



# HUNGARIAN-POLISH

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"Both are valiant, both are brave,  
Blessings on them both we crave."



**Weaponizing Justice:  
The Unlawful Takeover of Poland's Prosecution Service  
by the Left-Liberal Government of Donald Tusk<sup>1</sup>**

**Executive Summary**

In Poland, following the assumption of power on December 13, 2023, the left-liberal-globalist government led by Donald Tusk immediately undertook actions in violation of the law, including the unlawful and forceful takeover of the Polish prosecutor's office.

The objective of the globalist coalition was unequivocal: to place the prosecution service under the direct political control of the executive and instrumentalize it as a tool of political repression against the opposition, while simultaneously securing de facto impunity for Donald Tusk's political allies.

On January 12, 2024—less than a month after taking office—Justice Minister Adam Bodnar unlawfully removed Dariusz Barski, the legally appointed National Public Prosecutor, from his position. That same day, at Bodnar's request, Prime Minister Donald Tusk appointed a new head of the prosecution service, again in flagrant violation of applicable law. Although both the Constitutional Court and the Supreme Court subsequently ruled that Barski's dismissal was unlawful, the government has refused to reverse its actions. Following the illegal removal, a broad and politically motivated purge was launched within the prosecution service.

Tusk and his political allies have set in motion a campaign of intimidation against their opponents. The globalist leadership is systematically using legal institutions to settle political scores and eliminate rivals. The justice system is being weaponized to target, among others, former Prime Minister Mateusz Morawiecki, former Minister of Justice Zbigniew Ziobro, as well as numerous other former senior officials. The result is clear: the prosecution service in Poland no longer serves the rule of law, but instead advances the political and ideological interests of those currently in power.

While the Tusk government systematically violates the law and openly applies it "as we understand it," Brussels bureaucrats turn a blind eye to these abuses. Worse still, by lifting the

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<sup>1</sup> The report is based on a lecture delivered at the Institute of World Politics in February 2025, [https://www.youtube.com/watch?v=SJMw\\_ogQDsk](https://www.youtube.com/watch?v=SJMw_ogQDsk) (accessed on 20 May 2025).



conditionality mechanism on EU funds, the European Commission is actively encouraging the continuation of such unlawful practices.

As a consequence, the Polish legal system has ceased to perform its core function of protecting the rights of citizens—a foundational element of the rule of law and the constitutional order. Instead, it has been transformed into an instrument of coercion and intimidation. The case of the Polish prosecution service serves as a striking example of the broader threat posed by the globalist agenda to national constitutional orders and reaffirms the legitimacy of Hungary's decision to provide legal protection to Marcin Romanowski, a Polish MP facing political persecution in his home country.

Poland's experience clearly demonstrates the consequences of power being seized by globalists—the enemies of national interest. In Hungary, this threat is also becoming increasingly real, as the opposition openly declares that, if victorious, it will implement—under orders from Brussels—the same destructive scenario being carried out by Tusk in Poland.

## **Introduction**

One of the first unlawful actions undertaken by the left-liberal administration of Donald Tusk, which assumed power in Poland on December 13, 2023, was the illegal and forceful takeover of the National Public Prosecutor's Office, followed by the subordination of local prosecutorial units throughout the country. This operation aimed to bring a key institution of the justice system—responsible for prosecuting criminal offenses—under direct political control. The dual objective was clear: to guarantee impunity for the supporters of the liberal government, and to weaponize the prosecution service as an instrument of political persecution against the opposition.

The Polish prosecution service is organized hierarchically. Its structure, operating principles, and the legal status of prosecutors are defined by the Act on the Public Prosecutor's Office<sup>2</sup>. At its helm is the Prosecutor General, who, by statute, simultaneously serves as the Minister of Justice—a member of the Council of Ministers and a political officeholder. However, the Prosecutor General's authority is limited to general supervision. The role is designed to align criminal justice policy with the democratic mandate, while safeguarding the rule of law. The Prosecutor General does not possess the authority to interfere with the day-to-day functioning of the prosecution system, influence the course of specific investigations, or make direct personnel decisions. These responsibilities are assigned to the First Deputy of the Prosecutor General—the National Public Prosecutor—whose role was further strengthened by legislative amendments in 2022, making him the de facto head of the prosecution service.

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<sup>2</sup> <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000177/U/D20160177Lj.pdf> (accessed on 20 May 2025).



According to Article 13 of the Act on the Public Prosecutor's Office, the Prosecutor General may direct prosecutorial activities either personally or through the National Public Prosecutor and other deputies. The Prosecutor General issues binding orders, guidelines, and instructions, and represents the prosecution service externally at the strategic level.

Pursuant to Articles 13 § 3a and 18 of the Act, the National Public Prosecutor, as the First Deputy of the Prosecutor General, oversees and coordinates the work of regional, district, and local prosecutorial units. He also exercises appellate supervision over preparatory proceedings (Article 29 § 1). Within this framework, he is empowered to issue binding service instructions and functions as the direct superior to all other prosecutors—not the Prosecutor General (Article 31 § 1 point 2)—thereby holding supervisory authority in specific proceedings.

Crucially, the National Public Prosecutor is responsible—independently of political influence from the Prosecutor General—for the appointment and dismissal of regional, district, and local prosecutors, as well as the heads of prosecutorial units (Article 15 § 1, § 4).

The National Public Prosecutor is appointed by the Prime Minister upon the request of the Prosecutor General (who concurrently serves as Minister of Justice), following consultation with the President of the Republic of Poland. Dismissal is likewise carried out by the Prime Minister, at the request of the Prosecutor General, and requires the consent of the President (Article 14 § 1). These provisions, governing both the appointment and dismissal processes, afford the National Public Prosecutor a relatively strong legal position and a degree of independence from day-to-day political pressure by the parliamentary majority. This is ensured by the fact that relevant competences are divided between members of the executive (Prime Minister and Minister of Justice) and the President, who is elected in a separate, direct national election.

### **The Decision to Unlawfully and Forcefully Seize Control of the National Public Prosecutor's Office**

At the time the left-liberal "December 13 Coalition" came to power in Poland in the autumn of 2023, the office of the National Public Prosecutor was held by Prosecutor Dariusz Barski, who had been duly appointed in accordance with applicable law and was formerly an advisor to Minister of Justice and Prosecutor General Zbigniew Ziobro.

Just one week after the new government assumed office, on December 20, 2023, it initiated the unlawful and forceful takeover of public media outlets and the Polish Press Agency. In response to criminal complaints concerning abuse of office by the Minister of Culture and other officials (pursuant to Article 231 of the Polish Criminal Code)<sup>3</sup>, as well as assaults on the

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<sup>3</sup> Article 231 § 1. A public official who, by exceeding their authority or failing to fulfill their duties, acts to the detriment of the public or private interest shall be subject to a penalty of imprisonment for up to 3 years.



personal inviolability of opposition members of parliament and journalists, independent regional and district prosecution offices in Warsaw launched formal investigations. During these proceedings, prosecutors determined that the notarial deed documenting the alleged general shareholders' meeting in state-owned media companies had been falsified. The prosecution service actively participated in registration court proceedings, successfully blocking the Minister of Culture's attempts to register unlawfully appointed management boards.

Faced with the effectiveness of these independent prosecutorial actions, the Tusk government moved aggressively to seize control over law enforcement institutions. It became clear to Donald Tusk that continued independence of the prosecution would not only impede the unlawful takeover of public media and lead to potential criminal liability of senior government officials (including the Minister of Culture), but also obstruct or delay further illegal acts—acts which had quickly become the dominant method of governance under his administration. Since December 2023, the left-liberal ruling coalition has lacked the qualified parliamentary majority necessary to override a presidential veto. In the Polish constitutional system, the President may veto legislation, and overriding such a veto requires a three-fifths majority in the Sejm—a threshold the Tusk coalition does not command.

The operation to remove Dariusz Barski from his post as National Public Prosecutor was carried out on January 12, 2024. On that day, the Minister of Justice and Prosecutor General, Adam Bodnar, presented Barski with a document claiming that his reinstatement to active service on February 16, 2022—ordered by then-Prosecutor General Zbigniew Ziobro—had been executed in violation of the law and was therefore null and void. On this basis, Bodnar declared that as of January 12, 2024, Barski was to be considered formally retired and thus ineligible to continue in the role of National Public Prosecutor<sup>4</sup>.

It is worth noting that Adam Bodnar, who has served as both Minister of Justice and Prosecutor General since 2023, is a Polish lawyer with longstanding ties to organizations linked to George Soros. He first gained national prominence as the Polish Ombudsman (2015–2021), having been appointed by the liberal-agrarian parliamentary majority of 2011–2015. During his tenure, he became known as a forceful proponent of woke ideology and its application in the legal system, frequently promoting expansive privileges for LGBTQ+ individuals while targeting persons holding conservative or Christian beliefs. In the 2023 elections, Bodnar was elected to the Senate with the backing of Civic Platform and was subsequently appointed Minister of Justice and Prosecutor General, taking direct responsibility for many of the

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§ 2. If the perpetrator commits the act referred to in § 1 with the intent of obtaining a material or personal benefit, they shall be subject to a penalty of imprisonment from 1 to 10 years.

<sup>4</sup> <https://www.gov.pl/web/sprawiedliwosc/informacja-o-uznaniu-przywrocenia-prokuratora-dariusza-barskiego-do-sluzby-czynnej-za-akt-dokonany-z-naruszeniem-przepisow> (accessed on 20 May 2025).



unlawful actions committed by the Tusk administration. These actions—including the removal of Barski—are the subject of a criminal complaint filed by the President of the Constitutional Court in January 2025, alleging serious offenses against the state and misconduct in public office, potentially punishable by long-term imprisonment or even life imprisonment<sup>5</sup>.

Prosecutor Dariusz Barski is a distinguished figure within the Polish judiciary. From 2007 to 2010, he served as Deputy Prosecutor General and National Public Prosecutor. Following the 2010 reform implemented under the first Tusk administration (2007–2015), which abolished the National Public Prosecutor's Office, Barski retired—an outcome of structural changes within the prosecution service. On February 16, 2022, he was reinstated to active service by decision of Prosecutor General Zbigniew Ziobro, pursuant to Article 47 of the Act of January 28, 2016—Provisions Introducing the Law on the Public Prosecutor's Office (Journal of Laws, item 178, as amended)<sup>6</sup>.

Under that provision, a retired prosecutor may, upon personal request, return to active duty in the same or an equivalent position, provided that the retirement was not due to health-related reasons. The decision lies exclusively with the Prosecutor General (Article 47 §§ 1 and 2). The same provision allows a prosecutor to return to retirement status at any time (Article 47 § 3)<sup>7</sup>.

### **Three Private Legal Opinions as the “Legal Basis”**

Due to the legal requirement that the dismissal of the National Public Prosecutor must be approved by the President of the Republic of Poland—as stipulated by the Act on the Public Prosecutor's Office—and the absence of a qualified parliamentary majority necessary to amend this provision, the Tusk government sought alternative legal justifications to circumvent the law. Minister of Justice Adam Bodnar commissioned three private legal opinions from Professor Anna Rakowska (University of Łódź), Professor Sławomir Patyra (Maria Curie-Skłodowska University in Lublin), and Professor Grzegorz Kuca (Jagiellonian

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<sup>5</sup> [NOTIFICATION of 31 January 2025 translated from Pol. into Eng .pdf](#) (accessed on 20 May 2025).

<sup>6</sup> <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20160000178/U/D20160178Lj.pdf> (accessed on 20 May 2025).

<sup>7</sup> Article 47 § 1. A public prosecutor who, on the day of entry into force of this Act, remains in retirement, may, upon his or her request, return to service in the last-held position or in an equivalent position. This entitlement does not apply to prosecutors who retired for health reasons.

§ 2. The decision regarding the request referred to in § 1 shall be made by the Public Prosecutor General.

§ 3. A prosecutor reinstated to service pursuant to the request referred to in § 1 may, at any time, return, upon his or her request, to the previously held retirement status with one month's notice.

§ 4. The Public Prosecutor General may not refuse to grant the request referred to in § 3.





University in Kraków)<sup>8</sup>. These experts argued that Prosecutor Dariusz Barski's reinstatement to active service had no legal effect.

According to their analysis, Article 47 of the Act Introducing the Law on the Public Prosecutor's Office—on the basis of which Barski had been reinstated in 2022—was allegedly intended as a purely transitional measure. In their view, it served only to address the specific consequences of the 2010 dissolution of the National Public Prosecutor's Office and appellate prosecution offices. The provision, they claimed, allowed reinstatement to active service solely during a narrow, two-month window following the entry into force of the 2016 law—i.e., from March 4 to May 4, 2016.

This conclusion, however, raises serious concerns about its legal integrity. Article 47 contains no language limiting the temporal applicability or duration of its provisions. Nevertheless, the government-commissioned experts undertook an interpretative exercise that flatly contradicted the text of the statute as well as the recognized principles of legal interpretation. In doing so, they effectively created a new legal norm—one that had no basis in the law as written—through the vehicle of private legal opinion, thereby furnishing the Minister of Justice with an alleged legal foundation for an otherwise unlawful act.

These legal scholars simply assumed—without textual support—that the reinstatement mechanism was transitional and episodic in nature, and that the legislature's failure to include a temporal limitation amounted to a legislative oversight. They further argued that this supposed error should be corrected by invoking general legal principles and contextual analysis. In particular, they contended that the law's purpose—to facilitate the reorganization of the prosecution service—implied that reinstatement was meant to occur only in the early phase of implementing the new prosecutorial framework.

The experts emphasized that transitional provisions are designed to address exceptional, one-time situations and that, by analogy to other episodic provisions which included explicit timeframes, a two-month limit should be presumed. On this basis, they concluded that the legislature had implicitly established such a deadline for reinstatement under Article 47. They also invoked the interpretive maxim *exceptiones non sunt extendendae* (exceptions must not be interpreted broadly), arguing that the reinstatement provision, being exceptional, must be narrowly construed. They further classified Article 47 as an intertemporal norm and asserted that, in cases of doubt, one should presume the application of the newer legal regime.

In addition, the experts pointed to an asymmetry in the statutory language: Article 47 § 3 allows a prosecutor to return to retirement from active service "at any time," whereas no

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<sup>8</sup> <https://www.gov.pl/web/sprawiedliwosc/opinie-prawne-dot-zmiany-na-stanowisku-prokuratora-krajowego> (accessed on 20 May 2025).



corresponding phrase appears in the provision governing reinstatement from retirement. They inferred from this linguistic omission that a return to active service could not be exercised at any time and was therefore subject to a time constraint—albeit one never explicitly stated in the statute.

These actions represent a flagrant example of how the left-liberal legal establishment engages in interpretative practices that distort the clear meaning of the law. Rather than adhering to the statute's plain language and the intent of the democratically elected legislature, they construct extralegal arguments to justify predetermined political outcomes. This approach not only undermines the rule of law but illustrates the extent to which legal elites are prepared to fabricate norms that serve ideological and partisan goals.

### **The Standards of "Militant Democracy" According to Tusk**

Curiously, the delivery of the Prosecutor General's letter to Dariusz Barski on January 12, 2024, was purported to result in the immediate expiration of his mandate as National Public Prosecutor—a position he had lawfully held since March 2022. This legal construction is remarkable, considering that, according to the Prosecutor General himself, Barski had allegedly not been a prosecutor for 13 years. Decisions issued by Barski during his tenure were declared valid only if based on express authorization from the Prosecutor General. All other decisions made independently were to be subjected to a detailed legal review.

This position is irreconcilable with the fundamental logic and principles of the legal system. Its application becomes even more questionable in light of the fact that on the very morning of January 12, Barski—still acting as National Public Prosecutor—had, at the request of Minister Adam Bodnar, promoted one of Bodnar's trusted prosecutors to a position within the National Public Prosecutor's Office. Under applicable law, only the National Public Prosecutor is empowered to make such an appointment. That same evening, the newly promoted prosecutor assumed the post that Barski had allegedly vacated. Since only a prosecutor assigned to the National Public Prosecutor's Office may be appointed as its head, and thus lead the entire prosecution service, this means that Bodnar relied on the validity of Barski's official decision while simultaneously denying the legality of his mandate.

In analyzing the purported "legal basis" for the takeover of the prosecution service, it is noteworthy that the government's earlier seizure of public media was similarly preceded by a resolution of the Sejm—which, as a parliamentary declaration, is not a binding source of law. By comparison, the seizure of the prosecution service relied not even on a legislative resolution, but on three privately commissioned legal opinions. These two cases now serve as symbols of the lawlessness of the Tusk government—a government whose Prime Minister openly declared that it would act "in accordance with the law—as we understand it."





Donald Tusk gave a clear and direct account of this political philosophy during a programmatic conference held in the Polish Senate on September 10, 2024, titled *"Paths Out of the Constitutional Crisis."*<sup>9</sup> There, in the presence of leading figures of the liberal legal establishment, Tusk stated:

"We will commit acts which, according to some legal authorities, will be unlawful or not entirely lawful, but nothing exempts us from the duty to act. Every day I must make decisions that can be very easily criticized and challenged legally, but without these decisions, it would make no sense for me to accept the responsibility of leading the government."

Addressing lawyers and constitutional scholars, he further declared:

"Lacking legal instruments, the executive must find within itself the strength and determination (...) to take risks and make decisions that will sometimes be challenged even by you," adding that "not all of our actions will meet the criteria of full rule of law from the point of view of purists."

The event was co-organized by the Speaker of the Sejm, the Speaker of the Senate, and the Prime Minister. It featured participation by current and former Ombudsmen, former Presidents of the Constitutional Tribunal, and retired judges of Poland's and Europe's highest courts. Among the attendees were Andrzej Zoll, Bohdan Zdziennicki, Jerzy Stępień, Marek Safjan, Ewa Łętowska, Marcin Wiącek, Adam Bodnar, Professor Leszek Garlicki, and leading members of legislative committees.

In reality, the seizure of the prosecution service—just like the earlier takeover of public media and the subsequent attacks on the judiciary—was carried out without any constitutional or statutory basis and in direct violation of the Polish legal order. The "legal justification" consisted of private legal opinions that deliberately distorted the meaning of clear statutory provisions. A similar method was used several months later in the case of Marcin Romanowski, a member of the Parliamentary Assembly of the Council of Europe, whose immunity was disregarded on the basis of purpose-driven legal opinions in order to justify his detention and the filing of politically motivated charges.

The three legal opinions invoked to justify the takeover of the prosecution service are characterized by sophisticated rhetorical construction, but they share one fundamental flaw: they completely disregard the unambiguous language of the statute. In doing so, they assume the function of quasi-legislative acts. While legal interpretation may, in extraordinary circumstances, allow for non-literal readings, such interpretation must be justified by

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<sup>9</sup> <https://www.senat.gov.pl/aktualnoscilista/art,16395,w-senacie-odbylo-sie-spotkanie-drogi-wyjscia-z-kryzysu-konstytucyjnego.html> (accessed on 20 May 2025).



compelling reasons. In this case, no such reasons exist—aside from the political objective of seizing control of the prosecution service, which cannot, by itself, justify deviation from the letter of the law.

The structure and content of these opinions strongly indicate that they were commissioned to provide ex post rationalizations for a predetermined political outcome. This contravenes basic standards of legal reasoning and professional ethics. The statutory provision in question remains in force and has not been repealed. Nor can it be classified as an “episodic” or “transitional” provision, as such classifications require the inclusion of an explicit temporal limitation—which is absent.

Moreover, because the provision does not specify a deadline for submitting a request to return from retirement to active service, it must be interpreted as allowing such a return “at any time.” To impose a time limitation through interpretation would effectively amount to conferring upon the Prosecutor General a power to reject applications based on a fictional deadline—an outcome that would be inconsistent with Article 7 of the Constitution of the Republic of Poland, which prohibits the presumption of powers not explicitly granted by law.

The interpretative approach advanced by the Prosecutor General’s “experts” also violates key constitutional principles underpinning a democratic state governed by the rule of law—such as institutional reliability, trust in public authority, legal certainty, legislative rationality, and predictability of the law.

In fact, the contested provision does not even bear the characteristics of a transitional norm; rather, it is a substantive and operational provision. Even if it were transitional, this would not imply temporal limitation. The statute remains applicable as long as there are prosecutors who retired before the new law entered into force and who may validly request reinstatement. While the number of such prosecutors will naturally diminish over time, this demographic eventuality does not render the provision transitional or episodic.

At most, the only technical flaw—albeit a common one—is that a substantive rule was placed within an introductory statute rather than within the main body of the Public Prosecutor’s Office Act. However, this legislative drafting practice—while questionable—is not legally determinative. Even if interpretative doubts existed (which they do not), such doubts would have to be resolved in favor of the individual, in accordance with the principle of respect for acquired rights.

### **Unlawful Appointment of the New Head of the Prosecution Service**

On January 12, 2024—the same day that Prosecutor General Adam Bodnar carried out the de facto “dismissal” of National Public Prosecutor Dariusz Barski—Prime Minister Donald Tusk appointed Prosecutor Jacek Bilewicz as acting First Deputy Prosecutor General (National



Public Prosecutor), without obtaining the legally required opinion of the President of the Republic of Poland. This appointment constituted a direct violation of statutory law, as it bypassed the President's constitutionally mandated role in the appointment procedure. Moreover, the position of "acting" National Public Prosecutor does not exist in Polish law. The only lawful method for entrusting someone with the responsibilities of the National Public Prosecutor—provided the position were vacant, which it was not—would be through formal appointment in accordance with the statutory process, involving the President.

A few days later, in a clear exercise of *fait accompli*, Adam Bodnar physically barred Dariusz Barski from entering his office and the premises of the National Public Prosecutor's Office, thereby preventing him from exercising the powers vested in him by law. This action constituted a use of coercive force against a senior constitutional authority.

Two months later, on March 12, 2024, Prime Minister Tusk, at the request of Bodnar, formally appointed Prosecutor Dariusz Korneluk as National Public Prosecutor<sup>10</sup>. Once again, this appointment was carried out in flagrant breach of statutory requirements, as it took place without the participation of the President of the Republic, whose opinion is a necessary condition for a lawful appointment.

The matter was also the subject of proceedings before the Constitutional Tribunal. On January 15, 2024, Dariusz Barski filed a constitutional complaint (case no. SK 13/24), along with a request for interim relief. On February 5, 2024, the Tribunal issued an interim order directing the Prosecutor General and all public authorities to refrain from any actions that would impede Barski from exercising his rights and duties as an active-duty prosecutor in the National Public Prosecutor's Office—including the role of National Public Prosecutor. The Tribunal also suspended the effect of the Prosecutor General's letter of January 12, 2024, and the Prime Minister's appointment of Jacek Bilewicz, explicitly prohibiting any individual appointed to perform the duties of the National Public Prosecutor from undertaking any action in that capacity without a valid legal basis. The purpose of the interim order was to preserve the status quo pending the Tribunal's final ruling. The government refused to comply with the binding decision, thus committing a further violation of law and openly defying one of the Republic's highest constitutional bodies.

### **Purges in the Prosecution Service**

The unlawful removal of Dariusz Barski immediately met with opposition from three Deputy Prosecutors General: Robert Hernand, Michał Ostrowski, and Krzysztof Sierak. During the initial attempt to seize the building of the National Public Prosecutor's Office, Robert Hernand

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<sup>10</sup> <https://www.gov.pl/web/sprawiedliwosc/dariusz-korneluk-nowym-prokuratorem-krajowym>? (accessed on 20 May 2025).



recorded a conversation with Adam Bodnar—after informing him that the conversation was being recorded—in which Hernand firmly objected to the unlawful actions. Hernand had served as Deputy Prosecutor General across multiple governments, including earlier liberal administrations. His recorded testimony provided vital evidence of procedural irregularities that would otherwise have remained obscured from public view. In retaliation, disciplinary proceedings were initiated against him at the request of the Prosecutor General. In November 2024, he was formally charged with professional misconduct for recording the conversation without Bodnar's consent.

Following the illegal change in leadership at the top of the prosecution service, a broad wave of personnel changes swept through the regional, district, and local prosecution offices. These dismissals and appointments were, however, legally defective. As previously established, only the National Public Prosecutor holds the authority to carry out such staffing decisions. Since the individual lawfully occupying that position had been unlawfully removed and replaced by persons without proper authority, all personnel changes made during this period are tainted by illegality.

Prosecutors who assumed managerial roles based on the authority of Jacek Bilewicz or Dariusz Korneluk and who undertook acts in that capacity arguably fulfilled the statutory elements of the offense under Article 227 of the Polish Criminal Code. According to that provision, anyone who falsely represents themselves as a public official or exploits another person's mistaken belief in their official capacity and performs an act associated with that office is subject to a fine, restriction of liberty, or up to one year of imprisonment.

The illegal leadership of the prosecution service also initiated a campaign of summary revocations of prosecutorial delegations and punitive transfers of perceived "inconvenient" prosecutors to remote or lower-ranked offices. One striking example is that of Professor Przemysław Ostojki—an internationally respected scholar in administrative law and a prosecutor in the National Public Prosecutor's Office. Ostojki had represented the Prosecutor General in high-profile administrative litigation, including cases aimed at countering strategic litigation efforts by LGBT advocacy groups that sought to register same-sex parenting in Polish civil records through judicial reinterpretation of cross-border legal frameworks. Under the prior conservative administration, these attempts were successfully blocked by the prosecution service. Following the illegal leadership change, Professor Ostojki was abruptly reassigned to a basic local unit handling routine criminal matters—effectively removing him from any influence over cases involving state legal policy.

Concerns about the use of "punitive delegations" were also raised by the Polish Ombudsman, Professor Marcin Wiącek. He emphasized that abrupt termination of prosecutorial delegations may violate the constitutional right to respect for private and family life (Article 47 of the



Polish Constitution; Article 8 of the European Convention on Human Rights). Such transfers may result in forced relocations, disruptions to family life, and changes in the educational setting for children of affected prosecutors. Furthermore, they negatively impact the continuity, efficiency, and integrity of ongoing investigations.

### **Rulings of the Supreme Court and the Constitutional Tribunal**

On September 27, 2024, a three-judge panel of the Supreme Court's Criminal Chamber reviewed a legal question submitted by a lower court concerning the legal status of National Public Prosecutor Dariusz Barski (case no. I KZP 3/24) <sup>11</sup>. The Court resolved the matter by confirming the continuing legal validity of the statutory provisions that enabled Barski's return to active service in 2016. The Supreme Court held that his reinstatement and subsequent appointment were lawful and effective. Accordingly, all decisions made on the basis of those provisions—including Barski's reactivation and his official acts as National Public Prosecutor—were declared valid and binding.

The consequence of this judgment was the formal confirmation that Dariusz Barski remained the lawful National Public Prosecutor—rather than Jacek Bilewicz (who had served as “acting” National Public Prosecutor from January to March 2024) or Dariusz Korneluk (appointed by Prime Minister Donald Tusk in March 2024, in violation of the applicable legal procedure).

In response, government officials—including Prosecutor General and Minister of Justice Adam Bodnar—publicly refused to recognize the judgment, arguing that it was issued by judges appointed to the Supreme Court upon the recommendation of the National Council of the Judiciary (NCJ) after 2017. This position constitutes a flagrant violation of Polish law and is unsupported even by the jurisprudence of the Court of Justice of the European Union (CJEU), which—acting beyond its competences—issued rulings concerning the NCJ that Polish authorities now cite as justification for their defiance of the law. It is worth noting that the Criminal Chamber of the Supreme Court has never had its institutional legitimacy challenged, and each of the three judges on the panel had served between 20 and 30 years on the bench, held academic titles, and were widely regarded as distinguished authorities in criminal law.

In November 2024, the matter also became the subject of a constitutional review following the complaint filed by Dariusz Barski in January of that year. During proceedings before the Constitutional Tribunal, the Prosecutor General reiterated his earlier claim that Article 47 of the Act Introducing the Law on the Public Prosecutor's Office was an episodic provision, limited to a brief post-enactment window. In contrast, Barski argued that his removal from office in January 2024 was unconstitutional and violated his right of equal access to public

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<sup>11</sup> <https://www.sn.pl/sites/orzecznictwo/OrzeczeniaHTML/i%20kzp%203-24-1.docx.html> (accessed on 20 May 2025).





service. He maintained that Article 47(1)–(2) contains no temporal limitation, and thus prosecutors in retirement remain entitled to request reinstatement to their former or equivalent positions regardless of the passage of time.

In its judgment of November 22, 2024 (case no. SK 13/24)<sup>12</sup>, the Constitutional Tribunal ruled that the restrictive interpretation of Article 47—limiting its application to a two-month window—was inconsistent with Article 60 of the Constitution (equal access to public service) and Article 31(3) (the proportionality principle). The Tribunal emphasized that limitations on rights and freedoms must be necessary, proportionate in the strict sense, and serve constitutionally protected values. The Tribunal therefore rejected the legal reasoning of the government-appointed experts and confirmed the continuing applicability of the provision.

As with all judgments issued by the Constitutional Tribunal since April 2024, this ruling was not published in the Journal of Laws and is not recognized by the current government, which openly defies the constitutional system of sources of law.

Remarkably, on November 27, 2024, the Supreme Court once again addressed related legal questions in case no. I KZP 7/24, concerning the legality of the appointments of Jacek Bilewicz and Dariusz Korneluk to positions within the National Public Prosecutor's Office. This panel consisted of three judges appointed to the Supreme Court prior to 2018, two of whom were viewed as sympathetic to the Tusk administration. Nevertheless, the panel declined to issue a resolution, citing procedural grounds: namely, that the legal questions submitted by the Warsaw Court of Appeal were of an individual rather than general nature and therefore fell outside the scope of the Supreme Court's jurisdiction<sup>13</sup>.

The effect of the Court's inaction was to leave intact the binding judgment of September 27, 2024, affirming that Dariusz Barski's removal had no legal effect. Legal and political commentators interpreted the refusal to rule as an attempt to avoid the political fallout of legitimizing what was clearly an unlawful act. That the panel—despite its composition—declined to offer support for the government's position illustrates a broader phenomenon: the growing reluctance of officials, judges, and prosecutors to participate in legally dubious actions under a regime increasingly viewed as illegitimate.

This phenomenon has been interpreted as the beginning of the erosion of the "state of lawlessness," driven by mounting institutional resistance, widespread public discontent, and the operational and political incompetence of the government. A key catalyst has been the return of Donald Trump to the U.S. presidency and the global shift away from the previously

<sup>12</sup> <https://trybunal.gov.pl/postepowanie-i-orzeczenia/wyroki/art/ograniczenie-do-dwoch-miesiecy-prawa-prokuratora-w-stanie-spozynku-do-powrotu-na-swoj-wniosek-do-sluzby-3> (accessed on 20 May 2025).

<sup>13</sup> <https://www.sn.pl/sites/orzecznictwo/orzeczenia3/i%20kzp%207-24.pdf> (accessed on 20 May 2025).





dominant liberal order enforced by Washington. The resulting weakening of external political cover has emboldened domestic actors to resist participation in unlawful governance.

This effect—particularly typical in the early and terminal phases of a lawless regime—has been termed the *“risk effect”* by German legal philosopher Robert Alexy. It is based on the observation that in authoritarian systems, ordinary officials are typically neither overtly heroic nor inherently corrupt. Most attempt to navigate the system passively, neither resisting nor zealously enforcing illegality. However, as the regime begins to falter, the perceived personal and legal risks of continued complicity increase, causing a chilling effect that undermines the regime’s cohesion.

According to Alexy, the *“risk effect”* reflects a shift in official behavior toward non-compliance and legal caution, motivated not by moral conviction but by self-preservation. This, in turn, accelerates the disintegration of the lawless regime. In the formation stage of such a regime, if those in power fail to consolidate control swiftly and ruthlessly, such hesitation may even prevent authoritarian consolidation.

The *“risk effect”* is thus manifested in lower levels of engagement with unlawful directives, more cautious decision-making, and increased bureaucratic inertia—often frustrating the most zealous partisans of the regime. From a policy perspective, this phenomenon supports not only non-positivist theories of law but also a broader strategy: the explicit and credible commitment to prosecute acts of state lawlessness. Such a commitment, far from being an act of revenge, serves as a rational deterrent and accelerant of democratic restoration.

### **Prosecutor Ostrowski’s Investigation into the Constitutional Coup d’État**

The three Deputy Prosecutors General—Robert Hernand, Michał Ostrowski, and Krzysztof Sierak—consistently and publicly opposed the unlawful conduct taking place within the prosecution service following the change of government in December 2023. In December 2024, continuing his campaign of reprisals, Prosecutor General Adam Bodnar ordered the transfer of Robert Hernand and Michał Ostrowski to remote branch departments of the National Public Prosecutor’s Office. This maneuver effectively removed them from their statutory roles as Deputies to the Prosecutor General. In response, both Hernand and Ostrowski filed legal appeals challenging the validity of the decisions, arguing that they were deprived of the ability to fulfill their constitutional and statutory responsibilities.

A particularly significant reflection of the legal and constitutional crisis under Tusk’s administration is the notification of suspected criminal activity submitted by the President of the Constitutional Tribunal<sup>14</sup>. On January 31, 2025, President Bogdan Świączkowski filed a

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<sup>14</sup>[https://trybunal.gov.pl/fileadmin/content/uroczystosci\\_spotkania\\_wizyty/2025/2025\\_02\\_24/NOTIFICATION\\_of\\_31\\_January\\_2025\\_translated\\_from\\_Pol\\_into\\_Eng\\_.pdf](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).



formal criminal complaint with Deputy Prosecutor General Michał Ostrowski. The notification alleged that since December 13, 2023, Prime Minister Donald Tusk, together with other senior state officials, had been acting as part of an organized criminal group with the objective of dismantling the constitutional order of the Republic of Poland and paralyzing the operations of key constitutional institutions—including the Constitutional Tribunal, the National Council of the Judiciary, and the Supreme Court.

The notification outlined numerous unlawful actions aimed at delegitimizing and destabilizing constitutional organs. Among them, the President of the Tribunal highlighted the government's baseless refusal to recognize the legal standing of the Supreme Court's Chamber of Extraordinary Control and Public Affairs, as well as its rejection of the validity of judicial appointments made after 2017. The Government Legislation Center ceased publishing the rulings of the Constitutional Tribunal, effectively denying the legal authority of its sitting judges. Furthermore, on March 6, 2024, the Sejm adopted a political resolution purporting to resolve the so-called constitutional crisis of 2015–2023—an act which further undermined the legal position of the Tribunal and amounted to a direct challenge to its constitutional role.

Following the receipt of this criminal notification, Deputy Prosecutor General Michał Ostrowski initiated formal proceedings. As part of the preliminary investigation, he conducted interviews with multiple high-ranking officials identified in the notification, including President of the Constitutional Tribunal Bogdan Świączkowski, First President of the Supreme Court Małgorzata Manowska, Chair of the National Council of the Judiciary Dagmara Pawełczyk-Woicka, former President of Polish Public Television (TVP) Michał Adamczyk, and Chair of the National Broadcasting Council Maciej Świrski. These interviews aimed to substantiate the allegations and assess whether the evidence justified further criminal proceedings. The statements obtained from these witnesses corroborated the key assertions set forth in Świączkowski's notification.

Initially, the Tusk administration attempted to trivialize the situation. In an incident widely reported in the media, the Prime Minister—during a casual game of table tennis—dismissed the matter with the comment: *"Come on, we have serious matters, we'll deal with it later."* However, the political leadership soon realized the seriousness of the allegations.

On February 11, 2025, Minister of Justice and Prosecutor General Adam Bodnar—himself a principal suspect in the complaint—suspended Prosecutor Ostrowski for a period of six months. The official rationale was that Ostrowski had conducted the investigation without formal registration in the prosecution system. In fact, the Office of the Deputy Prosecutor General under Ostrowski's leadership possessed an authorized registration unit, and the case had been properly recorded. Prosecutor Ostrowski had also formally requested assignment of a case number (DS number); however, the lack of such a number does not preclude the



performance of investigatory or procedural actions. Despite this, disciplinary and criminal proceedings were subsequently initiated against him.

In parallel, Prosecutor Ostrowski and members of his family were subjected to personal and reputational attacks from within the prosecution service and by government-aligned media outlets. These actions have been widely interpreted as an attempt to intimidate an independent official for investigating credible allegations of high-level abuse of power, and as part of a broader campaign to suppress dissent within state institutions.

### **The Public Prosecutor's Office as a Tool of Political Persecution**

As a result of the unlawful takeover of the prosecution service, it has been transformed into a tool of political repression against opposition figures and conservative institutions.

One of the first politically motivated investigations was the so-called "Justice Fund" case—de facto directed against former Minister of Justice Zbigniew Ziobro and the ministry's leadership, most of whom were affiliated with *Sovereign Poland*, the conservative and anti-woke sovereignist faction of the former government. The scale and absurdity of the political persecution were evidenced by the fact that Prosecution Team No. 2 was assigned to the case—while Team No. 1 was handling the Smolensk air disaster investigation (Poland's most sensitive and high-profile case involving the deaths of the President and senior military and political officials). Team No. 2 was staffed with prosecutors personally embittered by prior dismissals and motivated by revenge.

This resulted in a wave of high-profile arrests and raids in March 2024, including searches of opposition MPs' residences and the pre-trial detention of civil servants Urszula Dubejko and Karolina Kucharska, as well as Father Michał Olszewski, president of a foundation responsible for implementing one of the Fund's projects. These detentions were widely seen as an effort to extract coerced testimony implicating conservative political leaders.

In December 2024, the Polish Ombudsman publicly reported numerous violations of fundamental rights and freedoms, including inhuman and degrading treatment of the three detainees<sup>15</sup>. The European Court of Human Rights (ECtHR) admitted for consideration a complaint concerning the use of torture against Fr. Olszewski (no. 6726/25).

A serious violation of international law occurred in the case of Marcin Romanowski—a former Deputy Minister of Justice and Member of the Parliamentary Assembly of the Council of Europe (PACE)—who was unlawfully deprived of liberty and charged despite his international parliamentary immunity. Following his release—prompted by the intervention of the PACE

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<sup>15</sup> See the extensive statements regarding Father Michał: <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 on 20 May 2025).



President, a fellow member of the EPP—Minister of Justice Adam Bodnar threatened Romanowski's defense counsel, Prof. Bartosz Lewandowski, with retaliatory inspections at the university where he served as rector. The ECtHR has admitted Lewandowski's complaint concerning unlawful searches and seizure of personal equipment (no. 22940/24). In December 2024, Romanowski was granted political asylum in Hungary. In April 2025, INTERPOL rejected Poland's request to issue a Red Notice for Romanowski, thereby recognizing the political nature and lack of credibility of the charges.

The accusations against Romanowski center on claims of participation in an "organized criminal group"—allegedly, the Ministry of Justice—manipulation of grant procedures, and misappropriation of funds. Notably, there are no corruption charges. Prosecutors allege that Romanowski derived "personal benefit" solely from funding Christian and conservative civil society projects aligned with his worldview. The indictment is premised on the claim that Romanowski acted beyond his competence as Deputy Minister because the Minister conferred authority via amendment to an internal regulation rather than by issuing a new one—an argument widely ridiculed as legally absurd. The potential sentence for these fabricated charges could reach 25 years of imprisonment. In April 2025, the U.S.-based watchdog *Judicial Watch* launched a formal inquiry into the political persecution of Marcin Romanowski<sup>16</sup>.

Another emblematic case is the politically revived "Two Towers" investigation, recently seized upon by the left-liberal ruling coalition as a pretext to target Jarosław Kaczyński, leader of the opposition *Law and Justice* (PiS) party. Although the case had been lawfully closed—both by prosecutors and by a court ruling issued by a judge known for anti-PiS leanings—it was reopened in 2025. The case concerned unexecuted plans for a commercial office tower on land owned by a foundation affiliated with PiS. The underlying dispute involved an unpaid fee claimed by a private party. That party's counsel, Roman Giertych—now a ruling coalition MP and a candidate for Minister of Justice—has been among the loudest voices calling for a judicial purge of PiS officials.

In a transparent act of political targeting, the case was reassigned to Prosecutor Ewa Wrzosek, one of the most openly politicized figures in the prosecution service. Wrzosek is closely linked to Giertych and has a public record of anti-government activism. During the 2020 mayoral campaign, she illegally leaked confidential information to Rafał Trzaskowski's campaign team regarding drug tests in a fatal accident involving a Warsaw bus driver.

The opposition denounced the reassignment as politically motivated, especially amid the presidential election campaign. Public outrage intensified after the death of Barbara Skrzypek,

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<sup>16</sup> <https://www.judicialwatch.org/persecuted-ex-minister-romanowski-to-lead-hungarian-polish-institute-of-freedom/> (accessed on 20 May 2025).



a close confidante of Jarosław Kaczyński. Skrzypek died of a heart attack two days after being questioned in the reopened investigation. She had been denied access to legal counsel, despite known health issues, and no court stenographer was present. No break was granted, and the transcript later revealed typographic inconsistencies suggesting manipulation. The circumstances, combined with visible pressure from Giertych, his associate Jacek Dubois, and Prosecutor Wrzosek, led to serious allegations of investigative abuse contributing to her death.

In March 2025, another politically motivated investigation targeted Mariusz Błaszczak, former Minister of National Defense and head of the PiS parliamentary caucus. The case involves the declassification of the so-called "Vistula Line Defense Plan"—a 2011 document from Tusk's first administration that envisioned abandoning Eastern Poland in the event of a Russian invasion. In 2023, Błaszczak declassified the plan and denounced it as emblematic of liberal appeasement. The prosecution now accuses him of violating state secrecy and abuse of power (Articles 265 and 231 of the Penal Code). In a March 2025 post, Błaszczak responded: *"The Vistula line of defense is also Tusk's line toward Russia. I not only had the right—but the duty—to reveal this disgrace."*

Since January 2024, politically motivated investigations have escalated dramatically, with dozens of proceedings launched against opposition MPs. Increasingly aggressive tactics have been used against civil servants, media figures, and conservative activists. In the Justice Fund case alone, dozens of Christian and conservative NGOs are facing prolonged audits, paralyzing their operations. Hundreds of volunteers and contractors have been subjected to interrogations—including firefighters who received life-saving equipment financed by the Fund.

The prosecution's coercive apparatus has also been turned against ordinary citizens. In January 2025, 66-year-old Toruń resident Izabela Majewska was arrested following a Facebook comment criticizing Jerzy Owsiak, liberal media celebrity and head of the Great Orchestra of Christmas Charity (WOŚP). WOŚP's 2023 campaign was widely seen as a political attack on the conservative government, disguised as an anti-sepsis initiative. Its slogan—*"Together we will defeat this EVIL"*—was broadly interpreted as anti-PiS, particularly given Owsiak's public positions.

Majewska commented under a WOŚP post: *"Get lost man, and do it as quickly as possible. Enough of robbing and profiting off Poles' naivety. Your villas, your kids abroad, your LGBT glasses—enough. Be accountable."* The next morning, at 6 a.m., she was arrested by cybercrime and criminal officers and later charged with issuing criminal threats. Preventive measures were imposed, including mandatory police check-ins.





Criminal law experts across the political spectrum condemned the charges as unfounded. There was no threat of violence, no call to commit a crime. The phrase "*get lost*" may be harsh, but it clearly fell within protected speech. The arrest was emblematic of a broader pattern: state resources being used not to combat real crime, but to suppress criticism and protect liberal elites.

### **Guarantees of Impunity for Corrupt Liberal Politicians**

A central objective of the Tusk government's takeover of the prosecution service was to obstruct—and in some cases terminate—criminal proceedings involving politicians affiliated with the ruling coalition. Several prominent political figures with close ties to Prime Minister Donald Tusk, including Sławomir Nowak, Stanisław Gawłowski, Tomasz Grodzki, Roman Giertych, and Włodzimierz Karpiński, were under investigation for obtaining unlawful financial gains or serious corruption offenses prior to 2023. Following the government's unlawful consolidation of control over prosecutorial structures, these cases have been quietly shelved, politically neutralized, or altogether dismissed.

Roman Giertych—a sitting Member of Parliament, prominent attorney, and close political ally of the ruling bloc—is one of the most high-profile beneficiaries of this process. Giertych, who is also a politically interested party in the Justice Fund investigation, was under investigation for his alleged involvement in the embezzlement of PLN 92 million (approximately USD 24 million) from a publicly listed company. In January 2025, the prosecution service terminated the investigation without public disclosure of its rationale, in clear violation of the principle of transparency and prosecutorial accountability. Legal experts and commentators suggest the discontinuation was politically motivated and intended to avoid exposing the absence of legitimate grounds for exoneration.

In the case of Tomasz Grodzki, former Speaker of the Senate and senior figure in the Civic Platform party, multiple allegations were pending before the change of government. These included obstruction of efforts to trace the criminal origin of funds linked to financial fraud, as well as the solicitation of monetary "donations" for the Transplant Assistance Foundation in Szczecin, allegedly in exchange for medical or administrative benefits. The total value of these improperly obtained payments may exceed PLN 1.5 million (USD 400,000). In February 2024, the prosecution abruptly withdrew its own request to lift Grodzki's parliamentary immunity—effectively halting proceedings, despite the fact that related criminal trials of his associates had already begun. In a concurrent private prosecution, dozens of witnesses confirmed statements directly implicating Grodzki.

Stanisław Gawłowski faces seven criminal charges, including four related to corruption. These encompass the acceptance of at least PLN 733,000 (USD 200,000) in unlawful financial benefits, money laundering, and academic fraud involving plagiarism in his doctoral thesis.





The indictment was submitted before the change in government, and while the trial remains formally ongoing, notable irregularities have arisen—such as the retraction of key witness testimony under suspicious circumstances. The original reporting that led to the exposure of both the Grodzki and Gawłowski cases was conducted by investigative journalist Tomasz Duklanowski, who has since become one of the most targeted and harassed media figures in Poland following the liberal coalition's return to power.

Sławomir Nowak—a long-standing political confidant of Donald Tusk—is accused of leading a transnational organized criminal group operating in Poland and Ukraine. The indictment, which includes 17 separate criminal charges, was filed in 2023. Upon search of his property, authorities discovered approximately PLN 5 million (USD 1.3 million) in cash, suspected to be the proceeds of corruption. The trial is ongoing, but its pace and direction have raised concerns about political interference.

Another emblematic case is that of Włodzimierz Karpiński, charged with bid-rigging and soliciting bribes totaling PLN 5 million (USD 1.3 million). In October 2023, Karpiński assumed a vacant seat in the European Parliament, thereby gaining parliamentary immunity and securing his release from pre-trial detention. Following the unlawful restructuring of the prosecution service, the new leadership withdrew the request to lift his immunity, and the investigation has effectively been frozen.

Despite the gravity of the charges against these individuals, the ruling coalition has displayed no serious interest in pursuing justice or accountability in these corruption cases. Instead, the full force of the prosecution service has been redirected toward the political persecution of opposition figures—particularly those associated with *Law and Justice*—and toward the repression of ordinary citizens who criticize or oppose the government. This dual strategy of shielding political allies while criminalizing dissent is a defining feature of the current administration's prosecutorial policy and underscores the instrumentalization of legal institutions for political gain.