

## A CALL

The current situation in Poland and the world is unprecedented, even for the last few decades. The coronavirus pandemic has paralysed social and public life in nearly every aspect. What is more, there are solid grounds to believe that the peak is still ahead of us, as confirmed by new infections reported every day. As of today, we can state that the presence of coronavirus in Poland is massive. We are witnessing a variation of a natural disaster as defined in Article 23(d) of the Constitution of the Republic of Poland and in the law of the 18<sup>th</sup> of April 2002 on a declaration of a state of emergency in the event of a natural disaster.

The fulfilment of the premises described in these sources of law should entail the introduction of a constitutionally justified state of emergency. Meanwhile, the declaration of a pandemic has prompted limitations of citizens' rights and freedoms comparable to those foreseen by a constitutional state of emergency but without forcing the postponement of the presidential election. Nevertheless, such an option is provided in Article 228, paragraph 7 of the Constitution in the event of a state of emergency, including a natural disaster.

The situation created by this pandemic, impacts fundamentally the actual chances of conducting a presidential election on the designated date of the 10<sup>th</sup> of May 2020. Most of all, given the conditions of life amidst the pandemic, it is unimaginable to organise the work of 27,000 electoral commissions involving more than 300,000 members. Merely gathering this many volunteers is quite unlikely in the current circumstances. Even if feasible, it would most certainly be the height of irresponsibility to expose the health of so many citizens to the contagion in the exercise of their duty, which would mean a constant breaking of prophylactic principles. Also, voters' visits to the polling stations would necessarily involve a risk to their health, or even life, depending on their vulnerability and the course of the disease.

All these circumstances are sufficiently self-explanatory to exclude the possibility of holding the elections on the original date. We must also note that holding the election during this pandemic would result in drastically lower turnout. Consequently, the outcome of the election would not reflect the voters' real preferences and the legitimacy of the office of a president elected under these circumstances would be indeed exceptionally weak. Furthermore, the

exclusion of a great number of citizens from free and willing participation in such an election due to the quarantine and justifiable concern for their health would be an infringement of their electoral rights.

It must also be noted that due to the securing character of constitutional norms, one may defend the opinion that the consequences foreseen by the state of emergency in case of natural catastrophe as prescribed in Article 228, paragraph 7 of the Constitution of the Republic of Poland are already *de facto* in place. As a result, holding the election in May this year could be objectionable as a breach of the Constitution, and, therefore, its validity could be legitimately undermined.

Bearing in mind both the life and safety of Polish citizens, as well as observance of the rules of a free and fair democratic election and the plausible questioning of the very validity of the presidential election, we call on the Council of Ministers to immediately declare a state of emergency.

**Signed:**

Komitet Obrony Demokracji

Helsińska Fundacja Praw Człowieka

Stowarzyszenie Sędziów Themis

Obserwatorium Wyborcze

Stowarzyszenie Sędziów Polskich IUSTITIA

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Fundacja Centrum Praw Kobiet

Fundacja SaveOneChild

Polska Fundacja im. Roberta Schumana  
Fundacja Feminoteka  
Instytut Spraw Publicznych  
Stowarzyszenie Interwencji Prawnej  
Towarzystwo Dziennikarskie  
Stowarzyszenie im. Prof. Zbigniewa Hołdy  
Fundacja Projekt: Polska  
Stowarzyszenie Państwo Miasto  
Akcja Demokracja  
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Pracownia Badań i Innowacji Społecznych Stocznia  
Fundacja Autonomia  
Forum Obywatelskiego Rozwoju (FOR)  
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„Otwarta Rzeczpospolita”, Stowarzyszenie przeciw Antysemityzmowi i Ksenofobii