

Position
of the Association of Polish Cities
**regarding the parliamentary bill on the legality of the actions of municipality [gmina] authorities involved in
the organization of the 2020 presidential elections (print 2716)**

The Board of Directors of the Association of Polish Cities **expresses full solidarity with mayors** who, in April 2020, succumbed to unlawful pressure from government officials urging them to hand over voter registers containing protected personal data to the appointed operator, without legal basis. The first ruling in the case, which became final in July this year (the court found abuse of authority, conditionally waiving conviction after taking into account the circumstances surrounding the preparations for the so-called mail-in elections at the time), is clear and balanced.

The Association of Polish Cities, influenced by information from city offices, commissioned a **legal opinion** on the matter (**attached to this document**), which it published on its website and distributed to cities and other local government organizations. It showed unequivocally that there was no basis for municipalities to transfer voters' personal data. Based on it, the vast majority of city and municipality administrators **refused to comply with the illegal order of unauthorized bodies**, and some handed over password-protected censuses. They intended to disclose the passwords only after resolving legal doubts.

In view of the above, the Board of Directors of the Association:

- 1) **issues a negative opinion regarding the parliamentary bill in print 2716**, because no one can, after more than 2 years *ex post*, deem legal actions that were illegal at the time;
- 2) notes that – according to the Criminal Code – whoever publicly incites to commit a crime is subject to criminal liability; the same liability is also imposed on whoever, wanting another person to commit a criminal act, incites them to do so;
- 3) will consider legal support for mayors of member cities affected by possible court rulings, if they decide to file civil suits against government officials who illegally pressured them in April 2020 (including by threatening with receivership).

The Board notes that a group of MPs (the initiators of the bill) is setting a dangerous precedent of acting in violation of the constitutional principle of the tri-partition of power in a democratic state of law. It is conceivable that it will also be possible to issue **an ex post** law that will **arbitrarily, outside the judicial authority**, declare that actions that were legal some time ago were actually illegal. We categorically oppose such ideas.

The board also strongly protests against the wording in the project's justification: *Unfortunately, only some mayors decided to take decisions out of concern for the continuity of state power, involving the transfer of voter registers to the Polish Post*. By supporting the cities on a number of issues related to preparations for the 2020 elections, the association had a direct and complete picture of the situation. We unequivocally state that **all cities and municipalities carried out all possible measures under the conditions of the state of epidemic to safely prepare for and hold the elections**, trying to overcome numerous obstacles, such as difficulties in staffing most of the PECs. Despite these efforts, the elections still did not take place within the constitutional deadline. Any problems, caused by extraordinary circumstances, could have been resolved in accordance with the Constitution to the common benefit, had the appeals of local governments and experts for the fully justified declaration of a state of emergency due to natural disaster at the time been heeded.

Kraków, October 21, 2022.

On behalf of the Board of Directors



Signed by:
Zygmunt
Frankiewicz
Date: 2022-10-31
21:06

President of the
Association