

Electoral Administration in Poland: Quo Vadis?



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ISBN

978-83-979314-0-4

The publication has been prepared as part of the *Monitoring, Educational and Advocacy Activities Concerning the Organisation of Elections and Electoral Law* project, funded by the Stefan Batory Foundation.





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1. Introduction

WHILE PRINCIPLES applicable to Electoral Management Bodies (EMBs, sg. EMB), such as independence, transparency, or accountability, are pretty clear and easy to understand, their implementation faces different problems and the plurality of acceptable EMB models is one of them. There is no universal formula for electoral administration, and therefore, each country should adopt a local solution taking context into consideration. No size fits all countries and thus the choice of a model should always be context-based.

While international literature manages to establish different categories depending on the composition (e.g. political, judicial, citizen- or expert-based), the functions (e.g. oversight body, implementing body), or other parameters, determining what is best for a given country is not straightforward at all. Similarly, determining which model better complies with international standards may be misleading, since all or nearly all solutions will likely receive a green light, at least on paper.

In recent years the Polish election administration experienced important reforms shifting it from a judicial model to a mixed one with a majority of members appointed by the lower house of the Parliament (the Sejm). This controversial decision taken in 2018 and its subsequent consequences consolidated the perception that the system's legitimacy has been weakened. Therefore, it might be time to explore what options are available for the Polish election administration and what lessons can be learned from the experiences of other countries.



2. Scope of the report

THE ELECTION ADMINISTRATION is a cornerstone for most aspects of the electoral process. This central role, however, makes determining the actual scope of this report more difficult. To maximise usefulness, this analysis will be limited to certain aspects of election administration, while others will be omitted or only briefly mentioned.

The main focus of the report is the composition of the National Electoral Commission (NEC),¹ that is, the appointment of its members and its impact on the fulfilment of the guiding principles for an EMB. Therefore, district/territorial activities and units are only covered insofar as they relate to the NEC. The same goes for other aspects such as the role of the judiciary or specific administrative bodies in electoral matters. While these players remain crucial for the delivery of the elections, this report focuses on the one tone-setting component, that is, the NEC.

¹ *Państwowa Komisja Wyborcza (PKW).*

3.

Electoral administration: main concepts and models

INTERNATIONAL STANDARDS are flexible when it comes to what formats of electoral administration are acceptable. While a margin of appreciation exists and countries may choose among different models, certain principles remain and all formats have to be aligned with them. The International Covenant on Civil and Political Rights' (ICCPR) General Comment No. 25, paragraph 20² advocates for an impartial and independent election administration. The Venice Commission's *Code of Good Practice in Electoral Matters* (Explanatory Report, section II, 3.1)³ accepts that governmental units might meet these criteria, but in other cases a specific and permanent commission would be required.

According to the European Court of Human Rights' (ECHR) case *The Georgian Labour Party v. Georgia*, 2008, 'there can be no ideal or uniform system to guarantee checks and balances between the different State powers within a body of electoral administration' and states should be granted a certain latitude. However, the proportion between commissioners appointed by the ruling party, or its proxies, and the opposition should remain reasonable, and in Georgia for this case was 'particularly high in comparison to other legal orders in Europe'.⁴

² 'An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant.'

³ '[I]ndependent, impartial electoral commissions must be set up from the national level to polling station level . . . Any central electoral commission must be permanent.'

⁴ ECHR (8 July 2008), *Case of the Georgian Labour Party v. Georgia* (Application no. 9103/04), paragraph 106, (Strasbourg: ECHR), <[https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-87446%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-87446%22]})>, accessed 15 September 2025.

While there is a well-established academic approach on the different models of electoral administration (Catt 2014; López Pintor 2000), such an instructive framework does not clarify all angles related to this topic, and in particular, how to achieve in practice an independent and impartial EMB. Perhaps that is why The International Institute for Democracy and Electoral Assistance (International IDEA) dedicated its first primer on electoral processes to the independence of such entities (Joseph 2021). Therefore, it seems clear that theoretical and practical problems remain:

[S]imply establishing an EMB as an independent entity is not a sufficient measure to prevent or limit political or other attempts to undermine its impartial and autonomous function, and its fulfilment of mandated responsibilities . . . Without a conducive and comprehensive legal and institutional framework, or adequate transparent accountability mechanisms, a government, if inclined, may influence the independence and autonomy of an EMB (2021: 7–8).

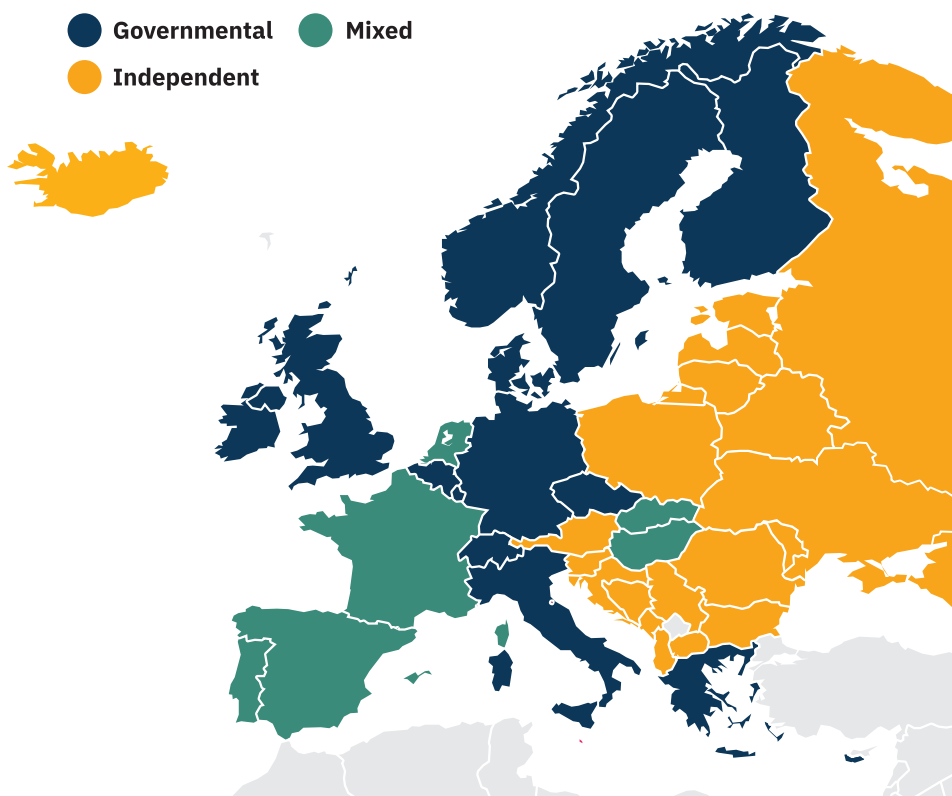
In general terms, three main categories of electoral bodies are proposed by international standards—governmental, independent and mixed:

1. **Governmental:** electoral processes are managed by a unit that belongs to the government and it is submitted, therefore, to its ordinary rules, such as hierarchy, general procedural terms, or recruitment systems. Countries relying on this model believe that their public administrations have enough safeguards to prevent this unit from undue political influences that could lead to a biased delivery of elections. The legal framework is, for sure, one crucial component to maintain such confidence, but it has to be complemented by other political and even cultural factors.
2. **Independent:** according to the *Code of Good Practice in Electoral Matters* of the Venice Commission, in states where the administrative authorities do not have a long-standing tradition of independence from the political authorities, institutional arrangements lead to new institutions whose composition, method of appointment, financial status, or regulatory functions are supposed to create confidence among stakeholders. It is not an easy task, since the

starting point is exactly the opposite, that is, a public administration that does not have the support of all political parties and other actors. In this format, election-related functions are allocated to a new administration, that is, the government will no longer be responsible for them. Similar processes exist for other areas that need such an independent approach: central banks, data protection agencies, or the judiciary follow these patterns, and in certain cases like the last example it is admitted that an independent institution is the only acceptable solution within a system based on democracy and rule of law.

3. **Mixed:** certain countries combine the two models above with the aim of taking positive aspects of each one. This results in one governing unit detached from the control of the government and another section that is embedded into ordinary administrative branches thus benefiting from their know-how in decision-making and project implementation.

According to International IDEA's database, the distribution of EMB models across Europe is as follows:⁵



Together with these three categories, it is worth noting that usually electoral functions are not concentrated in one single institution. There are various entities involved, and therefore, the relevant setup needs to accommodate its main principles, either governmental or independent, to these more complex realities.

Next sections of this report will elaborate on how to implement these models and consideration will be given to concrete examples. For the time being, the key conclusion is that within election administration many different components are closely intertwined in such a way that modifying one detail, with apparently no connection with the

⁵ International IDEA, *Electoral Management Design Database*, <<https://www.idea.int/data-tools/data/electoral-management-design-database>>, accessed 6 October 2025.

institutional framework, may have severe implications on the entirety of the infrastructure. Poor training activities, for instance, may result in incomplete outcomes, weak social acceptance and fragile legitimacy.

Like any other categorisation, a cautious approach is also recommended when using the above concepts. They should serve as tools for understanding the reality and not the other way round. As recalled by Joseph, ‘globally, electoral management design differs significantly between countries. No two approaches to electoral management are alike’ (2021: 8). The reality shows no uniformity with countries adhering to very different models that rely on ‘public servants and/or appointments from representatives of public agencies . . . or the judiciary . . . [or] party-based formulae in which, very often, the composition of an EMB reflected the representation of political parties in the parliament’ (OSCE ODIHR 2013: 12).

It is important to go from the bottom to the top, that is, it is crucial to start with a needs assessment to understand a particular context and look for standards and benchmarks only afterwards. Concrete proposals need to be ‘assessed against the background of electoral practices and [the] political situation’ (OSCE ODIHR 2013: 12). In this regard, the Office for Democratic Institutions and Human Rights’ (ODIHR) recommendations have been issued on the ‘the rules for the composition of EMBs, at all or only some levels, with a view to enhance their independence and impartiality (Albania, Armenia, the Russian Federation). In several cases, the balance of party representation in EMBs of different levels has been questioned (Azerbaijan, Moldova)’ (OSCE ODIHR 2013: 12).

While specific arrangements may vary and create different acceptable practices, the principles, that is, transparency, independence, and impartiality should always be used as the main guidance.

As James mentions (2020: 13), elections happen globally and at some point it might be difficult to realise why election management matters, but democratic ideals, the confidence in democratic institutions, security and peacekeeping, or public accountability partly depend on how elections are delivered, whoever the winner ends up being. The next section will explore the specificities of the Polish case and current sociopolitical context.

4. Electoral administration in Poland

LIKE IN OTHER COUNTRIES in Central and Eastern Europe, the independent model was the one adopted for the Polish electoral administration after the Fall of the Berlin Wall. A new NEC was established as a permanent body in 1991. It was composed of three judges coming respectively from each of the following: the Constitutional Tribunal, the Supreme Court, and the Supreme Administrative Court. For elections in 1990, an ad hoc NEC existed with a similar composition (i.e. five judges from each main court).⁶

The structure of Poland's permanent electoral bodies consists of the NEC as the main governing authority, supported by general commissioners who represent the NEC at the regional level. District and regional committees, each with their own commissioners, are established as temporary entities ahead of elections. This structure is complemented by the National Electoral Office (NEO),⁷ which is responsible for implementing the NEC's decisions and operates through territorial branches. The director of the NEO also serves as the NEC's secretary.

In 2018, legislative reforms preferred a mixed composition (see Orłowski 2017), that is, two judges and the seven remaining commissioners appointed by the Sejm. The former belong to the Constitutional Tribunal and the Supreme Administrative Court respectively, but not to the Supreme Court, which is no longer involved in the appointment procedure. Regarding the other members, the seven seats are to be filled by the nominees from the Sejm proportionally according to its composition. This system is the one still in force nowadays.

⁶ *The Act of 27th September 1990 on Elections to the Presidency of the Republic of Poland*, art. 14(2), <<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19900670398/O/D19900398.pdf>>, accessed 15 September 2025.

⁷ *Krajowe Biuro Wyborcze (KBW)*.

The 2018 amendment caused many controversies, especially among academics, civil society, and certain politicians who thought the change went against the independence and impartiality of the NEC, thereby jeopardising its credibility and social trust. They considered it to be a regression compared with the strongly legitimated previous NEC (with the judicial composition).

Supporters of the reform argued that it was aligned with the Venice Commission, whose *Code of Good Practice in Electoral Matters* mentions, with respect to countries where administrative authorities do not have ‘a long-standing tradition of independence from the political authorities’, that ‘as a general rule’ the EMB composition should combine members from the judiciary with others appointed by the parliament. Such a guideline is established to ‘facilitate maximum impartiality and competence on the part of the commission’ (2002). It is also embedded within a more general framework where the principles of transparency, independence, and impartiality remain as core values for any election administration.

After seven years of implementation of the new system, the controversy remains active and the concerns might have even deepened due to at least two new factors. First, the judicial reforms, which—according to European institutions—are not compliant with the rule of law, make a comeback to a previous format with a full judicial composition less plausible. With the Sejm’s new composition after the 2023 parliamentary elections, legislative reforms to restore rule of law have been discussed, but the presidential veto remains as an important barrier for their effective implementation (Moriijn 2025).

Second, certain recent decisions on party and campaign finance matters only strengthened the perception that the current EMB model does not fully meet the principles of independence and impartiality, among others. According to several ODIHR interlocutors, the NEC decisions were perceived as ‘politically motivated’ (OSCE ODIHR 2025a: 14).⁸

⁸ OSCE ODIHR, *International Election Observation Mission, Republic of Poland—Presidential Election, 18 May 2025, Statement of Preliminary Findings and Conclusions*, <<https://www.osce.org/files/f/documents/9/f/590960.pdf>>, accessed 15 September 2025.

National Electoral Commission and the Law and Justice 2023 finances

In August 2024, the NEC decided to reject the financial report submitted by the Law and Justice^a electoral committee regarding the 2023 parliamentary elections.^b The decision carried important consequences, since the political party (which established the electoral committee) could lose the bulk of its financial support, impacting its capacity to carry out activities during the, then upcoming, presidential elections set for mid-2025. A complaint against the NEC's decision has been lodged by the Law and Justice electoral committee with the Chamber of Extraordinary Control and Public Affairs (The Chamber),^c in accordance with the law. The Chamber is a section of the Supreme Court in charge of adjudicating, among others, election disputes. It has been in the centre of many controversies related to the rule of law crisis in Poland and has been judged by the ECHR as not fulfilling the criteria of an 'independent and impartial tribunal established by law'.^d

The Chamber decided in December 2024 not to accept recusation of some of its members (requested by the NEC)^e and not to uphold the NEC's^f decision on the Law and Justice committee's financial report. After an initial squabble as to how to proceed,^g the NEC accepted the Chamber's ruling, while stressing that it (the NEC) is not an appropriate body to be an arbiter on the status of the Chamber (in the context of the rule of law crisis). The NEC's position read as follows:

This resolution was adopted solely as a result of the consideration of the complaint by the Chamber of Extraordinary Control and Public Affairs of the Supreme Court and is inherently and directly linked to the ruling, which must come from a body that is a court within the meaning of the Constitution of the Republic of Poland and the Electoral Code. The National Electoral Commission does not prejudge that the Chamber of Extraordinary Control and Public Affairs is a court within the meaning of the

Constitution of the Republic of Poland and does not prejudice the effectiveness of the ruling.^h

This approach put into question not only the decision as such but also the legitimacy of the Chamber, since it had been declared contrary to the rule of law by European institutions. While the Ministry of Finance (in charge of reimbursement and subsidy disbursement) considered the NEC's decision not to be clear enough and replied asking for guidance,ⁱ the NEC stressed that there should be no doubts as to how the decision should be implemented.^j

According to the ODIHR's *Statement of Preliminary Findings and Conclusions* that was issued after the first round of Poland's presidential elections on 18 May 2025, 'the NEC and the Minister of Finance did not comply with the court's decision, citing concerns about the legality of its appointment . . . ODIHR LEOM interlocutors noted that for the first time, a party was sanctioned for the involvement of public institutions in the campaign, and that state funding was reduced before the Supreme Court ruled on the case' (OSCE ODIHR 2025a: 14).^k In any case, at the beginning of May 2025, the NEC informed the Ministry of Finance about the amounts to be paid to political parties as first instalments for the year and the Law and Justice subsidy was lowered^l (see Wytrykowski 2025). The controversy continues at the courts.^m

Financial reports of other parties were also subject to scrutiny by the NEC and in March 2025 a report of Confederation Freedom and Independenceⁿ (the Confederation) for the 2024 European Elections was rejected. First, due to a procedural issue—its submission a day after the deadline entailed sanctions 'with forfeiture of campaign reimbursement', which was deemed 'disproportionate' by OSCE ODIHR (2025a: 14). Second, the report was rejected for accounting gaps and 'inter alia failing to report . . . in-kind donations . . . an appeal filed by the Confederation is still pending with the Supreme Court' (OSCE ODIHR 2025b: 9).^o Likewise, 'on 10 May 2025, the NEC requested deregistration of the party New Hope on grounds of late submission of its annual report' (OSCE ODIHR 2025a: 14).

^a *Prawo i Sprawiedliwość (PiS).*

^b *Resolution no. 316/2024 of the National Electoral Commission from 29 August 2024*, <https://pkw.gov.pl/uploaded_files/1725025956_kw-pis.pdf>, accessed 15 September 2025; Consequently, in November 2024 the NEC did not approve the Law and Justice committee's annual financial report either, <https://pkw.gov.pl/uploaded_files/1732093619_ewp-124-prawo-i-sprawiedliwosc.pdf> (accessed 15 September 2025), however, the report regarding the Law and Justice expenditure of the 2023 state subsidy was approved, <https://pkw.gov.pl/uploaded_files/1732078542_i-ewp-124-prawo-i-sprawiedliwosc.pdf>, accessed 15 September 2025.

^c *Izba Kontroli Nadzwyczajnej i Spraw Publicznych (IKNiSP).*

^d ECHR (23 November 2023), *Case of Wałęsa v. Poland (Application no. 50849/21)*, (Strasbourg: ECHR), <[https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-229366%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-229366%22]})>, accessed 15 September 2025.

^e The Chamber of Extraordinary Control and Public Affairs resolution of 11 December 2024, I NSW 55/24, <<https://www.sn.pl/sites/orzecznictwo/orzeczenia3/i%20nsw%2055-24-1.pdf>>, accessed 15 September 2025.

^f The Chamber also rejected the NEC's decision on the 2023 Law and Justice annual financial report. The Chamber of Extraordinary Control and Public Affairs resolution of 21 January 2025, I NSW 59/24, <<https://www.sn.pl/sites/orzecznictwo/Orzeczenia3/I%20NSW%2059-24.pdf>>, accessed 15 September 2025.

^g There was a petition to postpone the decision given the controversial status of the Chamber, but the actual outcome seems not that clear, since the NEC members themselves differ on what was finally approved. While the NEC chairperson understands that no decision was taken and the topic was resubmitted for an ulterior meeting, other members defend that, according to what was formally agreed, no further decision can be taken by the NEC, while problems with the judiciary persist. In any case, the minutes from the meeting make clear that the petition for postponement was formally approved by five members against four. See the different positions at: <https://pkw.gov.pl/uploaded_files/1734986729_wyjasnienia-przewodniczacego-panstwowej-komisji-wyborczej-dotyczace-obiegowego-trybu-podjecia-uchwal-panstwowej-komisji-wyborczej-w-dniu-23-grudnia-20.pdf>, <https://pkw.gov.pl/uploaded_files/1735969705_oswiadczenie.pdf>, <https://pkw.gov.pl/uploaded_files/1735613411_odpowiedz-na-wyjasnienia-smarciniak.pdf>, <<https://notesfrompoland.com/2024/12/16/electoral-commission-rejects-ruling-by-disputed-supreme-court-chamber-restoring-opposition-funding>>, accessed 15 September 2025.

^h Original text: 'Niniejsza uchwała została podjęta wyłącznie w wyniku uwzględnienia skargi przez Izbę Kontroli Nadzwyczajnej i Spraw Publicznych Sądu Najwyższego i jest immanentnie i bezpośrednio powiązana z orzeczeniem, które musi pochodzić od organu będącego sądem w rozumieniu Konstytucji Rzeczypospolitej Polskiej i Kodeksu wyborczego. Państwowa Komisja Wyborcza nie przesądza przy tym, że Izba Kontroli Nadzwyczajnej i Spraw Publicznych

jest sądem w rozumieniu Konstytucji Rzeczypospolitej Polskiej i nie przesądza o skuteczności orzeczenia.’

ⁱ The Minister of Finance’s reply to the NEC’s resolution no. 421/2024 from 30 December 2024, <<https://www.gov.pl/attachment/b96435e3-ff73-4c44-bfd2-780371fdb98b>>, accessed 15 September 2025.

^j The NEC president’s letter to the Minister of Finance from 9 January 2025, ZKF.411.2.4.2024, <https://pkw.gov.pl/uploaded_files/1736473703_zkf41124-2024.pdf>, accessed 15 September 2025.

^k According to Frydrych-Depka, it was the first case involving—for a State election and the subsequent report—grounds based on abuse of state resources, in-kind donations in particular (art. 132 § 5). See also Izdebski, who sees the decision as ‘precedent-setting because [the NEC] has not made such interventions before’ (2024a: 2). After acknowledging the obstacles to regulate campaigns, he also indicates that for this case a legal ‘creative interpretation was used, which in normal circumstance would deserve a judicial evaluation’ (‘twórczej interpretacji [...], która w normalnych okolicznościach powinna być poddana ocenie sądu’) (2024b).

^l Money.pl (9 May 2025), *Pieniądze dla PiS. Jest przelew*, <<https://www.money.pl/gospodarka/pieniadze-dla-pis-jest-przelew-7154857099917856a.html>>, accessed 6 October 2025.

^m Money.pl (28 June 2025), *Jest decyzja sądu ws. skargi PiS na ministra finansów*, <<https://www.money.pl/gospodarka/skarga-pis-na-bezczynnosc-ministra-finansow-sad-zdecydowal-7172437393808288a.html>>, accessed 6 October 2025.

ⁿ Polish political alliance, *Konfederacja Wolność i Niepodległość*.

^o See the NEC’s decision: <https://pkw.gov.pl/uploaded_files/1742396708_kw-konfederacja-wolnosc-i-niepodleglosc.pdf>, accessed 15 September 2025.

Last but not least, attention should be paid to other election-related legislative reforms adopted in 2018 and 2023. As already noted, the first one changed the NEC’s composition to a mixed one, but it included other reforms as well. In January 2023, new amendments to the *Electoral Code* were adopted and, while not changing the composition of the NEC, other aspects related to the electoral administration were addressed.

After the 2018 reforms, territorial NEC proxies—election commissioners—were not judges anymore and they were appointed by the NEC upon proposals from the government (*Electoral Code*, art. 166 § 3), what may lead to ‘the politicisation of these bodies and, consequently, the loss of voter confidence in the reliability and fairness of electoral procedures’ (as translated from Sokala 2018: 49;

Chmielarz-Grochal 2020: 53). Moreover, a new appointment procedure for the Head of the National Electoral Office (NEO) was approved (*Electoral Code*, art. 190 § 2; see PAF 2024a: 14). Along the same lines of increasing governmental involvement, the NEO head was selected by the NEC among three proposed candidates presented by the Ministry of the Interior and Administration. Restrictions for his/her removal before the end of a seven-year mandate were also added (*Electoral Code*, art. 190 § 2c).

In 2023, as a consequence of the introduction of a new Central Register of Voters (CRV),⁹ the NEC functions in this regard were reduced from the supervision of the entire voter registration management to the supervision of data updates (*Electoral Code*, art. 160 § 1 pkt 2). According to Pyrzyńska, ‘this is a worrying phenomenon, given that the legislator has decided in the new regulations that the minister responsible for digitalisation is responsible for the operation of the CRV. This change extends the scope of government administration involvement in the electoral process at the expense of the specialised electoral administration responsible for these matters, which at the same time noticeably weakens the position of the latter.’ (2024a: 12 (translated); see also PAF 2024a: 18).

In a similar attempt to weaken the NEC status, it is now bypassed—with a direct appeal to the court—in case of controversy linked to permanent voting precincts¹⁰ (*Electoral Code*, art. 12 § 13) and districts¹¹ for local elections (ibid. arts. 420 § 1 and 456 § 1). Finally, district and regional electoral commissions¹² do not need to be made up of judges anymore. Members are appointed by the NEC upon proposal from territorial election commissioners (ibid. arts. 170 § 1 and 174 § 1). According to the Parliamentary Assembly of the Council of Europe (PACE), ‘these changes potentially increase the candidate pool, while they may contribute to the appointment of less experienced individuals’ (PACE 2023: 40). This modification was proposed by the NEC itself to

⁹ *Centralny Rejestr Wyborców (CRW)*.

¹⁰ *Stale obwody głosowania*.

¹¹ *Okręgi wyborcze*.

¹² *Okręgowe i rejonowe komisje wyborcze*.

overcome previous operational problems¹³ and the current procedure involves election commissioners instead of the Ministry of Justice, but at the same time it risks losing the objectivity and credibility that judges brought to the electoral process.

When it comes to the general status of the NEC, there would be a certain pattern intending to weaken its role: ‘given the status of the Commission, this phenomenon should be viewed as worrying and part of a trend towards transferring electoral tasks to government administrative bodies. At the same time, this is a change that could have far-reaching consequences for the electoral system’ (Pyrzyńska 2024a: 24).¹⁴

After these episodes, what was perceived in 2018 as a merely theoretical danger, became a reality. Recent NEC decisions regarding different financial reports together with legislative reforms weakening NEC’s status consolidated a trend that was already noted in 2018. The NEC is losing credibility among stakeholders who are more and more critical about its decisions and functioning.

In general terms, the NEC is seen as an entity not capable of being detached from political pressures. According to Vashchanka, ‘a high degree of political polarisation . . . is unlikely to strengthen the perception of impartiality of the NEC’ (2025: 12 *in fine*). Such weakness is reflected in different and contradictory decisions that have been taken in recent times.

¹³ *Information on the implementation of the Electoral Code provisions and proposals for their amendment (25 January 2021)*, point 13, <https://pkw.gov.pl/uploaded_files/1613491481_2-1-21-informacja.pdf>, accessed 15 September 2025.

¹⁴ Original text: ‘biorąc pod uwagę status Komisji, zjawisko to należy traktować jako niepokojące i wpisujące się w trend polegający na przenoszeniu zadań wyborczych do właściwości organów administracji rządowej. Jest to jednocześnie zmiana, która może powodować daleko idące konsekwencje w systemie wyborczym.’

5. Findings and recommendations

HAVING OUTLINED recent developments in Poland's electoral administration, we now turn to the key findings and recommendations. The following section presents the main conclusions and proposes a methodological framework for addressing existing gaps. Three priority directions have been identified, each of which is discussed in detail below.

First and foremost, as already stated above, it is important to recognise that there is no 'one-size-fits-all' approach to election administration. Universal solutions do not exist. Different models are in place around the world, many of which comply with international standards. At the same time, a single model can produce very different—even contradictory—effects depending on the political, social, and institutional environment in which it is applied. In short—context matters.

Modifications made in 2018 did not gain broad bipartisan support. Critics argued that the new composition could weaken the NEC's legitimacy, since most of its members will be political appointees. No compensatory measures were put in place to address that. Moreover, other ulterior changes fuelled this controversy and recent cases related to the oversight of electoral finances also raised doubts about the impartiality of the NEC members. Finally, the results of the adjudication of the 2025 elections created uncertainty in relation to the NEC's role.

While in theory, and formally speaking, the current NEC composition is aligned with international standards (Sobczak 2020: 80), consideration has to be given to the context where it is implemented and, from this perspective, room for improvement exists.

The system in place before 2018 managed to offer a credible electoral management system partly due to a judicial composition that put political influences aside. However, the judiciary went through important reforms resulting in a system where certain components are not recognised as compliant with basic principles of democracy and the rule of law. Decisions from the Court of Justice of the European Union (CJEU) and the ECHR, among others, are very conclusive in this regard. While some voices claim that coming back to the 2018 model is unrealistic (see above), others advocate for a judicial model though maybe not the same one as in 2018 (Pyrzyńska 2024b: 53).

Since this discussion will not be resolved quickly and relevant measures are likely to be implemented only in the medium- to long-term, the report therefore examines what room for action exists in the present. While acknowledging that a judicial composition could be a sound solution, the report seeks to complement this approach by proposing other temporary measures that could help improve the situation in the meantime.

Possible solutions to strengthen the integrity of Poland's election administration include:

1. **Finding a middle ground** between the current arrangement and the former judicial model in order to address existing shortcomings.
2. **Maintaining the current setup**, but mitigating its negative effects through targeted measures—for example adjusting the balance between judges and other NEC members, refining their appointment procedures and profiles, or revisiting the overall institutional status of the NEC.
3. **Looking beyond the composition of the NEC itself** by considering other factors that shape its functioning and can be instrumental in enhancing its legitimacy and credibility.

These three approaches are not mutually exclusive and combining the third with either of the first two could help identify the most suitable solution for Poland. For example, a hybrid system (1) might assign different responsibilities to the EMB (3), while adjustments to the current setup (2) could be paired with a revised distribution of tasks (3).

Option 1: The middle ground

A third option, departing entirely from the two models applied so far, does not appear very realistic. First, it would require a complete transformation with significant transitional costs at all levels. Second, it is uncertain whether a new format would provide lasting solutions. As noted at the outset, all models have their strengths and weaknesses: while a new approach might resolve some issues, it would likely generate new challenges of its own.

In general terms, a new model could take one of two forms:

1. **Governmental model.** Poland does not appear ready to pursue this path, as it requires a highly professional, neutral, and credible public administration. Current controversies suggest that both the institutional culture and public perceptions would need significant improvement before such a model could be considered viable.
2. **Full partisan model.** This option could worsen existing problems or risk becoming dysfunctional. It is difficult to present it as a solution when a partisanship is precisely the basis of current criticisms. While partisan EMB can sometimes function in transitional contexts—where no actor trusts that the decisions will be made objectively—such arrangements rely on involving all stakeholders and adopting decisions by consensus or qualified majorities. This often leads to a gridlock. Moreover, as the ECHR has emphasised, ‘the *raison d’être* of an electoral commission is to ensure the effective administration of free and fair polls in an impartial manner, which, in the Court’s opinion, would be impossible to achieve if that commission becomes another forum for political struggle between election candidates’ (ECHR 2008: 108). A fully partisan model therefore carries inherent risks to impartiality and effectiveness.

Option 2: Improving the existing setup

The second option builds on a combination of factors that could address areas within the current model where there is clear room for improvement. Since neither a brand-new model nor a return to the traditional judicial one appears feasible at this particular moment, the focus should be on strengthening the existing system. The following paragraphs explore the scope for such improvements. Key factors to be considered include the balance between judges and other NEC members, methods of appointment, the professional profiles of NEC members, the general institutional status of the NEC, and the potential involvement of third parties. As always, this list should not be treated as a ready-made formula. Policymakers may choose to adopt all or only some of the proposals which are designed to remain flexible.

Balance between judges and other National Electoral Commission members

Right now, there is a clear imbalance. The NEC is composed of nine members (*Electoral Code*, art. 157 § 2). Two of them are judges, one from the Constitutional Tribunal and the second one from the Supreme Administrative Court. They are nominated by the president of each court, with the *Electoral Code* providing no further criteria on the procedure to be followed for such a decision. The other seven members are nominated by the parliament proportionally following its composition (ibid. art. 157 § 4a); the proposals are made by parliamentary clubs or groups¹⁵ which can nominate a maximum of three each (ibid. art. 157 § 4b).

Given this setup, one option would be to rebalance the current distribution by reducing the proportional weight of seats originating from the parliament and aligning them more closely with those from other sources, whether judicial or other. Since a purely technical commission—such as the previous all-judge model—does not appear realistic in the short term, another way to build trust is to ensure that the

¹⁵ *Kluby parlamentarne lub kola poselskie.*

NEC includes members with diverse professional backgrounds and perspectives. Such diversity would create a system of checks and balances designed to produce reasonable and objective decisions. Under the current arrangement, however, members appointed by the parliament hold disproportionate influence, leaving little room for genuine internal balance within the NEC.

In this regard, it is worth noting that certain neighbouring countries have established the electoral commission compositions without a clear majority of politically appointed members. Lithuania, for example, combines members appointed by the parliament on the nomination of different institutions (such as Electoral Commission, the President, or the Minister of Justice) with others proposed by political parties themselves. Importantly, the second group can never outnumber the first. If so, the electoral commission must be expanded with additional members nominated by neutral institutions such as the Ministry of Justice and the Bar Association.

The situation in Poland is not identical: fewer institutions are involved, and political groups play a different role in appointments. However, the principle of avoiding a partisan majority remains relevant and could serve as inspiration. One option could even be to move away from proportionality in the Sejm appointments—for instance, allowing each parliamentary club to nominate only one member.

Limiting the weight of politically appointed members has both advantages and drawbacks. On the positive side, it would increase the number of members without direct political or parliamentary ties, making objective and neutral decision-making more likely. It could also improve the public perception, since partisan biases would be less visible.

At the same time, risks remain. Politically appointed members would still sit in the NEC with both their strengths and weaknesses. Finding qualified candidates from genuinely neutral institutions is also challenging. Moreover, appointing additional judges might raise its own controversies in the light of current debates on the rule of law and judicial impartiality.

In any case, rethinking the current composition should be the first step. Although Poland's setup formally complies with international standards, local conditions have made it dysfunctional, and adjustments should therefore be reconsidered. The following section turns to a complementary issue: how members of the NEC are appointed. Unlike the previous discussion, this concerns not their institutional origin, but the procedures through which they are selected.

Methods of appointment

Beyond the number of seats and even the institutions in charge for such appointments, attention could be paid to how these decisions are taken. Different solutions exist and they could be more or less prone to arbitrary outcomes. For instance, a requirement of parliamentary unanimity for appointing NEC members would shape decision-making, public perception, and perceptions of bias differently than arrangements in which political groups separately propose and effectively determine appointments. Various options might be considered between these two extremes and therefore it is worth assessing which one would be the most convenient for our purposes, that is, a NEC free of subjective and negative prejudices.

Appointment of judges

Regarding the judiciary, the current procedure is extremely simple. It is up to the president of each court to decide which judge from his/her institution will be assigned to the NEC. Beyond this simplicity, which is *per se* already an advantage, the procedure is open to criticism as it depends entirely on the decision of one single person. However, broadening the range of people involved, by engaging, for instance, the governing bodies that already exist within the courts, would risk to convert such a decision into a mini-parliament, thereby going directly against the rationale of having judges at the NEC, that is, compensating the presence of other members appointed by the political bodies. Other options could take into account certain objective parameters, such as the antiquity or the judicial hierarchy. Decisions could also be taken

by lot, as it is the case in other countries (e.g. Spain). Every option has pros and cons, but it seems clear that better solutions exist than relying upon the common sense of a single person.

When talking about the judiciary, issues related to the so-called ‘neo-judges’ cannot be avoided, but outcomes might be different if the decision is not connected to one person. In the current scenario and despite what occurred so far, the presidents of both institutions could decide to nominate ‘neo-judges’ to the NEC. The procedure would be totally legal and the outcome unfortunate. While using objective criteria or randomised mechanisms will not exclude a similar result, the procedures as such could raise more support and legitimacy as not connected to any subjective perspectives.

Finally, certain other aspects may deserve attention. While they are not directly related to the appointment as such, they may become crucial for successful implementation. First, consideration could be given to the time that judges are supposed to dedicate to electoral tasks. It is important to decide whether judicial tasks will have to be combined with electoral ones or not, whether the NEC would be a full- or part-time job. While the former could be praised as a serious commitment to support electoral tasks, the latter may facilitate the perception of independence or impartiality, in the sense that these appointees have a main job and apply the same objective and professional criteria to electoral matters. Therefore, there would be less temptations to be trapped into potential NEC internal imbroglios. Last but not least, it is worth reminding that, according to the current legislation (*Electoral Code*, art. 157 § 4), retired judges are also eligible.

Second, judges in general are not supposed to be aware of the intricacies related to electoral matters. In this regard, appropriate training (see Asplund 2023) is another complementary aspect to consider. Specific training could help raise awareness and facilitate a common approach among the NEC members. Next paragraphs also apply to other appointees to the NEC as knowledge gaps could be similar.

Consideration should be given to the way the training is undertaken, that is, its actual scope, recruitment of trainers, the time framework, or the involvement of other NEC members. Scope-wise, these

awareness-raising activities complement the legal knowledge that appointees already have. That is why a good strategy could link these activities and the NEC institutional memory. Such programmes would reinforce the NEC's capacity by sharing strategic information with the new members. Induction seminars would allow them to become quickly familiar with the NEC's operational matters, but also with substantial issues related to how disputes on electoral topics are resolved. The in-depth analysis and discussions of real case studies where the NEC took important decisions or a systematic introduction to international standards on democratic elections could be, for instance, a good practice to be implemented.

Given this strategy, the NEO apparatus could offer such activities to new NEC members. Advisers will provide factual information and adjust it to the needs of the audience. It would therefore be a good exercise to strengthen the profile of NEO civil servants as objective and professional support units to the NEC members. At the same time, new appointees would have the opportunity to build an early, detail-oriented working relationship with internal analysts.

Whereas judges tend to share a relatively homogenous background, the NEC members appointed by the Sejm may come with very diverse profiles. Training strategies should take these differences into account, remain flexible in tailoring tasks, and expand awareness-raising activities where needed. As for timing, induction programmes delivered at the moment of the appointment would be particularly valuable. These could be complemented by targeted activities offered on demand throughout the mandate.

Finally, any involvement of judges should assess the actual impact of decisions taken since 2018 by the National Council of the Judiciary.¹⁶ As already stated above, the current system is open to arbitrary decisions by the presidents of the relevant courts, but other options, including the most objective or randomised ones, could end up admitting 'neo-judges'.

¹⁶ *Krajowa Rada Sądownictwa*.

No easy decisions exist since, according to some actors, radical options that will bring the system back to 2018, that is, totally excluding by default ‘neo-judges’, seems extremely difficult as well:

The status of newly appointed judges is a complex issue, and regulating their legal situation will undoubtedly be a significant challenge for the legislature. In the Helsinki Foundation for Human Rights’ (HFHR) opinion, choosing the appropriate solution to this problem should be preceded by, among other things, a thorough analysis of the effects of the proposed solutions, including the threats they pose to the proper functioning of the judicial system in Poland, and consequently, the conditions for the practical implementation of the right of access to court and the right to a fair trial. Based on the data contained in this study, it can be assumed that the proposed mass invalidation of judicial appointments could have negative consequences for the functioning of the justice system in Poland¹⁷ (Szuleka 2023: 5).

Although this paper does not focus specifically on judicial issues, the recommendation above remains relevant: any method of appointing judges to the NEC should include an assessment of the impact of so-called ‘neo-judges’. Statistical analysis of the National Council of the Judiciary appointments shows that collateral effects on the NEC decisions appear not negligible.¹⁸ It is also worth noting, first, that lower courts have

¹⁷ Original text: ‘Problem statusu nowo powołanych sędziów jest złożony, a uregulowanie ich sytuacji prawnej będzie niewątpliwie dużym wyzwaniem dla ustawodawcy. W ocenie HFPC [Helsińska Fundacja Praw Człowieka], wybór odpowiedniego sposobu rozwiązania tego problemu powinien być poprzedzony m.in. dokładną analizą skutków proponowanych rozwiązań, także pod kątem stwarzanych przez nie zagrożeń dla prawidłowości funkcjonowania systemu sądownictwa w Polsce, a co za tym idzie – warunków praktycznej realizacji prawa dostępu do sądu i prawa do rzetelnego procesu sądowego. Już na podstawie danych zawartych w niniejszym opracowaniu można zakładać, że postulowane masowe unieważnienie powołań sędziowskich może mieć negatywne konsekwencje dla funkcjonowania wymiaru sprawiedliwości w Polsce.’

¹⁸ A list of the Supreme Administrative Court judges: <<https://nsa.gov.pl/sadownictwo-administracyjne/1-sadownictwo-administracyjne/sedziowie-nsa>>, accessed 15 September 2025; and another with slightly different figures: <<https://ruchkod.pl/neokrs/?miasto=Naczeln%C4%85d%20Administracyjny#content>>, accessed 15 September 2025. According to Izdebski (2024b), more than 60 per cent of the Supreme Court judges are affected by the issue of so-called ‘neo-judges’. See also motion

incorporated a much higher proportion of ‘neo-judges’, and second, that some of these judges will inevitably rise to higher instances over time. In any case, this issue lies beyond the scope of the present paper.

Appointees by the Sejm

In the current context, the parliament—and in particular political groups whether parliamentary clubs or individual MPs—play a pivotal role, since appointments must reflect the proportional composition of the Sejm and these groups have the right to nominate candidates. According to *The Standing Orders of the Sejm* (art. 31b)¹⁹, the Praesidium determines the allocation of seats per club, which have to propose their candidates accordingly. After the relevant hearings held by a specific committee—i.e. Rules, Deputies’ Affairs, and Immunity Matters Committee²⁰—the list of candidates is voted by the Sejm’s plenary as a single package unless the Speaker decides otherwise (ibid. art. 31b(8)).

Democratic assemblies typically decide by majority, as this procedure reflects the will of the people represented by parliamentarians. However, some decisions require additional nuance, as they involve complementary objectives. This is particularly the case when appointing members of independent agencies. Unlike the Prime Minister or other overtly political positions, such appointees are expected to act independently and impartially, basing their decisions on non-political grounds.

For this reason, parliamentary procedures in such cases may differ from ordinary practice. It is not unusual, for example, to require mandatory secret ballots (a) or special majorities (c). In addition, the practice of relying on a single vote for all appointees (b), as currently done in Poland, could be reconsidered. The overarching aim should always be to ensure outcomes that are sufficiently legitimate and credible to

discussed at the NEC that intended to exclude ‘neo-judges’ in relation to certain election-related decisions: <https://pkw.gov.pl/uploaded_files/1733350744_zkf812012023.pdf>, accessed 15 September 2025.

¹⁹ *The Resolution of the Sejm of the Republic of Poland of 30 July 1992, The Standing Orders of the Sejm of the Republic of Poland*, <<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WMP19920260185/U/M19920185Lj.pdf>>, accessed 15 September 2025.

²⁰ *Komisja Regulaminowa, Spraw Poselskich i Immunitetowych*.

support the functioning of independent administrative bodies—in this case, the NEC.

With respect to secret ballots (a) and separate votes on individual candidates (b), both mechanisms are designed to highlight the personal profiles of nominees. They give MPs the opportunity to move beyond strict party instructions and introduce nuance into the final outcome. While not perfect solutions—since such mechanisms may also open space for manipulative strategies—they do provide greater flexibility and create more room to balance partisan considerations with additional inputs.

Similarly, some countries complement parliamentary decisions with additional procedures designed to reinforce a more consensual outcome. In Bulgaria, for instance, Article 46 of the *Election Code* allows non-governmental organisations to share their voice and even propose nominees: ‘The Central Electoral Commission is appointed by a decree of the President of the Republic after public consultations. Bulgarian non-governmental organisations may make proposals for the appointment of members of the Central Electoral Commission to parliamentary parties and coalitions. When a parliamentary party or coalition makes a proposal based on a suggestion from a non-governmental organisation, this is noted in it.’²¹

While the term *public consultations* in this context often refers mainly to interactions with parliamentary parties,²² involving non-governmental actors could help create a system where partisan approaches are tempered and complemented by additional perspectives. In Bulgaria, for example, parliamentary parties occasionally note the civic origin of their proposals, but civil society organisations could play a stronger role if given more visibility through mechanisms such as public hearings, where they would have the opportunity to present and explain their proposals, or similar participatory formats.

²¹ Unofficial translation.

²² See regulations enacted by the President to establish how to conduct these public consultations in 2021: <<https://www.president.bg/docs/1620040973.pdf>>, accessed 15 September 2025. See the entire procedure with the proposals and the relevant decrees: <<https://m.president.bg/bg/static1392/naznachavane-na-cik>>, accessed 15 September 2025.

Third, special majorities (c) can be a double-edged sword. In theory, they are meant to foster consensus among political parties, producing a list of members of Poland's NEC broadly agreed upon and therefore less partisan. In practice, however, parties often settle for mutual acceptance of each other's nominees, regardless of their individual qualities. As a result, special majorities risk degenerating into a simple quota system, offering no real guarantees of independence or merit. Any decision to apply this mechanism should therefore be preceded by a careful contextual assessment to determine whether political practice is likely to undermine its intended purpose.

Finally, consideration should also be given to the status of the NEC members, particularly the criteria for their removal before the end of their mandate. Regardless of the appointment procedure or partisan origins of members, safeguards against politically motivated dismissals are a strong indicator of the independence and impartiality of the EMB.

In Poland, however, the *Electoral Code* foresees a questionable provision allowing 'dismissal of a Commission member by the President of the Republic of Poland upon a justified request of the appointing entity' (art. 158 § 1 pkt 5).²³ Although the text seeks to limit the President's discretion by requiring any request to be justified, it does not define objective criteria—such as criminal charges, fines, or other concrete grounds. As a result, the provision remains overly broad and leaves the NEC vulnerable to sudden interference.

Recommendation

Modify the methods of appointment of the NEC members by making courts' decisions less subjective and reducing the partisan bias of the Sejm's decision-making.

²³ Original text: 'odwołania członka Komisji przez Prezydenta Rzeczypospolitej na uzasadniony wniosek podmiotu wskazującego'. See also art. 31c of the Sejm's internal regulations (*the Resolution of the Sejm of the Republic of Poland of 30 July 1992, The Standing Orders of the Sejm of the Republic of Poland*, <<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WMP19920260185/U/M19920185Lj.pdf>>, accessed 15 September 2025) and the extent to which the definition of appointing entity matches with this provision.

Profiling National Electoral Commission members

The *Electoral Code* is relatively flexible in defining the profiles required to become a NEC member. While the criteria for the two judicial seats are clear—candidates must have served as judges in the relevant courts—the requirements for the remaining seven members are far more vague. The initial condition, which sought to align these members with judicial standards (art. 157 § 2), is diluted by § 2a, which creates exemptions from this requirement. The exemption applies to individuals with at least three years of professional experience as a prosecutor, as senior officials or counsel within the General Counsel to the Republic of Poland, or as a practicing advocate, legal counsel, or notary, as well as to senior legal academics holding the title of professor or a habilitation in law.

Such a broad set of alternatives is problematic. Rather than narrowing discretion, it does the opposite. Where political parties are involved in selecting members of an EMB, regulations should carefully circumscribe their choices. The stricter and more objective the criteria, the less room parties have for arbitrary decisions. This logic is consistent with the earlier discussion on majorities and voting procedures.

From this perspective, eligibility requirements for the NEC members should be straightforward and resistant to subjective interpretation. The current provision, by contrast, offers too many broad options—with legal practitioners being a prime example—leaving political parties wide latitude. A more effective approach might be to establish a single, clear criterion, such as academic status (e.g. professor), which would preserve some flexibility for parties, while keeping discretion under tighter control.

Other origins (audit courts, bar associations)

Previous sections examined how to improve a system in which two institutions—the judiciary and the Sejm—participate in appointing the NEC members. While several measures have been recommended, appointments made by the parliament will always carry a political dimension, which may weaken their legitimacy.

In this light, consideration could be given to involving additional entities that complement the Sejm’s role rather than replace it. Such actors would bring new sources of confidence and legitimacy, helping to avoid an EMB that is overly dependent on parliamentary appointees. A plurality of legitimacy sources would balance out the inherent biases of individual members.

International practice offers different models, though any decision must be adapted to Poland’s context. Potential contributors might include audit courts, bar associations, or other professional bodies. According to some interlocutors, professional lawyers’ associations could be considered as a starting point. In any case, broadening the pool of appointing institutions deserves exploration, as it would anchor the NEC’s legitimacy in more than one source.

Civil society could also play a role, but with important caveats. On the positive side, its involvement can strengthen the legitimacy of the NEC. For example, in Bulgaria, civil society groups may propose candidates, whose names can then be taken up by parliamentary parties. Similar measures to reinforce civic participation could be considered. However, granting civil society organisations the authority to directly appoint the NEC members would be more problematic. While some groups are credible, the sector is highly diverse, and deciding which entities should be entitled would itself be politically sensitive and contentious.

Intermediate options may be more practical. An advisory council, for instance, could channel civil society concerns and encourage greater responsiveness from the NEC. Likewise, open decision-making processes—such as public hearings or proactive information sharing—could increase transparency. These participatory mechanisms, however, must be carefully designed to avoid blurring the line

between advisory input and formal decision-making. A clear distinction between advisory roles, binding procedures, and accountability safeguards is essential.

Recommendation

Modify the composition of the NEC in order to combine different sources of legitimacy and avoid a majority composed by members from one single institution.



Autonomy and institutional status of the National Electoral Commission

An EMB cannot be evaluated solely on the basis of its board—its composition or appointment procedures. Many other factors interact constantly and are equally crucial for building a credible election administration. This section examines three such aspects: the status of the administrative level, staggered appointments, and transparency measures. Particular attention should be paid to the administrative level, meaning all units other than the governing body, both in terms of how they are appointed and how they perform their duties. This becomes especially important when the highest level is institutionally weak, as is currently the case in Poland.

Following the 2018 amendments—and, more recently, certain political decisions—the NEC has lost credibility, with some groups questioning its independence and impartiality. While these issues must be addressed directly (as discussed above), it is equally important to complement that strategy by reinforcing both the institutional standing of the NEC and the broader election administration. Unfortunately, the trend in Poland appears to be moving in the opposite direction, as evidenced by decisions taken even after the 2018 turning point with the new NEC composition. The NEC has lost certain functions, and the overall quality of election administration has weakened.

Examples of this erosion include: the new CRV, which reduced the NEC's oversight role; revised criteria for district and regional electoral commissioners, who are no longer required to have a judicial profile;

and new selection procedures for both the NEO and commissioners, which further diminish the NEC's role. Another case is the authority to determine the number of seats per constituency (PAF 2024a: 16–17). Currently, the NEC lacks the power to adjust seat allocations to demographic changes—an essentially mathematical task. The failure to consider a 2022 petition illustrates this weakness, and the resulting distortions have enabled practices such as 'constituency shopping'. Similarly, the *Maz Zaufania* application for election observation, launched by the government in January 2023 without the NEC's supervision (PAF 2024a: 31), points in the same direction.

All of these cases suggest that, even without altering the composition of the NEC, significant progress could be made by re-empowering the institution. Restoring responsibilities and strengthening its role would help ensure genuinely independent and impartial practices in Poland's election administration.

Staggered appointments are recommended by international standards (Joseph 2021: 27; Catt 2014: 115–116) as an effective way to avoid—or at least mitigate—interference from other state institutions, particularly parliaments. Such a system also helps preserve continuity, ensuring institutional memory and know-how.

In Poland, staggered terms already apply to the NEC judicial members, who serve nine-year mandates. However, all non-judicial members are appointed in alignment with parliamentary elections, creating full turnover at once. Controversies have also arisen regarding the legal provisions governing this transition period (150 days), including a debate on when exactly the President must validate the Sejm's decision (Pyrzyńska 2024b).²⁴ What has received less attention is the more fundamental question of whether synchronising parliamentary elections with the full renewal of the NEC is advisable at all.

²⁴ Such a hasty procedure could even have negative collateral effects, as stated by International IDEA publication on Electoral Administration: 'If appointments are staggered, the new EMB members should be appointed long enough after the last election to allow the former EMB members to complete and report on their election evaluation' (Catt 2014: 116).

On one hand, aligning the NEC with the new parliamentary composition appears logical, since it reflects the updated political balance. On the other hand, given current challenges to public trust in the NEC's independence and impartiality, it may be worth considering staggered appointments for the Sejm-appointed members as well. To be effective, such a reform would need to be paired with safeguards—such as special majority requirements in the Sejm or the application of objective appointment criteria (see above)—to reduce the risks of mismatches between electoral cycles and the NEC composition.

Recommendation

To enhance the NEC's autonomy and build social trust include mechanisms to re-empower the NEC as the governing body of the institution and detach it from the Sejm's electoral cycles.



Finally, transparency in the work of the NEC must not be overlooked. It remains the main tool of accountability, enabling citizens to evaluate the quality of electoral administration. Transparency is instrumental: the less open the NEC's decision-making is, the greater the distrust it generates—regardless of whether the NEC's composition is partisan or not. For this reason, enhancing transparency is essential. If the NEC performs better than critics suggest, transparency will reveal this and help restore trust; if not, shortcomings will become clearer, providing a sounder basis for reform.

Currently, however, significant room for improvement exists. Election observation reports consistently highlight that the NEC lags behind good international practice on transparency. A key concern is the way the NEC conducts its meetings: agendas and minutes are not routinely published on the institutional website, and sometimes it is even unclear whether formal decisions have been taken. One example was the December 2024 ruling on the Law and Justice committee's financial report, where the NEC's follow-up was both controversial and opaque.

Earlier findings remain valid. For the 2023 elections, OSCE ODIHR reported that 'NEC and NEC sessions were held ad hoc without prior

announcement of their timing or agenda, and were not open to citizen observers or contestants, nor broadcast online; session minutes were not published’ (OSCE ODIHR 2024: 8). Observer groups also faced restrictions in accreditation and scope of observation. As noted by the Political Accountability Foundation (PAF), guidelines limiting observation of district electoral commissions and referenda, as well as the right to record proceedings, had to be appealed to the Supreme Court, which sided with observers and required the NEC to amend and republish its guidelines (PAF 2024a: 35; see also PACE 2023: 90, 116, 127). These examples illustrate that without transparency public information risks becoming a symbolic gesture rather than an effective accountability tool.

The situation has not improved substantially. In 2025, ODIHR again flagged deficiencies: ‘the transparency of its decision-making at the national level, however, remained limited, with the NEC holding only one in-person session between the two rounds without notifying citizen and international observers and communication to the public being scarce’ (OSCE ODIHR 2025c: 1).

In addition to stronger transparency measures, voluntary codes of conduct (PAF 2024b) could also play a constructive role. Such codes—non-binding declarations of shared principles—can help consolidate a culture of impartiality, foster consensus, and strengthen institutional credibility. Importantly, they should not be tied to legal provisions, which risk distorting their purpose. Instead, they should emerge informally from the NEC members themselves, as an internal commitment to professional standards and cooperative decision-making, free from perceptions of external interference.

Recommendation

Align the NEC activities with transparency standards by ensuring easy public access to information on NEC sessions. This should include the advance *ex officio* publication of session calendars and agendas on the official website. All NEC decisions should also be published online in a timely manner, together with their reasoning and, where applicable, any dissenting opinions.



Option 3: The National Electoral Commission mandate

Any assessment of electoral administration must consider both institutional and operational aspects. While the institutional side covers issues such as the appointment of commissioners, the operational side examines whether the distribution of tasks allows an EMB to act independently and impartially. A strong EMB with unbiased commissioners may still produce limited results if core electoral functions are delegated to other state institutions. In Poland, this was evident in 2020, when a draft law on special rules for the presidential elections shifted ‘many important responsibilities under a different state agency with no proven experience in electoral administration’, a move that risked ‘creating additional uncertainty and weakening public trust’ (OSCE ODIHR 2020a: 6).

This was not an isolated case. Successive legislative changes have eroded the NEC’s authority over lower levels of election administration and other entities. For example, in 2023, observer groups called for a greater NEC’s role in managing the voter register, arguing that the new framework both reduced local administrations’ role and weakened the NEC’s supervisory power. Other examples of this gradual weakening have been outlined above.

That said, concentrating all electoral tasks within the NEC may not be the best solution either. What functions well should be preserved, whereas problematic areas may require different procedures, including new distribution of responsibilities and clearer accountability. Separating well-functioning areas from those prone to conflict could create more effective dynamics and improve overall performance.

One area in particular requires attention: financial oversight. This function is difficult for any EMB, as expectations are high, resources limited, and sanctions often weak. For this reason, consideration could be given to entrusting financial oversight to a different institutional framework. This would reduce the NEC’s exposure to the political risks and controversies that inevitably accompany campaign finance monitoring, while allowing it to focus on core electoral functions.

Comparative experience supports this approach. According to International IDEA's database on political finance,²⁵ only 9 of 45 European countries (including Poland) assign both the receipt and review of financial reports exclusively to their EMB. In many countries, these responsibilities are shared with other entities, or are entrusted entirely to specialised bodies. Spain, for instance, assigns all political finance oversight to the Court of Audit,²⁶ not the Central Electoral Commission. The Group of States against Corruption (GRECO)²⁷ raised similar ideas in Poland in 2008, noting that even the NEC representatives favoured assigning investigative functions to a specialised supervisory body rather than the NEC itself—'representatives of the Commission clearly shared this opinion, however, they took the view that such widened tasks should be assigned to a specialised supervisory body and not to the Commission, whose main functions are related to the organisation and conduct of elections' (GRECO 2008: 27; see also Sześciło 2013: 117).

More recently, the Venice Commission and OSCE ODIHR *Guidelines on Political Party Regulation* (2020a) highlighted the importance of entrusting financial oversight to officials appointed for a single term and free from political influence—without limiting this role to an EMB—and in addition to recommending staggered appointments, 'it is generally good practice for the competent officials conducting financial oversight to be appointed for a single term free from political influence' (OSCE ODIHR 2020b: 117).

²⁵ International IDEA (2023), *Political Finance Database*, <<https://www.idea.int/data-tools/data/political-finance-database>>, accessed 6 October 2025.

²⁶ *Tribunal de Cuentas*.

²⁷ *Groupe d'Etats contre la corruption*.

In Poland, establishing a new body for financial oversight would likely be controversial and face criticism at the outset. Yet, with a clear division of responsibilities, such reform could shield the NEC from political attacks tied to finances and help protect its role in administering elections. This would not eliminate all challenges—recent criticisms have also targeted other phases, such as the results adjudication process in the 2025 elections—but reducing the NEC’s involvement in political finance could still be an important step toward restoring its credibility and legitimacy.

Recommendation

Consider revising the distribution of responsibilities to separate the NEC from activities that are controversial, risk undermining its legitimacy, and fall outside the core functions of election administration. Financial oversight of political parties could serve as a suitable example, as international practice shows that such tasks are often entrusted to other state agencies.



6. Conclusion

ELECTORAL ADMINISTRATIONS that enjoy public trust rarely draw the attention of analysts. They achieve such a privileged position through a complex mix of legal, procedural, and political factors that together create a stable and credible environment—factors often subtle and difficult to measure. By contrast, EMBs tend to attract scrutiny when election delivery falters and citizens lose confidence in the authorities responsible. Many proposals and reforms can be considered to reverse such situations, but it is important to remember that success usually rests on a combination of formal and, above all, informal elements—the latter often proving more decisive. In short, effective election administrations exist where an underlying political and partisan consensus supports their credibility and stability. Detailed procedures, training, and appointments follow from that foundation.

Unfortunately, this is not the case in Poland today. The country appears divided into two opposing camps with ‘dramatically diverging narratives’ (Vashchanka 2025) and limited prospects for compromise. In 2018, Poland disrupted what had long been a credible system of electoral administration, and subsequent decisions have further eroded the NEC’s authority and public trust. In 2025, following both parliamentary and presidential elections, it is time to reconsider the NEC’s regulatory framework and rebuild confidence in the institution. As Vashchanka (2025: 12) noted, Poland has shown encouraging signs of prevention and resilience against democratic backsliding, yet ‘with respect to recovery, the road ahead is challenging’.

This report advocates a set of procedural and institutional adjustments addressing various aspects of the NEC's functioning. While the approach may appear cautious, it offers a path for gradual reform—starting with targeted, strategic changes and allowing for further evolution, including the possible development of a new NEC model if needed.

The proposed measures span multiple dimensions—from the composition and appointment of the NEC to its mandate and day-to-day operations. Particular emphasis is placed on diversifying the sources of legitimacy underpinning the NEC's composition and strengthening the transparency of its activities. These mechanisms are not meant to form a rigid or uniform package; rather, their implementation should be carefully calibrated, taking into account both direct impacts and broader institutional effects.

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8.

Annex: Model comparison

Europe features a variety of the EMB models. Since Poland follows the independent model, an initial comparison with other European countries—using the same approach—could be particularly instructive. In the second step, comparisons could also be drawn with countries that apply different models, such as the governmental or mixed types. The table below provides an overview of selected European countries with independent EMBs, highlighting their institutional profiles and nomination procedures—whether parliamentary-based or otherwise.

Country and composition	Members with a politically-based appointment and balance with members from other origins
Austria ²⁸ The Federal Electoral Board (<i>Bundeswahlbehörde</i>) is an independent authority composed of the Federal Minister of the Interior as chairperson, without vote, and seventeen assessors (<i>Beisitzer</i>). ‘Two assessors are drawn from the judiciary; the additional [fifteen] assessors are nominated by the parties represented in the National Council. The Federal Electoral Board is completely independent of the government.’ All members are appointed by a formal joint decision of the Federal Government.	Eighteen members: one chairperson + two judges nominated by courts + fifteen nominated by parties. Appointment made by the Federal Government.
Bulgaria ‘The Commission consists of fifteen members, including a chairperson, deputy chairpersons, and a secretary, who are proposed by parliamentary represented parties and coalitions. The Central Electoral Commission is appointed by a decree of the President of the Republic after public consul-	Fifteen members proposed by parliamentary parties and appointed by the President after consultations. Proposals coming from civil society are admitted.

²⁸ Ministry of Interior, *Elections in Austria*, <https://www.bmi.gv.at/412_english/start.aspx#pk_05>, accessed 14 October 2025.

Country and composition	Members with a politically-based appointment and balance with members from other origins
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tations and a procedure established by the President, based on proposals from parliamentary represented parties and coalitions. The proposals are announced on the website of the President of the Republic' (*Election Code*, art. 46(4)).

Croatia²⁹

The State Electoral Commission has a president, four vice-presidents and four members.

The President of the State Electoral Commission is the President of the Supreme Court of the Republic of Croatia *ex officio*. Two vice-presidents are elected by the general session of the Supreme Court (SC) of the Republic of Croatia from among judges of that court upon proposal of the President of the Supreme Court of the Republic of Croatia.

The other two vice-presidents and four members of the State Electoral Commission are elected by the Croatian Parliament by majority vote of all representatives of the Croatian Parliament. One vice-president and two members are proposed for election by the majority political party or coalition and the other vice-presidents and two members are proposed for election by the opposition political parties or coalitions, in accordance with the party structure of the Croatian Parliament at the time of the election.

Nine members: one judge (SC President) + two judges appointed by judicial bodies + six members appointed by the parliament.

Estonia³⁰

1. National Electoral Committee (NEC)—Two judges together with senior civil servants from different, and some of them, independent institutions. There is no representation from political parties. The system relies on a trusted public administration.

NEC: two judges appointed by the Supreme Court + five civil servants from different institutions (an adviser to the Chancellor of Justice, an official of

²⁹ State Electoral Commission of the Republic of Croatia, *Composition*, <<https://www.izbori.hr/site/en/about-the-commission/composition/1718>>, accessed 14 October 2025.

³⁰ Elections, *Composition, competence and functions of the National Electoral Committee*, <<https://www.valimised.ee/en/electoral-organizers/national-electoral-committee/composition-competence-and-functions-national>>, accessed 14 October 2025.

Country and composition	Members with a politically-based appointment and balance with members from other origins
<p>2. State Electoral Office (SEO)—Independent unit within the parliament. The State Electoral Office is headed by the Head of the State Electoral Office, who is appointed to office by the Secretary General of the Riigikogu upon approval of the National Electoral Committee.</p>	<p>the State Audit Office, a public prosecutor, an official of the Government Office, an information systems auditor). No parliamentary appointments.</p>
<p>Latvia³¹</p> <p>The Central Election Commission consists of nine members. The Chairperson and seven Commission members are elected by Saeima (Latvian parliament), while one member from among the judges is elected by the Supreme Court at its general meeting.</p>	<p>Nine members: one judge appointed by the Supreme Court + eight members appointed by the parliament.</p>
<p>Lithuania³²</p> <p>The Central Electoral Commission (CEC) is formed from:</p> <ol style="list-style-type: none"> 1. The chairperson of the CEC, who shall be appointed by the Seimas (Lithuanian parliament) by secret ballot upon the nomination of the Speaker of the Seimas. 2. Two persons with a university law degree, nominated by the Minister of Justice, and appointed by the Seimas by secret ballot. 3. Two persons with a university law degree, nominated by the Lithuanian Bar Association, and appointed by the Seimas by secret ballot. 4. Two persons with a university degree, nominated by the President of the Republic, and appointed by the Seimas by secret ballot. 5. Persons with a university degree and experience of working in election or referendum commissions, nominated by political parties (or their coalitions) that received the Seimas member 	<p>Members appointed by the parliament and one nominated by the Speaker + two by the Lithuanian Bar Association + two by the President + two by the Minister of Justice + persons by political parties at the parliament (number not defined <i>ex ante</i>, but not more than the ones from the other groups).</p>

³¹ Central Election Commission of Latvia, *About us*, <<https://www.cvk.lv/en/about-us>>, accessed 14 October 2025.

³² The Central Electoral Commission of the Republic of Lithuania, *About CEC*, <<https://www.vrk.lt/en/vrk-apie>>, accessed 14 October 2025.

Country and composition	Members with a politically-based appointment and balance with members from other origins
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mandates in a multi-member constituency during the last Seimas elections.

In all cases, the number of persons appointed to the CEC from the candidacies nominated by the Minister of Justice, the President of the Republic and the Bar Association must be no less than the number of members of the CEC nominated by political parties (or their coalitions). If there are fewer of these persons, the Central Electoral Commission shall be increased equally from the candidacies nominated by the Minister of Justice and the Bar Association.

Romania³³

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| <ol style="list-style-type: none"> 1. The Permanent Electoral Authority (PEA), which is a permanent body. It is led by a president, appointed by a joint session of the parliament, and supported by two vice-presidents, who are appointed by the President of the country and the Prime Minister, and has its own technical staff with non-partisan civil servants. 2. The Central Election Bureau (CEB), which operates on electoral period: for general elections, up of five judges from the High Court of Cassation and Justice, the President and Vice-Presidents of the PEA, and representatives from political and parliamentary formations. | <p>PEA (three): one (chairperson) nominated by the parliament + one member by the President + one member by the Prime Minister.</p> <p>CEB: for general elections, up to five judges appointed by the High Court + PEA (three) + political entities.</p> |
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³³ OSCE, *Romania, Parliamentary Elections 6 December 2020, ODIHR Special Election Assessment Mission, Final Report*, <<https://www.osce.org/files/f/documents/3/3/484562.pdf>>, accessed 14 October 2025; and Legislative Portal, *Law no. 370 of 20 September 2004 on the election of the President of Romania*, <<https://legislatie.just.ro/Public/DetaliiDocument/55481>>, accessed 14 October 2025.

Country and composition	Members with a politically-based appointment and balance with members from other origins
<p>Slovenia³⁴</p> <p>The State Election Commission (SEC) is appointed by the National Assembly. The president and vice-president of the SEC are appointed from the Supreme Court judges. Two members of the State Electoral Commission and their deputies are appointed from among the legal experts/lawyers. Three members and their alternates shall be appointed on the proposal of the parliamentary groups.³⁵</p>	<p>The National Assembly appoints one judge from the Supreme Court (president) + two legal experts/lawyers + three members nominated by parliamentary groups. Alternates follow the same criteria.</p>

³⁴ State Election Commission, *Office of the Commission*, <<https://www.dvk-rs.si/o-komisiji/sestava-in-pristojnosti/>>, accessed 14 October 2025; and OSCE, *Republic of Slovenia, Parliamentary Elections 2022, ODIHR Election Assessment Mission Final Report*, <<https://www.osce.org/files/f/documents/f/c/533558.pdf>>, accessed 14 October 2025.

³⁵ *Law on Elections to the National Assembly (Zakon o volitvah v državni zbor)*, art. 32.



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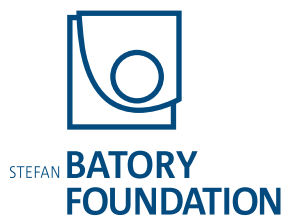
Proofreading: Zofia Lutkiewicz

Cover artwork: Krzysztof Szatkowski

Composition: Piotr Kozanecki

ISBN: 978-83-979314-0-4

www.odpowiedzialnapolityka.pl



The publication has been prepared as part of the *Monitoring, Educational and Advocacy Activities Concerning the Organisation of Elections and Electoral Law* project, funded by the Stefan Batory Foundation.