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Blessings on them both we crave."



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## **EU LEGAL HYPOCRISY IN WEAPONIZING THE RULE OF LAW**

Critical Assessment of the 2025 European Commission Report  
on the Rule of Law in Poland



## **Executive Summary**

The European Commission recently published its annual rule of law report. [1] The report repeatedly highlights, for the umpteenth time, that Brussels turns a blind eye to the most serious violations of the rule of law in Poland, where the globalist Tusk government is "restoring the rule of law" using methods reminiscent of the darkest days of communism. The Commission also turns a blind eye when, as is well known worldwide, the authorities in Ukraine repeatedly commit crimes against their own population, violate the most fundamental international human rights obligations, and do not even respect their own constitution and laws. It is well known, among other things, that violent forced relocation is taking place in Ukraine, which also affects the Hungarian community in Transcarpathia, and during which at least one Hungarian citizen was beaten so badly that he later died from his injuries – the authorities have since tried to downplay and obscure the case "within the framework of the rule of law." In fact, in the case of Ukraine, it is not just about this, but they are also trying to push forward the country's accession to the EU at a rapid pace. Kiev is reinforcing the latter by attempting to use secret service tools to interfere in the most fundamental issues of Hungarian domestic politics by helping the Tisza Party's campaign, which supported our eastern neighbor's accession to the European Union with a petition and a mobilization organized around it. Meanwhile, the bureaucratic elite in Brussels continues to harass Hungary because, in order to protect themselves and the whole of Europe, they said no to migration, gender ideology, war, and the economic, societal, and social suicide that Brussels would commit by admitting Ukraine into the EU. All this shows that the principle of the rule of law, as interpreted by the European Commission, has lost its original constitutional and human rights content and has instead become an ideological weapon. It has become a tool that EU institutions use as a political attack against those member state governments that do not conform to the left-liberal or globalist agenda.

The European Commission affirms—or at minimum tacitly endorses—the so-called "restoration of the rule of law" in Poland through actions that blatantly violate the Constitution and statutory law, many of which constitute serious crimes against the state or official misconduct punishable by significant prison terms.

The report fails to acknowledge that the Minister of Justice dismissed the Disciplinary Officer for Judges of Ordinary Courts and his deputy in gross violation of binding statutory provisions that explicitly preclude such actions.

It accepts without question that the Minister of Justice dismissed court presidents and vice-presidents, entirely ignoring a binding ruling of the Constitutional Tribunal and applicable legal norms, which prohibit the arbitrary shortening of their terms of office.



It does not object to the fact that the Supreme Court, the National Council of the Judiciary, and the Constitutional Tribunal have been deprived of the budgetary resources essential for their proper functioning—an act that constitutes a serious criminal offense tantamount to the de facto dismantling of constitutional organs of the state. The report even goes so far as to approve or affirm the obstruction of these constitutional bodies.

It fails to acknowledge the problem posed by the refusal to publish rulings of the Constitutional Tribunal and the refusal of the Minister of Justice to announce open judicial vacancies, which has resulted in the paralysis of the judiciary.

It cites statistical data suggesting improved judicial efficiency—data that in fact pertains to the period of government by the Law and Justice (PiS) party. The report makes no mention of the fact that the current government has not published any judicial statistics for over a year and a half, thereby concealing the dramatic decline in judicial performance resulting from the destructive actions of the current Ministry of Justice leadership.

The report expresses satisfaction that significant progress has allegedly been made toward ensuring the functional independence of the prosecution service from the government—despite the fact that it was unlawfully seized through the use of force and purges that starkly contradict the very principle of prosecutorial independence.

It repeats falsehoods regarding the suspension of Deputy Prosecutor General Michał Ostrowski, allegedly due to his initiation of proceedings in breach of statutory law. The report omits the crucial fact that the proceedings in question were initiated on the basis of a complaint filed by the President of the Constitutional Tribunal and concerned actions—including by the Prosecutor General himself—that bore the hallmarks of a constitutional coup. The claim that the initiation of proceedings was unlawful is a blatant lie fabricated by the Prosecutor General, who is one of the main suspects in the case.

It fails to recognize the illegal denial of public funding to Law and Justice (PiS), the largest opposition party, intended to block its operations and, in particular, to obstruct its ability to run an effective campaign in the 2025 presidential election.

Especially egregious is Chapter III of the report, concerning media, pluralism, and freedom of expression. It attacks constitutional bodies tasked with safeguarding media freedom, such as the National Broadcasting Council (KRRiT), while uncritically praising the government's unlawful actions, including the violent and illegal takeover of public media. The Report describes the overt politicization of public media messaging as "introducing pluralism," while ignoring attacks on independent journalists, blackmail of editorial offices, attempts to strip conservative media of their licenses, and pressure exerted on advertisers not to cooperate with independent outlets. It also disregards the fact that, in violation of an interim order



issued by the Constitutional Tribunal, proceedings are being conducted to bring the chairman of National Broadcasting Council before the State Tribunal on baseless charges—solely in order to suspend him and paralyze the constitutional body responsible for defending freedom of speech and media pluralism in Poland.

## **Introduction**

It is particularly telling that at a time when Poland is facing further announced attacks on its constitutional bodies—including threats to the office of the President and to the National Broadcasting Council, which protects freedom of expression—the European Commission has published a Rule of Law Report that effectively affirms the lawlessness introduced by globalist forces since December 13, 2023, and that constitutes a disturbing eulogy to liberal autocracy. This report is exceptionally scandalous, serving as a textbook example of condoning and legitimizing the most egregious violations of law, committed under the pretext of restoring the rule of law allegedly breached by a conservative government. In the eyes of the Commission, the “reconstruction” of the rule of law in Poland consists entirely of actions by Donald Tusk’s left-liberal government that flagrantly violate the Constitution and statutes and that also meet the criteria for the gravest crimes against the Republic of Poland.

The European Commission, which during the time of the United Right government in Poland exploited every possible instrument to force regime change in Warsaw, now actively endorses the actions of the current left-liberal coalition aimed at dismantling the legal order in order to justify, through unlawful means, the erasure of the legislative achievements of the previous conservative administration—even when such actions amount to a constitutional coup, are accompanied by physical violence, open violations of the Constitution and statutory law, coercive pre-trial detentions, degrading and inhumane treatment of those unjustly imprisoned, and even psychological torture, as partially acknowledged by the Polish Ombudsman and now pending before the European Court of Human Rights<sup>1</sup>.

The report is a striking example of the application of double standards to states governed by parties that reject the globalist, left-liberal vision of politics—as was the case with Poland under the United Right (2015–2023) and continues to be the case in Hungary under Fidesz rule.

The coalition government formed in Poland on December 13, 2023, announced sweeping systemic reforms of the justice system as part of its electoral platform. However, the

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<sup>1</sup> <https://obserwator-praworzadnosci.pl/en/violations-of-the-principles-of-the-democratic-state-of-law-and-the-rule-of-law-by-the-government-of-donald-tusk-after-december-13-2023/>, <https://obserwator-praworzadnosci.pl/en/a-year-of-devastation-of-the-rule-of-law-in-poland/>, <https://europeanconservative.com/articles/news/eu-turning-blind-eye-tusk-abuse/> (accessed: 21 July 2025).



election results yielded insufficient support for such reforms, as the coalition—comprising four ideologically diverse parties—did not achieve the required parliamentary majority. In the Polish legal system, the President (elected by popular vote) holds, among other powers, the right to veto legislation, which can only be overridden by a three-fifths majority in the Sejm. Lacking such democratic legitimacy, the ruling coalition embarked on a series of unlawful actions that undermine the constitutional principle of the separation and mutual balance of powers, as well as institutional guarantees provided by the Constitution and statutes.

This method of governance was aptly described by Donald Tusk in September 2024 during a *de facto* policy conference in the Polish Senate titled "Paths Out of the Constitutional Crisis,"<sup>2</sup> where he referred to his approach as "militant democracy." He openly admitted: "We will commit acts that, according to some legal authorities, may be inconsistent—or not fully consistent—with legal provisions, but nothing absolves us of the obligation to act. Every day I must make decisions that can be easily criticized or challenged legally, but without these decisions, there would be no point in me assuming responsibility for running the government." Addressing lawyers and constitutional scholars, Tusk stated plainly that "lacking legal tools," the executive must "find within itself the strength and determination (...) to take risks and make decisions that you will sometimes question." He declared the government's intention to act "fully aware of the risk that not all of these actions will meet the criteria of full legality in the eyes of purists."

Particularly widespread is the blatantly unconstitutional practice of undermining the constitutional system of sources of universally binding law through the adoption of resolutions by the Sejm or government that directly contradict statutory and constitutional norms. While such resolutions might otherwise be dismissed as purely declarative and political, lacking legal force, they are in fact cited in practice by state bodies as *sui generis* legal bases for their unlawful actions.

The first such act was the resolution adopted by the Sejm on December 20, 2023, in which it declared that previous resolutions appointing judicial members to the National Council of the Judiciary (KRS) had been adopted in flagrant violation of the law. According to the Sejm, this had resulted in the unconstitutional formation of the Council, allegedly breaching both the Polish Constitution and provisions of the Treaty on European Union and the European Convention on Human Rights. The Sejm concluded that the National Council of the Judiciary had thereby lost the capacity to perform its constitutional functions, including the safeguarding of judicial independence and the autonomy of the courts. It called upon the members of the KRS who had been appointed—allegedly in violation of the Constitution—to

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<sup>2</sup> <https://www.senat.gov.pl/aktualnoscilista/art,16395,w-senacie-odbylo-sie-spotkanie-drogi-wyjscia-z-kryzysu-konstytucyjnego.html> (accessed: 21 July 2025).



immediately cease their activities, arguing that their continued operation threatened the constitutional order<sup>3</sup>.

Another resolution, this time targeting the Constitutional Tribunal, was adopted by the Sejm in March 2024. Without any legal basis, the Sejm asserted that the resolutions appointing certain judges to the Tribunal had been adopted in gross violation of the law, including the Constitution of the Republic of Poland and the European Convention on Human Rights. The Sejm therefore deemed these resolutions legally void and asserted that they produced no legal effect. As a result, the Sejm claimed that three individuals appointed to the Constitutional Tribunal were not validly serving as judges of that body. It further concluded that the scale of alleged irregularities rendered the Tribunal incapable of fulfilling its constitutional function of judicial review. Moreover, in direct defiance of Article 190 of the Constitution—which states that rulings of the Constitutional Tribunal are final and universally binding—the Sejm declared the invalidity of rulings issued with the participation of the judges it refused to recognize<sup>4</sup>.

The government also adopted a sweeping resolution in December 2024 that can only be described as a blueprint for a constitutional coup d'état. In this resolution, the Council of Ministers declared (sic!) that the Constitutional Tribunal was incapable of performing its constitutional duties. The government thus decided that it would cease publication of the Tribunal's rulings. It endorsed the view previously expressed in the Sejm's resolutions that the KRS had lost its capacity to carry out its constitutional functions, and that it was not a body that guaranteed independence from the legislative and executive branches. The government further concluded that judicial panels of the Supreme Court composed of judges appointed after 2017 could not be considered an "independent, impartial, and autonomous tribunal" within the meaning of the Polish Constitution or a "tribunal established by law" under Article 6 of the European Convention on Human Rights. Consequently, the government decided that all acts issued by the KRS and the Supreme Court and published in official gazettes would carry disclaimers accordingly<sup>5</sup>.

It is also worth recalling that one of the main points of constitutional dispute concerned the 2017 reform that changed the procedure for appointing members of the National Council of the Judiciary. The Council is a body established in early 1989, at the end of the communist dictatorship in Poland. Its primary purpose was to safeguard the political and economic interests—as well as ensure impunity from criminal liability—of the communist nomenklatura, which, under the so-called Round Table Agreements, agreed to transfer political power to the left-liberal segment of the opposition. The events of 1989 in Poland

<sup>3</sup> <https://dziennikustaw.gov.pl/M2023000145701.pdf> (accessed: 21 July 2025).

<sup>4</sup> <https://monitorpolski.gov.pl/M2024000019801.pdf> (accessed: 21 July 2025).

<sup>5</sup> <https://monitorpolski.gov.pl/M2024000106801.pdf> (accessed: 21 July 2025).





can, to some extent, be interpreted through the lens of Orwell's "1984" framework: the communist elites consented to a controlled transfer of certain elements of political authority to groups often rooted in left-wing critics of the Communist Party or individuals entangled in secret cooperation with the communist security services. Nevertheless, they retained significant influence over the economy, security apparatus, and, notably, the judiciary. Contrary to prevailing narratives, the KRS was not "the first institution created in free Poland," but rather the last institutional creation of the communist regime—designed with a particular purpose. Notably, Poland never underwent a process of decommunization of the judiciary. Judges who served under the communist regime—many of whom were Communist Party members and handed down politically repressive verdicts, especially during the martial law period (1981–1985)—were never vetted after 1989, and all were allowed to continue adjudicating. Since the KRS was responsible for presenting candidates to the President for judicial appointments and promotions within the court hierarchy, its composition was crucial in shaping the judiciary (Poland has approximately 10,000 judges). From 1989 to 2018, the majority of the KRS's members were selected by other judges, a practice that led to an oligarchic, self-perpetuating system dominated by higher court judges. Between 1989 and 2017, only two judges from the lowest (district) level served on the Council, despite the fact that the judiciary includes roughly 6,500 district judges, 2,500 regional judges, and 500 appellate judges.

According to Article 187 of the 1997 Constitution<sup>6</sup>, the Council consists of 25 members: 15 judges, the First President of the Supreme Court, the Minister of Justice, the President of the Supreme Administrative Court, one appointee of the President of the Republic, four MPs chosen by the Sejm, and two senators chosen by the Senate. From 1989 onward, the judicial members were elected by other judges. The amendment to the KRS Act, proposed by President Andrzej Duda and adopted by the Sejm in late 2017, changed this process. Under the new Article 9a, judicial members are now elected by the Sejm<sup>7</sup> from among candidates

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<sup>6</sup> 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,
  - 4) 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 procedures of the National Council of the Judiciary, as well as the manner of election of its members, shall be specified by statute.

<sup>7</sup> 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.





nominated by at least 15 judges or 2,000 citizens. This reform was intended to democratize the Council and break the closed, self-selecting system of judicial appointments. It was met with intense resistance from the judiciary (particularly higher courts), left-liberal politicians, and was used as a pretext for EU institutions (the Commission, the Court of Justice, the European Parliament) to intervene in Poland's constitutional affairs. The primary allegation was that the reform was unconstitutional. Yet the Constitution merely states that the Council shall include "fifteen members elected from among judges of the Supreme Court, ordinary courts, administrative courts, and military courts," without specifying who is to make the selection. Meanwhile, the Constitution clearly identifies the Sejm and the Senate as the bodies that elect parliamentary members. Furthermore, the Constitution delegates the specifics of the Council's structure, competencies, operation, and appointment procedures to statutory law. Therefore, there is absolutely no constitutional basis to challenge the legitimacy of the 2017 "democratization" reform—an interpretation confirmed by the Constitutional Tribunal in 2019<sup>8</sup>.

In numerous opinions and judgments, EU institutions—acting *ultra vires*—rejected the reform of the National Council of the Judiciary. However, what the Report also fails to note is that just a few months ago, the European Commission underwent what appears to be a stunning reversal. In Case C-719/24 before the Court of Justice of the European Union, the Commission stated, on March 25, 2025, that there is no provision of EU law that mandates a specific procedure for selecting judicial members of a national body such as the KRS. It affirmed that, in light of Article 19(1)(2) TEU, read in conjunction with Article 2 TEU and Article 47 of the Charter of Fundamental Rights, it is permissible for judicial members of the Council to be selected by the national parliament<sup>9</sup>.

This admission shattered the entire narrative the Commission had advanced for years against Poland's judiciary reforms—the myth of the "original sin" of the National Council of the Judiciary, the talk of "neo-judges," the branding of the Council as "unlawful," and the broader accusation of a rule-of-law backslide in post-2017 Poland.

Most importantly, this reversal illustrates what is becoming increasingly obvious in both Poland and Europe: the hypocrisy of European elites, who for years attacked Poland under

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

3. The joint term of office of the newly elected judicial members of the Council shall begin on the day following their election. Members of the Council from the previous term shall continue to perform their duties until the beginning of the joint term of the newly elected members. (*Journal of Laws of 2024, item 1186 – consolidated text*), <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20111260714/U/D20110714Lj.pdf> (accessed: 21 July 2025).

<sup>8</sup> <https://ipo.trybunal.gov.pl/ipo/Sprawa?&pokaz=dokumenty&sygnatura=K%2012/18> (accessed: 21 July 2025).

<sup>9</sup> [https://www.sn.pl/aktualnosci/SitePages/Komunikaty\\_o\\_sprawach.aspx?ItemSID=734-b6b3e804-2752-4c7d-bcb4-7586782a1315&ListName=Komunikaty\\_o\\_sprawach](https://www.sn.pl/aktualnosci/SitePages/Komunikaty_o_sprawach.aspx?ItemSID=734-b6b3e804-2752-4c7d-bcb4-7586782a1315&ListName=Komunikaty_o_sprawach) (accessed: 21 July 2025).



the Law and Justice government over judicial reforms—despite now acknowledging that those reforms did not violate EU law and fell well within the boundaries of a democratic constitutional framework. What happened in Case C-719/24 is a blow to the very foundation of the anti-Council campaign—on which dozens of rulings, independence tests, annulment attempts, and judge disqualifications were based.

The same pattern emerged with respect to the Article 7 mechanism, previously wielded as a political weapon against Poland under the Law and Justice government. Almost immediately after the Tusk administration took office, the procedure was discontinued. It was enough for a Brussels-imposed globalist government to take power for everything to suddenly change “miraculously.” Without any amendments to the relevant legislation, without any restructuring of the KRS, Supreme Court, or Constitutional Tribunal, the European Commission accepted—without objection—all the institutional configurations it had previously condemned. A simple change in political power was sufficient. This kind of selective approach not only discredits the Commission, but undermines the entire “rule of law protection” project, as clearly evidenced by the Report under review.

Secondly—and this is the crux of the matter—it is difficult to believe this ostensibly surprising reversal by the Commission was unintentional. Rather, it appears to have been tactically calculated. Since Tusk lost the presidential election, he is no longer able to implement his agenda through legislation. All the coalition’s proposals to restructure the National Council of the Judiciary, Supreme Court, and Constitutional Tribunal are effectively dead. Hence, the Commission’s narrative shift appears to serve as a prelude to implementing “Plan B.” That plan will likely consist in allowing the globalist parliamentary majority in Poland to fill the seats of the now-tolerated “illegitimate neo-Council” with its own nominees once the current members’ terms expire in 2026. But to carry this out without public scandal, European legitimation is needed. And it has now been granted. The same body that until recently was deemed “illegal” is now, without any structural change, considered a “model institution.”

This crude spectacle of double standards should serve as a warning not only to Poland. It is a wake-up call to all EU Member States that “rule of law,” in the Commission’s version, does not mean adherence to the law—but rather blind submission to the dominant globalist political and ideological line, and the economic interests that underpin it.

What the Commission has done here amounts—legally—to a complete 180-degree reversal. But in terms of the Commission’s actual function—not as a guardian of the treaties, but as a tool for imposing a centralist, globalist agenda on Member States in defiance of those very treaties—it is a consistent move.



Just as consistent is its double-standard approach toward Poland and Hungary—reflected in numerous comments on the most biased or factually incorrect claims made throughout the Report, according to its thematic structure.

## **I. JUSTICE SYSTEM**

### **Independence**

- ***As the Report states, the President referred for preventive review a bill amending the Act on the National Council of the Judiciary and two bills concerning the structure and functioning of the Constitutional Tribunal (p. 3).***

It must be emphasized that these legislative initiatives are part of a broader political and legal dispute ongoing since 2015. The measures in question seek to resolve this dispute in favor of the left-liberal political agenda. However, these laws are plainly unconstitutional.

The Act of July 12, 2024, amending the Act on the National Council of the Judiciary<sup>10</sup>, directly contravenes the Constitution by shortening the current term of the KRS. It also introduces a ban on candidacy for Council membership by judges appointed after 2017—a provision that received a negative opinion from the Venice Commission<sup>11</sup>. The President referred the law to the Constitutional Tribunal for preventive review.

In August 2024, the Sejm passed two further bills: one concerning the Constitutional Tribunal, and a transitional act introducing the former. Both contain provisions that are flagrantly unconstitutional. Notably, they include retroactive invalidation of approximately 100 Constitutional Tribunal rulings and strip those rulings—including those protecting citizens' rights and freedoms—of any legal effect. These measures violate Article 190(1) of the Constitution, which guarantees the finality and universal binding nature of Tribunal judgments. This deprives citizens of acquired rights and undermines legal certainty—an unprecedented blow to the foundations of the rule of law.

Furthermore, the termination of all sitting Constitutional Tribunal judges and the introduction of the notion of a "person unauthorized to adjudicate" violate Articles 194 and 195 of the Constitution, undermining both the legality of parliamentary appointments and the principles of judicial independence and fixed judicial terms. Even the Venice Commission criticized this aspect of the legislation<sup>12</sup>. Also constitutionally questionable is the provision granting disciplinary authority to former Tribunal judges whose terms have expired—contravening the principles of fixed-term judicial office, the separation of powers, and judicial independence (Articles 194(1), 10, and 173 of the Constitution).

<sup>10</sup> <https://www.sejm.gov.pl/sejm10.nsf/PrzebiegProc.xsp?nr=219> (accessed: 21 July 2025).

<sup>11</sup> <https://www.coe.int/en/web/venice-commission/-/opinion-1181> (accessed: 21 July 2025).

<sup>12</sup> <https://www.coe.int/en/web/venice-commission/-/cdl-ad-2024-035-e> (accessed: 21 July 2025).



Both laws pose a serious threat to Poland's democratic system, to the independence of constitutional judiciary, and to citizens' rights. They breach fundamental constitutional principles: the independence of the judiciary, legality of state action, and the inviolability of acquired rights. For these reasons, they have been referred to the Constitutional Tribunal for preventive review and have not entered into force.

- ***The Report describes the process by which the Venice Commission reviewed key legislative proposals intended to "restore the rule of law," prepared under the direction of the current Minister of Justice (p. 5 et seq.).***

It is crucial to note, however, that in reality—even this body, generally sympathetic to the left-liberal government—issued a devastating critique of the core elements of the proposed reforms.

The true aim of Tusk's successive proposals has been to eliminate, entirely or in large part, the judges appointed after 2017 by the President of Poland, following the recommendations of the National Council of the Judiciary in its reformed composition. Until 2017, as noted earlier, most of the Council's judicial members were appointed by other judges, turning it into a caste-based institution. The 2017 reform democratized the Council, transferring the power to appoint judicial members to the legislature—a change that aligned with the Constitution. However, this reform stripped a narrow group of liberal, often post-communist judges of their exclusive control over judicial appointments and promotions. Hence the backlash and the drive to purge approximately 20% of judges who entered the profession without this group's consent.

It is worth emphasizing that even the Venice Commission sharply criticized these foundational ideas. In both its initial assessment and the later formal opinion of October 14, 2024<sup>13</sup>—issued in response to four abstract legal questions—the Commission stressed that mass removal of judges via legislative action is incompatible with the rule of law. The blanket retroactive nullification of all Council's opinions on judicial nominations and promotions fails the test of proportionality and cannot be reconciled with rule-of-law principles. The Commission further stated that any judicial status review must be conducted individually, by a body entirely independent of the executive and legislative branches, and must include full procedural safeguards, including the right to defense and appeal.

Importantly, the Commission also emphasized that despite concerns over the appointment process, individuals nominated by the President of Poland are judges, and their rulings remain valid unless overturned through proper legal procedures on a case-by-case basis.

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<sup>13</sup> [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2024\)029-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2024)029-e) (accessed: 21 July 2025).



The Venice Commission's opinion represents a clear defeat for the left-liberal narrative advanced by Minister Adam Bodnar and his allies in the so-called "judicial caste." The Commission reaffirmed the fundamental principle: there is no such legal category as a "neo-judge." Every person appointed to judicial office by the President of the Republic is a full-fledged judge. The Commission thereby discredited the notion of automatically "cleansing" the judiciary and condemned as incompatible with European standards any attempt to strip judges of their status solely based on the date of their appointment or alleged irregularities in the Council's selection process.

A particularly striking example of the European Commission's application of double standards is the way in which the situation of judges in Hungary and Poland is addressed. With regard to Hungary, the Report extensively discusses the alleged weakness of protective mechanisms for judges and raises concerns about threats to judicial independence<sup>14</sup>. In contrast, concerning Poland, the Report acknowledges draft legislative proposals put forward by the Minister of Justice which provide for the dismissal or demotion of thousands of judges solely on the basis that they were appointed outside the control of the left-liberal judicial establishment. These Polish proposals fail to offer any genuine avenues for defense or appeal for the affected judges. Yet the Report not only refrains from condemning such actions, but even presents them as part of the process of 'restoring the rule of law'. This kind of asymmetry in assessment lacks any substantive justification and clearly exposes the political nature not only of the Report itself, but of the Commission's broader policy towards Poland, Hungary, and other states committed to defending their sovereignty and resisting the globalist agenda.

- ***The Report states that "The Main Disciplinary Officer for Ordinary Court Judges and his Deputy were dismissed from office" (p. 4).***

However, it fails to mention a critical point: this decision was taken in blatant violation of the law. Article 112 § 3 of the Law on the Structure of the Ordinary Courts provides that "the Disciplinary Officer for Judges of the Ordinary Courts and two Deputy Disciplinary Officers are appointed by the Minister of Justice for a four-year term." This provision clearly establishes the non-interruptible nature of their term of office and does not include any procedure for early removal. The absence of such a provision is not an oversight, but a deliberate safeguard designed to ensure the independence of disciplinary officers from political interference.

Nevertheless, the Ministry of Justice, lacking any statutory basis, asserted that Article 112 § 3 contains an alleged "legal gap" that violates constitutional standards and requires

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<sup>14</sup> [https://commission.europa.eu/publications/2025-rule-law-report-communication-and-country-chapters\\_en](https://commission.europa.eu/publications/2025-rule-law-report-communication-and-country-chapters_en) (accessed: 21 July 2025).





"corrective" interpretation. According to the Ministry, if the law does not explicitly prohibit removal, and if—in the Minister's view—a "valid reason" exists, then the authority to remove must logically belong to the same organ that made the appointment. This interpretive approach—entirely unsupported by the text of the law—is clearly incompatible with the principle of legality (Article 7 of the Polish Constitution), which requires that public authorities act on the basis of and within the limits of the law.

In truth, this is a textbook case of action *contra legem*—in violation of the statute's plain meaning. The Minister's unilateral claim of the power to dismiss a term-appointed official based on his own unverifiable interpretation constitutes not only a statutory violation but also a grave assault on the independence of disciplinary institutions within the judiciary. Such arbitrary conduct undermines the rule of law and confirms that the current ruling majority is willing to break the law in order to subordinate further elements of the justice system to political control.

- ***The Report notes that "The Minister of Justice dismissed presidents of ordinary courts appointed without the involvement of judicial self-government bodies," and that "The Constitutional Tribunal found such dismissals to be unconstitutional because provisions on which they are based do not require a binding opinion of the National Council for the Judiciary" (p. 6).***

In reality, in 2024, Minister of Justice Adam Bodnar initiated unprecedented actions aimed at subordinating the judiciary to the executive, thereby violating the constitutional principles of judicial independence and autonomy. The most significant breach involved the unlawful shortening of the terms of court presidents and vice-presidents, despite the law clearly establishing six- and four-year terms, respectively. The Minister disregarded negative opinions issued by judicial collegia and the National Council of the Judiciary and tampered with collegium membership by appointing unauthorized individuals. Statutory and constitutional procedures were breached, including the deliberate ignoring of a protective injunction issued by the Constitutional Tribunal on February 27, 2024 (ref. Ts 32/24), which explicitly prohibited actions preventing the President of the Warsaw Court of Appeal from performing his duties.

Ultimately, the Constitutional Tribunal, in its judgment of October 16, 2024, confirmed the unconstitutionality of the legal provisions that effectively excluded the National Council of the Judiciary from the process of dismissing court presidents and allowed for indefinite suspensions from official duties<sup>15</sup>.

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<sup>15</sup> <https://trybunal.gov.pl/postepowanie-i-orzeczenia/wyroki/art/procedura-odwolania-prezesa-lub-wiceprezesa-sadu-2> (accessed: 21 July 2025).



This ruling was never published by the Chancellery of the Prime Minister, in clear violation of the law. The Report omits the fact that the Constitutional Tribunal's judgment—universally binding and final under Article 190(1) of the Polish Constitution—is being entirely disregarded by the Ministry of Justice and other authorities under the current government. The Tribunal unequivocally stated that the applicable provisions under which court presidents were dismissed violated the Constitution due to the absence of a mechanism ensuring the participation of an independent body—the National Council of the Judiciary — in the dismissal process. Despite this ruling, the Minister of Justice continues to remove and appoint court presidents and vice-presidents based on provisions already declared unconstitutional by the Tribunal. These actions are not only unlawful, but they openly undermine the constitutional legal order of the Republic of Poland. The executive's refusal to implement the Tribunal's judgment constitutes an unprecedented circumvention of the Constitution and a clear manifestation of subordinating the judiciary to the political will of the government.

The result of these leadership changes in the courts has been a political purge, particularly in the Warsaw courts, where the entire leadership across all levels was replaced to create an infrastructure capable of being weaponized against the opposition. New divisions were established, and independent judges were sidelined, replaced with loyalists delegated by the Minister. This allowed for manipulation of the random case assignment system—introduced in 2019 to ensure impartiality. Delegated judges, loyal to the authorities, were placed in divisions purged of so-called "neo-judges," where they had a higher probability of receiving politically sensitive cases.

As a result, a state of legal and institutional chaos has emerged—officials legally appointed are being removed and replaced by new appointees based on legal norms already repealed or invalidated. The actions of the Minister of Justice represent a systemic violation of the principle of legality (Article 7 of the Constitution), the separation of powers (Article 10), and judicial independence (Articles 173 and 178). The underlying objective was to gain political control over criminal courts and to enable political repression against the opposition through the use of the unlawfully captured prosecution service and judiciary.

- ***The Report states that "the 2025 budget of the Supreme Court was reduced, which led to a reduction of clerical staff" (p. 5), and that "The annual budget of the NCJ was decreased" (p. 7).***

However, a fundamental legal issue must be highlighted: the drastic reduction in the Supreme Court's funding, which paralyzed its administrative and operational functioning, constitutes a direct attack on a constitutional judicial authority whose independence is guaranteed by the Constitution. The Supreme Court, as one of the pillars of the separation of





powers, cannot be treated as an ordinary budgetary unit—its proper functioning is essential to upholding the rule of law and protecting constitutional civil liberties.

This decision also violated the constitutional guarantees ensuring the functioning of the National Council of the Judiciary as an independent public authority. Under Article 186 of the Polish Constitution, the Council is tasked with safeguarding the independence of courts and the autonomy of judges. The deliberate budgetary cuts that prevent the Council from fulfilling its statutory functions—such as providing opinions on judicial candidates, responding to threats to judicial independence, or conducting explanatory proceedings—represent an attempt to paralyze a constitutional body through administrative means.

The reductions to the budgets of the Supreme Court and the National Council of the Judiciary were not the result of objective fiscal constraints, but rather a form of political retaliation, intended to weaken bodies whose composition and independence are opposed by the ruling majority—not on the basis of binding Polish legal norms or judicial rulings, but purely political preferences. These actions undermine the principle of the separation of powers and pose a grave threat to the constitutional order.

Intentionally restricting the budgets of the Supreme Court and the KRS in a way that prevents them from performing their constitutional functions may meet the criteria for criminal offenses under Article 128 of the Polish Criminal Code. Paragraph 1 states: "Whoever, with the aim of forcibly removing a constitutional organ of the Republic of Poland, undertakes activity directly aimed at achieving this goal, shall be subject to imprisonment for no less than 3 years and up to 20 years." Paragraph 3 further provides: "Whoever uses force or unlawful threats to influence the official actions of a constitutional organ of the Republic of Poland shall be subject to imprisonment for 1 to 10 years." In this context, reducing the Supreme Court's budget—not as a fiscal necessity, but as a deliberate political tool to subordinate or weaken the Court—may be treated as a form of systemic unlawful coercion, with effects tantamount to administrative violence.

Importantly, the scale and nature of this action were recognized by the President of the Constitutional Tribunal, who on January 31, 2025, filed a formal criminal complaint<sup>16</sup>. The complaint alleges that the actions of the Ministry of Finance and other executive authorities may constitute an assault on the constitutional order of the Republic, involving the systemic deprivation of key bodies—including the Constitutional Tribunal, the Supreme Court, the National Council of the Judiciary, and the National Broadcasting Council—of the means to carry out their statutory and constitutional functions. In May 2025, the Constitutional

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<sup>16</sup>[NOTIFICATION of 31 January 2025 translated from Pol. into Eng .pdf](#) (accessed: 21 July 2025).



Tribunal declared the relevant budgetary provisions unconstitutional<sup>17</sup>. Yet, the government still refused to disburse the necessary funds.

- ***The Report also notes that “since March 2024, the Government refuses to publish in the Official Journal any judgments issued by the Constitutional Tribunal, on the grounds that the Constitutional Tribunal is not a legitimate constitutional body” (p. 6).***

Such a decision is a blatant violation of the Constitution of the Republic of Poland and the fundamental principles of the rule of law. The Constitutional Tribunal is a constitutional organ tasked with ensuring the compliance of laws with the Constitution. Its judgments—under Article 190(1) of the Constitution—are universally binding and final. Refusing to publish these rulings, regardless of political motives, constitutes unlawful conduct that undermines the separation of powers and the constitutional structure of the state.

This refusal may also meet the criteria for criminal conduct under Article 128 of the Criminal Code. Paragraph 1 provides that “whoever, with the aim of forcibly removing a constitutional organ of the Republic of Poland, undertakes activity directly aimed at achieving this goal, shall be subject to imprisonment for 3 to 20 years.” Refusing to publish rulings—and thus preventing them from entering into force—is an act of de facto outlawing a constitutional body, executed not by physical force, but through the systemic abuse of executive power. At the same time, Paragraph 3 of the same article states that “whoever uses force or unlawful threats to influence the official actions of a constitutional organ of the Republic of Poland shall be subject to imprisonment for 1 to 10 years.” The politically motivated refusal to publish Constitutional Tribunal rulings clearly constitutes unlawful pressure aimed at preventing a constitutional organ from performing its duties.

In response, on January 31, 2025, the President of the Constitutional Tribunal filed a formal criminal complaint. Although this triggered a preliminary investigation, the proceedings were immediately removed from the jurisdiction of an independent prosecutor outside of political control and transferred to a subordinate of the Prosecutor General—who simultaneously serves as Minister of Justice in the very government responsible for the refusal to publish the rulings. This conduct reveals not only a violation of the law but also a deeply troubling subordination of law enforcement agencies to the political interests of the executive. It constitutes a serious threat to constitutional order and to the independence and effectiveness of legal protection in Poland.

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<sup>17</sup> <https://trybunal.gov.pl/s/k-2-25> (accessed: 21 July 2025).



- ***The Report notes that “the Minister of Justice continues not to publish vacant posts in ordinary courts, citing a need to avoid a deterioration of legal certainty in the justice system” (p. 7).***

In reality, these actions are overtly political and are leading to a tangible collapse of the justice system. The refusal to announce competitions for judicial vacancies has resulted in a growing number of unfilled positions in the ordinary courts, which directly contributes to prolonged proceedings, diminished access to justice for citizens, and increased caseloads for sitting judges. The argument about preserving “legal certainty” is merely a pretext for obstructing the staffing of courts—especially in cases where promotions might involve candidates nominated by the previous composition of the National Council of the Judiciary, which does not serve the current government’s political interests.

Moreover, for more than a year and a half, the Ministry of Justice has withheld the publication of crucial statistical data regarding the functioning of the judiciary—such as average case duration, the number of resolved matters, or judges’ caseloads—thus preventing a reliable assessment of the judiciary’s condition. Instead, the ministry selectively publishes fragmentary and marginal data that does not reflect the actual state of judicial efficiency. These omissions are deliberate and aim to conceal the deepening organizational breakdown and the decline in adjudicatory performance caused by the current administration’s personnel policies and lack of transparency.

Such conduct by the Minister of Justice represents a serious violation of constitutional principles of the rule of law, threatens the realization of citizens’ right to a court (Article 45 of the Constitution of the Republic of Poland), and undermines public trust in state institutions. It is a clear example of the instrumentalization of the public administration to serve party interests at the expense of citizens and the stability of the justice system.

- ***The Report also states that “significant progress has been made on the recommendation (...) to ensure the functional independence of the prosecution service from the Government” (p. 7 et seq.).***

In fact, the actions undertaken by the government in this area constitute a flagrant breach of the Prosecution Act and of core principles of the rule of law, resulting in the complete subjugation of the prosecution service to political power<sup>18</sup>. In January 2024, the Prosecutor General—who is also the Minister of Justice—arbitrarily declared, contrary to the wording of the statutory provisions, that the appointment of National Prosecutor Dariusz Barski was invalid, despite the Prosecution Act providing no legal basis for retroactively “verifying” a properly effected appointment. He relied on three private legal opinions he had

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<sup>18</sup>[https://alapjogokert.hu/uploads/pdf/MLSZI\\_Weaponizing\\_Justice\\_The\\_Unlawful\\_Takeover\\_of\\_Poland's\\_Prosecution\\_Service.pdf](https://alapjogokert.hu/uploads/pdf/MLSZI_Weaponizing_Justice_The_Unlawful_Takeover_of_Poland's_Prosecution_Service.pdf) (accessed: 21 July 2025).



commissioned, which arbitrarily claimed that the National Prosecutor had never formally returned from retirement to active service. Contrary to the law, Barski was prevented from performing his duties and forcibly denied access to his office, work equipment, and internal prosecution IT systems.

Subsequently, the Prosecutor General requested that the Prime Minister appoint a new National Prosecutor—a person fully loyal to the current government—even though the post was not vacant. Moreover, this was done in complete disregard of the statutory requirement to consult with the President of the Republic of Poland, who, under Article 14b(2) of the Prosecution Act, must provide an opinion on the appointment. This essential constitutional and statutory procedural step was entirely omitted, rendering the entire operation unlawful.

Following this unlawful intervention at the top of the prosecution service, sweeping personnel purges took place in prosecution offices across the country. Existing unit heads were dismissed or sidelined and replaced by individuals loyal to the new leadership. These actions amount to a political usurpation and have nothing to do with strengthening prosecutorial independence—in fact, they constitute its complete politicization and the effective destruction of any guarantees of impartiality in criminal investigations.

The narrative presented in the Report is therefore blatantly at odds with the facts. What has taken place is not progress, but a profound breakdown in the rule of law and a violent breach of the Prosecution Act and the constitutional order of the Republic of Poland.

- ***The Report further states that “the National Prosecution reviewed criminal investigations carried out in the period 2016-2023, revealing significant irregularities in most of the cases it investigated” (p. 7).***

In reality, the nature of this so-called audit raises serious concerns about its legality, impartiality, and underlying motivation. The analysis was conducted by a team established without any legal basis, in violation of basic internal procedural norms and without safeguards to ensure the independence of its members. It was not a genuine performance review but a politically driven initiative aimed at discrediting the previous leadership of the prosecution service and justifying subsequent purges.

Many experienced prosecutors refused to participate in the team’s work or withdrew from it, clearly recognizing the project as a political operation rather than a professional evaluation. There were attempts to pressure the team to tailor conclusions to preconceived narratives; exculpatory facts were omitted, and much of the “evidence” relied on biased accounts provided by individuals aligned with the new leadership.

In essence, this was not a systemic review of the prosecution service’s activities, but a tool of political manipulation designed to create the illusion of “abuses” that would justify unlawful



personnel decisions, particularly the removal of prosecutors associated with judicial independence or a specific prosecutorial approach viewed as hostile by the current authorities. The fabricated image of "widespread misconduct" was used in political and media warfare, not as a foundation for genuine reform. Contrary to what the Report claims, these actions do not reflect a concern for the rule of law—they are another phase in its systematic dismantling.

In one of the unjustifiably reopened cases, a witness—Barbara Skrzypek, a former close associate of Jarosław Kaczyński—died shortly after being questioned without legal representation, despite having requested counsel<sup>19</sup>.

- ***The Report states that "One of the Deputy Prosecutors General appointed by the previous Prosecutor General was suspended, following a criminal investigation he had reportedly opened in violation of the applicable legislation" (pp. 7-8).***

This formulation parrots the political narrative of the current authorities and entirely omits the context and true nature of the actions in question. The case concerns Prosecutor Michał Ostrowski, legally appointed Deputy Prosecutor General, who initiated an investigation following a complaint submitted by the President of the Constitutional Tribunal. The complaint alleged that the Prime Minister, Minister of Justice, and other senior state officials had committed a range of serious crimes against the Republic of Poland—including official misconduct committed as part of a criminal organization. In particular, the acts concerned efforts to forcibly dismantle the Constitutional Tribunal as a constitutional body and to unlawfully influence its official functions—conduct falling under Articles 127 § 1, 128 §§ 1 and 3 of the Criminal Code, and Article 258 (organized criminal group).

The investigation was launched in full accordance with the applicable legal framework, based on a detailed and serious complaint filed by a constitutional state organ. Contrary to the suggestion in the Report, no legal violation occurred. The allegation of "improper initiation" of proceedings has no basis in law or fact—it is a purely political characterization designed to discredit a prosecutor who dared to pursue a case independent of the executive's political interests.

The suspension of Prosecutor Ostrowski was not only illegal—it was a clear act of reprisal against a prosecutor acting in accordance with the principle of legality (Article 7 of the Constitution). Rather than safeguarding prosecutorial independence, the current leadership has brutally subordinated the institution, removing individuals who carry out their duties lawfully and without political interference. In this light, the actions of the current

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<sup>19</sup> <https://obserwator-praworazdnosci.pl/en/the-death-of-66-year-old-barbara-skrzypek-as-an-example-of-the-abuse-of-criminal-proceedings-against-opponents-of-donald-tusks-government/> (accessed: 21 July 2025).



prosecutorial authorities—and the Commission's assessment in the Report—not only distort reality, but serve

- ***The chapter of the Report concerning the prosecution service concludes by stating that "Overall, significant progress has been made (...) to ensure the functional independence of the prosecution service from the Government." (p. 8).***

Words scarcely suffice to describe the absurdity of this claim. In reality, what we are witnessing is not progress but a brutal collapse of prosecutorial independence and its complete subordination to the political interests of the ruling coalition. It is enough to point to the discontinuation of proceedings against political figures associated with the ruling bloc, such as Roman Giertych<sup>20</sup> or Tomasz Grodzki, despite serious allegations and evidentiary material that in previous years formed the basis for vigorous investigations.

At the same time, instead of acting as a guardian of the law, the prosecution service has become a tool of political repression—launching investigations, orchestrating arrests, seeking to lift immunities, and initiating actions against judges and prosecutors who operate independently of the executive. This reveals a deeply systemic lawlessness. Law enforcement now functions selectively: aggressively targeting political opponents while treating allies with leniency or outright protection. Such a state of affairs not only violates the principle of prosecutorial independence—it effectively nullifies the prosecution service's constitutional role as a guarantor of the rule of law. The European Commission's assertion of "significant progress" is not merely false; it amounts to the de facto legitimization of political repression and the instrumentalization of law in Poland.

### Quality

- ***The Report states that "the Government engaged in efforts to boost digitalisation of ordinary courts" (p. 8).***

However, the reality could not be further from this optimistic portrayal. Rather than genuine technological advancement and improved digital services, the justice system has experienced a decline in the performance of existing systems, frequent failures, and increasing organizational disarray. The IT infrastructure in the courts is becoming increasingly unstable and unreliable, directly affecting the pace and quality of judicial proceedings.

Particularly condemnable is the Ministry of Justice's decision to dissolve the Centre for Cybersecurity—a body critical to the cybersecurity of judicial systems. The motives behind this decision were purely political, with no substantive justification. The Centre had been

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<sup>20</sup> <https://wiadomosci.wp.pl/jak-prokuratura-umorzyla-sledztwo-ws-romana-giertycha-w-aferze-polnordu-7170781204773760a> (accessed: 21 July 2025).





responsible not only for real-time monitoring of security incidents (including 24/7 incident response via EDR), penetration testing, and the development and maintenance of the SecureBox system, but also for training court personnel and other justice sector employees to enhance their cybersecurity competencies.

Moreover, the Centre should have been used as an expert and operational hub for the development, maintenance, and improvement of strategic IT systems whose absence continues to impede the functioning of digital justice in Poland. Its dissolution reveals that government declarations regarding digitalization are nothing more than superficial propaganda—devoid of competence or genuine commitment to improving judicial operations. Instead of digital transformation, we are witnessing digital degradation: performative projects, dismantling of professional structures, and increasing risks to data security and system stability.

### **Efficiency**

- ***The Report presents data suggesting an improvement in court efficiency (p. 8).***

However, the picture presented is entirely misleading and relies on statistics from the period when the Law and Justice government was in power. During that time—despite obstruction from parts of the judiciary—genuine efforts were made to improve court performance and reduce long-standing backlogs. These statistics do not reflect the current state of the judiciary, which has significantly deteriorated since the change in government.

The current Ministry of Justice deliberately avoids publishing complete statistics, thus preventing citizens and the public from accurately assessing the justice system's condition. For 2024, only partial information has been released, mainly limited to the so-called "case inflow handling rate," i.e., the ratio of incoming to resolved cases. Crucial data are missing: average case duration, the number of prolonged proceedings, judges' workloads, or the performance of specific divisions.

This lack of transparency is intentional—aimed at concealing the deepening organizational and personnel crisis, a direct result of the government's policy of blocking judicial appointments and subordinating the courts to political objectives. Contrary to the Report's suggestions, real judicial efficiency is declining, and the Ministry's actions—rather than improving the system—are destabilizing it.

## **II. ANTI-CORRUPTION FRAMEWORK**

The Report notes that the Council of Ministers "aims to dissolve the Central Anti-Corruption Bureau, which in the past had given rise to concerns about its independence from the executive" (p. 9).





This phrasing not only omits the political context behind the actions of Donald Tusk's government—it effectively legitimizes one of the most radical attacks on the institutional foundations of Poland's anti-corruption efforts.

The Central Anti-Corruption Bureau (CBA) was the only special service in Poland created from scratch after 1989, free from the personal entanglements and informal networks that plagued agencies derived from the post-communist security apparatus. Its liquidation is a purely political decision, lacking any substantive justification.

In fact, the liquidation of the Central Anti-Corruption Bureau today is largely symbolic, as in the first 18 months of the Tusk administration, key leadership positions in all security services—from the Internal Security Agency (ABW) to the Military Counterintelligence Service (SKW)—were purged and replaced with individuals loyal to the ruling coalition. This has not only politicized the security sector but paralyzed its operational capabilities. The process is particularly evident in the Internal Security Agency, which is now being used for politically motivated operations against opponents of the government, instead of addressing genuine threats to national security.

By contrast, during the eight years of United Right rule, a natural generational turnover occurred across all services. As a result, lower- and mid-level personnel in agencies like the Central Anti-Corruption Bureau were no longer recruited through old, politically compromised channels tied to the communist era—networks upon which the current Tusk-led establishment still heavily relies.

Simultaneously, growing disillusionment and demoralization can be observed among rank-and-file personnel—fueled by the lack of strategic direction, underfunding, and abandonment of professional standards. There is a widespread belief within the services that the current leadership is temporary, and an expectation persists that future reforms will restore the agencies' integrity and independence.

In this context, the European Commission's portrayal of the Central Anti-Corruption Bureau's liquidation as a component of "anti-corruption reform" is not only erroneous but dangerously misleading. In truth, we are witnessing the systemic dismantling of the state's capacity to combat corruption and the elimination of institutions that may prove inconvenient to the current power structure.

- ***The Report also states that "The Supreme Audit Office reports that its operations and audit controls have improved" (p. 10).***

However, in recent years, the actual operations of the Supreme Audit Office (NIK) reveal pronounced politicization of this constitutional body, which should function independently and impartially. Previously led by Civic Platform Senator Krzysztof Kwiatkowski—implicated



in a scandal involving the rigging of hiring competitions for senior positions within Supreme Audit Office<sup>21</sup>—and now by Marian Banaś, himself entangled in criminal allegations<sup>22</sup> (with a motion to lift his immunity blocked by the current Prosecutor General), the institution's credibility has suffered severely.

The political motivation behind NIK's actions is evident not only in its selective choice of audit topics and timing, but also in how audit results are announced—often deliberately aligned with key moments in election campaigns. A telling example is the launch of an audit at the Institute of National Remembrance (IPN) precisely when its President, Karol Nawrocki, announced his candidacy for the Presidency of the Republic—a move that raises serious concerns regarding the intent behind the initiative.

In 2023, President of the Supreme Audit Office Marian Banaś openly involved himself and his office in political activity. In a conversation with one of Donald Tusk's close associates, there was direct reference to providing "gift baskets" for the Civic Platform during the election campaign—clearly implying the use of NIK audits and reports as tools of political support. At the same time, he coordinated the candidacy of his son on the Confederation party's electoral list as part of a broader strategy to prevent potential post-election cooperation between Confederation and the Law and Justice party<sup>23</sup>.

Such actions entirely discredit the NIK's status as a trustworthy public institution. In this light, the claim of "improved audit performance" not only misrepresents reality but effectively legitimizes abuses of power and the instrumentalization of a constitutional state organ for political purposes.

- ***The Report states: "the National Election Commission has found irregularities in several party financial reports and rejected one report entirely for breaches of the Electoral Code on grounds of acceptance of unlawful financial benefit" (pp. 12-13).***

This anodyne statement conceals an unprecedented political maneuver by the ruling coalition of Donald Tusk—an attempt to effectively dismantle the main opposition party, Law and Justice (PiS), by depriving it of its public funding, thereby undermining its ability to conduct a competitive presidential campaign in 2025<sup>24</sup>.

Under Polish law, political parties are primarily financed through public funds, consisting of annual subsidies based on parliamentary election results and reimbursements for campaign

<sup>21</sup> <https://www.bankier.pl/wiadomosc/Byly-prezes-NIK-stanie-przed-Trybunalem-Stanu-Wniosek-trafil-do-komisji-8745282.html> (accessed: 21 July 2025).

<sup>22</sup> <https://businessinsider.com.pl/wiadomosci/prokuratura-przeswietla-majatek-szefa-nik-mariana-banasia-kolejne-osoby-z-zarzutami/jk313e4> (accessed: 21 July 2025).

<sup>23</sup> <https://polskieradio24.pl/artykul/3260172,tasmy-banasia-prezes-nik-omawial-szczegoly-ukladu-politycznego-majacego-pomoc-po-w-zmianie-wladzy-w-polsce> (accessed: 21 July 2025).

<sup>24</sup> <https://alapjogokert.hu/static/pdf/MLSZI-Riport-POL.pdf> (accessed: 21 July 2025).



expenses. These mechanisms are critical to ensuring political pluralism and fair electoral competition. The State Electoral Commission (PKW) oversees the legality of financial reports, but final decisions in case of disputes rest with the Supreme Court.

On 31 August 2024, the State Electoral Commission, with votes cast by new members appointed by the ruling majority, refused to approve the financial report of the PiS electoral committee for the 2023 parliamentary elections. The accusations concerned alleged receipt of "unpaid benefits," including the cost of airing an informational spot by the Ministry of Justice about criminal law reforms, the alleged involvement of Prime Minister's Office staff in the campaign, and the former Prime Minister's attendance at two army-organized public events. Even assuming these actions constituted campaign activity (which has not been demonstrated), the only applicable sanction would have been personal fines imposed on candidates—not the disqualification of the entire committee. For such a penalty to apply, the committee's proxy would have had to act with knowledge and intent, which clearly did not occur.

Subsequently, on 18 November 2024, the State Electoral Commission rejected PiS's annual financial report for 2023, repeating the same flawed reasoning. The intended consequence of both decisions was to deprive PiS of nearly all its public funding.

PiS appealed both decisions. On 11 December 2024, the Supreme Court overturned the Commission's decision on the campaign report, ordering its approval without sanctions<sup>25</sup>. On 21 January 2025, the Supreme Court also invalidated the Commission's rejection of the 2023 annual report<sup>26</sup>, thereby confirming PiS's entitlement to subsidies for 2025–2027.

Nevertheless, on 30 December 2024, after contentious internal debate, the State Electoral Commission adopted a resolution (4:3 vote) accepting the reports but included a controversial §2 clause: the decision was made solely as a result of the Supreme Court ruling, which, it claimed, must originate from a "court within the meaning of the Polish Constitution and Electoral Code." The Commission implicitly refused to confirm that the Supreme Court's Extraordinary Review and Public Affairs Chamber qualified as such a court<sup>27</sup>. This thinly veiled legal nihilism gave Finance Minister Andrzej Domański a pretext to suspend payment of the funds.

Such actions constitute a blatant violation of the rule of law and constitutional principles of legality, as well as defiance of binding judgments from the highest court competent in electoral matters. PiS has filed a criminal complaint alleging abuse of office.

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<sup>25</sup> <https://www.sn.pl/sites/orzecznictwo/orzeczenia3/i%20nsw%2055-24-2.pdf> (accessed: 21 July 2025).

<sup>26</sup> <https://www.sn.pl/sites/orzecznictwo/orzeczenia3/i%20nsw%2059-24.pdf> (accessed: 21 July 2025).

<sup>27</sup> [https://pkw.gov.pl/uploaded\\_files/1735727416\\_kw-pis-po-sn.pdf](https://pkw.gov.pl/uploaded_files/1735727416_kw-pis-po-sn.pdf) (accessed: 21 July 2025).



Despite the blatant unlawfulness, the actions of Tusk's regime proved counterproductive. Karol Nawrocki won the presidential election, thanks in part to the remarkable engagement of tens of thousands of ordinary Poles who, through small donations to his Committee, financed nearly the entire campaign—reaching the legally permitted funding limit.

- ***On public procurement, the Report states: "investigations into alleged bid-rigging and embezzlements pertaining to the Justice Fund, which provides post-penitentiary assistance and support to crime victims, have led to several arrests, pre-trial detention and an arrest warrant for a high-level official, with an estimated damage of more than EUR 50 million (PLN 224 million)" (p. 13).***

In truth, the arrests, detentions, and inflated "loss" estimates cited in the Report are part of a politically driven crackdown on the opposition. The entire Justice Fund (Fundusz Sprawiedliwości) case was based on erroneous and biased legal classifications that disregarded the statutory provisions governing the status of the Fund and the actual nature of the activities financed by it.

Contrary to the Report, the allegations do not involve public procurement procedures but pertain to grant competitions, which are governed by separate regulations. These competitions fall under ministerial discretion and do not involve competitive tendering. The Fund's steering committees have purely advisory roles; the final decisions rest with the Minister of Justice. Therefore, the notion of "rigging" a competition is legally inapplicable.

Moreover, the prosecution has not alleged corruption or personal enrichment. All allocated funds were used for lawful public purposes in accordance with the Fund's statutory mandate. The projects in question were duly implemented, and there is no basis for the alleged financial "losses." The so-called "benefits" received relate to lawful grants for completed public-interest projects. According to the prosecution, the only benefit obtained by Romanowski was a personal one—namely, the satisfaction derived from assigning tasks to Christian and conservative organizations aligned with his worldview.

The charges brought against Romanowski are wholly absurd. They include, for instance, the claim that I acted without proper ministerial authority during the final month of the previous parliament because the legal delegation was based on an amendment to an existing decree rather than the issuance of a new one. Another accusation alleges I failed to recuse himself from supervising projects that he had previously overseen as Director of the Institute of Justice—despite the absence of any legal obligation to do so and the purely technical nature of the oversight process<sup>28</sup>.

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<sup>28</sup> <https://youtu.be/uvwMPwWzflw?si=-h9xbCJQDO9hAxV> (accessed: 21 July 2025).



Throughout the investigation, numerous procedural abuses occurred: his arrest and detention in violation of international law – his immunity as a member of the Parliamentary Assembly of the Council of Europe (PACE); involvement of judges and prosecutors who should have recused themselves; manipulation of court panels; and the arrest and detention of three individuals—two former Justice Ministry officials and a Catholic priest, Fr. Michał Olszewski—under conditions described by the Polish Ombudsman as inhumane and degrading (e.g., sleep deprivation, denial of light and legal counsel). The Ombudsman confirmed that human rights had been violated<sup>29</sup>, and the cases have been accepted for review by the European Court of Human Rights<sup>30</sup>.

The Justice Fund case exemplifies the weaponization of criminal law to eliminate conservative and faith-based civil society<sup>31</sup>. The Fund supported constitutionally mandated objectives such as assistance to crime victims and prevention initiatives. The Commission Report repeats—uncritically and without verification—the political narrative of the (illegal appointed) National Prosecutor's Office, which is fully subordinated to the Minister of Justice. It ignores legal arguments, multiple domestic court decisions affirming the unlawfulness of actions against Romanowski, and the international dimension of the case, which has led Hungary to grant him political asylum and Interpol to reject Poland's request for a Red Notice<sup>32</sup> – which, in this context, placed Poland under Tusk government alongside Russia and Belarus.

### III. MEDIA PLURALISM AND FREEDOM

- ***The section entitled “Media pluralism and freedom” (p. 14 et seq.) is a series of falsehoods and distortions.***

Since the liberal-left administration of Donald Tusk assumed power in December 2023, Poland has faced unprecedented threats to freedom of speech, media pluralism, and constitutionally protected civil liberties<sup>33</sup>. Under the guise of combating so-called “disinformation” and “hate speech,” the Tusk government and its affiliated left-liberal circles have pursued a systematic campaign of censorship and repression, aimed at eliminating independent conservative voices from the public sphere.

<sup>29</sup> See the extensive statements regarding Father Michał Olszewski:

<https://bip.brpo.gov.pl/pl/content/komunikat-sprawa-ks-michala-o-brpo> and the two officials: <https://bip.brpo.gov.pl/pl/content/komunikat-traktowanie-urzedniczki-ms-zatrzymanie> on the Polish Ombudsman's website (accessed: 21 July 2025).

<sup>30</sup> Application No. 6726/25 and 7563/25 (accessed: 21 July 2025).

<sup>31</sup> <https://www.judicialwatch.org/persecuted-ex-minister-romanowski-to-lead-hungarian-polish-institute-of-freedom/> (accessed: 21 July 2025).

<sup>32</sup> <https://www.hungarianconservative.com/articles/current/marcin-romanowski-interpol-arrest-warrant-asylum-donald-tusk/> (accessed: 21 July 2025).

<sup>33</sup> [https://alapjogokert.hu/uploads/pdf/MLSZI\\_2025\\_06\\_10\\_Threats\\_to\\_Media\\_Freedom\\_and\\_Pluralism\\_in\\_Poland\\_After\\_2023.pdf](https://alapjogokert.hu/uploads/pdf/MLSZI_2025_06_10_Threats_to_Media_Freedom_and_Pluralism_in_Poland_After_2023.pdf) (accessed: 21 July 2025).





One of the most alarming examples was the government's attempt to introduce legislation enabling de facto Internet censorship by administrative decision, without judicial oversight. In January 2025, the Ministry of Digital Affairs proposed a bill transposing the EU's Digital Services Act (DSA), which would empower the President of the Office of Electronic Communications (UKE) to remove online content immediately and unilaterally, without prior court approval. Following a wave of public outrage, the proposal was suspended. However, ruling coalition representatives announced their intent to revisit the project after the June 2025 presidential election. Fortunately, the defeat of progressive candidate Rafał Trzaskowski made it possible to block such authoritarian regulations.

At the same time, the left-liberal parliamentary majority adopted a law criminalizing so-called "hate speech," using vague and arbitrary concepts such as "dehumanization" or "contempt" based on sexual orientation or gender identity. These provisions would allow imprisonment for religious or conservative speech, including direct quotations from the Bible. The law was only blocked thanks to the intervention of the President of the Republic, who referred it to the Constitutional Court. The electoral victory of the conservative candidate Karol Nawrocki in June 2025 ensures that censorship efforts of this nature will remain halted.

Top government officials and public broadcasters openly discussed the need to block the social media platform X during the campaign. The Minister of Digital Affairs, Krzysztof Gawkowski, spoke of the necessity to "enforce security online," while Left party leader Magdalena Biejat called for restricting access to platform X across the EU. Journalists at the state-run broadcaster TVP Info even suggested a temporary blackout of the platform during the Polish elections.

Independent conservative broadcasters have been the prime targets of government hostility, particularly Telewizja Republika and wPolsce24. The former has now become the country's most-watched news station, offering a conservative perspective. Both stations are currently facing legal efforts to strip them of their broadcasting licenses, initiated by activist judges linked to the ruling camp. Journalists from Telewizja Republika have been unlawfully and systematically barred from press conferences held by the Prime Minister and other cabinet members—even during emergency briefings, such as those addressing natural disasters. Poland's largest Catholic broadcaster, TV Trwam, has also faced marginalization and political attacks.

These efforts are reinforced by organized economic pressure campaigns that aim to intimidate advertisers and deter them from working with Christian and conservative media outlets.



State power is being weaponized not only against journalists but also against ordinary citizens. One shocking example involved the arrest of a seriously ill 65-year-old woman from Toruń for posting a Facebook comment critical of a liberal media personality. The dawn raid, criminal charges, and eventual indictment reflect how swiftly and aggressively the state apparatus can be deployed against law-abiding citizens.

At the same time, public intimidation campaigns have been launched against conservative journalists and officials responsible for safeguarding freedom of expression, including members of the constitutionally independent National Broadcasting Council. Prosecutorial threats and orchestrated media attacks are part of a broader effort to silence independent voices. The key target has been Council Chairman Maciej Świrski, whose courageous defense of constitutional norms has made him a central figure in the protection of media freedom in Poland. Proceedings have been initiated to remove him via impeachment by the State Tribunal, under absurd and politically motivated charges. According to the Law on the State Tribunal, the adoption of such a motion by an absolute parliamentary majority (50% + 1 of MPs) results in the automatic suspension of the accused from office—clearly the intended goal of the ruling coalition: to suspend Świrski and paralyze the work of National Broadcasting Council, a constitutional body charged with safeguarding media freedom.

These efforts proceeded despite an interim injunction issued by the Constitutional Tribunal, leading to the filing of a criminal complaint under Articles 127 and 128 of the Criminal Code (attempting to overthrow or paralyze a constitutional organ of the state).

On 16 July 2025, the Constitutional Tribunal issued a ruling declaring the relevant provisions regarding parliamentary majorities and automatic suspensions unconstitutional<sup>34</sup>. The Court found the provisions insufficiently protective of Council's independence. The judgment mirrors an earlier 2024 decision concerning similar provisions related to the President of the National Bank of Poland<sup>35</sup>. The Tribunal held that a simple parliamentary majority—sufficient to form a government—must not be allowed to paralyze constitutionally independent institutions tasked with safeguarding freedom of expression, access to information, and the public interest in broadcasting (Art. 213 of the Constitution).<sup>36</sup>

It must also be recalled that one of the Tusk administration's first unlawful acts was the forcible and illegal takeover of public media—television, radio, and the Polish Press Agency—in December 2023. The aim was to silence opposition voices and establish a pro-government information monopoly across both public and private outlets, which are already

<sup>34</sup> <https://trybunal.gov.pl/sprawy-w-trybunale/art/pociagniecie-czlonka-krajowej-rady-radiofonii-i-telewizji-do-odpowiedzialnosci-przed-trybunalem-stanu> (accessed: 21 July 2025).

<sup>35</sup> <https://trybunal.gov.pl/sprawy-w-trybunale/art/procedura-pociagniecia-do-odpowiedzialnosci-konstytucyjnej-prezesa-nbp> (accessed: 21 July 2025)..

<sup>36</sup> [MLSZI 2025\\_07\\_16 Current Hybrid Assault on Media Freedom in Poland.pdf](#) (accessed: 21 July 2025).





dominated by liberal interests. This takeover, carried out in flagrant violation of binding laws and a Constitutional Tribunal ruling, marked the beginning of a campaign against free speech and media pluralism in Poland and served as a key instrument in consolidating ideological control by the left.

#### **IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES**

- ***Regarding three parliamentary inquiry committees formed in 2024, the Report notes: "the Constitutional Tribunal considered two of the investigative committees to be unconstitutional on grounds of their broad mandate and the limited timeframe for their analysis" (p. 20).***

This summary misrepresents the gravity of the legal violations. Despite the Constitutional Tribunal's explicit ruling finding the inquiry committees unconstitutional for overstepping their mandates and violating principles of legislative precision, the committees continued their activities—or are still active—thereby operating in breach of the law.

Crucially, the Tribunal's decision on the Pegasus inquiry committee<sup>37</sup> rested on a fundamental procedural irregularity—one deliberately omitted in the Report: the resolutions establishing the committees were adopted while two MPs, Mariusz Kamiński and Maciej Wąsik, were unlawfully imprisoned and therefore unable to participate in parliamentary proceedings for nearly six months, despite the fact that their mandates remained legally valid<sup>38</sup>. As a result, the Sejm's composition was distorted, and the adoption of committee resolutions was unconstitutional.

The continued functioning of these committees—despite a lack of legal foundation—represents a flagrant example of systemic lawlessness and the instrumentalization of parliamentary institutions for political purposes.

- ***The Report notes that: "Steps have also been taken to increase the protection against hate crime and hate speech" (p. 21).***

In reality, the amendment to the Criminal Code adopted by the Sejm in March 2025 has a censorial character and raises serious constitutional concerns<sup>39</sup>. The Act was referred by the President of the Republic to the Constitutional Tribunal for preventive review, which has suspended its entry into force.

<sup>37</sup> <https://trybunal.gov.pl/postepowanie-i-orzeczenia/wyroki/art/12896-zakres-dzialania-sejmowej-komisji-sledczej> (accessed: 21 July 2025).

<sup>38</sup> [https://alapjogokert.hu/uploads/pdf/MLSZI\\_2025\\_05\\_21\\_IWP\\_Report\\_Unlawful\\_Detention\\_of\\_Polish\\_Opposition\\_Members\\_of\\_Parliament.pdf](https://alapjogokert.hu/uploads/pdf/MLSZI_2025_05_21_IWP_Report_Unlawful_Detention_of_Polish_Opposition_Members_of_Parliament.pdf) (accessed: 21 July 2025).

<sup>39</sup> [https://alapjogokert.hu/uploads/pdf/MLSZI\\_2025\\_06\\_10\\_Threats\\_to\\_Media\\_Freedom\\_and\\_Pluralism\\_in\\_Poland\\_After\\_2023.pdf](https://alapjogokert.hu/uploads/pdf/MLSZI_2025_06_10_Threats_to_Media_Freedom_and_Pluralism_in_Poland_After_2023.pdf) (accessed: 21 July 2025).



The amendment, pushed through by the liberal-left parliamentary majority supporting Donald Tusk's government, significantly expanded the list of protected characteristics, including—among others—sexual orientation. Previously, the law penalized acts motivated by hatred based on nationality, ethnicity, race, or religion. The introduction of vague and undefined terms such as "hatred," "contempt," or "dehumanization" constitutes a blatant violation of the principle *nullum crimen sine lege certa* (Article 42(1) of the Polish Constitution). The absence of legal definitions and the ambiguity of the language used open the door to arbitrary criminal prosecution of individuals with conservative or Christian beliefs, posing a direct threat to freedom of expression.

The amendment also violates the constitutional principles of proportionality and equality before the law. Rather than offering genuine protection against violence or hatred, the statute introduces asymmetric protections, shielding only certain ideologically favored groups—while ignoring, for instance, religious individuals or pro-life activists, who are frequently targeted by public hostility. This selective protection regime is a clear breach of Article 32 of the Constitution, which guarantees equality for all citizens.

The legislation was sharply criticized by legal experts, journalists, the general public, and conservative politicians. Critics emphasized that the law does not protect against hatred, but rather seeks to criminalize conservative and religious speech. Under its provisions, even quotations from the Bible or the teachings of the Catholic Church could be classified as "hate speech."

This legislative initiative reflects a broader globalist and ideological trend, closely aligned with the agenda of organizations such as the Open Society Foundations. Rather than safeguarding citizens' rights, it introduces repressive legal instruments that threaten imprisonment for expressing views inconsistent with left-liberal orthodoxy. The proposed standards are disturbingly reminiscent of authoritarian or totalitarian regimes, including the practices of Communist Poland.

The fact that it was the President of the Republic, a conservative, who halted the law from taking effect underscores the constitutional role of the presidency as a final safeguard for civil liberties. At a time when the parliamentary majority seeks to suppress fundamental freedoms, the presidency remains the last bastion of constitutional guarantees.

The amendment constitutes a flagrant violation of freedom of speech and creates a real risk of criminal sanctions for dissenting views. In a democratic state governed by the rule of law, criminal law cannot be used as an instrument to silence ideological opponents. This legislative change not only destroys the foundations of ideological pluralism, but also opens the door to ideological censorship and political repression.



- ***The Report further claims: "overall, some further progress has been made to improve the framework in which civil society operates" (p. 21).***

In fact, under the rule of Donald Tusk's liberal-left coalition, conservative and Christian civil society organizations have been subjected to escalating repression. A particularly egregious example is the case of the Justice Fund, where organizations engaged in assisting crime victims, promoting crime prevention, and protecting family values have become targets of intense prosecutorial harassment, media smear campaigns, and months of audits by tax authorities and the Supreme Audit Office.

Despite clear legal provisions, conservative NGOs have been falsely accused of "rigging competitions," even though, under applicable law, funding decisions were made by the Minister of Justice, with competition committees serving in an advisory role only. These organizations are also accused of obtaining "financial benefits" through legal, statutory public grants, which is a gross distortion of criminal law.

In practice, these actions aim to eliminate ideologically inconvenient initiatives from public life, destroy conservative and religious organizations, and intimidate all actors who oppose the ideological agenda of the current government. These repressive measures stand in direct violation of the constitutional principles of pluralism and freedom of association, and they represent a serious threat to democracy and to the existence of a genuine civil society in Poland.