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Violations of the principles of the democratic state of law and the rule of law by the government of Donald Tusk

after December 13, 2023



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Main theses

- Donald Tusk's government began its term in office with an illegal, forced takeover of the public media, turning TVP into a tool of government propaganda.
- Republic Television journalists were systematically excluded from government press conferences, which the court ruled was an attempt to suppress press criticism.
- The Sejm, unduly challenging the legality of the National Judicial Council's functioning, tried to force the resignation of its members by, among other things, drastically reducing its budget, which the Constitutional Court declared unconstitutional.
- The Minister of Justice has dismissed a number of court presidents appointed since 2018 in a manner that the Constitutional Court has declared unconstitutional.
- The government has systematically undermined the status of the Constitutional Court, and has not published its verdicts at all since March 2024.
- Minister Bodnar stripped National Prosecutor Dariusz Barski of his position, which the Supreme Court and the Constitutional Court declared illegal, and then unlawfully appointed Dariusz Korneluk in his place.
- Prime Minister Tusk announced on Platform X the withdrawal of the countersignature given under the President's order, despite the fact that the legal system does not provide for such a possibility.
- The Sejm violated proportionality of representation on the State Election Commission by allowing the Law and Justice Party to name only two members instead of three, and completely excluding the Confederation while appointing a Left candidate with controversial ties.
- The Finance Minister refused to implement the PKW's final resolution ordering the payment of subsidies to the Law and Justice Party (PiS), issued after the Supreme Court overturned its decision to reject the party's financial report, arbitrarily undermining the court ruling.
- The Sejm passed a law appointing specific judges to rule on the validity of the presidential election, an unprecedented interference by the legislature with the judiciary and a violation of the ban on amending election laws less than six months before the election.

- NASK (State Internet Watchdog body) issued a communiqué suggesting that one of the so-called "pro-frequency campaigns" was intended as a provocation targeting Rafal Trzaskowski, while it turned out that the organizer of the campaign was a company affiliated with the U.S. Democratic Party, which raises the question of whether campaign finance laws were circumvented.
- The government attempted to circumvent the Constitutional Court's ruling banning eugenic abortion by having the Health Minister issue "guidelines" allowing the widest possible interpretation of the premise of a threat to the mother's mental health, on the basis of which a child in the ninth month of pregnancy was killed at Olesnica Hospital.
- Rafal Trzaskowski issued an ordinance banning the display of religious symbols in city hall, which
 violates the constitutional freedom of conscience and religion and implements the principle of
 a secular state, which does not exist in Polish law.
- Minister of Education Barbara Nowacka has on several occasions issued regulations on the
 organization of religious lessons in disregard of the legally required agreements with the
 Church, which the Constitutional Court has declared unconstitutional, but the ministry has
 ignored these rulings.
- Speaker of the Sejm Szymon Holownia terminated the mandates of MPs Kaminski and Wąsik, ignoring their pardon by the President in 2015, which was deemed illegal by the Supreme Court and the Constitutional Court.
- The prosecutor's office unlawfully detained MP Marcin Romanowski, ignoring his immunity
 as a member of the Parliamentary Assembly of the Council of Europe, and then conducted
 a search of the Dominican monastery in Lublin in violation of the guarantee of the inviolability
 of places of worship.
- Father Michael Olszewski was held in custody for eight months under conditions that the Ombudsman described as inhumane treatment.
- Barbara Skrzypek died three days after a four-hour interrogation conducted by prosecutor Ewa Wrzosek without the presence of the interrogator's attorney, resulting in a manslaughter investigation.
- Police made a forcible entry into the headquarters of the organizers of the Independence March in violation of procedures, while the Mayor of Warsaw consistently refused to register the march.
- Police broke up agricultural protests and arrested their participants, who were later acquitted by the courts.

Introduction – is this already a hybrid coup?

The idea of the rule of law is not only a legal concept, but above all a political one. At its inception, it emerged as a political idea to limit power by law for the good and safety of the general public. The aim of the rule of law has therefore always been to limit the arbitrariness of government and thus protect the rights and freedoms of citizens.

On December 13, 2023, in Poland, after eight years of rule by the Law and Justice – United Right coalition, a new Council of Ministers was appointed, formed by a coalition of the center-left Civic Coalition, the center-liberal Poland 2050, the agrarian Polish People's Party, and the Left. The new Polish government, headed by Donald Tusk, acting on the basis of ad hoc resolutions of the parliamentary majority it controls, informal "guidelines" and opinions of friendly lawyers, over the next 18 months, it took numerous unlawful actions aimed at physically eliminating the opposition from the public sphere, undermining the foundations of a democratic state governed by the rule of law and creating a revolutionary order of "transitional justice" and "fighting democracy." Extra-legal measures were also used in the campaign before the presidential elections held on May 18 and June 1, 2025.

On the day the results of the presidential election were announced, which were lost by Rafał Trzaskowski, supported by the ruling camp, the prime minister made a statement that can be interpreted as a promise to continue the existing practices. In a speech delivered on June 2, 2025, Donald Tusk declared: "A contingency plan, assuming difficult cohabitation, is ready. [...] We will submit draft bills, but if necessary, we will govern and make decisions even with a president who tries to block positive changes. We already have experience." The statement was summed up with the words: "In a democracy, the struggle never ends," which betrays Marxist connotations of a constant class struggle rather than the ideas accompanying the functioning of a democratic system. Therefore, if the prime minister announces the continuation of the struggle, this should be clearly understood as a deformation of the classical system of government by the citizens and its transformation into a peculiar form of "fighting democracy" (primarily against the will of the majority of citizens).

The violation of the principles of a democratic state governed by the rule of law and legality constitutes a serious interference with the foundations of the political system, the effects of which are not limited to relations between constitutional state bodies, but directly affect human and civil liberties and rights. Particularly destructive actions are being taken in the areas of the right to life, freedom of religion, the right to a fair trial, and freedom of assembly. For this reason, in addition

Speech posted on Donald Tusk's profile @donaldtusk on platform X on June 2, 2025, https://x.com/donaldtusk/status/1929598894217855467, accessed on June 3, 2025.

to examples of strictly constitutional offenses, the authors have decided to present violations in at least these few key areas of freedom and human rights. The whole has been described in the most concise manner possible, and QR codes have been included in the relevant places of the report, leading to the Rule of Law Observer information portal, where we regularly comment on current issues related to violations of the rule of law in Poland, enabling readers to easily follow the current legal and political situation in Poland.

I. Attack on democratic institutions

1. Media takeover

A description of violations of the principles of the democratic state of law by Donald Tusk's government should begin with the subject of the media system in Poland for at least three reasons. First, these were chronologically the earliest actions, which began as early as December 2023. Second, starting the government with a forced takeover of the public media was absolutely necessary for the new government to provide media cover for the subsequent iniquitous actions of politicians. Third, pluralism of media coverage and freedom of the media are an absolute prerequisite of a democratic state of law, in which the functioning of the media should, as a rule, be separated from the legislative, executive and judicial powers, and entrusted to entities independent of the above authorities, so that this "fourth power" can actively involvé itself in the process of controlling all other types of power.²

The forced takeover of public television and the operation of the overtly pro-government TV station TVN have led to the monopolization of broadcasting, as these two entities alone had a combined TV audience share of nearly 52% in 2020,³ and were identified as a source of daily information on events in Poland and the world by 55% of respondents.⁴ Since the way public media function is considered a litmus test of the state of democracy and the extent to which basic freedoms and rights are respected in a country,⁵ the issues of illegal politicization of public media and restricting access to information for journalists of commercial stations along with attempts to suppress media criticism will be presented in a brief summary.

1.1. Public media

By virtue of the Resolution of the Sejm of the Republic of Poland of December 19, 2023 on the restoration of legal order and the impartiality and integrity of the public media and the Polish Press

² See more extensively. Ł. Bernaciński, Pluralism of the media and pluralism in the media [in:] B. Bałazy, Ł. Bernaciński, The functioning of the media market in Poland and other selected European countries. Counteracting capital concentration and protecting media pluralism, Warsaw 2021, p. 20.

Cf. B. Bałazy, Media in Poland [in:] B. Balazy, Ł. Bernaciński, op. cit. p. 44.

⁴ B. Zalewski, Unlawful changes in public media [in:] A Year of Devastation of the Rule of Law. The most important violations of the rule of law and democratic principles by the government of Donald Tusk, ed. Ł. Bernaciński, Warsaw 2024, p. 21.

⁵ Cf. M. Niedbała, Threats to media independence and pluralism [in:] The functioning of the media in Poland. Threats to media independence and freedom, ed. Ł. Bernaciński, M. Niedbała, Warsaw 2023, p. 36.

Agency,⁶ an act that is not an act of universally binding law, but only an expression of the position of a collegial body, an unlawful attack on the public media took place.

On the same day, the acting Minister of Culture and National Heritage, Colonel Bartlomiej Sienkiewicz, as the body exercising the ownership rights of the State Treasury (which owns 100% of the shares in the companies), acting on the basis of the provisions of the Commercial Companies Code, dismissed the existing presidents of the boards of Telewizja Polska S.A., Polskie Radio S.A. and Polska Agencja Prasowa S.A., as well as the supervisory boards of those companies. The minister appointed new supervisory boards in their place, which appointed new boards of directors for the companies. These actions were taken in violation of statutory provisions. On April 8, 2024, Telewizja Polska S.A. was formally placed in liquidation in order to facilitate the government's hand-over – in defiance of the Constitutional Court's January 18, 2024 ruling (ref. K 29/23), which stated that placing it in liquidation would be contrary to the law. Subsequent months have shown that this was a facade action, aimed solely at political ends, as the company put into liquidation continues to operate smoothly, investing, creating brand new programs and attempting to expand, while becoming a propaganda center for the new government.

On April 11, 2025, TVP broadcast an event described as a "Pre-Election Debate." The event, on the one hand, constituted a serious violation of the obligations regarding the holding of debates by public television (especially with regard to equal opportunities, including the possibility for all candidates to participate), and on the other hand, can be considered as conducting election agitation by TVP in favor of the candidate of the ruling camp, Rafal Trzaskowski. The Chairman of the KRRiT (State Broadcast Council) requested the Chairman of the State Election Commission to investigate whether there was a violation of the Election Code in the above-mentioned domain.

We update this issue on an ongoing basis here:



⁶ Resolution of the Sejm of the Republic of Poland of December 19, 2023, on the restoration of legal order and the impartiality and integrity of the public media and the Polish Press Agency (M.P. of 2023, item 1477).

⁷ Letter from the Chairman of the KRRiT to the Chairman of the State Election Commission, April 14, 2025, letter mark: KRRiT-077-7/007/25, https://www.gov.pl/web/krrit/pismo-przewodniczacego-krrit-do-przewodniczacego-panstwowej-komisji-wyborczej, accessed May 23, 2025.

1.2. Pressure on private media

Since the beginning of 2024, government representatives have, on at least several occasions, refused to allow to participate in news conferences, attend briefings, not to mention invite them to accompany the PM on foreign visits journalists from Telewizja Republika, which became one of the most popular news television stations in Poland after the government's illegal takeover of public media. The Ombudsman intervened in the case on several occasions, pointing out that no universally applicable law grants authority to evaluate the activities of broadcasters and possibly apply sanctions against them to government administrative bodies, including the Minister of Culture and National Heritage. In addition, the government's actions may constitute a violation of Article 54 of the Constitution, according to which everyone is guaranteed the freedom to express his or her views and to obtain and disseminate information, while preventive censorship of social media and press licensing are prohibited; Article 14 of the Constitution, according to which the Republic of Poland ensures freedom of the press and other social media; and Article 61 of the Constitution, according to which people are entitled to obtain information about the activities of public authorities and persons performing public functions. In turn, according to Article 2 of the Press Law, 8 state bodies, in accordance with the Constitution of the Republic of Poland, are obliged to create the conditions necessary for the media to carry out their functions and tasks, including enabling the activities of editors of daily newspapers and magazines diversified in terms of their program, thematic scope and attitudes presented.

The above-mentioned actions by government representatives became the subject of a complaint by Telewizja Republika for infringement of personal rights, on the basis of which the District Court in Warsaw, IV Civil Division, issued a judgment of first instance on July 3, 2024 (ref. IV C 306/24), ordering the Minister of Culture and National Heritage to apologize to Telewizja in connection with the attempts made, in the court's opinion, to suppress press criticism.

The Provincial Administrative Court in Warsaw overturned on April 9, 2025 (ref. VI Sa/Wa 2952/24) the decision No. DR-89/2024 of the National Broadcasting Council of July 2, 2024° resolving the proceedings for granting a license to distribute two television channels on the nationwide MUX-8 television multiplex. In the contested decision, the KRRiT decided to award space on the multiplex to Telewizja Republika and wPolsce24, the two largest conservative TV broadcasters in our country. The court's ruling is not final. The chairman of the National Broadcasting Council has announced that he will file a cassation complaint with the Supreme Administrative Court immediately after delivery of the justified verdict. If the verdict is upheld, it will mean that the concession procedure will have to be repeated, and until it is resolved, Telewizja Republika and wPolsce24 would have to suspend terrestrial television broadcasting. Such a solution would negatively affect media pluralism in Poland. Depriving the only two nationwide TV stations presenting a line critical of the current government of access to viewers would be a significant blow to the freedom of public debate.

⁸ Law of January 26, 1984. – Press Law (Journal of Laws of 1984, No. 5, item 24).

⁹ The text of the decision is available on the KRRiT website at: http://www.archiwum.krrit.gov.pl/KoncesjeSync/Decyzje/873a2024-t/DR-892024.pdf, accessed May 23, 2025.

2. The destruction of justice

The coalition agreement concluded by representatives of the Civic Coalition, the Third Way and the New Left on November 10, 2023, more than a month before the current government actually took office, stated in its second point: "We will restore legal order, undermined by the actions of predecessors. The courts will be free from political pressure, the prosecutor's office will be independent and apolitical. We will ensure the legality of the functioning of the judiciary and the constitutional judiciary. We will make every effort to restore the constitutional and apolitical shape of the National Judicial Council and the Supreme Court [...]."10

In fact, the government's policy in the area of "restoring the rule of law" is marked by two statements made by Prime Minister Donald Tusk, who, in the context of the takeover of public media, promised on November 21, 2023, i.e. even before he took over the government, that "[...] it will be according to the law, as we understand it [...]."¹¹ Donald Tusk made his second "programme" statement on September 10, 2024: "If we want to restore constitutional order and the foundations of liberal democracy, we must act in terms of fighting democracy. This means that we will probably, more than once, make mistakes or take actions that, according to some legal authorities, may not fully comply with the letter of the law, but nothing absolves us from the obligation to act."¹²

This chapter will present activities that definitely meet the euphemistically worded promise of acting "not quite to the letter of the law."

We update this issue on an ongoing basis here:



2.1. National Council of the Judiciary

December 20, 2023. The Sejm adopted a resolution "on removing the consequences of the constitutional crisis in the context of the constitutional position and functions of the National Council of

¹⁰ Coalition Agreement, https://platforma.org/upload/document/203/attachments/433/UmowaKoalicyjna.pdf, accessed May 23, 2025.

¹¹ Donald Tusk: There will be investigative commissions – press conference, 21.11.2023, recording on YouTube channel: Donald Tusk – official channel, https://www.youtube.com/watch?v=8eL0Ov5T2pc, 48:52-49:15, accessed May 23, 2025.

¹² Entry on the Prime Minister's Office @PremierRP profile on Platform X, September 10, 2024, https://x.com/PremierRP/status/1833514578077995040, accessed May 23, 2025.

the Judiciary in a democratic state of law" (M.P. item 1457), in which it declares all resolutions of the Sejm from the period 2018-2022 concerning the election of members of the National Council of the Judiciary (a constitutional body tasked with upholding the independence of the courts and the independence of judges) null and void, and all members of the Council are called upon to immediately cease their activities in the body. This is in violation of Articles 186 and 187 of the Polish Constitution. On the same day, December 20, the National Council of the Judiciary declared that the Sejm resolution is contrary to the Constitution.¹³

On April 12, 2024, the Sejm passed a law,¹⁴ which provides, contrary to the Constitution, for the short-ening of the term of office of the National Council of the Judiciary and the prohibition of candidacy to it for judges appointed since 2018. On August 1, 2024, the President of Poland referred the law in question to the Constitutional Court under the so-called preventive control procedure. The above proposals were also negatively assessed by the Venice Commission in its opinion of May 8, 2024.¹⁵

On September 6, 2024, the Minister of Justice presented the assumptions of legislative changes, ¹⁶ according to which judges appointed since 2018 could continue to hold office as long as they filed an "active repentance." The above proposals were again criticized by the Venice Commission in its October 14, 2024 opinion. ¹⁷

On December 18, the Council of Ministers adopted a resolution, a coording to which – without a legal basis – acts issued by the National Council of the Judiciary and by the Supreme Court in the formations that will include persons appointed from 2018 will be annotated to undermine the status of these bodies.

In December, there were also media reports suggesting that at the Warsaw Court of Appeals, all judges appointed since 2018 had been artificially separated into a separate section to exclude them from the random case allocation system.

On January 13, 2025, the Sejm passed the Budget Law for 2025,¹⁹ which provided for a significant reduction in the budget of the National Council of the Judiciary, preventing it from functioning properly. The President of the Republic referred the law to the Constitutional Court to examine the

¹³ Resolution of the Presidium of the National Council of the Judiciary dated December 20, 2023, https://krs.pl/pl/aktualnosci/2331-uchwala-prezydium-krajowej-rady-sadownictwa-z-dnia-20-grudnia-2023-r.html, accessed May 23, 2025.

¹⁴ Law of July 12, 2024, amending the Law on the National Council of the Judiciary, https://orka.sejm.gov.pl/opinie10.nsf/nazwa/219_u/\$file/219_u.pdf, accessed May 23, 2025.

¹⁵ CDL-PI(2024)009-e, Poland – Urgent Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law of the Council of Europe on the draft law amending the Law on the National Council of the Judiciary of Poland, https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2024)009, accessed May 23, 2025.

¹⁶ New Solutions for Judicial Change, Gov.co.uk, September 6, 2024, https://www.gov.pl/web/sprawiedliwosc/nowe-rozwiazania-dotyczace-zmian-w-sadownictwie, accessed May 23, 2025.

¹⁷ CDL-AD(2024)029-e, Poland – Joint Opinion of the Venice Commission and the Directorate General Human Rights and Rule of Law on European standards regulating the status of judges, adopted by the Venice Commission at its 140th Plenary Session (Venice, October 11-12, 2024 https://venice.coe.int/webforms/documents/?pdf=CDL-AD(2024)029-e),, accessed May 23, 2025.

¹⁸ Resolution No. 162 of the Council of Ministers of December 18, 2024, on counteracting the negative effects of the constitutional crisis in the area of the judiciary (M.P. of 2024, item 1068).

¹⁹ Budget Law for 2025, dated January 9, 2025 (Journal of Laws, item 63).

constitutionality of these provisions. In its ruling of May 6, 2025 (ref. K 2/25), the Court found that the law was unconstitutional in this regard.

On April 4, the ad hoc Disciplinary Ombudsman appointed by Minister A. Bodnar (an Ombudsman personally appointed by the Minister to a specific case – a function that is quite controversial from the point of view of judicial independence), Cezariusz Baćkowski, presented 18 judges with disciplinary charges²⁰ – the only disciplinary offense of these judges would be that in the period from January 2018. to March 2025, they served on the National Council of the Judiciary, formed pursuant to the Act of December 8, 2017 amending the Act on the National Council of the Judiciary and certain other acts (Journal of Laws of 2018, item 3).

April 11, 2025. Deputy Justice Minister Dariusz Mazur released information on another version of the justice reform.²¹ This time, the draft included the revocation to earlier positions of judges who have been promoted since 2018, and the removal of people who entered the profession from other legal professions from their positions as judges at all. The draft violates the constitutional principles of non-removal of judges in the same way as the ministry's previous proposals.

On April 24, 2025, the ministry presented the Draft Law on the Restoration of Constitutional Order in the Judiciary, ²² which again provides for the removal of judges by law – contrary to the guarantees of the Constitution.

We update this issue on an ongoing basis here:



2.2. Judicial independence

The Minister of Justice has attempted to dismiss a number of court presidents (including the Appellate Courts in Warsaw and Poznań or the District Courts in Warsaw and Radom) appointed since 2018, in violation of the relevant procedures. In connection with this practice, the Constitutional Court, in a judgment dated October 16, 2024 (ref. K 2/24), stated that the procedure for the dismissal

²⁰ Disciplinary proceedings against National Judicial Council judges, Gov.pl, April 4, 2025, https://www.gov.pl/web/sprawiedliwosc/postepowanie-dyscyplinarne-wobec-sedziow-krajowej-rady-sadownictwa, accessed May 23, 2025.

²¹ Profile entry for Dariusz Mazur @_Dariusz_Mazur on Platform X dated April 11, 2025, https://x.com/_Dariusz_Mazur/status/1910729704635596950, accessed May 23, 2025.

²² Bill to restore constitutional order in the judiciary, Gov.pl, April 24, 2025, https://www.gov.pl/web/sprawiedliwosc/projekt-ustawy-o-przywroceniu-ladu-kon-stytucyjnego-w-sadownictwie, accessed May 23, 2025.

of a court president or vice-president without the participation of the National Council of the Judiciary is contrary to Article 186 of the Constitution, according to which the National Council of the Judiciary upholds the independence of courts and the independence of judges.

On April 4, 2025, Minister Adam Bodnar announced²³ the dismissal of Warsaw Court of Appeals Judge Przemyslaw Radzik from his position as Deputy Disciplinary Ombudsman of Common Law Court Judges, despite the fact that no legal provision grants the minister such authority. On April 25, a statement was published²⁴ announcing an attempt at another dismissal – this time of Judge Piotr Schab from the position of Disciplinary Ombudsman of the Judges of Common Courts.

May 7, 2025. The College of the Supreme Court issued a resolution²⁵ regarding judges' public activities that are incompatible with the principle of their independence. In the resolution, the College of the Supreme Court reminds, while invoking the principle of the tri-partite government, of the duty of judges to remain impartial and not to get involved in debates and disputes of a political nature. As an example of such involvement, it pointed to the participation of judges in the work of legislative committees at the Ministry of Justice preparing plans for the current government's "repair" of the judiciary.

We update this issue on an ongoing basis here:



2.3. Constitutional Court

Ever since it was sworn in, Donald Tusk's government has undermined the status of Constitutional Court judges by means of annotating recent Constitutional Court rulings by the publishing body (the Official Gazette issued by the Prime Minister) with the words: "In accordance with the rulings of the European Court of Human Rights [...] the Constitutional Court is devoid of the characteristics of a tribunal established by law [...]."

²³ Przemyslaw Radzik dismissed as Deputy Disciplinary Judge Advocate, Gov.pl, April 4, 2025, https://www.gov.pl/web/sprawiedliwosc/przemyslaw-radzik-odwolany-z-funkcji-zastepcy-rzecznika-dyscyplinarnego-sedziow, accessed May 23, 2025.

²⁴ Minister of Justice dismisses Judge Piotr Schab as Disciplinary Ombudsman, Gov.pl, April 25, 2025, https://www.gov.pl/web/sprawiedliwosc/minister-sprawiedliwosci-odwoluje-sedziego-piotra-schaba-z-funkcji-rzecznika-dyscyplinarnego, accessed May 23, 2025.

²⁵ Resolution No. 2/05/2025, Supreme Court College of May 7, 2025 on Ensuring the Proper Functioning of the Supreme Court, https://www.sn.pl/sites/Serwis_WWW/SiteAssets/Lists/Wydarzenia/AllItems/Uchwa%C5%82a%20nr%202_05_2025%20-%20w%20sprawie%20zapewnienia%20prawid%C5%82owego%20funkcjonowania%20S%C4%85du%20Najwy%C5%Bcszego.pdf, accessed May 23, 2025.

On March 6, 2024, the Sejm also passed an unlawful resolution on removing the effects of the constitutional crisis of 2015–2023 in the context of the Constitutional Court's activities (M.P. item 198), amounting to a denial of the Court's status in the Polish legal order. From that point on, the government stopped publishing any Constitutional Court verdicts in the Journal of Laws, regardless of the composition of the court. In a judgment dated May 28, 2024 (Ref. U 5/24), the Constitutional Court ruled that such a resolution is contrary to the Polish Constitution.

On September 13, 2024, the Sejm passed a law – the Law Introducing the Law on the Constitutional Court²⁶, which was then referred by the President to the Court for preventive control. The law primarily declares invalid about 100 judgments of the Constitutional Court issued in formations with judges elected for terms that began on November 7, 2015. At the same time, the Sejm also passed a law on the Constitutional Court,²⁷ which, among other things, introduced the possibility for retired judges of the Court to adjudicate as a disciplinary court against currently sitting judges. This provision could be used instrumentally to remove current judges from office with the votes of judges elected by former parliamentary majorities.

Both of these laws were referred on October 7, 2024 by the President to the Constitutional Court for preventive control.²⁸ In particular, the President pointed out that the provisions of the introductory provisions violate Article 190(1) of the Constitution, according to which Decisions of the Constitutional Court have universal force and are final. In turn, according to the President, the amendments provided for in the Law on the Court regarding disciplinary proceedings against Court judges violate constitutional provisions regarding the tenure of Court judges (Article 194(1) of the Constitution), as well as the principles of the division and balance of powers and the independence of courts and tribunals.

On December 7, the Venice Commission issued its position,²⁹ declaring unacceptable the government's failure to publish Constitutional Court verdicts, as well as proposals to terminate the terms of all Court judges.

On December 18, the Council of Ministers passed an unlawful resolution³⁰ in which it upheld the decision not to publish the Constitutional Court's verdicts.

On January 13, 2025, the Sejm passed the 2025 Budget Law, which provided for a significant reduction in the budget of the Constitutional Court that would prevent it from functioning normally. The President of the Republic referred the law to the Constitutional Court to examine the

²⁶ Law of September 13, 2024. – Provisions Introducing the Law on the Constitutional Court, https://orka.sejm.gov.pl/opinie10.nsf/nazwa/254_u/\$-file/254_u.pdf, accessed May 23, 2025.

²⁷ Law of September 13, 2024 on the Constitutional Court, https://orka.sejm.gov.pl/opinie10.nsf/nazwa/253_u/\$file/253_u.pdf, accessed June 2, 2025.

²⁸ Two Bills to TK for Preventive Control, President.co.uk, October 7, 2024, https://www.prezydent.pl/aktualnosci/wydarzenia/dwa-wnioski-do-tk-w-try-bie-kontroli-prewencyjnej,92504, accessed June 2, 2025.

²⁹ CDL-AD(2024)035-e, Poland – Opinion on the draft constitutional amendments concerning the Constitutional Tribunal and two laws on the Constitutional Tribunal, adopted by the Venice Commission at its 141st Plenary Session (Venice, December 6-7, 2024 https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2024)035-e),, accessed May 23, 2025.

³⁰ Resolution No. 162 of the Council of Ministers of December 18, 2024 (M.P. of 2024, item 1068).

constitutionality of these provisions. In its ruling of May 6, 2025 (ref. K 2/25), the Court found that the law was unconstitutional in this regard.

The government's ignoring of the Court was explicitly criticized by the Ombudsman in a high-profile press interview on April 22, 2025.³¹

We update this issue on an ongoing basis here:



2.4. Prosecution

On January 12, 2024, Minister of Justice Adam Bodnar summoned National Prosecutor Dariusz Barski to his office and handed him a document stating that his alleged appointment two years earlier, on February 16, 2022, by the previous minister Zbigniew Ziobro, had been made in violation of the current legislation and had no legal effect.³² The purpose of this action was to circumvent the provisions of the Law of January 28, 2016 – Law on the Public Prosecutor's Office (Journal of Laws 2024, item 390, as amended), which expressly stipulates that the National Prosecutor can be appointed only after obtaining the opinion of the President of the Republic of Poland, and can be dismissed only with the written consent of the President. On September 27, 2024, the Supreme Court ruled³³ that Bodnar's actions were against the law, and Dariusz Barski is still the National Prosecutor. This was confirmed by the Constitutional Court in its November 22, 2024 ruling (ref. SK 13/24).

The practical consequence of the unlawful takeover of the Prosecutor's Office is the action of submitting a request by the President of the Constitutional Tribunal, Bogdan Swieczkowski, for the Prosecutor's Office to initiate an investigation into the coup d'état taking place in Poland.³⁴ The investigation was initiated by Deputy Prosecutor General Michal Ostrowski. In response, Prosecutor General Adam Bodnar suspended Prosecutor Ostrowski on February 11, 2025, citing

³¹ Ombudsman: there are no grounds for declaring the rulings of the Extraordinary Control Chamber non-existent, Independent, April 22, 2025, https://niezalezna.pl/polityka/rzecznik-praw-obywatelskich-nie-ma-podstaw-aby-uznawac-orzeczenia-izby-kontroli-nadzwyczajnej-za-nieistnieja/541843, accessed May 23, 2025.

³² Information on the recognition of the reinstatement of prosecutor Dariusz Barski to active duty as an act done in violation of the law, Gov.pl, January 12, 2024, https://www.gov.pl/web/sprawiedliwosc/informacja-o-uznaniu-przywrocenia-prokuratora-dariusza-barskiego-do-sluzby-czynnej-za-akt-dokonany-z-naruszeniem-przepisow, accessed May 23, 2025.

³³ Supreme Court resolution of September 27, 2024, ref. I KZP 3/24.

³⁴ See Part III.

"violation of the basic principles of the prosecutor's office." The current leadership of the prosecutor's office is effectively preventing the investigation of the case.

We update this issue on an ongoing basis here:



2.5. Revocation of countersignature

Donald Tusk signed, in accordance with the Constitution of the Republic of Poland, the order of the President of the Republic of Poland dated August 17, 2024, No. 1131.18.2024 on the appointment of the chairman of the assembly of judges of the Civil Chamber of the Supreme Court. It was published in the Monitor Polski (M.P. item 799) with a note of the signatures of the President of the Republic of Poland and the Prime Minister. On September 9, however, Prime Minister Tusk announced on Platform X – and only there – that he had "decided to rescind the countersignature," despite the fact that the legal system does not provide for such a possibility. The next day, the Supreme Court spokesman, Ilike the vast majority of respected constitutionalists, officially declared that Prime Minister Tusk's action was unlawful.

2.6. Notification of the President of the Constitutional Tribunal of suspected commission of a crime of treason

On January 31, 2025, the President of the Constitutional Tribunal, Bogdan Święczkowski, submitted to the Deputy Prosecutor General a notification³⁸ of reasonable suspicion of commission of a crime under Article 127 § 1 in conjunction with Article 128 § 1 and 3 of the Criminal Code³⁹, i.e. the so-called coup d'état, by members of the current government, members of the ruling coalition, and certain judges and prosecutors. The provisions in question criminalize the use of violence to change the constitutional order of the Republic of Poland, remove a constitutional body of the Republic

³⁵ Appointment of MS Disciplinary Ombudsman and Suspension of IG Michal Ostrowski, Gov.co.uk, February 11, 2025, https://www.gov.pl/web/prokuratura-kra-jowa/powolanie-rzecznika-dyscyplinarnego-ms-i-zawieszenie-zpg-michala-ostrowskiego, accessed May 23, 2025.

³⁶ Profile entry for Donald Tusk @donaldtusk on platform X, https://x.com/donaldtusk/status/1833124595169214852, accessed May 23, 2025.

³⁷ Supreme Court Position on the Assembly of Judges of the Civil Chamber of the Supreme Court, Supreme Court, September 10, 2024, https://www.sn.pl/aktualnosci/SitePages/Wydarzenia.aspx?ltemSID=1022-0dc69815-3ade-42fa-bbb8-549c3c6969c5&ListName=Wydarzenia, accessed May 23, 2025.

³⁸ The full text of the notification has been published on the website of the Constitutional Tribunal:https://trybunal.gov.pl/fileadmin/content/uroczystosci_spotkania_wizyty/2025/2025_02_11/ZAWIADOMIENIE_O_UZASADNIONYM_PODEJRZENIU_POPELNIENIU_PRZESTEPSTWA.pdf, dostęp: 26 maja 2025 r.

³⁹ Act of June 6, 1997 - Penal Code, Journal of Laws of 2025, item 383.

of Poland, and influence the official activities of such a body. The bodies against which the current authorities were to commit the coup, according to the notification, are: the Constitutional Tribunal, the National Council of the Judiciary, and the Supreme Court, which have been prevented from functioning normally and fulfilling their constitutional functions. The perpetrators of violence would achieve the above objectives by unlawfully (contrary to the Constitution) exploiting the "advantage" provided by the executive and legislative branches of government in order to impose their will.

3. Anti-democratic attempts to influence the election outcome

During the first half of the current parliament a number of key elections were due to take place. First, local elections (first round on April 7, second round on April 21, 2024), then to the European Parliament (June 9, 2024), and finally to the office of the President of the Republic (first round on May 18, second round on June 1, 2025). Hence, taking action in the area of illegally seizing control of public media, obstructing private media, and depriving its political opponents of election campaign funds became the government's political priority for the first part of its term.

We update this issue on an ongoing basis here:



3.1. Controversy over the composition of the State Election Commission

In accordance with the provisions of Article 157 § 2(3) and § 4a of the Election Code⁴⁰ on December 21, 2023. The Parliament has named seven of the nine members of the State Election Commission.⁴¹ However, this was not without controversy, which impinges on the activities of the PKW described later in this report. The Right and Justice Party, despite winning the parliamentary elections, was allowed to name only two members of the PKW, rather than three. The Conservative-Liberal Confederation, on the other hand, was not allowed to name a single candidate. Five candidates were named by the parties in the government coalition, which, with a nine-member commission, guaranteed them a majority. All the deputies of the victorious Law and Justice, the Confederation and the Kukiz'15 grouping present wanted a separate vote on each candidate. Doubts were particularly raised about

⁴⁰ Law of January 5, 2011. - Election Code (Journal of Laws 2025, item 365).

⁴¹ Resolution of the Sejm of the Republic of Poland of December 21, 2023 on the designation of members of the State Election Commission (M.P. of 2024, item 28).

the Left's candidate, lawyer Ryszard Kalisz, who, as Law and Justice deputy Jan Dziedziczak⁴² raised, in his professional activities represented, among others, a company included in the Polish sanction list of institutions supporting the Russian Federation, as well as an individual accused of spying for Russia. While there is nothing improper about a lawyer ensuring that a client's right to defense is realized, the appointment of a person with such ties to a committee whose purpose is to ensure the legal conduct of elections has raised controversy.

3.2. Deprive Law and Justice of subsidies

On August 29, 2024, the State Election Commission adopted a resolution to reject the financial report of the Law and Justice Election Committee on the elections to the Sejm of the Republic of Poland and the Senate of the Republic of Poland.⁴³ On December 11, 2024, the Supreme Court, considering the Law and Justice Election Committee's complaint against the resolution, revoked it.⁴⁴ In view of the above, on December 30, 2024, the State Election Committee issued a renewed resolution,⁴⁵ in which it decided to accept the financial report.

However, the Minister of Finance refused to implement the resolution and did not pay the Right and Justice its due funds, instead sending a letter to the State Election Commission on January 8,46 requesting clarification of the resolution and suggesting that it did not recognize the Supreme Court's order.

January 9, 2025. The Chairman of the State Election Committee replied to the Minister,⁴⁷ in which he requested that the Minister promptly provide the legal basis for his request. In doing so, he expressed the position that the resolution is unambiguous and does not require clarification, and reminded that the Minister of Finance is not a party or participant in the proceedings on accepting or refusing to accept the financial report of the election committee.

On February 3, 2025. The chairman of the PKW again sent a letter to the Minister of Finance,⁴⁸ requesting information on how the ministry is implementing the PKW resolution and on the minister's performance of his statutory duty.

⁴² Statements at Sejm Sessions – rebroadcast, MP Jan Michal Dziedziczak, Sitting No. 1 on 21-12-2023, https://www.sejm.gov.pl/Sejm10.nsf/transmisja.xsp?documentId=7B7A78F5B5773DD9C1258A8D0039A7C1&symbol=WYPOWIEDZ_TRANSMISJA, accessed May 24, 2025.

⁴³ Resolution No. 316/2024 of the State Electoral Commission of August 29, 2024 on the financial report of the Law and Justice Electoral Committee on the elections to the Sejm of the Republic of Poland and the Senate of the Republic of Poland held on October 15, 2023, https://pkw.gov.pl/uploaded_files/1725025956_kw-pis.pdf, accessed May 24, 2025.

⁴⁴ Supreme Court decision of December 11, 2024, ref. I NSW 55/24.

⁴⁵ Resolution No. 421/2024 of the State Electoral Commission of December 30, 2024 on the financial report of the Law and Justice Electoral Committee on the elections to the Sejm of the Republic of Poland and the Senate of the Republic of Poland held on October 15, 2023, https://pkw.gov.pl/uploaded_files/1735727416_kw-pis-po-sn.pdf, accessed May 24, 2025.

⁴⁶ Contents of the Finance Minister's letter to the PKW, Gov.co.uk, January 9, 2025, https://www.gov.pl/web/finanse/tresc-pisma-ministra-finansow-do-pkw, accessed May 24, 2025.

⁴⁷ Letter Sign: ZKF.411.2.4.2024, https://pkw.gov.pl/uploaded_files/1736473703_zkf411242024.pdf, accessed May 24, 2025.

 $^{48 \}quad Letter Sign: ZKF. 820. 2.8. 2024, https://pkw.gov.pl/uploaded_files/1739503459_pismo-do-mf-zkf820282024.pdf, accessed May 24, 2025.$

We update this issue on an ongoing basis here:



3.3. An attempt to exclude the Supreme Court's Extraordinary Review Chamber from ruling on the validity of the presidential election

On January 24, 2025, the Sejm passed the so-called Incidental Law⁴⁹ establishing a special procedure for the Supreme Court to rule on the validity of the presidential elections ordered for May 18, 2025 and June 1, 2025. On February 12, 2025, the Senate passed the law without amendments.

It provides – contrary to the provisions of the Supreme Court Law – for the Extraordinary Control and Public Affairs Chamber to be removed from ruling on the validity of elections, and in its place appoints 15 judges who are the oldest serving Supreme Court judges. The vast majority of these judges were appointed while they were still under communist rule (the Polish People's Republic). In addition, the law constitutes an unprecedented act of interference by the legislature in the judiciary by having the Sejm appoint specific judges to rule on a specific case. It also violates the prohibition, derived by the Constitutional Court from Article 2 of the Constitution, ⁵⁰ of making significant changes to the election law less than six months before an election.

The law was forwarded by the President to the Parliament for reconsideration on March 10, 2025.

We update this issue on an ongoing basis here:



⁴⁹ Law of January 24, 2025 on special arrangements for the Supreme Court to hear cases related to the elections of the President of the Republic of Poland and by-elections to the Senate of the Republic of Poland ordered in 2025, https://orka.sejm.gov.pl/opinie10.nsf/nazwa/923_u/\$file/923_u.pdf, accessed May 24, 2025.

⁵⁰ See P. Chybalski, The problem of the so-called legislative silence in the electoral law in the light of the jurisprudence of the Constitutional Court [in:] Constitutional Judiciary. Theory and Practice. Volume II, edited by M. Granat, Warsaw 2019, p. 250.

3.4. Manipulation of the content of the communications of the government's Disinformation Analysis Center in order to hide in whose favor illegal financing of the election campaign was taking place

On May 14, 2025, the Scientific and Academic Computer Network - National Research Institute (NASK), issued a communiqué, ⁵¹ which reported possible interference in the election campaign by foreign factors. The content of the communiqué seemed to suggest that the videos published on the Internet - despite the fact that the people appearing in them spoke unequivocally negatively about the candidacies of Karol Nawrocki, supported by the Law and Justice party, and Slawomir Mentzen (Confederation), while praising the ruling camp's candidate Rafal Trzaskowski - were in fact meant to be a provocation aimed at the latter, taking place without his knowledge and consent and intended to harm him. The very next day, journalists from Wirtualna Polska established, 52 who was actually behind this action, which shed new light on the probable motives. It turned out that the actual organizer of the spots in question is the Vienna-based Estratos Digital GmbH, led by Hungarian politicians Ádám Ficsor, who was Minister of Special Services in the leftist government of Gordon Bajnai, in office before Viktor Orban took power, and Viktor Szigetvari, who is also associated with the opposition to Orban's rule. The company's majority shareholder, in turn, is Higher Ground Labs Fund III LP, which is affiliated with the US Democratic Party. What is particularly significant, however, is that the Democracy Action Foundation, which has been working with Estratos for many years (including using the IT tools it provides), admitted to helping record the spots. Democracy Action is an organization that unequivocally takes sides in the political dispute in Poland. Its current president - Jakub Kocjan - according to the journalists' findings, was until recently the social assistant of Coalition MP Obywatelska Iwona Karolewska. Already as the foundation's president, he took part in meetings organized by the NASK on election security and protection against disinformation. Such spots, supposedly "pro-frequency" and in fact discouraging voting for specific candidates and thus, at least indirectly, encouraging voting for others, may be an attempt to circumvent the provisions of Article 105 of the Election Code on election campaign financing: "Electoral canvassing is the public inducement or encouragement to vote in a specific way, including in particular to vote for a candidate of a specific election committee."

⁵¹ Update. Possible attempt to interfere in election campaign. After NASK intervention, Meta blocked ads, NASK, May 14, 2025, https://nask.pl/aktualnosci/mozliwa-proba-ingerencji-w-kampanie-wyborcza, accessed May 24, 2025.

⁵² Disclosure. Election interference, spots without author and Democracy Action, WP, May 15, 2025, https://wiadomosci.wp.pl/ujawniamy-ingerencja-w-wy-bory-spoty-bez-autora-i-akcja-demokracja-7156892271278624a, accessed May 24, 2025.

II. Civil liberties under threat

1. Unconstitutional undermining of the right to life

The right to life, guaranteed by Article 38 of the Constitution, is the foundation of all rights. It is, so to speak, a sine qua non for the possibility of realizing any other rights and freedoms. The scope of its respect in Poland has recently been expanded as a result of the Constitutional Court's judgment of October 22, 2020. (Ref. K 1/20), in which so-called eugenic abortion was declared unconstitutional.

Overturning the verdict in question was one of the first announcements made by the new government, contained, among other things, in paragraph. 6 of the coalition agreement.⁵³ Among other things, it seems that it was largely for this purpose that the above-described attempts to take over the Constitutional Court or the takeover of the Public Prosecutor's Office were intended, which made the possibility of enforcing the current law much more difficult.

The ruling party attempted to undermine the CT ruling through a simple amendment to the law, but on July 12, 2024, by a small number of votes, MPs in the third reading of⁵⁴ rejected the draft⁵⁵ submitted by the New Left. Counting, however, that even if the Sejm had passed the relevant law, it would not have been signed by the president, members of the current government coalition decided to circumvent the current law in another way.

On August 30, 2024, during a government press conference, Health Minister Izabela Leszczyna announced the publication of "Guidelines on the current legal regulations on access to the termination of pregnancy procedure." Addressed to hospital directors, presidents and department heads, the guidelines include a "polite request" for their application. The document assumes that the abortion premise of a pregnant woman's health risk can be interpreted as broadly as possible, which can apply to "any area of health, both physical and mental," regardless of the degree of risk, the potential health consequences, or the adequate connection between remaining pregnant and the health risk. The Minister of Health has no authority under Polish law to issue such documents. The guidelines are not binding on the directors of medical entities, hence only a "polite request for their application" from the Health Minister. The publication of such a document, together with

⁵³ Coalition agreement..., p. 3.

⁵⁴ Vote No. 9 at the 15th Sejm session on 12-07-2024 at 13:45:21, https://www.sejm.gov.pl/Sejm10.nsf/Glosowanie.xsp?posiedzenie=15&glosowanie=9, accessed May 27, 2025.

⁵⁵ Parliamentary bill on amendments to the Law - Criminal Code, parliamentary print no. 176.

⁵⁶ Guidelines on Existing Legislation on Access to Abortion Procedures, https://www.gov.pl/web/zdrowie/wytyczne-w-sprawie-obowiazujacych-przepis-ow-prawnych-dotyczacych-dostepu-do-procedury-przerwania-ciazy, accessed May 26, 2025.

the creation of the impression of its validity and the existence of sanctions for its non-application, constitutes a violation of the principle of legalism and a usurpation of the powers belonging to the medical self-government.

The content of the guidelines, which are, as it were, an incentive for physicians to terminate pregnancies, should be read in connection with the changes in health care financing introduced under the Regulation of the Minister of Health of May 14, 2024, amending the Regulation on general terms and conditions of contracts for the provision of health care services.⁵⁷ The regulation imposes an obligation on hospitals performing obstetrics and gynecology contracts with the National Health Fund to allow "abortions" to be performed within their walls, regardless of the use of the conscience clause by their physicians. If a hospital fails to fulfill this obligation, contractual penalties will be imposed on it, or the contract may even be terminated by the NFZ without notice. Such penalties are indeed imposed – for example, a penalty of PLN 550,000 was imposed on a hospital in Pabianice. The above regulations may encourage hospital directors to pressure doctors not to use the conscience clause, which is, after all, an expression of their constitutional freedom of conscience and religion (Article 53).

In turn, hindering patients' access to gynecological and obstetric care under the National Health Service simply because a particular hospital does not perform abortions is contrary to Article 68 (1) and (3) of the Constitution, which guarantees everyone the right to health protection, including imposing an obligation on public authorities to provide special health care to pregnant women and children.

Based on the above guidelines, a baby in the ninth month of pregnancy was killed at Olesnica Hospital under the pretext of the pregnancy constituting a threat to the mother's mental health. In April 2025. The Olesnica District Prosecutor opened an investigation into the case.

We update this issue on an ongoing basis here:



⁵⁷ Ordinance of the Minister of Health dated May 14, 2024, amending the Ordinance on general terms and conditions of contracts for the provision of health care services (Journal of Laws 2024, item 730).

2. Questioning freedom of conscience and religion and the constitutional model of relations between the state and religious communities

In para. 18 of the coalition agreement included a rather enigmatic declaration that "separation of Church and State is essential." Later months showed that behind it was a program of aggressive secularization that was contrary to existing law. Article 53 of the Constitution guarantees everyone freedom of conscience and religion, including the right to manifest it publicly. The same article emphasizes the right of parents to ensure that their children are raised and given moral and religious instruction in accordance with their beliefs. In turn, Article 25(3) of the Constitution stipulates that relations between the state and churches and other religious associations shall be formed on the basis of respect for their autonomy and mutual independence of each in its own right, but also cooperation for the good of man and the common good. The above guarantees have been violated several times recently by representatives of the current ruling majority.

We update this issue on an ongoing basis here:



2.1. Order of the Mayor of the Capital City of Warsaw prohibiting the display of religious symbols

The mayor of the capital city of Warsaw, and later candidate for the office of President of Poland, Rafal Trzaskowski, on May 8, 2024, issued an ordinance on the introduction of the so-called standards of equal treatment in the municipal office of the capital city of Warsaw, ⁵⁹ the essence of which was a ban on the display of religious symbols in public space, including a ban on employees having such symbols on their desks. The ordinance violates the constitutionally guaranteed freedom of conscience and religion (Article 53(1)-(2)) and the order to preserve the worldview impartiality of public authorities, together with the directive to ensure freedom of expression of beliefs in public life (Article 25(2)), and it does not meet the constitutional prerequisites for restricting human freedoms and rights (Article 53(5) in conjunction with Article 31(3)). Moreover, it follows from the principles of a democratic state of law (Article 2 of the Constitution) and legalism (Article 7 of the Constitution)

⁵⁸ Coalition agreement..., p. 8.

⁵⁹ Ordinance No. 822/2024 of the President of the Capital City of Warsaw dated May 8, 2024 on Introduction of Standards for Equal Treatment in the Office of the Capital City of Warsaw, sign: GP-OR.0050.822.2024, https://bip.warszawa.pl/web/prezydent/-/zarzadzenie-nr-822/2024-z-2024-05-08, accessed May 26, 2025.

that public authorities cannot implement principles that do not exist in the Polish legal order, such as the principle of ideological neutrality invoked by Rafał Trzaskowski in the aforementioned order.

2.2. Regular issuance, in an unconstitutional manner, of regulations governing the organization of religious lessons

On July 26, 2024, Education Minister Barbara Nowacka issued a decree⁶⁰ that revised the rules for organizing religion lessons in schools.

On August 30, the Constitutional Court, at the request of the President of the Supreme Court, issued an order, ⁶¹ suspending the regulation while the application is pending. The Ministry announced the same day, ⁶² that it will not comply with the order. In a November 27, 2024 ruling (ref. U 10/24), the Constitutional Court declared the regulation unconstitutional in its entirety due to the unconstitutional procedure for its adoption (lack of agreement with the relevant churches). Despite the ruling, the Minister of Education signed another decree on January 17, 2025, ⁶³ repeating the unconstitutional procedure. ⁶⁴ The First President of the Supreme Court petitioned the Constitutional Court on April 23, 2025 to examine the constitutionality of this regulation as well. Currently, no hearing has yet been scheduled on the subject.

In turn, in a judgment of May 22, 2024 (ref. U 11/24), the Constitutional Court declared unconstitutional the Ordinance of the Minister of Education of March 22, 2024, amending the Ordinance on grading, classifying and promoting students and listeners in public schools (Journal of Laws, item 438), to the extent that it prevented the inclusion of the grade obtained from religion in a student's grade point average, due to the unconstitutional mode of issuance of that Ordinance, i.e. in disregard of arrangements with the authorities of the Catholic Church.

3. Violation of the right to due process

The right to fair and impartial proceedings, referred to briefly as the right to a court, is one of the basic formal guarantees, without which it would be impossible to effectively assert any subjective rights. The right to a court consists of a set of provisions of the Constitution. Article 41 guarantees

⁶⁰ Decree of the Minister of Education of July 26, 2024, amending the decree on the conditions and manner of organizing religious instruction in public kindergartens and schools (Journal of Laws of 2024, item 1158).

⁶¹ Ref. U 10/24, the text of the order was published on the Supreme Court website: https://www.sn.pl/sites/Serwis_WWW/SiteAssets/Lists/Wydarzenia/AllItems/postanowienie%20TK%20U%2010-24.pdf, accessed May 26, 2025.

⁶² Education Minister's position on securing CT, Gov.co.uk, August 30, 2024, https://www.gov.pl/web/edukacja/stanowisko-ministra-edukacji-ws-zabezpieczenia-tk, accessed May 26, 2025.

⁶³ Decree of the Minister of Education dated January 17, 2025, amending the decree on the conditions and manner of organizing religious instruction in public kindergartens and schools (Journal of Laws 2025, item 66).

⁶⁴ Cf. Ł. Bernaciński, Legal opinion on the legality of the decree of the Minister of Education amending the decree on the conditions and manner of organizing religious instruction in public kindergartens and schools (version of September 30, 2024), "Legal Culture" 2024, no. 7.

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everyone's personal inviolability and liberty, stipulating that deprivation or restriction of liberty may be carried out only on the terms and in the manner prescribed by law. The same article also stipulates that persons deprived of their liberty be treated humanely. Article 42 grants everyone the right to a defense and prescribes the presumption of innocence for anyone whose guilt is not established by a final court judgment. Finally, Article 45 grants everyone the right to a fair and public hearing without undue delay by a competent, independent, impartial and independent court.

The current government's seizure of the national prosecutor's office and the leadership of some courts (in a manner contrary to the law, as pointed out in Part I of this paper) has caused law enforcement agencies to be used as an instrument of showmanship and political revenge. There have been gross violations of the aforementioned guarantees of the Constitution in some of their investigations.

3.1. Expiration of parliamentary seats (MPs Kaminski and Wąsik)

On December 21, 2023, Speaker of the Sejm Szymon Holownia, leader of one of the many parties that make up Donald Tusk's government, illegally extinguished the mandates of MPs Maciej Wąsik and Mariusz Kamiński,⁶⁵ declaring them convicted criminals, despite the fact that they had been pardoned by Polish President Andrzej Duda back in 2015. He upheld the decision, despite the fact that both deputies appealed to the Supreme Court, which on January 4 and 5, 2024, found the extinguishment of their mandates contrary to the law.⁶⁶ The Constitutional Court ruled in a judgment of June 19, 2024 (ref. K 7/24) that the amendments to the Law on the National Center for Research and Development and the Law – Law on Higher Education and Science⁶⁷ are unconstitutional due to the fact that they prevented MPs whose parliamentary mandates were illegally terminated by the Speaker of the Sejm from taking part in the vote. Thus, the enactment of the law violated, among other things, the fundamental principle of the rule of law – the principle of legalism (Article 7 of the Polish Constitution).

We update this issue on an ongoing basis here:



⁶⁵ The Speaker of the Sejm has declared the expiration of the seats of MPs Mariusz Kaminski and Maciej Wąsik, Gov.pl, December 21, 2023, https://www.sejm.gov.pl/sejm10.nsf/komunikat.xsp?documentId=4E4F404D8E200C17C1258A8C0049DD47, accessed May 26, 2025.

⁶⁶ Cf. the judgments of I NSW 1267/23 and I NSW 1268/23.

⁶⁷ Act of January 26, 2024, amending the Act on the National Center for Research and Development and the Act – Law on Higher Education and Science (Journal of Laws of 2024, item 227).

3.2. Violation of MP Romanowski's parliamentary immunity

On July 15, 2024, former Deputy Minister of Justice and then opposition MP Marcin Romanowski was detained on the order of a prosecutor acting under the authority of Adam Bodnar, who ignored the fact that the MP had not only immunity as a parliamentarian (which had previously been waived), but also a separate immunity as a member of the Parliamentary Assembly of the Council of Europe. Minister Bodnar stated that "immunities cannot ensure impunity," however, it was only on October 2 that the Parliamentary Assembly of the Council of Europe lifted MP Romanowski's immunity, so any earlier action by the government in his case was unlawful.

On December 19, 2024, the Prosecutor's Office conducted a search of the St. Stanislaus Monastery, a Dominican order in Lublin, in connection with the search for MP Romanowski, ⁶⁹ despite the fact that by then the media had already widely reported that the MP was probably abroad. In the evening of the same day, he revealed that he had applied for asylum in Hungary. The search also raises questions about its compliance with the concordat's guarantee of the inviolability of places of worship.

We update this issue on an ongoing basis here:



3.3. Provisional arrest of Fr. Olszewski

As of March 26, 2024, Father Michal Olszewski, chairman of the Profeto Foundation, which received tens of millions of zlotys in funding from a government fund for the construction of the "Archipelag" center for the underprivileged in Warsaw, was in pre-trial detention for eight months. According to the accounts of both the detainee and his defense attorney, the priest repeatedly encountered treatment in custody by the services that was offensive to human dignity. The clergyman was hindered from contacting his lawyer, denied food for dozens of hours and the prison guards made it difficult for him to use the toilet. Rev. Olszewski was released from prison on financial bail on November 15, 2024.

⁶⁸ Statement by Minister of Justice Adam Bodnar, Gov.pl, July 17, 2024, https://www.gov.pl/web/sprawiedliwosc/oswiadczenie-ministra-sprawiedliwosci-adama-bodnara, accessed May 26, 2025.

⁶⁹ Information about the search of living and business premises in the Lublin monastery, Gov.pl, December 27, 2024, https://www.gov.pl/web/prokuratura-kra-jowa/informacja-o-przeszukaniu-pomieszczen-mieszkalnych-i-gospodarczych-w-klasztorze-w-lublinie, accessed May 26, 2025.

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On December 23, 2024, the Ombudsman issued a communiqué, ⁷⁰ in which he confirmed that there were irregularities in the proceedings, which should be described as inhumane treatment.

We update this issue on an ongoing basis here:



3.4. Controversy surrounding the death of Barbara Skrzypek

On March 12, 2025, the interrogation by the prosecutor's office of Barbara Skrzypek, who once served, among other things, as head of the chancellery and director of the presidential office of the Law and Justice party, was interrogated by the prosecutor's office. The interrogation, which lasted several hours and was conducted by prosecutor Ewa Wrzosek, known for her political sympathies toward the current ruling party and its efforts to "restore the rule of law," was also attended by the plaintiffs attorneys – attorney Jacek Dubois and attorney Krystian Lasik. However, the attorney representing Barbara Skrzypek was not allowed to participate. Three days after the hearing – on March 15 – Barbara Skrzypek unexpectedly died. The opposition media linked the death to Barbara Skrzypek's poor health, to the refusal of her attorney to participate in the interrogation (which is formally under Polish criminal procedure), and to the lengthy four-hour interrogation without administering breaks. The Warsaw-Prague District Prosecutor's Office in Warsaw opened an investigation into the manslaughter of Barbara Skrzypek on March 17, 2025.

We update this issue on an ongoing basis here:



⁷⁰ Communication on the regularity of the treatment of Rev. Michael O., RPO Public Information Bulletin, December 23, 2024, https://bip.brpo.gov.pl/pl/content/komunikat-sprawa-ks-michala-o-brpo, accessed May 26, 2025.

⁷¹ Announcement regarding the findings regarding the questioning of Ms. Barbara Skrzypek's witness in the so-called "two towers" case, Gov.pl, March 17, 2025, https://www.gov.pl/web/po-warszawa/komunikat-odnosnie-ustalen-dot-przesluchania-swiadek-pani-barbary-skrzypek-w-sprawie-tzw-dwoch-wiez, accessed May 26, 2025.

⁷² Information on the investigation into the death of Ms. Barbara Skrzypek, Gov.pl, March 18, 2025, https://www.gov.pl/web/po-warszawa-praga/informac-ja-w-sprawie-sledztwa-dotyczacego-smierci-pani-barbary-skrzypek, accessed May 26, 2025.

4. Attacks on freedom of assembly

Article 57 of the Polish Constitution guarantees everyone the freedom to organize and participate in peaceful assemblies. However, this freedom has been restricted against those who ideologically disagree with representatives of the ruling coalition, by the actions of politicians of the coalition in power in Poland since December 13, 2023, that is, primarily by Adam Bodnar, Tomasz Siemoniak and Rafał Trzaskowski – whether taken personally or by the conduct of officers subordinate to them.

4.1. Independence March

On May 14, 2024, Adam Bodnar announced that he had commissioned a study of the legitimacy of the decision to discontinue proceedings that were initiated against participants in the 2017–2019 Independence March for allegedly raising slogans and displaying racist symbols.⁷³ Organizers of the march said the decision was "scandalous and motivated by resentment against manifestations of Polishness and patriotism, so alien to the current liberal-left government."⁷⁴

On September 4, 2024, at 6:00 a.m., police officers the headquarters of the "Independence March" Association by force. In doing so, the legal procedures for such operations were violated, including the failure to serve the District Prosecutor's Office's warrant to search the premises. In addition, the locks inside the premises to the recording studio and storage room were broken. Such items as, among others, a briefcase, 4 laptops owned by the Independence March Association, as well as a cell phone and a desktop computer, which representatives of the association clearly indicated were not the property of the organization, as it did not have any such devices, were seized.

The mayor of Warsaw consistently refused to register the march, which was scheduled to take place on November 11, 2024.⁷⁵ Finally, it was only at the end of October that the mayor of Warsaw, having come under public pressure, published in the Public Information Bulletin a notice regarding the assembly.⁷⁶

⁷³ Overview of investigations of possible crimes against and by participants in marches organized by community organizations active from 2016-2023, Gov. co.uk, May 14, 2024, https://www.gov.pl/web/prokuratura-krajowa/przeglad-postepowan-dotyczacych-mozliwosci-popelnienia-przestepstw-na-sz-kode-i-przez-uczestnikow-marszow-organizowanych-przez-organizacje-spoleczne-aktywne-w-latach-2016--2023, accessed May 26, 2025.

⁷⁴ Adam Bodnar accuses the Independence March of promoting "Nazism." Association issues statement, Narodowcy.net, May 24, 2024, https://narodowcy.net/adam-bodnar-zarzuca-marszowi-niepodleglosci-promowanie-nazizmu-stowarzyszenie-wydalo-oswiadczenie/, accessed May 26, 2025.

⁷⁵ Decision of the President of the City of Warsaw dated October 14, 2024, No. WV/5310/ZG/5/2024.

⁷⁶ Public Assembly, 11/11/2024 14:00:00, https://bip.warszawa.pl/web/stoleczne-centrum-bezpieczenstwa/-/zgromadzenie-publiczne-11-11-2024-14-00-00, accessed May 26, 2025.

We update this issue on an ongoing basis here:



4.2. Agricultural protests

On March 6, 2024, a farmers' protest was held in Warsaw. It was intended to show the opposition of this social group to the European Union's "climate" policy, which, according to the protesters, is leading to the collapse of agriculture and, as a consequence, a massive increase in food and energy prices, expected to affect all Poles, especially the poorest. The demonstration against the unfavorable regulations of the European Green Deal was attended by farmers from all over Poland. Several hours after the protest began, there were numerous police attacks against the demonstrators. Officers used direct coercive measures against the demonstrators without prior warning. Pepper gas and telescopic batons were used. Many of those attacked were behaving completely passively when attacked by police officers. Similar protests also took place elsewhere in the country.

The police detained some protesters, who were then charged with various offences (such as participation in a riot or violation of bodily integrity of officers) based, however, on questionable grounds, as the courts have found.

For example, the District Court in Łask acquitted three farmers participating in a protest in Wartkowice, which took place on April 22, 2024. In turn, the District Court in Trzebnica discontinued three proceedings against a total of ten farmers, in connection with demonstrations that took place in March 2024 in the Lower Silesian province. In doing so, the court pointed out that the behavior of the defendants did not fulfill any of the elements of the alleged offenses. This is because, according to the court, they were participating in a legal protest, one of many that took place throughout Poland on that day.

We update this issue on an ongoing basis here:



Summary

Donald Tusk's government, appointed after eight years of rule by Law and Justice, has taken numerous unlawful actions in nearly 18 months to eliminate opposition views from the public space. These actions harm the foundations of the democratic state of law, creating a revolutionary order of transitional justice or, as the prime minister himself stated, a "fighting democracy."

December 19, 2023. The Sejm passed a resolution "on the restoration of legal order and the impartiality and integrity of the public media," which is not an act of common law. On that basis, on the same day, Culture Minister Bartłomiej Sienkiewicz dismissed the presidents of the boards of directors of Telewizja Polska S.A., Polskie Radio S.A. and Polska Agencja Prasowa S.A., along with the supervisory boards of those companies.

A day later, the Sejm passed a resolution declaring all resolutions regarding the election of members of the National Judicial Council from 2018–2022 null and void, and on January 12, 2024, Minister Bodnar handed National Prosecutor Dariusz Barski a document stating that his appointment to the post had no legal effect. However, the Supreme Court ruled in September 2024 that these actions were contrary to the law.

Since the beginning of its term, the government has systematically undermined the status of the Constitutional Court, annotating its rulings with statements to the effect that "in accordance with the rulings of the European Court of Human Rights, the Constitutional Court is devoid of the characteristics of a tribunal established by law." On March 6, 2024, the Sejm passed a resolution "on removing the effects of the constitutional crisis," which amounted to denying the Court's status in the Polish legal order. From that point on, the government stopped publishing any judgments of the Constitutional Tribunal in the Journal of Laws.

The above actions in the sphere of the media and the judiciary are a guarantee of impunity for those who carry out attacks on human and civil freedoms and rights. Particularly dangerous are the actions illegally lowering the standard of legal protection of the right to life through the issuance of the Ministry of Health's guidelines on abortion. No less important remains the violation of the right to a court of law, violations of religious freedom in school and the workplace, or restrictions on freedom of assembly. The described actions violate not only Polish law, but also international standards.

The whole picture is summed up by the notice of suspicion of the crime of "coup d'état" filed by the president of the Constitutional Court, Bogdan Święczkowski. According to this notice, the current authorities were to use the advantage provided by the apparatus of the executive and legislative branches of government in an unlawful manner.

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Specialists from Ordo Iuris have prepared another report on the state of the rule of law in Poland under the Coalition government on December 13. In it, they systematically and professionally present and analyze the government's policies in all areas that it has subjected to an unprecedented attempt at destruction since June 4, 1989. The Ordo Iuris Institute is therefore right to document the specific actions of the Polish government, its prime minister, and ministers, in accordance with its statutory motto. The report meticulously presents all the actions aimed at rejecting the values of the Polish political system and its specific regulations enshrined in the Polish Constitution and in the legislation in force in accordance with it, in order to change not only the system and the law, but above all to change the Nation. This is happening in a country whose Constitution states in Article 2 that it is democratic and governed by law. But what is the point of referring to the text of the Constitution and recalling its fundamental principle when the Prime Minister of the Republic of Poland states that "we will apply the law as we understand it"? And this is exactly what is happening in the Republic of Poland, as the presented report clearly documents.



Prof. Anna Łabno, PhD

It is the duty of lawyers working in times of blatant lawbreaking to protest loudly and document all incidents of violations of the legal order. Lawyers working with the Ordo luris Institute for Legal Culture have risen to this challenge. In this publication, they show in a concise manner—through specific examples of violations of the rule of law—how the politicians currently ruling Poland understand actions "in terms of fighting democracy," actions "which, according to some legal authorities, will be incompatible or not entirely compatible with the provisions of the law." (Donald Tusk at the conference "Ways out of the constitutional crisis," September 10, 2024).



Konrad Wytrykowski, PhD, Supreme Court judge (Ret.)





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