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THE UNLAWFUL DETENTION OF POLISH CONSERVATIVE OPPOSITION MPS UNDER THE TUSK ADMINISTRATION



Introduction

This report documents a part of unlawful and politically motivated actions taken by the Polish authorities under the left-liberal administration of Prime Minister Donald Tusk, aimed at neutralizing conservative opposition leaders, undermining the constitutional separation of powers, and weaponizing the judicial and prosecutorial systems for partisan ends.

The central focus of the report is the politically driven imprisonment of three opposition Members of Parliament: Mariusz Kamiński, Maciej Wąsik, and the author of this report, Marcin Romanowski. These detentions were carried out in direct violation of constitutional norms, statutory safeguards, and international legal protections.

The author, MP Marcin Romanowski, was detained on 15 July 2024 despite holding immunity from the Parliamentary Assembly of the Council of Europe (PACE). Prosecutors defied both domestic and international legal protections, and the case against him continues under the oversight of an unlawfully appointed National Public Prosecutor. It was only due to emergency intervention by the President of PACE that he was released.

The case of MPs Kamiński and Wąsik arose from their anti-corruption activities in 2006–2007 as senior officials of the Central Anti-Corruption Bureau (CBA). Although both were granted presidential clemency in 2015—before their convictions became final—the Supreme Court, in 2017 and again in 2023, unlawfully questioned the President’s constitutional power of clemency. Despite binding ruling of the Constitutional Tribunal upholding the President’s prerogative, both MPs were re-convicted and imprisoned in January 2024.

In defiance of court rulings and the Constitution, Marshal of the Sejm Szymon Hołownia unilaterally declared the expiration of their parliamentary mandates. Their appeals were intentionally misdirected to an incompetent chamber of the Supreme Court to ensure politically favorable outcomes. Even after the competent chamber annulled the Marshal’s decisions, both MPs were prevented from exercising their mandates and physically barred from entering the Sejm.



The Constitutional Tribunal ruled that these actions constituted gross violations of Articles 139, 96, and 190 of the Constitution, and found that the Sejm's composition was unlawfully altered—casting constitutional doubt on all legislation adopted during this period. The Tribunal also condemned the government's failure to respect the President's clemency as a direct assault on the separation of powers and the rule of law.

The detention of Kamiński and Wąsik inside the Presidential Palace on January 2024 was a particularly brazen demonstration of force and was intended to intimidate the President and send a chilling message to the entire opposition and society.

These events must not be seen in isolation. Since 2024, the Tusk administration has increasingly used prolonged pretrial detention, degrading treatment, and coercive tactics to extract testimony and suppress dissent. Even non-affiliated citizens have faced prosecution for social media posts critical of liberal politicians.

The picture that emerges is one of systemic lawfare, deliberate institutional capture, and the erosion of democratic guarantees. What is unfolding in Poland is not merely a domestic political crisis—it is a test case for how autocratic tactics can be implemented under the veneer of legality within a European Union member state.

The lawlessness currently unfolding in Poland is without precedent since the fall of communism and marks a systemic departure from the democratic norms and rule-of-law principles that underpinned the country's post-1989 transformation.

It is imperative that the international community pays close attention to these events: the abuses committed by Tusk's globalists administration are not isolated or accidental; they are part of a broader trend—Poland has become a testing ground for the aggressive implementation of liberal autocracy, where democratic institutions and state apparatus are weaponized and used as instruments of political repression. Similar mechanisms have been employed in France, against Hungary, another European countries and, notably, in politically motivated proceedings against Donald Trump in the United States. Such actions—driven by globalist agendas—are no longer aberrations but increasingly represent the modus operandi of those seeking to eliminate dissent under the guise of legality.



One striking illustration of the situation in Poland after one year of left-liberal governance is the criminal complaint filed by the President of the Constitutional Tribunal, Judge Bogdan Świączkowski, on 31 January 2025¹. This formal notification alleged the operation of an organized criminal group involving, among others, Prime Minister Donald Tusk, Minister of Justice and Prosecutor General Adam Bodnar, Marshal of Sejm Symon Hołownia, other senior officials, MPs, and senators from the ruling coalition. The group was suspected of committing offences under Articles 127 and 128 of the Polish Criminal Code—namely, using force to alter the constitutional order of the state and unlawfully interfering with the functioning of constitutional organs, including the Constitutional Tribunal, the National Council of the Judiciary, and the Supreme Court. These acts, which strike at the foundations of constitutional democracy, are punishable by long-term imprisonment or even life sentences.

The President of the Constitutional Tribunal accused the officials of left-liberal administration of deliberately delegitimizing the Tribunal's rulings, obstructing its operations, undermining the legal status of its judges, questioning the legitimacy of Supreme Court judges (notably from the Chamber of Extraordinary Review and Public Affairs responsible for examination of validity of elections), and unlawfully refusing to publish the Tribunal's decisions in the Official Journal—an act executed by the Government Legislation Centre.

These serious allegations were supported by testimony from the Presidents of the Constitutional Tribunal and the Supreme Court, the Chairperson of the National Council of the Judiciary, and the Chair of the National Broadcasting Council. Preparatory proceedings were initially launched by Deputy Prosecutor General Michał Ostrowski, who was independent of the Tusk administration. However, Prosecutor General Bodnar unlawfully took over the investigation and initiated criminal proceedings against Ostrowski himself. Despite this, a substantial portion of the evidentiary process was completed.

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https://trybunal.gov.pl/fileadmin/content/uroczystosci_spotkania_wizyty/2025/2025_02_24/NOTIFICATION_of_31_January_2025_translated_from_Pol_into_Eng_.pdf (Accessed on 20 May 2025).



While these are critical and far-reaching developments, the present report focuses on a specific manifestation of this institutional collapse: the blatant and politically motivated deprivation of liberty of opposition parliamentarians.

This issue must not be mischaracterized as a matter of MPs seeking privilege or impunity. On the contrary, the requirement that parliamentary consent be obtained before initiating criminal proceedings against a sitting MP is a vital constitutional safeguard—it protects Parliament from undue pressure by the executive and judiciary, and ensures the integrity of democratic processes. The violation of this principle by the Tusk administration is not merely an instance of lawfare targeting the conservative opposition; it is a deliberate attempt to weaponize state institutions to intimidate both elected officials and the general public. The underlying message is unmistakable: *if we can illegally imprison MPs with impunity, imagine what we can do to you.*

To a large extent, this tactic has been effective. Polish society has been in the first months of Tusk government intimidated. The constitutional system of checks and balances has been systematically dismantled, with key state institutions brought under the direct political control of the left-liberal establishment. The judiciary and prosecution service have been unlawfully subordinated to the political influence, and the entire machinery of the state has been turned into a tool of repression.



1. Illegal detention of MP Marcin Romanowski

At this point, I will only briefly signal the issue of the unlawful deprivation of liberty in my case². I myself was detained on 15 July 2024, in blatant violation of international law, despite being protected by the immunity granted to members of the Parliamentary Assembly of the Council of Europe (PACE). In this report, I would like to focus on the earlier case—namely, the unlawful imprisonment in January 2024 of two other opposition MPs, Mariusz Kamiński and Maciej Wąsik, in circumstances that constituted a blatant violation of statutory law, a ruling of the Constitutional Court, and the Constitution itself.

In my case, the process was initiated when the unlawfully appointed National Prosecutor³ submitted a request to the Sejm seeking authorization to prosecute and arrest me. In a state governed by the rule of law, I would have willingly waived my immunity had there been any legitimate grounds for suspicion. However, in this instance, I deliberately chose not to do so—so that those who voted in favor of this unlawful request would be held fully accountable for their actions. Despite numerous arguments highlighting both the lack of legal authority of the acting National Prosecutor and the absurdity as well as legal defects in the charges⁴, Marshal of the Sejm Szymon Hołownia forwarded the motion for further proceedings, and it was approved by MPs of the ruling coalition.

What followed was an outright breach of domestic and international law. On 15 July 2024, I was detained—despite the fact that I continued to enjoy immunity under the rules of PACE. I explicitly invoked this immunity, yet prosecutors proceeded with the charges and carried out the detention. Their justification rested on two so-called legal “opinions” commissioned by

² A detailed account of my case, including procedural and substantive irregularities, presented in the context of political persecution, was outlined, among other things, in a separate lecture delivered for the Institute of World Politics (IWP): <https://youtu.be/uvwMPwWzflw?si=jCmA1JvujsgsZAWA> (Accessed on 20 May 2025).

³ The issue of the unlawful takeover of the National Public Prosecutor’s Office and regional prosecutorial units was discussed in detail in a separate lecture delivered for the Institute of World Politics (IWP): https://youtu.be/SJMw_ogQDsk?si=PfLpbCIKVizPvl4- (Accessed on 20 May 2025).

⁴ As a side note, it is worth noting that none of the charges concern corruption or any form of material benefit. The only “personal gain” alleged by the prosecution is the satisfaction I supposedly derived from allocating funds to conservative and Christian-oriented projects (which were properly implemented), as they were fully aligned with my personal convictions.



Deputy Minister of Justice Arkadiusz Myrcha, crafted solely to support a preordained political objective.

Only thanks to the unprecedented and swift intervention of the President of PACE—himself a member of the European People’s Party, like Donald Tusk—was I released from custody. I subsequently filed a formal criminal complaint against officials responsible for depriving my liberty: the members of the prosecutorial team, including prosecutors Piotr Woźniak, Marcin Wielgomas, Ryszard Pęgal, Andrzej Tokarski, and Marzena Kowalska (who led the team), as well as (illegal) National Prosecutor Dariusz Korneluk and Prosecutor General Adam Bodnar. The complaint also covered the unlawful fabrication of legal justifications for my detention by Arkadiusz Myrcha and the authors of the “opinions,” prof. Joanna Juchniewicz and prof. Andrzej Jackiewicz.

Despite three separate court rulings confirming the obvious unlawfulness of my detention, and repeated formal demands, criminal proceedings were initiated only six months later—in early 2025—by which time I had already been granted political asylum in Hungary. The case has since been internationalized. Yet even this belated move was merely a façade, aimed at projecting an illusion of legality. Crucial evidence—such as content from email and WhatsApp communications—was deliberately excluded from the proceedings. Meanwhile, the investigation was transferred from the Warsaw District Prosecutor’s Office to the Internal Affairs Department of the National Public Prosecutor’s Office, ensuring tighter political control under the unlawfully appointed National Prosecutor.

The extent to which international law and Council of Europe standards were violated is deeply alarming. Yet what is equally disturbing is the broader context, which is increasingly overlooked. In the early weeks of Tusk’s administration—in December 2023 and January 2024—a series of unlawful actions were undertaken that culminated in the revocation of parliamentary mandates and the imprisonment of two sitting opposition MPs: Mariusz Kamiński and Maciej Wąsik, both former Ministers of the Interior.

Their detention constitutes a textbook case of politically motivated lawfare, involving compliant judges—from both the Supreme Court and the regional court—and blatantly



unlawful decisions by the Marshal of the Sejm, acting on behalf of the ruling left-liberal coalition.

This report aims to document and analyze these developments in detail. It provides legal context, procedural analysis, and a factual chronology to demonstrate how, under the guise of legality, democratic norms and constitutional safeguards are being systematically dismantled in Poland.

2. Background of the Criminal Case against MPs Kamiński and Wąsik

The origins of the criminal proceedings against Members of Parliament Mariusz Kamiński and Maciej Wąsik date back over a decade, to the period of the first liberal government of Donald Tusk (2007–2015). The charges brought against them stemmed from actions undertaken in 2006–2007, during their leadership of the Central Anti-Corruption Bureau (CBA)—with Kamiński serving as its Head and Wąsik as his Deputy. Both were key architects of the institution, established under the first conservative Law and Justice government (2005–2007).

The prosecution, operating under the Tusk administration, brought charges in connection with the so-called “land exchange affair.” This case arose from a special operation conducted by the CBA, which suspected that high-ranking politicians from the coalition partner party *Samoobrona* (Self-Defense) were engaged in unlawful administrative activities, particularly in relation to decisions issued by the Ministry of Agriculture regarding changes in land-use designations.

As part of the operation, undercover CBA agents approached public figures with offers involving corrupt transactions, aiming to collect evidence of criminal conduct. However, the prosecution under the Tusk government concluded that the operation did not constitute a legitimate anti-corruption initiative, but rather amounted to an unlawful provocation intended to fabricate a crime. According to the prosecutors, the CBA leadership had exceeded the legal boundaries of intelligence operations.



The charges against Kamiński and Wąsik were primarily based on Article 231 §1 of the Polish Criminal Code, which criminalizes abuse of power by a public official. Under this provision, a public official who exceeds their authority or fails to perform their duties, thereby causing harm to public or private interests, is subject to a penalty of up to three years' imprisonment.

In substance, however, the proceedings represented a form of political retribution by the left-liberal establishment that governed Poland from 2007 to 2015, targeting the individuals who had built and led the newly established anti-corruption agency during the prior conservative administration.

On 30 March 2015, the District Court for Warsaw-Śródmieście found that the CBA's leadership had exceeded their authority by initiating an operation in breach of procedural standards and by directing covert actions at individuals against whom there was insufficient basis for suspicion.

The District Court sentenced both Kamiński and Wąsik to three years of unconditional imprisonment and imposed a ten-year ban on holding public office. The judgment was appealed and had not yet become final when the President of the Republic of Poland, Andrzej Duda, exercised his constitutional clemency power and issued a pardon in the form of *abolitio criminis* (individual abolition). This act should have brought the proceedings to a definitive close.

Nevertheless, this decision triggered a prolonged constitutional and procedural dispute, which persisted until 2024 and ultimately resulted in the unlawful detention of the two MPs for several weeks.



3. Presidential Pardon

On 16 November 2015, President Andrzej Duda, acting pursuant to Article 139 of the Constitution of the Republic of Poland, granted a presidential pardon to Mariusz Kamiński and Maciej Wąsik. The pardon took the form of an *abolitio criminis*—that is, it was issued during the course of ongoing criminal proceedings and prior to the issuance of a final judgment. As a direct consequence of the exercise of this constitutional prerogative, the criminal proceedings against both individuals were formally discontinued.

Article 139 of the Polish Constitution provides: "The President of the Republic of Poland shall have the power of clemency. This power shall not apply to individuals convicted by the State Tribunal."

In light of the clear wording of this provision, the exercise of clemency in the form of individual abolition had never previously been questioned in Polish legal practice—neither in terms of its admissibility nor its procedural consequences. The President's right to intervene at any stage of criminal proceedings, including by means of a pardon issued prior to a final conviction, was broadly accepted as a legitimate and constitutionally grounded expression of executive clemency.

Furthermore, the analogous practice of *general abolition*—implemented via acts of Parliament—has never been subject to constitutional challenge. The legitimacy of *individual abolition* was thus consistent with both established constitutional doctrine and longstanding jurisprudential practice, and had not elicited objection from either judicial institutions or the wider community of legal scholars.

Following the presidential pardon, the Warsaw Regional Court, acting as the court of second instance, reviewed the appeal against the earlier District Court judgment. On 30 March 2016, the court unequivocally recognized the clemency as legally valid and effective⁵. Accordingly, it overturned the prior conviction and formally discontinued the proceedings against Kamiński

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[https://orzeczenia.warszawa.so.gov.pl/content/w\\$0105sik\\$0020kami\\$0144ski/154505000003006_X_Ka_000057_2016_Uz_2016-04-01_001](https://orzeczenia.warszawa.so.gov.pl/content/w$0105sik$0020kami$0144ski/154505000003006_X_Ka_000057_2016_Uz_2016-04-01_001).



and Wąsik. The legal basis for discontinuation was Article 17 §1 point 11 of the Polish Code of Criminal Procedure, which precludes further prosecution where another legal circumstance excludes it—in this instance, the presidential pardon.

Under these legal and factual circumstances, the case was conclusively closed: neither Kamiński nor Wąsik was ever lawfully convicted, and the proceedings were discontinued in accordance with applicable law.

It was only at a later stage that the validity of this form of clemency was controversially challenged by the Supreme Court—marking the first time in post-1989 Poland that a presidential pardon had been subjected to such scrutiny. This challenge lacked foundation in the constitutional framework governing the exercise of clemency and represented a radical and unprecedented departure from prior legal consensus.

4. Actions of the Supreme Court

Following the judgment of the Warsaw Regional Court in March 2016—which, in light of the exercise of the President's clemency power, discontinued criminal proceedings against Mariusz Kamiński and Maciej Wąsik—a cassation appeal was submitted to the Supreme Court by legal representatives of the auxiliary (subsidiary) prosecutors (ref. II KK 313/16). This action triggered a series of politically motivated steps undertaken by judges associated with left-liberal circles, which resulted in a direct challenge to the President's constitutional prerogative and violations of the Polish Constitution.

During the course of the cassation proceedings, on 7 February 2017, the Supreme Court submitted a legal question to a panel of seven judges. The inquiry concerned whether the President of the Republic may exercise the clemency power prior to a final conviction—that is, through *abolitio criminis*—and what legal consequences would result from a potential overreach of this prerogative.

On 31 May 2017, the Supreme Court, sitting in a seven-judge panel, adopted a resolution (ref. I KZP 4/17) stating: "The power of clemency (...) may be exercised solely with respect to



persons whose guilt has been confirmed by a final and binding court judgment (convicted persons)."⁶

The panel consisted of Justices Jarosław Matras (presiding, rapporteur), Jerzy Grubba, Dariusz Kala, Przemysław Kalinowski, Zbigniew Puskarski, Dorota Rysińska, and Barbara Skoczowska. Notably, no dissenting opinions were filed, indicating that none of the judges formally objected to the resolution—despite its clear and direct inconsistency with the text and established interpretation of Article 139 of the Constitution.

As a reminder, Article 139 of the Constitution provides: "The President of the Republic of Poland shall have the power of clemency. This power shall not apply to individuals convicted by the State Tribunal."

The resolution marked a significant departure from previously unchallenged constitutional and legal practice, which had consistently affirmed the President's authority to issue pardons at any stage of criminal proceedings, including prior to a final judgment. By adopting this resolution, the Supreme Court effectively challenged the validity and legal effect of the President's pardon issued in November 2015—asserting that a pardon granted before a final conviction could not produce binding legal consequences.

This judicial position gave rise to a constitutional dispute. On 8 June 2017, the Marshal of the Sejm filed an application with the Constitutional Tribunal seeking a resolution of a competence dispute between the President and the Supreme Court (ref. Kpt 1/17). Under applicable law, the submission of such an application automatically suspends all related proceedings pursuant to Article 86(1) of the Act on the Constitutional Tribunal.

Despite this legally binding suspension, on 28 February 2023, the Supreme Court unilaterally resumed the cassation proceedings—an act that the Constitutional Tribunal later described as a flagrant breach of the law and a direct violation of the constitutional principle of the rule of law, enshrined in Article 2 of the Constitution.

⁶ <https://www.sn.pl/sites/orzecznictwo/OrzeczeniaHTML/i%20kzp%204-17.docx.html> (Accessed on 20 May 2025).



Subsequently, on 6 June 2023, the Supreme Court (ref. II KK 96/23)⁷ overturned the 2016 judgment of the Warsaw Regional Court—which had previously discontinued the proceedings based on the presidential pardon—and remanded the case for reconsideration. The judgment was issued by a panel of three justices: Andrzej Stępką (presiding), Małgorzata Gierszon, and Piotr Mirek (rapporteur). Once again, no dissenting opinions were submitted.

As a result, on 20 December 2023, the Warsaw Regional Court (ref. X Ka 613/23)⁸ issued a renewed judgment, convicting Mariusz Kamiński and Maciej Wąsik. Both MPs were sentenced to two years of unconditional imprisonment and were subjected to five-year bans on holding public office. The verdict was rendered by Judges Anna Bator-Ciesielska and Grzegorz Miśkiewicz—again, without dissenting opinions.

It is critical to emphasize that this judgment was issued after the Constitutional Tribunal, in its ruling of 2 June 2023⁹, had reaffirmed the constitutional nature of the President's clemency power, holding that "The power of clemency is the exclusive and non-reviewable competence of the President of the Republic of Poland and produces immediate and binding legal effects. The Supreme Court has no authority to review or invalidate the exercise of that power."

Accordingly, the renewed judgment issued by the Warsaw Regional Court in December 2023 directly contravened a binding ruling of the Constitutional Tribunal, whose decisions are universally applicable and final under the Constitution.

Both the 2017 resolution of the Supreme Court and its subsequent actions in 2023 were deemed by the Constitutional Tribunal to constitute gross violations of the constitutional legal order. In particular, they represented attempts to interfere with the exercise of the President's prerogative, as well as a deliberate disregard for the procedural consequences of a pending competence dispute—namely, the suspension of proceedings required by law.

⁷ <https://www.sn.pl/wyszukiwanie/SitePages/orzeczenia.aspx?Sygnatura=II%20KK%2096/23> (Accessed on 20 May 2025).

⁸ [https://orzeczenia.warszawa.so.gov.pl/content/\\$N/154505000003006_X_Ka_000613_2023_Uz_2024-05-10_001](https://orzeczenia.warszawa.so.gov.pl/content/$N/154505000003006_X_Ka_000613_2023_Uz_2024-05-10_001) (Accessed on 20 May 2025).

⁹ <https://ipo.trybunal.gov.pl/ipo/Sprawa?cid=2&dokument=23624&sprawa=19312> (Accessed on 20 May 2025).



6. Actions of the Marshal of the Sejm

The unlawful actions of the judiciary were followed by an equally grave constitutional violation committed by the Marshal of the Sejm, Szymon Hołownia, elected in the autumn of 2023 by the left-liberal parliamentary majority. Despite the binding clemency granted by the President of the Republic of Poland on 16 November 2015 in favour of Mariusz Kamiński and Maciej Wąsik, and despite subsequent rulings of the Constitutional Tribunal confirming the legal effectiveness of that presidential act, the Marshal of the Sejm issued formal decisions on 21 December 2023 declaring the expiration of both MPs' parliamentary mandates.

These actions were taken with full awareness that the prior exercise of presidential clemency rendered it legally impossible to consider a final conviction as having occurred—an essential condition under Polish law for the termination of a parliamentary mandate. The political motivation underlying the Marshal's decisions is underscored by the extraordinary haste with which they were issued—merely one day after the Warsaw Regional Court's ruling of 20 December 2023.

The President of the Republic of Poland formally addressed the Marshal of the Sejm, reaffirming the legal force and consequences of the clemency act, and explicitly stating that no legal basis existed to declare the expiration of the mandates. This intervention was disregarded, and formal notice of the decisions was delivered to both MPs on 28 December 2023.

On 29 December 2023, MPs Kamiński and Wąsik submitted appeals against the Marshal's decisions. Their submissions identified the Chamber of Extraordinary Review and Public Affairs of the Supreme Court as the competent appellate body, pursuant to Article 26 §1 point 11 of the Act on the Supreme Court. As required by law, the appeals were submitted via the authority that issued the challenged decision, which is then obliged either to revoke its decision or forward the matter to the competent judicial body.

Contrary to this obligation, the Marshal of the Sejm referred the appeals to the Labour and Social Insurance Chamber of the Supreme Court, a body lacking jurisdiction in such matters. This was done bypassing the Supreme Court's central registry. The Constitutional Tribunal



later deemed this manoeuvre unlawful and contrary to the principle of the rule of law. Notably, the appeals were physically delivered to the Supreme Court by Stanisław Zakroczyński, Director General of the Marshal's Cabinet, who personally handed the documents to the President of the Labour Chamber—bypassing official intake procedures. Upon order of the President of that Chamber, the case was registered under file number II PUO 1/24, despite the clear indication that it was addressed to the Chamber of Extraordinary Review and Public Affairs.

This procedural irregularity was politically motivated. At the time, the President of the Labour Chamber, Judge Piotr Prusinowski, was widely viewed as politically aligned with the left-liberal ruling bloc and associated with activist judicial circles.

In the matter of Maciej Wąsik's appeal, on 4 January 2024, a judge sitting in the Labour Chamber recognised the Chamber's lack of jurisdiction and referred the case to the appropriate Chamber of Extraordinary Review and Public Affairs, in accordance with the applicable statutory provisions.¹⁰

Separately, due to the unlawful conduct of the Marshal of the Sejm, both Kamiński and Wąsik filed duplicate appeals directly with the Supreme Court, which were properly registered and assigned according to standard judicial procedure.

On 4 and 5 January 2024, the Supreme Court, sitting in its proper composition within the Chamber of Extraordinary Review and Public Affairs, issued rulings annulling the Marshal's decisions, holding that neither formal nor substantive legal grounds existed for declaring the expiration of the parliamentary mandates of Mariusz Kamiński¹¹ and Maciej Wąsik¹². The Court emphasized that the 2015 presidential pardon nullified the legal consequences of any

¹⁰ <https://www.sn.pl/sites/orzecznictwo/OrzeczeniaHTML/ii%20puo%201-24.docx.html> (Accessed on 20 May 2025).

¹¹ <https://www.sn.pl/sites/orzecznictwo/OrzeczeniaHTML/i%20nsw%201267-23.docx.html> (Accessed on 20 May 2025).

¹² <https://www.sn.pl/sites/orzecznictwo/OrzeczeniaHTML/i%20nsw%201268-23.docx.html> (Accessed on 20 May 2025).



conviction *ex tunc* and affirmed that a conviction alone does not automatically trigger the loss of electoral eligibility under the Constitution or the Electoral Code.

Despite the binding nature of these rulings, Marshal Hołownia publicly declared that he had referred the matter to the Labour Chamber and was awaiting its responses—effectively refusing to recognise the authority of the competent chamber of the Supreme Court.

In open defiance of those rulings, on 5 January 2024, the Marshal of the Sejm ordered the deactivation of Kamiński and Wąsik's parliamentary voting cards. As of 25 January 2024, both MPs were physically prevented from entering the Sejm chamber to participate in legislative sessions.

Meanwhile, in the case of Kamiński's appeal—improperly transferred to the Labour Chamber through extralegal channels—the matter was reviewed on 10 January 2024 by a panel of three judges: Bohdan Bieniek (presiding), Jolanta Frańczak (rapporteur), and Dawid Miąsik¹³. The panel, once again issuing its ruling without dissent, rejected the appeal and held that the Marshal's decision was valid, asserting that the 20 December 2023 conviction automatically triggered the expiration of the parliamentary mandate.

This judgment was issued in flagrant violation of both statutory and constitutional law. Together with the actions of the Marshal of the Sejm, it resulted in the unlawful deprivation of two elected MPs of their mandates. The Constitutional Tribunal subsequently held that the conduct of the Supreme Court judges involved—along with that of the Marshal—constituted a gross violation of the rule of law and a direct assault on the constitutional integrity of the Sejm. As a consequence, the legality of the Sejm's legislative activity during this period was called into serious question.

¹³ <https://www.sn.pl/sites/orzecznictwo/OrzeczeniaHTML/ii%20puo%202-24.docx.html> (Accessed on 20 May 2025).



7. Assessment by the Constitutional Tribunal

In its assessment of the actions taken by state authorities against Members of Parliament Mariusz Kamiński and Maciej Wąsik, the Constitutional Tribunal delivered a definitive constitutional interpretation concerning the nature of the presidential power of clemency and the permissible scope of interference by other branches of government in the exercise of that power.

In its judgment of 2 June 2023 resolving the competence dispute¹⁴ (as in its subsequent rulings)¹⁵, the Tribunal held that the power of clemency, enshrined in Article 139 of the Constitution of the Republic of Poland, constitutes an exclusive, personal, and non-reviewable prerogative of the President. It is a sovereign competence exercised solely by the Head of State, without the participation of any other authority and without the need for counter-signature. As a result, no institution—particularly a court—has the authority to assess the validity, effectiveness, or appropriateness of an act of clemency, regardless of the form it takes, including *abolitio criminis* (individual abolition).

Consequently, the Tribunal found that the actions of the Supreme Court—both its 2017 resolution and its 2023 judgment—constituted gross violations of Article 139 of the Constitution. In addition, the Supreme Court's actions infringed upon other core constitutional principles, including the principle of a democratic state governed by the rule of law (Article 2), the principle of legality (Article 7), the separation of powers (Article 10) and the principle of the binding and final nature of Constitutional Tribunal rulings (Article 190(1)).

The Constitutional Tribunal also unequivocally confirmed that the Chamber of Extraordinary Review and Public Affairs of the Supreme Court was the only constitutionally and statutorily competent authority to adjudicate the appeals submitted by MPs Kamiński and Wąsik against the Marshal of the Sejm's decisions declaring the expiration of their mandates. The judgments

¹⁴ <https://ipo.trybunal.gov.pl/ipo/Sprawa?cid=2&dokument=23624&sprawa=19312> (Accessed on 20 May 2025).

¹⁵ See the consistent line of the Constitutional Tribunal's jurisprudence, including the judgment of 19 June 2024 (ref. K 7/24), the judgment of 10 September 2024 (ref. U 4/24), and the judgment of 26 November 2024 (ref. K 14/24).



issued by that Chamber on 4 and 5 January 2024, annulling the Marshal's decisions, were final, binding, and legally effective. The Marshal of the Sejm was constitutionally obligated to implement them.

Instead, as established by the Tribunal, the Marshal of the Sejm disregarded the binding rulings of the Supreme Court, submitted for publication in the *Monitor Polski* the decision declaring the expiration of Mariusz Kamiński's mandate—even though the judgment had already been annulled and failed to reinstate both MPs to the exercise of their parliamentary functions. These actions were deemed manifestly unlawful and constituted active violations of the constitutional order.

In the Tribunal's view, the Marshal's conduct led to a breach of the constitutional composition of the Sejm, as defined in Article 96(1) of the Constitution, which explicitly states that the Sejm shall consist of 460 deputies. The unlawful exclusion of two duly elected MPs—Mariusz Kamiński and Maciej Wąsik—resulted in the factual reduction of the Sejm's composition and thereby compromised its constitutional legitimacy¹⁶.

As a direct consequence, the Sejm proceeded to deliberate and vote on legislation as a body that was unconstitutionally constituted. According to the Tribunal, this rendered all legal acts and resolutions adopted during that period constitutionally defective. Laws passed under these conditions were tainted by a fundamental legal flaw, as they were adopted by a legislative body composed in violation of the Constitution.

The circumstances surrounding the detention of Mariusz Kamiński and Maciej Wąsik on 9 January 2024 inside the Presidential Palace—where they were present at the invitation of President Andrzej Duda—constituted a particularly striking demonstration of force. During the President's temporary absence, more than a dozen police officers entered the official seat of the Head of State, violating restricted security zones and recording the operation with body cameras, thereby potentially compromising classified aspects of the building's security

¹⁶ This state of affairs persisted for several months, until Mariusz Kamiński and Maciej Wąsik assumed their mandates as Members of the European Parliament, which they obtained as a result of the elections held on 9 June 2024.



system. The location of the arrest was clearly the result of a deliberate, high-level political decision aimed at intimidating the President, the opposition, and citizens critical of the Tusk administration.

The unlawful imprisonment of MPs Kamiński and Wąsik lasted for more than two weeks. During this time, widespread public protests erupted across the country in opposition to the government's abuse of power and to the violation of parliamentary immunity. Both detained MPs initiated a hunger strike in protest.

At the very outset of their imprisonment, President Andrzej Duda—acting on humanitarian grounds—initiated a second clemency procedure, despite maintaining his consistent legal position that the 2015 clemency act remained fully effective and that all subsequent actions by the judiciary, the Marshal of the Sejm, and other state officials were unlawful.

The procedure, which included the transfer of case files and the statutory consultation of the Minister of Justice, lasted approximately two weeks. During this period, the Minister of Justice refused to exercise his legal authority to suspend the execution of the sentence—despite a formal request from the President of the Republic.

On the final day of Mariusz Kamiński's imprisonment, prison authorities carried out a forced-feeding procedure, despite the presence of documented medical contraindications. This act, performed against the will of a hunger-striking detainee and in violation of medical ethics and human dignity, must be classified as an act of torture under both domestic and international legal standards.



Summary

In conclusion, it must be stated that the unlawful detention of myself, as well as that of Members of Parliament Mariusz Kamiński and Maciej Wąsik, constitutes a clear and politically motivated violation of the law. These actions represented a calculated show of force, designed not only to neutralize key figures within the conservative opposition but also to send a broader signal to society: that even elected representatives, protected by constitutional immunities, may be subjected to arbitrary and groundless state repression. The objective of such actions was unmistakable—to intimidate the opposition, delegitimize alternative political visions, and suppress non-liberal political activity. The message conveyed to citizens was unambiguous: no one is safe from politically driven prosecution.

Throughout 2024 and into 2025, these repressive tactics have continued under the left-liberal administration of Prime Minister Tusk. Prolonged pretrial detentions, serious procedural violations, and inhumane treatment—often aimed at coercing false or politically convenient testimony—have become a hallmark of politically sensitive cases. In several of these instances, even the Ombudsman, typically aligned with the left-liberal political camp, has issued critical reports¹⁷. Moreover, the European Court of Human Rights (ECtHR) has accepted cases for adjudication concerning allegations of torture and degrading treatment¹⁸.

Notably, this campaign of repression has not been limited to political figures. Individuals with no party affiliation have also been targeted—simply for expressing critical views of liberal public figures on social media. These actions reflect a broader autocratic trajectory. The repression of opposition politicians is only the first stage. It is followed by the dismantling of fundamental rights: freedom of speech, freedom of the press, and ultimately, the persecution of ordinary citizens.

¹⁷ See the extensive statements regarding Father Michał Olszewski: <https://bip.brpo.gov.pl/pl/content/komunikat-sprawa-ks-michala-o-brpo> and the two former officials from the Ministry of Justice, Urszula Dubejko and Karolina Kucharska: <https://bip.brpo.gov.pl/pl/content/komunikat-traktowanie-urzedniczki-ms-zatrzymanie> on the Polish Ombudsman's website (Accessed on 20 May 2025).

¹⁸ See e.g. application number 6726/25.



The developments documented in this report offer a stark warning. Under the pretext of legality, the state apparatus is being instrumentalized to silence dissent and consolidate ideological control. The unlawful detention of MPs, the defiance of constitutional rulings, and the politicization of prosecutorial and judicial institutions reveal a profound erosion of the rule of law in Poland under the current administration.