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Legal Position of the Regional Electoral Commission for Conducting Voting in the Circuit and the Regional Electoral Commission for Determining the Results of Voting in the Circuit – *de lege lata* and *de lege ferenda* Postulates in the Light of the 2018 Local Self-government Elections[1]

Pozycja prawna obwodowej komisji wyborczej ds. przeprowadzenia głosowania w obwodzie i obwodowej komisji wyborczej ds. ustalenia wyników głosowania w obwodzie – wnioski de lege lata i postulaty de lege ferenda w świetle wyborów samorządowych 2018 r.

SUMMARY

During the local self-government elections that took place in 2018 in Poland, for the first time regional electoral commissions for conducting voting in the circuit and regional electoral commissions for determining the results of voting in the circuit appeared. Both electoral commissions are appointed by the appropriate electoral commissioner from among the voters. The tasks of the regional electoral commission for voting in the circuit include conducting voting in the circuit and ensuring that the election law is observed in the place and time of voting. However, the tasks of the regional electoral commission for determining the results of voting in the circuit include determining the results of voting in the circuit, making them public and sending the results of voting to the appropriate electoral commission. The introduction, by the legislator, of regional electoral commissions for conducting voting in the circuit and regional electoral commissions for determining the results of voting in the

[1] The legal status in force on 21 October 2018, when the 2018 local self-government elections took place, is taken into account in these considerations.

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circuit should be assessed positively. However, the legal position of both committees certainly requires changes to be made by the legislator.

Keywords: elections; local elections; regional electoral commissions for conducting voting in the circuit; regional electoral commissions for determining the results of voting in the circuit

Local self-government units in Poland (communes, poviats and self-government voivodeships) operate through constitutive bodies (commune councils, poviat councils, voivodeship councils) and executive bodies (village mayors[2], poviat boards and voivodeship boards). As stated in Article 169 (1) of the Constitution of the Republic of Poland of 2 April 1997[3] local self-government units perform their tasks through constitutive and executive bodies. Thus, the constitutional legislator decides that the dominant form of management of local self-government units is their management by the residents in an indirect and representative way – through decision-making bodies and executive bodies[4]. The Constitution of the Republic of Poland does not contain detailed regulations regarding constitutive and executive organs of local self-government units – the constitutional legislator left these matters to be regulated by the ordinary legislator, which does so in the Act of 8 March 1990 on Municipal Self-Government[5], the Act of 5 June 1998 on District Self-Government[6] and the Act of 5 June 1998 on Voivodeship Self-Government[7]. However, the constitutional legislator decided, at least in part, on issues regarding the election rules for local self-government bodies. With regard to constitutive bodies, the constitutional legislator clearly states that elections to them shall be universal, equal, direct and shall be conducted by secret ballot (Article 169 (2) first sentence of the Constitution of the Republic of Poland), while authorizing the ordinary legislator to determine the rules and procedure for submitting candidates and conducting elections and the conditions for the validity of elections (Article 169 (2) second sentence of the Constitution of the Republic of Poland). As B. Banaszak rightly emphasizes, "The Constitution provides in Article 169 (2) only one way of creating constitutive

[2] Whenever the village mayor is mentioned in further considerations, it should also be understood as the mayor and the president of a city.

[3] Journal of Laws 1997, No. 78, item 483 as amended, hereinafter: the Constitution of the Republic of Poland. English translation of the Constitution at: www.sejm.gov.pl/prawo/konst/angielski/kon1.htm [access: 5.09.2020].

[4] See J. Korczak, *Partycypacja społeczna jako przedmiot regulacji statutu jednostek samorządu terytorialnego*, [in:] *Partycypacja społeczna w samorządzie terytorialnym*, ed. B. Dolnicki, LEX/el. 2014.

[5] Consolidated text Journal of Laws 2018, item 994 as amended.

[6] Consolidated text Journal of Laws 2018, item 995 as amended.

[7] Consolidated text Journal of Laws 2018, item 913 as amended. For more on the subject of local self-government in Poland, see M. Augustyniak, *Samorząd terytorialny*, [in:] *Prawo administracyjne*, eds. M. Zdyb, J. Stelmasiak, Warszawa 2020, pp. 435–556.

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bodies – universal elections in a given territorial division unit"[8]. However, with regard to executive bodies, the constitutional legislator empowers the ordinary legislator to determine the rules and procedure for elections and to dismiss executive bodies (Article 169 (3) of the Constitution of the Republic of Poland) – the constitutional legislator left that decision to the ordinary legislator[9]. Hence, councilors who are part of the decision-making bodies of individual levels of local self-government are elected directly by the residents. Similarly, it is in the case of village mayors (executive bodies of communes), who are also elected directly by the residents. On the other hand, executive bodies of poviats (poviat boards) and executive bodies of self-government voivodeships (voivodeship boards) are selected by constitutive bodies – respectively by poviat councils and voivodeship councils. Elections to constitutive bodies are universal, equal, direct and are held in secret ballot (Article 369 of the Act of 5 January 2011 – Electoral Code[10]). Similarly, the elections of a village mayor are universal, equal, direct and are held in secret ballot (Article 471 of the Electoral Code).

Elections under the supervision of the National Electoral Commission and electoral commissioners are conducted by:

- elections to commune councils: commune electoral commissions and regional electoral commissions (Article 413 of the Electoral Code),
- elections to poviat councils: poviat electoral commissions and regional electoral commissions (Article 451 of the Electoral Code),
- elections to voivodeship assemblies: voivodeship electoral commissions, poviat electoral commissions and regional electoral commissions (Article 460 of the Electoral Code)[11].

The elections of village mayors under the supervision of the National Electoral Commission and electoral commissioners are carried out by committees appointed to conduct elections to commune councils: commune electoral commissions and regional electoral commissions (Article 475 §§ 1 and 2 of the Electoral Code)[12].

The local elections (elections to constitutive bodies and of village mayors) that took place in Poland in 2018 were the first elections in which the provisions of the Act of 11 January 2018 amending certain acts introduced to Polish electoral law functioned for the first time in order to increase the participation of citizens in the

[8] B. Banaszak, *Prawo konstytucyjne*, Warszawa 2015, p. 602.

[9] See also J. Czerw, *Zasady wyboru wójta – stan aktualny i zgłaszane propozycje zmian*, [in:] *Samorządy w procesie decentralizacji władzy publicznej*, eds. M. Chrzanowski, J. Sobczak, Lublin 2017, pp. 81–92.

[10] Consolidated text Journal of Laws 2018, item 754 as amended, hereinafter: the Electoral Code.

[11] See also A. Wierzbica, *Referendum i wybory oraz zarządzenia i uchwały jednostek samorządu terytorialnego*, LexisNexis 2014.

[12] See also P. Ruczkowski, *Komentarz do art. 181a Kodeksu wyborczego*, [in:] M. Augustyniak, L. Bielecki, P. Ruczkowski, *Wybory samorządowe. Komentarz*, WKP 2018, LEX/el.

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process of electing, operating and controlling certain public bodies[13] (Article 5 (74) of the Act) regional electoral commission for conducting voting in the circuit and regional electoral commission for determining the results of voting in the circuit.

Regional electoral commission for conducting voting in the circuit and regional electoral commission for determining the results of voting in the circuit replaced the functioning in previous local elections regional electoral commissions, whose tasks included: 1) conducting voting in the circuit; 2) ensuring, on election day, that the electoral law is observed at the place and time of voting; 3) determining the results of voting in the circuit and making them public; 4) sending the results of voting to the appropriate electoral commission[14].

As stated in the explanatory memorandum to the deputies' draft Act on amending certain acts to increase the participation of citizens in the process of electing, operating and controlling certain public bodies[15], as a result of this change, there was a "Separation of regional electoral commission for conducting voting in the circuit and regional electoral commission for determining the results of voting in the circuit from the regional electoral commissions"[16]. Thus, as a result of the introduced change, two types of regional electoral commissions were created: regional electoral commission for conducting voting in the circuit and regional electoral commission for determining the results of voting in the circuit. As an argument for introducing this change (as well as other changes in the provisions of the Electoral Code) in the justification to the draft Act of 11 January 2018, it was indicated, i.a., that:

> The proposed changes in the scope of the Act – the Electoral Code boil down to ensuring adequate transparency, civic control over the electoral process and bodies obliged to prepare and conduct elections. The applicants intend to eliminate, or at least significantly reduce, potential abuses and irregularities. Combating such abuse is a concern for democracy and civil liberties, not a denial of these values[17].

Regional electoral commissions (both regional electoral commission for conducting voting in the circuit and regional electoral commission for determining the results of voting in the circuit) shall appoint from among the voters, at least 21 days

[13] Act of 11 January 2018 on amending certain acts to increase the participation of citizens in the process of electing, operating and controlling certain public bodies (Journal of Laws 2018, item 130), hereinafter: the Act of 11 January 2018.

[14] Article 185 of the Act of 5 January 2011 – Electoral Code (consolidated text Journal of Laws 2017, item 15 as amended) in the version applicable until 30 January 2018.

[15] The Sejm of the Republic of Poland of the 8th term, print no. 2001, www.sejm.gov.pl/Sejm8.nsf/PrzebiegProc.xsp?nr=2001 [access: 24.08.2019], hereinafter: justification to the draft act of 11 January 2018.

[16] *Ibidem*.

[17] *Ibidem*.

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before the election day, the competent electoral commissioner (Article 182 § 1 of the Electoral Code). It is worth mentioning that in the previous legal status regional electoral commissions were appointed by commune electoral commissions[18].

The regional electoral commission consists of nine persons from among the candidates proposed by electoral proxies or persons authorized by them (Article 182 § 2 of the Electoral Code). The legislator does not provide for any requirements for candidates for committee members as to substantive preparation for work in committee. As a result, the committee often consists of random persons who do not have any preparation or experience working in the election commission. This state of affairs may result in abuses or irregularities in the work of individual committees. This problem is also noted by J. Zbieranek, who states that:

> The law does not require candidates to be prepared in advance, in particular regarding knowledge of electoral law. The lack of attention of the legislator to ensuring an appropriate substantive and ethical level of the members of these committees, having a significant impact on the efficient and lawful conduct of elections, draws attention[19].

Preparations of election commission members for work in the commission also do not provide very general and superficial training for members of regional electoral commissions conducted before election by election officials.

In each nine-member regional electoral commission, the election commissioner appoints:

1) at least six members – one person nominated by each of the electoral representatives representing election committees formed by political parties or coalitions of political parties, from lists of which in the last elections respectively: councilors elected to the voivodeship council, except that candidates may only be submitted within the voivodeship in which the election committee introduced councilors to the voivodeship council in the last elections, or deputies elected to the Sejm; if the number of such election committees is less than six, the right to appoint an additional person has the representatives of the election committees referred to in item 2,
2) one person nominated by each of the electoral representatives representing the remaining electoral committees (Article 182 § 2 of the Electoral Code).

Therefore, candidates for members of regional electoral commissions may only be nominated by election committees. This right does not apply (as it was in the previous legal status) to the village mayor – he or she does not currently have

[18] Article 182 § 1 (2) of the Act of 5 January 2011 – Electoral Code (consolidated text Journal of Laws 2017, item 15 as amended) in the version applicable until 30 January 2018.

[19] J. Zbieranek, *Komentarz do art. 181a Kodeksu wyborczego*, [in:] K.W. Czaplicki, B. Dauter, S.J. Jaworski, A. Kisielewicz, F. Rymarz, J. Zbieranek, *Kodeks wyborczy. Komentarz*, WKP 2018, LEX/el.

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the right to appoint to the regional electoral commissions any persons from among the commune or the commune organizational units self-government employees. Although the participation of these members in the work of electoral commissions significantly influenced the improvement of the quality of work of individual committees, the solution adopted by the legislator should be assessed positively. The members of regional electoral commissions indicated by village mayors, due to their substantive preparation and experience, very often took on the functions of chairperson or their deputies. Thus, they obtained a large impact on the work of individual committees, which, in connection with the fact that the village mayor and the candidates for councilors for local self-government elections, often raised many doubts (at least of an ethical nature).

The composition of the electoral commission determined by the legislator is a clear preference for large electoral committees – electoral committees formed by political parties or coalitions of political parties from lists of which in the last elections were elected respectively: councilors to the voivodeship council or elected deputies to the Sejm. As stated by the National Electoral Commission in its Resolution of 13 August 2018 on regarding the manner of proposing candidates for members of regional electoral commissions for conducting voting in the circuit and regional electoral commissions for determining the results of voting in the circuit, the application form and the rules for appointing these committees, including the draw procedure, in elections to commune councils, poviat councils, voivodeship councils and district councils of the Capital City of Warsaw and in the elections of village mayors, mayors and city presidents[20], it does not matter whether the name of the election committee is the same or whether the name of the party has changed, provided that the party is entered under the same number in the register of political parties. In the case of a coalition election committee of a coalition of political parties, the preference applies to that committee which, in the last elections to the voivodeship council, created in the same composition of the coalition a coalition election committee that obtained a mandate or mandates in a given voivodeship or in the last election to the Sejm formed in the same coalition a coalition electoral committee that has obtained a mandate or mandates. It does not matter whether the name of the coalition election committee is the same (§ 5 item 1 points 1 and 2 of the NEC Resolution of 13 August 2018 on regarding the manner of proposing candidates for members of regional electoral commissions).

Candidates of election committees formed by political parties or coalitions of political parties from lists of which in the last elections were elected respectively:

[20] https://pkw.gov.pl/pliki/1534229451_uchwala_w_sprawie_powolowania_obwodowych_obwodowych_komycji_wyborczych.pdf [access: 31.09.2019], hereinafter: the NEC resolution of 13 August 2018 on regarding the manner of proposing candidates for members of regional electoral commissions.

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councilors to the voivodeship council or elected deputies to the Sejm by virtue of law become members of the regional electoral commissions. Only if the number of such electoral committees is less than six, the right to appoint an additional person has the proxies of other election committees. Generally, however, only three seats in the regional electoral commission are vested in the remaining election committees. Usually, there are more than three other election committees proposing candidates to the regional committees, hence the most frequently members of the regional electoral commissions from the other committees are selected by lot drawn by the competent electoral commissioner (in accordance with Article 182 §§ 7 and 8 of the Electoral Code). The composition of the regional electoral commissions defined in such a way discriminates against small, non-party, local electoral committees – voter electoral committees and electoral committees of organizations whose candidates very often successfully apply for the mandates of village mayors and commune councilors (city councils, town councils) and poviat councilors. Therefore, this regulation should be assessed negatively. This matter is also similarly spoken out on by A. Rakowska-Trela who states that:

> This solution causes […] unjustified inequality of election committees competing in elections in the field of co-forming the lowest electoral bodies, and also calls into question the right to propose candidates for regional electoral commissions by parties which, for example, achieved a high electoral result in the last election, participating in the coalition, have now decided to list candidates individually or *vice versa*. It should also be pointed out that the right to propose candidates for members of regional electoral commissions is not a right where there is any justification for the application of the entities to which they are entitled, the principles of equality in proportionate (and thus corresponding to the strength of individual committees)[21].

A candidate for the composition of a regional electoral commission may be a person with the right to vote, i.e. a person who:

1) is a Polish citizen,
2) at the latest on the date of application is 18 years old,
3) is not deprived of public rights by a final court decision,
4) is not deprived of electoral rights by a final decision of the State Tribunal,
5) is not incapacitated by a final court decision (§ 4 item 1 of the NEC Resolution of 13 August 2018 on regarding the manner of proposing candidates for members of regional electoral commissions).

A candidate for the composition of the regional electoral commission may also be a European Union citizen who is not a Polish citizen who:

1) at the latest on the date of application is 18 years old,

[21] A. Rakowska-Trela, *Komentarz do art. 182 Kodeksu wyborczego*, [in:] A. Rakowska-Trela, K. Składowski, *Kodeks wyborczy. Komentarz do zmian 2018*, WKP 2018, LEX/el.

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2) is not deprived of the right to elect in the Member State of the European Union of which he or she is a citizen (§ 4 item 2 of the NEC Resolution of 13 August 2018 on regarding the manner of proposing candidates for members of regional electoral commissions).

However, it should be emphasized that only a person who permanently resides in a voivodeship in which he or she is reported to the regional electoral commission and is entered in the permanent register of voters of one of the municipalities in that voivodeship can be a candidate for the composition of the commission (§ 4 item 3 of the NEC Resolution of 13 August 2018 on regarding the manner of proposing candidates for members of regional electoral commissions).

According to § 4 item 4 of NEC Resolution of 13 August 2018 on regarding the manner of proposing candidates for members of regional electoral commissions, the candidate for the composition of the commission cannot be:

1) a candidate in the elections,
2) electoral commissioner,
3) electoral representative of the election committee,
4) financial representative of the election committee,
5) electoral officer,
6) a person of trust,
7) social election observer,
8) a person who for the candidate is: spouse, ascendant, descendant, siblings, descendant or adopted spouse, person in adoption relationship,
9) proxy for voting referred to in Article 55 of the Electoral Code, in the commission competent for the voting circuit of the person granting the power of attorney to vote on its behalf.

Persons of trust and social election observers may participate in the work of regional electoral commissions (Articles 103a and 103c of the Electoral Code).

A person of trust in the regional electoral commission may be appointed by an electoral representative or a person authorized by him or her. However, if the election committee has not registered the candidates or lists of candidates in all regions, persons of trust representing this committee can only be appointed to the regional electoral commissions in the region in which the committee has registered the candidate or the list of candidates (Article 103a § 1 of the Electoral Code). The person of trust has the right to:

1) be present during all activities of the commission to which he or she has been appointed,
2) be present at the polling station when preparing for voting, voting, determining the results of voting and preparing the minutes,
3) add comments to the minutes, specifying specific allegations,
4) be present when transporting and forwarding the report to the appropriate higher-level electoral commission (Article 103b § 1 of the Electoral Code).

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A social election observer to the regional electoral commission has the right to be appointed by an association or a foundation registered in the Republic of Poland, whose statutory purposes include care for democracy, civil rights and the development of civil society (Article 103c § 1 of the Electoral Code). The social election observer has the right to:

1) be present during all activities of the commission to which he or she has been appointed,
2) be present at the polling station when preparing for voting, voting, determining the results of voting and preparing the minutes (Article 103c § 2 of the Electoral Code).

On the other hand, persons of trust and social election observers may not, in particular:

1) perform any activities of a member of the commission,
2) assist voters in voting or provide explanations to them,
3) count or view ballot papers before, during and after voting, i.e. they may not have any physical contact with the ballot papers – they may not touch the cards – at any time (Resolution of the National Electoral Commission of 17 September 2018 on guidelines for regional electoral commissions for determining the results of voting in the circuit regarding tasks and procedure for determining the results of voting in the elections of local self-government bodies ordered on 21 October 2018[22]).

The institution of a person of trust is not a new institution in Polish electoral law. However, the institution of social election observer is new, introduced by the provisions of the Act of 11 January 2018. This institution gives the possibility to control the course of elections to entities other than electoral committees, i.e. associations and foundations registered in the Republic of Poland, whose statutory purposes include care for democracy, civil rights and the development of civil society. As Jarosław Zbieranek notes,

> Social election observers are assumed to be representatives of civil society who are interested in watching elections as a process (e.g. they analyze the transparency of the electoral process, but also specialist issues – participation of disabled voters, etc.). Importantly, they want to maintain full impartiality and do not want to have links with any entity participating in elections (election committees), remaining fully independent. This fundamentally differentiates social election observers from persons of trust[23].

[22] https://pkw.gov.pl/pliki/1537364337_Wytyczne_obwodowe_ustalenie_wynikow.pdf [access: 24.08.2019], hereinafter: the NEC Resolution of 17 September 2018 on guidelines for regional electoral commissions for determining the results of voting.

[23] J. Zbieranek, *Komentarz do art. 103c Kodeksu wyborczego*, [in:] K.W. Czaplicki, B. Dauter, S.J. Jaworski, A. Kisielewicz, F. Rymarz, J. Zbieranek, *op. cit.*, LEX/el.

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The introduction to the Polish electoral law of the institution of social election observer should be assessed clearly positively.

The legislator, by creating regional electoral commissions for conducting voting in the circuit and regional electoral commissions for determining the results of voting in the circuit, divided between them the current tasks of the regional electoral commissions. Therefore, the tasks of regional electoral commission for conducting voting in the circuit include:

1) conducting voting in the circuit,
2) ensuring, on election day, compliance with the electoral law at the place and time of voting (Article 185 § 1 of the Electoral Code).

However, the tasks of the regional electoral commission for determining the results of voting in the circuit include:

1) determining the results of voting in the circuit and making them public,
2) sending the results of voting to the appropriate electoral commission (Article 185 § 1 of the Electoral Code)[24].

The tasks of the regional electoral commission for conducting voting in the circuit are set out in detail in the Resolution of the National Electoral Commission of 17 September 2018 on guidelines for regional electoral commissions for conducting voting in the circuit regarding tasks and preparation procedures, as well as conducting voting in elections of local self-government units ordered on 21 October 2018[25]. The tasks of the commission include:

1) tasks of the commission before the election day (these tasks include holding the first meeting, constituting the commission, publicizing information on the composition of the commission, stamping voting cards used in correspondence voting and preparing electoral packages, collecting voting documents, including ballot papers and seals),
2) tasks of the commission on the day of the election before the opening of the polling station (these tasks include checking the documents and seals provided to the commission, recalculating voting cards, stamping ballot cards, checking, closing and sealing the ballot box),
3) tasks of the commission during voting (these tasks include issuing voting cards, adding voters to the electoral roll, submitting voter turnout data to the National Electoral Commission and making them public),
4) tasks performed jointly with the regional electoral commission for determining the results of voting in the circuit (these tasks include forwarding the

[24] Due to the nature of the work of the regional electoral commission for conducting voting in the circuit, this commission is colloquially referred to as the daily committee, while the regional electoral commission for determining the results of voting in the circuit – as the vote counting commission.

[25] https://pkw.gov.pl/pliki/1537364422_Wytyczne_obwodowe_ds_przeprowadzenia_glosowania.pdf [access: 24.08.2019].

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documents of the circuit electoral commission for determining the results of voting in the circuit),
5) specific tasks of the commission in voting circuits established in treatment facilities and social welfare homes (these tasks include voting outside the polling station).

The tasks of the regional electoral commissions for determining the results of voting in the circuit have been set out in detail in the aforementioned NEC Resolution of 17 September 2018 on guidelines for regional electoral commissions for determining the results of voting. The tasks of the commission include:

1) tasks of the commission before election day (these tasks include holding the first meeting, constitution of the commission, making public information on the composition of the commission),
2) tasks performed jointly by the regional electoral commission for conducting voting in the circuit and regional electoral commission for determining the results of voting in the circuit (these tasks include collecting documents from the circuit electoral commission for voting in the circuit),
3) tasks performed by the commission after leaving the premises by the regional electoral commission for conducting voting in the circuit (these tasks include determining the results of voting and drawing up voting records in the circuit)[26].

It should be noted that pursuant to the NEC Resolution of 17 September 2018 on guidelines for regional electoral commission for determining the results of voting, activities related to determining the results of voting in the circuit and drawing up voting protocols in the circuit, are carried out by the commission jointly (these activities are carried out jointly by all current members). It is not allowed to create working groups or teams from committee members to perform separately after voting. The adopted solution should be assessed positively. In the previous legal status, it was a very common practice to designate working groups or teams within the peripheral electoral commission that determined the results of voting in individual elections (elections of village mayor, elections to the commune council, poviat council, voivodeship council), which could lead to abuses or irregularities.

As follows from the above, in addition to the tasks that each commission carries out independently, both committees perform part of the tasks jointly. These are tasks related to the forwarding of electoral documents.

The joint tasks of both committees are a new type of task that is a consequence of the separation by the legislator regional electoral commission for conducting

[26] On the tasks of the regional electoral commissions for conducting voting in the circuit and regional electoral commissions for determining the results of voting in the circuit, see J. Zbieranek, *Komentarz do art. 185 Kodeksu wyborczego*, [in:] K.W. Czaplicki, B. Dauter, S.J. Jaworski, A. Kisielewicz, F. Rymarz, J. Zbieranek, *op. cit.*, LEX/el.

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voting in the circuit and regional electoral commission for determining the results of voting in the circuit. Both committees take up work as part of their joint tasks as soon as voting ends and the last voter leaves the premises. First, the chairperson of both committees jointly seal the opening of the ballot box, sealing it with a paper strip bearing the commission's seal and signatures of its members (if the voting committee received one-off seals, the ballot inlet is secured with their help). Next, the chairperson of the regional electoral commission for conducting voting in the circuit forwards to regional electoral commission for determining the results of voting in the circuit in the presence of members of both commissions:

1) list of voters,
2) the ballot box with voting cards contained in it,
3) copies of the voting record in the circuit,
4) unused voting cards,
5) power of attorney to vote,
6) sealed packets with the seals of the regional electoral commissions (the regional electoral commission for conducting voting in the circuit, regional electoral commission for determining the results of voting in the circuit),
7) sealed packages containing electoral packages not delivered to voters, which were delivered to the regional electoral commission for conducting voting in the circuit,
8) other materials in the possession of the commission (point 26 of the NEC Resolution of 17 September 2018 on guidelines for regional electoral commissions for determining the results of voting).

The transfer of the above-mentioned documents and materials is drawn up by a transfer protocol, which is signed by all members of both committees present at the transfer, including the chairperson of the regional electoral commission for conducting voting in the circuit and the chairperson of the regional electoral commission for determining the results of voting in the circuit or their deputies. Each member of both committees, a person of trust and a social election observer may request a copy of the transfer report. Upon signing the handover report, the regional electoral commission for conducting voting in the circuit terminates its work and leaves the polling station (point 28 of the NEC Resolution of 17 September 2018 on guidelines for the regional electoral commission for determining the results of voting), and a regional electoral commission for determining the results of voting joins its tasks.

To sum up the considerations, the legislator should positively assess the substitution of the current regional electoral commissions for conducting voting in the circuit and regional electoral commissions for determining the results of voting in the circuit. Spreading the procedure related to voting and determining its results into two committees (two human teams) may limit potential abuses and irregularities. Certainly, however, the legal position of the regional electoral commissions for conducting voting in the circuit and regional electoral commissions for determining the

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results of voting in the circuit requires certain changes. First of all, *de lege ferenda* seems to justify giving up privileges when determining the composition of regional electoral committees of political parties or coalition political parties from the lists of which in the last elections were elected respectively: councilors to the voivodeship councils or Members of the Sejm to determine uniform rules applicable to all election committees. In order to improve the quality of the work of the electoral committees *de lege ferenda*, it seems reasonable to specify for candidates for committee members the requirement of prior completion of training for candidates for members of the regional electoral commissions organized and run by the National Electoral Office, as well as having even minimum professional experience (e.g. at least one year of service).

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Legal acts

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STRESZCZENIE

W czasie wyborów samorządowych, które odbyły się w Polsce w 2018 r., po raz pierwszy zafunkcjonowały obwodowe komisje wyborcze ds. przeprowadzenia głosowania w obwodzie i obwodowe komisje wyborcze ds. ustalenia wyników głosowania w obwodzie. Obie komisje wyborcze powołuje spośród wyborców właściwy komisarz wyborczy. Do zadań obwodowej komisji wyborczej ds. przeprowadzenia głosowania w obwodzie należy przeprowadzenie głosowania w obwodzie oraz czuwanie w dniu wyborów nad przestrzeganiem prawa wyborczego w miejscu i czasie głosowania. Natomiast do zadań obwodowej komisji wyborczej ds. ustalenia wyników głosowania w obwodzie należy ustalenie wyników głosowania w obwodzie i podanie ich do publicznej wiadomości oraz przesłanie wyników głosowania do właściwej komisji wyborczej. Wprowadzenie przez ustawodawcę obwodowych komisji wyborczych ds. przeprowadzenia głosowania w obwodzie oraz obwodowych komisji wyborczych ds. ustalenia wyników głosowania w obwodzie należy ocenić pozytywnie. Z pewnością jednak pozycja prawna obu komisji wymaga wprowadzenia przez ustawodawcę zmian.

Słowa kluczowe: wybory; wybory samorządowe; obwodowe komisje wyborcze ds. przeprowadzenia głosowania w obwodzie; obwodowe komisje wyborcze ds. ustalenia wyników głosowania w obwodzie