



POLAND – A TESTING GROUND FOR GLOBALISTS. AT STAKE:

SOVEREIGNTY OR A SYSTEM OF REPRESSION

Executive Summary

Following the seizure of power by the left-liberal coalition led by Donald Tusk at the end of 2023, Poland has experienced a series of unlawful actions undermining the functioning of constitutional and statutory state bodies. This shows the serious violations of rights that citizens can expect in countries where globalists come to power. As soon as they have the opportunity, globalist politicians immediately begin to dismantle the rule of law and attempt to undermine national sovereignty, as they see national interest and democratic institutions as obstacles to the implementation of the order dictated by global centers. This phenomenon can also be observed in Hungary in the case of globalist political forces, where the strengthening of federalist aspirations, the push for an arms race in Europe, warmongering politics, and the unquestioning and accelerated admission of Ukraine into the European Union are all part of the left-wing agenda.

In this respect, Tusk and his allies have no other goal than to intimidate their political opponents and remove constitutional checks and balances that limit their power. It is obvious that the globalist leadership is clearly using legal institutions and criminal proceedings to settle political scores, utilizing the tools favored by communist regimes to destroy its political opponents. They are trying to silence the opposition media associated with the conservative side and are withholding funds from the most popular right-wing party, Law and Justice (PiS), while its members are being subjected to a political witch hunt that evokes the darkest years of communism. Constitutional court rulings are also ignored, and Supreme Court judgments that are unfavorable to them are disregarded.

While the conservative government that led Poland between 2015 and 2023 was in office, the institutions of the European Union launched a coordinated attack against Poland, claiming that the rule of law was being seriously undermined in the country. Brussels turned a blind eye to all the violations committed by the left-liberal coalition led by Donald Tusk. All this is clear evidence that both the Brussels-based globalist elite and the current Polish government, which is committing a series of violations, interpret the "rule of law" as nothing more than a political slogan and use it solely to undermine national sovereignty.

The only constitutional check that still functions to some extent is the institution of the President of the Republic. Andrzej Duda is blocking the government's attempts to reverse the reforms and achievements of the previous eight years of right-wing government, which were implemented in the areas of welfare, national economic policy, family protection, justice, and sovereignty.

The stakes in the presidential election due at the end of May and beginning of June are therefore enormous. On the one hand, the Polish head of state has a say in the appointment of constitutional officials, but more importantly, he or she also has a political veto, which can only be overridden by a three-fifths majority in the Sejm (the current coalition does not have such a majority). If the presidential election results favors Karol Nawrocki, who is supported by PiS, becomes the country's right-wing president, political calculations suggest that this could lead to the collapse of the left-liberal



coalition and, sooner or later, those currently in power will be held accountable for the illegalities they have committed. If, on the other hand, Donald Tusk's candidate, the globalist mayor of Warsaw, Rafal Trzaskowski wins, the dismantling of the rule of law and democracy is likely to accelerate, the opposition will be neutralized, and the ruling party will bring the entire Polish legal system under its control. The Tusk administration is therefore doing everything in its power to ensure that no one but Trzaskowski wins.

In its first analysis, the newly formed Hungarian-Polish Freedom Institute examines four threats to the fairness and democratic nature of the Polish elections. Referring to the Polish constitution and relevant laws, we present

- how Donald Tusk's government is illegally withholding funds from the largest opposition party, PiS, through the Ministry of Finance, thereby preventing the parties from competing on an equal footing in the presidential election campaign;
- how the governing coalition is preparing to question the election results in the event of an unfavorable outcome,
- how the illegally taken over prosecutor's office is being fit to the election campaign,
- and how they plan to restrict freedom of speech in social media.

The Institute's research therefore draws attention to the fact that developments in Poland may be particularly instructive from a Hungarian perspective, as the idea has been repeatedly expressed in the globalist media and by certain politicians that, in the event of a left-wing globalist victory, they would like to replicate the Polish model in Hungary. Based on this, it is becoming increasingly clear what methods the Hungarian globalist side, led by Péter Magyar, would use if they were to win a majority in the 2026 parliamentary elections.



MISSION STATEMENT

The age-old friendship between Hungarians and Poles binds us to mutual care and attentiveness. It was from this spirit of solidarity that the Hungarian-Polish Institute of Freedom was born—established by the Centre for Fundamental Rights. The Institute’s mission is to explore the enduring values that form the foundation of our legal and political systems, and which have united our countries across centuries and political regimes. These values have united our nations for centuries, regardless of changing political regimes: human flourishing and the common good, along with security, order, justice, and liberty — all rooted in the Christian cultural heritage that provides the framework for the survival and continued growth of national communities.

Preserving and nurturing these values is especially important in the face of today’s threats: the centralization of the European Union, which undermines state sovereignty and national identity; the “woke” ideology; the radical pseudo-environmentalism known as the “green jihad”; and illegal migration. Poland has become a testing ground in which the fundamental values of Western civilization are being challenged and continually attacked. The Institute is committed to analyzing these trends and developing effective early warning mechanisms for defending the freedom and identity of our nations. Just as 86 years ago Hungary opened its heart to Polish refugees, so it does again today. The Institute is now headed by Marcin Romanowski, a lawyer and former Deputy Minister of Justice, who has found refuge in Hungary.

Yet the story of our intertwined destinies reaches much further back: shared monarchs, common saints, and joint struggles for freedom. Indeed, the Polish Legion supported us during the 1848–49 revolution under the banner of “freedom shared.” Time and again, history has shown that the fates of our nations are closely linked: a free Hungary and a free Poland strengthen each other’s sovereignty. And when one of them loses it, the safety and stability of the other are also weakened. The freedom of our nations is thus a common good—and a shared responsibility. As a lesser-known line of a well-loved proverb about our friendship puts it: “Two brave lads, both lively—may God Almighty bless them kindly.”



1. Introduction

In Romania, the Constitutional Court annulled the results of the first round of the presidential elections held on 24 November 2024, which had ended with a victory for the right-wing candidate, Călin Georgescu. The decision was justified by allegations of digital manipulation and suspected interference by the Russian Federation—claims that were not supported by clear evidence and ultimately proved to be false. Consequently, the authorities barred Georgescu—who was clearly leading in the polls—from participating in the re-run of the vote.

In France, the leader of the National Rally, Marine Le Pen, was sentenced on 31 March 2025, by a non-final verdict, to imprisonment for alleged misuse of EU funds. Just days earlier, the politicized Constitutional Council ruled that a five-year ban on holding public office would take effect based on that non-final decision, thereby excluding Le Pen from participating in the 2027 presidential elections. In this case too, opinion polls indicated a real possibility of victory for the right-wing opposition candidate.

Both instances serve as examples of systemic interference by globalist circles, which—through state institutions, judicial bodies, and the media—seek to eliminate political opponents and block democratic elections in EU Member States, all in order to preserve the ideological dominance of the left-liberal establishment.

Against this backdrop, events in Poland are particularly significant. Since December 2023, the country has become a testing ground for the destruction of the conservative opposition. In addition to various repressive measures targeting the opposition, recent months have seen the Tusk government take specific actions aimed at securing a victory for the ruling coalition's candidate in the upcoming presidential elections (18 May 2025, with a second round on 1 June). This contest represents a decisive moment—either a final “sealing” of the political system or its rupture, if not its accelerated collapse.

The current governing coalition—Civic Coalition (KO), Poland 2050, the Polish People's Party (PSL), and the Left—holds a slim majority above the threshold for forming a government. However, in the case of statutory changes, the President may exercise a suspensive veto, which can only be overturned by a three-fifths majority—something the ruling coalition does not possess.

Therefore, to implement many of the legislative reversals of reforms introduced during the eight years of conservative rule, it is essential for the ruling coalition's candidate to win the presidential election.

Such a victory is also crucial for the coalition's stability. Prolonging the current state of permanent lawlessness and governance in open violation of statutes does not appear sustainable in the long term. While the left-liberal coalition has received a *sui generis* carte blanche to dismantle Law and Justice (PiS) and Sovereign Poland, the defeat of U.S. President Joe Biden removed a key international ally of the Tusk government. Despite seizing control of public media, the continued strength of conservative media outlets and the preservation of freedom of speech on the X platform have prevented the establishment of an information monopoly. Furthermore, the government's unlawful and repressive actions have met with unexpected resistance from the right-wing opposition and segments of civil



society. Nor has the government, so far, succeeded in incapacitating enough opposition MPs through pre-trial detentions to approach the three-fifths threshold in the Sejm.

The extensive efforts to secure Rafał Trzaskowski's victory in the presidential election also reflect the desperation of leading politicians in the ruling coalition. Since taking office in December 2023, the Prime Minister, Speaker of the Sejm, ministers, MPs from the coalition, and many senior state officials, judges, prosecutors, and law enforcement officers have committed serious crimes against the state and abuses of office—offences punishable by severe penalties, including life imprisonment. A defeat of the ruling coalition's candidate could lead to the coalition's collapse—whether through some PSL MPs aligning with PiS and Confederation or through early parliamentary elections potentially resulting in a PiS-Confederation coalition. Such a scenario would open the door to criminal liability for a large group of politicians, senior officials, state functionaries, judges, and prosecutors, for crimes supported by clear and straightforward evidence, often based on documents and official decisions.

On one hand, this situation represents a unique opportunity for the conservative camp to purge the state of a left-liberal establishment that has flagrantly violated the rule of law. On the other hand, it signals the establishment's willingness to escalate unlawful actions in order to retain power.

2. Blocking Public Funds for Law and Justice (PiS)

One of the main efforts aimed at the institutional destruction—or at the very least, the significant weakening—of the opposition has been the complete suspension of public funds for Law and Justice (PiS), the largest opposition party. In the context of the 2025 presidential elections, this action represents a severe violation of the principle of equal opportunity.

The Specific Nature of the Polish System of Political Party Financing

In the United States, political parties and election campaigns rely primarily on private donations from individuals, corporations, and entities such as Political Action Committees (PACs). Public financing exists but plays only a minor role—presidential candidates may choose to access it, though many opt out in order to raise unlimited private funds. The Supreme Court's ruling in *Citizens United v. FEC* (2010) removed expenditure limits, allowing campaigns to spend vast sums from private sources. Although individual donation caps remain relatively low, Super PACs may contribute unlimited amounts, making public funds in practice an optional and marginal element in campaign financing.

In contrast, Poland operates under a different model. The functioning of political parties is predominantly financed through the state budget, via annual subsidies tied to the results of the most recent parliamentary elections (Articles 28 and 29 of the Political Parties Act), and campaign reimbursements based on expenses incurred during electoral campaigns, which are subject to strict legal limits under the Electoral Code.

The amount of annual subsidy is determined according to a system of gradual degression, proportionally to the total number of votes cast for a given party's electoral list in the latest parliamentary election (Article 29 of the Political Parties Act).



For example, following the 2023 elections, Law and Justice (PiS) was entitled to receive 38.2 million PLN per year (approx. 9.8 million USD) for having obtained 7.64 million votes—roughly 5 PLN (1.25 USD) per vote—and a one-time reimbursement for campaign expenses in the amount of 36 million PLN (approx. 9,3 million USD). Over the current parliamentary term, PiS should receive a total of 188.8 million PLN (approx. 48,5 million USD) from the state budget. This funding, constituting over 80% of the party's operational budget, is disbursed in quarterly instalments of 9.55 million PLN (2.45 million USD each). PiS remained the largest opposition party after the October 2023 parliamentary elections, with 35.38% of the vote (7,640,854 voters) and 194 seats in the Sejm. The unlawful mechanism used to block these funds is detailed below.

A key limitation on private donations in Poland is that only natural persons permanently residing in Poland may donate, up to a yearly limit of 54,000 PLN (13,500 USD). Corporations, trade unions, and other legal or organizational entities are strictly prohibited from making donations.

Electoral campaigns in Poland must comply with strict spending limits determined by the National Electoral Commission (PKW) in accordance with the scheme laid out in the law. For major political parties, these limits were approximately 30–40 million PLN (7.5–10 million USD) per party in 2023. For the upcoming presidential election, the spending cap is approximately 25 million PLN (approx. 6,4 million USD) per candidate. Election committees may only draw from funds specifically established for the campaign, financed by the aforementioned subsidies, reimbursements, and limited private donations (Electoral Code, Article 134).

Actions by the Tusk Government Against PiS – Blocking the 2023 Campaign Reimbursement

The government of Donald Tusk, which assumed office in December 2023 following the opposition coalition's electoral victory (Civic Coalition, Third Way, the Left), initiated measures aimed at effectively depriving PiS of public financing—an action that triggered both legal and political crises. The issue gained heightened importance in the context of the May 2025 presidential campaign, where the lack of financial resources severely undermines the position of PiS-backed candidate Karol Nawrocki. The pretext for this action was alleged irregularities in the financing of the 2023 parliamentary campaign.

Normative and Actual Character of Electoral Campaigning

In Poland, pursuant to Article 84 § 1 of the Electoral Code, an electoral campaign may be conducted exclusively by an electoral committee. Such a committee may be formed by a political party, a coalition of parties, a group of citizens, or a social organization. This principle, however, is significantly limited by Article 106 of the Electoral Code, which explicitly allows individual voters to campaign on behalf of a candidate—without requiring the committee's knowledge or consent. In practice, this means that many campaign activities are carried out entirely independently of the committee's oversight or control.

Thus, in reality, the exception becomes the rule. An election campaign is a complex, dynamic, and often chaotic undertaking. In the case of major electoral committees that nominate hundreds of candidates and cooperate with thousands of volunteers, campaigns are frequently grassroots, spontaneous, and lack formal structures. Under such conditions, it is commonplace for relatives, friends, or supporters



of a candidate to assist in the campaign without the committee's knowledge. These actions may be informal and even entirely unauthorized.

Moreover, although the committee is, by law, the sole entity authorized to formally receive campaign support, it has no means to supervise or prevent grassroots actions whose legality depends solely on the intentions of those carrying them out. The only entities empowered to assess such activities are law enforcement authorities—not the electoral committees themselves.

Campaign Finance Reporting

Entities participating in elections are obliged to submit financial reports to the National Electoral Commission (PKW). The PKW may accept a report, accept it with reservations, or reject it—should it find substantial violations, such as illegal campaign financing¹.

According to the Electoral Code, the PKW may reject a financial report only in circumstances explicitly defined by law. These rules are codified in Article 144 § 1(3) of the Electoral Code and are strictly formalized, as a rejection is punitive in nature and may result in serious consequences—especially the loss of the right to receive public financing.

The PKW has no discretion to reject reports on subjective or general grounds. A report may only be rejected if there is a finding of one or more of the following violations—provided the total amount in question exceeds 1% of the committee's total revenue. If the violations fall below this threshold, the PKW may only accept the report with reservations. This ensures proportionality in assessment and prevents disproportionately severe sanctions for minor infractions.

First, a report must be rejected if the committee raised funds outside the permitted timeframe (before registration or after election day—Article 129 § 2), spent funds outside the official campaign period (Article 129 § 3), or exceeded the legal spending limits applicable to that election type (Article 135 § 1).

¹ Article 144. § 1. The electoral authority to which a financial report has been submitted shall, within 6 months from the date of submission of the financial report:

- 1) accept the report without reservations;
- 2) accept the report, indicating its deficiencies, in particular in the case where financial resources obtained, received, or expended in violation of the provisions referred to in point 3 letters a, d, and e do not exceed 1% of the total revenue of the electoral committee; or
- 3) reject the report in the event of a finding of:
 - a) the obtaining or expenditure of funds by the electoral committee in violation of the provisions of Article 129 or the limit referred to in Article 135,
 - b) the conducting of public collections contrary to the prohibition referred to in Article 131 § 2,
 - c) the acceptance by a political party electoral committee or a coalition electoral committee of financial resources from a source other than the Electoral Fund,
 - d) the acceptance by a voters' electoral committee or an electoral committee of an organization of material benefits in violation of the provisions of Article 132 §§ 3–6,
 - e) the acceptance by a political party electoral committee or a coalition electoral committee of non-monetary material benefits in violation of the provision of Article 132 § 5.



Second, the PKW will reject a report if the committee conducted public fundraising campaigns for the election—which are explicitly prohibited by law (Article 131 § 2).²

Third, a political party or coalition committee may only use funds from its designated electoral fund (Article 132 §§ 1–2). Moreover, a political party, citizen committee, or social organization may receive donations only from Polish citizens residing in Poland, up to 54,000 PLN (approx.. 13,500 USD) annually³. Donations from foreigners, legal persons, or other entities are prohibited and grounds for rejection.

Finally, a controversial basis for rejecting a report—as considered in the present case—is the alleged acceptance of prohibited in-kind contributions. This refers to services, actions, or goods provided free of charge to the committee that fall outside the scope of permissible non-monetary support clearly defined by law. According to Article 132 § 5⁴, the only permitted in-kind contributions include, for example, free assistance in distributing campaign materials, office work, or the gratuitous use of advertising space or equipment—particularly transport vehicles—provided these are offered by individuals and are of a non-commercial nature. Any other free-of-charge benefit, particularly those originating from institutions, companies, or legal persons, is prohibited.

A central figure in the electoral committee is the financial proxy, who bears sole responsibility for campaign finances and for incurring liabilities. Only the financial proxy may legally contract obligations or accept benefits on behalf of the committee. Without their consent, no act may be deemed to have been formally performed by the committee. The Electoral Code abandoned earlier provisions that held the entire political party responsible; instead, it introduced a model of individual liability for the

² Article 131. § 1. It is prohibited for one electoral committee to provide material benefits to another electoral committee. § 2. It is prohibited for an electoral committee to conduct public collections.

³ Article 132. § 1. The financial resources of a political party's electoral committee may originate exclusively from the electoral fund of that party, established pursuant to the provisions of the Act of 27 June 1997 on Political Parties (Journal of Laws of 2023, item 1215).

§ 2. The financial resources of a coalition electoral committee may originate exclusively from the electoral funds of the political parties forming the electoral coalition.

§ 3. The financial resources of:

- 1) an organization's electoral committee,
- 2) a voters' electoral committee

– may originate exclusively from contributions made by Polish citizens having their permanent place of residence within the territory of the Republic of Poland, as well as from bank loans contracted solely for purposes related to the election.

§ 4. The financial resources of an electoral committee of a candidate for the office of President of the Republic of Poland may originate exclusively from contributions made by Polish citizens having their permanent place of residence within the territory of the Republic of Poland, from electoral funds of political parties, and from bank loans contracted for purposes related to the election.

⁴ Article 132. § 5. Electoral committees are not permitted to accept non-monetary material benefits, except for:

- 1) the free distribution of election posters and leaflets by natural persons;
- 2) assistance with office work provided by natural persons;
- 3) the use of items and equipment, including motor vehicles, made available free of charge by natural persons;
- 4) the free provision of space for displaying election materials by natural persons not engaged in business activity in the field of advertising.



financial proxy, representing the legal emancipation of the committee from the party that established it.

It is essential to emphasize that the Electoral Code links sanctions exclusively to the “acceptance” of a benefit—not its mere “offer” or “grant” by a third party. This legislative structure aims to protect electoral committees from being penalized for acts committed by unrelated external actors. The law therefore restricts a committee’s liability to actions it has actually authorized or approved—i.e., those undertaken by its financial proxy. A committee cannot be punished for the autonomous actions of third parties carried out without its knowledge. This approach has been criticized as ineffective or even toothless. However, if the legal framework is inadequate or imprecise, it is the legislature’s responsibility to amend it. Such criticism may be relevant *de lege ferenda* (as a proposal for legislative change), though in this area it is difficult to devise solutions that reconcile all constitutional values. In any case, the PKW has no mandate to compensate for legal shortcomings by imposing sanctions based on speculation or simplified assumptions. Doing so would result in injustice—making the committee a victim of systemic flaws it cannot control.

This does not imply that the actions of third parties—where no responsibility can be assigned to the electoral committee—go unpunished. Article 507 of the Electoral Code prohibits offering prohibited in-kind benefits to electoral committees, providing for a fine of up to 100,000 PLN (25 800 USD) for the perpetrator—i.e., the provider of the benefit. This provision also penalizes the acceptance of such benefits by electoral committees. As a criminal norm, it requires evidence of intent—that is, the deliberate acceptance of a specific benefit by the committee.

Accordingly, existing legal provisions do not permit the presumption that third-party actions were initiated, commissioned, or authorized by the electoral committee. This clearly excludes the possibility of automatically assigning responsibility to a committee for campaign activity undertaken by third parties.

Rejection of the PiS Electoral Committee's Financial Report by the National Electoral Commission (PKW)

On 31 August 2024, the National Electoral Commission (PKW) rejected the financial report of the Law and Justice (PiS) electoral committee for the 2023 parliamentary campaign. The decision was based on alleged irregularities, specifically the purported use of public funds (from the Government Legislative Centre, NASK, and the Ministry of Justice) for campaign purposes. The PKW estimated the value of these activities at approximately 3.6 million PLN, (approx. 930 000 USD) exceeding the statutory 1% threshold of campaign revenues. The Commission classified these as violations of Article 132 § 5 of the Electoral Code, which—according to the analysis above—prohibits the acceptance of in-kind benefits not explicitly permitted by law. As a result, the PKW reduced the one-time reimbursement for campaign expenses by 10.8 million PLN (approx. 2,8 million USD, three times the value of the alleged irregularities) and cut the annual public subsidy by the same amount for the years 2024–2027, leading to a total loss of 54 million PLN (approx. 13,9 million USD) - 10.8 million PLN (2,8 million USD) in reimbursements and 43.2 million PLN (11,1 million USD) in subsidies.



The PKW's decision disregarded the applicable legal framework and failed to consider the practical realities of campaign operations—realities that are obvious from the perspective of common sense and everyday experience, and which a public body responsible for electoral oversight should be well aware of.

Factual Basis of the PKW's Decision

The PKW based its decision on six cases of allegedly unlawful campaign funding.

Employees of the Government Legislative Centre (RCL) in the Chancellery of the Prime Minister

The first case involved employees of the Government Legislative Centre (RCL) who, according to the PKW, provided unpaid work in support of the campaign of former RCL President Krzysztof Szczucki, a PiS candidate during the 2023 parliamentary elections. The Commission valued this work at approximately 180,000 PLN (46 000 USD), basing the estimate on their salaries. These findings were drawn from a letter dated 8 August 2024 from the new RCL President, stating that the employees in question had not performed official duties—citing rare logins to the RCL IT system and the presence of campaign-related content in their emails.

Krzysztof Szczucki responded to these allegations in detail, submitting comprehensive explanations to both the PKW and law enforcement. Regardless of the eventual assessment of his claims, the PKW was obliged to examine them substantively. Instead, the Commission accepted the assertions of the new RCL leadership without addressing the former President's specific rebuttals.

In reality, the employees' responsibilities included tasks that could be performed remotely without logging into the RCL's system. Even if some of them had assisted the campaign, the PKW should have considered whether these actions fell within the scope of legally permitted in-kind support, such as clerical assistance or leaflet distribution, as outlined in Article 132 § 5 of the Electoral Code.

The Commission also ignored critical circumstances, such as the part-time employment status of one staff member (¼ FTE—two hours per day), allowing him to campaign outside of working hours. Moreover, campaign activity conducted on days when both Szczucki and the relevant staff were officially on leave was still deemed to have occurred during working hours.

Even assuming that some employees were involved in campaign activity during work hours, this does not automatically constitute a violation of campaign finance laws. First, there is no evidence that the PiS financial representative had any knowledge of, let alone consented to, the activity, nor that the nature of the tasks was ever formally defined. Second, issues of labour discipline fall outside the remit of the PKW's reporting procedure. Third, treating employees' entire salaries as in-kind campaign support ignores the fact that they continued performing official duties—such as participating in training sessions or completing tasks that did not require IT system access—and that no breakdown of time spent on campaign versus official duties was ever provided.

The PKW's approach lacks both legal foundation and practical credibility. It is unreasonable to assume that these employees provided campaign services exclusively, continuously, and unlawfully for the



entirety of the campaign period, for eight hours a day, and outside the scope of permitted in-kind contributions.

Analyses by the National Research Institute NASK

The PKW also classified as unlawful in-kind support certain analyses prepared by the National Research Institute for Communications and Technology (NASK-PIB), which had been commissioned by the Chancellery of the Prime Minister and the Government Information Centre. NASK had conducted media monitoring on so-called "topics of the day," including analysis of content related to the credibility of the Law and Justice party. The value of this work was estimated at approximately 540,000 PLN (140 000 USD). The PKW considered these services to be in-kind support received by the PiS electoral committee, despite the lack of any evidence linking NASK's activities to the committee.

The Commission also ignored the clear fact that government institutions had their own legitimate interest—independent of any election campaign—in monitoring public perception of administrative activities. In modern governance, public opinion research is a standard tool used to evaluate policy effectiveness and improve government communications.

There was no evidence that the PiS electoral committee, its candidates, or its representatives ever received or used any of the NASK-prepared analyses. Nor was there any indication that the committee made any decisions or took any actions based on NASK's findings. Furthermore, the Commission failed to determine what other tasks NASK had carried out under the same framework agreements, or to what extent the research actually related to PiS-specific topics.

As a result, the PKW unjustifiably treated NASK's activities as in-kind contributions accepted by the committee, despite the absence of evidence of their use in the campaign and ignoring the clear context suggesting these analyses were conducted independently of the electoral process.

Ministry of Justice Campaign Spot

During the 2023 parliamentary campaign, the Ministry of Justice financed the broadcast of an informational video featuring then-Minister Zbigniew Ziobro, at a cost of approximately 2.63 million PLN (680 000 USD). Without conducting its own substantive analysis of the material, the National Electoral Commission (PKW) classified the video as an illicit in-kind contribution to the Law and Justice (PiS) electoral committee, despite the absence of any persuasive campaign content.

The spot was produced in connection with the entry into force of significant amendments to the Penal Code, increasing penalties for the most serious crimes, and was intended to inform the public about the substance and consequences of these legal changes. Its broadcast during the campaign period does not by itself render it electoral in character. Informing citizens immediately before the implementation of major legislative changes is a standard practice of government communication.

The PKW objected to the use of the term "we" in the video, claiming it suggested advocacy on behalf of PiS. However, this pronoun clearly referred to the Ministry of Justice. Similarly, the phrase "Poland must remain safe" was an expression of concern for public safety in the context of the new legislation—not, as the PKW claimed, a political slogan. The Commission also noted that the end card identifying



the ministry lasted only three seconds. However, this accounted for 10% of the 30-second video, consistent with standard practice. The critique regarding low contrast of the on-screen text was not substantiated.

Objections to the Minister's role as narrator fail to take into account both constitutional norms and practical realities. Ministers bear political responsibility for their departments and are naturally the public face of government communication. In Poland, ministers are typically active politicians, often serving concurrently as Members of Parliament. Assuming that they should refrain from public appearances during an election campaign would lead to institutional paralysis.

The video contained no content that could reasonably be considered campaign-related: no calls to vote, no references to political parties, and no criticism of opponents. Similar forms of government communication have been, and continue to be, employed by all administrations—both during and outside election periods—without any sanctions from the PKW. For example, a March 2024 government spot promoting “a strong Poland in NATO” or a video showcasing a municipal investment involving Rafał Trzaskowski during his local election campaign. Only in the case of PiS have such actions been deemed violations.

In light of the above, the PKW's assessment egregiously disregarded the legal permissibility of public information campaigns, the broader institutional context, and the principle of equal treatment among electoral committees.

Other Cases

Additional allegations against the PiS electoral committee involved an alleged improper in-kind contribution worth 100,000 PLN (26 000 USD), based on the supposed use of materials funded by the Warmian-Masurian Voivodeship Office. However, the only document provided to the committee by the PKW was a letter from the President of the Supreme Audit Office (NIK), stating a sum of 10,000 PLN (2 600 USD). The PKW did not present the committee with any evidence substantiating the 100,000 PLN valuation and did not allow the committee an opportunity to respond—an action that violated Article 144 § 3 of the Electoral Code.

The candidate featured in the materials submitted a written declaration to the PKW affirming that the materials were part of his individual promotion, not electoral committee activities. The Commission entirely ignored this declaration, despite its clarity and self-incriminating nature, which should have bolstered its credibility.

The PKW also accused the PiS committee of accepting an unlawful in-kind contribution valued at around 140 PLN (36 000 USD), based on the alleged use of two military picnics organized by the Ministry of National Defense for campaign purposes. This allegation rested on the fact that during two of approximately 70 such events, Jarosław Kaczyński spoke—remarks which the PKW deemed campaign-related. Yet these events were part of a national recruitment and informational campaign for the Polish Armed Forces. The political appearances were not scheduled or sanctioned by the organizers. Kaczyński's statements were spontaneous, lasted a few minutes, and occurred during events that spanned six to eight hours.



Kaczyński had until recently served as Deputy Prime Minister responsible for national security, overseeing legislative reforms to strengthen the military. The PKW failed to show how these events conferred any tangible benefit to the electoral committee, which neither organized nor designated them as campaign events. It also ignored the fact that the committee's financial proxy—legally responsible for campaign finances—was neither informed of nor involved in these occurrences.

The PKW's reasoning leads to absurd conclusions: if a brief, unscheduled remark during an unrelated public event counts as electoral advocacy, then by that logic, the committee could be held liable for the full cost of the entire event—including unrelated elements such as transporting military equipment.

Moreover, the PKW assigned the entire cost of both events as the value of the contribution, even though the alleged advocacy constituted only a tiny fraction of the overall programme. This claim ignored basic principles of proportionality and failed to accurately assess any concrete benefit to the committee.

Finally, the PKW accused the PiS electoral committee of accepting a prohibited in-kind contribution worth approximately 30,000 PLN (7 700 USD) related to the event "A Walk for Health," which allegedly promoted the candidacy of Jadwiga Emilewicz (former Deputy Prime Minister and Minister of Economy). The event was funded by the Kostrzyń-Słubice Special Economic Zone S.A.

The PiS electoral committee had no knowledge of this local event, nor of its organizer. It had no contact with the company, and the committee's financial proxy had never heard of it or authorized any participation. There was no formal or informal link between the organizer and the public administration or government—something that would be required to justify committee liability. The PKW attributed responsibility to the committee by asserting that entities "closely linked to a political party" cannot be treated as independent third parties. Yet the company in question is neither a state agency nor publicly funded.

In conclusion, the PKW attributed responsibility to the PiS committee for an event with which it had no involvement, based entirely on presumptions rather than verifiable evidence.

Legal Assessment of the PKW's Actions

The electoral committee, including all of its bodies and particularly the financial proxy—whether personally or through representatives—had no contact whatsoever with the executors of the disputed actions. The committee did not commission or finance them, had no knowledge of their planned execution, was unaware of their implementation even post factum (until the proceedings before the PKW), did not express consent to them, and did not use the resulting materials during the election campaign.

Therefore, contrary to the position presented by the National Electoral Commission (PKW), the committee did not "accept" any in-kind benefit within the meaning of Article 132 § 5 of the Electoral Code. The PKW based its reasoning on the assumption that mere knowledge of such a benefit by the committee, combined with a lack of reaction, suffices to constitute "acceptance"—a construction that



is *contra legem*. Even this flawed interpretation is not supported by any evidence showing that the committee had knowledge of the benefits in question. Basic life experience suggests the opposite.

In practice, the PKW's decisions equate "acceptance" with the mere association of benefits with candidates, public officials, or institutions "linked" to a political party—regardless of whether the committee's financial proxy had any knowledge of the acts, expressed consent, or affirmed them in any way. This approach relies solely on factual presumptions, leading to a gross departure from the applicable legal order.

According to established case law, "acceptance" entails the conscious approval by the committee of prohibited material benefits, which must be functionally connected to a chain of events and circumstances that indicate the committee had knowledge of and acquiesced (even implicitly) to the use of those benefits (cf. Supreme Court rulings of 11 January 2017, III SW 18/16; and 14 November 2017, III SW 2/17). However, in this case, the PKW provided only vague statements and conducted no substantive analysis of facts that could lead to the conclusion that such "acceptance" occurred.

No act that could be interpreted as a declaration of intent on behalf of the committee took place. The financial proxy—the sole entity authorized to issue such declarations—did not give any consent, did not confirm the receipt of benefits, and did not communicate with the alleged "benefactors." On the other side, no offers, proposals, or even information was addressed to the committee. Thus, there is no basis to assume the existence of even an implied agreement for services. The total lack of initiative from both the committee and the "providers" excludes the possibility of a legally binding acceptance of services.

Even the concept of implied declarations of intent requires active behavior that can be interpreted as an intention to produce legal effects (e.g., boarding a bus as an implied contract of carriage). No such behavior was present in the case at hand. Instead, the PKW relied on silence and presumed knowledge—an approach inadmissible under civil law, and never before employed by the PKW. Silence can be legally significant only where such effect is clearly provided by law or prior agreements, neither of which applies here.

Additionally, under the internal structure of an electoral committee and the rules governing representation, only the financial proxy may make declarations of intent on its behalf (cf. Articles 38 and 39 of the Civil Code in connection with Article 331). Even if individuals affiliated with the party engaged in campaign-related activities, their actions cannot be automatically attributed to the committee unless its financial proxy formally expressed agreement. Yet, the PKW attributed legal consequences to the committee based on the actions of entities with which the committee had no agreements and which never directed any proposals toward it.

In this context, the PKW's position is not rooted in legal provisions but in an extra-legal belief that effective campaign finance oversight requires the broad attribution of liability to the committee for the actions of related individuals and institutions. However, as a state authority, the PKW is obliged to act within the bounds of the law and apply only specific, relevant legal norms. Criticism of those norms may be advanced in the form of *de lege ferenda* proposals—but cannot serve as a basis for decisions. Only currently binding law may.



In summary, in light of existing civil and electoral law, and in accordance with Supreme Court case law and the prevailing doctrine, there is no legal basis to conclude that the electoral committee accepted any in-kind benefit. No act of will occurred, no agreement was concluded, no contact was made—only the PKW's presumption of silence. This silence, as passive conduct in the absence of knowledge, cannot be interpreted as acceptance and thus cannot justify any finding of campaign finance violation.

Improper Use of Factual Presumptions

Supreme Court jurisprudence recognizes that financial sanctions imposed on electoral committees or political parties are not purely administrative. Due to their punitive nature and the severity of their consequences (e.g., loss of public funding), such sanctions must be treated as *quasi-criminal* in nature. In its decision of 18 October 2023, case no. I NSW 8/23 (concerning the Green Party), the Court stated that the loss of subsidies for three years may lead to a party's effective marginalization. It held explicitly that "a feature of the sanction (financial penalty) that determines its penal rather than merely administrative nature is its repressive character, as expressed in excessive harshness not justified by its intended purpose."

At the same time, the Electoral Code lacks detailed provisions governing procedures and standards for the PKW's imposition of financial sanctions. As a result, given the punitive-administrative nature of these sanctions, it is justified to apply procedural norms by analogy from criminal rather than civil procedure. This includes adherence to protective principles—such as the prohibition of presumptions against the party (Article 5 of the Criminal Procedure Code) and the obligation to exercise precision and restraint when applying factual presumptions.

The Supreme Court further stressed in the cited ruling that when imposing punitive administrative liability, authorities must apply fairness, justice, and proportionality standards equivalent to those in criminal proceedings: "The same arguments that support the existence of certain institutions in criminal law argue for their application to administrative liability based on repressive sanctions."

Even under Article 231 of the Code of Civil Procedure, which permits courts to infer the existence of material facts from other established facts, principles of diligence, caution, and objectivity still apply—particularly for a public authority. These principles were clearly not respected by the PKW in the present case.

Unlawful Inclusion of In-Kind Contributions in Spending Limits

The National Electoral Commission (PKW) committed a serious violation of electoral law by incorrectly categorizing the value of in-kind contributions as electoral expenditures, which led to accusations that the PiS committee had exceeded its campaign spending limits.

However, under the Electoral Code (Articles 135, 199, 259), spending limits apply solely to monetary expenditures—i.e., actual payments made by electoral committees. Contrary to this legal definition, the PKW added the estimated value of third-party in-kind contributions—i.e., unpaid services or activities—to the total spending amounts.



The Electoral Code explicitly distinguishes between "expenditures" (i.e., disbursement of monetary resources) and "acceptance" of in-kind benefits (e.g., voluntary assistance). Equating the two has no basis in statutory language or in linguistic or systematic interpretation.

Even if one were to assume, contrary to fact, that an in-kind benefit was indeed accepted by the committee, this still would not constitute a "monetary expenditure" as defined in law—and only such expenditures are relevant for assessing violations of statutory limits. Thus, including in-kind contributions in spending limits constitutes a clear breach of law.

Procedural Violations by the PKW

The PKW failed to allow the PiS electoral committee to present its position during the proceedings, despite formal requests and the committee's representatives being present at PKW meetings on 31 July and 29 August 2024.

The PKW's conduct was marked by delays that significantly exceeded the statutory deadline for reviewing the financial report, without justification—even by the Commission's own established practice. These delays caused substantial financial harm to PiS. Even the mere postponement of reimbursements made it impossible for the party to meet its obligations to creditors on time without incurring new debt.

Rejection of a financial report is an exception—the default outcome is acceptance. The burden of proof lies with the PKW, not with the electoral committee. Yet the Commission relied on flawed, arbitrary conclusions and presumptions, failing to specify which evidence it found credible or which facts it derived from it. The PKW did not conduct a proper analysis of the committee's submitted statement, even though it included a complete and timely response to the allegations.

The Commission uncritically accepted claims made by those who had submitted complaints—namely the current, politically hostile leadership of the Ministries of Justice and National Defense, and the Government Legislative Centre—treating them as credible without independent evidentiary assessment. It presumed committee knowledge in six specific cases, while not applying the same logic to similar complaints in other cases—an inconsistency that reflects arbitrary, selective treatment without procedural verification.

Rather than conducting the necessary fact-finding inquiry mandated under Article 144 §§ 4–6 of the Electoral Code, the PKW passively accepted third-party claims. It thereby abandoned its duty to conduct an independent, critical legal and factual evaluation, and failed to justify why it disregarded the committee's position.

The PKW claimed in its resolution that all allegations had been provided to the PiS committee's financial proxy—this was demonstrably false. At least four key documents were never disclosed, preventing the committee from responding to their contents or the allegations they contained.

Dissenting Opinion by Judge Wojciech Sych

One member of the PKW, Judge Wojciech Sych, filed a *votum separatum*, challenging the legality and legitimacy of the PKW's decision to reject the PiS committee's financial report. He pointed out that,



under the Electoral Code, the PKW may reject a financial report only if the identified irregularities result from the actions of the electoral committee itself or of other parties acting with its knowledge and consent (Articles 144 § 1(3) and § 2).

According to Articles 142 § 1 and 144 § 1 of the Electoral Code, the PKW's review is to be limited strictly to the report submitted by the financial proxy, not to external media reports or allegations from third parties. By relying on materials unrelated to the committee's activities, the PKW overstepped its legal mandate.

Judge Sych also emphasized that while substantive debate on amending the law is valid, the existing legislation remains binding on the PKW. Legislative change is solely within the competence of the legislature. Because the PKW's decision was—in his view—in violation of current legal norms, he refused to endorse it and submitted his separate opinion. PKW Chairman Judge Sylwester Marciniak also joined this dissent.

Criminal Complaint Filed by PiS Against PKW Members

On 20 September 2024, the PiS electoral committee's financial proxy filed a criminal complaint alleging misconduct in public office (Article 231 § 1 of the Penal Code) by five PKW members: Ryszard Balicki, Maciej Klis, Ryszard Kalisz, Paweł Gieras, and Konrad Składkowski. The complaint pertains to their 29 August 2024 vote to reject the committee's financial report (Resolution No. 316/2024), despite lacking any legal basis for such a decision.

The complaint argues that PKW members are not authorized to assess the actions of third parties unrelated to the electoral committee, nor may they base decisions on factual presumptions when there is no evidence of the committee's involvement or awareness. Furthermore, as a public body, the PKW is legally required to act strictly within the bounds of the law—something these members, the complaint alleges, knowingly violated.

The filing also covers anticipated future unlawful actions by the PKW, which members have explicitly announced. One would involve refusing to enforce a potential Supreme Court ruling (by the Chamber of Extraordinary Review and Public Affairs) that might accept the PiS committee's appeal of Resolution 316/2024. This threat is based on the politically motivated rejection of post-2017 judicial appointments—despite the same PKW members previously recognizing rulings from the same chamber in other committees' cases.

The second would involve using identical, unsubstantiated allegations to reject the 2023 annual financial report of the Law and Justice party—again without any legal basis for doing so.

In both instances, the unlawful conduct by the PKW and the Finance Minister—anticipated in the complaint—ultimately came to pass.

Rejection of the Annual Financial Report of the Law and Justice Party (PiS) by the PKW

On 18 November 2024, the National Electoral Commission (PKW) issued a second decision rejecting the annual financial report of the Law and Justice party (PiS) for 2023. This rejection was based on the same rationale previously used to dismiss the financial report of the PiS electoral committee. The



Commission invoked Article 38a(2)(8) of the Political Parties Act, which allows for the rejection of a party's financial report if it violates the rules governing the financing of its associated electoral committee. Once again, the PKW referred to the alleged acceptance by the PiS electoral committee of illicit in-kind contributions.

However, the rejection of the electoral committee's financial report is not, in and of itself, a sufficient legal basis for rejecting a political party's report. The PKW had a legal obligation to independently examine whether the party itself had accepted any impermissible in-kind benefits—a step the Commission entirely skipped, relying instead, in a perfunctory manner, on its earlier resolution concerning the electoral committee, without conducting any evidentiary proceedings.

In addition to the already addressed legal flaws in the PKW's earlier decision, this second rejection introduced a further procedural defect: the Commission and the Ministry of Finance based their decision on a PKW resolution that was not yet final and was under appeal before the Supreme Court. Under the Electoral Code (Articles 145 § 3 and 148), such a resolution carries no legal effect until it becomes final. Using it as the basis for withholding state funding or imposing sanctions violates the rule of law and the right to a fair hearing, as only a final decision by the Supreme Court can produce legal consequences.⁵

As a result of the rejection of the party's financial report - in addition to the earlier, based on the August decision reduction of the election subsidy by 10.8 million PLN (approx. 2.7 million USD) and the annual reduction of the party subsidy by 10.8 million PLN (approx. 2.7 million USD), the National Electoral Commission (PKW) deprived Law and Justice (PiS) of the entire subsidy for the fourth quarter of 2024 and for the years 2025–2027, amounting to a total of 124.15 million PLN - approx.. 31,9 million USD (38.2 million PLN - approx. 9.8 million USD per year for three years and 9.55 million PLN - approx. 2.45 million USD for the fourth quarter of 2024).

This decision was pivotal, threatening PiS with a severe financial crisis just ahead of the critical 2025 presidential campaign.

PiS Appeals and Two Supreme Court Rulings

PiS appealed both PKW decisions to the Supreme Court's Chamber of Extraordinary Review and Public Affairs (SN), raising the aforementioned legal objections.

On 11 December 2024, the Supreme Court overturned the PKW's decision regarding the campaign report, ordering it to be accepted without sanction⁶. Then, on 21 January 2025, the Court ruled on the appeal concerning the annual financial report, also annulling the PKW's decision to strip PiS of its subsidies for 2025–2027⁷.

⁵ The resolution was removed from legal circulation as a result of the decision of the Supreme Court of 11 December 2024 (I NSW 55/24) – a fact, however, not acknowledged by state authorities remaining under the control of the current ruling coalition – *vide infra*.

⁶ <https://www.sn.pl/sites/orzecznictwo/orzeczenia3/i%20nsw%2055-24-2.pdf>.

⁷ <https://www.sn.pl/sites/orzecznictwo/orzeczenia3/i%20nsw%2059-24.pdf>.



According to Article 145 § 6 of the Electoral Code, the PKW was legally obliged to comply with the Supreme Court's rulings, meaning PiS's right to full public financing was restored: 36 million PLN (approx. 9,3 million USD) in reimbursements and 38.2 million PLN (approx. 9.8 million USD) annually in subsidies.

Prior to the PKW's unlawful actions in 2024, the first three quarterly subsidies (totaling 28.65 million PLN, approx. 7,35 million USD) had been paid. However, due to the PKW's decisions, reimbursement of campaign expenses (36 million PLN, approx. 9,3 million USD) and the Q4 2024 subsidy (9.55 million PLN, approx. 2.45 million USD), as well as the subsequent 2025 subsidies, were withheld. As of April 2025, these funds had still not been disbursed, despite the Supreme Court's rulings.

Given the 25 million PLN (approx. 6,4 million USD) spending limit for the presidential campaign, the approximately 55 million PLN (approx. 14,2 million USD) in unpaid funds (as of the end of March 2025) significantly impeded Karol Nawrocki's campaign. In contrast, the Civic Coalition—supporting his main opponent Rafał Trzaskowski—received its 2023 campaign reimbursement and continues to receive its annual 32 million PLN (8,2 million USD) subsidy, giving Trzaskowski a considerable financial edge. Confederation also continues to receive its 10 million PLN (2,6 million USD) annual subsidy.

Actions Following the Supreme Court's Rulings

Following the Supreme Court's 11 December 2024 ruling, the PKW met on 16 December. Although Article 145 § 6 of the Electoral Code required it to comply immediately, the Commission instead announced it would delay its decision pending "systemic clarification" of the status of the Supreme Court's Chamber of Extraordinary Review and Public Affairs. This action had no legal basis and blatantly violated statutory obligations. Notably, the same PKW members had previously recognised rulings from this chamber in cases involving other entities.

As a result, on 17 December 2024, the financial proxy of the PiS electoral committee filed a criminal complaint alleging abuse of power (Article 231 § 1 of the Penal Code) by members of the PKW and officials at the Ministry of Finance.

The charges against PKW members Ryszard Balicki, Ryszard Kalisz, Konrad Składkowski, Maciej Klis, and Paweł Gieras concern their refusal to comply with the Supreme Court's ruling of 11 December 2024, which upheld the PiS electoral committee's complaint. This refusal constituted an abuse of authority and dereliction of duty, to the detriment of both the public interest (political pluralism) and private interests (PiS's financial standing).

The charges against Finance Minister Andrzej Domański and ministry officials Joanna Baranowska and others involved their refusal to disburse public funds owed to PiS under Article 151 of the Electoral Code and Article 28 of the Political Parties Act. Their justification relied on non-final and contested PKW resolutions, which lack any legal foundation. These actions were also classified as derelictions of duty with harmful consequences for both public and private interests.



Final PKW Reversal and Postscript

Ultimately, on 30 December 2024, after a heated internal debate, the PKW reversed course and approved both of PiS's financial reports by a narrow 4–3 majority. However, in §2 of its resolution, the PKW inserted a disclaimer: the decision was made solely as a result of the Supreme Court's ruling, which it stated must originate from a body that qualifies as a "court" under the Polish Constitution and the Electoral Code. The PKW added that it does not determine whether the Chamber of Extraordinary Review and Public Affairs meets that criterion or whether the ruling is legally effective⁸.

This legally meaningless statement in §2—technically accurate, since it is the Constitutional Tribunal, not the PKW, that determines a court's constitutional status (and the Tribunal has upheld the chamber's legitimacy)—nonetheless served as a pretext for the Prime Minister and Finance Minister to withhold the funds.

Prime Minister Donald Tusk posted on X in December 2024: "There is no money and there won't be. From what I see, it follows from the PKW's resolution." Finance Minister Domański has repeatedly stated that, in his view, the resolution of the National Electoral Commission (PKW) is unclear, and for this reason, he will not disburse the funds provided for by law.

Legal Situation Following the Supreme Court Rulings

Article 38a of the Political Parties Act stipulates that the revocation of public subsidies requires a *final confirmation* of irregularities by the Supreme Court. The Court's rulings from December 2024 and January 2025 overturned the PKW's decisions, legally obligating the government to disburse the full amounts due—36 million PLN (9,3 million USD) in reimbursements and 38.2 million PLN (9,8 million USD) annually in subsidies. The refusal to comply constitutes a violation of Article 10 of the Act on the Supreme Court, Article 145 § 6 of the Electoral Code, and the principles of the rule of law enshrined in Article 2 of the Polish Constitution.

The Tusk government disputes the legal status of the Supreme Court's Chamber of Extraordinary Review and Public Affairs (IKNiSP) and the legitimacy of its sitting judges. At the heart of the dispute are amendments to the Act on the National Council of the Judiciary (KRS) adopted in 2017, which replaced the former *co-optative* method of appointing judicial members with a more *democratic* model.

The KRS was established in early 1989 during the final phase of communist rule in Poland. Its institutional role was to safeguard the political and economic interests—and protect the legal impunity—of the outgoing communist elite, which transferred power to the left-liberal wing of the opposition under the Round Table agreements. It is worth noting that no judicial *lustration* or *decommunization* took place in Poland. Judges from the communist period, many of whom were members of the communist party and responsible for politically motivated sentences (especially during

⁸ https://pkw.gov.pl/uploaded_files/1735727416_kw-pis-po-sn.pdf.



martial law between 1981–1985), were neither vetted nor removed after 1989 and were permitted to continue ruling.

Given that the KRS nominates judicial candidates and plays a central role in judicial promotions, its composition has been pivotal in shaping Poland's judiciary (which currently includes fewer than 10,000 judges). Between 1989 and 2018, the majority of the KRS's judicial members were selected by judges themselves, which led to an oligarchic and top-heavy nomination structure. Only 2 of the judicial members during that period came from the lowest-tier (district) courts, despite those courts making up the overwhelming majority of the judiciary.

According to Article 187⁹ of the 1997 Constitution, the KRS comprises 25 members: 15 judges and 10 other members, including ex officio the First President of the Supreme Court, the Minister of Justice, the President of the Supreme Administrative Court, and a representative of the President of the Republic, along with 4 MPs elected by the Sejm and 2 senators elected by the Senate. Before the 2017 reform, judicial members were selected by other judges. Under President Andrzej Duda's 2017 amendment (Article 9a of the KRS Act)¹⁰, these 15 judges are now elected by the Sejm from among candidates nominated by 15 judges or 2,000 citizens.

The goal was to democratize the KRS and break up the previously insular co-optative model of judicial appointments. The reform was met with fierce opposition from high-ranking judges, left-liberal politicians, and EU institutions (including the European Commission, the CJEU, and the European Parliament). Critics claimed it was unconstitutional. However, the Polish Constitution simply states that 15 members of the KRS must be "elected from among judges," without specifying who elects them. The same constitutional article explicitly states who elects parliamentary members, and defers the

⁹ Article 187. 1. The National Council of the Judiciary shall be composed of:

- 1) the First President of the Supreme Court, the Minister of Justice, the President of the Supreme Administrative Court, and a person appointed by the President of the Republic;
- 2) fifteen members elected from among the judges of the Supreme Court, common courts, administrative courts, and military courts;
- 3) four members elected by the Sejm from among its deputies and two members elected by the Senate from among its senators.

2. The National Council of the Judiciary shall elect from among its members a chairperson and two deputy chairpersons.

3. The term of office of the elected members of the National Council of the Judiciary shall be four years.

4. The structure, scope of activity, and procedure of operation of the National Council of the Judiciary, as well as the manner of election of its members, shall be specified by statute.

¹⁰ Article 9a. 1. The Sejm shall elect fifteen members of the Council from among the judges of the Supreme Court, common courts, administrative courts, and military courts for a joint four-year term of office.

2. In making the election referred to in paragraph 1, the Sejm shall, insofar as possible, take into account the need for representation in the Council of judges from the various types and levels of courts.

3. The joint term of office of the new members of the Council elected from among the judges shall begin on the day following the day on which they are elected. The members of the Council from the previous term shall perform their functions until the day the joint term of office of the new members begins.

(*Journal of Laws of 2024, item 1186 – consolidated text*),
<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20111260714/U/D20110714Lj.pdf>



procedure and selection method to statute—thus confirming that the reform is within constitutional bounds, as affirmed by the Constitutional Tribunal in 2019¹¹.

The left-liberal establishment often cites rulings by the European Court of Human Rights (e.g., *Dolińska-Ficek and Ozimek v. Poland*, 2021) and the CJEU (e.g., C-824/18), alleging that judges appointed under the reformed KRS may lack independence. However, from the perspective of Poland's constitutional order, these rulings are irrelevant. International courts like the ECtHR and the CJEU do not possess the jurisdiction to invalidate or alter the legal structure of national judicial systems. No Polish Constitutional Tribunal ruling has found the 2017 KRS reforms or the appointments made under them unconstitutional. To the contrary, such rulings have confirmed their validity. Thus, the reform remains in force within the Polish legal system.

Moreover, the continued financial blockade against PiS undermines political pluralism (Article 11 of the Constitution of the Republic of Poland), equality of opportunity (Article 14 of the European Convention on Human Rights, Article 11 of the EU Charter of Fundamental Rights), and democratic integrity. It is worth noting that similar reasoning—used to challenge the legitimacy of both Constitutional Tribunal and Supreme Court rulings—has led the President of the Constitutional Tribunal to file a criminal complaint regarding attempts to unlawfully remove a constitutional body of the Republic of Poland through the actions of an organised group¹².

In conclusion, the government's actions have significantly weakened PiS and its presidential candidate Karol Nawrocki (polling at 25–28%) ahead of the May/June 2025 presidential election, in favour of Rafał Trzaskowski (Civic Coalition, 35–40%) and Sławomir Mentzen (Confederation, 18–20%). These actions are not only unlawful but also potentially constitute criminal offences under Article 231 of the Penal Code (abuse of office and dereliction of duty), and gravely violate the principle of equal electoral opportunity. The continued denial of funding to PiS remains one of the key instruments being used to ensure victory for the liberal candidate.

3. Draft Incidental Act Regulating the Validity of the 2025 Presidential Elections

In December 2024, an incidental draft act (Sejm Paper No. 923) was submitted to the Sejm by Speaker Szymon Hołownia and the Poland 2050 party¹³. The bill aimed to transfer the jurisdiction over adjudicating the validity of the 2025 presidential elections (as well as the 2025 Senate by-elections) from the Chamber of Extraordinary Review and Public Affairs of the Supreme Court (IKNiSP SN) to a panel composed of judges from three other chambers of the Supreme Court: Civil, Criminal, and Labour and Social Insurance. According to the draft, the presiding judge of the adjudicating panel would be the judge with the longest judicial tenure. Appeals against resolutions of the National Electoral Commission (PKW) concerning both the presidential and Senate by-elections were to be heard by a three-judge panel randomly selected from among judges of the above-mentioned chambers.

¹¹ <https://ipo.trybunal.gov.pl/ipo/Sprawa?&pokaz=dokumenty&sygnatura=K%2012/18>.

¹²

https://trybunal.gov.pl/fileadmin/content/uroczystosci_spotkania_wizyty/2025/2025_02_24/NOTIFICATION_of_31_January_2025_translated_from_Pol_into_Eng_.pdf.

¹³ <https://sejm.gov.pl/Sejm10.nsf/PrzebiegProc.xsp?nr=923>



Following the takeover of power by the Civic Coalition, Third Way, and the Left in December 2023, the new ruling coalition has not only openly questioned but, in practical terms, outright refused to recognize the functioning of multiple constitutional organs, such as the Constitutional Tribunal, the National Council of the Judiciary (KRS), and the Supreme Court. These actions have resulted in the most severe constitutional crisis in Poland since the fall of communism. Accordingly, many actions taken by governmental agencies, ruling coalition MPs, judges, and prosecutors affiliated with the current government were identified in a criminal complaint filed with the prosecutor's office by the President of the Constitutional Tribunal as serious offences aimed at disabling the functioning of key constitutional organs and violently altering Poland's constitutional order through the actions of an organized criminal group.

Among the constitutional organs no longer recognized by the ruling coalition is the aforementioned IKNiSP SN, which was established under a set of laws drafted by President Andrzej Duda and adopted by the Sejm in 2017—laws that were, at the time, challenged by the then-opposition as unconstitutional.

It is necessary to reiterate here the argument already made in the context of blocking state funding for political parties: no binding legal act or court ruling exists that invalidates the status of the Chamber or its judges.

Given that the IKNiSP SN is a relatively new institution, it is composed almost exclusively of judges not affiliated with the previous political establishment. Thus, the real purpose of the legislative proposal was to ensure political control over Supreme Court decisions through the three "old" chambers, in which a majority of judges represent the pre-reform judiciary.

The final version of the act, passed by the Sejm on 24 January 2025 (220 votes in favor, 204 against, 20 abstentions), after an amendment by the Polish People's Party that fundamentally altered the original bill, stipulated that the validity of the 2025 presidential election (and the Senate by-elections) would be decided by the 15 longest-serving Supreme Court judges, selected from among those appointed before 2018 (the so-called "old judges"). In the event of equal tenure, general judicial service length would be the deciding factor. Electoral complaints would be adjudicated by a randomly selected three-judge panel from among the above-mentioned 15 judges, with the most senior judge presiding. Importantly, judges appointed after 2017 were excluded *ex lege* from adjudicating.

The original version of the draft incidental act was already controversial. However, the changes introduced during parliamentary proceedings and ultimately adopted by the Sejm clearly aimed to ensure that the left-liberal establishment had full control over the review of the validity of the 2025 presidential election. In particular, the objective of these extraordinary measures, in their final version, was to prevent a potential annulment of the election due to electoral fraud—allegations of which have been directed at the current authorities.

The act was incidental in nature. It was to enter into force three days after promulgation and apply solely to the 2025 presidential elections. The Senate did not introduce any amendments, but President Andrzej Duda vetoed the act on 10 March 2025.



It is worth noting that the Constitutional Tribunal has repeatedly held (e.g., Judgment K 31/14) that changes to electoral law less than six months before elections are inadmissible, except under extraordinary circumstances—a principle known as the “legislative silence period.” Passing this act in January 2025, just four months before the presidential election, violated this principle and destabilized the electoral process.

The exclusive selection of so-called “paleo-judges” (appointed or promoted solely before 2018) disregards the legality of post-2017 appointments, which have never been effectively invalidated under Polish law. There is no legal basis for such “judicial segregation” and the exclusion of judges appointed upon the recommendation of the democratized KRS following the 2017 reform. These judges comprised approximately 60% of the Supreme Court in 2025. It is also significant that nearly all of the 15 most senior judges had received their nominations during the communist dictatorship in Poland, prior to 1989. It is important to recall that the judiciary in Poland was never subjected to lustration or decommunization — judges from the communist era remained in office, including those who persecuted opposition activists. Only one (!) judge has ever faced disciplinary consequences after 1989 for such persecution. The 2017 reform—vigorously opposed by liberals with support from the European Commission —was in reality an attempt to break with this post-communist judicial structure.

Among the Supreme Court (SN) judges who would be assigned to adjudicate the validity of the 2025 presidential elections is Tomasz Artymiuk, who joined the Communist Party as a judge in November 1989. He became widely known for shielding former Supreme Court judge Leopold Nowak (1985–1990), a party member who, during martial law, sentenced a Solidarity strike leader. Nowak applied a decree on martial law that lacked legal force at the time the alleged act was committed. According to the legislation adopted by the current parliamentary majority, the judicial panel ruling on the validity of the election would also include Judge Waldemar Płóciennik, who, during the 1980s, was both a sitting judge and a member of the Communist Party. During the martial law period declared by communist dictator General Jaruzelski in 1981, he adjudicated political cases against Solidarity opposition members. In 2010, he presided over the panel of the Supreme Court that ruled that communist crimes, including judicial crimes, were subject to statutes of limitations. In 2007, Płóciennik also co-authored a Supreme Court resolution adopted to exempt judges from liability who had convicted Solidarity opposition members for strikes held between 13–16 December 1981, during a period when the martial law decree had not yet come into legal force.

Also included in the list of 15 would be, for instance, Eugeniusz Wildowicz, who, according to documents from the Institute of National Remembrance, was registered as an operational contact for the communist secret police (SB) between 1987 and 1990. He operated under the codename "Gienek." In January 1990, he was removed from the registry, and the related files were destroyed "internally."

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¹⁴ <https://niezalezna.pl/polityka/chca-by-ci-sedziowie-orzekali-o-waznosci-wyborow-przypominamy-ich-komunistyczna-przeszlosc-lista/535938>.



Statements and Suggestions that the Government Would Not Recognize the Supreme Court Ruling

Amid political and legal tensions in the lead-up to the Polish presidential elections scheduled for 18 May 2025 (with a possible runoff on 1 June 2025), statements emerged from Speaker of the Sejm Szymon Hołownia and other representatives of the governing coalition (Civic Coalition, Third Way, and the Left) suggesting that, in the event of a victory by opposition candidate Karol Nawrocki, supported by Law and Justice (PiS), the ruling coalition might refuse to recognize the Supreme Court's decision confirming the validity of the election—if that decision were issued by the Chamber of Extraordinary Review and Public Affairs (IKNiSP SN).

In an interview with TVN24 on 15 March 2025, Szymon Hołownia stated: *"If the IKNiSP, whose legal status is questionable under international law, declares the elections valid, and we have evidence of irregularities, we cannot accept it uncritically. The state must operate according to principles, not decisions from a chamber of dubious legitimacy."* Statements from politicians and commentators included suggestions that, in such a scenario, the National Assembly—before which, according to the Constitution, the new President is sworn in—would not be convened, and that the Speaker of the Sejm might temporarily assume presidential duties, despite such action being *contra legem*.

Prime Minister Donald Tusk, in a comment on platform X (20 March 2025), wrote: *"Poland cannot allow its elections to be decided by a chamber whose independence is questioned by our EU partners. If necessary, we will find a way to ensure the integrity of the process."* This statement was widely interpreted as a threat to ignore the Supreme Court should its ruling favor the PiS-backed candidate. Minister of Education Barbara Nowacka (Civic Coalition), in a Polish Radio interview on 22 March 2025, added: *"We cannot rule out PiS trying to win at the judge's table instead of the ballot box. The coalition will then be forced to act."* Władysław Kosiniak-Kamysz (Polish People's Party) suggested "further legal steps" in the event of a dispute.

These statements were also intended to intimidate PiS and to mobilize the ruling coalition's electorate ahead of the elections, framing a narrative about the threat posed by the "PiS-controlled Supreme Court." Hołownia and Tusk aimed to further weaken PiS, which was already financially handicapped due to the complete suspension of public funds starting from Q4 2024—by the end of March 2025, this amounted to 55 million PLN (approx. 14,2 million USD) — compared to the 25 million PLN (approx. 6,4 million USD) limit for presidential campaign expenditures. They insinuated that a victory by Nawrocki might not be recognized.

Given that the so-called incidental act described earlier was vetoed by the President, under Article 129(1) of the Constitution, it remains the Supreme Court that rules on the validity of elections. The Act on the Supreme Court (Article 3) delegates this responsibility to the IKNiSP. Rejecting its ruling would be unlawful without a constitutional or statutory amendment. This makes the statements from Hołownia and Tusk indicative of potential future actions that would be contrary to the applicable law.



Summary

Hołownia's legislative proposal was the result of a political calculation aimed at securing full control over the electoral process during the pivotal 2025 presidential election, which is crucial for the governing coalition's durability. The aim was to ensure that any electoral fraud perpetrated by the left-liberal ruling coalition could not serve as grounds for annulling the election. Legally, there is no basis for questioning the validity of the 2017 KRS reform or the status of judges appointed under it.

Beyond its overtly political nature, the final version of the incidental act violated the principles of electoral law stability and introduced unjustified discrimination against judges. President Duda's veto on 10 March 2025 preserved the IKNiSP's role as the adjudicating body, which may heighten future electoral disputes but preserved the coherence of the existing legal order.

The statements made by Hołownia, Tusk, and others, suggesting that they might not recognize the IKNiSP's ruling in the event of a PiS-supported victory in 2025, were political maneuvers in their conflict with PiS, based on challenges to the chamber's legitimacy. From a legalist standpoint, the lack of any grounds for disputing the 2017 KRS reform renders these statements unlawful and dangerous, posing a threat to the stability of the state at a critical electoral juncture.

4. The Use of Law Enforcement Agencies for Campaign Purposes

An issue requiring separate and extensive analysis is the mechanism by which the prosecution service and other law enforcement agencies are used for political struggle and, in effect, for political persecution. A particularly concerning example of this is the carrying out of procedural actions (arrests, detentions, filing of charges, selective leaks of investigation materials to the media) during the pre-election period.

Since late 2023, the Tusk government has unlawfully taken over public media, the prosecution service, and judicial leadership, undertaking actions openly contrary to the Constitution and the legal order of the state. Judgments of the Constitutional Tribunal, the Supreme Court, and the legally functioning National Council of the Judiciary (KRS)—whose status as a constitutional organ is systematically questioned by representatives of the executive and legislative branches—are being ignored.

Many of these actions were thoroughly described in a notice of suspected criminal activity submitted by the President of the Constitutional Tribunal in January 2025. That notice explicitly classified the actions of those in power as constituting crimes described in Articles 127 and 128 of the Criminal Code, concerning the violent alteration of the state's constitutional order and the use of force and unlawful threats to interfere with the functioning of constitutional organs such as the Constitutional Tribunal, the Supreme Court, and the KRS. These acts—amounting to an attack on the foundations of constitutional order—are punishable by long-term imprisonment, including life sentences.

In particular, the unlawful takeover of the prosecution service and judicial leadership is now serving highly political ends: the machinery of the state is being used to destroy the opposition. In practice, this is reflected in actions such as bringing charges—or even arresting—opposition MPs on the basis of undocumented, and often completely unfounded, legal constructions; repressing conservative NGOs and journalists; and systematically intimidating individuals, groups, and institutions to



discourage them from cooperating with politicians representing the conservative camp. These actions are clearly instrumental and target political pluralism—a fundamental component of a democratic state.

Members of the current left-liberal administration under Tusk, members of the governing coalition in Parliament, and numerous judges, prosecutors, and senior civil servants have engaged in conduct that not only violates constitutional principles of the rule of law but also fulfils the criteria of serious crimes against the Republic of Poland. Their awareness of the gravity of their actions and the potential criminal liability resulting therefrom has led leading politicians of the ruling camp to increasingly exploit the state apparatus—especially the justice system—for political purposes and personal protection. These actions are intensifying as the presidential campaign approaches, suggesting that they are part of a broader electoral strategy. The loss of power by the current left-liberal ruling camp would entail a real threat of long-term imprisonment for many members of the government, MPs, senior officials, judges, and prosecutors.

Statements by members of the ruling coalition are increasingly filled with calls for “accountability,” pointing to the need to intensify repressive actions against the opposition and to signal to voters their determination to “deal with” Law and Justice. Such rhetoric and the accompanying actions are not only retaliatory but also preventive: the ruling authorities realize that if they lose power, they themselves could be held accountable. Therefore, they are intensifying their actions against political opponents, using state institutions which, according to the Constitution, should remain independent and apolitical.

In March 2025, a special prosecutorial team, appointed after the change in power, published a report identifying around 200 cases that—according to their findings—should be reopened, allegedly because they were not properly investigated in previous years for political reasons. This list included proceedings that had previously been discontinued or declined for lack of legal grounds.

One of the most symbolic and simultaneously controversial cases on this list was the so-called “two towers case.” In this proceeding, the private prosecutor’s representative is Roman Giertych, currently an MP for the ruling coalition and a candidate for the position of Minister of Justice. He is also one of the most vocal advocates for “settling scores with PiS.” According to public statements by government politicians, one of the potential defendants in this case would be the opposition leader and Law and Justice Chairman Jarosław Kaczyński.

It is worth noting that several years earlier—during the United Right’s term in office—both the prosecution and the court (presided over by a judge unsympathetic to PiS) refused to initiate proceedings, citing a lack of criminal grounds in the complaint. Nevertheless, in 2025—during the pre-election period—the case was reopened. It was assigned to one of the most politically engaged prosecutors, Ewa Wrzosek, known for her public involvement in actions against the previous government. Notably, during an earlier campaign, she had provided confidential information from an investigation to Rafał Trzaskowski, the incumbent candidate for mayor of Warsaw, which was beneficial to his campaign (related to drug tests on a city bus driver involved in a fatal accident). The decision to reopen the investigation and assign it to Ewa Wrzosek triggered strong opposition criticism,



which argued that the investigation was politically motivated and aimed at discrediting the leader of the largest opposition party at the climax of the presidential campaign.

A particularly emotional episode occurred in March 2025 when, two days after being questioned as a witness, Barbara Skrzypek—Jarosław Kaczyński's longtime and close associate—died of a massive heart attack. Her death sparked controversy: during the questioning, the presence of her legal counsel was denied despite a request citing her poor health and impaired vision; no official transcript was made with a stenographer present, nor was the session recorded. Later, it was revealed that, contrary to participants' claims, there had been no break granted for her rest, and the transcript itself raised concerns—such as the use of two different fonts. These circumstances, combined with the politicized context of the case, the pressure exerted by the private prosecutor's legal team (including Roman Giertych and Jacek Dubois), and statements by prosecutor Wrzosek, led to allegations of investigative abuse, which allegedly contributed to the death of Barbara Skrzypek.

Another controversial case concerned the treatment of former Minister of Justice Zbigniew Ziobro. In March 2025, he was forcibly brought before a parliamentary investigative commission chaired by MP Sroka. The commission had previously submitted a request for his arrest, arguing that Ziobro persistently failed to appear. Ziobro himself explained that he was unable to attend due to health reasons and further pointed to a ruling by the Constitutional Court, which declared the commission's actions unconstitutional under the Polish Constitution—rendering, in his view, the summons ineffective. After being brought to the Parliament building, and just minutes after the hearing began—with full knowledge that Zbigniew Ziobro was waiting to enter the committee room—the commission immediately ended the session, having first voted on the arrest motion based on his alleged absence. The entire incident had an overtly demonstrative character, and the arrest motion was passed even though Ziobro had already been delivered to the premises. Pro-government media persistently promote the narrative that Ziobro “places himself above the law” by ignoring the commission. The coincidence of these events with the election campaign has led many observers to view the incident primarily as a tool of political revenge and a component of the ruling party's media strategy.

Although the case was decided by a judge openly supportive of the current ruling establishment, the arrest motion was dismissed as unfounded in light of the publicly available and obvious evidence. In response, the commission summoned Ziobro again for April 24, despite having initially planned to hear him at the end of June. This situation clearly revealed the commission members' intentions: since the attempt to stage a high-profile “event” in the form of Ziobro's arrest before the May elections had failed, they resolved to accelerate the hearing in order to at least secure another forced escort of the former Minister of Justice.

Equally controversial is the case involving the so-called Justice Fund, in which one of the main targets of the proceedings is Marcin Romanowski—the former Deputy Minister of Justice. Already in 2024, the case was heavily publicized during the European Parliament election campaign. In February 2025—after Romanowski had been granted political asylum in Hungary—eight new charges were brought against him. A significant portion of these is based on the claim that Romanowski acted without proper authority, as the Minister had granted him powers through an amendment to a competence ordinance rather than through a new regulation. This is a highly formalistic accusation and—according to



experts—so blatantly groundless that even a first-year law student would recognize its absurdity. These charges were brought in order to sustain public interest in the case and to showcase the government's assertiveness during the election period.

Earlier, there had also been an attempt to detain Romanowski in a spectacular handcuffed arrest, despite the fact that he had voluntarily reported to the prosecutor's office. These actions were carried out in blatant violation of international law, as Romanowski still held immunity as a member of the Parliamentary Assembly of the Council of Europe, which had not been lifted. In March 2025, MP Dariusz Matecki was also detained on the street in downtown Warsaw—while, as it later turned out, he was on his way to the prosecutor's office to appear voluntarily in a related matter.

Also in March 2025, charges were filed against Mariusz Błaszczak, former Minister of National Defense and head of the Law and Justice (PiS) Parliamentary Club. The case concerns the alleged disclosure of classified Polish defense plans. In 2023, during the PiS administration, Błaszczak, then Minister of Defense, declassified and released a document from 2011, originating from the first government of Donald Tusk's Civic Platform–Polish People's Party (PO-PSL) coalition. The document—commonly known as the "Vistula defense plan"—envisioned a strategy in which, in the event of an invasion (e.g., by Russia), the Polish army would retreat behind the Vistula River, focusing its defense on the western part of the country. Błaszczak publicly presented the plan, criticizing it as evidence of the Tusk government's weakness and appeasement toward potential threats from the East.

Following the change of government in 2023, when Donald Tusk took power, the matter resurfaced in a new context. In March 2025, just months before the presidential election, the prosecutor's office launched an investigation against Błaszczak, accusing him of abuse of power and the disclosure of classified information, which allegedly endangered national security. On March 6, 2025, at the request of the prosecutor's office headed by Adam Bodnar (Minister of Justice in Tusk's government), the Sejm lifted Błaszczak's parliamentary immunity, allowing formal charges to be brought.

The prosecution relies on articles of the Penal Code concerning the disclosure of state secrets (e.g., Article 265 of the Penal Code) and abuse of office by a public official (Article 231 of the Penal Code). According to the prosecution, Błaszczak declassified and published the document in 2023 without the required approval of competent authorities (e.g., the Ministry of Defense or the Council of Ministers), and in doing so endangered national security by revealing details of a defense strategy that could be exploited by foreign states.

Mariusz Błaszczak argues that he not only had the right but also the duty to disclose the plan in order to inform the public of the harmful strategy pursued by the PO-PSL coalition. In a post on X dated March 6, 2025, he wrote: "The Vistula defense line is also Tusk's line toward Russia. I had not only the right but also the obligation to disclose that plan of the first PO-PSL government." He emphasized that the document was archival (from 2011) and that its declassification posed no threat, as it did not reflect current defense plans.

This view is supported by historians and military experts, such as Prof. Sławomir Cenckiewicz and Col. Mariusz Kozłowski, who confirmed in March 2025 that the disclosed plan was archival and posed no risk to present-day national security.



The fact that the charges were brought in March 2025, just months before the election, points to political motives and suggests the case is part of the government's campaign to discredit the opposition. The prosecution's actions are widely amplified by pro-government media (e.g., TVN, Onet), which aim to damage Błaszczak's public image ahead of the vote.

Concerns also arise regarding actions targeting Paweł Szefernaker, former Deputy Minister of the Interior, who became the campaign chief for the Law and Justice-backed presidential candidate Karol Nawrocki. Immediately after this appointment, Speaker of the Sejm Hołownia initiated proceedings to lift Szefernaker's immunity in a case stemming from a private complaint by a left-wing activist. The complaint concerned the reposting of a PiS campaign video on social media, which criticized the EU's pro-immigration policy. Hołownia's move was unlawful, as the Sejm had already rejected the motion to lift Szefernaker's immunity during the previous term. The timing of the motion's revival—coinciding with the launch of the presidential campaign—strongly suggests political motivation and an attempt to intimidate the opposition candidate's campaign chief.

Simultaneously, the Supreme Audit Office (NIK) launched intensive audits of the Institute of National Remembrance (IPN), led by Karol Nawrocki, the presidential candidate supported by Law and Justice. The audits target expenditures, organizational structure, and management practices. Many of these inspections are scheduled to conclude during the election campaign, raising suspicions that their aim is to generate materials that would weaken the PiS candidate.

These suspicions are further reinforced by the fact that a similar pattern had been observed before—most notably in 2023, prior to the parliamentary elections. At that time, the head of the Supreme Audit Office was recorded (and the recording later made public) discussing planned NIK reports as “election gifts for Donald Tusk,” intended for release during the campaign. This shows that the current practices are not coincidental but form part of a broader, premeditated political strategy in which state instruments—including the prosecutor's office and audit institutions—are being used instrumentally for political gain.

The above actions are only a few among numerous examples of state authorities engaging in conduct clearly designed to influence the electoral campaign.

5. Threats to Freedom of Speech on Social Media

In the context of the upcoming 2025 presidential elections in Poland, statements and proposals have emerged from left-wing and liberal Polish politicians advocating for the censorship and removal of content from platforms such as X and TikTok, allegedly to safeguard the transparency and integrity of the electoral process. It should be noted that social media in Poland plays a crucial role in ensuring pluralism of opinion, particularly since the unlawful and forceful takeover of public media by the Tusk government in December 2023. Since then, the so-called traditional nationwide media (television, radio, newspapers, mainstream portals) have been overwhelmingly dominated by broadcasters and publishers with liberal or left-wing worldviews. A significant portion of these media outlets engage in propagandistic activities or even function as instruments in activities by members of the ruling coalition that may be criminal in nature.



In the draft law presented at the beginning of 2025, the Ministry of Digital Affairs proposed, as part of implementing the European Digital Services Act (DSA), that the President of the Office of Electronic Communications (UKE) be granted the authority to block online content through administrative procedure, without prior judicial authorization. This provision sparked significant controversy and accusations of censorship. The timing of the proposal—introduced in the pre-election period—provoked sharp criticism from segments of the media (e.g., *Money.pl*, *Niebezpiecznik.pl*) and the opposition, who viewed it as a potential instrument of censorship, particularly in the electoral context.

The National Broadcasting Council (KRRiT), a constitutional body responsible for safeguarding freedom of speech, the right to information, and the public interest in radio and television broadcasting, issued a strongly worded statement on 13 January 2025 condemning the draft. The Council warned that “such measures will lead to arbitrary decisions and the curtailment of the right to information and the right to express opinions—rights that constitute the foundation of free media and civil society. The National Broadcasting Council declares that, should such provisions be enacted, it will pursue all available legal avenues to protect citizens’ constitutional rights and to hold accountable those responsible for introducing censorship.”

Krzysztof Gawkowski (Minister of Digital Affairs, The Left), responding to censorship allegations in an interview on *Polsat News*, asserted: “What we are talking about today is how to ensure security on the Internet and how to effectively enforce it. It cannot be the case that foreign platforms make such decisions unilaterally.” Similarly, Deputy Speaker of the Senate and presidential candidate from The Left, Magdalena Biejat, stated that “the European Union should take steps to restrict access to the X platform across Europe, because we cannot allow the European public discourse to be dictated by the interests of an American billionaire” (interview with *RMF FM*, 8 January 2025). Around the same time, in the public media outlets unlawfully seized by the Tusk government, direct proposals were aired advocating for the temporary suspension of Polish users’ access to X as a tool to counter disinformation. “We should seriously consider the possibility of shutting down platform X in Poland during the presidential campaign,” said Dorota Wysocka-Schnepf, an employee of public media, on *TVP Info* on 9 January 2025.

In the broader context of discussions on content regulation on social media platforms, Prime Minister Donald Tusk (Civic Platform), during a press conference in Brussels on 20 February 2025, endorsed EU efforts to regulate platforms such as X under the DSA framework, stating: “We cannot allow social media to be used to destabilize democracy. We need smart regulation that protects citizens without restricting freedom.”

The government's proposals met with strong resistance from representatives of the right-wing opposition. Jarosław Kaczyński (Chairman of Law and Justice) characterized the initiative as “Russian-style Internet censorship (...) they want to shut down independent media and censor the Internet—so that nothing exists except their propaganda. The march toward dictatorship continues” (post on X, 13 January 2025). Kaczyński directly linked his critique to the DSA-related draft and accused the government of exploiting the regulations to suppress opposition ahead of the presidential election. At a press conference on 5 February 2025, he added: “What the ruling coalition is doing constitutes a



creeping coup d'état. They are introducing legislation that will allow them to control the Internet and silence the opposition before the election."

Statements from the government regarding potential restrictions on social media platforms were also strongly criticized by Karol Nawrocki, the Law and Justice-backed presidential candidate, who declared: "For us Poles, freedom of speech is of paramount importance. As the future President, I will never accept censorship on the Internet. If anyone attempts to impose it on us, I guarantee that, together with the Polish people, we will stand in defense of freedom!" (post on X, 11 January 2025).

Sławomir Mentzen, the Confederation's presidential candidate, repeatedly voiced similar concerns, stating: "Tusk's government wants to impose Internet censorship! In the style of totalitarian states, they want to delete content based on a bureaucrat's decision, without court approval! This is an attempt to revive communist-era censorship! I declare that I will veto any attempt to restrict freedom of speech. Will the other candidates do the same?" (post on X, 14 January 2025). In an interview with *DoRzeczy* on 2 March 2025, he emphasized that X remains the only space where Poles can freely express their views—unlike on *TVP* or *TVN*—and argued that attempts to curb free speech on social media demonstrate the ruling coalition's fear of the truth in the lead-up to the election.

Politicians from the ruling coalition, such as Gawkowski and Tusk, do not openly call for banning X or TikTok—such a move would be politically suicidal—but they stress the need for strict regulation before the 2025 elections. Proposed legal changes (e.g., under DSA) would grant officials broad powers to block content, effectively introducing arbitrary censorship and constituting a first step toward suspending platforms if deemed necessary.

The conservative opposition—PiS and Confederation—has consistently and strongly opposed any such restrictions, viewing them as threats to freedom of speech, especially in the context of the presidential campaign at a time when so-called traditional media in Poland are largely under the control of leftist and liberal, including foreign, interests. Opposition representatives have rightly pointed out—citing, among other examples, the government's proposals and the earlier unlawful and forceful takeover of public media in December 2023 and January 2024—that the government may seek to ban or suspend platforms to weaken their messaging ahead of the election.

The statements made by these politicians are closely tied to pressure from the European Union (e.g., DSA, the Commission's actions against TikTok in Romania in 2024), which suggests that Poland may also face tightened control over platforms in the name of "election protection." In the public debate leading up to the 2025 presidential election, the issue of censorship and regulation of X and TikTok has become a central topic. The government emphasizes the need to "protect" the electoral process, raising justified concerns from the opposition about restrictions on free speech. The opposition warns that censorship could ultimately lead to the suspension or outright banning of these platforms.

In relation to EU-level discussions on content control on social media platforms, in early March 2025, European Commission Vice-President Henna Virkkunen announced plans to organize a roundtable on the elections in Poland, highlighting the need to discuss various scenarios with the participation of national authorities, NGOs, and communication platforms. This announcement was unequivocally interpreted by opposition politicians as a threat of further interference in democratic processes in



Poland, aimed at strengthening the undemocratic regime installed by the European Commission through Donald Tusk.

The actions undertaken by Prime Minister Tusk on 2 April 2025 should be regarded as an attempt by the government to manipulate public opinion. On that day, Tusk announced via platform X an alleged major cyberattack targeting the Civic Platform's (PO) IT system, implying that it constituted part of a broader Russian interference campaign in the presidential election, and referring explicitly to an "Eastern trace." Government representatives echoed this narrative, emphasizing the gravity of the situation. However, it subsequently emerged that the incident was in fact a classic phishing attack, in which hackers compromised the email account of a local Civic Platform activist, thereby gaining access to email addresses and correspondence for the purpose of distributing malware.

Independent commentators and opposition figures responded with skepticism, accusing Tusk of exaggeration and of instrumentalizing the incident for political purposes. Some opposition-affiliated commentators and users of platform X further suggested that the disproportionate narrative of a Russian cyberattack—given the incident's relatively minor nature—could be intended to lay the groundwork for a possible justification to annul the election results, following the Romanian precedent, should the outcome prove unfavorable to Rafał Trzaskowski.

Virtually every week brings new threats to media pluralism and to the integrity of the electoral process in Poland—originating both from the left-liberal administration and from judges aligned with its agenda. On 9 April 2025, the Voivodeship Administrative Court issued a controversial ruling annulling the decision of the National Broadcasting Council (KRRiT) from June 2024, under which *Telewizja Republika* and *wPolsce24* had been granted broadcasting licenses on the MUX-8 digital terrestrial multiplex. The Chairman of KRRiT announced an appeal against the court's non-final ruling.

A further decision by the same court, also issued on 9 April 2025, may be seen as an attempt to intimidate the Council: the Court imposed a substantial financial penalty on KRRiT Chairman Maciej Świrski for transferring funds allocated to public media into a court deposit rather than disbursing them directly to the broadcasters. However, the Chairman had received judicial authorization to proceed in this manner in 2024, acting in response to the unlawful takeover of public media that occurred between late 2023 and early 2024.

In this context, the parliamentary majority announced its intention to move forward with further steps to bring the Chairman of KRRiT before the State Tribunal. A formal motion in this matter had already been submitted by ruling coalition MPs in 2024, with the main charge being the non-disbursement of the aforementioned funds to public broadcasters and their placement in judicial escrow instead. The governing coalition holds the required majority in the Sejm to initiate proceedings before the State Tribunal, which would result *ex lege* in the suspension of the Chairman and member of the Council, thereby constituting a *de facto* attempt to seize control over this constitutional body.