

Warsaw, 22 November 2022

H.E. Mr Matteo Mecacci
Director of the OSCE Office for
Democratic Institutions and Human Rights
ul. Miodowa 10
00-251 Warsaw, Poland

Re: Election observation mission for Polish parliamentary elections

Dear Mr Mecacci,

The undersigned non-governmental organisations are writing to you to urge ODIHR to send a Full-Scale Election Observation Mission to Poland in autumn 2023 to observe our country's parliamentary elections.

We appreciate that the decision on the level of an election mission is a task for ODIHR's Needs Assessment Mission (NAM). However, please treat this letter as input for the NAM's deliberations as to what extent Poland's parliamentary election next year should be observed in every aspect including events in polling stations on election day.

We are fully aware of ODIHR's record as a reliable and reputable election observation organization whose reports on elections in the OSCE countries are widely respected as being accurate and fair-minded. Also, other international institutions regularly refer to them when they assess the probity of democratic processes in any given country.

The parliamentary contest in Poland next year will be the first in a series. It will be followed in 2024 by local government elections and the election to the European Parliament and after that a presidential election in 2025.

Clearly, the parliamentary election next year will set the tone for the whole cycle and it is of utmost importance that everything should be done to ensure a level playing field for all participants. A full election observation mission from ODIHR would be an important part of this effort.

The election promises to be highly polarized. In a sense, the election campaign has already started with leaders of both the main ruling and opposition parties attending meetings across the country to put their case. Both sides have already raised the possibility of widespread election fraud by their opponents and have spoken of the need to enlist thousands of election observers to guard against this danger. On polling day these observers representing rival political camps will be attempting to assess the extent to which impersonation, double voting, ballot box stuffing and problems with counting and tabulation of the votes appear in the process. The presence of ODIHR observers in the polling stations would greatly

complement these efforts as will the input of independent citizen monitors. Should the need arise, we would be happy to see independent NGO groups sharing the results of their pre-election analyses and observations with ODIHR's own election experts.

Government representatives continue to mull the possibility of changes in electoral procedures even though at this stage, according to advice from the Venice Commission writing in its 2020 [Code of Good Practice in Electoral Matters](#), „changes to fundamental aspects of the election system should not take effect less than one year prior to an election”. The handbook identified Poland as one of those countries „where important electoral reforms were adopted only a few months prior to recent elections”.

Charges that the Polish authorities are striving to politically control the judiciary lie at the root of the current dispute on the situation of the rule of law between Poland and the European Commission. Poland's Supreme Court is the institution which is tasked to validate the results of the election as presented by the National Election Commission (KBW). It will be the Chamber of Extraordinary Review and Public Affairs of the Supreme Court, which will be directly responsible for confirming the parliamentary and presidential election results as well as referendum outcomes and adjudicating election protests. However, this Chamber of the Supreme Court is not recognized by European courts such as the European Court of Human Rights (ECtHR) (see for example the [ECtHR judgement in the case of Dolińska-Ficek and Ozimek v. Poland](#) of November 8th, 2021). These are problems which will deserve special attention from election observers given the charges of possible election fraud which have already surfaced in the speeches of political opponents.

The same is true of the functioning of Poland's election supervisory bodies. The 2018 law changed the composition of the National Electoral Commission (NEC), the majority of whose members are now elected by parliament. The NEC's term in office is also linked to the parliamentary term. Also, there have been changes in the system of appointing electoral commissioners who are NEC representatives in the regions. The Minister of Internal Affairs now plays an important role in this process. As a result, the composition of the electoral bodies is dependent on the parliamentary majority. At the same time, the term in office of the present election commissioners will expire about six months before expected election date. Then new regional commissioners will be chosen. It will be important to observe who the newly appointed people are but also how the process will affect the functioning of the electoral commissions throughout Poland.

Finally, Poland's public service media are already regularly broadcasting content which is heavily slanted in favour of the ruling party even though the election is a year away. This ignores the recommendations contained in [ODIHR's final report on Poland's parliamentary election in 2019](#), which said that the views of all political parties should be presented by the public broadcaster in „an impartial and

objective manner," and that „favourable treatment of a political party by public media should be treated as an illegal use of public funds". The report also suggested that the Election Code be revised „to include legal requirements for equitable, balanced and impartial coverage of the campaign in public media". This has not been done.

Poland's forthcoming parliamentary election promises to be a bruising political experience. Rival candidates are already striving to polarize public opinion and the problems described above are only some of the problems which require that the contest be closely monitored by professional and impartial observers. Funding of election expenses by the state and state-controlled actors and the use of state resources to support the ruling party are two further areas of concern. Previous ODIHR election reports from Poland have drawn attention to such issues and relevant recommendations have not been implemented thus worsening the „electoral environment".

It is clear to us that ODIHR should devote the maximum possible time and effort to observing the parliamentary election next year in Poland including on election day. Given that the election campaign has already begun, this overview could, as much as possible, include political processes taking place before the official start of the campaign. This would also support the many monitoring activities and preparation of reports related to the upcoming elections planned by Polish NGOs. These in turn stand ready to support ODIHR with their own independent analyses and observations on the conduct of the election campaign.

Yours sincerely,

(Signatories in alphabetical order)

Akcja Demokracja Foundation (Fundacja Akcja Demokracja)
Association 61 (Stowarzyszenie 61)
Citizens Network Watchdog Poland (Sieć Obywatelska Watchdog Polska)
Committee for the Defence of Democracy (Komitet Obrony Demokracji, KOD)
Congress of Civic Democratic Movements Foundation(Fundacja Kongresu
Obywatelskich Ruchów Demokratycznych "KORD")
Free Courts Foundation (Fundacja Wolne Sądy)
Freedom Foundation (Fundacja Wolności)
Helsinki Foundation for Human Rights (Helsińska Fundacja Praw Człowieka)
Institute of Public Affairs (Instytut Spraw Publicznych)
National Federation of Polish NGOs (Ogólnopolska Federacja Organizacji
Pozarządowych, OFOP)
Professor Bronisław Geremek Centre Foundation (Fundacja Centrum im. Profesora
Bronisława Geremka)
Society of Journalists (Towarzystwo Dziennikarskie)
Stefan Batory Foundation (Fundacja im. Stefana Batorego)