October 17, 2023, two days after the election day, the Central Electoral Commission (PKW) was able to present the final result of the parliamentary elections. In this election, people voted for the two parliamentary chambers, the lower chamber (Sejm), and the higher chamber (Senate), as well as a referendum with four yes-or-no questions. The results of this parliamentary election are historical. The most interesting factor is the historically high turnout, which reached 74.31 per cent, the highest since 1989. The previous record was 62.7 percent, obtained in the first round of the Sejm elections in 1989 (In 1989, the only time in Polish history, that elections to the Sejm were held in two rounds, and in the second round, the turnout was 25.3%). Another historical factor is that for the first time 29.6 percent or in other terms 136 of the seats in Sejm will be occupied by women (PKW, 2023).

Results for Sejm

	Party or Coalition	Percentage of Votes	Number of Mandates
 Prawo i Sprawiedliwość	Law and Justice	33,38%	194
 Koalicja Obywatelska	Civic Coalition	30,7%	157
TRZECIA DROGA 	Third Way	14,4%	65
 LEWICA	The Left	8,61%	26
 KONFEDERACJA WOLNOŚĆ I NIEPODLEGŁOŚĆ	Confederation	7,16%	18
 BEZPARTYJNI samorządowcy	The Nonpartisan Local Government List	1,86%	0
	There is One Poland	1,63%	0

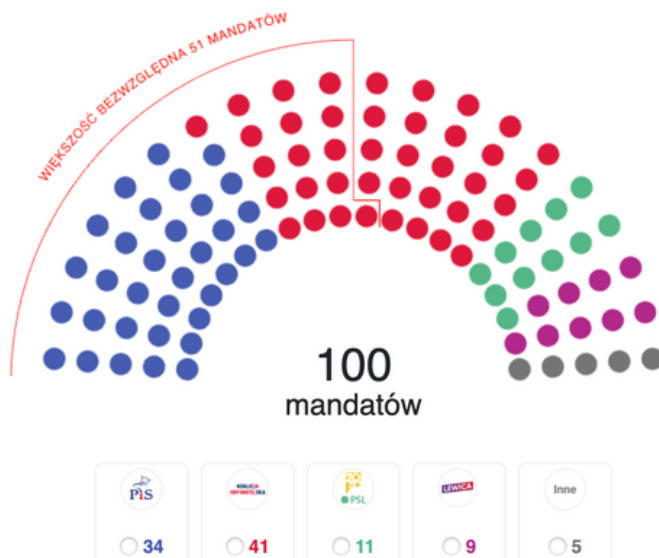
These results show that PiS (Law and Justice) won the election and again became the biggest party with its 194 mandates - However, lost its majority to the opposition parties (Civic Coalition, Third Way, and New Left) which jointly secured a majority of 248 mandates (Kuchta, 2023). A party needs 231 of 460 mandates to secure a majority in the Sejm. Therefore, we can expect a change in government as the opposition parties announced their interest in forming a new government together. In the Sejm, all 460 members are elected by proportional representation.








Official data of the National Electoral Commission. Visual provided by tvn24.pl, October 17th, 2023

Results for Senate

5 out of 6 electoral committees gained seats in the Senate by winning one or more of the 100 single-mandate districts.



Official data of the National Electoral Commission. Visual provided by tvn24.pl, October 17th, 2023

	Party or Coalition	Percentage of Votes	Number of Mandates
 Prawo i Sprawiedliwość	Law and Justice	34,81%	34
	Civic Coalition	28,91%	41
TRZECIA DROGA 	Third Way	11,5%	11
 KONFEDERACJA WOLNOŚĆ I NIEPODLEGŁOŚĆ	The Left	6,75%	0
	Confederation	5,29%	9
	Independent	4,91%	5

Please note that in the Senate election, senators are elected through the first-past-the-post single-mandate districts system. It's also important to note that the Civic Coalition, Third Way, and New Left formed a coalition known as the Senate Pact (Pakt Senacki). The Senate Pact is an agreement between parties to field one candidate in each constituency, either from a specific party or running independently. This was significant because the senator's seat was awarded to the candidate with the greatest voter support. This approach, in contrast to splitting votes between three candidates from each party, pitted one opposition candidate against the government party PiS, making it easier for opposition candidates to be elected.

The voter turnout was 74.31 per cent (PKW, 2023). Poland's 2023 parliamentary elections stand out as a success for democracy, as evidenced by the historically high turnout of citizens going to polling stations on E-day.

In the Senate, as in the 2019 election, the Senate Pact achieved a majority in the upper chamber. However, this time, they increased their majority from 51 mandates to 66 mandates, securing a more substantial victory for the Pact (Kuchta, 2023). To secure a majority in the Senate, a party needs 51 out of 100 mandates. As a result, there is a majority for the opposition parties in both the Sejm and the Senate.

Results of the Referendum

During the parliamentary elections, voters were also asked to vote for four referendum questions (Hukałowicz, 2023).

The four referendum questions were:

1. "Do you support the selling off of state assets to foreign entities, leading to the loss of Poles' control over strategic sectors of the economy?"
2. "Do you support an increase in the retirement age, including the restoration of the increased retirement age to 67 for men and women?"
3. "Do you support the removal of the barrier on the border between Poland and Belarus?"
4. Do you support the admission of thousands of illegal immigrants from the Middle East and Africa, in accordance with the forced relocation mechanism imposed by the European bureaucracy?"

This referendum generated widespread discussions in Poland, both regarding its content and the timing of holding a referendum (Krzykowska *et al.*, 2023). Referendums have a separate set of rules compared to normal elections, therefore the referendum allowed different rules during the campaign - as party spending on referendum campaigns is not restricted and regulated like in the Polish parliamentary elections. A point of dispute for the Polish population was whether to participate in the referendum or not, as the questions were politicized and the government opposition asked the voters not to vote for the referendum as a referendum turnout of over 50 per cent would make it binding for the government. Additionally, there were concerns about the secrecy of the vote, as, one who did not want to cast a vote in the referendum, had to verbally declare it to the polling official, who then noted it down next to the voter's name in the comment section on the voters' list. There were several instances where polling officials asked the voter if they wanted all three ballots or not, this was later on e-day specified to be illegal by the Central Electoral Commission which notified the polling stations that they had to immediately stop asking voters these questions (Latos, 2023). Voters had to independently express that they didn't want to participate in the referendum.

The turnout in the 2023 national referendum was only 40.91 per cent and thereby the referendum is not binding (PKW, 2023). The results for the questions are as follows:

Question	Yes	No
1	3,51%	96,49%
2	5,39%	94,61%
3	3,96%	96,04%
4	3,21%	96,79%

Aftermath of the Results

Shortly after the election results were confirmed, discussions on the composition of a new government commenced, both in the Polish media and within political circles. Presently, the prevailing expectation among the public is that the president will nominate a representative from the PiS party as the initial candidate to undertake the task of forming a new government. The rationale behind this is grounded in the PiS's status as the largest political party, which is seen as affording them primacy in this endeavour.

However, opposition leaders are making a plea to the president, urging him to exercise discernment by designating Donald Tusk as the first choice for the government formation process. They point to the opposition's majority presence in both chambers as a compelling reason for this choice. Nevertheless, the possibility of Donald Tusk and the opposition securing the first opportunity to form the government is currently unlikely due to the president's affiliation with PiS.

Should the president opt to task a PiS candidate with the initial government formation, it is highly unlikely to survive a vote of confidence in the Sejm, given PiS's lack of a majority. In such an event, the established procedure dictates that after the president's chosen candidate fails to establish a government the Sejm would then present its own candidate to undertake the government formation task. The most likely outcome in this scenario is that the parliament would choose Donald Tusk, as he and the opposition command the majority. It is also anticipated that the government he proposes will successfully navigate the vote of confidence, thereby constituting the new government. **As a result, this prolonged process raises concerns of a delayed government formation, with expectations now pointing toward December 2023 or January 2024 as the likely time frame for its establishment.**

In addition, the opposition is grappling with internal divisions over the distribution of government positions among the three opposition parties. Shortly after the election results were announced, reports emerged detailing disputes between party leaders regarding the allocation of ministerial roles and other key positions such as the Speaker of the Sejm and Senate (Nizinkiewicz, 2023). Although party leaders concur on the undesirability of public disputes, it is proving challenging to keep these discussions and speculations away from the public. As of now, it is evident that the opposition parties are engaged in discussions to reach a consensus on the distribution of roles within their prospective cabinet and the division of the various positions. Despite the disputes among the opposition, there is a strong determination to successfully establish the new government.

Conclusion

Before the elections, the Law and Justice Party (PiS) had been moving Poland down an illiberal path. The party has taken control of the courts in a way that violated the Polish constitution and has politicized state institutions by using the Polish public media as a propaganda tool, limiting the opposition's airtime for debates and praising their own work. The propaganda has allowed for smear campaigns against the LGBTQ+ community, which was portrayed as a threat to the nation. During the years PiS has been in power, women have led massive protests against them due to the tightening of the Polish abortion laws. This led many young people and women to vote for the opposition, and likely caused the significant voter turnout for these demographic groups compared to previous elections.

Prior to the elections, public media was used to create a smear campaign against Donal Tusk, however, for the elections, Tusk won more than half a million votes even as the state media portrayed him as a sympathizer with Russia and Germany. However, the road to a new government in Poland still depends on the Polish president, Andrzej Duda, a PiS supporter, who will remain in power until 2025, and who will appoint the candidate that will initiate government formation.

Even though the current opposition parties are expected to eventually form a government led by Tusk as prime minister, the coalition will be faced with a politicized constitutional court that will likely try to uphold the previous government's changes. This will mean a lot of work for the coalition to reestablish the Polish courts, and media and repair Poland's relationship with the EU as well.

Recommendations

Based on our findings and the assessment of the electoral and political environment we recommend the following changes to improve the electoral process in future elections:

Improvement of the secrecy of the vote. This could be done by improving the layout of the polling stations, to make sure the booths are private. We suggest getting bigger booths that cannot be peeked into, as well as planning the routes of voters in the polling station to not walk behind the open booths. We also recommend limiting the amount of people who can be inside a booth at the same time to prevent family voting.

Further training for polling station officials in the election law, including making them aware that family voting should be avoided and adhering to the secrecy of the vote.

Improving the accessibility of polling stations for disabled people. Many of the polling stations we visited weren't accessible for disabled people - creating ramps or choosing locations that are accessible for disabled people would improve the ability for disabled people to participate in Polish democracy.

The removal of campaigning material in proximity of the polling stations. As the law is now, campaigning materials and agitation cannot be placed or take place within the area of the polling stations from 24 hours prior to the voting and during. However, due to the locations of the polling stations being known long before the election starts, a lot of parties hang campaigning materials close to the entrances of the polling stations. By removing these materials within a radius of (for instance) 100 meters, this problem will be effectively solved.

Improvement of the independence of the media. Given the current Polish media landscape, it is difficult to talk about a free media environment. Public media should not be used to push a particular political message but should remain informative and bring forward all aspects of the political debate. Therefore, we suggest that an arm's length principle be instituted by law, meaning that the management of the public media is left to independent organs, with politicians and government officials not being allowed to intervene in the running and decision making of these.

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