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THE ABILITY TO VOTE FOR EVERYONE? ALTERNATIVE VOTING METHODS AS INSTRUMENTS FOR THE IMPLEMENTATION OF THE PRINCIPLE OF UNIVERSALITY OF ELECTIONS IN THE POLISH ELECTORAL SYSTEM

INTRODUCTION

According to the principle of sovereignty expressed in Article 4 of the Constitution,¹ the supreme power in the Republic of Poland belongs to the Nation, which exercises it directly or through its representatives. The first form of government allows decisions to be made directly by the people, but due to the size of the population and the organisational difficulties involved, the use of indirect democracy prevails in political practice. Its key element is elections, during which the people elect their representatives. Participation in elections is an entitlement of citizens.² Correlated with this entitlement is the State's obligation to ensure that every interested party who is entitled to this right has the opportunity to participate in voting. These issues concerning the principle of universality of elections and the techniques that allow citizens to express

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¹ The Act of 2 April 1997 Constitution of the Republic of Poland (Journal of Laws No. 78, item 483, as amended).

² In Poland, it is a voluntary entitlement. However, there are countries such as Belgium, Turkey, Bolivia, Uruguay, Australia and Thailand, where participation in elections is mandatory, and there is a sanction for non-participation [Rachwał 2012: 232–233].

their will deserve to be discussed not only because of the vital importance they have, but also because of the experience of past events, the root of which was the COVID-19 pandemic. It was this that revised the effectiveness of the previously available solutions in the electoral system. In fact, it led to many difficulties in the conduct of the 2020 presidential election. Primarily, it is worth noting here the logistically problematic need to organize the election with the so-called social distance during voting, in order to ensure a higher level of voter health. The realization of this goal was to be served by correspondence voting in the all-postal voting formula, assuming the exclusivity of this voting method. However, this solution was not applied, due to the numerous controversies that arose in connection with the attempt to carry it out.³ In the end, it was decided that voting would take place at polling stations, but there will also be possible to vote by correspondence by any interested party who declares a desire to vote in this way – the so-called on-demand postal vote [Musiał-Karg, Kapsa 2020b: 71].

The starting point for the research undertaken in the article is the thesis contained in the title, according to which alternative voting methods are legal instruments to ensure the implementation of the principle of universality of elections. The article, although referring to the experience of the system of foreign countries, mainly focusses on Polish systemic solutions. The purpose of the considerations undertaken is an attempt to answer the question of whether the alternative voting methods available in the Third Republic of Poland (III RP) in terms of their efficiency and quantity are sufficient for the realization of the principle of universality of elections. As part of the research, a method based on the analysis of electoral regulations was used as the base. References to the literature on the subject were also included. The author's observation of the functioning of the Polish electoral system in the run-up to the holding of the 2020 presidential elections also served to formulate conclusions.

PRINCIPLE OF UNIVERSALITY OF ELECTIONS

The principle of universality of elections is understood in various ways in scholarship on constitutional law. It is pointed out, *inter alia*, that universality is identified as elections throughout the country, elections for a new term, or as

³ The issue is presented in detail in a study entitled “All-postal voting (powszechnie głosowanie korespondencyjne) w wyborach prezydenckich w Polsce w 2020 r. O tym, jak nie procedować w czasie pandemii?” [Musiał-Karg, Kapsa 2020a: 136–142]; also noteworthy is an online article entitled *Duże wątpliwości wokół głosowania korespondencyjnego*, <https://wydarzenia.interia.pl/raport-wybory-prezydenckie-2020/news-rmf-duze-watpliwosci-wokol-glosowania-korespondencyjnego,nId,4426775> (accessed 7.04.2020).

all stages of electoral proceedings [Skotnicki 2000: 11–18]. However, the three meanings of the principle of universality cited enjoy relatively little popularity, as evidenced by the fact that they are presented sporadically. On the other hand, most often, the principle of universality is recognized in two, yet different meanings. According to the first, the principle of universality is identified exclusively with the active right to vote, while according to the second, it is understood not only as an active right to vote but also as a passive right to vote. The essence of the principle of universality in the first of the above two meanings boils down to ensuring participation in voting by the widest possible circle of eligible persons [Skotnicki 2000: 11–18]. Thus, any undemocratic electoral census that makes participation in voting dependent on, for example, education, gender, or wealth is impermissible. In the second meaning, the principle of universality is understood more broadly, covering with its scope also the passive right to vote. It is pointed out that such an understanding of the principle of universality covers not only the rights of voters, but also of candidates, and consequently is better, as it allows one to eliminate censuses that discriminate also the latter [Kowalczyk 2016: 105].

In my opinion, however, perceiving the principle of universality also through the prism of the passive right to vote is a procedure that is not so much misguided as inadequate in relation to the prevailing political reality. Although in theory every eligible citizen can run for office, it is, however, as Leszek Garlicki aptly stated: “In practice, it is difficult to imagine the chances of electing a candidate who has not been put forward or supported by existing parties or political groups; in elections to the Sejm, organized on the basis of the principle of proportionality, with the application of electoral thresholds, this is almost impossible” [Garlicki 2016: 195]. The principle of universality seen only as an active right to vote is definitely more in line with the prevailing reality, which makes this understanding of it the most reasonable.⁴ Therefore, in the rest of this article, speaking of the principle of universality of elections, I will have in mind precisely this narrower meaning of it. It is worth adding that regardless of the accepted meaning of the principle of universality, its impact on the entire electoral system is enormous, and because of its importance and momentous nature, it is rightly sometimes called the “Queen of the principles of electoral law” [Kowalczyk 2015: 237].

⁴ The principle of the universality of elections should not be analysed solely on the legal level, in a manner fully detached from the political sphere. For if it were to do so, the analysis made would only be “art for art’s sake”, a theoretical construct devoid of practical value.

INSTRUMENTS TO ENSURE UNIVERSALITY OF ELECTIONS – INTRODUCTORY REMARKS

Instruments for ensuring the universality of elections are all those legal mechanisms that enable, but also facilitate, the casting of votes in elections by all eligible voters who wish to do so. Thus, they belong to a broader group of measures that constitute active-effect participation reinforcements, which aim to stimulate electoral activity by minimising costs and reducing obstacles, as well as raising awareness of the benefits of voting [Panicz 2011: 118]. Instruments analysed can be divided into two groups. The first group includes mechanisms that are methods of casting votes other than the basic one. Thus, this involves the so-called alternative voting procedures. These are constructs that allow voters to cast their votes in a different way than the traditional filling out of ballots at the polling station [Zbieranek 2018: 9]. The specifics of these instruments, crucial to the matter of this article, will be more extensively illustrated later. On the other hand, the second group of instruments for the implementation of the principle of universality includes all kinds of solutions that are facilitations and facilities for participation in elections, without being procedures for casting votes. Here, one can point to, for example, the rules for the creation of voting circuits (Article 12 § 3, 4, 7, Article 14 § 1, Article 15 § 1 of the Election Code⁵), the institution of a certificate of the right to vote (Article 32 of the Election Code), or the order to designate elections for a day off work (Article 98 and 128 of the Constitution). However, measures belonging to this group are not the subject of this article, so they will not be discussed in detail.

By analysing the operation of the instruments mentioned above, it should be stated that they lead to the elimination of factors underlying compulsory absenteeism. We are dealing with the latter in the case when a voter shows a willingness to cast a vote, however, for reasons beyond his/her control (for example, the lack of an appropriate voting procedure), he/she ultimately does not participate in the election [Zbieranek 2006: 16]. Thus, the instruments for the implementation of the principle of universality of elections, to a certain extent, also affect the level of voter turnout,⁶ leading to its increase, by allowing people to participate in elections, whose various limitations do not allow them to vote in the traditional way – at a polling station located in their place of residence.

⁵ The Act of 5 January 2011. Election Code (Journal of Laws 2011 No. 21 item 112).

⁶ The term voter turnout is defined in the literature as an instrument indicating the average intensity of citizen participation in elections, and is expressed as the percentage ratio of the number of voters who cast votes (valid and invalid) to the number of voters eligible to vote [Zukowski 1997: 101].

ALTERNATIVE VOTING METHODS IN THE POLISH ELECTORAL SYSTEM: *DE LEGE LATA* AND *DE LEGE FERENDA*

POSTAL VOTING

There are two types of alternative voting methods in the Polish electoral system. The first of these is postal voting. The essence of this procedure of casting votes is that the voter, before the election day, receives from the election commission a parcel (the so-called election package), which contains election materials, including a ballot with voting instructions and a properly addressed return envelope. After marking the appropriate space for casting a vote on the ballot – the voter sends it back in the return envelope to the address of the relevant election commission [Musiał-Karg, Kapsa 2020b: 64].

According to Article 53a of the Election Code, a disabled voter with a severe or moderate disability and a voter who is 60 years of age or older on the voting day at the latest may vote by correspondence. In addition, in connection with the COVID-19 pandemic, the circle of eligible persons has been expanded by voters under mandatory quarantine, isolation or home isolation on voting day (Article 53a § 1a of the Election Code). A voter notifies the election commissioner of his intention to vote by mail by the 15th day before the election day, with the exception of a voter under quarantine or isolation, who notifies his/her intention by the 5th day before the election day (Article 53b of the Election Code). The notification may be made orally, in writing, by fax, or electronically. It should include basic identification data such as name, surname, date of birth, PESEL number, address, as well as election designation and a statement of inclusion in the voter register. In the case of voters with disabilities, it is also necessary to attach a copy of a current certificate that confirms the degree of disability. An important convenience is the guaranteed possibility for a blind voter to request that a special ballot overlay drawn in Braille be included in the election package. Another noteworthy convenience is the indication contained in Article 53b § 8 of the Code, according to which, if postal voting applies to the election of the President of the Republic of Poland or the election of a mayor, then the notification of the intention to vote by correspondence also applies to revoting. Such a solution should be evaluated positively due to the fact that the outcome in the above two types of elections may not be decided in the first round and, consequently, the presented regulation excludes the need to perform the same action (the intention to notify participation in postal voting) twice in these cases.

A voter who has declared his intention to vote by correspondence receives at least 6 days before election day (in the case of voters under quarantine at least

2 days before election day) an election package delivered to the voter through a postal operator (Article 53e of the Election Code). After completing the ballot and a special declaration of personal and secret voting, the voter sends them in a return envelope to the relevant precinct election commission, unless the voter is under quarantine or isolation, in which case he/she hands over the return envelope to a representative of the postal operator (Article 53h of the Election Code). A voter who is not under quarantine or isolation and who votes by correspondence may also, during voting hours, personally deliver a return envelope to the relevant precinct election commission (Article 53h § 5 of the Election Code). However, this regulation may be surprising, and its legitimacy can, in my opinion, be questioned, because it does not correspond at all with the essence and idea of voting by correspondence, which does not take place stationary at the polling place, and the voter chooses to do this precisely because is unable to vote in the traditional form.

An issue worth noting when discussing postal voting is access to this type of voting. The above presentation of this form leads to the conclusion that the circle of people entitled to use it is limited. However, this has not always been the case. The amendment to the Election Code of 11 July 2014 expanded the possibility of voting by correspondence by granting this right to every voter, which, however, did not last long, as another amendment to the Code, signed by President Andrzej Duda on 15 January 2018, abolished universal voting by correspondence, returning to leaving this possibility only to specific groups of people [Musiał-Karg 2021: 37–39]. This raises the question of whether or not the postal voting should be subjectively limited, as it is now? In my opinion, despite the emerging voices of experts⁷ about the possibility of falsification of the elections, which are conducted using postal voting, the possibility of using this alternative procedure should be available to all voters.⁸ This is because it is easy to imagine a situation where it is significantly difficult for a given voter to come to the polling station in person, despite the fact that he/she is neither disabled nor elderly (for example, the voter has a broken leg). In such a case, postal voting would be a significant convenience for this person. Of course, the spread of the possibility of postal voting must be associated with ensuring appropriate standards in its conduct, preventing violation of the principles which democratic elections must meet. It is worth quoting at this

⁷ *Minusy głosowania listem*, <https://www.rp.pl/ustroj-i-kompetencje/art12597941-minusy-glosowania-listem> (accessed 6.03.2014); *Można głosować korespondencyjnie, ale uwaga na zagrożenia*, <https://www.prawo.pl/prawo/glosowanie-korespondencyjne-pulapki-i-niebezpieczenstwa,500842.html> (accessed 8.06.2020).

⁸ It is pointed out that postal voting, as an additional method, influences on better fulfilment of the principle of universality of elections [Musiał-Karg, Kapsa 2020b: 66].

point the following statement of the Venice Commission on this matter: “Voting by mail may be widespread in one country and prohibited in another because of the risk of abuse. It should be allowed only if the postal service is secure, that is, it is protected against the possibility of deliberate manipulation and is reliable in the sense of its smooth functioning.”⁹ Thus, it can be pointed out that, with the reliable operation of State entities key to the conduct of postal voting, there are no contraindications to providing all voters with the opportunity to vote in this way, which will certainly improve the implementation of the principle of universality of elections.

VOTING BY PROXY

The second of the alternative voting methods occurring in the Polish electoral system is voting by proxy. According to Article 54 of the election code, voters with disabilities and voters who are 60 years of age at the latest on the voting day are eligible to use this type of voting. However, voting by proxy is excluded in the case of voting in precincts established in medical institutions, social welfare homes, prisons, detention centres, student residences, as well as in precincts established abroad and on Polish sea-going vessels (Article 54 § 4 of the Election Code). Additionally, a voter who has previously declared his/her intention to vote by mail may not vote by proxy.

The essence of proxy voting is that a person entitled to cast a vote authorizes another person to cast a vote on his/her behalf. The basis of this authorisation is a power of attorney, which is granted before the mayor or before another municipal employee authorized by the mayor (Article 56 of the Election Code). However, the power of attorney may be granted only to a person registered in the voter register in the same municipality as the principal, or to a person with the appropriate certificate of the right to vote (Article 55 § 1 of the Election Code). A proxy cannot be a person who is a member of a precinct election commission, an intermediary or a candidate running in a given election (Article 55 § 4 of the Election Code). As a general rule, a given person may accept only one power of attorney. However, there is an exception to this rule, according to which a power of attorney to vote may be accepted from two persons if at least one of them is an ascendant, descendant, spouse, brother, sister or a person in a relationship of adoption, custody or guardianship with the proxy (Article 55 § 2, 3 of the Election Code). A voter may revoke a power of attorney to vote, which is done by submitting, no later than 2 days before the election day, an appropriate statement to the mayor of the municipality

⁹ Opinion No. 190/2002 of the European Commission for Democracy through Law (Venice Commission) „Code of good practice in electoral matters.”

where the power of attorney was drawn up or delivering such a statement to the competent precinct election commission (Article 58 § 1 of the Election Code). The power of attorney expires by operation of law in the event of early voting in person by the person who granted it (Article 58 § 2 of the Election Code). The termination of the power of attorney also occurs in the event of death or loss of active voting rights by the principal.

Proxy voting is not without disadvantages. They result from the structural specificity of this alternative voting method. This procedure does not fully respect the principle of secrecy of voting. This is because the person who uses this form of expression of will must disclose to the other person (the appointed proxy) his/her electoral preferences. An even greater disadvantage, in my opinion, of proxy voting is related to the method of granting a power of attorney. This is because this method is based only on a relationship of trust between two people, and thus never guarantees absolute certainty in the principal that the proxy appointed by him/her has voted in accordance with the instructions given to him/her. Therefore, at this point it is worth noting the modification proposed by Jarosław Zbieranek [2011: 116] to the current structure of proxy voting. According to the idea, it would take the form of the so-called voting with the help of an authorized person, but the role of this person would be much smaller than that of a proxy because he or she would only be able to collect a package with election materials on behalf of the voter, then deliver it to the voter's place of residence, and finally, after the voter has marked his or her preferences, hand it over to the competent election commission. As the initiator points out: "Such a formula would thus be a kind of hybrid of the institution of proxy and postal voting" [Zbieranek 2011: 116]. The above solution is undoubtedly interesting, innovative, and most importantly eliminates the shortcomings that the classic method of voting by proxy involves. This is because the construction of voting with the help of an authorized person not only ensures respect for the principle of directness and secrecy, but most importantly gives the voter who uses it a guarantee that the specific option circled on the ballot will be in accordance with his/her actual will. Therefore, the proposal shown is not only a modification of the proxy voting method, but also undoubtedly its desirable optimisation, which is definitely worth introducing into the Polish electoral system, ensuring the possibility of using it to all voters.

EXPANDING THE CATALOGUE – ELECTRONIC VOTING AS A NEW METHOD

The two alternative voting methods presented were introduced to facilitate or even allow voting for people who, for various reasons, have difficulty accessing polling stations, which is mainly related to obstacles related to

the voter's age or illness [Trubalski 2018: 182]. Such a procedure partially satisfies a specific indication of the Constitutional Tribunal, which is worth quoting here. In one of its judgments, the Tribunal stated as follows: "The processes of increasing numbers of elderly and disabled people cannot be unaccompanied by legal changes that take into account the real possibilities for their participation in elections. Electoral law cannot ignore the increasing mobility of society and the fact that a significant number of citizens now live outside the country. The election law cannot ignore the fundamental changes in people's communication techniques that are now taking place. Failure of the legislator to notice the above changes relevant to electoral law would mean acquiescence to the exclusion of certain groups of citizens from participation in important decisions that affect them. The adequacy of electoral law to the conditions in which it applies is therefore as much a constitutional value as its stability."¹⁰ The excerpt from the judgment presented here provides a kind of justification for the need for alternative voting methods. It also emphasises that these methods in themselves already serve to fulfil the principle of universality of elections. Significantly, the Tribunal does not advocate a fixed and unchanging catalogue of alternative voting procedures, but postulates its expansion, adequate to the prevailing circumstances and the requirements of the international situation. Applying these words to Polish practice, one should certainly consider adding to the two discussed alternative voting methods, another one – introducing the possibility of electronic voting (e-voting) into the electoral system.

E-voting is a form of so-called e-democracy, by which is meant the use of information and communication technologies in the course of making democratic public decisions [Marszałek-Kawa, Plecka 2018: 98]. The term e-voting itself is complex, encompassing several voting techniques such as voting using an electronic machine at a polling station, voting at special Internet kiosks placed in various public places, voting by mobile phone using SMS messages, and voting using a personal computer connected to the Internet [Duda 2011: 161]. Despite such differentiation, e-voting as an alternative method of voting can be spoken of only in relation to those techniques that allow voting remotely. In contrast, the change from paper ballots to special machines placed in polling stations for this purpose is only a form of optimisation of the traditional form of casting votes, not an alternative voting procedure. While the introduction of voting machines will certainly lead to an even greater facilitation of the activity of voting itself, as well as the establishment of election results, it will not in any way affect the realization of

¹⁰ Judgment of the Constitutional Tribunal of 20 July 2011, K 9/11.

the principle of universality of elections. Voting machines, if implemented, will only constitute a kind of modernisation taking place within the traditional form of voting, while the fulfilment of the principle of universality of elections is only served by the appropriate introduction of new alternative voting methods into the system or the elimination of shortcomings in the constructions of currently available alternative procedures. Thus, in the remainder of this article, when speaking of e-voting, I will refer only to its narrower form as one of the alternative voting methods.

When considering the issue of introducing electronic voting into the Polish electoral system, it should first be noted that there are no legal contraindications to this. Electronic voting meets the requirement of compliance with the basic principles of democratic elections common to all types of elections. At the same time, of course, there are doubts, as well as examples of potential threats put forward by opponents of e-voting. These usually centre on two issues. The first relates to the possibility of violating the principle of secrecy of the voting, while the second concerns the phenomenon of so-called Internet exclusion. However, the objections raised are not valid, for the reason that, on the one hand, there are specialised systems, the use of which makes it possible to preserve the voter's anonymity during voting, while, on the other hand, e-voting introduced into the electoral system will be not the only, but one of several available voting methods. Thus, those without Internet access will be able to cast their vote in the traditional way, at the polling station.

Electronic voting undoubtedly has many advantages in favour of its introduction. Firstly, one can point to such benefits of e-voting as: the possibility for voters who, for various reasons, cannot vote at the polling station to cast their votes, convenience in casting their votes, fast and accurate counting of votes, quick information about the results, reduction of costs (related to the organisation and holding of elections) in the long perspective. Second, the introduction and use of electronic voting can lead to an increase in voter turnout. In this case, a correlation is indicated between the effects of the availability of e-voting and the participation profile of citizens. The level of turnout increases, as a result of the possibility of electronic voting among those who usually abstain from voting and those who rarely vote, while it does not change among those who consistently participate in elections [Petitpas, Jaquet, Sciarini 2021]. Third, the implementation of e-voting, will create favourable conditions for the use and consequent expansion of direct democracy mechanisms. It is pointed out that: "Political systems, thanks to new technologies, can evolve in the direction of ensuring broader and greater participation of citizens in the decision-making procedures that shape a given social reality" [Musiał-Karg 2013: 93].

The specifics of electronic voting may lead to the conclusion that this form of voting is most likely to be used by the youngest voters, who are in daily contact with information technology.¹¹ This, in turn, would be expected to result in increased participation in elections by this group.¹² However, the empirical research conducted in this regard makes a different conclusion. According to it, it is not the youngest voters, but those aged 35–44 who are most convinced of the need for e-voting and most often declare their willingness to use this method if it were possible [Lubik-Reczek, Kapsa, Musiał-Karg 2020: 218].

Finally, it should be noted that when introducing electronic voting into the Polish system, the knowledge and experience of other countries can help, although these, however, are quite modest, because e-voting has been fully introduced only in one country in the world – Estonia. The procedure itself looks as follows there: the voter first installs the appropriate application with which he/she casts his/her vote, and then confirms it with a digital signature, while on election day, after the voting is over, the computer system separates the cast vote from the voter's signature, thus ensuring the required anonymity [Dyś-Branicka 2016: 262–263]. It is worth noting, however, that in the first elections in Estonia in 2005 in which electronic voting was used this form was used by only 1.9% of all voters, in the 2007 elections it was 5.5% of voters, in the 2015 elections the number was already 30.5% [Dyś-Branicka 2016: 261]. Whereas in the 2019 elections, 43.75% of all voters voted online.¹³ The Estonian example shows that in the first years after the introduction of e-voting, there is little interest in this voting method. This is because it takes time to prepare the system and voters for the new voting procedure. The key role in this aspect belongs to the politicians. It depends on them whether e-voting will be introduced into the electoral system permanently and then developed and improved, or whether it will not be introduced, or whether, despite its introduction, this alternative form of voting will be abandoned after a certain period. It is worth noting that situations consistent with the last option are not lacking at all in the practise of countries. For example, two

¹¹ It has been confirmed by research that voters representing younger age groups are more positive about electronic voting and more likely to use Internet voting than people from older and oldest respondent groups [Musiał-Karg 2020: 212].

¹² Young people's participation in elections is not as high as that of older people. For example, in the 2019 parliamentary elections, the participation rate among the youngest voters aged 18–29 was only 46.4%, while for voters over 60 it was 66.2%, see *Wyniki exit poll. Frekwencja według wieku. Jak głosowały konkretne grupy wiekowe?*, <https://wiadomosci.gazeta.pl/wiadomosci/7,143907,25241642,wyniki-exit-poll-frekwencja-wedlug-wieku-jak-glosowaly-konkretne.html> (accessed 13.10.2019).

¹³ *I-Voting – the future of elections?*, <https://e-estonia.com/i-voting-the-future-of-elections/> (accessed 6.03.2019).

pilot projects of electronic voting were carried out in Norway – the first in 2011 during local elections, and the second in 2013 during national elections [Kapsa, Kaszukur 2019: 105]. However, this is where Norway's experience with e-voting ends. After the 2013 parliamentary election was won by the opposition, which considered e-voting controversial, mainly due to security concerns, it was decided to stop any future attempts to test the method [Musiał-Karg 2019: 58]. The situation was similar in the United Kingdom, where pilot projects on e-voting were also carried out, but ultimately it was decided not to implement electronic voting due to scepticism of the idea by London politicians [Łukaszewski 2019: 117].

FINAL CONCLUSIONS

The number of potential obstacles that can occur on election day and prevent the use of the classic voting procedure is infinite. As Jarosław Zbieranek [2011: 94] aptly stated: “The occurrence of organizational barriers that prevent voters from casting their votes is evidence that the electoral law system does not sufficiently guarantee the fulfilment of the constitutional principle of universality of elections.” Therefore, the effective implementation of the principle of universality of elections requires the existence of specific systemic solutions. Extremely important in this matter are alternative methods of voting, which, on the one hand, expand the catalogue of possible ways to cast a vote, and, on the other hand, make it possible to exercise the active right to vote in situations where traditional forms prove to be inadequate or the use of them is significantly hampered. Regardless of the obstacle, every voter, if he/she wishes to do so, has the right to cast a vote. The guarantor of this right is the proper implementation of the principle of universality of elections, and the means for this implementation are alternative voting methods. The key point here is to point out that the very existence of alternative voting methods leads to the fulfilment of the principle of universality in practice. This is because it is not important whether voters, when the need arises, use a particular method of casting their votes or not. Instead, it is necessary that the electoral system itself be equipped with alternative voting methods in order to ensure the possibility for voters to cast their votes, regardless of the prevailing circumstances.

The Polish electoral system is equipped with two alternative voting methods: postal voting and proxy voting. However, these methods are aimed at 60-year-old or older persons, as well as people with disabilities, so the circle of those eligible to use them is significantly limited. This solution should be negatively evaluated, as it excludes certain significant limitations of a personal

nature, such as limb injuries, as qualifying factors for the use of alternative voting methods. In addition, it also does not take into account emergency circumstances that apply to all voters, such as an epidemic, when casting a vote by alternative methods becomes the only option to which everyone should have access. In addition, the specifics of the alternative voting methods included in the Polish system mean that they are not ideal constructions for various reasons. Therefore, it is also advisable to expand the available solutions by introducing electronic voting as a new method. E-voting would be an invaluable way of voting in all kinds of situations which, for reasons of health and life protection, require the expression of electoral will remotely, excluding direct contact with another person. Consequently, when evaluating the Polish electoral system in terms of the implementation of the principle of universality, it should be pointed out that it requires changes, while it is desirable both to optimise the currently existing alternative voting methods and to expand their catalogue by introducing new methods.

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- The Act of 5 January 2011. Election Code (Journal of Laws 2011 No. 21 item 112).

JUDGMENTS

- Judgment of the Constitutional Tribunal of 20 July 2011, K 9/11.

Summary

The COVID-19 pandemic showed what an important a role alternative voting methods play in the electoral system. Their availability makes it possible to participate in elections, in emergency situations, thus serving the fulfilment of the universality of elections. Their absence, on the other hand, prevents the fulfilment of the principle of universality of elections to its full extent. This proves the close relationship between the principle of universality of elections and alternative voting methods. The article presents the indicated issue in relation to the Polish constitutional practice. The purpose of the article is to decide whether the alternative voting methods present in the Polish electoral system fulfil their function. The presentation begins with an explanation of the meaning of the principle of universality of elections. Then a legal analysis is made of the two alternative voting methods available in the Polish system: postal voting and proxy voting. The analysis carried out in the work aims to show that the alternative voting methods present in the Polish electoral system do not ensure effective implementation of the principle of universality of elections. Consequently, it is necessary to introduce specific reforms for the future. The article presents concrete proposals for changes in this regard, with its scope covering both modifications of the available methods and expansion of their catalogue by introducing new methods.

Keywords: Polish electoral system, principle of universality of elections, alternative voting methods, postal voting, proxy voting, electronic voting

MOŻLIWOŚĆ GŁOSOWANIA DLA WSZYSTKICH? ALTERNATYWNE METODY GŁOSOWANIA JAKO INSTRUMENTY SŁUŻĄCE REALIZACJI ZASADY POWSZECHNOŚCI WYBORÓW W POLSKIM SYSTEMIE WYBORCZYM (streszczenie)

Pandemia COVID-19 pokazała, jak ważną rolę w systemie wyborczym odgrywają alternatywne metody głosowania. Ich dostępność umożliwia udział w wyborach w sytuacjach nadzwyczajnych, służąc tym samym realizacji zasady powszechności wyborów. Ich brak natomiast uniemożliwia realizację zasady powszechności wyborów w pełnym zakresie. Dowodzi to ścisłego związku pomiędzy zasadą powszechności wyborów a alternatywnymi metodami głosowania. W opracowaniu omówiono wskazane zagadnienie na tle polskiej praktyki konstytucyjnej. Celem rozważań jest rozstrzygnięcie, czy alternatywne metody głosowania obecne w polskim systemie wyborczym spełniają swoją funkcję. Prezentację rozpoczyna wyjaśnienie znaczenia zasady powszechności wyborów. Następnie dokonana zostaje analiza prawna dwóch alternatywnych metod głosowania dostępnych w polskim systemie: głosowania korespondencyjnego i głosowania przez pełnomocnika. Ma ona na celu wykazanie, że obecne w polskim systemie wyborczym alternatywne metody głosowania nie zapewniają skutecznej realizacji zasady powszechności wyborów. W konsekwencji konieczne jest wprowadzenie właściwych reform na przyszłość. W artykule przedstawiono konkretne propozycje zmian w tym zakresie, przy czym ich zakres obejmuje zarówno modyfikacje dostępnych metod, jak i rozszerzenie katalogu poprzez wprowadzenie nowych metod.

Słowa kluczowe: polski system wyborczy, zasada powszechności wyborów, alternatywne metody głosowania, głosowanie korespondencyjne, głosowanie przez pełnomocnika, głosowanie elektroniczne