



ABUSE OF STATE RESOURCES

Parliamentary elections 2023

National referendum

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Interim Report



Political
Accountability
Foundation

I. SUMMARY

A fundamental principle of the democratic electoral process is the creation of conditions for equal participation of all candidates and voters. The unauthorised use of access to public resources, often involving their de facto appropriation, and the possibility of their abuse during an election campaign leads to the privileging of a selected group and negatively affects the equality of opportunities for candidates.

Although the concept of 'abuse of state resources' does not have a legal definition either in Polish or international legislation, for the purposes of our observation we will use the following:

The abuse of public resources (ASR) is the behaviour (action or inaction) of a public entity managing public funds and other resources which, under the guise of performing a public task, is actually aimed at the achievement of an individual objective of persons representing the entity or entities associated with them, including political parties.

Definition of Abuse of State Resources (ASR)

The aim of the Political Accountability Foundation's monitoring is to assess the incidence of abuse of state resources during the parliamentary and referendum campaigns and to determine whether and to what extent it occurred.

Overall, several areas related to the use of public resources, at the central and local level, managed by public institutions under the control of both the ruling and opposition parties, were observed:

- (i) the use of extra-budgetary and earmarked funds at the central level,
- (ii) information and advertising activities of public institutions and state-owned enterprises,
- (iii) information and publicity activities of non-governmental organisations funded from central government funds,
- (iv) public events of a campaign or near-campaign nature,
- (v) local and municipal press, and
- (vi) election materials (including those appearing in online media).

The specificity of the observation of the use of public resources is determined by its duration, which is also related to the obtaining of public information or the availability of other documents, such as the financial reports of election committees, which may not be made public

until several months after the elections. Hence, the preliminary conclusions of the observations cover only selected areas and types of events.

In the period leading up to this report, observers monitored 37 local events in 27 counties or municipalities and initially analysed eight journals published in nine locations. In addition, 25 accounts of public institutions, 24 accounts of majority-state-owned companies and 39 accounts of local government institutions were monitored. In addition, 107 accounts of non-governmental organisations and local initiatives that had recently received significant public funding were monitored.

During almost 60% of the observed events, candidates from various groups conducted more or less intensive campaign activities, which were not met with a negative reaction from those organising the meetings - local government offices or NGOs. Considering the criteria according to which the events were evaluated, we can conclude that public resources were abused in these nearly 60% of cases, thus providing additional support for the financing of the election campaign conducted by candidates.

In the observed local press, the main advertisers seem to be large state-owned companies, e.g. Orlen, PZU, PKO BP, etc. Observers assessed the advertisements placed by them as related to the election campaign, either because the information provided was practically identical to the information presented on the candidates' election posters, or because the graphic layout of the ad in question was similar to the graphics on the election posters. A number of periodicals (local government media such as - Gazeta Wroclawska, Tomaszowski Informator etc.) published interviews with candidates holding public office in the municipality, which presented them, their achievements to date in relation to the position they hold, or their programme in a positive light. For a final assessment of such interviews, it will be necessary to compare the publication policy of the journal in question and the funding sources.

The holding of a national referendum at the same time as the parliamentary elections created opportunities for parliamentary candidates to take a stand in relation to the referendum questions without financial consequences for their electoral committee. The restrictions applied to the election campaign do not apply to the referendum campaign. Examples of such activities have been observed among both ruling party and opposition candidates.

Local government resources were used by candidates who held local government offices. The profile and election slogan of the respective candidate were presented as part of the official information campaign of the local government unit and the information campaigns coincided with the election campaign period.

Among the monitored public institutions, instances were observed of candidates using their office to run the election campaign in their district under the cover of field activities of the given office/ministry. Certain promotional activities of the government and state-owned enterprises were designed in a manner where the content and graphics referred to the election campaign of Law and Justice.

The observation of abuse of state resources is fraught with having to interpret the observed cases in the absence of precisely defined criteria. Existing legal norms, especially in Poland, do not cover many of the areas/events covered by the analysis, which prohibits a simple assessment in terms of their legality. In turn, those events and areas that appear to be covered by legal regulations, such as election campaign financing, turn out to be susceptible to 'enabling' other activities or 'mixing' with other areas or processes, such as the referendum campaign. This makes it necessary to evaluate the process of the use of public resources by considering a number of factors, taking into account the context in which they occur and the use of information whose availability is remote in time from election day.

The following report only outlines the framework for the occurrence of abuse of public resources in Poland - showing it through actual examples observed during the ongoing campaign. **Abuse of state resources involves circumvention or misuse of existing regulations on the conduct and financing of election campaigns. But more importantly, it contradicts the principle of equal electoral opportunities.**

The Political Accountability Foundation will issue a summary report covering the entire election campaign period in mid-November and publish a final report by the end of February 2024 with a detailed analysis of the abuses observed. The final report will also include recommendations for changes to the law or its application to reduce the incidence of abuse of state resources during future election campaigns and beyond.