

Her Excellency Ingibjörg Sólrún Gísladóttir
Director of the Organization for Security and
Co-operation in Europe Office for
Democratic Institutions and Human Rights

We, the Judges of Common Courts and Administrative Courts of Poland of every level, would like to voice our growing concern regarding the changes in the law governing the procedures to hold elections for the office of the President of the Republic of Poland. The elections are currently ordered to be held on May 10, 2020. The proposed changes raise the likelihood of violating basic legal norms, in particular the right to participate in the management of public affairs of the country. We ask for support, dialogue and careful monitoring of the ongoing electoral and legislative process.

With great pleasure and satisfaction, we have read the statement you have given after the changes in electoral law were adopted by the Polish Sejm. Following careful analysis of the bill adopted by the Sejm, we would like to share our observations. We are deeply concerned that the aforementioned bill poses a threat to such basic legal standards as the principle of universal suffrage and the secrecy of the ballot.

As a formal state of epidemic was announced throughout the entire territory of the Republic of Poland, such a state of emergency introduces restrictions on civil rights like the freedom of movement, freedom of assembly and the right to information. The formally ongoing election campaign does not meet the conditions of the free selection of representatives by those entitled to vote. The solutions introduced by the Sejm also allow an arbitrary change of date of the elections, previously established based on the provisions of the Constitution of the Republic of Poland.

A correspondence voting system is being introduced as the only measure to address voting rights. We are concerned that it is impossible to reach each voter in light of the current circumstances. This form of election would present many challenges in addition to the typical hurdles of legislating new electoral law, by being introduced so suddenly before the date of the election. It raises questions as to whether the voters will have a fair and equal opportunity to cast their votes.

At present, the recognition of election contestations and the assessment of validity of such an election remains subject to consideration by the Extraordinary Control and Public Affairs Chamber of the Supreme Court of Poland. Members of said Chamber were appointed in a legally flawed process that resulted in the Chamber foregoing its independence and non-partisanship.

We would like to emphasize that our reservations are not a result of a political assessment of the solutions adopted, but only from the position that we are participating in our routine functions of the state. Our constitutional role in the structure of state institutions is the application of law, law that, by principle, cannot be upheld in contradiction to the Polish Constitution or international law in force in Poland. As Judges of Poland, we have the responsibility to resolve disputes and appeals regarding electoral matters. We uphold, among others, the roles of Election Commissioners and the members of the Election Commissions. Under current conditions, the ability to act as public servants is being jeopordously undermined; therefore, so too, is the right of the Polish people to appeal effectively.

We ask that special efforts be made in the assessment of the extent to which the guarantees of basic human rights are being preserved in the current election of the President of the Republic of Poland.

Yours sincerely,

/this letter was signed by 612 Judges/