



The rule of law is under threat in Poland

The ten most blatant violations by Donald Tusk's left-liberal Polish government

During the tenure of the conservative government that led Poland from 2015 to 2023, European Union institutions launched an orchestrated attack against the country, claiming that the “rule of law” had been “seriously undermined” in the country. The Article 7 procedure, known as the “atomic bomb”, was launched and then, despite the fact that the grounds for it were now in place, dropped shortly after the change of government last year. So, one year after the last Polish parliamentary elections, the Center for Fundamental Rights has examined and compiled the “Top 10” most serious cases in Poland that demonstrate the dismantling of the rule of law by Donald Tusk’s government.

In addition to the third Tusk cabinet’s first anniversary, a further perspective is that procedures against the previous, conservative government bore striking resemblance to similar attacks currently still under way against Hungary. Prior to 2023, Warsaw was typically the target of unfounded, politically motivated criticism, while the EU institutions repeatedly overstepped their powers in investigating so-called “rule of law” cases.

Unlike its predecessor, however, the new left-liberal, globalist Tusk government established last year is indeed a systematic violator of fundamental rights, democracy and the Polish constitutional order, and has brought about a genuine breakdown of the much-vaunted rule of law. As the Center has repeatedly emphasized, the rule of law means in essence that state bodies act in accordance with internal legislation and, above all, with their national constitutions, and it is precisely this lack of respect that Polish citizens are facing in this case.

However, despite the very clear violations in Poland, European Union institutions have resorted to their usual double standards in failing to react. In fact, they have even began disbursing EU funds that had previously been suspended on the grounds of the rule of law, despite the fact that the Tusk cabinet had only made a pledge to take the measures demanded by Brussels at the time of the decision. So, while under the right-wing Polish government, EU leaders claimed violations where they had no basis for doing so, mere promises were considered sufficient and serious violations have been ignored since the left-liberal cabinet took office. This proves once again that both the current Polish government and the EU interpret the “rule of law” as a political slogan and use it to undermine sovereignty when it suits their interests.

The Center’s research shows that the Tusk cabinet has, for example, systematically attacked opposition MPs and clerics for their political beliefs, deliberately dismantled the power-sharing system, violated legal guarantees of justice, and restricted freedom of assembly. Some of the most serious violations include the unlawful detention of opposition members of parliament, the imposition of political loyalty tests on judges, the unlawful replacement of the public prosecutor, and the literal seizure of the public media at gunpoint. But the cases detailed in this report are only the tip of the iceberg: there are many other cases, only mentioned in the report, that are destroying the fabric of democracy in Warsaw.

The Tusk government's Top 10 actions posing a systemic threat to the rule of law

1. Polish authorities subjected Father Michał Olszewski, a Catholic priest arrested for political reasons, to degrading and inhumane treatment.
2. Opposition MP Marcin Romanowski was illegally detained by authorities in breach of his immunity.
3. Two opposition MPs, Marcin Kamiński and Michał Wąsik, were convicted and arrested during an illegal break-in at the Office of the President of the Republic, despite having previously been pardoned by the Head of State.
4. The Parliament and the Government deliberately ignore the decisions of the Constitutional Tribunal, in serious violation of the principles of the separation of powers and the rule of law, as well as the provisions of the Polish Constitution.
5. The Minister of Justice has dismissed dozens of senior court officials on the basis of their political convictions, including the President of the Warsaw Court of Appeals.
6. On the government's initiative, a third of judges are to be subjected to an "independence and impartiality" test, which is in fact intended to force them into political obedience.
7. The Minister of Justice dismissed Prosecutor General Dariusz Barski, whose removal has been declared illegal by the Supreme Court. Nevertheless, the minister appointed a new Prosecutor General, also in violation of the law.
8. The government, with the help of the police and private security services, forcibly seized the public media and unlawfully dismissed its leaders. A new leadership was subsequently appointed, also in violation of the law.
9. The Sejm has made an attempt to gravely undermine the independence of the National Bank of Poland by seeking to put its President on trial in a "special court".
10. The police used disproportionate and violent force during farmers' demonstrations, thereby violating the right to freedom of assembly.

Unlawful attacks against the opposition and churches

During his detention, Father Michał Olszewski was denied food and only provided a limited amount of water for lengthy periods of time.¹ He was also not allowed to consult his lawyer, as he had requested.² This was a serious violation of the European Convention on Human Rights (ECHR) and the provisions of the Polish Constitution prohibiting inhuman or degrading treatment, as well as the right to a fair trial.

In another attack on religious institutions, the Minister of Education arbitrarily introduced changes to religious education without consulting churches, as required by the Constitution.³

¹ <https://polanddaily24.com/persecution-of-father-olszewski-a-sign-of-a-dangerous-trend-in-poland/politics/43454>

² <https://en.ordoiuris.pl/civil-liberties/fr-olszewskis-trial-continues-ordo-iuris-files-amicus-brief>

³ <https://english.katholisch.de/artikel/55674-court-halts-changes-to-religious-education-in-poland-for-the-time-being>

Several politicians representing opposition conservative parties have been unlawfully targeted by authorities under Donald Tusk's orders. Former deputy justice minister Marcin Romanowski was arrested in the summer despite his immunity as a member of the Parliamentary Assembly of the Council of Europe. He was only released after the President of the Assembly protested against the breach of immunity and a court confirmed that there was no legal basis for his arrest.⁴

A similar violation was committed by the left-liberal government in the case involving Marcin Kamiński and Michał Wąsik. The former interior minister and his deputy were pardoned by President Andrzej Duda after being prosecuted for events that took place in the 2000s. The Supreme Court ruled that the pardon was the Constitutional Tribunal overruled this and considered the head of state's decision valid and lawful, pointing out that the Supreme Court had no jurisdiction to rule on the legality of the pardon.⁵ In defiance of the Constitutional Court's decision, the two opposition MPs were convicted, stripped of their parliamentary mandates⁶ and illegally detained in the presidential palace.⁷ They were eventually pardoned by President Duda.

It is also worth mentioning the case of the unlawful search of the house of former Minister of Justice Zbigniew Ziobro, while he was in hospital receiving medical treatment for cancer.⁸

In addition, the Polish Electoral Commission withheld over PLN 900 million in state subsidies from the main opposition party PiS, jeopardizing the operation of the leading opposition force and influencing the 2025 presidential election campaign.⁹

Conscious disregard for the principle of separation of powers

The separation of powers is one of the most fundamental requirements of the rule of law and democracy, ensuring that the government and parliament act within and are bound by the law. Ensuring the principle of separation of powers is one of the main tasks of constitutional courts. The Tusk government, however, is arbitrarily and deliberately ignoring the rulings of the Polish Constitutional Tribunal¹⁰, and the governing majority in parliament has passed a resolution¹¹ declaring its rulings invalid. These actions contravene the Polish constitution, which states that the decisions of the Constitutional Tribunal are binding on all.¹² So, while the rule of law means that the organs of the state, including the government and the parliament, operate according to the law and are bound by its provisions, the left-liberal Tusk cabinet is attempting to sabotage the Constitutional Tribunal by sweeping these considerations aside due to political motivations.

⁴ <https://notesfrompoland.com/2024/09/28/court-confirms-polish-opposition-mp-has-european-immunity-and-cannot-be-detained/>

⁵ <https://obserwator-praworzadnosci.pl/en/conviction-of-two-polish-mps-in-violation-of-presidential-clemency-law-and-principle-of-separation-of-powers/>

⁶ <https://www.sejm.gov.pl/sejm10.nsf/komunikat.xsp?documentId=4E4F404D8E200C17C1258A8C0049DD47>

⁷ <https://notesfrompoland.com/2023/12/20/former-pis-ministers-given-jail-sentences-for-abuse-of-power/>

⁸ <https://rmx.news/article/homes-of-polish-opposition-politicians-raided-by-security-services/>

⁹ <https://europeanconservative.com/articles/news/polish-conservatives-forced-to-fundraise-after-public-funding-withheld/>

¹⁰ https://www.hungarianconservative.com/articles/opinion/ordo_iuris_poland_transitional_justice_liberal_takeover_elections_eu_funds_ruleoflaw/

¹¹ [https://orka.sejm.gov.pl/opinie10.nsf/nazwa/226_u/\\$file/226_u.pdf](https://orka.sejm.gov.pl/opinie10.nsf/nazwa/226_u/$file/226_u.pdf)

¹² <https://obserwator-praworzadnosci.pl/en/violation-of-the-independence-of-the-constitutional-tribunal/>

Serious violations of the independence of the judiciary

We are also seeing politically motivated, illegal actions against the judiciary.¹³ The government is arbitrarily discriminating against judges appointed after 2017,¹⁴ in violation of the Polish Constitution. The Minister of Justice has dismissed several presidents and vice-presidents of courts due to their political views¹⁵, including the president of the Warsaw Court of Appeals, Piotr Schab.¹⁶

The government plans to introduce a so-called “independence and impartiality” test for about a third of judges¹⁷, which is officially intended to screen out political bias but is in fact nothing more than an attempt to intimidate judges with a conservative worldview and bring them under liberal political influence. Genuine rule of law does not imply a government investigation of perceived or real bias among judges.¹⁸

The left-liberal leadership has also illegally interfered in the work of the prosecutor’s office. A key element of this was the removal of Prosecutor General Dariusz Barski, which involved forced entry into his office.¹⁹ Barski’s dismissal was declared illegal by the Supreme Court on the basis of an appeal by Barski,²⁰ but the Minister of Justice ignored this and appointed a new Prosecutor General before the ruling. The latter step was illegal for two reasons: firstly, because he appointed a new person to a post that was legally occupied, and secondly, because the appointment of the Prosecutor General must take into account the opinion of the President of the Republic, according to the provisions of the Polish Act on the Public Prosecutor’s Office, which was not done.²¹

Among the violations of the independence of the judiciary is the case of Prime Minister Tusk’s attempt to withdraw his countersignature on the appointment of a Supreme Court judge.²²

Government action against other independent institutions

The government’s attack on public media was one of the first measures taken by the Tusk government after taking office last December. The onslaught consisted of several elements: firstly, the replacement of the management of the public broadcaster TVP²³ by applying the rules of the media law instead of corporate law, and secondly, a violent takeover of the headquarters. The latter involved not only the police but also private security firms. Finally, the government appointed new managers to

¹³ <https://brusselssignal.eu/2024/10/tusk-calls-it-militant-democracy-as-he-rejects-and-violates-decisions-by-the-courts/>

¹⁴ <https://obserwator-praworzadnosci.pl/en/judges-of-a-worse-category/>

¹⁵ <https://obserwator-praworzadnosci.pl/en/purges-in-court-management-boards/>

¹⁶ <https://ruleoflaw.pl/the-constitutional-tribunal-with-swieczkowski-pawlowicz-and-piotrowicz-instructs-on-how-to-more-effectively-challenge-bodnars-reforms/>

¹⁷ <https://obserwator-praworzadnosci.pl/en/test-of-independence-a-means-to-make-judges-dependent/>

¹⁸ <https://brusselssignal.eu/2024/06/eu-liberals-crushing-the-law-in-poland-by-transitional-justice/>

¹⁹ <https://polanddaily24.com/breaking-attack-on-the-national-prosecutors-office-is-underway-bodnars-associates-enter-barskis-office/politics/35986>

²⁰ <https://magyarnemzet.hu/kulfold/2024/09/dontott-a-lengyel-legfelsobb-birosag-az-igazsagugyi-miniszter-altal-felmentett-allamugyeszrol>

²¹ <https://obserwator-praworzadnosci.pl/en/unlawful-appointment-of-the-national-prosecutor/>

²² <https://notesfrompoland.com/2024/09/09/controversy-as-polish-pm-revokes-signature-from-judicial-appointment/>

²³ <https://obserwator-praworzadnosci.pl/en/unlawful-attack-on-public-media/>

run TVP without referring the matter to the National Media Council, according to previous practice and as required by Polish media law.²⁴

Prime Minister Donald Tusk has also tried to illegally replace the governor of the National Bank of Poland, Adam Glapiński, with the help of coalition parties in the Sejm. This attempt has been blocked for the time being by the Constitutional Tribunal, which is also under attack, but this does not mean that the government has given up on this intention. Replacing the central bank's president would have meant bringing him before a "special tribunal", a political showdown disguised as an accountability mechanism. It is rare for an EU institution to stand up to Tusk's attacks on the rule of law, but even this has happened here, with lawyers from the European Central Bank expressing concern about interference in the independence of the National Bank of Poland.²⁵

Restrictions on freedom of assembly

Drawing on their memories of 2006, Hungarians may be familiar with the way in which Polish police, under Tusk's instructions, used violence and disproportionate force to break up a farmers' demonstration. At the event, attended by several opposition politicians, tear gas was also fired at peaceful protestors and reports from the scene suggest that police were trying to escalate the situation instead of calming it.²⁶

Also in September 2024, police carried out coordinated searches of properties belonging to several organisers of the 2018 Independence March and an opposition politician, Krzysztof Bosak, which can also be considered a violation of freedom of assembly.²⁷ According to the authorities, this was necessary because of "hate speech" at the event that took place six years earlier. However, as the march is held every year in November, there are strong suspicions that the real purpose of the police sting was to deter organizers and participants from this year's event.

²⁴ https://ecrgroup.eu/article/ecr_group_co_chairman_legutko

²⁵ <https://www.politico.eu/article/donald-tusk-campaign-oust-nbp-adam-glapiński-constitutional-clash/>

²⁶ <https://brusselssignal.eu/2024/03/polish-mp-tear-gassed-by-police-at-farmers-protest-in-warsaw/>

²⁷ <https://brusselssignal.eu/2024/09/police-raid-organisers-of-polish-independence-day-march-in-alleged-hate-speech-case/>