

The next presidential election might take place by post only in Poland, a process whose democratic, legitimate character is dubious.

An unprecedented decision

In May, Poland might witness an unprecedented presidential election: one without polling stations and ballot boxes that will be held solely by post. The context is as follows: on 13 March, as part of the fight against the Covid-19 pandemic, Poland closed its borders, banned rallies and imposed confinement. This will gradually be lifted, but schools and universities as well as shops, except for food stores, will remain closed and international passenger transport will be suspended at least until 26 April. The borders will remain closed until 3 May.

Previously, postal voting was only allowed in Poland in cases of serious illness or disability preventing access to the polling station.

So how will the presidential election scheduled for 10 and 24 May to decide Andrej Duda's successor (Law and Justice, PiS) take place? 30 million Poles are expected to deposit their ballot papers in special mailboxes reserved for this purpose. Around 25,000 post office employees will deliver and collect the ballots, which will be counted by specially convened electoral committees.

The electoral law leaves room for the Speaker of Parliament to postpone the vote by one week to 17 May, which is constitutionally possible.

«We have to fight the virus and probably the long economic crisis that will follow, so we have to consolidate power and this is what this presidential election is going to enable,» said PiS President Jaroslaw Kaczynski.

On 6 April, the bill put forward by the government led by Mateusz Morawiecki (PiS) on postal voting was first rejected by the Sejm (Sjem), the lower house

of parliament: 228 in favour, 228 against. Three PiS deputies opposed the text, three others abstained and one did not vote. A few minutes after the vote, some of these «rebel» deputies changed their minds. Grzegorz Puda claimed to have pressed the wrong button. Andrzej Kryj, who had not voted, said he had voted but that the online voting system had not taken his choice into account. A new vote was held a few hours later and the text was adopted.

Responses

Many lawyers, politicians and journalists have warned of the risk of fraud and of violations of the Constitution and the Electoral Code in the postal ballot. According to an opinion poll carried out by Pollster and published by Rzeczpospolita on 23 March, nearly three-quarters of Poles (72.2%) and 43% of PiS voters were in favour of postponing the election.

«If the idea of maintaining the 10 May poll goes ahead, it will be the beginning of the establishment of an authoritarian regime in Poland because this election cannot take place in a fully legal, constitutional manner and in accordance with good democratic practice. The legitimacy of the winner can only be doubtful,» stressed Antoni Dudek, political scientist and historian at Cardinal Wyszyński's University in Warsaw.

On 8 April, in an interview with the newspaper Rzeczpospolita, the European Commission Vice-President responsible for Values and Transparency, Vera Jourova, expressed her *«concern about the presidential election, the quality of the voting process as well as the legality and constitutionality of such an election»*.

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The Head of the Office for Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Co-operation in Europe (OSCE), Ingibjörg Solrun Gísladóttir, said that *«under the current conditions, the way the presidential election is conducted might not meet international standards»*.

«Maintaining the presidential election in the current conditions of total confinement is not the solution,» said Pieter Omtzigt and Azadeh Rojhan Gustafsson, co-rapporteurs of the Parliamentary Assembly of the Council of Europe (PACE) on the functioning of democratic institutions in Poland. Both men recommended that the elections be postponed until the second half of 2020. *«Its organisation in the current circumstances could undermine the legitimacy of the elected President of the Republic, regardless of the outcome of the ballot,»* they said.

«The presidential election raises serious concerns about basic democratic standards (...) The law on universal postal voting will enter into force at the earliest on 7 May, after going through the parliamentary procedure. It is administratively impossible to organise elections within three days without running a serious risk of electoral fraud,» said ECFR member Piotr Buras, who recalled that no Council of Europe representative or OSCE observer will be able to travel to Poland to monitor the vote.

The bill on postal voting now awaits the approval of the Senate, where the opposition has a majority. However, the government can override a possible refusal by the Upper House. On 18 April, the PiS tabled a bill amending the Constitution with a view to extending the term of office of the outgoing Head of State Andrzej Duda by 2 years (from 5 to 7 years). The text provides that the first round of the presidential election scheduled for 10 May will be cancelled under the new rules.

The candidates standing

10 people are officially candidates in the presidential elections on 10 and 24 May:

- Andrzej Duda (PiS), outgoing president of the Republic, is seeking a second term;

- Malgorzata Kidawa-Blonska won the «primary» organized by the Citizens' Coalition (PO) led by Grzegorz Schetyna;
- Wladyslaw Kosiniak-Kamysz, Chairman of the Peasant Party (PSL);
- Robert Biedron MEP, leader of the left-wing Wiosna party (Spring);
- Szymon Holownia, journalist and presenter, is running as an independent candidate;
- Krzysztof Bosak, National Movement (RN), MP;
- Mirosław Piotrowski, Real Europe Movement;
- Stanisław Zołtek, Congress of the New Right (KNP);
- Marek Jakubiak, former MP, independent;
- Paweł Tanajno, entrepreneur, independent.

The electoral campaign

Updoling the poll undeniably benefits the outgoing President of the Republic, Andrzej Duda, who is the only one able to campaign in a confined country. The ban on rallies and the confinement have obliged the other candidates to cancel their campaign meetings. Already a favourite in opinion polls before the outbreak of the pandemic, Duda has seen voting intentions in his favour rise and those of his rivals fall at the same rate since the confinement. Many observers expect a strong abstention rate in the event of a postal vote, which would favour the outgoing head of State. Only one third of Poles say they are prepared to vote under these conditions.

The PiS is anticipating that the re-election of Andrzej Duda would undoubtedly be more difficult in a few weeks or months' time when Poland faces the economic and social consequences of the health crisis as well as, perhaps, the anger or dissatisfaction of the population with the way its leaders have handled the crisis. The election of a head of State from the ranks of the opposition would be bad news for the PiS since the latter could use his right of veto to oppose laws passed by parliament: the Sejm can only reject the head of State's veto by a majority of 3/5ths of the votes, a majority which the PiS does not have.

Andrzej Duda is the first President of the Republic to have visited all 380 electoral districts in Poland during

his term of office. He likes to show his interest and esteem for «ordinary Poles» living in small towns and rural areas. These people, who sometimes feel that they are regarded as «second-class» citizens, appreciate Andrzej Duda's attitude towards them.

Conversely, his main rival, Malgorzata Kidawa-Blonska, is seen as someone representing urban Poles and liberal elites. The PiS accuses her of having no political agenda except to criticize the actions of the outgoing president or government. The strategy pursued by the opposition, which involves turning every national election into a vote about the government, did not pay off in the parliamentary elections of 13 October 2019.

While all opposition candidates, as well as the mayors of the country's largest cities, have called for a postponement of the presidential election, arguing that the postal ballot would be unfair and undemocratic, they remain divided on the strategy to be followed to achieve this.

According to the survey carried out by the Social Change Institute between 10 and 13 April, outgoing President Andrzej Duda would be elected in the first round on 10 May with 59% of the votes. Wladyslaw Kosiniak-Kamysz would win 10%, Malgorzata Kidawa-

Blonska 9%, Krzysztof Bosak and Szymon Holownia 8% each and Robert Biedron 5%.

The Presidential Office

The role of the Polish Head of State is mainly honorary, but not insignificant. Elected for 5 years, he has a right of veto which the Diet, the lower house, can only reject by a majority of 3/5ths of the votes, which must also take place in the presence of at least half of the deputies. The President of the Republic may decide alone to hold a referendum, a procedure that is not widely used because of the low turnout in the country for such elections. He is the head of the armed forces; he ratifies international agreements, appoints and dismisses ambassadors and exercises a right of amnesty by which he can overturn court decisions on appeal. Under the Constitution, he may not serve more than two consecutive terms.

A candidate for the office of President must be at least 35 years of age. In order to stand for election, he or she must collect 1,000 signatures from voters, which he or she presents to the Polish Electoral Commission. His or her candidacy will be registered only after 100,000 voters' signatures have been submitted.

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Reminder of the results of the presidential election of 10 and 24 May 2015 in Poland

Turnout: 48.96% (1st round) and 44.63% (2nd round)

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Candidates	No of votee won (1st round)	% of votes won (1st round)	No of votes won (2nd round)	% of votes won (2nd round)
Andrzej Duda (Law and Justice, PiS)	5 179 092	34.76	8 630 627	51.55
Bronislaw Komorowski (Civic Platform, PO)	5 031 060	33.77	8 112 311	48.45
Paweł Kukiz (independent)	3 099 079	20.80		
Janusz Korwin-Mikke (Coalition for the restoration of freedom and hope of the Republic, KORWiN)	486 084	3.26		
Magdalena Ogorek (Democratic Left Alliance, SLD)	353 883	2.38		
Adam Jarubas (Farmers' Party, PSL)	238 761	1.60		
Janusz Palikot (Your Movement, TR)	211 242	1.42		
Grzegorz Braun (independent)	124 132	0.83		
Marian Kowalski (National Movement, RN)	77 630	0.52		
Jacek Wilk Congress of the New Right, KNP)	68 186	0.56		
Paweł Tanajno (Direct Democracy, DB)	29 785	0.20		

Source : <https://prezydent2015.pkw.gov.pl/>

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