

Agata Pyrzyńska*

ORCID: 0000-0002-4573-4310

The Institution of Proxy Voting in Polish Electoral Law: A Guarantee of Universal Suffrage or a Threat to Election Integrity?

ABSTRACT

The aim of the article is to analyse the institution of proxy voting in Polish electoral law and to determine whether it serves as a mechanism that effectively guarantees the exercise of active voting rights, or whether it instead creates opportunities for potential irregularities. There is no doubt that, due to its nature, proxy voting is more controversial than other alternative voting methods, such as postal voting. This paper seeks to answer whether, in Polish electoral law, proxy voting broadly facilitates and strengthens the principle of universal suffrage, or whether it poses a risk to the integrity of elections.

For this analysis, I applied the method of legal interpretation to examine the provisions governing proxy voting, and reviewed the relevant literature. Where necessary, I also referred to the institution of proxy voting in other legal systems, and considered European standards set out in the Code of Good Practice in Electoral Matters.

Keywords: elections, voting, proxy, alternative voting methods, principle of universal suffrage, principle of equal suffrage, principle of election integrity

* PhD, Assistant Professor, Faculty of Law and Administration, University of Szczecin, Poland, address: Ul. Narutowicza 17a, 70-240 Szczecin, Poland, email: agata.pyrzynska@usz.edu.pl

I. Introduction

Proxy voting is an institution used in a variety of legal systems, generally intended to enable individuals who, due to personal circumstances, are unable to attend, or face difficulty attending, a polling station on election day to cast their vote. The specific characteristic of this mechanism is that the voter's ballot is cast through another person, an authorised proxy designated by the voter-principal and in accordance with their instructions.¹

In a sense, proxy voting constitutes a departure from the principle of personal voting, according to which the right to vote is strictly personal and cannot be transferred to another person.² The special relationship binding the voter and their proxy has two typical features. Firstly, the appointment of a proxy and the entrusting of the act of voting must follow an official procedure, allowing verification of the rights and eligibility of both the voter-principal and the proxy. Second, the regulations typically define a narrow group of persons entitled to use this procedure, rather than extending it to the entire electorate. Moreover, national legislators typically require that a person designated as a proxy (representative) must themselves hold voter status in the relevant election, that is, they must meet the legal requirements to vote and, in many cases, be registered in the same electoral district;³ otherwise, it would be difficult to find a justification for this person to be able to vote on behalf of another, eligible voter.

The proxy voting procedure is based on the issuance of an official document (a power of attorney) confirming the authorisation of the proxy to vote on behalf of the principal. The proxy submits this document to the electoral commission and on its basis, it is possible to give them a ballot paper. The power of attorney letter is prepared through a formal procedure which serves to verify its authenticity.

Proxy voting is therefore one of the standard alternative voting methods, usually mentioned alongside postal voting, early voting, mobile ballot boxes or electronic voting.⁴ Legislators introduce it with the goal of facilitating voters' ability to cast their ballots, thereby supporting the principle of universal suffrage and reducing obstacles to the exercise of fundamental political rights.⁵ This method is often particularly directed at older voters or individuals with disabilities, enhancing the inclusiveness

¹ Sromecki, 2023, 89.

² Skotnicki, 2000, 262.

³ Barrat et al., 2023, 184; Krasnowolski, 2015, 13-14.

⁴ Musiał-Karg and Kapsa, 2021, 348.

⁵ On alternative voting methods see for example Zbieranek, 2011, 95.

of the electoral process.⁶ It should also be emphasised that including proxy voting among the alternative voting methods means it is an optional tool available to voters, and is not intended to replace traditional in-person voting. Eligible voters must retain the ability to vote in the standard manner, as treating proxy voting as mandatory would undermine its core characteristic as an “alternative” method.

The aim of this study is to analyse the institution of proxy voting in Polish electoral law, and to determine whether this measure constitutes a mechanism guaranteeing the implementation of active voting rights among voters, or rather that it is a measure that may constitute a source of potential irregularities that compromise the democratic character of the election process.

There is no doubt that this mechanism, due to its specific design, is more controversial than, for example, postal voting. This paper will therefore seek to examine whether proxy voting in Polish electoral law in a broader scope facilitates and strengthens the principle of universal suffrage, or instead constitutes a threat to the principle of election integrity.

To conduct this analysis, the study relied on interpreting the law in force to examine the provisions regulating the proxy voting mechanism, and reviewing the relevant literature. To the extent necessary, the institution of proxy voting applied in other legal systems was referred to, as were European standards set out in the Code of Good Practice in Electoral Matters.

II. Proxy Voting in European States

At the European level, the institution of proxy voting is addressed by the guidelines included in the Code of Good Practice in Electoral Matters adopted in the Council of Europe system by the Venice Commission in 2020.⁷ This document is a soft law act that sets out key standards for democratic elections, developed based on the common experience of European countries and the principles of the European electoral heritage. Pursuant to this document, the use of the proxy voting procedure is permissible because it is, in fact, a mechanism guaranteeing the principle of free elections. It is worth emphasising that the Venice Commission attaches great importance to the need to increase the inclusivity of elections, in particular in the context of people with disabilities,⁸ to whom this type of procedure can be addressed.

⁶ OSCE, 2020, 21.

⁷ Venice Commission, 2002, 12.

⁸ Venice Commission, 2011.

The Code of Good Practice in Electoral Matters stipulates that the application of the mechanism in question should be based on rigorous and precise regulations. The legislator should avoid granting excessive discretion in the use of proxy voting – whether concerning the eligibility of authorised persons, the procedure for granting a power of attorney, the maximum number of powers of attorney, or their validity period – to prevent this mechanism from being exploited to influence election outcomes.⁹ Voting by proxy, to a greater extent than other alternative voting methods (e.g. postal voting), creates a risk of abuse because the voter-principal does not have full control over the proxy's actions. The Code of Good Practice in Electoral Matters provides that the number of permissible powers of attorney granted to a representative under national law should be limited. The purpose of this measure is to exclude cases of abuse consisting of the accumulation of several power of attorney documents in the hands of one person who supports a specific candidate or political force, as well as to prevent mechanisms of paid collection of power of attorney letters for voting.¹⁰

De lege lata, proxy voting is not a widespread institution in Europe or the wider world. Indeed, globally, only 15.7% of countries exercise this option.¹¹ Most countries that employ proxy voting are located in Africa (14 countries) and Europe (9 countries). In African nations, this mechanism is primarily used to enhance electoral accessibility under challenging logistical conditions (e.g., transportation problems, distance to polling stations). In Europe, proxy voting is practised in France, Belgium, the Netherlands, Poland, Spain, the United Kingdom, Sweden, Andorra, and Monaco,¹² demonstrating that proxy voting is used primarily by countries classified as established democracies, with Poland being an exception, where democratic traditions are relatively young. It is also worth noting that all the European countries mentioned above, where proxy voting is used, are members of the Council of Europe, which allows this option. During the COVID-19 pandemic, the proxy voting institution was introduced in Croatia as an extraordinary measure.¹³

As a rule, in countries that have decided to introduce proxy voting, this form is only available to specific groups of voters, and these groups differ from one another.

⁹ Koksanowicz, 2019, 47.

¹⁰ Jackiewicz, 2016, 268.

¹¹ International IDEA, <<https://www.idea.int/data-tools/tools/special-voting-arrangements/proxy-voting-in-country>> [3.12.2025].

¹² Rabitsch, Moledob and Lidaue, 2023, 524; International IDEA, <<https://www.idea.int/data-tools/tools/special-voting-arrangements/proxy-voting-in-country>> [3.12.2025].

¹³ Ehin and Talving, 2024, 68-69.

In some systems, this option is available to elderly or disabled people (e.g., in Belgium, France, and Poland), those in prison (e.g. in Belgium, France, and Sweden) or those living abroad (e.g. in the UK).¹⁴ Some systems also allow for the application of this institution to voters caring for sick or infirm persons, or persons that are on holiday (e.g. in France).¹⁵ An exception to the principle of strict regulation of the circle of eligible persons is the Dutch system, in which this right is granted to every voter, regardless of the reason.¹⁶ They can exercise this option if they know they will not be able to vote in person (on site) on election day.¹⁷

The institution of proxy voting also varies considerably across countries in its defining features. For example, in most countries, the same person can accept only one (e.g. in Belgium¹⁸) or a maximum of two powers of attorney (e.g. in France¹⁹). As a rule, power of attorney in voting is granted for one specific election, while, in Great Britain, it is a general authorisation, meaning that it is granted for an indefinite period of time.²⁰ Legislators in individual countries also approach the problem of withdrawing a granted power of attorney differently. In countries such as Belgium, France²¹ and Great Britain,²² revocation of a power of attorney is possible, unlike in the Netherlands, where such a declaration would be legally ineffective.

It is also important to distinguish proxy voting from another, more widely used institution: providing physical assistance to a voter directly at the polling station, a practice in some countries (e.g. in Poland²³ and Ukraine²⁴). This assistance is generally intended for elderly voters or those who have disabilities, such as vision impairment, who might have difficulty reading the ballot or marking the appropriate choice. Regulations typically allow support for such a voter, but stipulate that such assistance cannot be provided by a member of the commission or an entity performing activities in the field of civic review of the electoral process at the polling station. The actual assistance is simply provided by another person that accompanies the voter (who is

¹⁴ Przywora, 2006, 57-59.

¹⁵ Electoral Code of France, 27 October 1964, Art. L71.

¹⁶ Elections Act of Netherland, 28 September 1989, para. 1. Section L 1. [3.12.2025].

¹⁷ Barrat et al., 2023, 185-186.

¹⁸ Electoral Code of Belgium, 31 January 2014, Art. 147bis.

¹⁹ Electoral Code of France, 27 October 1964, Art. L73.

²⁰ Voting by proxy, <<https://www.gov.uk/how-to-vote/voting-by-proxy>> [3.12.2025].

²¹ Electoral Code of France, 27 October 1964, Art. L75.

²² Voting by proxy <<https://www.gov.uk/how-to-vote/voting-by-proxy>> [3.12.2025].

²³ Electoral Code of Poland, 5 January 2011, Art. 53.

²⁴ Such a procedure in Ukraine is addressed in Pankevych, 2020, 199-200.

present at the polling station).²⁵ However, this institution differs significantly to the institution of a voting proxy. First, the supporting person provides help on an ad hoc basis, without official authorisation and without applying a formal procedure – often, the provisions of electoral law only require that the electoral commission be notified. Second, unlike in proxy voting, the voter retains direct control over the actions of the person providing assistance.

III. Legal Framework of the Institution of Proxy Voting in Poland

As indicated earlier, the institution of proxy voting is recognised in Polish electoral law, although its introduction came relatively recently. Initial proposals for introducing such a mechanism into Polish law emerged as early as 1992,²⁶ largely through initiatives by the National Electoral Commission, Poland's central electoral authority. However, proxy voting was not formally included in the country's regulations until 2009.

In the interim, the need to implement such a measure into Polish electoral law was repeatedly emphasised by the Commissioner for Human Rights and various social organisations, led by the Institute of Public Affairs.²⁷ The possibility of voting by proxy was introduced by the Law of 12 February 2009, amending the Law on the Election of the President of the Republic of Poland, the Law on the National Referendum, and the Law – Electoral Ordinance to the European Parliament,²⁸ and was initially intended to apply only to the upcoming European Parliament elections, which are typically characterised by lower voter turnout, as a sort of pilot project, allowing the new regulations to be tested on a smaller scale. However, because this law was submitted to the Constitutional Tribunal for preventive review of its constitutionality, the changes did not, in practice, take effect for those elections.

Another law which addressed proxy voting was the Law of 19 November 2009, amending the law on the Election of the President of the Republic of Poland, the Law - Electoral Ordinance for Commune Councils, *Powiat* Councils and *Voivodeship* Assemblies and the Law on the Direct Election of the Commune Head, Mayor and

²⁵ Ostrowski and Kwidziński, 2025, 554.

²⁶ Przywora, 2014, 191; Borski, 2016, 23.

²⁷ See: Zbieranek, 2006, 53-58.

²⁸ Law of amending the Law on the election of the President of the Republic of Poland, the Law on the national referendum and the Law - Electoral Ordinance to the European Parliament, 12 February 2009.

City President.²⁹ Under this act, this solution was to be applied in the elections of the President of the Republic of Poland and local government elections.

The above-mentioned acts provide that two groups of voters may grant a power of attorney for a proxy to vote on their behalf: a voter with a significant or moderate degree of disability, and a person who turns 75 on or before the day of the election. The scope of this institution was therefore relatively narrow. The regulations also stipulated that only a person registered in the voter register in the same district (commune) as the person granting the proxy could act as the proxy; also being a person holding a certificate of the right to vote.

To ensure the independence of the proxy's actions, the regulations stipulate that this role cannot be assumed by scrutineers³⁰ or election candidates, or by a person who is a member of the district electoral commission responsible for the district in which the person granting the proxy power is to vote.

Naturally, the procedure for preparing the power of attorney is official in nature, and the act of power of attorney is prepared at the request of the voter. It is also worth adding that this procedure is free of charge so as not to create unnecessary barriers to the use of this option by entitled individuals. Ultimately, the newly introduced solution was first used in the elections for the President of the Republic of Poland held in 2010. In the first round, 6,456 voters took advantage of this opportunity, while, in the second round, the number of proxies prepared increased to 11,613.³¹ During these elections, no major violations of the new voting procedure were recorded.

The next step in expanding the application of proxy voting in Poland was the proposal to include it in the new Electoral Code. The work on this act had a special dimension, as it constituted the implementation of long-standing demands from numerous groups, among them the scholarly community, election administration, and various social organisations, regarding the need to organise and incorporate the provisions of Polish electoral law scattered throughout electoral ordinances into a single legal act

²⁹ Law of amending the law on the election of the President of the Republic of Poland, the Law - Electoral Ordinance for Commune Councils, *Powiat* Councils and *Voivodeship* Assemblies and the Law on the Direct Election of the Commune Head, Mayor and City President, 19 November 2009.

³⁰ Persons appointed by electoral committees participating in elections, whose task is to ensure the proper conduct of the voting process and determine the voting results at the polling station. Scrutineers exercise so-called social oversight of the electoral process.

³¹ See the Announcement of the National Electoral Commission of 21 June 2010 on the results of the vote and the result of the election of the President of the Republic of Poland ordered for 20 June 2010, and the Announcement of the National Electoral Commission of 5 July 2010 on the results of the re-vote and the result of the election of the President of the Republic of Poland.

with the rank of a “code”.³² The Electoral Code was adopted on 5 January 2011, and one of the progressive solutions included therein was the possibility of using the institution of a proxy in elections – let us add, in every type of elections held in Poland.

However, the explanatory memorandum for this draft refers to this institution in a very narrow scope, indicating that “This solution would allow disabled people to actively participate in public life” and also that “In the opinion of the drafters, the social benefits resulting from this solution justify this: a deviation from the principle of personal voting by each voter.”³³ It was therefore intended to be a measure primarily aimed at activating selected groups of voters, increasing turnout, and thus increasing the guarantee of the principle of universal and equal suffrage.

The comprehensive regulations governing proxy voting, as adopted in the Electoral Code, have proven to be relatively stable over time, especially when compared with the provisions on the second major alternative voting method in Polish electoral law, postal voting, which was introduced concurrently to the Electoral Code.³⁴ In fact, from the very beginning, the legislator was determined that this institution would be available, as per the laws of 12 February 2009 and 19 November 2009, only to voters with a significant or moderate degree of disability, and older voters. In the latter case, in 2020, however, the legislator decided that the lower age limit for appointing a proxy should be modified, lowering it from the originally set age of 75, to 60.³⁵ This solution was formally intended to increase accessibility to proxy voting, especially considering the specific conditions caused by the COVID-19 pandemic and the danger that could be posed to older people through traditional voting at a polling station. In reality, however, it cannot be ignored that this change was also dictated by specific political determinants related to the desire to mobilise a specific group of voters to participate in the upcoming presidential elections. Under the Electoral Code, proxy voting does not extend to voters casting their ballots in special voting districts, so-called separate districts, such as those established in hospitals, social welfare homes, prisons, or stu-

³² It is usually assumed that an act with the rank of a “code” ensures greater stability of the branch of law it regulates, and its preparation itself forces the legislator to revise a specific area of regulation and to comprehensively consider measures applied.

³³ Explanatory memorandum to the parliamentary bill – Electoral Code, 6th term of office of the Sejm, Sejm paper no. 1568. 24 June 2008.

³⁴ Balicki, 2021, 191-207.

³⁵ The amendments were made pursuant to the Law of 31 March 2020 amending the Law on special measures related to the prevention, counteracting and combating of COVID-19, other infectious diseases and crisis situations caused by them, and certain other acts.

dent dormitories. It also does not apply to voting districts located abroad, or to those established on Polish seagoing vessels.

In accordance with the generally accepted standard, the Polish legislator established in the Electoral Code that the right to accept a proxy to vote may only be entrusted to a person who holds the right to vote. Initially, it was also required – similar to the 2009 acts – that such a person be entered in the voter register in the same commune as the voter. However, in 2023, with the launch of the so-called Central Voter Register in Poland,³⁶ this requirement was abandoned, opening the possibility of appointing other voters as proxies. Under current regulations, one person is authorised to accept one proxy. However, the Electoral Code provides for one exception to this rule: one person may accept two proxy votes, provided that at least one of the voters-principals is their ascendant, descendant, spouse, brother, sister, adoptee, charge, or ward.³⁷ The power of attorney procedure in Poland is typically formal. This means that voters interested in this option must submit a request to the commune's executive body.³⁸ In this respect, the legislator met the expectations of voters by allowing not only the submission of such a request in a traditional manner (on paper or orally) but also using electronic means of communication (so-called e-services).³⁹ However, the voter must comply with the deadline provided for by the regulations by submitting the request no later than nine days before election day. Importantly, Polish electoral law requires that the voter indicate in the request which elections the power of attorney applies to.⁴⁰ This means that the Polish legislator has prevented the possibility of establishing a general power of attorney regarding voting rights.

The power of attorney to vote is granted before the commune head or another employee of the commune office authorised to prepare power of attorney letters. The provisions of the Electoral Code provide that the power of attorney document may be prepared at the voter's place of residence, which is also intended to facilitate the procedure, particularly for persons with disabilities.⁴¹

³⁶ The Central Voter Register replaced the decentralised, separate voter registers maintained by individual communes. It is maintained in a single IT system.

³⁷ Electoral Code of Poland, 5 January 2011, Art. 55(3) EC.

³⁸ In Poland it is the commune head, mayor or the president of the city; Article 56 EC.

³⁹ Electoral Code of Poland, 5 January 2011, Art. 56(2b) EC.

⁴⁰ *Ibid.*, Art. 56(2) EC.

⁴¹ If the voter so requests, the power of attorney letter may be drawn up elsewhere, including at the premises of the commune office. Electoral Code of Poland, 5 January 2011, Art. 56(5) and (6).

It is also important to note that, since the power of attorney letter is based on the voter's declaration of intent, the legislature also allows for its revocation. The legislator provides several avenues for such revocation. First, the voter–principal may submit a declaration to the head of the commune in which the proxy authorisation was issued, no later than two days before election day, withdrawing the power of attorney. A similar legal effect is achieved if the declaration is delivered to the relevant district electoral commission on election day.

Finally, a voter may also appear at the polling station on election day, before the proxy has cast their vote, and decide to vote in person. In such a case, the power of attorney automatically expires and the proxy loses the right to vote on the voter's behalf. The electoral commission should inform the proxy of this fact if they attempt to cast a vote on behalf of the principal.⁴²

Under Polish electoral law, since the institution of proxy voting first came into force, no fees have been charged for preparing a relevant power of attorney letter. This is intended to guarantee equality and universality in the exercise of electoral rights.⁴³ A proxy may not charge the person granting the power of attorney to vote any fees for voting on their behalf, just as it is prohibited to grant a power of attorney to vote in exchange for any financial or personal benefit. Such cases are subject to penalties specified in the penal provisions of the Electoral Code.⁴⁴

IV. Doubts Concerning Proxy Voting

As indicated earlier, the institution of proxy voting, despite generally being regarded as a mechanism that supports universal suffrage without imposing significant financial burdens on the state, is typically approached with considerable caution. Often, despite its potential to increase voter turnout, numerous arguments are presented against its use. In particular, foreign literature argues that this mechanism raises doubts as to its compliance with the principle of fairness,⁴⁵ equality of elections, or secrecy of voting.⁴⁶ Concerns have been raised that the possibility of voting by proxy may lead to abuses involving forcing voters (e.g. elderly people) to appoint a proxy,

⁴² Electoral Code of Poland, 5 January 2011, Art. 58 EC.

⁴³ *Ibid.*, Art. 60 EC.

⁴⁴ See Electoral Code of Poland, 5 January 2011, Art. 511 and 512 EC.

⁴⁵ Barrat et al., 2023, 186.

⁴⁶ Rabitsch, Moledob and Lidaue, 2023, 524.

or offering financial benefits to proxy voters for using this procedure. It is sometimes argued that this solution runs contrary to the principle of secrecy of voting: since the voter, by indicating their desired voting method, reveals his or her voting preferences to the proxy, the content of his or her voting decision is not protected. As regards the principle of equality, it is often emphasised that the possibility of transferring the right to vote to another person by its very nature means that the proxy will not have the number of votes required by law, but will always have at least one vote more. Finally, and perhaps most often, the key objection to proxy voting is that a voter using this procedure has no way of verifying the content of a vote cast by the person who is acting as their proxy.⁴⁷ This, in the opinion of opponents, fundamentally undermines the sense of using this voting method.

The institution of proxy voting was met with similar doubts in Poland. Following the adoption of the Electoral Code, which provides for the possibility of using this institution in all types of elections, a group of Sejm members submitted a motion to the Constitutional Tribunal requesting a review of the conformity with the Constitution of the Republic of Poland of, among others, provisions establishing and regulating the institution of proxy voting. The applicants challenged these provisions in light of the constitutional principles of direct elections, equality of voting rights, and the protection of citizens' trust in the state and the laws (i.e., the rule of law).

With regard to the first objection, they argued that the principle of direct elections requires voters to cast their votes in person, thereby excluding the possibility of proxy voting, which is not, in essence, a personal act. As regards the principle of equality, the applicants contended that a proxy – unlike a voter – has two votes, i.e. his own vote and the vote of his principal. They further pointed out that the voter has no real control over the actions or omissions of the proxy, effectively transferring their voting power, which raises concerns as to whether the proxy will ultimately act in accordance with the voter's will.

Finally, in relation to the alleged violation of the principle of trust in the state and the law, the applicants argued that the procedure creates a risk of undue influence on vulnerable individuals, such as the elderly or persons with disabilities. In extreme cases, they suggested, this could even lead to the “purchase” of voting rights from those entitled to vote by proxy.⁴⁸

⁴⁷ Rachwał, 2023, 107.

⁴⁸ Application to the Constitutional Tribunal of 7 March 2011, case registered under reference number K 9/11.

However, the Constitutional Tribunal found that the provisions specifying the rules for proxy voting did not violate the Constitution of the Republic of Poland in any of the above-mentioned aspects. As regards the principle of direct elections, the Constitutional Tribunal relied on the specific understanding of this principle in Polish electoral law. It held that the principle of direct elections does not entail a requirement of voting in person. Rather, this principle should be understood as the single-stage nature of the electoral process, whereby voters cast their votes directly for candidates (to representative bodies or single-person offices), and not for intermediaries who will then make the final choice. The Tribunal further noted that the absence of a requirement of personal voting within the concept of directness is confirmed by long-standing solutions present in Polish electoral law. This case concerns the possibility of providing technical assistance to a disabled voter at his or her request at the polling station. In such a situation, the Constitutional Tribunal noted, the voter does not vote independently, and what is more, in some cases, he or she is unable to verify which option on the ballot paper was marked by the person providing assistance (e.g. when the voter is visually impaired). However, this solution has not been questioned thus far from the point of view of the principle of direct elections.⁴⁹

The Polish constitutional court did not find any violations of the principle of equality. The applicants' doubts in this case concerned respect for the principle of equality in its formal aspect, which requires that each voter be awarded the same number of votes in a given election. The MPs-applicants pointed out that a proxy acting under the voter's authorisation actually has two votes: his own and the voter's. The Tribunal concluded that the case should be addressed by determining the nature of the vote cast by a proxy on behalf of the principal. The person designated as a proxy casts a vote solely on behalf of the principal – in no way does it constitute their vote. At the same time, it should be noted that granting a proxy the authority to vote on behalf of the principal does not result in the legal deprivation of that voter's electoral rights; the individual remains on the electoral register. Furthermore, should the voter change their mind, they may withdraw the power of attorney or vote in person before the proxy does. The Tribunal concluded that a vote cast by a proxy on behalf of a voter is not equivalent to a vote cast by that proxy in their own name. Consequently, the argument that such a person effectively exercises two votes was deemed entirely unfounded.⁵⁰

⁴⁹ Judgement of the Constitutional Tribunal of 9 July 2011, K 9/11, LEX 936468.

⁵⁰ Ibid.

As regards the third challenge, the Constitutional Tribunal found that it had not been duly substantiated by the applicant, and that no evidence had been cited to support it. Therefore, the proceedings were discontinued. The Tribunal merely noted that the Polish regulations on proxy voting were constructed in such a way (e.g., by formalising the procedure for granting a power of attorney and involving an official) that they minimised the risk of irregularities in the preparation of proxy voting documents and allowed voters to make an independent and informed decision as to whether to use this institution.⁵¹

V. The Practice of Application of the Institution of Proxy Voting in Poland

It is worth briefly referring to the practice of using the proxy voting procedure in Poland. Despite much criticism of this measure, no serious violations have been recorded so far that could prompt the legislator to abandon this mechanism. Neither the electoral administration nor international missions observing the elections in Poland have made such demands.

It is also worth noting that this solution is not widely used, although – generally speaking – there has been a gradual increase in its use in successive election processes.⁵² For example, an analysis of the popularity of proxy voting in parliamentary elections in Poland (to the Sejm and Senate) since its introduction shows that in none of these electoral processes has the level of interest in this method exceeded 0.14%. In the 2011 elections to the Sejm and Senate, 12,427 and 12,394 voters, respectively, cast votes by proxy (out of 30,762,931 eligible voters).⁵³ In 2015, the figure was 9,731 and 9,729 voters (out of 30,629,150 eligible voters).⁵⁴ In 2019, slightly more people voted

⁵¹ Ibid.

⁵² Kowalska rightly notes that “It is therefore obvious to perceive this procedure [proxy voting – note by A.P.] more as an instrument serving to expand the real possibility of exercising their rights to elect and thus more fully implement the principle of universal suffrage by the state, rather than as an instrument intended to significantly increase voter turnout.” Kowalska, 2020, 44.

⁵³ Announcement of the National Electoral Commission of 11 October 2011 on the results of the elections to the Sejm of the Republic of Poland ordered for 9 October 2011 and Announcement of the National Electoral Commission of 11 October 2011 on the results of the elections to the Senate of the Republic of Poland ordered for 9 October 2011.

⁵⁴ Announcement of the National Electoral Commission of 27 October 2015 on the results of the elections to the Sejm of the Republic of Poland held on 25 October 2015 and Announcement of the National Electoral Commission of 27 October 2015 on the results of the elections to the Senate of the Republic of Poland held on 25 October 2015.

this way: 21,666 and 21,682, respectively, (out of 30,253,556 eligible voters),⁵⁵ while in the last parliamentary elections held in 2023, the figures were 39,983 and 39,767, respectively (out of 29,532,595 eligible voters).⁵⁶

This relatively small percentage of voters may result, firstly, from the structure of the provisions included in the Polish Electoral Code. It is worth noting that it defines in a rather narrow way the group of people entitled to use this mechanism. This may also be related to the fact that, *de facto*, the same people who are entitled to vote by proxy in Poland can also use the postal voting procedure, which gives them the opportunity to fill out the ballot paper themselves. It cannot be ignored that some voters – even though they meet the requirements for proxy voting – act out of a sense of attachment to tradition, and simply prefer to cast their vote in person. The relatively low interest in the proxy voting procedure may also stem from the fact that some voters, particularly seniors, still lack sufficient awareness of both the availability of this option and the procedure for using it. This is despite the efforts of the National Electoral Commission, which conducts information campaigns during each election to promote and explain this alternative method of voting.

VI. Conclusions

The institution of proxy voting, although long established in many foreign legal systems, has a relatively short tradition of use in Poland. The Polish legislator introduced it gradually, beginning in 2009, with full implementation across all types of elections in 2011.

The adopted framework is notably detailed, and aligns with the standards set by the Venice Commission in the Code of Good Practice in Electoral Matters. Comprehensive regulations, including provisions specifying the official procedure for granting power of attorney and penal provisions, are intended to ensure that the use of proxy voting guarantees respect for the principle of universal suffrage and does not expose the electoral process to violations of the principle of fairness and equality of elections.

⁵⁵ Announcement of the National Electoral Commission of 14 October 2019 on the results of the elections to the Sejm of the Republic of Poland held on 13 October 2019 and Announcement of the National Electoral Commission of 14 October 2019 on the results of the elections to the Senate of the Republic of Poland held on 13 October 2019.

⁵⁶ Announcement of the National Electoral Commission of 17 October 2023 on the results of the elections to the Sejm of the Republic of Poland held on 15 October 2023 and Announcement of the National Electoral Commission of 17 October 2023 on the results of the elections to the Senate of the Republic of Poland held on 15 October 2023.

Although the introduction of proxy voting – as in other countries – initially gave rise to significant doubts and concerns, its application in Poland does not suggest that it poses a serious threat to the aforementioned principles. At the same time, it should be emphasised that the analysed voting method is not widely used in practice. This is primarily due to the assumptions guiding the legislator and the desire to ensure that this mechanism is used only in strictly defined cases.

In my view, the group of entitled persons does not need to be expanded beyond the *de lege lata* entities indicated in the Electoral Code. This position stems primarily from the fact that, today, proxy voting is designed as an instrument to assist individuals who genuinely have difficulty reaching the polling station. Extending this option to include other groups of voters could undermine the tradition of personal voting and, moreover, could increase the risk of misuse, particularly as broader access may create greater opportunities to exert undue influence on election outcomes.

At the same time, the Polish legislator should consistently strive to expand the use of the alternative voting method of postal voting. This form of voting raises fewer concerns and could serve as a particularly valuable solution for Polish voters residing abroad, who are often required to travel hundreds of kilometres to cast their vote at a polling station in a foreign district, which can significantly hinder the effective exercise of their electoral rights.⁵⁷

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