A BAND OF ROBBERS OR A SHINING CITY ON A HILL?

Dilemmas over the Collapse of the Rule of Law in Poland

Edited by Paweł Czubik, Andrzej Golec, Konrad Wytrykowski

PDP Prawnicy dla Polski

Lawyers for Poland Association

AD VOCEM Niezależne Stowarzyszenie Prokuratorów

Warsaw, October 2025

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Justice being taken away, then, what are kingdoms but great robberies?
St. Augustine of Hippo, *De Civitate Dei,* IV, 4, 1

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Introduction

Stowarzyszenie Prawnicy dla Polski – The Lawyers for Poland Association – brings together lawyers from diverse legal professions. Among us are attorneys, bailiffs, notaries, legal advisors, prosecutors, and judges who combine patriotism with respect for the Constitution and the law. Prosecutors concerned with the proper functioning of the Prosecutor's Office and the independence of its members have established Niezależne Stowarzyszenie Prokuratorów "Ad Vocem" – The "Ad Vocem" Independent Association of Prosecutors. What connects our two associations is our resistance to ongoing violations of the rule of law in Poland. As lawyers committed to legality and to our Homeland, we cannot remain passive – particularly in light of Prime Minister Donald Tusk's public announcement of his intention to abandon the rule of law and the principle of legality in public governance (at the conference "Overcoming the Constitutional Crisis," 10 September 2024, www.gov.pl/web/premier/dzialamy-w-imie-demokracji-walczacej). Similar statements have recently been repeated by the newly appointed Minister of Justice, former judge Waldemar Żurek (www.dorzeczy.pl/kraj/764763/zurek-zgadzam-sie-z-teoria-tzw-demokracji-walczacej.html).

To date, the Lawyers for Poland Association has issued four reports:

- *Report on Violations of the Law by the Polish Government (Prime Minister Donald Tusk) – Testimonies of Judges and Prosecutors*, addressing mobbing in courts, purges of managerial positions, and the forcible takeover of the prosecutor's office.
- *RULE OF LAW IN RUINS: Poland under the "December 13" Coalition* (January 2025), a preliminary analysis of legal violations by Donald Tusk's government and an attempt to answer the question of how to restore legality.
- *Cui prodest scelus, is fecit JUDGES-POLITICIANS AT WAR AGAINST POLAND* (April 2025), analyzing selected cases to show how certain judges in Poland are distorting the very concept of justice, and why certain courts do not assess the commission of a crime, its circumstances, or the harm done to victims, but, instead, they evaluate whether the judges in question were appointed after 2018 and whether their nominations were submitted by the National Council of the Judiciary as reconstituted in March 2018.
- *ELECTIONS ON FIRE – The Course of the 2025 Presidential Elections in Poland* (July 2025), illustrating through selected examples the violations of electoral standards in the run-up to the 2025 presidential elections.

Despite our consistent efforts to document these abuses, the machinery of lawlessness in Poland continues unchecked. Since the publication of the first report less than a year ago, new violations have occurred: unlawful detention of opposition MPs, repression of judges and prosecutors, unlawful judicial appointments, preventing judges from adjudicating, political manipulation of case allocation, suppression of media freedom, persecution of government critics, and inhumane treatment of citizens. These examples, gathered in this report, represent only part of a broader pattern that repeatedly shocks public opinion. Among the many unreported cases are attacks on the Constitutional Tribunal and the National Council of the Judiciary, the search of opposition journalist Ewa Stankiewicz's apartment to locate fragments of the wreckage from the Smolensk plane crash of April 10, 2010, and the Prime Minister's withdrawal of his countersignature from a presidential decision.

This report opens with a quotation from St. Augustine, written in the 5th century AD: "Justice being taken away, then, what are kingdoms but great robberies?" St. Augustine posed this question after the sack and burning of Rome by the Visigoths in 410. His conclusion was that an unjust state should not be mourned, for it is indistinguishable from organized robbery.

As lawyers from different professions, we have all sworn to serve the Republic of Poland faithfully and to uphold the law. We remain grateful to our ancestors for their sacrifices in the struggle for independence, for a culture rooted in the Christian heritage of our nation and universal human values. In accordance with our Constitution, we want to pass on to future generations all that is most valuable from over a thousand years of achievement.

We cannot consent to our Homeland, Poland, becoming what St. Augustine described as a *band of robbers*. On the contrary, we are determined to do everything possible to make it the *salt of the earth* and the *town built on a hill* described in the Gospel according to St. Matthew (Mt 5:13–14).

This is why we present this report to readers both in Poland and abroad. For Polish citizens, the abuses described herein are hardly surprising: the authorities routinely break the law, misuse the politicized Prosecutor's Office, and bring fabricated charges against opposition figures and critics. Every day, fresh evidence emerges that alarms anyone who holds the rule of law in esteem. Independent media continue to report these abuses domestically, but information beyond Poland's borders is scarce. Those currently in power enjoy protection from European Union institutions. Paradoxically, despite violating the law on a scale unprecedented since the fall of communism in 1989, the government is still perceived as democratic by many in the West. For this reason, it is essential to convey the reality of these violations to opinion-forming circles in the United States and other democratic societies. Our efforts are motivated by love of our Homeland and by the desire to see Poland once again embody justice, greatness, and freedom – values that in the past radiated across Europe.

We are deeply grateful for the support of our foreign friends. In particular, we acknowledge the efforts of Mike Calamus, who at his own expense and on his own time distributes our reports and informs decision-makers and the American public about the situation in Poland. Mike has direct knowledge of these issues through his regular visits to Poland. Although he is a US citizen, his Estonian – and thus Central European – roots strengthen his understanding of the region. We are profoundly grateful for his dedication, especially since he acts without personal benefit, motivated solely by his American and Central European commitment to freedom, including Polish freedom. The Republic of Poland will not forget those who extend a helping hand in these difficult times.

We trust that this report, like its predecessors, will be received with interest on both sides of the Atlantic.

Paweł Czubik,
Andrzej Golec,
Konrad Wytrykowski

[Warsaw, October 2025]

I. A Threefold Voice on the Detention of a Member of the Polish Parliament – from the Perspective of a Prosecutor, a Defence Counsel, and a Judge:

Marcin Rosiak
(Doctor of Law, prosecutor of the Regional Prosecutor's Office in Poznań)

Detention and Compulsory Appearance of a Member of the Sejm before a Parliamentary Inquiry Committee: A Forensic-Legal Perspective

The purpose of this study is to present the circumstances of the detention and compulsory appearance as a witness of a Polish MP and former Minister of Justice – Prosecutor General Zbigniew Ziobro – at a meeting of the Parliamentary Inquiry Committee established to examine the legality, appropriateness, and purposefulness of operational and investigative activities undertaken, inter alia, with the use of Pegasus software by the members of the Council of Ministers, the secret service, the Police, tax and customs authorities, law enforcement authorities, and the public prosecution service during the period from 16 November 2015 to 20 November 2023, from a forensic perspective. It sets out the factual circumstances of the procedural and investigative measures carried out. The legal status of the Parliamentary Inquiry Committee in question is outlined. Furthermore, the issue of detaining and forcibly bringing before the committee a person covered by parliamentary immunity as a witness is addressed, with reference to the provisions of applicable criminal procedure law, the case law of the courts and the Constitutional Tribunal, as well as doctrinal positions.

By its resolution of 17 January 2024, the Sejm of the Republic of Poland appointed an inquiry committee to examine the legality, appropriateness, and purposefulness of operational and investigative activities undertaken, inter alia, with the use of Pegasus software by the members of the Council of Ministers, the secret service, the Police, tax and customs authorities, law enforcement authorities, and the public prosecution service during the period from 16 November 2015 to 20 November 2023 (Resolution of 17 January 2024 by the Sejm of the Republic of Poland on the appointment of the Inquiry

Committee to examine the legality, appropriateness, and purposefulness of operational and investigative activities undertaken, inter alia, with the use of Pegasus software by the members of the Council of Ministers, the secret service, the Police, tax and customs authorities, law enforcement authorities, and the public prosecution service during the period from 16 November 2015 to 20 November 2023, https://orka.sejm.gov.pl/proc10.nsf/uchwaly/57_u.htm, accessed August 21, 2025) [hereinafter: the Parliamentary Inquiry Committee].

Pursuant to Article 191(1)(1) in conjunction with Article 188(3) of the Constitution of the Republic of Poland (Constitution of the Republic of Poland of April 2, 1997, Journal of Laws, item 483, of 2001, item 319, of 2006, item 1471, and of 2009, item 946) [hereinafter: the Constitution], a group of members of the Sejm of the Republic of Poland filed a motion dated March 25, 2024, petitioning the Constitutional Tribunal to examine the compliance of Article 2 of the above resolution with Article 2 and Article 111(1) of the Constitution, as well as the compliance of Article 2(1), (3), and (6) of the resolution with Article 10 and Article 95(2) of the Constitution. In addition, pursuant to Article 36 of the Act on the Organization and Procedure before the Constitutional Tribunal (Journal of Laws, item 2072, as amended) in conjunction with Article 755 § 1 and Article 7301 of the Code of Civil Procedure (Journal of Laws of 2023, item 1550, as amended), they requested that the Constitutional Tribunal issue a decision obliging the Parliamentary Inquiry Committee to refrain from taking any factual or legal actions until the motion had been examined (Motion of a group of members of the Sejm of the Republic of Poland to the Constitutional Tribunal of March 25, 2024, https://ipo.trybunal.gov.pl/ipo/dok?dok=bcd0e6f8-89e6-439c-93fa-f72db16e1e5d%2FU_4_24_wns_2024_03_25_ADO.pdf, accessed August 21, 2025). By its decision of May 8, 2024, the Constitutional Tribunal ordered the Committee to suspend its activities until the MPs' motion was considered (Announcement of the Circuit Prosecutor's Office in Warsaw, https://www.gov.pl/web/po-warszawa/sejmowa-komisja-sledcza-ds-pegasusa-legalna-odmowa-wszczecia-sledztwa-z-uwagi-na-brak-znamion-czynu-zabronionego, accessed August 21, 2025).

Nevertheless, the original date for the hearing of the Member of Parliament, former Minister of Justice – Prosecutor General Zbigniew Ziobro – as a witness before the Parliamentary Inquiry Committee was set for July 1, 2024. The witness did not appear and justified his absence with a medical certificate. The next date was set for July 10, 2024, on which the witness again submitted a medical certificate and justified his absence. On that same day, the Committee unanimously adopted a resolution requesting the Prosecutor General to obtain a written expert medical opinion specifying when the witness would be able to attend the hearing and whether his state of health, as documented in the certificates and medical records he had submitted, allowed him to participate (Justification of the decision of the Circuit Court in Warsaw, 8th Criminal Division, January 27, 2025, ref. no. VIII Ko 212/24, https://bip.warszawa.so.gov.pl/attachments/download/20305, accessed August 21, 2025).

In its judgment of September 10, 2024, ref. no. U 4/24, the Constitutional Tribunal held that Article 2 of the Sejm resolution of January 17, 2024, establishing the inquiry committee in question was inconsistent with Article 2 of the Constitution of the Republic of Poland (Judgment of the Constitutional Tribunal of September 10, 2024, ref. no. U 4/24, https://trybunal.gov.pl/postepowanie-i-orzeczenia/wyroki/art/12896-zakres-dzialania-sejmowej-komisji-sledczej, accessed August 21, 2025).

On September 23, 2024, it was announced that the committee had received an expert medical opinion on the possibility of questioning Zbigniew Ziobro (M. Jabłoński, N. Leszczyńska, *Opinia w sprawie stanu zdrowia Zbigniewa Ziobry. Prokuratura o szczegółach* [Opinion on Zbigniew Ziobro's health. The Prosecutor's Office on the details], Polish Press Agency, https://www.pap.pl/aktualnosci/opinia-w-sprawie-stanu-zdrowia-zbigniewa-ziobry-prokuratura-o-szczegolach, accessed August 21, 2025). According to the opinion, the witness's health permitted his participation in the hearing, provided that the Parliamentary Inquiry Committee ensured proper sound amplification, warm water, and sufficient breaks. On this basis, the Committee scheduled another hearing date for October 14, 2024 (Justification of the decision of the Circuit Court in Warsaw, 8th Criminal Division, January 27, 2025, cited above).

In response, in a post on his account on X, Zbigniew Ziobro expressed his surprise at the opinion. He stressed that he had not been examined by any expert before the opinion was prepared, nor had any expert spoken with him. Moreover, neither the expert, nor the Prosecutor's Office, nor the Parliamentary Inquiry Committee had requested his current medical documentation, despite the fact that he was undergoing treatment at several facilities, including abroad. At the same time, he announced that he was undergoing intensive rehabilitation to recover (post on X, September 24, 2024, https://x.com/ZiobroPL/status/1838545049946137001?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1838545049946137001%7Ctwgr%5E72e22b60e3cd3a4d464cc5df856b3ae93fd937ef%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Fwww.pap.pl%2Faktualnosci%2Fopinia-w-sprawie-stanu-zdrowia-zbigniewa-ziobry-prokuratura-o-szczegolach, accessed August 21, 2025).

In view of the above, the witness did not appear on the previously set date. As a result of his failure to appear, notwithstanding the ruling of the Constitutional Tribunal, a group of MPs unanimously resolved to submit a request to the Circuit Court in Warsaw for the imposition of a financial penalty of PLN 3,000 on the summoned witness. By its decision of November 6, 2024, ref. no. VIII Ko 177/24, the Circuit Court in Warsaw partially granted the request, imposing a fine of PLN 2,000 on the witness (decision of the Circuit Court in Warsaw, 8th Criminal Division, November 6, 2025, ref. no. VIII Ko 177/24).

As Zbigniew Ziobro again failed to appear, another date was set for November 4, 2024. Despite being duly served with summonses, he did not appear. On November 4, 2024, a group of MPs unanimously decided to submit

another request to the Circuit Court in Warsaw for the imposition of a financial penalty. By its decision of November 13, 2024, in case no. XVIII Ko 97/24, the Court imposed a financial penalty of PLN 3,000 on Zbigniew Ziobro. The group of MPs also sought a legal opinion from the Bureau of Expert Analysis and Regulatory Impact Assessment of the Chancellery of the Sejm on the procedure applicable in cases of failure by a member of parliament to comply with the obligation under Article 11(1) of the Act on the Parliamentary Inquiry Committee (Act of January 21, 1999, on the Sejm Inquiry Committee, Journal of Laws of 2016, item 1024, as amended, https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19990350321/U/D19990321Lj.pdf, accessed August 21, 2025). In an opinion dated October 31, 2024, it was indicated that, in light of Article 105(5) of the Constitution of the Republic of Poland, it was possible for the Circuit Court in Warsaw to order the detention and compulsory conveyance of a member of parliament who, when summoned, failed to appear without justification. On November 4, 2024, a group of MPs resolved to apply to the Circuit Court in Warsaw for an order to detain and bring the witness to the Parliamentary Inquiry Committee meeting. In addition, by decision adopted on the same day pursuant to Article 10(4) of the Act on the Exercise of the Mandate of a Deputy or Senator (Act of May 9, 1996, Journal of Laws 1996 No. 73, item 350, as amended, https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19960730350/U/D19960350Lj.pdf, accessed August 21, 2025), the MPs requested, through the Prosecutor General, that a motion be submitted to the Sejm for consent to detain and forcibly bring the witness before the Committee. By letter of November 7, 2024, the MPs submitted a request to the Marshal of the Sejm, through the Prosecutor General, seeking the Sejm's consent for the detention and compulsory appearance of the witness. By letter of November 22, 2024, the Minister of Justice – Prosecutor General forwarded the request to the Marshal of the Sejm, indicating that the application for consent met both formal and substantive legal requirements. By resolution of December 5, 2024, the Sejm consented to the arrest and compulsory conveyance of MP Zbigniew Ziobro. A total of 445 MPs participated in the vote: 241 voted in favor, 204 against. The statutory majority of 231 votes was reached. On January 17, 2025, the Circuit Court in Warsaw received from Zbigniew Ziobro's representative a motion for the recusal of the judge acting as rapporteur in case no. VIII Ko 212/24, submitted pursuant to Article 41 § 1 of the Code of Criminal Procedure (Act of June 6, 1997 – Code of Criminal Procedure, Journal of Laws of 1997, item 555, as amended). On January 22, 2025, the Court of Appeal in Warsaw, in case no. II AKz 1189/24, dismissed the complaint against the Circuit Court's decision in case no. XVIII Ko 97/24, thereby upholding the contested ruling. On January 23, 2025, the Circuit Court in Warsaw, in case no. XVIII Ko 9/25, rejected the motion for recusal. As a result, the adjudicating panel in case no. VIII Ko 212/24 remained unchanged (see justification of the decision of the Circuit Court in Warsaw, 8th Criminal Division, January 27, 2025, op. cit.).

By its decision of January 27, 2025, ref. no. VIII Ko 212/24, the Circuit Court in Warsaw ordered the detention and compulsory conveyance of Zbigniew Ziobro as a witness to the hearing scheduled for January 31, 2025 (decision of the Circuit Court in Warsaw, 8th Criminal Division, January 27, 2025, ref. no. VIII Ko 212/24, https://bip.warszawa.so.gov.pl/attachments/download/20305, accessed 21 August 2025).

The order specified that execution was to take place on January 31, 2025, at 10:30 a.m. On that date, enforcement was attempted. After determining the witness's whereabouts before 10:00 a.m., police officers proceeded to arrest him in central Warsaw, in the presence of media representatives. At 10:10 a.m., the chair of the Parliamentary Inquiry Committee was informed of the detention and the possibility of a delay in bringing the witness to the hearing. She reminded the police that "the decision of the Circuit Court in Warsaw of January 27, 2025 (ref. no. VIII Ko 212/24) fixed 10:30 a.m. as the time of the Committee session, and stated that if the witness was detained in time to allow for his delivery, the Committee would adjourn until 12:00 p.m." The officers executing the order were informed of this by telephone. The Marshal Guard provided repeated updates on the execution of the order. At 8:19 a.m. and 9:51 a.m., they reported that the witness's location had been identified. At 10:28 a.m., the police informed the Guard that the witness had been detained. At 10:29 a.m., the Committee was informed that the convoy was en route. At 10:42 a.m., the convoy entered the Sejm building. At 10:45 a.m., the Marshal Guard confirmed that the witness had been brought into a room adjacent to the Parliamentary Inquiry Committee meeting room. Nevertheless, at 10:45 a.m., while the witness was already present, the Committee decided to apply to the Circuit Court in Warsaw for an arrest warrant and to the Minister of Justice – Prosecutor General for consent to arrest the witness. The Committee chair closed the session at 10:46 a.m. At 10:50 a.m., she informed the Warsaw Police Headquarters that bringing the witness had become unnecessary, as the Committee had ended its work. The witness was released at 11:45 a.m., following the preparation and signing of the procedural documentation (see justification of the decision of the Circuit Court in Warsaw, 8th Criminal Division, March 31, 2025, ref. no. VIII Ko 65/25, https://bip.warszawa.so.gov.pl/attachments/download/20565, accessed August 21, 2025).

Pursuant to Article 111(1) of the Constitution of the Republic of Poland, the Sejm may appoint an inquiry committee to examine a specific matter. The committee in question was established on January 17, 2024, under the aforementioned provision and Articles 1 and 2 of the Act on the Parliamentary Inquiry Committee. According to Article 2(3) of the Act, the resolution establishing a committee must define its scope of activities and may specify rules of procedure and the deadline for submission of its report. The scope of the committee's activities was defined in Article 2(1)–(8) of the resolution of January 17, 2024.

In its judgment of September 10, 2024, ref. no. U 4/24, the Constitutional Tribunal held that Article 2 of the resolution was inconsistent with Article 2

of the Constitution of the Republic of Poland. Under Article 2, the Republic of Poland shall be a democratic state ruled by law and implementing the principles of social justice. In such a state, the law stands above the state, binding public authority in both the enactment and application of law. The notion of a "state ruled by law" encompasses the principle of formal legality. This principle, expressed in Article 7 of the Constitution, means that public authorities may act only on the basis of and within the limits of the law. Thus, any act not explicitly permitted to an authority, including a parliamentary inquiry committee, is prohibited. Law-making itself is regulated by law, which also defines the conditions of validity and loss of validity. Compliance is safeguarded by institutions tasked with restoring legality, above all the Constitutional Tribunal (W. Skrzydło, ed., *Polskie prawo konstytucyjne*, Lublin, 1999, pp. 122–123).

Pursuant to Article 190(1) of the Constitution, rulings of the Constitutional Tribunal are universally binding and final (Constitution of the Republic of Poland of April 2, 1997, consolidated text, Journal of Laws of 1997, No. 78, item 483, as amended; see A. Rost, *Prawo konstytucyjne. Materiały źródłowe dla studentów*, Poznań, 1999). Therefore, after the Tribunal's decision of May 8, 2024, the Parliamentary Inquiry Committee was obliged to suspend its work until the MPs' motion was resolved. Following the judgment of September 10, 2024, any actions undertaken by the Committee, including compelling specific individuals to appear before it, must be regarded as lacking legal basis.

Applied to the proceedings in case no. VIII Ko 212/24, this judgment confirms the argument of Zbigniew Ziobro's representative that a negative procedural condition under Article 17 § 1(9) of the Code of Criminal Procedure existed, namely the absence of a valid complaint by an authorized prosecutor. The provision defining the scope of the authority empowered to request detention was declared unconstitutional, thereby losing legal force.

The Constitution guarantees every citizen personal inviolability and liberty. Deprivation or restriction of liberty is permissible only on the conditions and in the manner prescribed by law (J.A. Księżyk, "Wybrane aspekty stosowania środków przymusu bezpośredniego przez policję w związku z art. 74 § 2 K.p.k." in T. Widła, ed., *Obszary badawcze współczesnej kryminalistyki*, Katowice, 2011, p. 97). Under Article 11i of the Act on the Parliamentary Inquiry Committee, the provisions of the Code of Criminal Procedure concerning witnesses, including their compulsory appearance, apply accordingly to proceedings before the committee.

In the present case, in view of the Constitutional Tribunal's ruling declaring Article 2 of the resolution establishing the committee unconstitutional, the committee in question had no legal basis for summoning witnesses and, consequently, no legal basis for requesting the detention and compulsory appearance of a member of parliament at its deliberations.

The institution of detention consists of the short-term deprivation of liberty by authorized officers, including the police, in circumstances clearly defined by statute (D. Wilk, ed., *Kryminalistyka. Przewodnik*, Toruń, 2013,

p. 82). It should be borne in mind that any deprivation of liberty constitutes in itself a serious affliction (M. Kerrigan, *Dzieje tortur od starożytności do dziś*, Warsaw, 2010–2013, p. 17). Legal proceedings directed against an individual cause stress and anxiety, and such experiences are especially burdensome for persons in poor health. The principle of humanitarianism therefore requires that such measures be limited by the authorities to the minimum necessary, applying forensic knowledge in conformity with the relevant legal provisions (T. Hanausek, *Kryminalistyka. Zarys wykładu*, Zakamycze, 2005, p. 57).

Zbigniew Ziobro's representative argued that, in case no. VIII Ko 212/24, there were no grounds under Article 285 §§ 1–2 of the Code of Criminal Procedure for ordering his detention and compulsory bringing before the Parliamentary Inquiry Committee on January 31, 2025. Detention and compulsory conveyance of a witness under Article 285 § 2 required the prior effective imposition of a financial penalty under Article 285 § 1, which had not occurred in this case. The representative pointed out that the Circuit Court's decisions of November 6, 2024 (ref. no. VIII Ko 177/24), and November 13, 2024 (ref. no. XVIII Ko 97/24), were tainted by an absolute ground of appeal under Article 439 § 1(9) in conjunction with Article 17 § 1(10) of the Code of Criminal Procedure. It was inadmissible to impose a financial penalty for failure to appear as a witness on a person covered by parliamentary immunity, where that immunity had not been waived for the purpose of imposing a disciplinary penalty.

The representative further emphasized that the Sejm had not adopted a resolution waiving Zbigniew Ziobro's immunity in order for the Circuit Court to impose such a penalty for non-appearance at the meetings of October 14 and November 4, 2024. Under Article 285 §§ 1–2 of the Code of Criminal Procedure, detention and compulsory conveyance required (i) the prior effective imposition of a fine and (ii) a renewed summons, with only an unjustified failure to appear thereafter justifying detention. The Parliamentary Inquiry Committee, however, did not summon Zbigniew Ziobro again after the fines were imposed, i.e. after the issuance of the Warsaw Circuit Court's decisions of 6 and 13 November 2024. Accordingly, Zbigniew Ziobro's detention and compulsory conveyance were unlawful, since the proper sequence required first the imposition of a financial penalty, and only if ineffective, detention. Moreover, Zbigniew Ziobro's absence from the November 4, 2024, meeting could not be considered unjustified, as he was medically certified unfit for work between October 31 and November 6, 2024 (see justification of the decision of the Circuit Court in Warsaw, 8th Criminal Division, January 27, 2025).

While the praxeological theory of forensic tactics allows for measures designed to secure the effectiveness of official actions, these must be implemented in a manner that respects statutory guarantees and individual rights (M. Kulicki, V. Kwiatkowska-Wójcikiewicz, L. Stępka, *Kryminalistyka. Wybrane zagadnienia teorii i praktyki śledczo-sądowej*, Toruń, 2009, p. 53). The Circuit Court's decision of January 27, 2025, ref. no. VIII Ko 212/24, ordering detention and compulsory bringing of the witness before the Committee, reflect-

ed an entirely different judicial assessment of these circumstances, one that must be regarded as arbitrary. Article 178(1) of the Constitution provides that judges are bound by the Constitution and the laws. In view of Articles 7 and 8 of the Constitution, all authorities are obliged to resist perpetuating any unconstitutional state of affairs (M. Florczak-Wątor, *O skutkach prawnych nieopublikowanego orzeczenia Trybunału Konstytucyjnego. Rozważania na tle oczekującego na publikację wyroku z 9.03.2016 r. (K 47/15)*, https://sip.lex.pl/komentarze-i-publikacje/czasopisma/o-skutkach-prawnych-nieopublikowanego-orzeczenia-trybunalu-151295740, accessed August 21, 2025).

The actions ordered by the Court were carried out by the police on January 31, 2025, and were widely reported in the media. In an era of increasingly ideological manipulation of language, the fundamental duty of journalism remains accuracy and credibility (K. Darul, "Cięty język – między erystyką a retoryką," in V. Kwiatkowska-Wójcikiewicz, L. Stępka, eds., *Broń. Problematyka prawna i kryminalistyczna*, Toruń, 2013, p. 573). Reliable reporting of the circumstances of the arrest illuminated the matter for public opinion, enhanced legal awareness, and prevented stigmatization of the witness (J. Makiłła-Polak, "Rzetelny przekaz medialny okoliczności czynów kryminalnych jako element zapobiegający pomyłkom sądowym na przykładzie Magazynu kryminalnego 997," in V. Kwiatkowska-Wójcikiewicz, L. Stępka, eds., *Kryminalistyka wobec pomyłek sądowych*, Toruń, 2021, p. 259). It undoubtedly contributed to presenting all relevant aspects of the action to a broad audience and to enhancing society's legal awareness. Owing to its factual and objective character, it helped prevent the stigmatization of the witness in the public eye, as well as the erosion of trust in him as a representative of the nation. The public disclosure of the circumstances surrounding Zbigniew Ziobro's detention and compulsory conveyance also served, to some extent, to deter those involved in these actions from disregarding legal norms and fundamental standards of civility, encouraging them instead to exercise greater care in safeguarding the rights and freedoms of the participant in the proceedings (S. Waltoś, *Proces karny. Zarys systemu*, Warsaw, 2001, pp. 308–317).

The Parliamentary Inquiry Committee's decision-making on January 31, 2025, was opaque and raises serious doubts as to its motives. Its resolution to seek Zbigniew Ziobro's arrest while closing the session amounted to a *de facto* waiver of the hearing, despite the possibility of proceeding (see justification of the Circuit Court in Warsaw, 8th Criminal Division, March 31, 2025). Arrest under Article 287 § 2 of the Code of Criminal Procedure is not intended as a punitive sanction but solely to compel compliance with a legal obligation (S. Waltoś, *op. cit.*, p. 433). As such, it is an *ultima ratio* measure, to be used only when strictly necessary. The essence of disciplinary penalties lies in ensuring compliance, not repression (P. Hofmański, ed., *Kodeks postępowania karnego. Komentarz. Tom II*, Warsaw, 1999, pp. 1043–1045). Authorities are bound to act in a way that minimizes suffering and respects humanitarian principles (B. Janiszewski, "Humanitaryzm jako zasada sądowego wymiaru kary" in *Nau-*

ka wobec współczesnych zagadnień prawa karnego w Polsce. Księga pamiątkowa ofiarowana Profesorowi Aleksandrowi Tobisowi, Poznań, 2004, p. 90). Therefore, detention of a witness who persistently fails to appear when summoned by the investigating authority may be applied only if an order for detention and compulsory attendance proves insufficient to secure the witness's appearance, following ineffective measures previously undertaken by the police pursuant to the warrant. In this case, that condition was not met. Moreover, the witness had already been effectively detained and brought to the Sejm before the Parliamentary Inquiry Committee abandoned the hearing (see justification of the Circuit Court in Warsaw, 8th Criminal Division, March 31, 2025, op. cit.), despite the earlier ruling of the Constitutional Tribunal, which held that Article 2 of the Resolution of the Sejm of the Republic of Poland of 17 January 2024 on the establishment of the inquiry committee in question was inconsistent with Article 2 of the Constitution of the Republic of Poland.

It must also be recalled that under Article 105(5) of the Constitution, an MP may not be detained or arrested without the Sejm's consent. This prohibition applies to all forms of deprivation of liberty, including detention by the police for refusing to testify. Its purpose is to shield parliamentary functions from interference by law enforcement (W. Siuda, *Elementy prawa dla ekonomistów*, Poznań, 1999, p. 56). The waiver of immunity after the Tribunal's judgment in case U 4/24 must therefore be regarded as disproportionate and bordering on abuse.

Although the principal purpose of questioning a witness is to elicit relevant information concerning a particular case (J. Widacki (ed.), *Kryminalistyka*, Warsaw, 2002, p. 106), reliance on testimonial evidence in the twenty-first century – when the official activities of public authorities are extensively documented, including in digital form, and documents and data are easily accessible – lacks deeper justification. This is especially true in light of the fact that Edmund Locard, one of the pioneers of criminalistics (G. Kędzierska, "Kryminalistyka w systemie nauk" in *Technika kryminalistyczna. Tom I*, W. Kędzierski (ed.), Szczytno, 2002, p. 16), under the influence of civilizational progress and the demand for a more humane criminal process (V. Kwiatkowska-Wójcikiewicz, *Oględziny miejsca. Teoria i praktyka*, Toruń, 2011, p. 17), emphasized the fallibility of human senses and the variability of individual capacities for perception, memory, and reproduction of observations (T. Stępień, *Rola świadka w prawie karnym*, Toruń, 2012, pp. 115–116). Locard concluded that even the most candid testimony constitutes only a highly distorted reflection of reality (quoted from: V. Kwiatkowska-Wójcikiewicz, "Edmunda Locarda wizja kryminalistyki" in *Kryminalistyka dla prawa. Prawo dla kryminalistyki*, V. Kwiatkowska-Wójcikiewicz (ed.), Toruń, 2004, p. 35). Accordingly, the initial attempt to interrogate a gravely ill member of parliament – entailing his detention and forced transfer in order to secure evidence from his testimony (B. Hołyst, *Kryminalistyka*, Warsaw, 2010, p. 458) – followed by the abandonment of that interrogation and the subsequent submission of a motion to the court seek-

ing his arrest, must be characterized as erratic, non-substantive measures. Such conduct is insufficiently grounded either in the applicable procedural norms or in the principles and methodological standards developed within the discipline of criminalistics.

Zbigniew Ziobro, as former Minister of Justice – Prosecutor General from 2015 to 2023, was summoned repeatedly by the Parliamentary Inquiry Committee and regularly presented his position through the media. Initially, in 2023, he excused his absence on medical grounds, as supported by certificates (A. Łukaszewicz, "Sejmowa komisja ds. Pegasusa. Zbigniew Ziobro nie przychodzi, zbadają go biegli" [The Sejm committee on Pegasus. Zbigniew Ziobro fails to show up, experts will examine him], *Rzeczpospolita*, https://www.rp.pl/prawo-dla-ciebie/art40756291-zbigniew-ziobro-nie-przychodzi-zbadaja-go-biegli, accessed July 2, 2025). On 1 July 2024, he again failed to appear, presenting medical documentation, including a certificate from a forensic doctor (arb, "Zbigniew Ziobro nie pojawił się przed komisją śledczą. Przysłał usprawiedliwienie" [Zbigniew Ziobro did not appear before the inquiry committee. He sent an excuse], *Rzeczpospolita*, https://www.rp.pl/polityka/art40745141-zbigniew-ziobro-nie-pojawil-sie-przed-komisja-sledcza-przyslal-usprawiedliwienie, accessed August 21, 2025).

Following the ruling of the Constitutional Tribunal of September 10, 2024, Zbigniew Ziobro consistently declined to appear before the investigative body whose legality had itself been called into question, invoking the absence of a legal basis for its continued operation and expressly relying on the Tribunal's judgment (adm, "Zbigniew Ziobro po raz siódmy nie stawił się przed komisją śledczą ds. Pegasusa" [Zbigniew Ziobro fails to appear before the Pegasus inquiry committee for the seventh time], *Rzeczpospolita*, https://www.rp.pl/polityka/art42476031-zbigniew-ziobro-po-raz-siodmy-nie-stawil-sie-przed-komisja-sledcza-ds-pegasusa, accessed August 21, 2025). Moreover, he voiced criticism of the independence of courts adjudicating upon motions submitted by a group of MPs (mat, "Zbigniew Ziobro reaguje na decyzję sądu. 'Ustawka sędziów z nową władzą'" [Zbigniew Ziobro responds to the court's decision. "Judges' deal with the new government"], *Rzeczpospolita*, https://www.rp.pl/prawo-w-polsce/art41736361-zbigniew-ziobro-reaguje-na-decyzje-sadu-ustawka-sedziow-z-nowa-wladza, accessed August 21, 2025). He further articulated numerous objections concerning both the system for constituting the adjudicating panel and the impartiality of the court (P. Supernak/source: PAP/, "Sędzia z Iustitii ukarała Ziobrę. 'Nawet nie raczyła wysłuchać moich argumentów'" [The Iustitia judge punished Ziobro. "She didn't even bother to listen to my arguments"] *Do Rzeczy*, https://dorzeczy.pl/opinie/653947/sedzia-z-iustitii-ukarala-ziobre-byly-minister-reaguje.html, accessed August 21, 2025). In this regard, it ought to be emphasized that only a truly independent person refrains from informal arrangements, possesses the requisite psychological resilience, and is impervious to undue influence. Conversely, the institution of judicial recusal constitutes the principal safeguard against

breaches of judicial independence. Yet in the present case, this mechanism was not invoked, notwithstanding the existence of circumstances capable of giving rise to reasonable doubt as to the adjudicator's impartiality (A. Marek, S. Waltoś, *Podstawy prawa i procesu karnego*, Warsaw, 1999, p. 233).

In an official communiqué dated June 6, 2025, and published on the website of the Constitutional Tribunal, it was reported that the Tribunal had adjudicated the merits of case no. U 4/24. It held that Article 2 of the Sejm resolution of January 17, 2024, was incompatible with Article 2 of the Constitution of the Republic of Poland and discontinued the proceedings as to the remaining claims. As to the legal consequences of the ruling, the Tribunal unequivocally declared that, since Article 2 of the impugned resolution had been found unconstitutional, "the [Parliamentary Inquiry] Committee should cease its activities after the announcement of this judgment." In light of the events of June 6, 2025, the Press Office of the Constitutional Tribunal further stated that the actions undertaken by public authorities and their subordinate services lacked any legal basis and stood in direct contravention of the Tribunal's judgment, which is final and universally binding. Consequently, any measures carried out at the behest of the non-existent Parliamentary Inquiry Committee are contrary to the applicable law of the Republic of Poland and may entail legal liability – including criminal liability – on the part of individuals, including judges and other public officials, who authorize or execute such actions (statement on further unlawful actions of the so-called parliamentary inquiry committee on Pegasus, https://trybunal.gov.pl/wiadomosci/uroczystosci-spotkania-wyklady/art/komunikat-ws-kolejnych-bezprawnych-dzialan-tzw-sejmowej-komisji-sledczej-ds-pegasusa, accessed August 21, 2025).

On June 27, 2025, yet another – eighth – attempt was made to question Zbigniew Ziobro. However, in deference to the aforementioned ruling of the Constitutional Tribunal, he once again declined to appear before the body (A. Wyszczelska, "Ósma próba przesłuchania Ziobry. Już wszystko jasne" [The eighth attempt to question Ziobro. Everything is clear now], *Fakt*, https://www.fakt.pl/polityka/komisja-sledcza-ds-pegasusa-zbigniew-ziobro-znow-sie-nie-stawil/1135hhg, accessed August 21, 2025).

In light of these circumstances, and taking into account the applicable legal provisions, the jurisprudence of the courts, and the established positions of scholarly doctrine, it must be concluded that the detention and compulsory conveyance of Zbigniew Ziobro, a sitting member of the Sejm of the Republic of Poland, for the purpose of testifying before an inquiry committee constitutes yet another instance – among innumerable others – of the manner in which the practice of criminal justice, even in ostensibly civilized Europe, continues to diverge from the dictates of positive law. The path toward universal observance of international standards thus remains protracted and uncertain (K. Sójka-Zielińska, *Drogi i bezdroża prawa*, Zakład Narodowy imienia Ossolińskich – Wydawnictwo, Wrocław, 2000, p. 138).

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No Legal Basis for Deprivation of Liberty by a Parliamentary Inquiry Committee

The practice of inquiry committees indicates that courts have considered the use of disciplinary penalties against witnesses, both in the form of fines and detention, to be lawful, and have also examined requests for arrest, though in at least one case such a request was not granted. At first glance, these sanctions appear to be imposed by the court at the request of the committee. However, closer analysis reveals that the situation is considerably more complex.

As regards the grounds for disciplinary penalties, the Act on the Parliamentary Inquiry Committee constitutes *lex specialis* in relation to the Code of Criminal Procedure. Article 285 § 1 of the Code of Criminal Procedure provides narrower grounds for the application of disciplinary penalties, stipulating that *a witness, expert or interpreter who without justification fails to appear when summoned by the agency conducting the proceedings, or without this agency's permission departs from the place in which the proceedings are being conducted before they have been concluded*, is subject to a disciplinary penalty. This provision identifies two cases in which disciplinary penalties may be imposed.

By contrast, Article 12 of the Act on the Parliamentary Inquiry Committee specifies four such cases. Article 12(1) provides that *if a person referred to in Article 11(1) fails to appear before the committee when summoned without justification, leaves the place of proceedings before its conclusion without the committee's permission, or unreasonably refuses to testify or take an oath, the commission may apply to the Circuit Court in Warsaw for the imposition of a disciplinary penalty.*

The subsequent paragraphs of Article 12 provide, in paragraph 2, for reference to the Code of Criminal Procedure and the Executive Penal Code, and in paragraph 3, for the appeal procedure. The Act on the Parliamentary Inquiry Committee does not, however, refer to Article 49 § 1 of the Act of July 27, 2001, on Common Courts Organization (Journal of Laws of 2023, item 217, consolidated text), which sets out a broader catalogue of grounds for disciplinary penalties. According to that provision, *in the event of a violation of the dignity, peace, or order of court proceedings, or of an insult to the court, another state authority, or persons participating in the case, the court may punish the offender with a disciplinary penalty: a fine of up to PLN 3,000 or imprisonment for up to fourteen days. A person already deprived of liberty, including those in pre-trial detention, may be punished with a penalty provided for in the provisions on the execution of imprisonment or in the provisions on the execution of pre-trial*

detention. The regulation adopted by the legislator thus allows for an administrative penalty *in the event of persistent and unjustified evasion of testimony*.

The courts, however, failed to fulfil their obligations in assessing the nature of these norms. By its decision of July 17, 2025, ref. no. II AKz 168/25, the Court of Appeal in Warsaw upheld the decision of the Circuit Court in Warsaw of January 27, 2025, ref. no. VIII Ko 212/24, ordering the detention and compulsory conveyance of witness Zbigniew Ziobro. Other persons were also detained, including the former head of the Internal Security Agency and the head of the Central Anti-Corruption Bureau. The question arises whether these actions were lawful. The courts assumed, without sufficient consideration, that the Act on the Parliamentary Inquiry Committee provided a legal basis for deprivation of liberty. In fact, the Act contains only procedural provisions; it does not establish substantive norms authorizing such interference. The norms governing the consequences of failure to appear before a court were thus applied mechanically, without recognition of their inapplicability in this context. With respect to persons summoned as witnesses before a parliamentary inquiry committee, there is a serious constitutional doubt as to the permissibility of coercive measures involving deprivation of liberty, such as detention or conveyance. According to the principle of legality, enshrined in Article 7 of the Constitution of the Republic of Poland, any interference with individual liberty must rest on a clear and unambiguous statutory basis. The Act on the Parliamentary Inquiry Committee contains no provision expressly authorizing measures that entail temporary deprivation of liberty. There is no clear substantive legal norm empowering either the committee itself or a court acting at its request to engage in such a profound interference with constitutionally protected rights.

This deficiency results from the reliance on cross-references, without recognizing that ignoring a summons from a court or prosecutor acting on behalf of the Republic of Poland serves a fundamentally different protective purpose – one that justifies, in extreme cases, deprivation of liberty – than ignoring a summons from a political body acting on behalf of the Sejm. Unlike a court or prosecutor, a Sejm committee does not act in the name of the Republic of Poland. Moreover, unlike judicial authorities, such a body is not bound by the procedural safeguards that govern the examination of witnesses in a court of law. Its subject of protection is therefore different, weaker, and does not justify measures as invasive as deprivation of liberty. The constitutional status of the Parliamentary Inquiry Committee does not authorize it to employ repressive measures such as detention. Such measures may only be employed by independent and impartial judicial authorities. Furthermore, individuals who fail to appear before the Committee often do so not out of political motives, but because the Prime Minister has not published the Constitutional Tribunal's judgment declaring the scope of the committee's work unconstitutional and contrary to the Act on the Parliamentary Inquiry Committee. Until that judgment, ref. no. U 4/24, is implemented and the commit-

tee's scope of activities is clarified, those individuals have grounds to regard it as lacking legitimacy.

In practice, the courts' recognition of the Committee's authority to request such penalties was made possible by adopting an interpretation that the Prime Minister holds full and discretionary power to publish Constitutional Tribunal rulings. The failure to publish the Tribunal's judgment of September 10, 2024, which declared certain provisions concerning the Committee unconstitutional, allowed those provisions to remain in force. As a result, the Committee continued its activities and requested disciplinary penalties, including those involving deprivation of liberty, in clear violation of Article 41(1) of the Constitution of the Republic of Poland. The case law of the Constitutional Tribunal on inquiry committees is well established. It consistently emphasizes that the scope of a committee's work must be clear and specific, and cannot constitute a so-called dragnet investigation. The Tribunal has repeatedly held that the resolution establishing an inquiry committee must precisely define its mandate. This standard has applied equally to committees established by earlier parliaments. A committee cannot conduct proceedings of a general or vague nature; its competence must relate to a clearly defined subject matter. In the case of the Pegasus committee, such precision was lacking, which raises fundamental doubts as to the legality of its actions.

The use of custodial penalties by an inquiry committee stems from a defective system of normative references in the Act. The Act refers to the Code of Criminal Procedure and the Executive Penal Code but does not itself establish a substantive legal basis for deprivation of liberty. Such a system of "layered references" is unacceptable in criminal law, as it undermines clarity and predictability. A statute regulating inquiry committees should specify explicitly that an administrative penalty constitutes a sanction, and delineate its scope. Instead, the Act employs blanket references to other statutes, especially the Code of Criminal Procedure, thereby creating a "layered normative reference." Such a system fails to meet constitutional standards of lawmaking, particularly in the field of human rights and freedoms. The Constitutional Tribunal has consistently held that any restriction on constitutional rights and freedoms must be defined in a clear, precise, and predictable manner. This precludes the use of vague or blanket provisions that require multi-stage interpretation – especially when they concern deprivation of liberty. Norms derived through a chain of references are not acceptable in criminal law. Deprivation of liberty remains deprivation of liberty, regardless of the label applied, and must meet the same constitutional standard.

A norm permitting interference with personal freedom must be unambiguous, precise, and directly contained in the statute. Leaving its scope to be determined by the interpretation of blanket provisions violates both the principle of legal certainty (Article 2 of the Constitution) and the principle of legality (Article 7 of the Constitution). Restrictions on individual freedom

must arise from substantive statutory provisions; procedural provisions may only regulate the manner of their application. This requirement follows directly from the Constitution and from the jurisprudence of the Constitutional Tribunal.

In numerous judgments, the Tribunal has underscored that regulations limiting rights must be complete, precise, and predictable. It is impermissible to adopt blanket regulations that delegate to the executive the power to determine the scope of such restrictions. Such arrangements contravene the principle of a democratic state governed by the rule of law (Article 2 of the Constitution).

Article 173 of the Constitution guarantees the independence and separateness of the courts from other authorities. The administration of justice is reserved exclusively to courts and tribunals; political bodies may not usurp this function or any of its elements. The right to a court includes the right to have one's case heard by an independent and impartial tribunal, established in accordance with constitutional provisions.

The principle of citizens' trust in the state requires public authorities to act loyally, ensuring stability and predictability of the law. Allowing a parliamentary inquiry committee to impose or request measures involving deprivation of liberty would fundamentally violate these guarantees.

International law reinforces these conclusions. In its judgment of February 18, 2016, in *Rywin v. Poland* (application no. 6091/06), the European Court of Human Rights held that Article 6 of the European Convention on Human Rights – the right to a fair trial – applies to the proceedings and conclusions of a parliamentary inquiry committee. Accordingly, the standards regarding witnesses' rights and procedural guarantees defined by the European Court are binding on such committees. This includes matters concerning disciplinary penalties, as confirmed in *Słomka v. Poland* (application no. 68924/12, judgment of December 6, 2018).

The European Court of Human Rights has repeatedly stressed that Article 6 applies not only to judicial proceedings but also to quasi-judicial bodies where repressive sanctions may be imposed. A parliamentary inquiry committee, although political in nature, is therefore bound by these standards when requesting penalties that restrict liberty. The Court's case law also highlights the special role of courts as guarantors of rights: restrictions on freedom of expression or disciplinary sanctions may be justified to protect the dignity and authority of courts, but not to shield political bodies.

The principle of proportionality, enshrined in Article 31 of the Constitution and elaborated in the Tribunal's jurisprudence, prohibits excessive restrictions on rights. Any limitation must pursue a legitimate public interest, be effective in achieving its purpose, and impose proportionate burdens on individuals. A parliamentary inquiry committee cannot meet these criteria because it lacks independent and impartial status. Measures involving deprivation of liberty – whether direct or indirect – cannot be justified as pro-

portionate when employed by such a body. In a democratic state governed by the rule of law, only apolitical judicial authorities may impose such severe restrictions on personal freedom. In this context, a financial penalty is the maximum sanction that can be considered acceptable.

Article 42(1) of the Constitution of the Republic of Poland establishes the principle that no one may be punished without a clear legal basis existing at the time of the act – the principle of *nullum crimen, nulla poena sine lege*. This principle entails the following requirements:

- statutory definition of prohibited acts (*nullum crimen sine lege scripta*),
- precise description of the elements of the act (*nullum crimen sine lege certa*),
- prohibition of analogy or broad interpretation to the detriment of the accused,
- prohibition of retroactive application of the law in the field of criminal liability (*nullum crimen sine lege praevia*).

These requirements apply equally to disciplinary sanctions where such sanctions are repressive in nature and may result in deprivation of liberty. An inquiry committee, acting on the basis of a system of normative references, does not meet these standards because the statute does not contain an explicit substantive norm providing for such penalties.

The obligations of a witness – including the duty to appear and to testify – must be expressly established in statute. In the case of inquiry committees, the provisions do not contain a clear authorization to impose penalties involving deprivation of liberty in the event of a breach of these obligations. The mere structure of references to the Code of Criminal Procedure is insufficient when measured against constitutional and convention standards.

Article 7 of the European Convention on Human Rights provides that only the law may define punishable acts and prescribe sanctions. It prohibits the use of analogy to the detriment of the accused and requires that the provisions be accessible, predictable, and unambiguous. The jurisprudence of the European Court of Human Rights confirms that any repressive sanction, including those imposed in summary proceedings, must comply with the guarantees applicable to criminal proceedings. Where a sanction entails deprivation of liberty, the requirement of precision and clarity is particularly strict.

The European Court of Human Rights has further clarified that the concept of a "criminal case" is autonomous, covering proceedings in which repressive sanctions are imposed regardless of the classification given by national law. Thus, administrative sanctions resulting in deprivation of liberty are subject to the same guarantees as penalties imposed in criminal proceedings.

The Act on the Parliamentary Inquiry Committee relies on references to other statutes, including the Code of Criminal Procedure. While such references may be acceptable in some areas of law, they are incompatible with constitutional standards when they concern restrictions on individual rights,

especially personal freedom. The constitutional requirement of clarity and predictability of the law (Article 2 of the Constitution) precludes reliance on multi-stage references that necessitate additional interpretation.

Any norm authorizing deprivation of liberty must be directly enshrined in statute. References to provisions serving different axiological purposes – as in the case of procedural rules of the Code of Criminal Procedure – do not meet the requirements of specificity and risk arbitrariness in application.

An additional concern arises from the political nature of the body requesting such measures. The inquiry committee is a political organ established by the Sejm to perform oversight functions. It does not act on behalf of the Republic of Poland, but rather on behalf of the legislative authority. Unlike courts and prosecutors, it is not an independent or impartial institution. For this reason, it cannot possess the power to impose repressive measures, particularly those entailing deprivation of liberty.

Granting such powers to a political body would violate both the principle of separation of powers (Article 10 of the Constitution) and the principle of proportionality (Article 31(3) of the Constitution). Only apolitical institutions, such as courts and prosecutors, have constitutional legitimacy to interfere with personal liberty. The principle of proportionality requires that restrictions on rights be necessary, effective, and proportionate to the aim pursued. A political body such as an inquiry committee does not provide the constitutional guarantees of independence or impartiality that could justify interference with liberty.

Deprivation of liberty as an administrative sanction imposed on a witness before an inquiry committee fails the proportionality test. Ensuring the proper functioning of a committee may be achieved through less restrictive means, such as financial penalties or other disciplinary sanctions. Imprisonment in this context is excessive, unjustified given the political character of the authority, and inconsistent with the principles of a democratic state governed by law.

In a democratic state governed by the rule of law, a political body – even one with investigative functions, such as a parliamentary inquiry committee – cannot be vested with the power to deprive individuals of their liberty, even indirectly with the involvement of the courts. Unlike courts, prosecutors, and law enforcement agencies, which are constitutionally apolitical and operate under strict guarantees of independence, no political institution can legitimately exercise such powers. The political nature of an inquiry committee is inherent and inescapable; therefore, it may resort only to non-custodial disciplinary measures. Concentrating both political and repressive functions in a single body would undermine the constitutional balance of powers and erode protections against arbitrary state action.

Deprivation of liberty, as the most severe form of interference with individual rights, requires full substantive and procedural guarantees – guarantees that only independent, apolitical institutions can provide. Allowing

exceptions would violate constitutional protections and undermine the principle of equality before the law. The democratic state governed by the rule of law rests on the separation of powers and on the strict distinction between political and adjudicative functions in matters of individual rights. Granting a political body repressive powers – even with judicial endorsement – would circumvent constitutional safeguards designed to protect citizens from arbitrariness.

In my view, the committee's request for the detention of Zbigniew Ziobro was without legal basis. The provisions relied upon were purely procedural in character and cannot serve as an independent basis for measures interfering with personal liberty. Such action must be regarded as unlawful in light of the principle of legality (Article 7 of the Constitution) and Article 5(1) of the European Convention on Human Rights. For this reason, in case Ts 164/25, the Constitutional Tribunal issued an injunction pursuant to Article 79 of the Constitutional Tribunal Act, prohibiting the unlawful deprivation of liberty of Zbigniew Ziobro until the Tribunal has examined the case. This measure was intended to prevent the opposition MP from being subjected to an unconstitutional deprivation of liberty.

Conclusions

1. The provisions of Article 11(1) and Article 12(1) of the Act of January 21, 1999, on the Parliamentary Inquiry Committee, insofar as they may be interpreted as an independent basis for deprivation of liberty, are inconsistent with the Constitution of the Republic of Poland and with international law. They do not contain sufficiently clear and precise substantive legal norms authorizing interference with the right to personal freedom. The Constitutional Tribunal has consistently stressed that restrictions on freedoms and rights must rest on an explicit substantive statutory basis, not merely on procedural provisions.
2. The norms contained in the abovementioned provisions are purely procedural and executive in character. They cannot be treated as a substantive legal basis for deprivation of liberty. Unlike the provisions of the Code of Criminal Procedure, these regulations do not possess the normative structure or justification appropriate to substantive norms. Their application in a way that results in deprivation of liberty violates both the principle of legality (Article 7 of the Constitution) and the principle of legal certainty (Article 2 of the Constitution).
3. A parliamentary inquiry committee is a political body acting on behalf of the Sejm, not on behalf of the Republic of Poland, as are courts or the public prosecutor's office. It has no constitutional competence to deprive individuals of liberty. It may apply only less severe disciplinary measures. Granting it powers of this nature would violate Article 41(1) in conjunction with Articles 42(2)–(3), 45(1), 176(1), 78, 10(1)–(2), 31(1)–(3), 2, and 32 of the

Constitution, as well as the principles of proportionality and the protection of individual freedoms.

4. In a democratic state governed by the rule of law, a political body cannot have the power to deprive individuals of liberty, even where such deprivation is subject to judicial approval. Political functions are incompatible with repressive functions. Coercive measures involving deprivation of liberty may only be exercised by apolitical bodies such as courts, prosecutors, or law enforcement agencies.

Summary

Any restriction of personal freedom, including deprivation of liberty, must have a clear and explicit substantive legal basis. Procedural provisions may regulate the manner of implementation of such a norm but cannot themselves create it. In the case of a parliamentary inquiry committee, no such substantive norm exists.

A political body such as an inquiry committee cannot be vested with the power to deprive an individual of liberty, even indirectly with the involvement of the courts. Such a competence undermines the very essence of the committee's function. Unlike the apolitical activities of courts, prosecutors, and law enforcement agencies – which, by virtue of their systemic independence, possess constitutional legitimacy to interfere with liberty – no political authority in a democratic state governed by the rule of law may exercise such powers under any circumstances.

The provisions of Article 11(1) and Article 12(1) of the Act of January 21, 1999, on the Parliamentary Inquiry Committee are procedural and executive in nature only. They do not possess the character of substantive legal norms required to justify any restriction of constitutionally protected personal liberty. Unlike provisions of the Code of Criminal Procedure, which do provide substantive grounds with appropriate structure and justification, these provisions cannot serve as an independent legal basis for coercive measures.

In light of the principle of legality (Article 7 of the Constitution) and the guarantee of personal liberty (Article 41(1) of the Constitution), any restriction of individual freedom – particularly one as severe as deprivation of liberty – must rest on a clear and explicit substantive statutory basis. The procedural provisions of the Act on the Parliamentary Inquiry Committee may regulate how such a norm is implemented, but cannot themselves create the authority to interfere with liberty.

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The Detention and Compulsory Conveyance of Zbigniew Ziobro to Testify Before the Parliamentary Inquiry Committee

The issue outlined in the title of this analysis requires consideration on two levels. The first concerns the legality of the actions of the Parliamentary Inquiry Committee itself. The second concerns the legality of the measures taken specifically against Zbigniew Ziobro – former Minister of Justice and currently a member of the Sejm of the 10th term – by the Committee, the Sejm, the Prosecutor General, and ultimately the courts. Each of these elements requires separate analysis.

I. Establishment of the Parliamentary Inquiry Committee

By resolution of January 17, 2024, the Sejm of the Republic of Poland, acting pursuant to Article 111(1) of the Constitution of the Republic of Poland and Articles 1 and 2 of the Act of January 21, 1999, on the Parliamentary Inquiry Committee, established an inquiry committee with an unusually elaborate name: "Inquiry Committee to examine the legality, correctness, and purposefulness of operational and intelligence activities undertaken, inter alia, with the use of Pegasus software by members of the Council of Ministers, special services, the police, tax and customs control authorities, law enforcement agencies, and the prosecutor's office in the period from November 16, 2015, to November 20, 2023" (*Monitor Polski*, item 70).

The subject of the investigation was defined as "operational and intelligence activities," understood to include surveillance carried out with Pegasus or comparable software. This encompassed operational control, interception and recording of telephone conversations, monitoring of correspondence, and any other activities involving the monitoring or recording, by technical means, of the content of conversations or information transfers, including correspondence transmitted by e-mail or instant messaging.

As to the personal scope of the inquiry, the Sejm resolution provided that it would extend to members of the Council of Ministers – particularly the Minister of Justice, the Prosecutor General, the Chairman of the Council of Ministers' Committee for National Security and Defense, the Minister of Internal Affairs and Administration, the Coordinator of Special Services, and the Secretary of State in the Ministry of Internal Affairs and Administration

– as well as the Public Prosecutor's Office, special services, the police, and other authorities responsible for prosecuting crime, including fiscal offences. The resolution listed specifically the Head of the Central Anti-Corruption Bureau, the Head of the Internal Security Agency, the Heads of the Military Intelligence and Counterintelligence Services, the Chief Commanders of the Police and Border Guard, the Prosecutor General, the National Prosecutor, the Head of the National Revenue Administration, and their subordinate officials.

The scope of the inquiry was equally extensive. It included, among other things, examination and evaluation of the legality, correctness, and purposefulness of the purchase of Pegasus or comparable surveillance software; identification of the persons responsible for such acquisitions; examination and evaluation of the legality, correctness, and purposefulness of operational and intelligence activities carried out with Pegasus and similar software; determination of the number of such operations; identification of the individuals subjected to them, particularly where such activities were unlawful, improper, or unjustified; and determination of any violations or abuses of the legal or factual basis for conducting operational and intelligence activities.

The composition of the Committee was determined by another Sejm resolution of January 26, 2024. The 11-member body was dominated by MPs from the governing coalition, known as the "December 13 Coalition." Membership of the Committee changed during its mandate for various reasons, including the expiration of parliamentary mandates. The first meeting, convened on January 26, 2024, elected the Presidium, which consisted of four members from the governing coalition and one from the opposition. The next two meetings focused on formal issues, while the fourth and subsequent meetings addressed the substantive tasks set out in the Sejm resolution of January 17, 2024.

II. Judgment of the Constitutional Tribunal of September 10, 2024, ref. no. U 4/24

The legitimacy of such a broadly defined scope of work for the Parliamentary Inquiry Committee raised serious constitutional doubts. Accordingly, on March 25, 2024, a group of MPs of the 10th Sejm, acting pursuant to Article 191(1)(1) in conjunction with Article 188(3) of the Constitution of the Republic of Poland, filed a motion with the Constitutional Tribunal requesting the review of the constitutionality of Article 2 of the Resolution of the Sejm of January 17, 2024, establishing the Inquiry Committee.

On May 8, 2024, the Constitutional Tribunal, relying on Article 36 of the Act of November 30, 2016, on the Organization and Procedure before the Constitutional Tribunal (Journal of Laws 2019, item 2393), in conjunction with Article 755 § 1 and Article 730^1 of the Code of Civil Procedure, issued an injunction. It ordered the Parliamentary Inquiry Committee to refrain from undertaking any factual or legal actions until the Tribunal rendered a final judgment on the merits.

Following this ruling, opposition MPs serving on the Committee ceased their participation, respecting the binding force of the Tribunal's order. Despite this, the Committee – dominated by deputies of the governing coalition – ignored the Tribunal's decision and continued its work, which it pursues to this day. This marked the first element of a breach of the constitutional legal order by a body controlled by the current parliamentary majority.

Six months later, on September 10, 2024, in case U 4/24, the Constitutional Tribunal rendered judgment holding that Article 2(2) of the Resolution of the Sejm of January 17, 2024, establishing the Inquiry Committee, was inconsistent with Article 2 of the Constitution of the Republic of Poland.

In its extensive reasoning, the Tribunal identified several critical constitutional defects:

a. Defective composition of the Sejm at the time of the resolution. The resolution was adopted by a chamber improperly constituted due to unlawful actions taken by the Marshal of the Sejm against MPs Mariusz Kamiński and Maciej Wąsik, who were unlawfully deprived of their mandates and thereby prevented from exercising their parliamentary functions.
b. Overly broad definition of the scope of the investigation. The Committee's remit encompassed not a specific case, but a wide range of activities of multiple state authorities, each with distinct competences and responsibilities in the field of operational control.
c. Excessive temporal framework. The resolution authorized examination of activities spanning several years, thereby confirming that the Committee's purpose was not to investigate a particular case that had eluded clarification by permanent constitutional bodies such as the Public Prosecutor's Office, but rather to conduct wide-ranging scrutiny of an entire segment of state operations led by officials associated with the governments of the 8th and 9th terms of the Sejm.
d. Flagrant violation of the principle of the separation and balance of powers. The Inquiry Committee encroaches upon a domain reserved for the common courts, which are separate and independent authorities (cf. Article 10 in conjunction with Article 173 of the Constitution of the Republic of Poland). An inquiry committee is not permitted to examine the legality of decisions of common courts, including those concerning the use of operational surveillance. Such actions intrude upon the core competence of the judiciary, which is entrusted with the administration of justice in these matters. In the Tribunal's view, any attempt by an inquiry committee to review the legality of operational surveillance ordered by an independent court would constitute a clear breach of the Constitution. It is likewise inadmissible under Article 8(2) of the Act of 21 January 1999 on the Parliamentary Inquiry Committee (Journal of Laws of 2016, item 1024), which expressly excludes the assessment of the legality of judicial rulings from the scope of the committee's activities.

The Constitutional Tribunal thus strongly reaffirmed that, in establishing inquiry committees, the Sejm is bound in a particular way by the principle of separation and balance of powers. The tasks assigned to such committees cannot be framed in a manner that violates constitutional relations with bodies outside the Sejm's control. Polish law does not recognize a general authorization for inquiry committees to examine any matter the Sejm may specify in a resolution. The mandate of such committees must remain confined both in terms of subject matter and entities to those spheres legitimately subject to parliamentary oversight under the Constitution and statutes.

III. Consequences of the Constitutional Tribunal's Judgment of September 10, 2024, ref. no. U 4/24

The consequences of the Constitutional Tribunal's ruling must be considered from two distinct perspectives: the legal and the factual.

The legal perspective is defined by the Constitution of the Republic of Poland as the supreme law, supplemented by statutes and other normative acts. Together, they create an axiological-normative framework that sets models of proper conduct by public authorities. This perspective could be termed postulative – it defines what ought to happen under the law, but not necessarily what occurs in practice.

The factual perspective is rooted in social reality. It is constructed by the principal actors of political and social life who, at any given time, exercise dominant influence. It is an empirical reality manifested in everyday practices of power, including the activities of state institutions. In the case under review, this perspective reflects the actions actually taken by the Parliamentary Inquiry Committee – a body which, despite lacking legal authority, nevertheless exercised power in ways inconsistent with the constitutional order and the law of Poland.

The case of Zbigniew Ziobro's detention and forced appearance for questioning by the Parliamentary Inquiry Committee illustrates this duality. To borrow M. Foucault's metaphor, it forces us to consider not only what happens "on stage" but also what occurs "behind the scenes" in the theater of political power. In other words, it compels us to confront the normative declarations of the law – and what ought to be applied in a democratic state governed by the rule of law – with the reality of how axiological norms, which establish standards of conduct for specific state bodies and embody a model of proper conduct, are in fact implemented in practice. As E. Goffman observed, the "theater of everyday life" often reveals a contradiction between the rule of law as declared and the realities of its implementation. Zbigniew Ziobro's case makes this contradiction starkly visible.

The starting point for further observations must be a legal perspective. Against this background, the unlawfulness of the measures taken against the former Minister of Justice becomes readily apparent.

What, then, were the consequences of the Constitutional Tribunal's ruling of 10 September 2024 in case no. U 4/24? Pursuant to Article 190(1) and (2) of the Constitution of the Republic of Poland, judgments of the Constitutional Tribunal are universally binding and final. Moreover, in matters referred to in Article 189 of the Constitution, they are subject to immediate publication by the competent official authority. In turn, Article 190(3) provides that a ruling of the Constitutional Tribunal enters into force on the date of its announcement, while also allowing the Tribunal to determine a different date for the loss of binding force of a normative act, or of the provision thereof, that has remained in force until then.

The binding nature of these judgments applies both to rulings declaring certain normative acts, or their specific provisions, unconstitutional in relation to the Constitution of the Republic of Poland, a ratified international agreement, or a higher-ranking normative act – i.e. rulings that alter the existing legal status quo – as well as to those upholding the constitutionality of a contested normative act under the Constitution or another legislative act.

If a normative act is found unconstitutional, the binding force of the Constitutional Tribunal's ruling entails that, from the moment of its announcement, the act ceases to be applicable. It is thereby removed from the legal order and stripped of its capacity to regulate conduct, that is, of its binding force.

The conclusions are therefore clear. With the announcement of the Tribunal's judgment of September 10, 2024, Article 2 of the Sejm resolution establishing the Inquiry Committee lost legal effect. The Tribunal expressly stated that the Committee was obliged to cease its activities immediately upon the ruling's announcement.

However, this does not mean that, until that moment, the provision challenged before the Constitutional Tribunal should be applied without reservation to factual circumstances arising prior to the announcement of the ruling. According to the case law of the Polish Constitutional Tribunal, although the loss of validity of norms deemed unconstitutional (derogation or amendment of the law as regards its validity) takes effect on the date of publication of the Tribunal's ruling in the Journal of Laws, the ruling itself – following the review procedure – is not without legal consequences for proceedings pending before administrative authorities or courts in relation to the provisions affected by unconstitutionality. This is because the presumption of constitutionality of the reviewed provision is set aside as soon as the judgment is publicly announced (which always precedes the derogation of the unconstitutional provision through promulgation of the judgment). Consequently, authorities applying provisions found unconstitutional – whether during the period in which the Tribunal has postponed the entry into force of its judgment (thus postponing the derogation of the provision), or under intertemporal rules, or, for example, under the principle *tempus regit actum* characteristic of administrative courts – must take into account that these provisions have been

deprived of their presumption of constitutionality. It is generally accepted in the case law of common courts, administrative courts, and the Constitutional Tribunal itself, as well as the Supreme Court and the Supreme Administrative Court, that a normative act repealed (in whole or in part) as a result of a ruling of the Constitutional Tribunal, regardless of any postponement of the loss of its validity, loses its presumption of constitutionality. That presumption is rebutted as soon as the Tribunal's judgment is announced in open court.

It should further be underscored that the concept of "generally binding force," as employed in Article 190(1) of the Constitution of the Republic of Poland, assimilates the authority of the Constitutional Tribunal's judgments to the sources of binding law enumerated in Article 87(1) of the Constitution, insofar as it concerns the addressees obliged to respect and implement such rulings. Consequently, none of these addressees – and in particular no organ of public authority – possesses competence to adopt a position on a matter adjudicated by the Constitutional Tribunal that diverges from that expressed in the Tribunal's judgment. Of particular significance, and warranting emphasis, is that the legal norm derived from Article 190(1) is self-executing, such that the operative content of the Tribunal's ruling must be given effect *ex officio*. This provision must therefore be interpreted as a norm prohibiting any entity from undertaking actions contrary to the content of the judgment, with any violation of that prohibition constituting an infringement of the norms of the supreme law of the land, namely the Constitution of the Republic of Poland.

In the context of these considerations, particular attention must be given to the normative directive enshrined in Article 7 of the Constitution of the Republic of Poland. Pursuant to this provision, public authorities are obliged to act on the basis of, and within the limits prescribed by, law. The principle of legality thereby articulated constitutes a foundational axiom of every legal order, irrespective of its substantive content. Addressed specifically to organs of public authority, it imposes a duty to ensure that all official action is grounded in, and constrained by, the applicable legal norms. The presumption of its validity is indispensable to the very coherence of any legal system, for to tolerate departures from legality by public authorities would erode the very conception of law as a system of binding norms of conduct.

The legality of public authority action denotes a juridical state of affairs in which such authorities are constituted pursuant to law and operate strictly on the basis of, and within the confines prescribed by, that law. It is the law that delineates their functions, competences, and procedural modalities. As a consequence, decisions must be rendered in the form prescribed by statute, founded upon an appropriate legal basis, and in conformity with the substantive provisions binding upon the authority concerned. The public authorities subject to the principle of legality are those entities which, by operation of law, are vested with powers of command (*imperium*).

Turning to the second perspective – namely, the factual plane – it should be observed that in any state genuinely committed to the principle of a dem-

ocratic state governed by the rule of law, it would be axiomatic that, following the Constitutional Tribunal's aforementioned ruling, the Parliamentary Inquiry Committee would terminate its activities; in other words, it would comply with the judgment of the constitutional court.

In the present case, however, the reality was markedly different. The members of the ruling coalition, who commanded a majority within the inquiry committee, declined to recognize the Tribunal's ruling. Given the broader sequence of events that have unfolded in Poland over the preceding two years, this refusal came as little surprise to most jurists and informed observers of public life. Such a posture of legal disregard has become a characteristic feature of the political landscape shaped by the so-called December 13 Coalition, with palpable consequences for the operation of state institutions, including the courts, prosecutorial bodies, and the police.

Constitutionalism – predicated upon the primacy of law over politics and defined by the supremacy of the constitution as the foundational act structuring the legal order of the state, including the instruments through which power is exercised – has effectively been abandoned. In its place, the current ruling coalition has embraced a political philosophy grounded in Carl Schmitt's decisionism – a doctrine in which it is not law that conditions political action, but rather politics that subordinates and dominates law. Within this framework, it is the sovereign's decision that is dispositive, rather than an abstract and general legal norm. In the Polish context, the governing majority, acting within the framework of "militant democracy" – a concept borrowed from the German philosopher and jurist Karl Loewenstein – proceeds from the assumption that it need not acknowledge statutory provisions it declines to recognize, nor comply with judicial decisions it refuses to respect, including judgments of the Constitutional Tribunal, which under the Polish Constitution bears exclusive authority to determine the constitutionality of legal acts. Put differently, the question of whether a given legal norm retains operative force in contemporary Poland has come to depend upon the discretion or interpretive will of the government. Simultaneously, by virtue of its control over the state apparatus in its entirety, the government wields the practical capacity to secure the effective enforcement of its determinations.

As a consequence of the above, neither the government, nor the parliamentary majority, nor the members of the Parliamentary Inquiry Committee representing it, acknowledged the judgment of the Constitutional Tribunal of September 10, 2024, in case no. U 4/24. Instead, reliance was placed on a patently erroneous contention that the Tribunal's decision did not constitute a judgment because the adjudicating panel allegedly included individuals who were not authorized to sit and who therefore could not be regarded as judges. This contention was strictly political in character and served an instrumental function.

It must be stressed that all judges currently adjudicating in the Constitutional Tribunal were elected individually by the Sejm in accordance with

the procedure set forth in Article 194(1) of the Constitution of the Republic of Poland, and, in conformity with Article 4 of the Act of November 30, 2016 on the Status of Judges of the Constitutional Tribunal (Journal of Laws 2018, item 1422), subsequently took an oath before the incumbent President of the Republic. By contrast, the individuals originally elected by the Sejm in 2015 failed to take such oaths. This circumstance is decisive because, pursuant to Article 5 of the Act of November 30, 2016 on the Status of Judges of the Constitutional Tribunal, the employment relationship of a Tribunal judge is established only upon the taking of the oath. Without such an oath, no judicial appointment is established; at most one can speak of a person elected to the office but not lawfully vested with judicial authority.

Nonetheless, factual controversies cannot alter legal evaluations. Under the generally applicable law of Poland, from the date of the announcement of the Tribunal's judgment of September 10, 2024 (ref. no. U 4/24), *the continued operation of the Committee became unconstitutional*. This conclusion necessarily informs the legal assessment of all subsequent measures undertaken by the inquiry committee in relation to the former Minister of Justice, as well as the legality of procedural actions grounded in the Code of Criminal Procedure and the disciplinary sanctions imposed upon Zbigniew Ziobro by a common court. Anticipating further analysis, it may already be observed at this stage that the matter involves multi-layered violations of law, encompassing both constitutional dimensions and infra-constitutional provisions, particularly those of the Code of Criminal Procedure.

IV. The Detention and Forced Appearance of Zbigniew Ziobro Before the Parliamentary Inquiry Committee

Two preliminary remarks are necessary to frame this analysis. First, Zbigniew Ziobro is not only a former Minister of Justice but also, at the time in question, a sitting member of the Sejm of the 10th term. Article 105(5) of the Constitution of the Republic of Poland provides that a member of the Sejm may not be detained or arrested without the consent of the Sejm, except when apprehended *in flagrante delicto* and when detention is necessary to secure the proper conduct of proceedings. A parallel provision is contained in Article 10(1)–(2) of the Act of May 9, 1996, on the Exercise of the Mandate of a Deputy and Senator (Journal of Laws 2024, item 907). Both provisions extend the prohibition of detention to all forms of deprivation or restriction of liberty by coercive authorities. Article 10(4) of the Act further specifies that a request for such consent must be submitted to the Sejm through the Prosecutor General.

Second, the procedure before a parliamentary inquiry committee is regulated by the Act of January 21, 1999, on the Parliamentary Inquiry Committee (Journal of Laws 2016, item 1024). Article 11(1) obliges any person summoned by the committee to appear and give testimony. Article 11(1i) further provides that, in matters not expressly regulated in the Act, the provisions of

the Code of Criminal Procedure concerning witnesses apply *mutatis mutandis*. If a summoned person fails to appear without justification, Article 12 of the Act authorizes the committee to apply to a Circuit Court in Warsaw for the imposition of a disciplinary penalty. The provisions of the Code of Criminal Procedure and the Executive Penal Code are to apply accordingly to such proceedings.

Against this framework, the sequence of events is as follows.

Zbigniew Ziobro was twice summoned in July 2024 (July 1 and July 10) but did not appear, justifying his absence by submitting a medical certificate in accordance with the Code of Criminal Procedure. At its meeting on July 10, 2024, the Committee resolved to request the Prosecutor General to obtain an expert medical opinion to determine when Ziobro might be able to appear. Without consulting or personally examining him, the expert opined that Ziobro could attend, subject to conditions such as adequate sound, hot water, and breaks. On that basis, the committee set the next meeting for October 14, 2024.

Zbigniew Ziobro again failed to appear on that date. Importantly, by then the Constitutional Tribunal had already delivered its judgment of September 10, 2024, in case U 4/24, declaring Article 2 of the Sejm resolution establishing the Parliamentary Inquiry Committee unconstitutional. From that moment, *all actions of the Committee lacked any legal basis and where therefore illegal.*

Despite this state of affairs, pursuant to Article 12(1) of the Act of January 21, 1999 on the Parliamentary Inquiry Committee (Journal of Laws 2016, item 1024), in conjunction with Article 285 § 1 of the Code of Criminal Procedure, the Committee adopted a resolution to submit to the Circuit Court in Warsaw a motion for the imposition of a financial penalty of PLN 3,000 on Zbigniew Ziobro. The same court, likewise disregarding the judgment of the Constitutional Tribunal, by its decision of November 6, 2024 (ref. no. VIII Ko 177/24), partially granted the Committee's request and imposed a fine of PLN 2,000 on the former Minister of Justice.

On November 4, 2024, Zbigniew Ziobro was once again summoned to appear before the Committee for questioning. He failed to do so, invoking the ruling of the Constitutional Tribunal. On the same day, the Committee adopted another resolution to request the Circuit Court in Warsaw to impose a further financial penalty of PLN 3,000. As before, the court – disregarding the Constitutional Tribunal's ruling – by its decision of November 13, 2024 (ref. no. XVIII Ko 97/24) imposed on Zbigniew Ziobro a financial penalty in the full amount requested for his failure to appear before the Committee on November 4, 2024.

Simultaneously, on November 4, 2024, the Committee adopted two further resolutions: one requesting the Circuit Court in Warsaw to order Ziobro's detention and bringing to the Committee's meeting, and another, pursuant to Article 10(4) of the 1996 Act, requesting the Prosecutor General to apply to the Sejm for consent to detain and bring him before the committee.

On November 7, 2024, through the Prosecutor General, the Committee submitted its request to the Marshal of the Sejm. Prosecutors of Investigation Team No. 3 of the National Prosecutor's Office reviewed it, and on November 22, 2024, Prosecutor General Adam Bodnar forwarded the request to the Marshal, endorsing it as formally and materially correct. On November 25, 2024, the Marshal referred the request to the Sejm Committee on Rules, Deputies' Affairs, and Immunities, which on December 3, 2024, recommended approval. On December 5, 2024, the Sejm, dominated by the "December 13 Coalition," acting pursuant to Article 105(5) of the Constitution of the Republic of Poland and Article 10(7) of the Act of May 9, 1996, on the Exercise of the Mandate of a Deputy and Senator (Journal of Laws 2024, item 907), granted consent to the detention and compulsory appearance of Zbigniew Ziobro before the Parliamentary Inquiry Committee. On December 6, 2024, the Committee requested the Circuit Court in Warsaw to authorize the detention and compulsory attendance. By decision of January 27, 2025 (ref. no. VIII Ko 212/24), the court ordered that this measure be carried out on January 31, 2025, at 10:00 a.m.

On January 31, 2025, steps were taken to execute the warrant issued by the Circuit Court in Warsaw in case no. VIII Ko 212/24 for the arrest and compulsory appearance of Zbigniew Ziobro at the Committee hearing. As a result, Ziobro was detained in central Warsaw, transported to the Sejm, where the Committee was in session, and handed over to the Marshal's Guard.

From a constitutional standpoint, the illegality of these actions – in light of the observations set out in Sections II and III of this analysis – is beyond doubt. After September 10, 2024, when the Constitutional Tribunal issued its ruling in case no. U 4/24, all actions of the Parliamentary Inquiry Committee lacked any legal basis and were therefore unlawful. The same conclusion applies fully to the actions of the Marshal of the Sejm, the Prosecutor General, and the Sejm itself insofar as it endorsed the motions of the Inquiry Committee.

A closer examination is warranted of the actions taken by the Circuit Court in Warsaw, particularly in light of the provisions of the Code of Criminal Procedure, which, pursuant to the statutory delegation contained in Article 12(2) of the Act of January 21, 1999, on the Parliamentary Inquiry Committee (Journal of Laws 2016, item 1024), applies *mutatis mutandis* in proceedings before such committees.

For clarity, it should be recalled that under Article 173 of the Constitution of the Republic of Poland, courts and tribunals constitute a separate and independent authority, while Article 177 specifies that common courts administer justice. In accordance with the judicial oath set forth in Article 66 § 1 of the Act of July 27, 2001, on Common Courts Organization (Journal of Laws 2024, item 334), judges are guardians of the law. Furthermore, Article 178 of the Constitution provides that, in the exercise of their office, judges are independent and subject only to the Constitution and statutes.

These provisions carry important implications. Above all, courts, as institutions entrusted with upholding the law and thereby safeguarding the

principle of legality, are obliged to exercise their powers so as to remedy violations of law committed by other public authorities outside the judiciary. In particular, as guardians of the law, courts through their rulings should eliminate unconstitutional decisions from the legal system – whether the unconstitutionality is substantive or formal, the latter arising from the issuance of a decision without proper authority or in contravention of the procedural rules governing its application.

At the same time, courts, as guardians of the law, may act only in accordance with Article 7 of the Constitution of the Republic of Poland – that is, on the basis of and within the limits of the law. This means they cannot assume powers not expressly granted to them either in the Constitution or in any other statute. Like all public authorities, including the legislative and executive branches, courts are bound by the Constitution, and in particular by Article 190(1), which provides that the rulings of the Constitutional Tribunal are universally binding and final. This principle is of fundamental importance. The principle of legality, set out in Article 7 of the Constitution, means that every act of the Constitutional Tribunal, as a state body, must be presumed lawful. The attribution of finality and universal applicability to the Tribunal's rulings implies that even rulings that may give rise to doubts have binding effect. No state body, including the courts, has the authority to assess whether a ruling of the Constitutional Tribunal was issued by a properly composed panel or in compliance with the procedure prescribed by law, and thus whether it may be regarded as final and universally binding. The unequivocal wording of Article 190(1) of the Constitution makes clear that such competence cannot be conferred without amending the Constitution itself.

In ruling – through successive panels – on each of the three motions submitted by the Parliamentary Inquiry Committee, the Circuit Court in Warsaw failed to satisfy these normative requirements. In doing so, it not only violated the legal norms derived from the text of the Polish Constitution – the primary violation – but also committed a manifest and serious breach of the provisions of the Code of Criminal Procedure, as applied in proceedings before the Inquiry Committee, which should be regarded as a secondary violation.

The actions of the successive panels of the Circuit Court were not the result of mere omission, such as failing to examine whether the motions of the Parliamentary Inquiry Committee originated from a competent authority and had a proper legal basis. Rather, the illegality of the court's conduct stemmed, paradoxically, from a form of judicial activism, whereby it arrogated to itself powers not granted by any legal act. In direct contravention of Article 190(1) of the Constitution, the court undertook to assess the validity and finality of the Constitutional Tribunal's judgment of September 10, 2024, which had declared Article 2 of the Sejm's resolution of January 17, 2024, establishing the Parliamentary Inquiry Committee, inconsistent with the Constitution of the Republic of Poland.

Exceeding its powers and in contravention of Articles 7 and 190(1) of the Constitution of the Republic of Poland, the Circuit Court in Warsaw, relying on the case law of international courts, held that the judgment of the Constitutional Tribunal could not be regarded as having been issued by a "court established by law" on account of the allegedly improper composition of the adjudicating panel. On this basis, the court concluded that the ruling was not subject to the effect prescribed in Article 190(1) of the Constitution. Even at first glance, it is apparent that this reasoning mirrored the claims advanced by politicians of the ruling coalition. As for the allegation concerning the "improper judicial appointments," this assertion has been thoroughly refuted in light of the normative regulations currently in force in Poland.

A few comments are in order regarding the argument based on the case law of the Strasbourg and Luxembourg courts. At the outset, it should be emphasized that this argument is superficial. First, it is indisputable that the rulings of the ECtHR or the CJEU do not constitute a source of law within the national legal system. The Constitutional Tribunal has repeatedly held that:

a. the concept and model of European law have created a new situation in which autonomous legal systems coexist, thereby creating the possibility of conflict between the provisions of EU law and the Polish Constitution. However, such a conflict cannot, under any circumstances, be resolved within the Polish legal system by recognizing the supremacy of EU law over constitutional law. Nor may it result in the loss of binding force of constitutional law and its substitution with EU law, or in the limitation of its scope of application to matters outside the reach of EU law;
b. it is impermissible to derive from the Treaty on European Union any competence to assess the correctness or validity of judicial appointments. Pursuant to Article 19 of the TEU, the Member States retain autonomy in the organization of their judiciary, and this matter falls exclusively within the domain of each Member State's internal law.

What does this mean? Quite simply, it means that neither the ECtHR, nor the CJEU, nor any Polish court – including the Supreme Court – exercises "judicratic" or "tribunalcratic" power, supremacy, or dominance over the Polish Parliament, the President of Poland, or other constitutional bodies. CJEU rulings are not sources of EU law. There are no national or treaty-based legal grounds for declaring that one or another Polish court is a "non-court" or that judges newly appointed to the Supreme Court, common courts, or military courts by the President of the Republic of Poland retain their judicial office but are barred from adjudicating.

The Circuit Court in Warsaw, in successive panels, ignored in its adjudication the constitutional framework governing the sources of law, their hierarchy, and the basic principles of legal interpretation. In so doing, it exceeded the investiture of judicial authority – the legitimacy to exercise judicial power and to define the scope of that power. As part of this judicial activism, the

court engaged in a kind of "over-interpretation" of the rulings of international tribunals, attributing to them effects that do not follow from their content. None of the judgments of the ECtHR or the CJEU has annulled the appointment of judges. As Ombudsman Prof. M. Wiącek rightly observed, any assertion to the contrary is inconsistent with the principles of generally applicable legal interpretation. In his view, even if certain defects existed in the nomination process of some Constitutional Tribunal judges, this does not mean that judgments delivered with their participation are legally non-existent or may be disregarded as having no effect.

In this light, the Warsaw Circuit Court's assumption that persons appointed as judges of the Constitutional Tribunal by the President of the Republic of Poland are not judges, and that the judgments they issue are legally non-existent, lacked any legal foundation.

It should also be stressed that the President's decision to appoint an individual to judicial office is a discretionary act (a presidential prerogative). The validity or effectiveness of such an act cannot be examined in any proceedings before a court or other state authority. No court possesses the jurisdiction or the constitutional, systemic, or procedural competence to block, restrict, or otherwise interfere with the adjudicatory authority of judges duly appointed by the President of the Republic of Poland and sworn into office. This position is supported not only by the domestic case law of common and administrative courts, but also by the ECtHR in its decision of April 1, 2025, in *Manowska v. Poland* (no. 51455/21).

The final argument advanced by the Circuit Court in Warsaw – by far the weakest in substance – rested on the assertion that the judgment of the Constitutional Tribunal of September 10, 2024, in case no. U 4/24, had never been published and therefore had no legal effect. This position is both erroneous and unfounded. At the same time, it reflects – though likely not intentionally – yet another instance of unlawful government conduct.

The procedure for the publication of Constitutional Tribunal rulings is governed by the Act of July 20, 2000, on the Publication of Normative Acts and Certain Legal Acts (Journal of Laws 2019, item 1461), and by Article 114 of the Act of November 30, 2016, on the Organization and Procedure before the Constitutional Tribunal (Journal of Laws 2019, item 2393). Under Article 190(2), first sentence, of the Constitution of the Republic of Poland, rulings of the Tribunal in cases referred to in Article 188 must be published immediately in the official gazette in which the challenged normative act was published. Pursuant to Article 114 of the 2016 Act, publication of the Tribunal's rulings is ordered by the President of the Tribunal. Article 21(1) of the 2000 Act further specifies that responsibility for publishing the *Journal of Laws* and the *Polish Monitor* lies with the Prime Minister. The announcement of a normative act is thus an act of public administration, carried out in execution of a statutory obligation imposed on a specific administrative body. It is neither a matter of private law nor an act of law-making.

The failure to publish the Constitutional Tribunal's judgment of September 10, 2024, in case U 4/24, resulted from deliberate omissions by the executive branch and was not limited to that ruling alone. This problem was underscored both by the Ombudsman and by the Venice Commission, which stressed that, under the applicable normative framework, rulings of the Constitutional Tribunal must be published. Failure to do so allows the government, in effect, to determine for itself whether a ruling has legal force, which constitutes a flagrant violation of judicial independence and the rule of law. It must further be emphasized that the conduct of executive officials who delay or, worse, refuse to publish a ruling of the constitutional court is a constitutional offense.

In sum, by arbitrarily refusing to recognize the Constitutional Tribunal's judgment of September 10, 2024, in case U 4/24, the Circuit Court in Warsaw, in successive panels, committed a series of violations of constitutional law. These, in turn, translated into breaches of procedural law, in particular the provisions of the Code of Criminal Procedure, which served as the basis for proceedings imposing further disciplinary penalties on Zbigniew Ziobro and ordering his detention and compulsory appearance before the Parliamentary Inquiry Committee.

The model application of penal measures against witnesses summoned to testify before a parliamentary inquiry committee takes place in incidental court proceedings, initiated at the request of an authorized entity. In this respect, Article 14 of the Code of Criminal Procedure applies in full, provided that court proceedings are initiated only at the request of an authorized prosecutor or other authorized entity. The latter may include a parliamentary inquiry committee (cf. Article 12(1) of the Act of January 21, 1999, on the Parliamentary Inquiry Committee, in conjunction with Article 14 § 1 *in fine* of the Code of Criminal Procedure). A motion by an authorized entity thus serves as a procedural impulse: once filed, it requires the court to consider certain procedural steps defined by criminal law. However, this does not mean that the court must initiate the relevant phase of the proceedings. It remains the court's duty, *ex officio*, to examine the admissibility of the proceedings and, where negative procedural grounds exist, to issue an appropriate procedural decision (cf. Article 17 § 1 of the Code of Criminal Procedure). In particular, the court must examine whether the entity has standing to submit such a motion. In this context, Article 14 of the Code is closely linked to Article 17 § 1(9), which stipulates that proceedings may not be initiated, or must be discontinued if already initiated, where no complaint has been filed by an authorized entity. These provisions form the foundation of criminal procedure.

Proper adjudication – taking into account the effects of the Constitutional Tribunal's judgment of September 10, 2024 – required the Circuit Court in Warsaw to discontinue each of the proceedings initiated at the request of the Parliamentary Inquiry Committee.

By failing to comply with Article 17 § 1(9), the Circuit Court committed yet another serious breach of the Code of Criminal Procedure, namely a violation

of Article 285 § 1. That provision allows the court to impose an administrative fine of up to PLN 3,000 on a witness, but only if the witness fails to appear when summoned by the authority conducting the proceedings without a valid excuse, or leaves the place of the proceedings before their completion without permission from that authority. In such cases, the court may also order the detention and compulsory appearance of the witness (cf. Article 285 §§ 1–2 in conjunction with Article 290 § 1 of the Code of Criminal Procedure).

What was the essence of the violation of law in this case? First, it must be emphasized that the mere fact that the Committee submitted a motion to impose a disciplinary penalty on a witness who failed to appear in response to its summons is not binding on the court – for obvious reasons tied to judicial independence. At the same time, it does not relieve the court of its obligation to conduct its own analysis and assessment as to: (1) whether the Committee was entitled to summon the individual in question as a witness, (2) whether that person was under a legal duty to appear, and (3) whether their failure to appear was in fact unjustified. Under no circumstances may it be assumed that the court is deprived of this power or that its role is reduced to mechanically imposing a disciplinary penalty. The imposition of a financial penalty, as well as detention and compulsory appearance, is justified only if it is beyond doubt that the summoned individual is unjustifiably evading a valid legal obligation. Where grounds exist for refusing to comply with the order of the summoning authority, no administrative sanction may be imposed.

It must be acknowledged that Zbigniew Ziobro did formally hold the legal status of a witness in the proceedings before the Parliamentary Inquiry Committee and, in that capacity, was obliged to appear and testify – i.e., to present his knowledge of the events under investigation (cf. Article 177 § 1 of the Code of Criminal Procedure). However, this situation changed fundamentally with the issuance of the Tribunal's judgment of September 10, 2024 (ref. no. U 4/24). *From that moment onward, the Parliamentary Inquiry Committee should have ceased its activities, and any quasi-procedural steps it purported to take, such as summoning witnesses to hearings, lacked any legal basis.* The legal situation of Zbigniew Ziobro therefore changed: it is impossible to act as a witness before a body that has lost its legal existence and cannot validly perform legal acts.

It should also be recalled that a witness's obligations become effective only upon the valid service of a summons, which must clearly state, among other things, the capacity in which the addressee is summoned and precisely identify the authority issuing the summons. Where the summons is defective in content – for example, by failing to specify the case in question, the procedural role of the addressee, or where it originates from an unauthorized body – it does not give rise to any legal obligation to appear.

From this perspective, Zbigniew Ziobro's failure to appear at the hearing on November 4, 2024, cannot be regarded as unjustified. First, it was solely the result of compliance with the Constitutional Tribunal's judgment of Sep-

tember 10, 2024; second, the summons to appear originated from an entity that, from a formal legal standpoint, lacked authority to issue it.

In the factual and legal circumstances described above, there were thus no grounds under the Code of Criminal Procedure to impose disciplinary fines on Zbigniew Ziobro on two occasions, nor to order his detention and compulsory appearance on January 31, 2025, for questioning before the parliamentary inquiry committee. The decisions issued in this regard constituted a flagrant violation of Article 285 §§ 1–2 of the Code of Criminal Procedure. In the latter instance – detention for the purpose of compulsory escort – there was, in fact, an unlawful deprivation of liberty of a deputy of the Sejm of the 10th term, resulting from arbitrary interference by public authorities. Liberty, a fundamental value of democratic society, is safeguarded throughout the Polish legal order, both at the constitutional level (cf. Article 41(1)) and at the statutory level. funds.

II. Instrumental Use of Criminal Law for Political Purposes:

Piotr Schab
(judge and President of the Court of Appeal in Warsaw, Disciplinary Spokesman of the Judges of Common Courts)

Nationalized Revenge – The Prosecution of Dariusz Matecki

Dariusz Matecki graduated in 2017 from the Faculty of Law and Administration at the University of Szczecin and in 2020 completed postgraduate MBA studies at the Faculty of Economics, Finance and Management at the same university. Since 2023 he has served as a Member of the Sejm, initially representing *Suwerenna Polska* (Sovereign Poland), and from 2024 the *Prawo i Sprawiedliwość* (Law and Justice, PiS) party.

During the 2023 parliamentary election campaign, Matecki initiated proceedings in the electoral courts, successfully obtaining a judgment against Izabela Leszczyna, vice-chair of the Civic Platform. The court found that her statement on the television programme *Kawa na Ławę* – that he had allegedly received large sums of money to conduct a referendum campaign in 2023 while simultaneously standing for the Sejm – was false.

However, he was unsuccessful in a parallel case against journalist Bartosz Węglarczyk. The dispute arose from a social media exchange concerning Agnieszka Holland's film *Green Border*. In a critical post, Węglarczyk wrote:

> Matecki calls for the killing of traitors to the homeland, naming them and comparing to collaborators with the German occupiers, including those sentenced to death, on whom this sentence was carried out. Matecki knows that this is how his posts will be understood, just as Zbigniew Ziobro understands that by writing about the media he hates as "Polish-language media," as Minister of Justice, he is calling their journalists traitors to Poland. This is shocking. It is a vileness that should remove Matecki from public life. But since he is only an executor of the will of his political owners, he will probably be rewarded for it. And he will receive the protection of the entire state apparatus if his calls for violence are heard by some crazed "patriot."

The court ruled in Węglarczyk's favour, holding that the tweet did not constitute election campaigning and therefore fell outside the scope of electoral law.

"Had it been assessed within the electoral context," the court considered, "it would have been an evaluative statement within the permissible limits of political criticism." The judgment stressed that the post "distinguished between facts and opinions," and thus did not amount to misrepresentation.

On October 18, 2024, Lasy Państwowe (State Forests) submitted a notification to the Prosecutor's Office alleging that in the years 2020–2023 Dariusz Matecki had been fictitiously employed by the Regional Directorate of Lasy Państwowe in Szczecin, thereby obtaining undue remuneration amounting to PLN 320,000 from state-owned entities.

A few months later, on January 31, 2025, an incident occurred in the Sejm: Matecki was physically attacked by *Gazeta Wyborcza* journalist Wojciech Czuchnowski. As a result, the journalist was banned from entering the parliamentary premises for two months.

On February 25, 2025, Prosecutor General Adam Bodnar submitted to the Marshal of the Sejm, Szymon Hołownia, a formal request for the Sejm's consent to hold MP Matecki criminally liable, as well as to authorize his detention and remand in custody.

The National Prosecutor's Office issued the following statement:

> A member of the Sejm may be held criminally liable, detained, and remanded in custody only after obtaining the consent of the Sejm (Article 7b(1) and (4) and Article 10(1), (4), and (5) of the Act on the Exercise of the Mandate of a Deputy or Senator, Journal of Laws 2022, item 1339, as amended).
>
> The motion to waive the immunity of MP Dariusz Matecki with respect to criminal liability, detention, and pretrial detention was prepared and submitted in connection with an investigation conducted by Investigation Team No. 2 of the National Prosecutor's Office.
>
> The proceedings concern irregularities in the management, allocation, and accounting of funds from the Justice Fund through the discretionary and arbitrary granting of financial support to beneficiaries of programs unrelated to the objectives of the Fund. These irregularities were detrimental to the public interest – the State Treasury, represented by the Ministry of Justice – as well as to private interests, by reducing the availability of funds to eligible entities. Such conduct constitutes an act under Article 231 §§ 1–2 of the Criminal Code.
>
> The scope of the investigation also includes examining the legality of expenditures from the Justice Fund, including the issuance and use of invoices certifying untrue circumstances by entities carrying out tasks financed from grant funds, and the payment of fictitious remuneration for tasks serving as the basis for co-financing. Such conduct may constitute an offense under Article 299 § 1 of the Criminal Code (money laundering).
>
> By decision of December 20, 2024, the investigation of the Circuit Prosecutor's Office in Szczecin concerning false declarations regarding the actual intention to perform work for the Lasy Państwowe Information Center and the Regional Directorate of Lasy Państwowe in Szczecin, as well as the unlawful

actions of public officials who, in exceeding or neglecting their duties, facilitated the fictitious employment of Dariusz Matecki in these institutions and certified untruths in documents, was joined to the present proceedings due to the subjective connection of the acts. These acts constitute offenses under Article 231 § 1 of the Criminal Code and Article 271 § 1 of the Criminal Code.

The evidence gathered – including witness and suspect testimony, electronic data and devices, documents, searches resulting in the securing of 20 electronic storage devices and mobile phones, and an analysis of financial flows prepared by the General Inspector of Financial Information – provides grounds for a well-justified suspicion that Dariusz Matecki committed six offenses.

The acts described in points I and III of the motion consist of Matecki acting jointly and in concert with specific individuals, including public officials of the Ministry of Justice, with the intent to obtain financial and personal gain. Within the framework of an agreed division of roles, these officials abused their powers to misappropriate entrusted property. Specifically, prior to the formal submission of bids in the 7th and 8th competitions for Justice Fund grants, Matecki transmitted draft applications from the Fidei Defensor association (Szczecin) and the Przyjaciele Zdrowia association (Szczecin) to designated Ministry officials, who then indicated corrections and deficiencies. The corrected applications subsequently received positive evaluations, resulting in agreements and the award of targeted grants:

- in the 7th competition, PLN 7,736,000 to the Przyjaciele Zdrowia association (2020–2023),
- in the 8th competition, PLN 7,126,665 to the Fidei Defensor association (2020–2023), of which PLN 2,954,666 was suspended.

The awarded funds were then misused by these associations for unreliable invoices and fictitious employment, to the detriment of the State Treasury and private interests. These acts constitute offenses under Article 231 §§ 1–2 of the Criminal Code in conjunction with Articles 284 § 2, 294 § 1, 13 § 1, 11 § 2, and 21 § 1 of the Criminal Code.

The act described in point II consists of Matecki, acting jointly with Ministry of Justice officials, ensuring that the Fidei Defensor association (also operating as Stowarzyszenie Nowy Koliber) received a grant in the 5th competition for Justice Fund tasks, contrary to the rules of the announced competition. This resulted in an agreement awarding PLN 5,029,100 for the years 2020–2023. These funds, constituting property of great value, were spent contrary to their purpose, causing damage to the State Treasury and private interests, and constitute offenses under Article 231 §§ 1–2 in conjunction with Articles 284 § 2, 294 § 1, 11 § 2, and 21 § 1 of the Criminal Code.

The act described in point IV consists of Matecki taking premeditated actions to conceal or hinder the tracing of the criminal origin of no less than PLN 447,500. Knowing these funds derived from embezzled Justice Fund grants (PLN 16,544,945.33 paid to the Fidei Defensor and Przyjaciele Zdrowia asso-

ciations), Matecki accepted remuneration from fictitious salaries and unduly obtained income, which he used for private purposes. This constitutes an offense under Article 299 §§ 1 and 5 of the Criminal Code in conjunction with Article 12 of the Criminal Code.

The acts described in points V and VI consist of Matecki acting jointly with senior officials of Lasy Państwowe, including the Director of the Lasy Państwowe Information Center, the Director General of Lasy Państwowe, and the Regional Director of Lasy Państwowe in Szczecin. Within the framework of an agreed division of roles, these officials exceeded their powers by arranging two fictitious employment contracts for Matecki (June 20, 2020, and January 13, 2023). Although no work was performed, documents were issued certifying employment and work performed, resulting in unlawful financial gain of PLN 163,138.21 from the Regional Directorate of Lasy Państwowe and PLN 320,722.21 from the Lasy Państwowe Information Center. These acts constitute offenses under Article 231 §§ 1–2 in conjunction with Article 271 §§ 1 and 3, Article 11 § 2, and Article 12 of the Criminal Code.

The high probability that MP Dariusz Matecki committed the above-mentioned acts provides grounds for the general application of preventive measures under Article 249 § 1 of the Code of Criminal Procedure. The circumstances of the case – including the nature and scope of the alleged criminal activity and the fact that it was carried out in concert with other individuals – create a real risk that Matecki will unlawfully obstruct the proceedings. This justifies detention in order to secure his participation in procedural activities and to immediately seek judicial authorization for pretrial detention, given the risk of evidence tampering and the severity of the charges.

The alleged offenses, which are reasonably suspected to have been committed by MP Dariusz Matecki, are characterized by a high degree of social harm and carry a potential penalty of up to 10 years' imprisonment.

Signed: press spokesman A. Adamiak.

On March 5, 2025, the Sejm Committee on Rules, Deputies' Affairs, and Immunities (print no. 1067) examined the motion to lift Matecki's immunity. During the meeting, Matecki declared that he had no intention of fleeing the country. He also challenged the impartiality of the prosecutor handling the Justice Fund case, citing his activity on the social media platform X as evidence of bias. Despite these objections, the Committee recommended that the Sejm waive Matecki's immunity and give its consent to his temporary arrest.

That same day, during a plenary session, Matecki himself announced that he was voluntarily waiving his immunity and made a lengthy statement in his defence.

On March 6, 2025, the Sejm formally adopted the resolution consenting to his detention and temporary arrest.

The following morning, March 7 at 8:45 a.m., Matecki was detained by the Internal Security Agency (ABW) in central Warsaw on his way to the Prosecu-

tor's Office, where he had been summoned for 9:00 a.m. He was transported to the National Prosecutor's Office, charged, and interrogated as a suspect.

On March 8, 2025, the District Court for Warsaw-Mokotów (judge Joanna Włoch, a member of Iustitia) ordered that Matecki be remanded in custody for two months. The reasons cited were fears of evidence tampering and the risk of a heavy sentence.

Immediately after his arrest, ABW officers carried out a search of his hotel room, seizing electronic equipment. Following his release, Matecki publicly complained that "hundreds of pieces of information from voters, relevant to my parliamentary work, have disappeared along with my devices." In a post on X, he further stated that for two months neither he nor his lawyer received a search warrant or an inventory of seized items: "I was deprived of my parliamentary tablet with access to my official Sejm email. When I returned to the room, my personal belongings had been moved. I was never formally notified of the search or the confiscated property, as the prosecutor was obliged to do."

Deputy Marshal of the Sejm Piotr Zgorzelski (PSL-TD) offered a different account: "The ABW search was conducted under the supervision of the Marshal's Guard – a service that deserves trust regardless of political affiliation. It was carried out with the consent of the head of the Sejm Chancellery, and Marshal Szymon Hołownia was aware of it. Everything was done in accordance with the law," he said on *Polsat News*. Zgorzelski added that the decision authorizing the search had been issued by prosecutor Dariusz Ślepokura of the National Prosecutor's Office on March 7, after Matecki had already been detained.

In early March 2025, the prosecutor also ordered asset security measures, blocking funds in Matecki's bank accounts.

On March 12, 2025, *Gazeta Wyborcza* published an article by W. Czuchnowski based on materials gathered during the investigation against Matecki, including data extracted from his phone. At first, the Prosecutor's Office denied that such files had been made available to the journalist. However, following an intervention by the Ombudsman, prosecutor Piotr Woźniak confirmed that

> pursuant to Article 156 § 5 of the Code of Criminal Procedure *in fine*, by order of the Prosecutor dated March 12, 2025, a journalist was granted access to the report on the examination of a mobile phone contained in the investigation files. In the Prosecutor's view, exceptional circumstances justified disclosure of the aforementioned report to other persons, given the information already present in the public domain and disseminated, among others, by the suspect, MP Dariusz Matecki – among other occasions, during the meeting of the Committee on Rules, Deputies' Affairs, and Immunities of the Sejm of the Republic of Poland on March 5, 2025, in numerous media interviews, and on the X platform – claiming a lack of grounds for bringing charges and for the application of a preventive measure in the form of pretrial detention. The actions taken by the suspect, Dariusz Matecki, were aimed at creating the impression that the

> measures undertaken by the Prosecutor's Office against him were politically motivated. It was therefore necessary to disclose the above-mentioned evidence, which clearly demonstrates the suspect's actions intended to obstruct the preparatory proceedings. The Prosecutor further informs that, pursuant to Article 156 § 5a of the Code of Criminal Procedure, the report on the inspection of the telephone was also made available to the suspects against whom a preventive measure in the form of pretrial detention had been applied, as well as to their defense attorneys, including the suspect, Dariusz Matecki.

The defence characterized the charges as a political tool designed to silence a young, energetic opposition MP. Until his arrest, Matecki had been among the most active parliamentarians – author of over 10% of all parliamentary questions and a high-profile figure in social media. His lawyers argued that the accusations rested largely on testimony and documents tied to individuals politically aligned with lawyer Roman Giertych of Koalicja Obywatelska. In the Justice Fund case, the key witness was Tomasz Mraz, represented by Giertych, who even admitted that he was "working on Mraz's testimony." The allegations linked to Lasy Państwowe were based on a report by Rafał Wiechecki, a former associate of Giertych and Platforma Obywatelska representative, commissioned by the new administration of Lasy Państwowe.

The prosecution claimed Matecki was implicated in "abuse of power by public officials" in the Ministry of Justice, even though he was not such a public official at the time. As regards the Fidei Defensor and Przyjaciele Zdrowia associations, he never held a formal post in either. No expert opinions were presented to corroborate the charges, despite the Supreme Audit Office (NIK) being asked to conduct an audit, the results of which were withheld. The defence pointed out that ministers had wide discretion to allocate Justice Fund grants, regardless of committee recommendations, and that the projects submitted by the associations were approved by the ministry and formally consistent with the Fund's objectives. Testimony from Mraz – the main pillar of the case – provided no material evidence and, in the defence's view, consisted only of conjecture made under conditions of impunity.

The prosecution further accused Matecki of "not working for Lasy Państwowe," despite his documentation of professional activity – business trips, emails, photographs, and recordings. Former directors of Lasy Państwowe confirmed his work, but their testimony was omitted from the prosecutor's motion. During immunity proceedings in the Sejm, Matecki's speaking time was curtailed, despite no such restriction existing in the rules. After voluntarily waiving his immunity, he presented himself to the Prosecutor's Office, but was not interrogated. Instead, he was detained in a public and demonstrative manner on the street before being placed in custody. The prosecutor handling the case, Dariusz Ślepokura, is a member of the Lex Super Omnia association and has publicly posted content supportive of Platforma Obywatelska and hostile to Matecki. The judge who ordered pre-trial detention was affiliated with Iustitia – an association openly siding with the ruling coalition.

Compounding the controversy, Matecki suffers from cancer and requires a special diet and medical treatment that pre-trial detention did not accommodate. He was transported in handcuffs under armed guard, images of which were widely circulated by the media.

Early in the Sejm term, Prime Minister Donald Tusk had declared that Matecki "will be behind bars." Later, private recordings and messages previously seized by the Internal Security Agency (ABW) appeared in the media. For two weeks, Matecki had no contact with his lawyer, preventing him from effectively preparing an appeal. From the time of his arrest, he was also deprived of family contact and the possibility of religious practice. His defence argued that the charges lacked any foundation. Matecki had not gone into hiding – he voluntarily waived immunity and appeared at the Prosecutor's Office – which, they maintained, undermined the justification for detention.

Commentators observed that the entire case bore the hallmarks of political retaliation, with detention used as leverage to pressure Matecki into testifying against former Justice Minister Zbigniew Ziobro.

The complaint filed by his defence was not reviewed until April 23, 2025 – one and a half months later. The Circuit Court in Warsaw upheld the lower court's ruling, but converted detention into a financial surety, combined with police supervision and a travel ban. The prosecutor had requested an extension of detention until June 5, 2025. On April 25, 2025, Matecki was released from custody after his family posted bail.

On June 18, 2025, the Committee on Rules, Deputies' Affairs, and Immunities imposed a fine of PLN 9,000 on Matecki for failing to submit his financial disclosure statement within the statutory deadline (end of April). He eventually filed the declaration on May 21. Commenting to *Rzeczpospolita*, Matecki explained: "When I was released from custody, I did not have certain documents from the Sejm concerning the amounts that I should have included in the declaration. I submitted the document as soon as I had gathered the necessary information."

On June 25, 2025, Piotr Woźniak, a prosecutor from the District Prosecutor's Office in Warsaw seconded to the National Prosecutor's Office (the same prosecutor who had brought charges against Father Olszewski), issued a decision in case no. 1001-22.Ds.1.2024 to seize assets held in Matecki's newly opened PKO BP account, up to the amount of PLN 1 million.

On June 26, 2025, Matecki launched a public fundraiser via the platform zrzutka.pl to support his family.

An overall analysis of the case of MP Dariusz Matecki indicates that the measures taken against him by state authorities bear the hallmarks of political reprisal. The evidence produced is questionable and, to a large extent, originates in initiatives driven by figures aligned with the ruling camp. The spectacular nature of Matecki's arrest – in a public place, in full view of the media, and despite his stated intention to appear at the Prosecutor's Office – was not a procedural necessity but a political performance, designed to

demonstrate power rather than uphold the law. Consequently, the actions taken by law enforcement against Matecki appear not as neutral legal proceedings but as another episode in a political struggle in which state institutions, formally bound to safeguard the rule of law, are instead instrumentalised as tools of partisan conflict.

Mariusz Moszowski
(prosecutor of the Circuit Prosecutor's Office in Świdnica)

Investigation into the Two Towers Case. Death of a Witness

The case concerns the planned construction of two skyscrapers at ul. Srebrna 16 in Warsaw, to be carried out by the company Srebrna, linked to the now-opposition Law and Justice (PiS) party and its leadership. In 2019, Austrian businessman Gerald Birgfellner reported to the Prosecutor's Office that he had been the victim of fraud, claiming that a person acting on behalf of Srebrna misled him about both his powers and the intention to pay him remuneration for his services. Birgfellner estimated his loss at not less than €1.3 million. According to media reports, Jarosław Kaczyński, leader of today's opposition party Law and Justice, was directly involved in the disputed activities. It is significant that Birgfellner's interests in the investigation are represented by attorney Roman Giertych, currently a Koalicja Obywatelska (KO) MP and member of the PiS Accountability Commission appointed by the Koalicja Obywatelska Parliamentary Club.

In 2019, the Prosecutor's Office initially refused to open proceedings, and this decision was upheld by an independent court. After Koalicja Obywatelska assumed power – together with the removal of National Prosecutor Dariusz Barski from his statutory post and the takeover of the Prosecutor's Office by members of the Lex Super Omnia prosecutors' association – the case was reassigned to prosecutor Ewa Wrzosek. She had for years publicly expressed strong criticism of the United Right and repeatedly argued that accountability was overdue, declaring that investigations were moving far too slowly.

On February 10, 2025, Wrzosek reversed the earlier decision, formally quashing the refusal to investigate and opening a new inquiry. This was immediately publicised, including on the website of Roman Giertych, acting both as lawyer for Birgfellner and MP of the governing bloc.

In March 2025, Barbara Skrzypek – secretary, director of the Law and Justice office, member of the board of the Lech Kaczyński Institute and of Srebrna, and a long-time associate of Jarosław Kaczyński – was questioned as a witness. Three days later, on 15 March 2025, Skrzypek died. According to press releases from the Warsaw Circuit Prosecutor's Office, the autopsy indicated a recent heart attack as the cause of death.

The questioning on 12 March 2025 was conducted personally by prosecutor Wrzosek. It lasted from approximately 10:00 a.m. until 2:40 p.m., with only a short break. In the aftermath, doubts were raised publicly as to whether the interrogation complied with Polish criminal procedure.

The central allegation concerned Wrzosek's refusal to permit the presence of Skrzypek's chosen legal representative. Pursuant to Article 87 § 2 of the Code of Criminal Procedure, a non-party to proceedings may appoint a representative if their interests so require. Polish doctrine has consistently held that while refusal is formally permitted, in practice a witness requesting counsel should almost always be granted it.

Professor Ryszard Stefański, one of Poland's foremost authorities on criminal procedure, stressed that excluding a witness's lawyer is virtually unheard of and, in this case, amounted to a flagrant violation of the law.

It is also notable that Professor Adam Bodnar – Minister of Justice and Prosecutor General at the time of Skrzypek's questioning – had, during his tenure as Ombudsman, repeatedly criticised this very provision. As early as 2014, he argued that allowing prosecutors to exclude counsel gave disproportionate discretion to the investigative authority. In his view, criminal procedure, as a guarantee-based system, could not rest on arbitrary decisions by individual prosecutors. Bodnar had even called for amending the Code of Criminal Procedure to secure a witness's right to fair treatment and representation during interrogation.

Today, in the context of Barbara Skrzypek's interrogation, earlier warnings about the risks of excessive prosecutorial discretion sound particularly relevant. Her case illustrates how loopholes in existing regulations can, in practice, erode procedural guarantees. Yet it is precisely the protection of witnesses' rights – and by extension the realisation of the right to a fair trial – that should form the cornerstone of criminal procedure.

At the same time, media reports noted that prosecutor Ewa Wrzosek allowed the victim's attorneys to take part in the proceedings.

The second deficiency raised in public debate was the failure to record Skrzypek's interrogation in audio-video form. In a case so heavily charged with political emotion, audiovisual recording would not only have served as a safeguard for the witness but also as protection for the Prosecutor's Office itself against allegations of bias. Skrzypek was questioned by three officials while alone in the room. Article 171 § 1 of the Code of Criminal Procedure requires that testimony be given in a relaxed atmosphere. The presence of three interrogators facing a single witness – especially one who had acknowledged eyesight problems – creates the impression of psychological pressure. Criminal law doctrine has repeatedly emphasized that such an arrangement is unacceptable because it undermines the fundamental principle of voluntariness and freedom to testify.

Public communications further drew attention to the structure and course of the questioning. The protocol omitted mention of a proper break, even though the session lasted nearly five hours and included a technical break. The written record, nine pages long, was widely criticised as too laconic given the length of proceedings. The absence of a court recording clerk was highlighted: the minutes were drafted by the prosecutor herself, increasing

the risk of selective or arbitrary editing. Commentators also pointed to inconsistencies in font and style, suggesting possible later interference. Finally, the protocol stated that the witness had read the record, despite Skrzypek's earlier admission of visual impairment.

PiS politicians, including Jarosław Kaczyński, publicly suggested that Skrzypek's death was linked to the manner in which the interrogation was conducted. They argued that prosecutor Wrzosek, known for her overtly critical stance towards PiS and repeated calls for its leaders to be held accountable, should not have been entrusted with the case at all. Under Article 41 § 2 of the Code of Criminal Procedure, circumstances that raise legitimate doubts about a prosecutor's impartiality require exclusion from proceedings.

Nevertheless, National Prosecutor Dariusz Korneluk – who assumed the post after Dariusz Barski was unlawfully removed by Minister of Justice–Prosecutor General Adam Bodnar – announced that there were no grounds to exclude Wrzosek. Ultimately, she was removed from the case only because her secondment to the Circuit Prosecutor's Office in Warsaw was not renewed.

Taken together – the appointment of a prosecutor who had publicly declared her hostility towards PiS leaders, the reopening of proceedings that had been legally closed, and the conduct of witness Skrzypek's interrogation itself – these facts justify the conclusion that the investigation bore the hallmarks of political motivation.

Andrzej Golec
(prosecutor of the Vetting Office of the Institute of National Remembrance, President of the Ad Vocem Independent Prosecutors' Association)

Declassification of the "Warta-00101" Plan by Minister Mariusz Błaszczak: Legal Analysis and Evaluation of the Validity of the Charges

Introduction

In September 2023, the then Minister of National Defense, Mariusz Błaszczak, publicly disclosed excerpts from the "Warta-00101" Plan for the Use of the Armed Forces of the Republic of Poland – a military defense plan adopted in 2011 under Minister Bogdan Klich. During his election campaign, Błaszczak presented parts of the document as evidence that the previous government had envisaged defending Poland along the Vistula River – effectively leaving the eastern territories undefended in the event of a Russian attack. The plan had been classified as "top secret" and "secret" – the highest possible security categories. Acting as head of the Ministry of National Defense, Błaszczak decided in the summer of 2023 to lift the confidentiality of the plan, and in September of that year disclosed selected fragments publicly.

This decision sparked immediate legal and political controversy. Following the change of government, the head of the Military Counterintelligence Service (SKW), General Jarosław Stróżyk, submitted a notification of a suspected offense, alleging unlawful disclosure of state secrets. On February 5, 2025, Prosecutor General Adam Bodnar requested that the Sejm waive Błaszczak's parliamentary immunity in order to prosecute him for abuse of power (Article 231 §2 of the Criminal Code) and disclosure of classified information (Article 265 §1 of the Criminal Code). According to the Prosecutor's Office, the minister had no legal authority to declassify the material, since "the statutory grounds for protecting the classified information contained therein had not ceased to exist." In this interpretation, the declassification was unlawful and resulted in the disclosure of state secrets. In March 2025, the Sejm voted to lift Błaszczak's immunity (245 in favor, 187 against). On March 21, 2025, the former minister appeared before the Prosecutor's Office, where he was formally charged with the two offences mentioned above, both punishable by up to 10 years' imprisonment. He denied any wrongdoing, arguing that he had acted lawfully and in the public interest. In April 2025, charges were also brought against two of his subordinates: Piotr Z., the former director of the Ministry of Defense's Department of Strategy and Defense Planning, and Agnieszka G., the former

head of the minister's political cabinet. They were accused of aiding in the July 2023 declassification decision. The investigation is being conducted by the Military Affairs Division of the Circuit Prosecutor's Office in Warsaw, which announced that an indictment against Błaszczak would be filed by mid-2025.

The declassification of the 2011 "Warta" plan is both unprecedented and legally complex. It has triggered an ongoing debate over whether the minister's actions fell within the scope of his lawful authority and served the public interest, or whether they breached the law and endangered national security. The purpose of this study is to provide a legal analysis of the case and assess the validity of the charges.

First, the legal grounds for the Minister of National Defense's competence to lift confidentiality will be examined, with emphasis on Article 6(3)–(4) of the Act on the Protection of Classified Information. The relevant case law of the Supreme Administrative Court (NSA) concerning the authority of the head of an organizational unit in such matters will also be discussed. The next section will consider the criminal-law dimension of Błaszczak's actions in light of Article 265 §1 of the Criminal Code (disclosure of a state secret) and Article 231 §2 of the Criminal Code (exceeding official powers resulting in significant harm). Key questions include whether his decision was unlawful, whether it meets the threshold of criminal liability, or whether statutory authority and the absence of concrete social harm exempt it from unlawfulness. Finally, the constitutional principle of transparency in public life (Article 61 of the Polish Constitution) will be considered as a counterbalance, assessing whether disclosure may have served the public interest. The article concludes with a summary and assessment of whether bringing criminal charges against Mariusz Błaszczak is substantively justified in light of the applicable law and the circumstances of the case.

Legal Basis for Declassifying Classified Information

The creation, modification, and removal of secrecy clauses are regulated by the Act of 5 August 2010 on the Protection of Classified Information (hereinafter: Classified Information Protection Act). Pursuant to Article 6(1) of this Act, a confidentiality clause is assigned to material by a person authorized to sign a document or mark other material, and such information is protected until the clause is lifted or changed. The key provision here is Article 6(3), which stipulates that the clause may be lifted or changed only **if the statutory grounds for protection have ceased to exist** or have been modified, and only **with the written consent of the person who originally assigned the clause or of that person's superior**. Thus, declassification may occur solely when the original reasons for secrecy are no longer present, and only with the express approval of the competent authority.

An additional restriction applies to information marked with the highest level of classification. Under Article 6(4) of the Act, in the case of materials

designated *top secret*, written consent to lift or alter the clause must be given **by the head of the organizational unit where the material was created**. This rule underscores the heightened sensitivity of information at the highest classification level, requiring authorization at the apex of the relevant institution. In practice, these provisions mean that the entity which created the material exercises control over its entire "life cycle": from classification, through possible modifications, to potential declassification. Protection endures as long as the statutory grounds remain. These may lapse, for instance, through the passage of time, loss of operational value, changes in the international security environment, or replacement of the document by updated planning. Article 6(2a) additionally allows the issuer to specify a date or event triggering the expiry of the clause, though in the case of the "Warta-00101" plan no such provision appears to have been made.

The 2011 "Warta-00101" plan was prepared within the structures of the Ministry of National Defense – most likely the General Staff of the Polish Armed Forces or a strategic planning command – and was approved by the Minister of National Defense. Consequently, the classification was assigned within an organizational unit subordinate to the Ministry. In 2023, Mariusz Błaszczak, as Minister of National Defense, was the **superior of the officials who had affixed the classification**. On the face of Article 6(3), therefore, he held the competence to authorize in writing the removal of the clause, provided he determined that the statutory grounds for protection had ceased. In the case of a *top secret* classification, Article 6(4) requires the consent of the head of the organizational unit that created the material – arguably the Minister himself as head of the Ministry. However, the Act leaves undefined the criteria for determining whether grounds for secrecy "have ceased to exist," placing the assessment within the discretion of the authorized decision-maker.

Minister Mariusz Błaszczak subsequently contended in public statements that he possessed not merely the right but also a **duty** owed to the public to declassify archival documents pertaining to state security. He maintained that this decision occasioned no harm but, on the contrary, enhanced security by providing citizens with knowledge of prior defense assumptions and of the modifications adopted after 2015. The core of Błaszczak's argument thus rests on the claim that there was no longer any practical justification for preserving the confidentiality of the 2011 plan, given that updated defense plans – premised on the defense of the entire national territory rather than a strategic withdrawal behind the Vistula River – had already superseded it. In other words, according to Błaszczak, the rationale for maintaining the secrecy of the "Warta-00101" plan had ceased to exist, as the plan was neither operationally relevant nor of current strategic significance. Moreover, he asserted that disclosure of the information served the public interest by exposing the alleged negligence of his predecessors and by reassuring the inhabitants of eastern Poland with respect to the robustness of the contemporary defense posture.

From a formal legal perspective, the Minister of National Defense may indeed be considered the competent authority to lift the classification, acting as the "superior" within the meaning of Article 6(3) of the Classified Information Protection Act. The Act requires the decision to be made in writing, but otherwise does not constrain the substance of the assessment. However, the Act presumes that consent is not to be arbitrary: it must rest on a genuine finding that protection is no longer necessary. Accordingly, the central legal dispute is whether, in 2023, **the grounds for protecting the "Warta-00101" plan had in fact ceased**.

The Prosecutor's Office disputes this. It argues that even a historical defence plan may contain sensitive data – such as operational procedures, dispositions of forces, or enduring doctrinal assumptions – the disclosure of which might still compromise national security. Importantly, the General Staff of the Polish Armed Forces, which created the plan, stated that **it had not been consulted or involved in the "Warta-00101" declassification process**. This sequence of events indicates that Minister Błaszczak bypassed the then Chief of the General Staff of the Polish Armed Forces, General Rajmund Andrzejczak, in making the decision to declassify the document. According to the Prosecutor's Office, the minister, by acting unilaterally, contravened the procedure prescribed in Article 6(3)–(4) of the Classified Information Protection Act, insofar as **he failed to obtain the requisite formal consent of the head of the organizational unit in which the classified material had been generated**. This argument will be central to the assessment of the legality of the decision: it reduces to the claim that the declassification of "Warta" was vitiated by legal defect, both because the conditions justifying continued protection had not in fact lapsed and because the mandatory procedural step – the consent of the competent authority – had been disregarded.

However, the Act **does not provide a mechanism for annulling or verifying a declassification decision once made**. Accordingly, until such a decision is formally revoked in the manner prescribed by law, it benefits from a presumption of legality. The minister, as custodian of the classified material, possessed the formal competence to remove the classification; even if the assessment as to whether the grounds for continued protection had lapsed was open to dispute, a mistaken belief on the part of the decision-maker that the information no longer required protection does not, in itself, constitute a criminal offence. Put differently, as long as Minister Błaszczak's decision to declassify the document was not unlawful, the document ceased, as a matter of law, to be classified at the moment of its public disclosure. Whether the minister correctly determined that the statutory grounds had expired is ultimately a political and expert question; however, from a strictly legal standpoint, the effect of the decision was the definitive removal of the classification. In the remainder of this article, I will examine the implications of this conclusion for the potential scope of criminal liability.

The Powers of the Head of a Unit and Judicial Review – The Case Law of Administrative Courts

Administrative courts have repeatedly examined disputes over refusals to disclose public information on the grounds that it was classified. From this established jurisprudence of both the Supreme Administrative Court (NSA) and Provincial Administrative Courts (WSA), one principle emerges clearly: information validly marked with a confidentiality clause is excluded from disclosure under the Act on Access to Public Information. The mere existence of the clause is sufficient to block access until it is formally lifted.

For example, in its judgment of 27 April 2016 (IV SA/Wa 799/14), the Warsaw Provincial Administrative Court stated unequivocally that any information classified in accordance with the law remains beyond the scope of public disclosure – so long as the clause is in force, the authority has no discretion to release it. The same court in its judgment of August 17, 2017 (II SA/Wa 80/17) highlighted the central role of the **head of the organizational unit** in controlling both the granting and removal of classification. The court stressed that these are matters of administrative discretion, and judicial review is therefore narrow. Likewise, in a ruling of 8 March 2017 (I OSK 1777/15), the NSA held that the competent authority (i.e. the head of the unit or their superior) has the prerogative to assess whether the grounds for secrecy exist, while courts may intervene only in the event of a manifest violation of the law.

This jurisprudence consistently confirms the **wide decision-making autonomy of the custodian of the secret**. The head of the unit – or, where appropriate, the minister – enjoys a broad margin of discretion in deciding whether to assign, maintain, or lift a clause, and such decisions are authoritative, resting on expert assessment of risks to national security. The role of the administrative courts is limited to verifying formal legality: whether the competent authority acted within its powers and in the prescribed form. Courts do not examine the substantive correctness of the assessment itself. A declassification decision made by the authorized entity is therefore presumed lawful until overturned in the proper procedure.

In the Błaszczak case, it should be emphasized that no jurisprudence exists directly addressing a comparable factual situation. Since 1989 there has been no precedent of a Minister of National Defense publicly disclosing elements of past national defence plans. This novelty does not, however, alter the general principles distilled from existing case law. No subsequent ruling of the NSA, the Supreme Court, or the Constitutional Tribunal (post-2020) has modified the interpretation of the 2010 Act on the Protection of Classified Information in a way that would affect the minister's decision. The **established standard of interpretation** therefore applies: the competent authority (here: the minister or a subordinate unit) alone decides whether the grounds for secrecy have ceased, and judicial review of that assessment is limited.

In summary, under administrative law Błaszczak's decision to declassify "Warta-00101" enjoys the presumption of legality until such time as it is formally invalidated in appropriate proceedings. As of August 2025, no binding judgment has been issued annulling or questioning that decision. Consequently, the assessment of its lawfulness shifts to the domain of criminal proceedings, where the standards of interpretation and review are markedly different.

Criminal Law Analysis: Characteristics of Article 265 §1 of the Criminal Code and Article 231 §2 of the Criminal Code

The Prosecutor's Office has indicated two principal charges against Mariusz Błaszczak. The first concerns the offense of **disclosing classified information** (state secrets) under Article 265 §1 of the Criminal Code. The second relates to **abuse of power** by a public official, resulting in significant damage, under Article 231 §2 of the Criminal Code. A proper assessment of these allegations requires juxtaposing the statutory elements of the offenses with the conduct attributed to the former Minister of National Defense.

Article 265 §1 of the Criminal Code states: "Whoever discloses or, contrary to the provisions of the Act, uses classified information marked 'secret' or 'top secret' shall be subject to imprisonment for a term of between 3 months and 5 years." The protected legal good is state security. Criminal liability under the act depends on whether the **information in question retained the status of "secret" or "top secret,"** and whether the perpetrator disclosed it to an unauthorized person **in contravention of the statutory provisions**. In the present case, the documents at issue were indeed designated "top secret" prior to their declassification. The decisive issue, however, is their legal status **at the moment of disclosure**. Minister Błaszczak formally removed the secrecy classification from the materials in July 2023, before making them public. Consequently, by September 2023, when he presented them at a press conference and disseminated them through social media, **the documents no longer constituted classified information** but had acquired the status of public information. From a formal legal perspective, therefore, the minister did not disclose classified material: he had, in accordance with the prescribed procedure, first rescinded its classified status, and only thereafter made it publicly available.

The crux of the controversy concerns whether the secrecy clause was lifted "contrary to the provisions of the Act," as maintained by the Prosecutor's Office. The prosecutorial theory posits that the declassification was **unlawful**, such that the document should continue to be treated as classified, thereby rendering its public disclosure an offence under Article 265 §1 of the Criminal Code. This position necessarily presupposes that the minister's declassification decision was either invalid or devoid of legal effect – as though the clause remained operative *de facto*. Such a construction is, however, exceed-

ingly far-reaching. Until a declassification decision is formally contested and revoked, it enjoys a presumption of legality. Moreover, there exists no separate procedure for invalidating a declassification decision: it does not constitute an administrative act within the meaning of the Code of Administrative Procedure but rather an exercise of the internal competence vested in the custodian of the secret. It would be problematic to expect a criminal court to undertake an independent review of such an act and to hold, in effect, that the secrecy clause remained in force. The Criminal Code criminalizes **disclosure of classified information "contrary to the provisions of the Act."** Under the applicable statutory regime governing the protection of classified information, the Minister of Defense, as custodian of the secret, possessed the authority to declassify the materials in question.

It may be argued that Minister Błaszczak's conduct fell within the ambit of the governing regulations (Article 6(3) of the Classified Information Protection Act), insofar as he had formally removed the classification. Whether the substantive conditions for declassification were in fact satisfied is ultimately a matter of evaluative judgment. Yet even if, *arguendo*, one assumes that the minister erred in his assessment and that the grounds for continued protection had not expired, **the Act does not impose criminal sanctions for misjudging such conditions**. Article 265 §1 of the Criminal Code penalizes the disclosure of state secrets, not the possible "premature" declassification of information. Even accepting the prosecutorial premise that the minister acted in contravention of statutory procedure, such conduct could at most amount to a prohibited act in the form of abuse of power under Article 231 of the Criminal Code. It does not, however, satisfy the definitional elements of unlawful disclosure of a secret, given that ***de jure* the classification was lifted prior to disclosure**. Put differently, at the moment when Minister Błaszczak made public excerpts of the "Warta-00101" plan, **the material no longer constituted a legally protected state secret** within the meaning of Article 265 §1, notwithstanding the prosecutorial contention that the declassification was defective. Accordingly, the objective elements of the offence under Article 265 §1 are not fulfilled, as no "classified information" existed in law at the time of disclosure. This construction – that no secret was disclosed in the formal sense – appears to be endorsed even by PiS leader Jarosław Kaczyński, who publicly asserted that "the subject of the indictment has no legal basis whatsoever. The Minister of Defense (...) has the right to declassify [the materials]. (...) In this case, there is no harm done." In other words, according to Kaczyński, the very act of lifting the classification by a competent authority renders the allegation of unlawful disclosure legally unsustainable.

As to the second allegation, **Article 231 §2 of the Criminal Code** criminalizes the conduct of a public official who **exceeds the scope of his authority or fails to fulfil his duties**, thereby acting to the detriment of public or private interests, with an aggravated penalty where the perpetrator acts for personal gain or with intent to inflict serious harm upon another. In the case

of Mariusz Błaszczak, the Prosecutor's Office has formulated charges under Article 231 §2, alleging abuse of power through the unlawful declassification of documents. According to the indictment, such conduct caused significant harm to the public interest, and the motive was personal gain – understood in this context as **political advantage for himself and for his party** in the course of the election campaign. The prosecutor's motion submitted to the Sejm explicitly asserts that Błaszczak undertook the act "in order to achieve personal gain for his political party." Investigators further contend that the former minister, notwithstanding his statutory duty to safeguard classified information within the Ministry of National Defense, **acted to the detriment of the public interest** and inflicted "exceptionally serious damage upon the Republic of Poland, threatening its independence, sovereignty, territorial integrity, international standing, and the cohesion of the North Atlantic Alliance."

Framed in this manner, the allegations are of considerable gravity: in substance, they impute to Mariusz Błaszczak conduct tantamount in its effects to divulging state secrets to a foreign adversary, which verges on accusations of "treason." The central question, however, is whether these allegations rest on objective and verifiable facts. **Assessment of the requisite element of damage** demands proof that the decision to disclose the defense plan caused specific and significant detriment to the public interest, such as to national security. The Prosecutor's Office has argued that disclosure of portions of the plan generated a strategic risk, potentially assisting a hostile power (Russia) and undermining the confidence of NATO allies. Indeed, commentators asserted that Błaszczak's actions "provided fuel for Russian propaganda," which seized upon the incident to portray Polish defense as weakened. At the same time, it must be recalled that the 2011 "Warta" plan was archival in nature; at the time of its declassification, new defense plans were already in force. Moreover, the disclosed material related to one of the more extreme scenarios – namely, retreat to the Vistula River in the event of overwhelming enemy superiority – rather than to the entirety of Poland's defense strategy. Numerous military experts underscored that the plan was **structured in variants**, and that Błaszczak had revealed only a single fragment extracted from its broader operational context, whereas the full plan provided for different phases of defense depending on the development of hostilities. These considerations give rise to serious doubt as to the existence of concrete damage. It may plausibly be argued that, since the plan was already operationally obsolete, its partial disclosure neither degraded Poland's actual defense capabilities nor exposed valid military secrets. The alleged harm was therefore indirect in character – informational and reputational. Yet the legal question remains whether such harm – i.e., **erosion of allied confidence or the fomenting of public anxiety** – attains the threshold of "significant damage" required by Article 231 of the Criminal Code. This determination will fall to the court. It must further be emphasised that the **burden of proving** the existence and extent of damage rests with the prosecution.

With respect to the element of personal gain, it is beyond dispute that Mariusz Błaszczak and his political formation (PiS) had a political interest in publicising the matter during the electoral campaign – the aim was to discredit their predecessors from PO-PSL as allegedly incompetent in the sphere of national defense planning. It may therefore be inferred that the minister's objective was to secure a degree of political advantage. Nonetheless, the prevailing case law underscores that "personal gain" within the meaning of Article 231 §2 of the Criminal Code ordinarily denotes a quantifiable material benefit or another form of private advantage, rather than actions ostensibly undertaken in the interest of a political party. Even if one were to adopt a more expansive construction whereby the pursuit of electoral benefit could be treated as a form of gain, the prosecution would still be required to establish both that there was **an abuse of power** and that the conduct was **manifestly contrary to the public interest**. It can be anticipated that Błaszczak's defense will argue that his actions were undertaken in good faith and in furtherance of the public interest – namely, the conviction that citizens were entitled to be informed about prior defense strategies, thereby reinforcing public confidence in the state's current defense policy. Should the court determine that such motivation fell, even subjectively, within the ambit of concern for the common good, attribution of an intent to act *contra rem publicam* would become exceedingly difficult.

At this point, it is appropriate to consider the principle of proportionality in the resort to criminal law. **Abuse of authority under Article 231 of the Criminal Code is a specific offence characterized by a relatively high threshold of punishability**: the basic type (§1) requires conduct "to the detriment of public or private interests," while the aggravated type (§2) further necessitates a specific intent either to obtain a benefit or to cause harm. In the case of Mariusz Błaszczak, the evaluation of these elements is far from straightforward. On one side, the Prosecutor's Office portrays his conduct as exceptionally harmful, allegedly rising to the level of a threat to the very independence of the Republic of Poland. On the other side, it cannot be overlooked that opposition politicians – now exercising governmental power – may have a political interest in framing the matter in the harshest possible terms. Of particular significance is the role of the Military Counterintelligence Service (SKW), subordinated to the current Ministry of National Defense. Following its audit of the ministry, the SKW concluded that there had been "improper handling of classified information" and "actions detrimental to the protection of classified information," which satisfies the criteria for offences under Chapters XXXIII and XXIX of the Criminal Code. This report served as the basis for notifying the Prosecutor's Office. Accordingly, there exists institutional confirmation of the seriousness of the alleged violation.

Conversely, from the perspective of the defense, it may be argued that **no actual damage ensued**: no covert operations were disclosed, national defense capabilities were not impaired (the plan being of a historical character), and

the sole consequence was a media controversy. Moreover, it may be contended that the minister's action produced a measure of *public benefit* by enhancing transparency and stimulating debate on the adequacy of national defense preparedness. Even if the declassification decision was taken in the context of political rivalry, this does not *ipso facto* amount to a *betrayal of the public interest* – the essential element of the offence of abuse of power (acting to the detriment of the public interest) can reasonably be called into question.

In conclusion, the criminal-law assessment yields considerable doubt as to the sustainability of the charges. The **allegation under Article 265 §1 of the Criminal Code appears tenuous**, since a constitutive element is absent – namely, the existence of state secrecy at the time of the act (the classification having already been lifted) – as well as the requirement of acting "contrary to law" (the minister acted pursuant to statutory authority, albeit arguably contrary to its spirit). The **allegation under Article 231 §2** is likewise far from clear-cut: while the decision to declassify was undoubtedly controversial, the critical questions remain whether it was unlawful and whether it resulted in demonstrable "serious damage." These issues will be central to the proceedings before the court. The prosecution will endeavour to show that Błaszczak abused his powers for partisan purposes, undermining public trust in the protection of classified information and jeopardising state security. The defence, by contrast, will likely contend that he acted within the scope of his formal competence, in furtherance of the public interest, and without causing tangible harm – and that the prosecution itself constitutes an instrument of political repression.

Transparency of Public Life and State Security (**Article 61 of the Constitution of the Republic of Poland**)

The controversy surrounding the declassification of the "Warta-00101" plan raises the fundamental issue of balancing **transparency in public life** with the need to protect **state secrets**. Article 61(1) of the Constitution guarantees citizens the right to obtain information about the activities of public authorities and persons performing public functions. This provision embodies the principle of transparency, which underpins democratic accountability and citizen control. At the same time, Article 61(3) of the Constitution of the Republic of Poland permits restrictions on the right of access to public information in order to safeguard, among other things, national security and public order – though strictly "only for reasons specified in statutes." Secrecy in the domain of national defense clearly falls within this constitutionally sanctioned exception to the principle of transparency, as further articulated in the statutory framework governing the protection of classified information.

When assessing Minister Mariusz Błaszczak's decision in this constitutional context, it must be recalled that exceptions to the principle of transparency are to be construed strictly and applied proportionately to the interest

protected. Accordingly, the classification of public information as confidential is justified only where disclosure would genuinely endanger a legally protected value, such as national security. With respect to the "Warta" plan, the key question is whether, in 2023, it was objectively necessary to preserve secrecy, or whether the public interest in revealing prior defense assumptions outweighed that need. Minister Błaszczak determined that **the public interest in disclosure** – **the right of citizens to be informed about defense matters** – **prevailed** over the interest in continued secrecy of the 2011 plan. He argued, in his own words, that the concept of "surrendering [the territory of] Poland to the Vistula" must never again be contemplated, and that the public had a right to be apprised of the alleged errors of his predecessors. Such an assessment, while politically contentious, falls within the boundaries of legitimate democratic discourse. In a state governed by the rule of law, the limits of disclosure are set by statute, yet those statutes also leave scope for **discretionary judgment** by the competent authority. In the present case, that authority was the Minister of Defense, who exercised his statutory prerogative to declassify and disclose the material.

Naturally, critics of Mariusz Błaszczak contend that he instrumentalized the rhetoric of transparency for short-term partisan purposes, thereby jeopardizing the interests of the state. The language employed has been strikingly severe. Deputy Minister of National Defense Cezary Tomczyk (of the current ruling majority) declared on the floor of the Sejm that "by revealing parts of the 'Warta' defense plan, Błaszczak has, in fact, betrayed his own soldiers. He has betrayed the people he led as Minister of National Defense." Tomczyk went so far as to liken the minister's actions to espionage, remarking that "no one could have predicted that the defense minister would play such a role," since "the first task of a spy would be to steal defense plans," whereas in this instance the minister himself disclosed them in pursuit of party-political objectives. This rhetoric highlights the extent to which the controversy surrounding the disclosure of "Warta" has become deeply politicised. Representatives of the current government argue that **national security requires the preservation of military secrets**, even where they pertain to archival plans, since such materials may nevertheless contain elements of operational value to a potential adversary or influence the morale of the armed forces and the confidence of allied partners. Procedural fidelity is also stressed: Błaszczak is accused of disregarding established military protocols and eroding the trust of senior commanders (the fact is that the then Chief of the General Staff was not consulted regarding the declassification). Former senior officials have similarly voiced criticism. For example, Col. Maciej Matysiak, former Deputy Chief of the Military Counterintelligence Service, stated: "I am very critical of Błaszczak's disclosure of top-secret plans," adding that such materials should remain classified for fifty, or even one hundred, years.

Conversely, Mariusz Błaszczak's defenders maintain that **transparency and accountability are cardinal values in a democratic polity**, particularly

in matters of national defense. The public has a legitimate right to be apprised of past strategic errors, so that lessons may be drawn and future policy corrected. Concealing controversial or compromising plans, according to this narrative, would serve only to obscure the negligence of predecessors, whereas their disclosure facilitates public debate and enables the refinement of defense strategy. Jarosław Kaczyński, leader of PiS, has strongly defended his minister's decision, declaring: "Prime Minister Błaszczak had every right to declassify these compromising materials, and making a criminal case out of it is unjustified. The person who has the right to declassify them is the defense minister. Of course he had the right." From the perspective advanced by PiS, there was no infringement of state interests; rather, the disclosure vindicated the **citizens' right to information** on matters of vital security importance. According to Błaszczak and his supporters, **no damage to national security ensued**, as only archival materials were released and society benefitted through increased transparency.

At the societal level, the case has elicited divergent reactions. For some segments of the public – particularly sympathisers of the current government – Mariusz Błaszczak's conduct epitomizes the irresponsibility of the previous administration, and they caution that leniency in such circumstances would establish a dangerous precedent. Others, by contrast, fear that prosecuting a former minister for what was essentially a political decision represents an alarming politicization of the justice system, with the potential to deter future office-holders from taking bold or unconventional decisions. Still others regard the entire controversy as of secondary importance, on the grounds that it concerns a plan never implemented, and that its disclosure is being instrumentalised in the ongoing confrontation between rival political camps.

From the standpoint of law and democratic standards, the central issue is **the need to reconcile two competing values**: on the one hand, transparency and citizens' control over public authorities; on the other, the protection of information vital to national security. Neither the Constitution nor statutory law offers an unequivocal rule as to where this line must be drawn. The determination must therefore be made in light of the specific circumstances. Did the disclosure of the "Warta-00101" plan in fact compromise national security, or did it advance an important public interest – namely, the public's right to be informed about its own security environment? These questions go to the heart of the matter. **Public debate in a democratic society requires access to information**, including information exposing flawed assumptions underpinning earlier defense policy. Yet the principle of transparency must consistently be weighed against the legitimate interests served by secrecy. In the present case, that balance was entrusted to the Minister of Defense, who concluded that the public interest in disclosure outweighed the need to preserve the secrecy of the 2011 plan. Such a decision, though politically charged, does not necessarily contravene constitutional standards, provided that it did not in fact cause detriment to national security.

Summary and Conclusions

A legal analysis of the facts leads to the conclusion that bringing criminal charges against Mariusz Błaszczak in connection with the declassification of the "Warta-00101" plan is, from the standpoint of applicable law, highly questionable and, in the author's view, **unfounded**. Under the Act on the Protection of Classified Information, the Minister of National Defense possessed the authority to lift the confidentiality designation from the document in question, and he formally exercised this authority, apparently in the belief that the grounds for continued secrecy no longer existed. The case law of the administrative courts has consistently affirmed that decisions to impose or remove classification fall within the discretion of the competent authority, which reinforces the presumption of legality attached to the minister's act. From a formal legal perspective, therefore, at the moment of disclosure the plan **no longer constituted classified information**. As a result, the charge under Article 265 §1 of the Criminal Code (disclosure of a state secret) lacks a fundamental element – the existence of a legally protected secret – since the classification had already been effectively removed. Put differently, one cannot be accused of disclosing a secret that one has lawfully declassified.

As regards the allegation of **exceeding authority** (**Article 231 of the Criminal Code**), this too raises significant doubts. The minister's action was grounded in legal competence (Article 6(3)–(4) of the Act on the Protection of Classified Information), and the question of whether his substantive assessment was correct lies within the realm of opinion rather than law. No concrete **harm** to the public interest has been demonstrated; on the contrary, it may plausibly be argued that some public benefit accrued in the form of transparency and the opportunity to learn from past errors. The prosecution's claim that Błaszczak inflicted "exceptionally serious damage" on the state rests on hypothetical risks (possible exploitation by an adversary, alleged disruption of NATO cohesion) and has not been supported by specific, measurable evidence. Nor has the intent to cause harm or to secure personal gain been established. While the pursuit of political advantage may explain the minister's decision, whether such motivation falls within the ambit of "personal gain" under Article 231 §2 remains debatable. Even if the decision was taken in a climate of political contestation, it is difficult to **characterize it as an abuse of power** absent a clear showing of action ***contra bonum commune***, which constitutes the essence of the offence under Article 231. It could equally be contended that the minister acted under a subjective conviction that he was serving the national interest, however vigorously disputed that assessment may be by his critics.

In the broader constitutional context, the case illustrates the tension between military secrecy and the public's right to information. Yet the particular circumstances – the disclosure of a historical defense plan – lend considerable force to the argument for privileging transparency. Far from violating

Article 61 of the Constitution, the disclosure arguably gave effect to its guarantee within the statutory limits. The rule of law requires that restrictions on transparency serve concrete and substantial interests; where such interests are no longer genuinely imperilled, information should be accessible to the public. The declassification of the "Warta-00101" plan appears consonant with this philosophy: **secrecy ought not to shield mistakes or negligence, particularly after the passage of time and changed strategic circumstances**.

De lege lata, therefore, the author concludes that the actions of Minister Błaszczak **were not unlawful** under Polish criminal law, and that the charges against him should accordingly be regarded as unfounded. The ultimate decision rests with the court, but both the governing legal provisions and the established facts suggest that recourse to so severe a measure as criminal liability is disproportionate in this instance. Political or strategic misjudgments should be addressed through democratic debate and **political accountability**, not through the punitive machinery of the criminal code. The use of criminal law in this context fails the proportionality test. *Summum ius, summa iniuria* – an overly rigid and formalistic application of secrecy provisions, detached from their underlying rationale, risks producing an unjust conviction of a public official who acted, however controversially, in the belief that he was serving the public interest.

In conclusion, the author takes the position that **the charges against Mariusz Błaszczak ought to be dismissed**. Nevertheless, the case highlights the need for clearer procedures governing declassification and for a more precise calibration of the balance between transparency and security in the future. Such reforms, however, should be pursued within the framework of administrative and constitutional law, not criminal law. **Transparency in public life** – particularly in so vital a sphere as national security – must be pursued responsibly, but also with sufficient courage to ensure that citizens can trust both in the strength of the state and in its candour toward society.

Łukasz Zawadzki
(judge of the Circuit Court in Opole)

The Borders Defense Movement as a Grassroots Civic Response to the Risks of Mandatory Settlement of Culturally Foreign Migrants in the Republic of Poland

Just one week after coming to power in Poland following the 2023 parliamentary elections, the left-liberal government of Prime Minister Donald Tusk participated in shaping an agreement between the Spanish Presidency of the Council of the European Union and the European Parliament on 20 December 2023. The agreement concerned the main political elements of the legal framework on asylum and migration in EU Member States – the so-called migration pact. It was subsequently approved by the European Parliament on 10 April 2025 and by the Council of the European Union on 14 May 2025. The provisions of the migration pact are thus already in force, though Member States have been given two years to prepare for their implementation – some until 12 June 2026, and the remainder until 1 July 2026.

The migration pact introduces a solidarity mechanism, obliging Member States to adopt binding measures to assist countries affected by migratory pressure. The main countries of origin of migrants include Syria, Afghanistan, Bangladesh, Pakistan, Iraq, Morocco, Egypt, Guinea, Ivory Coast, Somalia, Venezuela, Colombia, and Peru. By accepting this framework, the Republic of Poland has effectively transferred decision-making power over its own relocation policy to the European Commission and the Council of the European Union. Critics argue that the pact disregards the identity-related, national, and cultural concerns of Member States, forcing them to accept migrants who are culturally, religiously, and socially alien – including radical Islamists.

On 15 November 2024, Polish MEP Marcin Sypniewski submitted a formal question to the European Commission, recalling earlier statements by Prime Minister Donald Tusk and EU Commissioner for Home Affairs Ylva Johansson, who had suggested that Poland's acceptance of millions of Ukrainian refugees during the Russian invasion might partially or fully exempt it from relocation under the pact. In reply, Commissioner for Internal Affairs and Migration Magnus Brunner categorically rejected such an interpretation, stating that Poland is fully bound by all provisions of the pact, including mandatory solidarity. According to the Commission, Poland's only choice is between relocation, financial contributions, or alternative compensatory measures.

The political context of Prime Minister Tusk's involvement in implementing the pact cannot be overlooked. First, EU regulations comprising the migration pact are directly applicable and binding under Article 288 TFEU – meaning that the Polish parliament plays no role in their transposition into domestic law. Secondly, Poland had just held a referendum (15 October 2023) alongside the parliamentary elections, in which one of the questions asked whether Poles accepted the imposition of a relocation mechanism by EU institutions. Polish law provides that referendum results are binding only if over 50% of eligible voters participate. While turnout in the parliamentary elections reached a record 74.38%, only 40.91% of eligible voters participated in the referendum. This was partly the result of active calls by Donald Tusk – then leader of the opposition – for a boycott of the referendum, including his well-remembered slogan "I invalidate this referendum!". Electoral commissions were also widely reported to have engaged in the improper practice of asking voters whether they wished to receive a referendum ballot, which further decreased participation.

Nevertheless, among the 12,082,588 citizens who did cast their ballots, a striking 96.79% opposed the imposition of EU migration policies on Poland. This result undoubtedly reflected broad social awareness of the consequences of mass migration in Western Europe, where large-scale culturally alien immigration has contributed to rising crime rates (including sexual violence), refusal to assimilate, the spread of parallel religious-cultural norms (often enforced by coercion), the creation of urban enclaves governed by Sharia law, and terrorism motivated by radical Islam. Yet because the turnout threshold was not met, the referendum was not legally binding on state authorities. Donald Tusk, once in office, nevertheless engaged in negotiations that led to the December 2023 agreement.

This policy turn directly contradicted Tusk's own campaign declarations, which misled the public, the unequivocal statements of Commissioner Magnus Brunner, and proposals advanced by Polish legal circles. On 9 February 2025 – before the pact was voted on in either the European Parliament or the Council – the Prawnicy dla Polski association issued a resolution calling for a constitutional amendment explicitly prohibiting the relocation of migrants under the migration pact. The association stressed that such a safeguard would serve as a test of the credibility and responsibility of Polish authorities. The appeal was endorsed by the National Association of Judges of the Republic of Poland and widely circulated in both traditional and online media. Yet the initiative was ignored by the political leadership in Warsaw.

Although implementation of the migration pact has not yet begun, concerns intensified in spring 2025 when the Polish media reported on the possible transfer of up to 40,000 migrants from Germany to Poland under the Dublin III Regulation (the predecessor of the migration pact). Dublin III provides that asylum seekers can be returned to the first EU country they entered. According to Wirtualna Polska in an article titled *Afera o migrantów*

z Niemiec. Jednak ich przyjmowano, mamy dane [The scandal about migrants from Germany. They were let in, we have the data], discrepancies arose between figures reported by Polish officials and data publicized by the German police, who boasted about their success in "removing" migrants. German media further revealed that under Federal Police practice, persons apprehended without documents within 30 km of the border are treated as if they had never entered German territory and can therefore be summarily returned.

These developments led to the establishment of the Borders Defense Movement (Ruch Obrony Granic) in spring 2025, initiated by Robert Bąkiewicz. Its declared aim is to protect Poland from mass migration and its associated risks – both in terms of border security and the preservation of national identity, culture, and social cohesion – through domestic civic pressure. The Movement opposes any plans for the forced resettlement of migrants and rejects social-engineering projects that would, in its view, alter the structure of Polish society. It declares that its activities are grounded in organic work, patriotic education, and lawful influence on state policy. Robert Bąkiewicz has consistently demanded the restoration of full border controls with Germany – which Berlin had already reintroduced on its side – to prevent the transfer of migrants to Poland. He calls for Poland's withdrawal from the migration pact, which he considers a threat to national sovereignty, and opposes any imposition of relocation policies against the will of the Polish people. He also rejects the creation of infrastructure supporting mass migration and denounces multiculturalism as a source of social destabilization and the erosion of national identity. In his words, the Movement's mission is to defend Polish culture and traditional values.

Another leading figure in the Borders Defense Movement is Jacek Wrona – former police commissioner distinguished in combating organized crime, veteran of the anti-communist opposition, lecturer at the Police Academy in Szczytno, and widely recognized author, expert, and commentator on security issues.

One of the Movement's first initiatives, still during its formative period, was a demonstration against the transfer of illegal migrants from Germany to Poland, held on 22 March 2025 in Zgorzelec, a town on the Polish–German border. According to reports, the course of the demonstration was disrupted by apparent provocation. Masked individuals appeared with racist slogans; participants later testified that these same individuals were seen conversing freely with police officers. The organizers' repeated requests for police intervention to remove them went unanswered (DoRzeczy, *Protest przeciwko przerzucaniu migrantów. „Doszło do prowokacji"* [Protest against the transfer of migrants. "There was provocation"]).

Niezależna.pl reported further details in an article titled *Ujawniamy, kim był prowokator ze Zgorzelca. Bąkiewicz: służby mają zwykle zinfiltrowane takie środowiska* [We reveal who the provocateur from Zgorzelec was. Bąkiewicz: "The services usually infiltrate such environments"]. According to this ac-

count, Robert Bąkiewicz warned the gathered crowd that provocateurs had infiltrated the demonstration, covering their faces and shouting extremist slogans. Organizers and participants demanded that they uncover their faces or leave. When the demonstrators attempted to expel them, they were attacked with tear gas.

Bąkiewicz later wrote on X that at least one provocateur had been identified: "He was one of the few who acted with his face uncovered. As we have established, he is a resident of Zgorzelec, and his name is Grzegorz Stemler." The Zgorzelec police, in a statement on Facebook, claimed:

> Among the participants of the largest gathering was a group of a dozen or so people with their faces covered, chanting slogans identical to those of the event's initiators, as they were participating at the invitation of the people who initiated the gathering. However, these people did not uncover their faces at the request of the organizers, which resulted in a brief argument with the other participants [...].

Yet a statement published by Bąkiewicz shortly after the demonstration contradicted this version:

> During the demonstration, there may have been police provocation, and if not police provocation, then certainly provocation. At the very front of the gathering [...] there were masked individuals with slogans such as "white Poland." These people were asked to leave, because as Poles we stand with our visors open and do not accept such slogans or such stylistics; we are not racists. These people refused to leave, they used gas against the demonstrators, and the police – this is crucial – did not intervene at all. The police were absent [...] hidden hundreds of meters away in side streets, and they did not protect the gathering even when the road was blocked. In our opinion, the aim was to create an image of the demonstrators, those who oppose mass migration, as racists [...] as people using fascist slogans. This attempt failed – we expelled these individuals from our demonstration [...] but they were later seen among the police, speaking with them in a manner suggesting familiarity.

Adam Borowski, head of the Warsaw *Gazeta Polska* Club, gave a similar account (quote after Niezależna.pl):

> We demanded from the stage that they remove their masks, since we did not want images that could be exploited by the German media to claim that Nazis had appeared at a patriotic demonstration. We surrounded them and asked them to leave, but they started a fight. [...] We hypothetically handed them over to the police, who had been standing at the outskirts. Later it turned out these individuals were on friendly terms with the police. They reappeared without masks, but always in the company of a police officer [...].

The internet portal wroclaw.wyborcza.pl reported:

> PiS accuses the police of sending provocateurs to Bąkiewicz's anti-immigrant march [...] According to PiS propaganda, the Lower Silesian police provocation

consisted of sending undercover officers into the crowd of demonstrators to start a brawl. It turned out that they were not undercover officers, but activists from the neo-fascist NOP party.

A leading PiS politician drew a wider political conclusion (quote after wPolityce.pl):

> The practices from Donald Tusk's first term in office are returning. A demonstration was held in Zgorzelec to oppose Poland's acceptance of illegal migrants dumped by Germany. And there are many indications that this was a provocation, a political provocation. The police did not protect the demonstrators, while strange individuals appeared and shouted unacceptable slogans. This is reminiscent of the practices of Tusk's earlier government, when a Russian booth was burned down during the Independence March. All this shows that such practices are returning to our country.

Mariusz Błaszczak was referring to an incident of November 11, 2013, during Donald Tusk's earlier premiership, when a booth outside the Russian Embassy in Warsaw was set on fire during Independence Day demonstrations. In 2015, the weekly *Do Rzeczy* published a transcript of a secretly recorded conversation between then Deputy Prime Minister Elżbieta Bieńkowska and Paweł Wojtunik, head of the Central Anti-Corruption Bureau. According to this recording, the fire had not been an accident but a provocation organized under the authority of Bartłomiej Sienkiewicz, then Minister of Internal Affairs.

The demonstration in Zgorzelec was, in turn, portrayed in German media not as a protest against migrant transfers but as a rally of "Polish neo-Nazis" (via *Niezależna.pl*: *Niemiecki „Bild" o proteście w Zgorzelcu: „Neonaziści z Polski"* [German *Bild* on the protest in Zgorzelec: "Neo-Nazis from Poland"]). The website of the daily *Bild* published an article originally titled: *Polscy neonaziści protestują przeciwko uchodźcom z Niemiec* [Polish neo-Nazis protest against refugees from Germany]; the title was later changed to: *Polscy prawicowi ekstremiści demonstrują przeciwko uchodźcom* [Polish right-wing extremists demonstrate against refugees]. The article – illustrated with a photograph of masked provocateurs – asserted that neo-Nazis from Poland were conveying their message across the closed border. It claimed that hundreds of demonstrators, including numerous Polish neo-Nazis, carried banners bearing slogans also seen at AfD rallies in Saxony. The text suggested that German deportation policy was opposed by neo-Nazis in the neighboring country, and it explicitly described Robert Bąkiewicz as a right-wing extremist (source: Niezależna.pl).

Bąkiewicz demanded an immediate correction and a public apology for what he called false and defamatory statements in *Bild*.

Given these circumstances, the position adopted by the police is difficult to sustain. Their statement referred to the organizers' alleged invitation of neo-fascist groups to participate in the demonstration in Zgorzelec. This account, however, is inconsistent with the spontaneous actions of Robert

Bąkiewicz, who publicly urged the provocateurs to remove their masks and sought to isolate them from the demonstrators. Contrary to the police communiqué, the protest organizers also expressly distanced themselves from the extremist slogans advanced by the provocateurs. Paradoxically, the Borders Defense Movement, led by Bąkiewicz, has itself become the object of attacks by Poland's political authorities. The striking feature of these governmental attacks on a civic initiative is that they concern activities aimed at preventing the unlawful transfer of migrants into Polish territory – which, in principle, ought to align with the interests of any government professing patriotic commitments. Notwithstanding the ambiguous circumstances surrounding the apparent orchestration of the Zgorzelec provocation designed to discredit Bąkiewicz, officials of Prime Minister Donald Tusk's government have repeatedly issued pejorative statements about the leader of the Borders Defense Movement. On July 29, 2025, government spokesman Adam Szłapka declared on *Polsat* television: "Robert Bąkiewicz fits into the Kremlin's narrative. There are two possibilities: either he is a useful idiot or a conscious agent [...] He is a cynic, a hypocrite, a liar."

In June 2025, Minister of Internal Affairs and Administration Tomasz Siemoniak commented on the Borders Defense Movement participants:

> They have no authority to do so. As you have seen, it is difficult to call these people patrols; they are trying to provoke Polish public officials or create situations such as provoking one of the Border Guard officers. They are by no means supportive; they are acting to cause trouble at the border.

Prime Minister Donald Tusk himself stated at a press conference: "There is no reason to dwell on xenophobic, racist, aggressive behavior [...] Attempts to act arbitrarily on Polish borders will be eliminated."

Yet contrary to the government's claims, the activities of the Borders Defense Movement find support in Polish law. Article 243 §1 of the Code of Criminal Procedure permits any citizen to apprehend an offender caught in the act or pursued immediately afterward. At the same time, Article 264 §§2–4 of the Criminal Code defines illegal border crossing as a criminal act.

The Borders Defense Movement constitutes a grassroots civic initiative opposing the migration policy currently pursued by the Polish government under pressure from the European Union bureaucracy. This policy not only undermines Polish sovereignty over national territory in matters of migration but also threatens the social and cultural fabric of the state, which has already been substantially affected since 2022 by the mass influx of refugees from Ukraine. Polish society also voices concerns regarding public security, drawing on the experience of Western European states that have accepted large numbers of migrants from culturally foreign countries and have subsequently witnessed rising crime rates. The occurrence of terrorist attacks in neighboring Germany – such as those targeting Christmas markets, in which Polish citizens also lost their lives – reinforces these apprehensions.

Against this background, the actions and rhetoric of Donald Tusk and his government appear inconsistent. On the one hand, they downplay or deny the dangers posed by mass migration – underscored by events such as the brutal murder in Toruń in 2025, committed by a Venezuelan citizen. On the other, they contradict Tusk's own earlier declarations that Poland would be exempt from the migration pact in recognition of its acceptance of Ukrainian refugees.

Oskar Kida
(Doctor of Law)

The Case of Robert Bąkiewicz – A Fair and Impartial Trial, or a Form of Political Repression?

1. Facts

On October 22, 2020, the organization Ogólnopolski Strajk Kobiet (All-Poland Women's Strike, OSK) launched a series of protests against the Constitutional Tribunal's ruling (ref. no. K 1/20), which removed one of the statutory grounds for lawful termination of pregnancy – namely, the so-called eugenic ground permitting abortion in cases of severe fetal anomaly. As part of these protests, OSK activists announced, among other things, that churches throughout Poland would become targets of their demonstrations.

In response, a nationwide civic campaign to protect churches emerged. Polish citizens across the country positioned themselves outside churches to prevent acts of vandalism or desecration. One of the principal organizers of this civic initiative was Robert Bąkiewicz, who at that time established the organization known as the National Guard. Its members and supporters undertook the task of safeguarding churches from potential attacks.

On October 25, 2020, Bąkiewicz, accompanied by citizens engaged in the defense campaign and by police officers, was present on the steps of the Holy Cross Church in Warsaw, where a group of OSK activists had gathered. It is noteworthy that the parish priest had expressly permitted those defending the church to be on the premises, including the steps. During the demonstration, a well-known left-wing activist, Katarzyna Augustynek – popularly referred to as "Babcia Kasia" – was led out of the church. She displayed aggressive behavior both toward the church defenders and toward police officers.

Repeated requests were made by the church defenders for police intervention against Augustynek's conduct. When these appeals yielded no action, the defenders asked that she be removed from church property. One police officer responded that while the police were present to ensure security, the defenders themselves were entitled to remove her, with the assurance that the police would provide protection. Subsequently, two unidentified individuals seized Augustynek and forcibly carried her down the stairs. The entire incident was documented by numerous recordings from both the protesters' and the defenders' sides.

2. Court Proceedings and Criminal Trial Standards

The case proceeded to trial, with Robert Bąkiewicz placed in the dock. He was charged with having "intended that unidentified men violate the physical integrity of Katarzyna Augustynek; as the initiator and *de facto* leader of the so-called National Guard, he instructed them to seize Augustynek under her arms and drag her from her position toward the stairs, pull her down the stairs, and throw her in such a way that she fell upon the steps." It was further alleged that he acted for "an obviously trivial reason, thereby demonstrating blatant disregard for the legal order." According to the prosecutor, this reason was "political affiliation with the protest movement known as the Women's Strike" – a characterization of note, given that the victim herself described OSK as a political movement.

After four hearings, including examination of the parties, the victim, and the evidence, the court of first instance issued its verdict on March 7, 2023. It found Bąkiewicz guilty – though not of the act described in the indictment. Contrary to the video recordings, the content of the indictment, and even the testimony of the victim herself (who confirmed that Bąkiewicz had not touched her), the court concluded that Bąkiewicz personally seized the victim, dragged her down the stairs, and then threw her down the steps.

Such findings are inconsistent with the fundamental principle of criminal procedure, namely the principle of material truth, enshrined in Article 2 § 2 of the Code of Criminal Procedure. According to established doctrine, judicial decisions must rest upon factual determinations corresponding as closely as possible to the actual course of events (M. Kurowski in *Kodeks postępowania karnego. Tom I. Komentarz aktualizowany*, ed. D. Świecki, LEX/el. 2025, art. 2). This principle operates as a directive obliging the authorities to pursue factual determinations that approximate reality through the cognitive process underlying the construction of the factual basis of criminal adjudication (J. Zagrodnik in M. Burdzik, S. Głogowska, J. Karaźniewicz, M. Klejnowska, N. Majda, I. Palka, K. Sychta, K. Żyła, J. Zagrodnik, *Kodeks postępowania karnego. Komentarz*, Warsaw, 2024, art. 2).

The court of first instance thus gravely infringed procedural rules, which require that judgments be grounded in the evidence and prohibit arbitrary evaluation. Article 7 of the Code of Criminal Procedure mandates that adjudicating authorities form their conclusions on the basis of the totality of evidence, assessed freely yet in accordance with the principles of correct reasoning, scientific knowledge, and common experience. Applying Article 217 § 1 of the Criminal Code (violation of physical integrity), in conjunction with Article 57a § 1 of the Criminal Code (hooliganism), the first-instance court sentenced Bąkiewicz to one year of restriction of liberty, consisting of an obligation to perform unpaid supervised community service for thirty hours per month. It also ordered him to pay PLN 10,000 in compensation to the victim.

The judgment was appealed, and the case was referred to the court of second instance. During those proceedings, Bąkiewicz moved to recuse the judge on the ground of his membership in the Iustitia association – an organization linked with opposition to the policies of the Law and Justice government and, in some public perception, favorable to the current government. This motion was heard – and denied – by another judge belonging to the same association.

On November 3, 2023, the appellate court modified the contested judgment, but only with respect to the description and legal classification of the act so as to align with the indictment. Ultimately, Bąkiewicz was convicted of directing the commission of a prohibited act (violation of physical integrity) by two still-unidentified persons, amounting to so-called managerial perpetration. The sentence and compensation order remained unchanged.

The judgment provoked substantial controversy, particularly since publicly available video recordings do not depict Bąkiewicz issuing orders or directing the alleged perpetrators in any way. Consequently, he applied to the President of the Republic of Poland for clemency, and the then Prosecutor General, pursuant to Article 568 of the Code of Criminal Procedure, suspended execution of the sentence pending consideration of the pardon application.

3. The Borders Defense Movement and the Issue of Enforcement of the Sentence

In 2025, Robert Bąkiewicz established the nationwide Borders Defense Movement – an organization opposing the government's migration policy, whose activists frequently organized anti-government demonstrations. On July 10, 2025, Prosecutor General Adam Bodnar – appointed after the suspension of Bąkiewicz's sentence had already been ordered – announced via social media that he was reinstating the sentence. This decision was subsequently confirmed in an official statement by the National Prosecutor's Office (https://www.gov.pl/web/prokuratura-krajowa/uchylenie-wstrzymania-wykonania-kary-w-stosunku-do-skazanego-roberta-bakiewicza).

The official justification provided was Bąkiewicz's failure to pay compensation to the victim. However, in the post published by Prosecutor General Bodnar on the X platform, it was also stated that the decision was motivated by Bąkiewicz's conduct at the border – that is, by a political factor related to the activities of the Borders Defense Movement, which allegedly damaged the image of the government.

Particular attention must be paid to the legal basis for the Prosecutor General's action. The official announcement referred to Article 568 of the Code of Criminal Procedure *a contrario* – that is, the reasoning that because the provision explicitly authorizes the Prosecutor General to suspend the execution of a sentence, it must also, by implication, authorize him to revoke that suspension. Such an interpretation raises serious doubts as to its compatibil-

ity with Article 7 of the Constitution of the Republic of Poland, which requires that public authorities act "on the basis of and within the limits of the law."

Article 7 enshrines both the principle of legality (the requirement that all action of public authorities be grounded in a legal basis) and the principle of the rule of law (the requirement that such action remain within the limits clearly defined by law). These principles prohibit public authorities from presuming competencies not expressly conferred upon them, and they demand that legal provisions conferring powers be precise and unambiguous. The Constitutional Tribunal has repeatedly affirmed this interpretation (see, e.g., judgments ref. Ts 216/04; K 4/06). As the doctrine emphasizes, any authoritative action undertaken without a legal basis constitutes a violation of the principle of legality (M. Zubik, W. Sokolewicz in L. Garlicki (ed.), *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, vol. I, 2nd ed., Warsaw 2016, art. 7). In the present case, the authority sought to derive a competence to revoke suspension from a statutory provision that only refers to the possibility of granting suspension. Such reasoning carries a serious risk of contravening Article 7 of the Constitution.

The matter was ultimately resolved by the President of the Republic of Poland, who, on July 16, 2025, granted Robert Bąkiewicz clemency by remitting his sentence.

4. Summary

The case of Robert Bąkiewicz illustrates how the judiciary and the prosecutorial service may be instrumentalized for political purposes. In a matter of an overtly political character, an initial judgment was rendered that can only be described as scandalous, containing findings wholly inconsistent with the facts and disregarding fundamental standards of criminal procedure. The sentence imposed under that judgment was subsequently upheld, notwithstanding a modification of the description of the act and its legal classification. Thereafter, despite the filing of a request for clemency, the suspended sentence was employed by the newly appointed authorities as a form of repression for conduct allegedly detrimental to the government's public image – conduct which every citizen is entitled to engage in, and which is explicitly safeguarded by the constitutional guarantees of freedom of speech and expression.

This case further reflects the current executive's troubling approach to the rule of law. Public authorities have presumed powers not expressly conferred by law, and have done so without even attempting to provide a detailed legal justification. Instead, their reasoning has been reduced to the simplistic assertion that "if something can be done, it can also be undone." Such an attitude raises profound concerns regarding the constitutionality of these actions..

Piotr Schab
(judge and President of the Court of Appeals in Warsaw,
Disciplinary Spokesman of the Judges of Common Courts)

The Hunt for the Chairman of the National Broadcasting Council

On September 15, 2022m Maciej Świrski was elected by the Sejm to the National Broadcasting Council (Krajowa Rada Radiofonii i Telewizji, KRRiT) for a six-year term. On October 10, 2022, he became its chairman.

Article 1(5) of the Act of 26 March 1982 on the State Tribunal (Journal of Laws of 2022, item 762, as amended) provides that members of the National Broadcasting Council are constitutionally liable before the State Tribunal for violations of the Constitution or of statutes committed in connection with their office or within the scope of their duties. Pursuant to Article 13(1a) of the Act, a resolution to bring the persons referred to in Article 1(1)(3)–(7) and (2) before the State Tribunal must be adopted by the Sejm by an absolute majority of votes in the presence of at least half of the statutory number of deputies. Article 11(1)(2) stipulates that the adoption by the Sejm of a resolution to bring a person before the State Tribunal results in the suspension of that person's official functions.

On May 23, 2024, a group of 185 deputies submitted to the Sejm a preliminary motion to hold Maciej Świrski constitutionally accountable before the State Tribunal. The motion was supplemented on August 16, 2024. The applicants accused the head of the National Broadcasting Council of three categories of violations: blocking approximately PLN 300 million from the public radio and television license fee; blocking licenses for private broadcasters (TVN, TVN24, Radio TOK FM, Radio ZET); and failing to conduct statistical research on television station viewership in Poland.

PiS deputies opposed the move and, in June 2024, lodged an application with the Constitutional Tribunal challenging the provisions enabling Świrski's accountability. On October 3, 2024, the Constitutional Tribunal issued an injunction, obliging all Sejm bodies – including the Marshal of the Sejm, Deputy Marshals, and the Constitutional Accountability Committee – to refrain from any action until the Tribunal ruled on the contested provisions.

On July 16, 2024, the Constitutional Tribunal delivered its judgment in case K 24/24. The ruling was unanimous and held that:

1. Article 11(1), second sentence, of the Act on the State Tribunal, insofar as it concerns a member of the National Broadcasting Council, is inconsistent with Articles 213(1) and 198(1) of the Constitution.

2. Article 13(1a) of the Act on the State Tribunal, insofar as it refers to Article 1(1)(5) of the same Act, is inconsistent with Article 213(1) in conjunction with Article 156(2) of the Constitution.

The Tribunal discontinued the proceedings in the remaining scope.

The Constitutional Tribunal examined three allegations advanced by the applicants:

- that the entire preparatory phase of the proceedings to hold a member of the National Broadcasting Council constitutionally liable was entrusted to the Constitutional Accountability Committee, i.e., an organ of the Sejm;
- that a member of the National Broadcasting Council was suspended *ex lege* from the performance of his duties as a result of the Sejm's resolution to bring him before the State Tribunal;
- that the minimum Sejm majority required to adopt a resolution to hold a member of the National Broadcasting Council accountable before the State Tribunal had been set at less than three-fifths of the statutory number of deputies.

With respect to the first allegation, the Constitutional Tribunal emphasized that the applicants did not challenge – at the constitutional level – the Sejm's competence to undertake the actions specified in the contested provisions, but only the internal distribution of powers within the Sejm itself. The Tribunal held that the applicants had failed to demonstrate that this intra-parliamentary allocation of competences raised a constitutional issue. The Tribunal further observed that the applicants had not shown that the obligation imposed upon the person concerned to appear before the Constitutional Accountability Committee, as provided in Article 9d of the Act on the State Tribunal, posed a constitutional problem. This conclusion followed in particular from the subsequent provisions of Article 9d, which ensure that the person in question has the right to submit explanations either orally or in writing, to present evidence, and, moreover, to refuse to answer specific questions or to provide explanations without the need to state reasons. On this basis, the Tribunal discontinued the proceedings in this respect.

After examining the second allegation concerning Article 11(1), second sentence, of the Act on the State Tribunal, the Constitutional Tribunal emphasized – while underscoring the importance of the independence of the members of the National Broadcasting Council – that under Article 198(1) of the Constitution, members of the National Broadcasting Council are constitutionally accountable to the State Tribunal, not to the Sejm. This constitutional design choice has consequences at every stage of proceedings involving constitutional accountability. In particular, it follows that only decisions issued by the State Tribunal may produce legal effects with respect to individuals subject to such proceedings. Article 198(1) of the Constitution therefore excludes, in particular, the possibility of suspending an officeholder on the basis of a Sejm resolution to bring that person before the State Tribunal. The

Constitutional Tribunal further stressed that, pursuant to Article 173 of the Constitution, the State Tribunal is an independent authority, separate from all other state organs, including the Sejm. As a result, proceedings before the State Tribunal cannot be regarded as a mere continuation of parliamentary proceedings concerning constitutional responsibility. Moreover, the State Tribunal's power to adjudicate constitutional responsibility is subject to requirements that are not satisfied by the Sejm or any of its organs – even one called the "Constitutional Accountability Committee." Under Article 199 of the Constitution, the President of the Supreme Court serves as the President of the State Tribunal, and its vice-presidents and at least half of its members must meet the qualifications required for judicial office. Members of the State Tribunal, in performing their functions, act as judges and are independent, subject only to the Constitution and statutes. Accordingly, it cannot be inferred that the judicial power of the State Tribunal may extend to the Sejm so as to authorize the Sejm to adopt decisions shaping the legal situation of persons who are the subject of parliamentary proceedings concerning constitutional responsibility. Finally, the Tribunal observed that Article 201 of the Constitution, which addresses proceedings on constitutional responsibility, clearly assigns to the legislature the task of defining by statute the procedure for such proceedings before the State Tribunal – not before the Sejm.

Referring to the third constitutional issue raised by the applicants, the Constitutional Tribunal agreed with the argument linking the majority threshold required to bring proceedings before the State Tribunal to the principle of independence of the National Broadcasting Council and its members. The Constitutional Tribunal found that the statutory introduction of a lower standard than the one applicable to members of the Council of Ministers under the Constitution and the Act on the State Tribunal violated this principle. In its reasoning, the Constitutional Tribunal stressed that it was for the legislator – not the Constitutional Tribunal – to determine the appropriate parliamentary majority in the light of constitutional requirements. The ruling only established that the current provision, requiring an absolute majority of votes in the presence of at least half of the statutory number of deputies, was unconstitutional in relation to the standard derived from Article 156(2) of the Constitution. Future legislative action and interpretative measures must therefore take this standard into account.

The adjudicating panel of the Constitutional Tribunal: Judge Stanisław Piotrowicz (presiding), Judge Jarosław Wyrembak (rapporteur), Judge Krystyna Pawłowicz, Judge Bartłomiej Sochański, Judge Bogdan Święczkowski.

Despite the Constitutional Tribunal's judgment, on September 25, 2024, the Sejm referred the motion to the Constitutional Accountability Committee. Among those heard were TVP SA liquidator Daniel Gorgosz, Polskie Radio liquidator and editor-in-chief Paweł Majcher, heads of regional radio stations, and KRRiT members. The defense of Maciej Świrski requested nearly 90 witnesses, who were also admitted.

On June 12, 2025, the Committee adopted its report, recommending that the Sejm accept the motion to bring Świrski before the State Tribunal. The vote was 11 to 7. PiS deputies simultaneously submitted a minority motion to discontinue the proceedings.

At a conference on June 12, the head of the National Broadcasting Council asserted that members of the Sejm's Constitutional Accountability Committee had displayed both a lack of legal knowledge and a disregard for established procedures. In his view, this should render the entire proceedings invalid. He further noted that at least two members of the Committee had publicly declared, even before the commencement of its work, that Maciej Świrski had violated the law. In addition, the Chairman of the Committee himself made statements concerning Świrski's guilt, which prompted the filing of a motion to recuse him. Despite the fact that the Code of Criminal Procedure expressly requires that such motions be transmitted for consideration, Chairman Gawkowski, the addressee of the motions, failed to forward them. The failure to transmit these motions for exclusion, therefore, constituted a breach of law on his part.

On July 24, 2025, the National Broadcasting Council issued a statement:

> In connection with the Sejm's continued proceedings based on Article 11(1) of the Act on the State Tribunal, the Chairman of the National Broadcasting Council has asked the European Parliament to examine whether the Sejm's actions violate Directive 2010/13/EU of 10 March 2010 on audiovisual media services (OJ L 95 of 15 April 2010, p. 1). Article 30(5) of this Directive guarantees, among other things, the independence of national regulators in the audiovisual sector and requires transparent, non-discriminatory procedures for the appointment and dismissal of their members. The Sejm's procedure, which enables a state authority to suspend the activities of members, including the chair, of the national regulatory authority for the audiovisual media market, creates the possibility of exerting influence over the regulator's decision-making and thus infringes the European Union principle requiring regulatory independence from political pressure.

On July 25, 2025, the Sejm considered the motion. Presenting the Committee's report, Chairman Zdzisław Gawlik argued that the recommendation was made "not out of revenge, not out of emotion, but out of a duty to the law and to citizens." He stressed that, on the basis of the evidence collected in the course of the proceedings, the commission determined that the head of the National Broadcasting Council had committed ten of the eleven acts alleged in the preliminary motion.

The Sejm adopted the resolution to bring constitutional charges before the State Tribunal. A total of 432 deputies participated in the vote. The required absolute majority was 217 votes. The motion received the support of 237 deputies, while 179 voted against and 16 abstained. The resolution was endorsed by 155 deputies from KO, 30 from PSL, 30 from Polska 2050, 20 from the Left, and two independents. Opposition came from 174 deputies of PiS,

one deputy from Konfederacja, and four deputies from Wolni Republikanie. Fourteen deputies from Konfederacja and two from Konfederacja Korony Polskiej abstained.

The Sejm also resolved that the prosecutor in the proceedings before the State Tribunal would be KO deputy and attorney Maciej Tomczykiewicz.

Following the vote, M. Świrski declared that "the National Broadcasting Council will continue to operate as it has done so far." He further stated: "I will not resign, nor will I suspend myself, nor will I change my position in the National Broadcasting Council," adding that he did not recognize the outcome of the Sejm vote.

The Sejm's decision was subsequently challenged before the Constitutional Tribunal as well as by three members of the National Broadcasting Council. In a statement of July 25, 2025, concerning the Sejm's failure to comply with the rulings of the Constitutional Tribunal, it was asserted:

> The Sejm's decision of July 25, 2025, to bring the Chairman of the National Broadcasting Council before the State Tribunal has no legal effect because it was not adopted by the required majority (at least three-fifths of the statutory number of deputies).
>
> The constitutional principle of the independence of the National Broadcasting Council and its members – whose constitutional status, and therefore the rules of constitutional accountability, are at least equivalent to those applicable to members of the Council of Ministers – requires that such a resolution be adopted by a majority greater than an absolute majority. This was held by the Constitutional Tribunal in its judgment of July 16, 2025, which is final and universally binding. Moreover, pursuant to that judgment, the Constitution excludes the possibility of suspending the Chairman of the National Broadcasting Council by virtue of a Sejm resolution bringing him before the State Tribunal.
>
> The Sejm's actions, undertaken in defiance of the Constitutional Tribunal's judgment, form part of a series of unlawful acts amounting to a constitutional coup d'état, which has been reported by the President of the Constitutional Tribunal as giving rise to a reasonable suspicion of the commission of a crime.
>
> It has been announced that the President of the Constitutional Tribunal will transmit a letter to the Marshal of the Sejm demanding compliance with the Tribunal's rulings, including those concerning the accountability of the Chairman of the National Broadcasting Council and the President of the National Bank of Poland before the State Tribunal.

The Main Board of the Association of Polish Journalists also protested against the Sejm's resolution.

In a statement of July 25, the National Broadcasting Council declared:

> We consider the decision of the Sejm to bring Maciej Świrski, Chairman of the National Broadcasting Council, before the State Tribunal to be a politically

> motivated attack on a constitutional body. The National Broadcasting Council safeguards media order in Poland and the right to information. It is one of the few institutions that operates independently of the government. Its activities are guided by the law. The attack on the National Broadcasting Council by members of the ruling coalition is a violation of the rules of a democratic state governed by the rule of law.

Despite these protests, on July 28, 2025, pursuant to Article 9(1) in conjunction with Article 7(2b) of the Act of December 29, 1992 on Radio and Television Broadcasting, Council members voted – by the statutory majority of four – to dismiss Maciej Świrski from the position of Chairman. Agnieszka Glapiak was elected Chair by the same majority, and Hanna Karp was elected Deputy Chair.

At a press conference held on the same day, Świrski described the attack on himself and on the Council as an attack on freedom of speech in Poland:

> That is why I have resolved to remain in office and not to yield to the pressure and forms of repression exerted upon me both by the executive branch and by the governing majority in the Sejm. That is why I am present here today. I am not taking leave; I continue to discharge my duties as before. The National Broadcasting Council remains fully operational, and we shall not submit to manipulative pressure from the Sejm, the government, or certain media outlets.

Disputes also arose within the National Broadcasting Council. According to Maciej Świrski, they were linked to what he described as a smear campaign directed against the Council as an institution and against its members individually.

Świrski further commented on media reports concerning the alleged presence of police officers at the Council's premises. "The entry of the police into a constitutional body that safeguards freedom of speech is a serious abuse," he declared. He characterized the incident as "a form of police reconnaissance, perhaps prompted by the fact that the National Council's registered address remains on ul. Sobieskiego, where it was formerly located, although its offices have for years been situated at Plac Wyszyńskiego. The officers were apparently checking whether Świrski was working at ul. Sobieskiego or Plac Wyszyńskiego." He added that he regarded this as "a signal indicating that the current authorities are scouting the area."

On the same day, the Warsaw Police Headquarters issued a statement via its social media profile denying that the police had entered the KRRiT headquarters. "Such information is misleading to the public. Please do not spread misinformation," the statement read. The police clarified that "the conversation took place in front of the KRRiT building, not inside it," and explained that the officers' purpose was merely to confirm the time and place at which the Chairman of the Council was to report for work. The statement concluded that "these arrangements were undertaken in order to ensure security in the

vicinity of the KRRiT headquarters and to prevent any disturbance of public order."

On July 29, 2025, Świrski posted a statement on platform X:

> Out of respect for the Polish state and in recognition of the gravity of the present moment, I have resolved not to undertake any action aimed at reversing yesterday's dismissal from the office of Chairman of the National Broadcasting Council, notwithstanding my view that the decision was legally defective. In light of the imminent inauguration of the President of the Republic, I do not wish to provide the governing party with a pretext to generate institutional disorder or to undermine the dignity of public offices.

On August 4, 2025, MP Piotr Adamowicz (Koalicja Obywatelska) presented a report of the Office for Expertise and Regulatory Impact Assessment of the Sejm Chancellery. It stated:

> The effect of the Sejm's resolution of July 25, 2025, on bringing the Chairman of the National Broadcasting Council before the State Tribunal is to suspend him from all official duties arising from his membership in the Council. Maciej Świrski should therefore not undertake any activity constituting the exercise of his powers or duties. The Council continues to function with a temporarily reduced membership. This effect cannot be overturned or undermined by subsequent resolutions of the Council itself or by other state bodies.

On August 7, 2025, Świrski responded with a statement on X:

> The opinion of the Sejm Chancellery of August 4 claims that my suspension follows automatically from the Sejm's resolution, even though the Constitutional Tribunal has declared the legal basis for such suspension unconstitutional. According to this reasoning, the Tribunal's ruling has no legal effect because it has not been announced – allowing the executive to block judicial rulings at will. At the same time, my dismissal as Chairman is treated as valid, even though it was carried out illegally and without my presence. This contradicts the principle *ex iniuria ius non oritur* – no law can arise from injustice – and attempts to give legal force to actions that are constitutionally flawed at their core.

The blatant violation of law by those currently exercising power, undertaken with the effect of depriving Maciej Świrski of his authority to safeguard the constitutional guarantees of freedom of expression in the public sphere, constitutes a striking illustration of the emergence of totalitarian tendencies in Poland. Within such a system, the sphere of information directed to the public assumes a central role; breaches of the Constitution and statutory law serve as instruments for disseminating falsehoods, thereby preserving the current government's hold on power at the expense of the nation. The unlawful – and, in my assessment, criminal – actions directed against Maciej Świrski exemplify the progressive erosion of the rights to which the citizenry is entitled.

III. Persecution of Polish Judges and Prosecutors:

Michał Lasota
(judge of the Court of Appeal in Warsaw,
Deputy Disciplinary Spokesman for Judges of Common Courts)

Persecution of Independent and Impartial Judges

I.

The political executive, acting through the Minister of Justice and Prosecutor General Adam Bodnar, unlawfully seized control of the Public Prosecutor's Office, as confirmed both by the Supreme Court (resolution of September 27, 2024, case I KZP 3/24) and the Constitutional Tribunal (judgment of November 22, 2024, case SK 13/24).

This takeover was carried out by preventing the National Prosecutor, Dariusz Barski, including through the use of force, from performing his official duties, and by installing a usurper in his place – first prosecutor Jacek Bilewicz, later prosecutor Dariusz Korneluk. Through a series of illegal actions, persons unlawfully exercising the functions of Acting National Prosecutor and National Prosecutor replaced a significant number of office holders in managerial positions within the prosecutorial system.

Among others, the District Prosecutor in Wrocław was unlawfully deprived of the ability to perform his official duties, and a usurper, prosecutor Piotr Wójtowicz, was appointed in his place. The Head of the Internal Affairs Department of the National Prosecutor's Office was likewise removed – first through unlawful letters, then by actual actions – and replaced by prosecutor Dariusz Makowski. These clearly unlawful measures, taken by the political executive with the cooperation of prosecutors enjoying its special confidence, led to a wave of repressive actions by compliant prosecutors against independent and impartial judges.

The independence and impartiality of Polish judges is safeguarded by constitutional judicial immunity (Article 181 of the Constitution of the Repbulic of Poland). A judge may be held criminally liable or deprived of liberty only with the consent of the Supreme Court sitting in the Chamber of Professional Responsibility (Article 181 of the Constitution, Articles 80 and 110 § 2a of the Act of July 27, 2001, on Common Courts Organization, and Article 55 of the Act of December 8, 2017, on the Supreme Court).

Nevertheless, prosecutors acting under the control of the political executive have initiated unfounded investigations. These included questioning judges as witnesses in relation to their judicial activities, obtaining their telecommunications data and electronic correspondence, and submitting motions to the Supreme Court's Chamber of Professional Responsibility to lift their immunity, and consequently to hold them criminally responsible.

It is necessary to present the most salient examples of prosecutorial conduct that, in reality, function as instruments of persecution directed against independent and impartial judges.

A prosecutor from the Circuit Prosecutor's Office in Warsaw initiated and conducted an investigation into the judicial activities of Constitutional Tribunal judge Prof. Krystyna Pawłowicz, in connection with a constitutional complaint accompanied by a request for an interim ruling – an action of at least dubious legality. During the same investigation, both Prof. Pawłowicz and the President of the Constitutional Tribunal, Bogdan Święczkowski, were placed under surveillance, as the prosecutor obtained their telecommunications data, including lists of incoming and outgoing calls.

A prosecutor from the Internal Affairs Department of the National Prosecutor's Office applied to the Supreme Court's Chamber of Professional Responsibility for consent to bring criminal charges against the First President of the Supreme Court, Prof. Małgorzata Manowska. The intention was to present her with absurd charges of abuse of power and dereliction of duty (Article 231 § 1 of the Criminal Code of June 6, 1997). These alleged "crimes" consisted solely of the manner of counting votes at meetings of the Supreme Court College, failure to convene the State Tribunal (despite no legal obligation to do so), and failure to execute a injunction issued without legal basis.

A prosecutor from the District Prosecutor's Office in Wrocław applied for consent to prosecute judges Łukasz Piebiak, Przemysław W. Radzik, and Jakub Iwaniec, accusing them of committing numerous offenses, primarily under Article 258 § 1 of the Criminal Code (participation in an organized criminal group). Yet these judges, in their capacity as Deputy Minister of Justice, Deputy Disciplinary Spokesman for Judges of Common Courts, and judge delegated to the Ministry of Justice, merely undertook actions aimed at restoring constitutional order in the courts, relying solely on access to information of a public nature.

In the course of this investigation, the prosecutor – without seeking judicial approval – also secured the judges' private electronic correspondence, including incoming messages covered by attorney–client privilege and wholly unrelated to the case. At subsequent immunity hearings in the Supreme Court, defense attorneys exposed the prosecutors' lack of competence.

A prosecutor from the Internal Affairs Department of the National Prosecutor's Office applied to prosecute judges Piotr Schab, Przemysław W. Radzik, and Michał Lasota. These judges, serving as the Disciplinary Spokesman for Judges of Common Court and his deputies, had written to the then Minister of

Justice Adam Bodnar, pointing out the ineffectiveness of his appointment of disciplinary officers due to improperly signed documents. They stressed that this defect made it legally impossible to transfer case files to the appointees.

The executive's response was to send prosecutors and armed police officers to the National Council of the Judiciary – a constitutional body providing administrative support to the Disciplinary Spokesman for Judges of Common Court and his deputies. Safes were broken open, files seized, and transferred to persons who had been improperly appointed as disciplinary officers. Additionally, prosecutors sought to accuse judges Schab, Radzik, and Lasota of concealing files – offenses under Article 231 § 1 and Article 276 of the Criminal Code – even though the files remained in their designated place in the Secretariat of the Disciplinary Spokesman for Judges of Common Court.

A prosecutor from the Kielce-Wschód District Prosecutor's Office applied for consent to charge judge Jakub Iwaniec with slander and insult (Articles 212 § 2 and 216 § 2 of the Criminal Code) through social media posts allegedly directed at judge Waldemar Żurek, then a judge and today Minister of Justice. Yet crimes under these provisions are normally prosecuted by private indictment, meaning that only the alleged victim, not the prosecutor, may pursue charges. On February 17, 2025, the Supreme Court's Chamber of Professional Responsibility (case I ZI 29/24) refused consent to prosecute Judge Iwaniec, finding no credible evidence that he authored the posts.

A prosecutor from the Internal Affairs Department of the National Prosecutor's Office also applied for consent to prosecute judge Maciej Nawacki, a member of the National Council of the Judiciary, for damaging a document (Articles 231 § 1 and 276 of the Criminal Code). Under Article 115 § 14 of the Criminal Code, a "document" is any object or medium evidencing a right, legal relationship, or legally significant fact. Judge Nawacki merely tore up a piece of paper presented at a Meeting of Judges of the District Court in Olsztyn, the content of which lay outside the statutory competence of the meeting and called for violation of the law.

A prosecutor from the Internal Affairs Department applied for consent to prosecute judges Przemysław W. Radzik and Piotr Schab under Articles 231 § 1 and 218 § 1a of the Criminal Code. The pretext was their performance, as President and Vice-President of the Warsaw Circuit Court, of statutory duties in relation to judge Igor Tuleya – carrying out a resolution of the Supreme Court. In reality, these motions were no more than instruments of repression.

II.

The political executive, acting through the then Minister of Justice Adam Bodnar, initiated unfounded disciplinary proceedings against independent and impartial judges, making extensive use of the institution of the Disciplinary Spokesman of the Minister of Justice (Article 112b of the Act of July 27, 2001, on Common Courts Organization).

The disciplinary spokesmen appointed by Minister Adam Bodnar – who remained under the control of the political executive – were and are: Grzegorz Kasicki, judge of the Circuit Court in Szczecin; Andrzej Krasnodębski, judge of the Circuit Court in Warsaw (currently retired); Tomasz Szymański, judge of the Court of Appeal in Kraków; Włodzimierz Brazewicz, judge of the Court of Appeal in Gdańsk; and Cezariusz Baćkowski, judge of the Court of Appeal in Wrocław.

The institution of the Disciplinary Spokesman of the Minister of Justice itself raised constitutional doubts. The National Council of the Judiciary, acting as an authorized body, requested that the Constitutional Tribunal examine its compatibility with the Constitution of the Republic of Poland (file ref. no. K 16/14). On January 9, 2025, in case K 16/24, the Tribunal issued a decision obliging the Minister of Justice to suspend the execution of the decisions appointing disciplinary spokesmen of the Minister of Justice and to refrain from making further such appointments. Under Article 190(1) of the Constitution, every ruling of the Constitutional Tribunal, including interim measures, is universally binding and final. Despite this, Minister Bodnar proceeded to appoint disciplinary spokesmen, and those previously appointed continued their activities.

Judge Andrzej Krasnodębski retired at the end of April 2025, upon reaching the age of 65. As a rule, a retired judge may not perform official duties. Article 105 § 2 of the Act on Common Courts Organization permits only certain functions – such as inspector at the Ministry of Justice or at a court, and coordinator for mediation. It does not permit performing the role of disciplinary spokesman, including that of the Minister of Justice. Nevertheless, retired judge Krasnodębski continues to act as disciplinary spokesman, submitting motions to the Chamber of Professional Responsibility of the Supreme Court and to disciplinary courts at courts of appeal, as well as corresponding with judges on reviewing files in disciplinary cases he had initiated.

It is worth recalling that former Minister of Justice Zbigniew Ziobro appointed only one disciplinary spokesman to address the conduct of two judges during martial law, where the acts in question might even have constituted crimes against humanity.

Disciplinary proceedings initiated by the spokesmen of the Minister of Justice are therefore not only unlawful but also absurd, serving as an instrument of persecution and repression of independent judges. The most telling examples are as follows.

Judge Cezariusz Baćkowski filed disciplinary charges against all members of the National Council of the Judiciary who were judges of common courts, both current and former (Dagmara Pawełczyk-Woicka, Rafał Puchalski, Stanisław Zdun, Joanna Kołodziej-Michałowicz, Maciej Nawacki, Irena Bochniak, Katarzyna Chmura, Dariusz Drajewicz, Grzegorz Furmankiewicz, Marek Jaskulski, Ewa Łapińska, Zbigniew Łupina, Krystyna Morawa-Fryźlewicz, Paweł Styrna, Jarosław Dudzicz, Maciej Mitera, and Leszek Mazur). He treated

as disciplinary offenses the lawful performance of their duties as members of the National Council of the Judiciary. These duties are expressly grounded in the Act of May 12, 2011, on the National Council of the Judiciary and in the Constitution of the Republic of Poland.

Judge Andrzej Krasnodębski filed a disciplinary charge against judge Maciej Nawacki, a member of the National Council of the Judiciary, for damaging a piece of paper at a meeting of judges of the District Court in Olsztyn. The same charge had already been brought in 2020 by the disciplinary spokesman at the Court of Appeal in Białystok, but the proceedings were lawfully discontinued in 2021. In consequence, under Article 17 § 1(7) of the Code of Criminal Procedure in conjunction with Article 128 of the Act on Common Courts Organization, a negative procedural premise existed, making any reopening of disciplinary proceedings for the same conduct manifestly unlawful.

Judge Krasnodębski also brought disciplinary charges against judges Piotr Schab (Disciplinary Spokesman for Judges of Common Court), Przemysław W. Radzik (Deputy Disciplinary Spokesman for Judges of Common Court), and Michał Lasota (Deputy Disciplinary Spokesman for Judges of Common Court), in connection with their factually and legally justified official actions toward judge Waldemar Żurek, then a judge and now Minister of Justice. He further accused these judges of refusing to administer justice by failing to perform duties in particular cases. In fact, in each case the judges issued decisions, which falls within the domain of judicial independence.

At the same time, judges Schab, Radzik, and Lasota, through procedurally correct rulings, raised the issue of the defective and unlawful assignment of cases in the Second Criminal Division of the Court of Appeal in Warsaw, linked to judge Dorota Markiewicz's usurpation of the office of President of that Court – an issue they were obliged to address.

Finally, judge Krasnodębski filed disciplinary charges specifically against judge Schab for questioning the status of Dorota Markiewicz, who had unlawfully claimed the position of President of the Court of Appeal in Warsaw – an objection that judge Schab was not only entitled but required to raise.

III.

As shown above, the political executive persecutes and represses independent and impartial judges. The unlawful takeover of the Prosecutor's Office enabled the initiation of unfounded criminal proceedings and, in consequence, the submission of absurd motions to the Supreme Court's Chamber of Professional Responsibility seeking permission to bring criminal charges. At the same time, the Minister of Justice – acting as a representative of the political executive – has launched baseless disciplinary proceedings by appointing disciplinary spokesmen of the Minister of Justice, despite the Constitutional Tribunal's ruling prohibiting such appointments.

These actions must be viewed in a broader context. Acting through the Minister of Justice, the political executive has unlawfully seized management functions in individual courts. There was a clumsy attempt to remove the Disciplinary Spokesman for Judges of Common Court and his deputies, pointing instead to posts already occupied by usurpers. Parallel efforts were made to establish compliant disciplinary courts by preparing documents appointing individual judges – most often members of the politicized associations Iustitia and Themis – as disciplinary court judges, without the mandatory opinion of the National Council of the Judiciary required by constitutional law. These issues are described in detail in other reports.

Against this backdrop, the statement by Minister Waldemar Żurek, reported in the media, is particularly scandalous: it constitutes an unequivocal declaration of the political executive's intent to appropriate judicial power, which, in his view, must be exercised by people "trusted" by those in power.

Agnieszka Bortkiewicz
(prosecutor of the Regional Prosecutor's Office in Warsaw)
Monika Laskowska
(prosecutor of the Circuit Prosecutor's Office in Warsaw)

Persecution of Independent Prosecutors, Including Michał Ostrowski and Jakub Romelczyk

The independence of prosecutors is regulated by the Act of January 28, 2016, on the Public Prosecutor's Office. Article 7 § 1 provides that a prosecutor is independent in performing the activities specified in the statutes.

The principle of prosecutorial independence means autonomy in applying the law. All considerations concerning this independence ultimately raise the question of the extent to which – and under what conditions – a prosecutor may independently apply and interpret the law within the scope of his or her authority. In Polish, "independent" means "not subordinate to anyone," "autonomous," and "free,"

The independence of prosecutors should be obvious and beyond dispute. The quality and effectiveness of their work requires freedom from any external or internal pressure. Independence is therefore one of the main constitutional principles of the Public Prosecutor's Office. According to this principle, a prosecutor acts independently when performing statutory duties, subject only to the limits defined by statute. In practice, independence is constrained by the principle of hierarchical subordination, which imposes on prosecutors the duty to comply with orders, guidelines, and instructions from their superiors.

It should be noted that the United Nations guidelines on the prosecution service do not explicitly mention independence, but they do call on states to ensure that prosecutors can perform their duties without intimidation, obstruction, harassment, improper interference, or unjustified exposure to civil, criminal, or other liability.

Prosecutorial independence is the subject of a separate document of the Consultative Council of European Prosecutors (CCPE) – Opinion No. 13, *Independence, Accountability and Ethics of Prosecutors*, adopted at the 13th Plenary Meeting of the CCPE in Strasbourg on November 22–23, 2018. In this opinion, independence means that prosecutors are free from unlawful interference in the exercise of their duties to ensure full respect for and application of the law and the principle of the rule of law and that they are not subjected to any political pressure or unlawful influence of any kind. It applies both

to the prosecution service as a whole, its particular body and to individual prosecutors.

Such broadly understood prosecutorial independence was respected in Poland until January 12, 2024, when – contrary to statutory procedure – representatives of the newly formed government, the so-called "December 13 Coalition," removed National Prosecutor Dariusz Barski and installed prosecutor Jacek Bilewicz in his place.

Following this change, National Prosecutor Dariusz Barski was physically prevented from entering the building of the National Prosecutor's Office and from using his office, which was sealed (https://www.wiadomości.onet.pl, February 7, 2024: *Zmiany w prokuraturze. Gabinet Dariusza Barskiego został zaplombowany* [Changes in the Prosecutor's Office. Dariusz Barski's office has been sealed.]).

Shortly thereafter, Deputy Prosecutors General Michał Ostrowski, Robert Hernand, Krzysztof Sierak, Beata Marczak, Krzysztof Urbaniak, Tomasz Janeczek, and Andrzej Pozorski were forcibly placed on forty-two days of outstanding vacation leave (January 18–March 15, 2024). At the same time, their access cards to the National Prosecutor's Office building were deactivated, preventing them from entering (https://www.tvn24.pl, January 17, 2024: *Bodnar wysyła zastępców na przymusowe urlopy* [Bodnar sends deputies on compulsory leave]; https://www.wnet.fm: *Zastępcy Prokuratora Generalnego bez dostępu do budynku Prokuratury Krajowej* [Deputy Prosecutors General without access to the building of the National Prosecutor's Office]).

From that moment on, sweeping and unjustified personnel changes were carried out in the prosecution service. Prosecutors who could not be formally removed at the time became the targets of harassment.

On January 29, 2024, ten prosecutors identified by the new Prosecutor General, Adam Bodnar, as occupying the most "sensitive" positions were dismissed. Among them were seven district prosecutors, including the District Prosecutor in Warsaw, Jakub Romelczyk; two circuit prosecutors (Warsaw and Warsaw-Praga); and one deputy circuit prosecutor in Warsaw. Shortly thereafter, most heads of general organizational units within the Prosecutor's Office were also replaced. These dismissals enabled the "new authorities" to gain direct influence over the direction and conduct of preparatory proceedings nationwide.

In this context, the undermining of the independence of Deputy Prosecutor General Michał Ostrowski and of District Prosecutor in Warsaw Jakub Romelczyk deserves particular attention.

Prosecutor Michał Ostrowski

Since January 12, 2024, Deputy Prosecutor General Michał Ostrowski has openly opposed the unlawful actions of the illegitimate authorities within the National Prosecutor's Office. He voiced his objections in television and

radio interviews and through critical posts on social media (https://www.gov.pl, January 13, 2024: *Oświadczenie Prokuratury Krajowej w sprawie bezprawnego działania Prokuratora Generalnego* [Statement of the National Prosecutor's Office on the unlawful actions of the Prosecutor General]; https://www.wnet.fm, February 18, 2024: *Michał Ostrowski: Jestem rozczarowany postawą Prokuratora Krajowego* [Michał Ostrowski: I am disappointed with the attitude of the National Prosecutor]; https://www.x.pl, January 19, 2024: *Michał Ostrowski: Kolejna kompromitacja dyscyplinarna* [Michał Ostrowski: Another disciplinary embarrassment]).

At the beginning of June 2024, a motion for punishment was filed against Deputy Prosecutor General Michał Ostrowski. It contained six disciplinary charges and was referred to the Disciplinary Court at the Prosecutor General's Office. The charges, all connected to his independent stance toward the unlawful authorities of the Prosecutor's Office, were brought by ad hoc disciplinary spokesman prosecutor Andrzej Janecki, specially appointed for this purpose by Minister of Justice Adam Bodnar.

In December 2024, Prosecutor General Adam Bodnar sought to strip three Deputy Prosecutors General – Krzysztof Sierak, Robert Hernand, and Michał Ostrowski – of their functions by assigning them to perform duties in the regional departments of the National Prosecutor's Office (https://www.wiadomosci.onet.pl, December 30, 2024: *Adam Bodnar wysyła swoich zastępców do pracy w terenie* [Adam Bodnar sends his deputies to work in the field]). This move was widely regarded as an unlawful attempt to deprive them of their statutory roles.

Despite this harassment, Deputy Prosecutor General Michał Ostrowski displayed determination, steadfastness, and independence. On February 5, 2025, after receiving notification from the President of the Constitutional Tribunal, Bogdan Święczkowski, concerning the ongoing coup d'état in Poland, he immediately initiated an investigation and undertook the necessary procedural steps (https://www.rp.pl: *Prokurator Michał Ostrowski: Wszczęłem śledztwo ws. zamachu stanu, Adam Bodnar nie może mi go odebrać* [Prosecutor Michał Ostrowski: I have initiated an investigation into the coup d'état, Adam Bodnar cannot take it away from me]; https://www.pap.pl: *Prokurator Ostrowski wszczął śledztwo w sprawie podejrzenia zamachu stanu* [Prosecutor Ostrowski has launched an investigation into a suspected coup d'état]).

In retaliation for initiating and conducting this investigation, Prosecutor General Adam Bodnar filed a report with the National Prosecutor's Office on February 10, 2025, alleging that Ostrowski had exceeded his powers, i.e., committed an offense under Article 231 § 1 of the Criminal Code. This was announced publicly by National Prosecutor's Office Spokesman Przemysław Nowak (https://www.pap.pl, February 11, 2025: *Sprawa prokuratora od „zamachu stanu". Zostało wszczęte śledztwo* [The case of the "coup d'état" prosecutor. An investigation has been launched]).

Ultimately, prosecutor Michał Ostrowski's actions in the "coup d'état" case triggered a media smear campaign against him and culminated in his suspension by Prosecutor General Adam Bodnar. The official justification was a "clear and gross violation of the law" in that Ostrowski allegedly initiated and conducted an investigation without registering it in the Prosecutor's Office record-keeping system. The case concerning the coup d'état was removed from his docket and reassigned to a designated prosecutor at the Circuit Prosecutor's Office in Warsaw (https://www.pap.pl; https://www.wiadomości.onet.pl, https://www.wnet.fm, https://www.rp.pl).

Prosecutor Jakub Romelczyk

After being dismissed from the position of District Prosecutor in Warsaw and from his delegation to the District Prosecutor's Office, Jakub Romelczyk began performing his official duties at the National Prosecutor's Office.

Already in May 2024, a media smear campaign was launched against him following the publication of an illegally recorded conversation allegedly held with Deputy Minister of Justice Marcin Romanowski (https://OKO.press.pl, May 23, 2024: *Taśmy ziobrystów* [Ziobro people's tapes]; https://www.tvn24.pl, May 27, 2024: *Taśmy Mraza, afera Funduszu Sprawiedliwości* [Mraz's tapes, the Justice Fund scandal]). The alleged conversation concerned a notification submitted by MP Witold Zembaczyński to the District Prosecutor's Office for Warsaw-Śródmieście about a possible offense committed by the Minister of Justice, namely failure to respond to a parliamentary question. In that conversation, prosecutor Romelczyk allegedly indicated that he was familiar with the matter and believed there were no obvious signs of a criminal offense, suggesting that a decision refusing to initiate proceedings was highly probable. Following the release of this recording, Prosecutor General Adam Bodnar immediately suspended Prosecutor Romelczyk from his official duties for six months (https://www.pap.pl, May 24, 2024: *Prokurator z nagrań zawieszony. Natychmiastowa reakcja Adama Bodnara* [Prosecutor from the recordings suspended. Immediate reaction from Adam Bodnar]). This decision provoked strong opposition from the legal community (https://ad-vocem.pl, May 24, 2024: *Stanowisko Zarządu Niezależnego Stowarzyszenia Prokuratorów Ad Vocem* [Position of the Board of the Ad Vocem Independent Association of Prosecutors]; https://www.x.com: *Prawnicy dla Polski stanowisko w sprawie zawieszenia prokuratora Jakuba Romelczyka* [Prawnicy dla Polski association's position on the suspension of prosecutor Jakub Romelczyk]).

It is noteworthy that, according to publicly available information, the National Prosecutor's Office had been in possession of the recording for several months, yet no disciplinary steps were taken during that time. The material was only released to the public during the European Parliament election campaign, for clearly political reasons. Moreover, the conversation was misleadingly linked to the so-called "Justice Fund scandal," even though MP

Zembaczyński's notification dealt solely with the expiry of the deadline for answering a parliamentary question.

Adding to the irregularities, prosecutor Romelczyk only learned of his suspension through the mass media, as the decision itself was never formally served on him. This deprived him of the opportunity to respond substantively to the allegations.

As a result of the complaint lodged by prosecutor Jakub Romelczyk against the decision of the Disciplinary Court at the Prosecutor General's Office to extend his suspension from official duties for a further six months, the Supreme Court overturned that decision. In this case, the Disciplinary Court had failed to notify prosecutor Romelczyk or his defence counsel of the date of the hearing, thereby violating his rights. The Supreme Court's ruling, which received widespread media coverage, drew particular attention because, in its reasoning, the Court compared the proceedings of the Disciplinary Court extending the suspension to the so-called "toilet trials" of the Stalinist era in Poland – hearings conducted not in courtrooms but in prison cells, where all principles of a fair criminal trial were disregarded (Supreme Court decision of 19 February 2025, II ZO 121/24; see https://www.wnet.fm, 19 February 2025, *Proces kiblowy dotkliwa porażka Bodnara w Sądzie Najwyższym* [Toilet trial: Bodnar's painful defeat in the Supreme Court]). Ultimately, the Disciplinary Court at the Prosecutor General's Office discontinued the proceedings concerning prosecutor Romelczyk's suspension from duty.

Notwithstanding the above, criminal proceedings under Article 231 § 1 of the Criminal Code have also been initiated in this case and are currently ongoing.

It should also be noted that the District Prosecutor in Warsaw, Jakub Romelczyk, is repeatedly mentioned by name in both the first part (dated January 14, 2025) and the second part (dated April 29, 2025) of a report prepared by a team of prosecutors examining cases conducted and concluded in 2016–2023 within common organizational units of the prosecution service that had attracted public interest due to their subject matter and nature. Such repeated references constitute another attempt to discredit him, despite the absence of any substantive grounds.

Other prosecutors

The new leadership of the National Prosecutor's Office set itself the goal of humiliating numerous independent prosecutors through a variety of personnel measures. The most severe included the unjustified removal of lower-level prosecutors from long-term delegations to higher-level units – without observing statutory notice periods – as well as the sudden delegation of higher-level prosecutors to lower-level units, sometimes overnight.

These punitive delegations frequently ignored the professional specialization and academic qualifications of those affected. Moreover, the periods

of delegation were often extended repeatedly in a manner that bore the hallmarks of deliberate harassment: decisions to extend were issued on the very last day of a delegation, and in some cases even after its expiry, creating chaos and uncertainty in the prosecutors' daily work.

Another form of harassment has been the public stigmatization of prosecutors for actions taken within the scope of their professional competence. This has involved portraying the proceedings they conducted or supervised in a negative light, both in the first part of the report of January 14, 2025, and in the second part of April 29, 2025. These reports, prepared by a team of prosecutors appointed to investigate "cases of public interest" from 2016–2023, identified prosecutors by their full names, or by initials and positions in such a way that their identities were easily ascertainable. In both reports, the team issued recommendations calling for the review of the decisions taken by the named prosecutors in terms of potential professional or criminal liability. As a direct consequence, Deputy Disciplinary Spokesmen of the Prosecutor General have initiated explanatory proceedings which may lead to disciplinary sanctions, and even to the opening of criminal proceedings.

Conclusions

The actions undertaken by individuals unlawfully occupying managerial positions in the National Prosecutor's Office and its subordinate units must be assessed critically. These measures were, and continue to be, oppressive in nature. They directly target prosecutorial independence with the clear aim of breaking resistance, forcing submission, and producing a chilling effect on others.

Joanna Przanowska-Tomaszek
(judge of the Court of Appeal in Warsaw,
President of the Circuit Court in Warsaw)
Przemysław W. Radzik
(judge of the Court of Appeal in Warsaw,
Vice-President of the Court of Appeal in Poznań,
Deputy Disciplinary Spokesman for Judges of Common Courts)

Actions of the Disciplinary Spokesman of the Minister of Justice in Politically Motivated Disciplinary Proceedings Against Judges of the Court of Appeal in Warsaw

Since December 13, 2023, part of the Polish judiciary has become involved in a political struggle aimed at reshaping the constitutional system of the state and suspending or dismantling constitutional bodies such as the National Council of the Judiciary, the Constitutional Tribunal, and the Supreme Court. These actions have taken the form of questioning the legal status and appointments of judges, refusing to administer justice, disregarding Article 190(1) of the Constitution by failing to apply final, announced, and universally binding rulings of the Constitutional Tribunal, unlawfully dismissing court presidents during their term of office, dismissing the Disciplinary Spokesman for Judges of Common Court and his deputies without legal basis, participating in illegal procedures whereby the Minister of Justice assigned the duties of disciplinary judges, and assuming the function of Disciplinary Spokesman of the Minister of Justice despite knowing these appointments were unlawful and ineffective – thus implementing a political plan to paralyse the statutory disciplinary bodies.

Focusing on the activities of the Disciplinary Spokesmen of the Minister of Justice (so-called special or ad hoc spokesmen), it must be stressed that this institution, regulated in Article 112b of the Act on Common Courts Organization, was designed to be exceptional. This was reflected in the fact that between 2017 and 2023, the Minister of Justice appointed special spokesmen only twice, and always to handle individual cases.

This practice changed radically after Adam Bodnar took office as Minister of Justice. Between December 2023 and July 2025, he appointed several ad hoc spokesmen from among the judiciary, who then took over more than 90 disciplinary proceedings previously handled by the Disciplinary Spokesman for Judges of Common Courts and his two deputies. These proceedings were

seized by force – through the destruction of secure filing cabinets in the office of the legally functioning Disciplinary Spokesman for Judges of Common Courts in July 2024 – and in open violation of the Constitutional Tribunal's injunction of January 25, 2025 (case K 16/24). That ruling explicitly prohibited the Minister of Justice from appointing his own disciplinary spokesmen, suspended execution of the appointment decisions, and forbade those appointed from undertaking any activities amounting to the performance of the functions of the Disciplinary Spokesman for Judges of Common Courts and his deputies.

By ignoring this binding ruling, the Disciplinary Spokesmen of the Minister of Justice have acted as enforcers of the political will of the executive and allied judicial circles. Their actions include arbitrarily discontinuing pending disciplinary cases, engineering their termination in court by mass withdrawal of motions, and then launching new disciplinary proceedings against selected judges without any factual or legal basis. The direct aim of these measures has been to remove from the judiciary individuals regarded as political opponents of the ruling camp, to intimidate the wider judicial community by creating a "chilling effect," and to render the judiciary wholly subordinate to political power.

A telling example is disciplinary proceeding No. SD 9/24, conducted by the Minister of Justice's Disciplinary Spokesman, judge Andrzej Krasnodębski. In this case, charges of disciplinary offenses – allegedly undermining the dignity of judicial office and acting to the detriment of the judiciary – were brought against three judges of the Warsaw Court of Appeal. The alleged misconduct consisted of:

- judge A.B-D submitting a request to the College of the Court of Appeal in Warsaw to be relieved of her duty to hear three cases pending before the Circuit Court for Warsaw-Praga in Warsaw;
- the President of the Court of Appeal in Warsaw and the President of the Circuit Court in Warsaw, as members of the College, issuing a positive opinion on this request, which resulted in its approval and judge A.B-D's exemption from hearing those cases.

According to the Minister of Justice's Disciplinary Spokesman, this decision caused delays in the adjudication of the relieved cases and was therefore not motivated by the good of the justice system.

In reality, judge A.B-D exercised a statutory right under the Act on Common Courts Organization to request such exemption. The College of the Court of Appeal considered the request in full compliance with procedural requirements, and the resulting resolution was duly published on the information portal of the Court of Appeal in Warsaw.

The initiation of disciplinary proceedings and the bringing of charges in these circumstances therefore constitutes a flagrant breach of the Act on Common Courts Organization. None of the judges concerned violated legal or ethical norms governing judicial conduct. The proceedings were a clear

example of the instrumental use of the disciplinary system to apply political repression: judge A.B-D had earlier been publicly criticized by the government for a ruling she had issued in a criminal case, and the presidents of the courts who supported her request had themselves been unlawfully removed from their offices by the Minister of Justice.

It is also telling that the Minister of Justice did not appoint ad hoc spokesmen to pursue disciplinary measures against judges whom he had unlawfully installed in managerial positions, even though those judges – after submitting motions to relevant panels – were relieved of the duty to hear several hundred pending cases.

Judge Andrzej Krasnodębski's actions, illegal and in direct defiance of the Constitutional Tribunal's injunction, constitute, from a criminal law perspective, abuse of power by a public official (Article 231 § 1 of the Criminal Code) and meet the criteria of the crime under Article 235 of the Criminal Code: fabricating evidence and making deceitful efforts to prosecute the judges of the Warsaw Court of Appeal in disciplinary proceedings. They also entailed the unlawful disclosure of personal data concerning the judges' places of residence, in violation of the Personal Data Protection Act.

Further, on April 30, 2025, Judge Krasnodębski retired upon reaching the statutory retirement age. Under Polish law, a retired judge may serve only in limited capacities (such as a supervisor in certain categories of cases, or in teaching and research), but under no circumstances may perform the functions of a disciplinary spokesman. Nevertheless, relying on the political protection of the Minister of Justice, the retired judge continues to unlawfully carry out the duties of Disciplinary Spokesman of the Minister of Justice.

This prompted a response: on February 24, 2025, the Deputy Disciplinary Spokesman for Judges of Common Courts initiated disciplinary proceedings against Andrzej Krasnodębski and presented him with charges of disciplinary offenses that amount to crimes prosecuted *ex officio*.

Przemysław W. Radzik
(judge of the Court of Appeal in Warsaw,
Vice-President of the Court of Appeal in Poznań,
Deputy Disciplinary Spokesman for Judges of Common Courts)

Destruction of the Polish System of Disciplinary Responsibility of Judges. Illegal Dismissal of the Disciplinary Spokesman for Judges of Common Courts and His Deputy

On June 2, 2022, pursuant to Article 112 § 3 of the Act on Common Courts Organization (hereinafter: the Court Act), the then Minister of Justice, Zbigniew Ziobro, appointed judge Piotr Schab of the Warsaw Court of Appeal as Disciplinary Spokesman for Judges of Common Courts for a four-year term. On the same day, Minister Ziobro also appointed judge Przemysław W. Radzik, likewise of the Warsaw Court of Appeal, as Deputy Disciplinary Spokesman for a corresponding four-year term.

On April 4, 2025, Minister of Justice Adam Bodnar, invoking "Article 112 § 3 *a contrario*" of the Court Act, dismissed judge Przemysław W. Radzik from the position of Deputy Disciplinary Spokesman. On April 25, 2025, citing the same alleged basis, he dismissed judge Piotr Schab from the position of Disciplinary Spokesman.

In neither case was a formal justification issued in the official decision; instead, explanations were published on the government website.

In the case of judge Przemysław W. Radzik, the dismissal was justified as follows:

1. disciplinary proceedings conducted against him by the Disciplinary Spokesmen of the Ministry of Justice concerning:
   - his role in disciplinary proceedings against judge Waldemar Żurek (now Minister of Justice and Prosecutor General) in 2019–2024;
   - refusal to adjudicate in assigned cases at the Warsaw Court of Appeal;
   - a social media post critical of a special Disciplinary Spokesman appointed by the Minister of Justice in connection with the discontinuation of proceedings against judge Waldemar Żurek;
2. ongoing criminal proceedings regarding the same social media post, and his disciplinary proceedings, as Deputy Disciplinary Spokesman

for Judges of Common Courts, against certain judges, despite doubts about their legality in light of case law of the European Court of Human Rights and the Court of Justice of the European Union;
3. an assertion that judge Radzik allegedly lacked the attributes of judicial independence and impartiality under the so-called independence test derived from CJEU judgments.

In the case of judge Piotr Schab, the Ministry justified his dismissal by reference to:

1. disciplinary proceedings against judge Piotr Schab initiated by the Minister's spokesmen concerning:
   – the exemption of judge A.B-D from hearing three cases at the Circuit Court for Warsaw-Praga;
   – use of the title of President of the Court of Appeal in Warsaw and alleged refusal to adjudicate in assigned cases;
2. six proceedings pending in the National Prosecutor's Office with his involvement;
3. his initiation or approval of disciplinary proceedings against judges applying EU law.

A common thread in both dismissals was the judges' prior support for candidates to the National Council of the Judiciary established under the Act of December 8, 2017.

In a statement concerning judge Piotr Schab, the Ministry attempted to provide a broader legal basis, claiming that:

– while the Disciplinary Spokesman and his deputies serve four-year renewable terms, the Court Act does not regulate grounds for early termination;
– the absence of such a provision created **an *extra legem* loophole and a specific loophole**, allegedly contrary to constitutional principles of legality, citizens' trust in the state, consistency of the legal system, and legislative rationality. The impossibility of dismissing a Disciplinary Spokesman for Judges of Common Courts in any situation – even in the event of the commission of a criminal offence or resignation from office – is unacceptable in a democratic state governed by the rule of law;
– consequently, Article 112 of the Court Act must be interpreted "pro-constitutionally" to imply ministerial authority to dismiss the spokesmen and his deputies, particularly in cases of "loss of integrity."

In reality, the grounds cited by the Ministry for dismissing judges Piotr Schab and Przemysław W. Radzik from their positions as Disciplinary Spokesmen for Judges of Common Courts in Poland, during their statutory terms of office, were political and repressive. They stemmed from disciplinary actions undertaken by judges Piotr Schab and Przemysław W. Radzik against judges allied with the current ruling coalition, and amounted to political retaliation for their participation in the lawful procedure for nominating judges to the National Council of the Judiciary.

Notably, no disciplinary rulings have been issued against either judge, and no criminal proceedings have advanced beyond the *in rem* stage. All proceedings against them were initiated only after December 13, 2023 – i.e. after the current government assumed office – underscoring their political character. To date, no independent court has yet ruled, even provisionally, on the allegations brought against judges Piotr Schab and Przemysław W. Radzik by the Minister of Justice. This means that the defamatory claims underlying their dismissal from office are of an instrumental and journalistic nature, calculated to produce an immediate propaganda effect in the search for justification of the Minister of Justice's unlawful decisions.

From a strictly legal perspective, it is clear that the **appointment** of the Disciplinary Spokesman for Judges of Common Courts and his deputies is exhaustively regulated in the Court Act (Section II, Chapter III). This chapter comprehensively governs judicial disciplinary responsibility.

Article 112 § 1 of the Court Act provides that prosecutors before disciplinary courts are: the Disciplinary Spokesman for Judges of Common Courts, the two deputies of that office, and deputy spokesman at appellate and circuit courts.

Article 114 of the Act specifies the spokesman's main tasks:

- conducting investigations at the request of the Minister of Justice, presidents of appellate or circuit courts, the colleges of such courts, or the National Council of the Judiciary, as well as on his own initiative, once the necessary circumstances indicating a disciplinary offense are established;
- initiating disciplinary proceedings and formulating written charges;
- requesting the Supreme Court's Chamber of Professional Responsibility to appoint a disciplinary court of first instance, and then submitting the case for adjudication to the relevant disciplinary court.

The Act clearly states that the spokesman and two deputies are appointed by the Minister of Justice for a fixed four-year term. Crucially, neither Article 112 nor any other provision grants the Minister – or any other authority – the competence to **dismiss** them before the end of that term.

An *extra legem* **loophole** arises when no legal norm (provision) governs a given factual situation (legal issue). The existence of such a loophole is controversial: some commentators classify it as an axiological (evaluative) gap, and often as merely apparent. In certain cases, the legislator's omission may be intentional, rendering the "gap" only ostensible. Thus, if the law does not grant the Minister of Justice the competence to dismiss the spokesman in a particular situation, this does not automatically create a normative omission requiring supplementation. It is entirely possible that the legislator deliberately chose not to regulate the matter. A **specific** loophole, by contrast, arises when the absence of norms (provisions) is itself inconsistent with requirements imposed by other provisions of law. Yet, when referring to such a gap, the Minister of Justice did not cite any legal provisions – whether constitu-

tional or statutory – that would mandate the introduction of rules enabling the dismissal of spokesmen into the Court Act.

Even assuming *arguendo* that a loophole does exist in the Court Act, the method of "filling" it invoked by the Minister of Justice is incorrect. Legal theory recognizes various interpretative methods for addressing loophole: *analogia legis* (analogy from a provision regulating a similar factual situation), *analogia iuris* (analogy from the spirit of the law), *a fortiori* reasoning, *a contrario* reasoning, and, where necessary, additional reasoning drawn from general principles of the legal order.

The dismissal documents concerning judges Piotr Schab and Przemysław W. Radzik show that the Minister of Justice relied on *a contrario* reasoning. This method leads to conclusions opposite to those reached through analogy: if a certain state of affairs satisfies prescribed conditions, it produces specified legal consequences; conversely, if those conditions are not met, the consequences do not follow. Such reasoning is only legitimate where the relevant provision exists and is framed with exclusivity – typically using terms such as "only," "solely," or "exclusively."

Applied to Article 112 § 3 of the Court Act, however, *a contrario* reasoning yields precisely the opposite of the Minister's desired outcome. The Minister argued that since he has the power to appoint the Spokesman and Deputy Spokesman, he must also have the power to dismiss them. The correct conclusion is the reverse: because the legislator expressly conferred the competence to appoint without mentioning dismissal, it follows *a contrario* that **no** such dismissal power exists. Had the legislator intended otherwise, it would have clearly provided for it. Moreover, in this context, reasoning *a contrario* from Article 112 § 3 results only in "does not appoint," which cannot be equated with "dismisses."

Accordingly, all this means that the Minister of Justice possessed no competence – whether expressly granted in the Act, or derivable through *a contrario* or *per analogiam* reasoning – to dismiss judge Piotr Schab from the position of Disciplinary Spokesman for Judges of Common Courts or judge Przemysław W. Radzik from the position of Deputy Spokesman for Judges of Common Courts. The decisions in question therefore lack a legal basis and are ineffective.

This interpretation was confirmed by the National Council of the Judiciary – a constitutional body tasked with safeguarding the independence of courts and judges. In its resolution of April 11, 2025, the Council unequivocally held that the dismissal of judge Przemysław W. Radzik from his office was unlawful, ineffective, and an infringement of a judge's official duties, thereby violating judicial independence as guaranteed by Article 178(1) of the Constitution. The Presidium of the National Council of the Judiciary adopted the same position following the dismissal of judge Piotr Schab from the office of Disciplinary Spokesman for Judges of Common Courts.

Marcin Czapski
(judge of the Circuit Court in Olsztyn)

Circuit Court in Olsztyn – A No-Win Situation

I. Court Authorities

First of all, it should be noted that former Minister of Justice Adam Bodnar unlawfully dismissed the previous management of the Circuit Court in Olsztyn as well as the management of certain district courts within the Olsztyn circuit, namely of the District Court in Olsztyn and the District Court in Biskupiec. Under constitutional law, the Minister of Justice may dismiss a court president or vice-president only with a positive opinion of the court's college (Article 27 of the Act of July 27, 2001, on Common Courts Organization). In the case at hand, the composition of the college was manipulated: immediately before its session, five of its eleven members were suspended (the President of the Circuit Court in Olsztyn, Michał Lasota; the President of the District Court in Olsztyn, Maciej Nawacki; the President of the District Court in Kętrzyn, Tomasz Cichocki; the President of the District Court in Bartoszyce, Mirosław Skowyra; and the President of the District Court in Biskupiec, Tomasz Turkowski). Most of these suspended presidents openly opposed the unlawful actions of the Ministry of Justice. These suspensions were clearly intended to create a "chilling effect" on the remaining members of the college and to engineer its composition in a way that facilitated the personnel changes sought by the Ministry. Serious legal doubts were also raised by the President of the District Court in Olsztyn regarding the validity of the authorization granted to persons co-opted into the college as substitutes for the suspended court presidents. A legal opinion was presented to the effect that suspension from office did not deprive a president of the right to participate in the college's deliberations.

Despite these obvious procedural defects, Minister Adam Bodnar dismissed the President of the Circuit Court in Olsztyn and his two vice-presidents, the President of the District Court in Olsztyn and his two vice-presidents, and the President of the District Court in Biskupiec.

The unlawfulness of these actions was confirmed by the Constitutional Tribunal in its judgment of October 16, 2024, in case K 2/24. The Tribunal held, among other things, that Article 27 § 5 of the Act of July 27, 2001, on Common Courts Organization – insofar as it deprives the National Council of the Judiciary of participation in the procedure for dismissing a president or vice-president of a court where the college of the competent court issues a positive opinion or fails to issue an opinion within thirty days of the Minister

of Justice presenting his intention to dismiss – is inconsistent with the Constitution of the Republic of Poland.

After the unlawful dismissal of the legitimate authorities of the Circuit Court in Olsztyn, Minister Adam Bodnar initiated the procedure for appointing new management. His public statements indicated a desire for the new president to enjoy the broadest possible support from the judicial community. To this end, a General Assembly of Judges of the Circuit Court in Olsztyn was convened to present candidates for the office of president. The assembly nominated three candidates: judge Juliusz Ciejka, President of the First Civil Division; judge Olgierd Dąbrowski-Żegalski; and judge Rafał Jerka, an active member of the politicized Iustitia Association of Polish Judges. It is noteworthy that judge Jerka's candidacy was put forward by circuit court judge Wiesław Kasprzyk, who had been appointed to his first judicial post on June 9, 1989, by the communist Council of State of the Polish People's Republic. Although judge Ciejka received the most support, with 29 votes in his favor, the Minister of Justice appointed judge Jerka as President of the Circuit Court in Olsztyn, despite him receiving only 15 votes. Judge Krzysztof Krygielski was appointed as the acting President of the District Court in Olsztyn, while judge Katarzyna Wilichowska replaced the legitimate President of the District Court in Biskupiec.

II. The Lawlessness of the New Authorities

Rafał Jerka began his term as president with a purge of court staff. Within the first days of his office, three inspecting judges were dismissed: Beata Grzybek, judge of the Circuit Court in Olsztyn and long-serving inspector in the civil division; Dr. Marta Banaś-Grabek, judge of the Circuit Court in Olsztyn and inspector for penitentiary matters, who had been awarded second place in a prestigious 2023 competition for the best doctoral and postdoctoral thesis organized by the Institute of Justice; and Magdalena Wygonowska, judge and inspector for family matters. For personal reasons, judge Dr. Marta Banaś-Grabek was also removed from her position as Spokesperson of the Circuit Court in Olsztyn. In addition, judge Lidia Merska of the Circuit Court in Olsztyn was persuaded to resign as Chair of the 6th Family Civil Division.

The next step involved punitive transfers of judges opposing the policies of the de facto president of the Circuit Court in Olsztyn. Vice-presidents Tomasz Kosakowski of the 5th Commercial Division and Marcin Czapski of the 3rd Penitentiary and Criminal Enforcement Division were reassigned to the 6th Family Civil Division, despite their long-standing specialization in commercial and criminal law respectively. Judge Dr. Marta Banaś-Grabek was transferred from the 3rd Penitentiary and Criminal Enforcement Division to the 2nd Criminal Division. All these judges appealed to the National Council of the Judiciary against their unlawful transfers. In each case, the appellate body upheld the appeals. Nevertheless, judge Rafał Jerka refused to implement these

final rulings, arguing that the current National Council of the Judiciary, in light of case law of the European Union and the Council of Europe, is not the same body as referred to in the Constitution of the Republic of Poland.

The 6th Family Civil Division has since become a kind of enclave, composed mostly of judges appointed by the President of the Republic of Poland after 2018. At the same time, their jurisdiction has been systematically restricted: they have been deprived of the right to hear appeal cases, which are instead assigned to judges from district courts within the Olsztyn circuit. As a result, the work of judges permanently serving in the 6th Family Civil Division has been reduced *de facto* to the simplest cases (such as divorce and separation) – a clear waste of their intellectual and professional potential.

Meanwhile, the acting president of the Circuit Court in Olsztyn engaged in a series of actions which, taken together, amount to harassment of certain judges. These include: monitoring sick leave, refusing to grant vacation leave at times requested by judges, persistently questioning the status of judges appointed after 2018 despite clear rulings of the Constitutional Tribunal, circulating Supreme Court judgments that dispute the status of such judges to all judges of the Olsztyn circuit, disclosing official correspondence with individual judges to unauthorized persons, ignoring complaints and motions from judges, and adopting a deliberately dismissive attitude towards colleagues even in everyday courtesies exchanged in court corridors. Each of these actions, viewed in isolation, may appear trivial or formally defensible, but their intensity and accumulation clearly demonstrate the hostile intent of the current court leadership.

In this context, the case of judge Maciej Nawacki must be highlighted. As the unlawfully dismissed president of the District Court in Olsztyn and member of the National Council of the Judiciary – whose legitimacy is not recognized by the current court authorities – he has faced repressions of unprecedented severity. Acting president of the District Court in Olsztyn, judge Krzysztof Krygielski, deprived him of part of his judicial salary, ostensibly because of his efforts to ensure the lawful assignment of cases in his division. It should be stressed that under Polish constitutional practice, the right to remuneration and the method of its calculation constitute guarantees of judicial independence. The situation is therefore without precedent and is unfolding with the tacit approval of the current management of the Circuit Court in Olsztyn.

III. Consequences

As a result of the actions of the then Minister of Justice, Adam Bodnar, a state of lawlessness was created in the Circuit Court in Olsztyn, which persists to this day. In light of the case law of the Constitutional Tribunal, judge Rafał Jerka was never validly appointed as President of the Circuit Court in Olsztyn. Consequently, the constitutional and conventional right to a court (Arti-

cle 45(1) of the Constitution of the Republic of Poland and Article 6(1) of the Convention for the Protection of Human Rights and Fundamental Freedoms) continues to be violated.

Since judge Rafał Jerka is not lawfully the president, he has no authority to effectively determine the division of judicial duties – particularly as many of his decisions in this regard have been annulled by resolutions of the National Council of the Judiciary.

Michał Lasota
(judge of the Court of Appeal in Warsaw,
Deputy Disciplinary Spokesman for Judges of Common Courts)

Court of Appeal in Warsaw – A Permanent State of Lawlessness

I. President of the Court of Appeal in Warsaw

It should be recalled that the then Minister of Justice, Adam Bodnar – being solely a representative of the executive, and therefore a political authority – unlawfully appointed judge Dorota Markiewicz of the Court of Appeal in Warsaw as the person effectively in charge of that court.

According to Article 27 of the Act of July 27, 2001, on Common Courts Organization, the Minister of Justice may dismiss a court president only after obtaining a positive opinion from the court's college or the National Council of the Judiciary.

Moreover, in its judgment of October 16, 2024, in case K 2/24, the Constitutional Tribunal ruled, among other things, that Article 27 § 5 of the above Act was inconsistent with the Constitution of the Republic of Poland insofar as it deprived the National Council of the Judiciary of participation in the dismissal procedure of a court president or vice-president when the college of the competent court issued a positive opinion or failed to issue an opinion within thirty days of the Minister of Justice presenting his intention to dismiss. The rulings of the Constitutional Tribunal are universally binding and final (Article 190(1) of the Constitution of the Republic of Poland).

In seeking to dismiss the President of the Court of Appeal in Warsaw, judge Piotr Schab, the Minister of Justice requested the opinion of the College of that Court. The College unanimously rejected his request. Nevertheless, without seeking the opinion of the National Council of the Judiciary, on February 20, 2024, the Minister of Justice issued a letter announcing the dismissal of judge Piotr Schab from his position as President of the Court of Appeal in Warsaw.

Subsequently, Minister Bodnar presented another letter stating that judge Dorota Markiewicz was appointed as the new President of the Court of Appeal in Warsaw.

Judge Piotr Schab was therefore not effectively dismissed from his position, given the Minister's blatantly unlawful actions, and as a result judge Dorota Markiewicz could not be validly appointed to that office.

Furthermore, in response to judge Piotr Schab's constitutional complaint, the Constitutional Tribunal, by its decision of February 27, 2024, in

case Ts 32/24, suspended the validity of the Minister of Justice's decision of February 20, 2024, concerning his dismissal.

Nevertheless, judge Piotr Schab has been prevented from performing his duties as President of the Court through denial of access to IT systems and by the forcible seizure of his office after the locks were drilled open.

II. "Judicial Ghetto"

The president of a court of appeal determines the division of duties, including, among other things, the scope of judicial responsibilities and the manner of case assignment (Article 22a § 1 of the Act of July 27, 2001, on Common Courts Organization).

Judge Dorota Markiewicz, usurping the office of President of the Court of Appeal in Warsaw yet *de facto* performing its functions with the support and protection of the political executive, issued on August 9, 2024, documents restructuring the division of duties among the judges of the Court's Criminal Division. This restructuring effectively removed several judges from adjudicating in fundamental matters – most notably, appeals in the most serious criminal cases, as well as complaints against detention orders and motions to recuse judges from proceedings.

Judges of the Court of Appeal in Warsaw – Agnieszka Brygidyr-Dorosz, Izabela Szumniak, Przemysław Filipkowski, Sławomir Machnio, Michał Lasota, Przemysław W. Radzik, and Piotr Schab – lodged appeals against these imposed divisions of duties. The National Council of the Judiciary upheld each of their appeals (Article 22a § 6 of the Act of July 27, 2001, on Common Courts Organization).

Nevertheless, despite the appeals being upheld, these judges have remained permanently excluded from adjudicating in fundamental cases – particularly appeals in the gravest criminal matters, detention complaints, and recusal motions. Instead, they continue to be assigned only secondary and trivial cases, in line with the outdated and annulled division of duties.

III. Recusal from Participation in a Case

Motions filed by participants in proceedings to recuse judges of the Second Criminal Division of the Court of Appeal in Warsaw – Agnieszka Brygidyr-Dorosz, Anna Nowakowska, Dorota Radlińska, Izabela Szumniak, Dariusz Drajewicz, Przemysław Filipkowski, Sławomir Machnio, Michał Lasota, Przemysław W. Radzik, and Piotr Schab – are decided by judges who enjoy the special trust of those actually managing the Court of Appeal in Warsaw and, consequently, the special trust of the political executive. These include circuit court judges delegated by the Minister of Justice to perform the duties of appellate court judges.

Under Article 41 § 1 of the Code of Criminal Procedure of June 6, 1997, a judge is excluded from a case if there are circumstances that could raise rea-

sonable doubts as to his or her impartiality. In practice, judges favorable to the political executive, acting as a court, unlawfully exclude the above-named judges from hearing individual cases, in effect questioning the validity of their judicial appointments.

Meanwhile, in its judgment of March 4, 2020, in case P 22/19, the Constitutional Tribunal ruled that Article 41 § 1 in conjunction with Article 42 § 1 of the Code of Criminal Procedure, insofar as it permits the examination of a motion to recuse a judge on the grounds of an allegedly defective appointment by the President of the Republic of Poland on the recommendation of the National Council of the Judiciary elected under Article 9a of the Act of May 12, 2011, on the National Council of the Judiciary (Journal of Laws 2019.84), is inconsistent with Article 179 in conjunction with Article 144(3)(17) of the Constitution of the Republic of Poland.

IV. Court Referendaries, Bailiffs, Notaries

The president of a court of appeal also participates in appointment procedures. Pursuant to Article 150 § 3 of the Act on Common Courts Organization of July 27, 2001, the president of a court of appeal appoints court referendaries and terminates their employment. Under Article 17(2) of the Act on Court Bailiffs of March 22, 2018, the president administers the oath to appointed bailiffs. Similarly, under Article 15 § 2 of the Act on Notaries of February 14, 1991, the president – authorized by the Minister of Justice – administers the oath to newly appointed notaries.

As established above, judge Dorota Markiewicz does not lawfully hold the position of President of the Court of Appeal in Warsaw, since judge Piotr Schab has never been effectively dismissed and the Minister of Justice's decision to remove him was nothing more than an ineffectual attempt. Consequently, Judge Dorota Markiewicz's participation in appointment proceedings, including those concerning referendaries, bailiffs, and notaries, is legally invalid.

V. Consequences

Through the actions of the Minister of Justice, carried out with the involvement of judge Dorota Markiewicz, a permanent state of lawlessness has been created and is maintained in the Court of Appeal in Warsaw. Judge Dorota Markiewicz could not and did not become the President of the Court of Appeal in Warsaw.

As a result, the constitutional and conventional right to a court (Article 45(1) of the Constitution of the Republic of Poland and Article 6(1) of the European Convention on Human Rights) is continuously violated, and the integrity of legal transactions has been seriously undermined.

Not being the lawful president, Judge Dorota Markiewicz cannot effectively determine the division of duties – particularly as the divisions she in-

troduced were in large part eliminated from the legal order by resolutions of the National Council of the Judiciary. In consequence, in the Second Criminal Division of the Court of Appeal in Warsaw, judicial activities are conducted by panels constituted not by the will of the legislator but by the will of a person unlawfully managing the court, especially where judges are further excluded from cases on unlawful grounds. This creates the risk that judges enjoying the trust of the political executive – closely associated with former Minister of Justice Adam Bodnar and current Minister of Justice Waldemar Żurek – are appointed to adjudicate in significant cases.

Judge Dorota Markiewicz, not being the lawful president of the Court of Appeal in Warsaw, cannot validly appoint court referendaries or administer oaths to bailiffs and notaries. Nevertheless, the individuals to whom she issued such declarations or from whom she accepted oaths currently participate in legal transactions. In reality, however, they did not acquire the legal status of referendaries, bailiffs, or notaries, and the official acts they perform are therefore ineffective.

IV. Other Gross Violations of Human Rights:

Małgorzata Łęcka
(prosecutor of the Circuit Prosecutor's Office in Warsaw)
Jarosław Tekliński
(Doctor of Law, judge of the Circuit Court in Ostrołęka)

Violation of the Right to Information through the Denial of Access of Telewizja Republika Journalists to Press Conferences

Introduction
(M. Łęcka, J. Tekliński)

Pursuant to Article 7(2)(1) and (5) of the Act of January 26, 1984 – Press Law (consolidated text of September 14, 2018; Journal of Laws of 2018, item 1914, hereinafter: Press Law), the press includes, among others, "periodical publications that do not constitute limitative and homogeneous entirety, are published at least once a year and bear a permanent title or a name, a number and a date, including, but not limited to: [...] radio and television broadcasts and newsreels." A journalist, in turn, is defined as a person "engaged in editing, creating or preparing press materials, that is employed by the editorial office or conducting such activities on behalf of and to the benefit of the editorial office."

Article 14 of the Constitution of the Republic of Poland provides that "the Republic of Poland shall ensure freedom of the press and other means of social communication," while Article 54(1) guarantees everyone the freedom to express their views and to obtain and disseminate information.

Freedom of speech and of press communication is twofold. On the one hand, it realizes the human right to transparency in public life and to exercising social control (Article 1 of the Press Law). On the other hand, it imposes on journalists the right and obligation to present and verify the activities of public authorities in an objective, comprehensive, accurate, and independent manner – covering all matters of social life that are relevant to the public good.

This rule, set out in Article 1 of the Press Law, is developed in Article 2, which states that "State bodies, pursuant to the Constitution of the Polish

People's Republic, create necessary conditions for the press to execute its functions and tasks, including conditions enabling editorial offices of newspapers and magazines diversified activity in terms of programmes, presented subjects and attitudes." This provision expressly prohibits discrimination against journalists of any editorial office, for instance by privileging selected media representatives over others.

It must be remembered, however, that freedom of speech is not absolute. It may restricted in terms of subject matter or scope in order to protect third-party rights, such as the right to privacy.

The right to information should be understood broadly – as encompassing access to all forms of information, regardless of their nature. Most importantly, it includes the right to public information, which constitutes a core principle of civil society and the foundation of democratic governance. This right is a political entitlement that underpins transparency and the openness of public authorities. By virtue of it, citizens are empowered both to exercise control over those in power and to influence state policy (M. Florczak-Wątor in *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, 2nd ed., ed. P. Tuleya, 2023, commentary on Article 61).

Journalists' Access to Public Information. Selected Provisions
(M. Łęcka)

The primary legal act guaranteeing the right to public information is the Constitution of the Republic of Poland. Article 61(1) provides that citizens have "the right to obtain information on the activities of public authorities and persons performing public functions." Complementary constitutional provisions include the principle of openness in public life (Article 2), freedom of the press (Article 14), and freedom of expression together with the right to acquire and disseminate information (Article 54(1)).

International legal instruments also protect this right: Article 19 of the 1948 Universal Declaration of Human Rights; Article 19 of the 1966 International Covenant on Civil and Political Rights; Article 10 of the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms; and Article 11 of the Charter of Fundamental Rights of the European Union.

The key statutory regulation is the Act of September 6, 2001 on Access to Public Information (consolidated text of March 23, 2022, Journal of Laws 2022, item 902, hereinafter: the Act). Under the Act, public information encompasses all information concerning the activities of: public authorities; persons performing public functions; economic and professional self-government bodies; and other entities insofar as they exercise public powers or manage municipal property or State Treasury assets.

According to the Constitutional Tribunal, public information includes all information produced by, or relating to, broadly understood public authorities and public officials, as well as by, or relating to, other entities performing

public tasks within the scope of their public authority and management of municipal or state assets (judgment of November 13, 2014, ref. no. P 25/12, LEX, hereinafter: TK P 25/12). The subjective scope of this right extends beyond Polish citizens to foreigners, although foreigners cannot seek its protection through a constitutional complaint.

Every individual may request information in a specific form, including access to documents and admission to meetings of collegial bodies elected by universal suffrage, with permission to record images and sound. This implies a duty on the part of public authorities to document their activities in written (minutes, transcripts) or audiovisual form (Florczak-Wątor in *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, op. cit.).

The Constitutional Tribunal has delineated certain exceptions to the scope of public access to information. Specifically, it has held that such access does not encompass "the content of internal documents, understood as working information (notes, memoranda) [...] constituting a thought process, a process of deliberation, a stage in the development of a final concept, or the adoption of a final position by an individual employee or a team. [...] 'Official documents' are thus to be distinguished from 'internal documents,' which, although they serve the performance of a public task, do not determine the direction of the authority's actions. Such documents function as instruments for the exchange of information, the collection of necessary materials, and the coordination of views and positions" (TK, P 25/12).

In parallel, the case law of the administrative courts underscores that information pertaining to the private sphere, unconnected with the activities of the state, does not constitute public information and, as a result, is not subject to disclosure (Supreme Administrative Court, judgment of 15 July 2021, III OSK 3335/21).

Public information is made available to citizens either *ex officio* by entities under a statutory duty of disclosure – through publication in the Public Information Bulletin, on the website of a public institution, or by posting in publicly accessible locations – or upon request by interested parties.

The right of access to public information is not absolute. A restriction arises where the applicant is denied the requested information; in such circumstances, the material and legal effect is the non-receipt of the information sought (A. Kwaśniak, "Faktyczne i prawne ograniczenia w dostępie do informacji publicznej na tle rodzimego ustawodawstwa," *Roczniki Administracji i Prawa*, XIX(2), pp. 193–208).

Article 61(3) of the Constitution of the Republic of Poland provides that the right to public information may be restricted "only for reasons specified in statutes for the protection of the freedoms and rights of other persons and economic entities, and for the protection of public order, security, or an important economic interest of the state."

The Act explicitly enumerates restrictions in provisions safeguarding classified information and other legally protected secrets, including statisti-

cal, banking, tax, business, investigative, medical, stock exchange, and other secrets (Article 5(1) of the Act).

Further provisions establish additional restrictions, for example, "on account of the privacy of a natural person or business secrecy; however, this restriction does not apply to information concerning persons performing public functions insofar as it relates to the performance of those functions, including the conditions of appointment and performance, as well as in cases where a natural person or entrepreneur has waived such rights" (Article 5(2) *et seq.* of the Act).

Restrictions on the right of access to public information are exceptional in nature and must be justified by reference to the values enshrined in the Constitution. In this context, the principle of necessity, inherent in a democratic state governed by the rule of law, is determinative (A. Piskorz-Ryń, M. Sakowska-Baryła, E. Jarzęcka-Siwik in *Ustawa o dostępie do informacji publicznej. Komentarz*, eds. A. Piskorz-Ryń and M. Sakowska-Baryła, 2025).

Refusing access to public information may be effected solely through a decision issued under the provisions of the Code of Administrative Procedure. The reasoning accompanying such a decision must set forth arguments demonstrating the existence of circumstances confirming that both the substantive and procedural conditions for refusal have been satisfied.

The Act specifies in detail the forms and methods of making public information available, including announcements in the Public Information Bulletin, the right to attend meetings of public authorities, access to documents, the display or posting of documents in publicly accessible places, and audiovisual broadcasts.

The constitutional guarantee of freedom of the press (Article 14) forms an integral part of the broader concept of freedom realized in a democratic state. The state bears a correlative duty to safeguard the exercise of this freedom, which is further articulated in Article 54 of the Constitution: "Everyone shall be guaranteed the freedom to express their views and to obtain and disseminate information" (E. Ferenc-Szydełko, *Prawo prasowe. Komentarz*, 2008).

For journalists, the principal means of accessing public information is through participation in meetings of collegial public authorities, their auxiliary bodies, and press conferences. Any restriction of such access contravenes the principle of pluralism enshrined in Article 2 of the Press Law. The precondition for exercising this right is advance notice of the time and place of meetings or press events. Interference with recorded content (censorship) or conditioning entry on submitting materials for pre-publication review must be deemed unacceptable (Sobczak, *Prawo prasowe*, Warsaw, 2008, p. 415). Accordingly, any denial of access to direct sources of information – for example, exclusion from a Prime Minister's press conference – violates the constitutional right to obtain and disseminate information and amounts to discriminatory treatment of certain journalists or media outlets.

Restriction of Access to Information. Facts – Selected Examples
(J. Tekliński)

From the very outset of Prime Minister Donald Tusk's administration, executive authorities restricted the access of journalists from Telewizja Republika (hereinafter: TV Republika) to public information by excluding them from participation in press conferences.

The first such incident occurred on January 22, 2024, when a TV Republika journalist and cameraman were the only ones to be denied entry to a press conference organized by the Ministry of Culture and National Heritage. At that conference, Minister Bartłomiej Sienkiewicz commented on the District Court in Warsaw's decision rejecting motions to liquidate Polskie Radio S.A. and Telewizja Polska S.A.

On January 26, 2024, an article entitled "Dziennikarz TV Republika nie wpuszczony na konferencję ministra kultury. Zły precedens" [TV Republika journalist not allowed to attend the Minister of Culture's press conference. A bad precedent] was published, noting the reaction of the Board of the Journalists' Association. The Board stated:

> Refusing to allow the media to attend a press conference is a bad precedent. We were convinced that after the October 15 elections, the authorities would stop making statements to the media without allowing questions and that no media would be denied admission to press conferences despite accreditation. This is a dangerous practice, especially now that government agencies are organizing their press teams and rebuilding the culture of media service by the administration in a democratic society. (https://www.wirtualnemedia.pl/artykul/dziennikarz-tvrepublika-nie-wpuszczony-konferencja-minister-kultury, accessed July 23, 2025).

A similar statement was issued by the Press Freedom Monitoring Center of the Polish Journalists Association (CMWP SDP), which observed that

> Telewizja Republika was the only one asked to leave the ministry building and was unable to attend the conference. During the live broadcast, the station's journalist, Łukasz Żmuda, tried several times to get inside, but the security guard refused him entry to the ministry building each time, and eventually the doors were closed. This is a scandalous event that has no place in a democratic country. In the context of this refusal, it is particularly significant that Telewizja Republika is presently the only broadcaster providing live coverage of the ongoing social protests arising in response to the unlawful and controversial actions of Donald Tusk's government. Following the forcible takeover of public media by the government, this station has assumed the role of the principal – and, in many instances, the sole – source of current information for millions of Poles. Together with Telewizja Trwam and Telewizja wPolsce.pl, Telewizja Republika remains the only nationwide broadcaster consistently presenting a perspective on political and social issues that is critical of, and opposed to, the government.

It was further observed that, by denying access to the press conference, "representatives of Donald Tusk's current government are violating the constitutional principle of freedom of speech in a democratic state, which encompasses not only the freedom to express one's views but also the freedom to obtain and disseminate information" (https://www.wirtualnemedia.pl/article/journalist-tvrepublika-not-allowed-to-attend-press-conference-minister-of-culture; accessed July 23, 2025).

Tomasz Sakiewicz, editor-in-chief of TV Republika, reacted to the refusal by notifying the Prosecutor's Office (M. Bojanowska, "TV Republika nie została wpuszczona na konferencję Sienkiewicza. Sakiewicz złożył zawiadomienie" [TV Republika was not allowed to attend Sienkiewicz's conference. Sakiewicz filed a report], *Gazeta.pl*, January 27, 2024, https://wiadomosci.gazeta.pl/wiadomosci/7,114884,30636562,tv-republika-niezostala-wpuszczona-na-konferencje-sienkiewicza.html; accessed July 23, 2025).

The Ombudsman, Marcin Wiącek, requested an explanation of the incident from Bartłomiej Sienkiewicz in a letter dated January 31, 2024 (https://bip.brpo.gov.pl/sites/default/files/2024-01/Do_MKiDN_TVRepublika_dziennikarz_niewpuszczenie_31.01.2024.pdf; accessed July 23, 2025). In a response dated February 5, 2024, it was asserted that the camera operator had failed to obtain the requisite accreditation, while the reporter had not applied for accreditation through the Media Service System of the Polish Administration, which operates within the Ministry of Culture and National Heritage. The reply further stated that the accreditation request had been denied "due to hate speech, which is a constant element of the content broadcast on this station" (https://bip.brpo.gov.pl/sites/default/files/2024-02/Odpowiedz_MKiDN_TVRepublika_dziennikarz_niewpuszczenie_5.02.2024_0.pdf; accessed July 23, 2025).

In response, the Ombudsman, in a letter dated February 26, 2024, addressed to Bartłomiej Sienkiewicz, rightly emphasized that

> no provision of generally applicable law grants government administrative bodies, including the Minister of Culture and National Heritage, the authority to evaluate the activities of broadcasters or to impose sanctions upon them. The rejection of Telewizja Republika's application for accreditation to the Minister's press conference therefore raises doubts as to the legal basis for such action, particularly insofar as the justification given in the letter of February 5, 2024, referred to "hate speech, which is a constant element of the content broadcast on this station." The refusal to grant accreditation to Telewizja Republika also raises concerns in light of Article 14 and Article 54(1) of the Constitution of the Republic of Poland. The exclusion of journalists from a specific television station from the opportunity to ask questions constitutes a restriction on the freedom of public debate and interferes with the constitutional value of media pluralism. In view of the foregoing, acting pursuant to Article 16(1) of the Act of July 15, 1987, on the Ombudsman (Journal of Laws of 2023, item 1058), I respectfully request that the Minister reconsider the issue

of allowing journalists from Telewizja Republika to participate in the Minister's press conferences (https://bip.brpo.gov.pl/sites/default/files/2024-02/Do_MKiDN_TVRepublika_dziennikarz_niewpuszczenie_26_02_2024.pdf; accessed July 23, 2025).

Another incident was reported on January 29, 2024, when, according to media accounts, journalists from TV Republika were not permitted to attend a press conference held by Minister of Justice Adam Bodnar and European Chief Prosecutor Laura Kövesi (https://wiadomosci.onet.pl/kraj/tv-republika-niewpuszczona-na-konferencje-ministerstwo-odpiera-zarzuty/4ehrljm; accessed July 23, 2025). In that matter, the Ombudsman also addressed a request for explanation to the Minister of Justice in a letter dated January 31, 2024 (http://bip.brpo.gov.pl/pl/content/rpo-tvrepublika-dziennikarze-niewpuszczeni-mkidn-ms-odpowiedzi-ponowne; accessed July 23, 2025).

In its response dated February 6, 2024, the Ministry explained that the station's representatives had arrived late for the so-called photo opportunity and, "for protocol reasons, it was not possible for them to join" the delegation's welcome (https://www.gov.pl/web/sprawiedliwosc/odpowiedz-ministra-sprawiedliwosci-adama-bodnara-do-rzecznika-praw-obywatelskich-marcina-wiacka-ws-rzekomego-niewpuszczenia-telewizji-republika-na-konferencje-prasowa-w-ministerstwie-sprawiedliwosci2; accessed July 23, 2025).

Another refusal by officials of the Ministry of Culture and National Heritage to admit TV Republika to a press conference occurred on February 15, 2024. As reported by *Press* magazine, Minister Bartłomiej Sienkiewicz stated:

> At a time when PiS deputies and the former public television authorities were forcibly occupying buildings belonging to public television, Telewizja Republika was using the equipment, premises, studios, and trademarks of public television illegally. Pre-trial claims have been filed in this matter. What can I say? Until I am certain that this entity is a journalistic institution and not an institution of thieves, I see no reason to invite its representatives to my conferences. The matter will be clarified in court, we will have clarity, and then I will invite them. But until it is clarified, I do not know whether I am dealing with a legal opponent, a journalist, or an institution of this type."
>
> ("Wygrana! Sąd Okręgowy w Warszawie potępił dyskryminowanie TV Republika przez ministra kultury" [Victory! The circuit court in Warsaw condemned the Minister of Culture's discrimination against TV Republika], https://cmwp.sdp.pl/wygrana-sad-potepil-dyskryminowanie-tv-republika-przez-ministra-kultury/; accessed July 24, 2025).

In an interview with *Press*, Minister Bartłomiej Sienkiewicz explained:

> I did not let them in, not because I dislike them or because they are PiS officials, but because, as Minister of Culture, I was involved in a lawsuit with TV Republika through subordinate companies, and they were the other party in

> that lawsuit. I wanted to determine their status – whether the question was being asked by a journalist or by a thief who wanted to escape responsibility.

He further stressed that the conferences were broadcast live and, in his view, TV Republika was therefore not deprived of access to information (K. Boczek, "Pluszowy krzyż Republiki. Dziennikarze niechętnie przyznają, że powinno się ją wpuszczać" [The plush cross of Republika. Journalists are reluctant to admit that it should be allowed in], *Press*, No. 11–12/2024, https://www.press.pl/tresc/88316,pluszowy-krzyz-republiki_-dziennikarze-niechetnie-przyznaja_-ze-powinno-sie-ja-wpuszczac; accessed July 23, 2025).

The refusal to allow its journalists to participate in ministerial press conferences prompted TV Republika to bring an action against the State Treasury and the Minister of Culture and National Heritage.

On the eve of the judgment, the National Broadcasting Council issued a statement on equal access to public information, declaring:

> The National Broadcasting Council objects to the violation of the law by public authorities in connection with numerous situations in which representatives of certain editorial offices have been denied access to conferences and press briefings of members of the government. [...] The National Broadcasting Council demands equal treatment of all journalists and equal access to public information, which will enable the audience of all media to learn about the activities of state authorities.
>
> (https://www.gov.pl/web/krrit/stanowisko-krajowej-rady-radiofonii-i-telewizji-z-2-lipca-2024-r-w-sprawie-rownego-dostepu-do-informacji-publicznej; accessed July 23, 2025).

On July 3, 2024, the Circuit Court in Warsaw announced its judgment, holding that "the Minister of Culture and National Heritage violated the law by blocking TV Republika's access to public information." The court further ordered the defendant to submit a written statement in the following form:

> I, the Minister of Culture and National Heritage, apologize to Telewizja Republika S.A. for repeatedly refusing Telewizja Republika S.A. participation in press conferences convened by the Minister of Culture and National Heritage. This action violated the personal rights of Telewizja Republika S.A. in the form of access to information. I am making this statement as a result of legal proceedings brought by Telewizja Republika S.A. At the same time, I consent to the publication of this statement by Telewizja Republika S.A. at any time, place, and in any form. Minister of Culture and National Heritage.
>
> ("Wygrana! Sąd Okręgowy w Warszawie potępił dyskryminowanie TV Republika przez ministra kultury," op. cit.).

The reasoning of the court underscored that "excluding journalists from a specific television station from asking questions constitutes a restriction on the freedom of public debate and interferes with the constitu-

tional value of media pluralism, as also pointed out by the Ombudsman." ("Kolejne ministerstwo nie wpuszcza TV Republika na konferencję" [Another ministry refuses to allow TV Republika to attend a conference], https://www.wirtualnemedia.pl/artykul/tv-republika-dziennikarz-michal-gwardynski-bez-wstepu-konferencja-minister-sportu-slawomir-nitras/to; accessed July 24, 2025).

An appeal against the judgment was lodged by the defendant's representative. At the time of submitting this report to the editorial committee (August 11, 2025), the Court of Appeal in Warsaw had not yet ruled on the matter.

On July 8, 2024, the Ombudsman once again intervened – this time addressing Minister Jan Grabiec, Head of the Chancellery of the Prime Minister – requesting clarification regarding the refusal to allow TV Republika reporter Adrian Borecki to attend the press conference on June 26, 2024, held by Prime Minister Donald Tusk at the Chancellery. The Ombudsman cited the journalist's claim that TV Republika had duly applied for accreditation but had received no timely response. He also referred to unequal treatment by officers of the State Protection Service, who permitted a journalist from *Gazeta Wyborcza* to enter the building despite lacking accreditation. Importantly, the conference in question addressed, among other matters, the construction of the Central Transport Hub (https://bip.brpo.gov.pl/sites/default/files/2024-07/Do_KPRM_dziennikarz_niewpuszczenie_8_07_2024_deleted.pdf; "Skandal! TV Republika niewpuszczona na konferencję premiera [Scandal! TV Republika not allowed to attend the Prime Minister's conference], June 27, 2024, https://dorzeczy.pl/kraj/603609/tv-republika-nie-wpuszczona-na-konferencje-premiera-tuska.html; "Dziennikarz Telewizji Republika niewpuszczony na konferencję premiera! [TV Republika journalist denied access to the Prime Minister's press conference!] [video], June 26, 2024, https://tvrepublika.pl/Dziennikarz-Telewizji-Republika-niewpuszczony-na-konferencje-premiera-Wydanie-Specjalne-wideo,164638.html; all accessed July 23, 2025).

In her response of July 23, 2024, Kamila Terpiał, Director of the Government Information Center, argued that:

> For several weeks, we have been observing a change in the behavior of TV Republika representatives, who have stopped complying with the rules applicable to all media participating in such events. Despite repeated requests to adhere to standards, TV Republika began to disrupt meetings organized by the Government Information Center at the Chancellery of the Prime Minister. Other journalists have also approached the Government Information Center with complaints about such behavior, as it casts a shadow on the entire profession. All media representatives comply with the rules set by the Government Information Center, and there is no reason to tolerate their repeated violation. We ensure equal access to reliable information for all media outlets – meetings with the media are broadcast live on the Internet: on the Chancellery's profiles on X and Facebook, on the Prime Minister's Facebook profile, and published on YouTube. The Chancellery of the Prime Minister, which is a

> public administration body, has clear rules for obtaining accreditation and attending events attended by the head of government. Each time, the media are informed about the format of such a meeting – press conference, statement, or photo opportunity. The latter two exclude the possibility of asking questions. On June 7, 2024, a statement was made to the media concerning, among other things, the tragic death of a Polish soldier on the border with Belarus. TV Republika obtained accreditation for it, as it had for every previous event. This time, however, its representative not only broke the rules for participating in the event once again, but also crossed the boundaries of ethics, culture, and respect for the deceased soldier and his loved ones. Such behavior is not and will not be tolerated at the Chancellery of the Prime Minister.
> (source: https://bip.brpo.gov.pl/sites/default/files/2024-07/Odpowiedz_KPRM_dziennikarz_niewpuszczenie_23_07_2024.pdf; accessed July 23, 2025).

It is significant that this response did not specify how exactly the journalist "broke the rules" or "crossed the boundaries of ethics, culture, and respect for the deceased soldier and his loved ones." Press accounts suggested that

> the recordings of the statement only show someone attempting to ask a question loudly as the Prime Minister was leaving. Republika later explained that it was their reporter who "dared" to ask a question that "Tusk didn't like": Why had the government not reported the death of a soldier on the border with Belarus? Because of this question, the Prime Minister's colleague sent the journalist "to hell," and the Chancellery staff then declared that Republika would no longer be allowed to attend press conferences,

reported Jarosław Olechowski, head of publishers at TV Republika (source: www.press.pl/tresc/88316,pluszowy-krzyz-republiki_-dziennikarze-niechetnie-przyznaja_-ze-powinno-sie-ja-wpuszczac; accessed July 23, 2025).

In mid-September 2024, following heavy rainfall caused by the Genoa low, floods struck Dolnośląskie, Opolskie, and Śląskie provinces. Crisis management teams were set up in response. Journalist Janusz Życzkowski of TV Republika was denied entry to one such meeting in Wrocław.

Commenting on this, Olechowski stressed that this was a continuation of "the absurd and illegal action of blocking @RepublikaTV's access to information about the government's activities," adding that Donald Tusk "is afraid of uncomfortable questions that are not asked by representatives of other media outlets supporting the government." According to him, the questions were to concern, among other things, why the Prime Minister had downplayed forecasts just before the flood, claiming they were not "too alarmist," how this delayed evacuation decisions, and how it was connected with "the actions of politicians of the December 13 coalition – including @Platforma_org itself – who for years had criticized and sought to obstruct plans for the expansion of retention and flood-control infrastructure in Lower Silesia." ("Reporter Republiki bez wstępu na sztaby kryzysowe. CMWP SDP krytykuje rząd" [TV Republika reporter denied access to crisis management teams.

CMWP SDP criticizes the government], https://www.wirtualnemedia.pl/artykul/powodz-wroclaw-sztab-kryzysowy-dziennikarz-tv-republika-janusz-zyczkowski; accessed July 24, 2025).

The refusal was also met with a reaction from both domestic and international journalistic organizations dealing with press freedom: CMWP SDP, as well as the International Press Institute, Article 19, the European Federation of Journalists, and the International Federation of Journalists.

The CMWP SDP expressed the view that such behavior constitutes "a scandalous violation of Polish law, including the Press Law, the Act on Access to Public Information, and the principles of professionalism in media communication applicable to representatives of the authorities and public officials," and that "denying access to information to one of the largest news channels in Poland, Telewizja Republika, is a scandalous violation of the rules of a state governed by the rule of law based on principles of equality for all, and a violation of the principle of freedom of speech, which is fundamental to a democratic system" (www.wirtualnemedia.pl/artykul/powodz-wroclaw-sztab-kryzysowy-dziennikarz-tv-republika-janusz-zyczkowski; accessed July 24, 2025).

International organizations, on the other hand, raised an alert on the Council of Europe's Safety of Journalists platform regarding the refusal to allow TV Republika journalist Janusz Życzkowski to attend a crisis management meeting in Wrocław (www.press.pl/tresc/88316,pluszowy-krzyz-republiki_-dziennikarze-niechetnie-przyznaja_-ze-powinno-sie-ja-wpuszczac; accessed July 24, 2025).

A group of MPs, including Joanna Borowiak, Elżbieta Witek, Zbigniew Hoffmann, Lidia Burzyńska, and Anna Milczanowska, also reacted to the refusal to allow the TV Republika journalist to report on the crisis staff meeting. On September 25, 2024, they submitted interpellation No. 5044 to the Marshal of the Sejm, addressed to the Prime Minister, concerning the refusal to allow the journalist to participate in the crisis management team meeting in Wrocław and depriving the station's viewers of access to important information. It reads as follows:

> During a crisis management team meeting held with the media in connection with the flood situation in Lower Silesia, TV Republika journalists were denied participation. Bearing in mind the context of the provisions of the Constitution of the Republic of Poland, in particular Article 54, which guarantees three separate but interrelated freedoms: freedom to express one's views, freedom to obtain information, and freedom to disseminate information, such action against TV Republika brutally restricts fundamental rights enshrined in the Constitution of the Republic of Poland, but also deprives viewers of one of the largest television stations in Poland of access to information and flood safety.
>
> Every citizen has the right to reliable information, and a legally operating television station has the right to obtain this information and disseminate it to a wide audience. The situation we have encountered not only prevents the

exercise of these rights, but above all clearly violates Article 54 of the Constitution of the Republic of Poland.

I therefore expect answers the following questions:

Why, at a time so dramatic for those affected and threatened by the floods, were TV Republika journalists denied the opportunity to report on the crisis management team's meeting in a manner that violated basic regulations, while other media outlets were able to do so without hindrance? Who decided not to allow TV Republika journalists to participate in the crisis management team meeting and what consequences will be drawn from this?

(sejm.gov.pl/sejm10.nsf/interpelacja.xsp?typ=int&nr=5044; accessed July 24, 2025).

In response to the interpellation, the Head of the Chancellery of the Prime Minister, Jan Grabiec, stated:

> Before the meeting of one of the crisis management teams on September 16, 2024, a representative of TV Republika attacked a SOP [State Protection Service] officer. This is unacceptable behavior and cannot remain without impact on the accreditation process. Since the beginning of the current government's term, the Chancellery of the Prime Minister has been granting accreditation to editorial offices, regardless of the materials they present. TV Republika, like other editorial offices, regularly received accreditation for media events organized by the Government Information Center. However, representatives of TV Republika repeatedly failed to comply with the rules applicable to all media participating in the events. Despite numerous requests to adhere to the standards, they disrupted the course of events organized by the Government Information Center.

The above did not indicate what the attack was supposed to consist of, nor how TV Republika journalists supposedly disrupted the course of the organized meetings (sejm.gov.pl/sejm10.nsf/InterpelacjaTresc.xsp?key=DAJJWV; accessed July 24, 2025).

The Ombudsman also responded to the refusal in a letter dated October 10, 2024, addressed to the Chancellery of the Prime Minister (bip.brpo.gov.pl/pl/content/rpo-tv-republika-niewpuszczenie-sztab-kryzysowy-wojewoda-odpowiedz-cir; accessed July 23, 2025).

In response, Kamila Terpiał, Director of the Government Information Center, pointed out that:

> The direct reason for not granting accreditation to TV Republika on September 17 was the scandalous behavior of a representative of that station the previous day (September 16) before the meeting of the crisis management team at the Lower Silesian Provincial Office. The TV Republika representative behaved in a provocative and highly inappropriate manner and reacted aggressively. He tried to force his way into the crisis management team's meeting room and also pushed aside a State Protection Service officer who was guard-

ing the security, violating his bodily inviolability. Furthermore, contrary to the rules in force, he used his smartphone to record the security checks of people entering the crisis management team meeting and his attempt to force entry. (bip.brpo.gov.pl/pl/content/rpo-tv-republika-niewpuszczenie-sztab-kryzysowy-wojewoda-odpowiedz-cir; accessed July 23, 2025).

On January 14, 2025, Donald Tusk traveled to Helsinki for the NATO Baltic States summit. Before departure, a briefing was held without the participation of journalists from Republika, who did not receive accreditation (tvrepublika.pl/W-Telewizji-Republika/Konferencja-Tuska-bez-Republiki-Premier-znow-sie-bal/180157; accessed July 23, 2025).

The last instance took place on July 23, 2025, when TV Republika journalists were once again denied participation, this time to a conference during which the Prime Minister of Poland announced changes in the composition of the government (niezalezna.pl/media/tusk-nie-wpuscil-republiki-na-przedstawienie-rekonstrukcji-rzadu-nic-sie-nie-zmienilo/548193; tvrepublika.pl/Polska/Zakaz-dla-Republiki-w-KPRM/193837; accessed July 24, 2025).

When asked by Monika Rutke, a TV Republika journalist, about the reason for refusing to allow TV Republika journalists to participate in the above-mentioned event and about the government's policy in this regard after its reconstruction in the future, at a press conference on July 25, 2025, government spokesman Adam Szłapka did not answer the questions, but only pointed out that "despite very strong political affiliations [referring to TV Republika – author's note], I have no problem answering your questions" (live broadcast of the conference on TVN24).

Conclusion
(J. Tekliński)

Telewizja Republika is the second news station, after TVN 24, whose popularity has grown significantly as a result of the coalition's takeover of public media on December 13, which redirected a substantial part of the right-wing electorate to this channel.

The refusal to allow its journalists to attend press conferences and other events involving the executive authorities triggered a broad debate on press freedom and the principle of equal treatment. In this discussion, the interventions of the Ombudsman and the statements of both domestic and international organizations dedicated to press freedom carry particular weight. These institutions have highlighted a potential breach of press law and of international conventions in cases where executive authorities, by means of arbitrary decisions, exclude TV Republika journalists while invoking alleged "inappropriate behavior" or "violations of standards," yet typically fail to specify what those behaviors or violations actually were.

The real reason lies elsewhere, and it was candidly articulated by the Prime Minister himself in his statement: "When it comes to putting the public media in order, the matter is simpler than anyone thinks. It does not require secretive actions. No one expects soft solutions. **It will be in accordance with the law, as we understand it**." [emphasis added by J.T.] ("Wszystko będzie zgodnie z prawem, tak jak my je rozumiemy" – zapowiadał Tusk w sprawie mediów publicznych [Tusk on the subject of public media: "Everything will be in accordance with the law, as we understand it"], niezalezna.pl/media/tv-republika/wszystko-bedzie-zgodnie-z-prawem-tak-jak-my-je-rozumiemy-zapowiadal-tusk-w-sprawie-mediow-publicznych/507546; accessed July 24, 2025).

As subsequent events demonstrated, the words spoken by Prime Minister Donald Tusk on "putting the public media in order" were not limited to this sector. They foreshadowed a broader pattern of actions inconsistent with statutory law and the Constitution of the Republic of Poland, extending their impact not only to public and private media, but also to the wider sphere of social and public life.

Agnieszka Pieńkowska-Szekiel
(judge of the District Court in Myszków)

The Death of Four-Month-Old Oskar in May 2025 and the Polish State's Denial to the Mother of Minor Children of Her Fundamental Rights and the Minimum Protection of Family Life, and of the Life and Health of the Childs

Provisions and legal norms of international law violated by the Polish state:

I. Articles 4, 6, 7, 8, 20, 21, 33, and 35 of the Charter of Fundamental Rights
II. Articles 2, 3, 5, 6, 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms

Summary of the Facts of the Case:

In May 2025, a police patrol arrived at the apartment of Magdalena W. with a court order to escort her to prison. Apart from Magdalena W., the household included two young children and Magdalena's grandmother.

The basis for the warrant was a criminal court ruling converting her community service sentence into a custodial sentence for fraud. The police officers on the spot arbitrarily decided that the grandmother was not able to care for the minors. They notified the Warsaw Family Assistance Center, whose social workers quickly identified a foster family. Oskar and his three-year-old sister Lena were immediately placed there. By this time, Magdalena W. had already been admitted to prison.

Just a few days later, Oskar died under circumstances that remain unclear. Magdalena W. was allowed to attend her son's funeral, but she was conveyanceed by prison service officers in a manner that shocked public opinion: she was dressed in a green prison uniform, her hands and feet were shackled, and she was paraded through the cemetery in chains. According to prison officers, this degrading treatment was justified by alleged fears that Oskar's father might also attempt to attend the funeral.

An investigation is ongoing, and no charges have yet been brought against anyone.

After the case became public, Magdalena W. was released from prison and placed under electronic monitoring. Lena, however, remains in foster care and has not been returned to her mother. It remains unclear whether the mother and family will be granted contact with the child.

No Legal Basis for Placing the Minors in Foster Care in May 2025 Without a Ruling of the Family Court

According to Article 58 of the Act on Family Support and Foster Care, a professional foster family acting as an emergency foster family may accept a child only on the basis of:

- a court ruling,
- the child being brought by the police or border guards,
- or in the specific case referred to in Article 12a of the Act on Counteracting Domestic Violence.

The procedure for placing a child in foster care, as regulated by Article 58, applies to minors over the age of ten who are brought in by police officers or border guards in circumstances where the child is without a guardian and faces a threat to life or health.

In the case at issue, however, reliance was placed on Article 12a of the Act on Counteracting Domestic Violence. Under this provision, the children were placed in a foster family by employees of the Warsaw Family Assistance Center. This procedure is designed exclusively to protect children at risk of domestic violence.

Pursuant to Article 12a, the social worker is required to notify the family court of the child's placement immediately, and no later than within 24 hours. The parents must be informed of their right to lodge a complaint with the family court against the detention of the child. The court is obliged to examine such a complaint within 24 hours of its receipt. Should the court determine that the intervention was unjustified or unlawful, it must order the immediate return of the child to the parents or legal guardians. Moreover, the social worker must inform the parents in writing not only of their right to lodge a complaint, but also of the measures taken pursuant to Article 12a and of the availability of free legal aid.

In the present matter, Magdalena W. was transported to prison prior to the children's removal by the Warsaw Family Assistance Center. She was not informed of her rights and did not receive any written instructions regarding the possibility of filing a complaint or obtaining free legal assistance.

Under Article 579(1) of the Code of Civil Procedure, a court hearing must be held within 24 hours of the minors being placed in foster care by social services. Before issuing a decision, the court is required to hear both the social worker and the child's parents. In this instance, however, the placement of the minors was effected in flagrant violation of the statutory procedure: the

mother was excluded from participation in the court hearing, and the social worker was not heard.

By approving the placement, the court acted without evidence and deprived the children's mother of the right to be heard and to participate in the hearing, including the possibility of remote participation.

No Legal Basis for Handcuffing the Mother and Forcing Her to Wear a Green Prison Jumpsuit at Oskar's Funeral

Magdalena W. was serving a substitute custodial sentence for a non-violent offence. She had no prior convictions, and posed no danger to others. She had never displayed aggressive behavior. An internal audit conducted at the prison confirmed irregularities in the manner of conveyanceing Magdalena W., in particular through the application of coercive measures that were manifestly disproportionate to the circumstances.

No Grounds for Lena to Remain in Foster Care Following Her Mother's Release from Prison

Despite the gross violation of the law surrounding the emergency placement of the siblings in foster care, Lena continues to remain with a foster family. It must be categorically emphasized that neither Article 58 of the Act on Family Support and Foster Care nor Article 12a of the Act on Counteracting Domestic Violence, intended for cases of domestic violence, provided a legal basis for the children's removal. No allegation of neglect or abuse was ever made against Magdalena W. The minors were therefore placed in foster care without legal foundation, and Lena should have been immediately returned to her mother upon her release.

In the circumstances described, the emergency placement of the children in foster care was legally and factually unjustified. In the absence of an adult guardian able to assume responsibility for the minors during their mother's detention, the police officers should have refrained from transferring Magdalena W. to prison and should instead have notified the competent family court of the necessity to provide immediate protection for the children.

The employees of the Warsaw Family Assistance Center who were summoned to the scene were under an obligation to notify without delay the duty judge of the family division and to ascertain whether a hearing could be convened in order to hear the mother and the children's great-grandmother. If such a hearing was not feasible, the social services should have abstained from taking any action until the court had scheduled the proceedings.

As a State Party to the Convention for the Protection of Human Rights and Fundamental Freedoms, Poland violated virtually all of the fundamental rights and freedoms it is required to guarantee under both national and European Union law.

This case, in my assessment, is deeply troubling and reveals serious deficiencies in the competence and training of civil servants and state officials. It is difficult to avoid the conclusion that, had the mother of the minors enjoyed a more stable life situation and possessed even a basic level of legal awareness, such grave violations would not have been perpetrated against her and her children.

It should also be noted that these egregious events occurred while the office of Minister of Justice was held by Adam Bodnar, an advocate of civil liberties, former Ombudsman, and professor of law.

If the disclosure of the abuses committed by state officials in this case serves to prevent similar violations against another family, that outcome would represent the sole positive consequence of these events.

Michał Skwarzyński
(Doctor of Law, attorney)

The Right to Bear Arms and the Disarmament of Society and Political Opposition in the Face of War

The Polish authorities, fully aware of the threat of war with Russia, are pursuing an absurd policy of disarming society, discouraging both patriotic attitudes and the lawful possession of weapons. Ryszard Majdzik is a well-known figure of the anti-communist opposition in the People's Republic of Poland, associated with the Workers' Defense Committee, the Student Committee of Solidarity, and the Solidarity movement. He was interned during martial law. He has received state decorations for his opposition activities and often appears in opposition media connected with TV Republika and the wSieci portal.

Because he appeared in front of a patriotic exhibition devoted to his father, the authorities sent the police to him. According to Majdzik, his father was active in the underground after World War II as a "cursed soldier" and a member of the Freedom and Independence (WiN) association. He was persecuted by the communist regime: arrested, tortured, and convicted. Majdzik therefore publicly honors his father's memory as a national hero.

The police searched Majdzik's apartment under a prosecutor's warrant. Majdzik himself reported the search to the media. Items seized included weapons described by him as mementos of his father (including "rusty weapons" and "Mausers"), whose status – functional or symbolic – requires expert evaluation. In reality, these are clearly corroded pieces of metal, unusable as firearms. The police confirmed that Majdzik did not have a gun license and that an expert opinion is required. According to Majdzik, the search was conducted in a manner reminiscent of martial law.

An oppositionist who actively participated in the struggle for independence should be treated as a person with an above-average level of public trust. Their activities – undertaken under real risk of repression, imprisonment, or even loss of health and life – demonstrate a particular commitment to constitutional values such as freedom, sovereignty, and human rights.

Such experience not only builds personal credibility but also supports the presumption of loyalty to the state. An oppositionist who endured repression by an authoritarian regime without bowing to pressure naturally gains moral authority. In a democratic system, this should translate into a greater degree of institutional trust, symbolically and practically.

That trust should include simplified procedures for certain rights, such as possession of weapons, access to classified information, or the assumption of functions requiring special responsibility. In this way, the state would not only honor these individuals' contribution to regaining freedom, but also make rational use of their proven civic attitude as a resource that strengthens security and stability.

Instead, the authorities carried out a demonstrative search clearly intended to intimidate those sympathetic to the opposition.

This case shows how a commemorative weapons permit, which Mr. Majdzik should have had no difficulty obtaining, is ignored. Such a permit allows the possession of weapons as souvenirs, usually linked to historical events, military service, or family tradition. Unlike permits for personal protection, hunting, or sport, it entitles the holder only to possess and store the weapon, not to use it.

Under a commemorative permit, firearms may be either functional or deactivated, though functional ones require specific security measures. The law provides that commemorative weapons may be acquired by donation, inheritance, or other means if they have documented sentimental or historical value.

The rights conferred by this permit are narrow – the holder may not carry the weapon in public in a ready-to-use state or use it for combat, training, or sport. Weapons must be stored securely, and functional ones must be periodically inspected.

Such a permit is issued by the competent provincial police commander once the formal requirements are met, including the application, justification of commemorative value, and documents confirming provenance. General requirements also apply, such as no criminal record for intentional offenses and no health or psychological impediments. In Majdzik's case, the police should have assisted him in obtaining this permit rather than seizing his father's memorabilia.

Despite the threat of war, the Polish state does not systematically facilitate access to weapons. Another example is the inconsistent permit system for public officials. The intelligentsia has been stripped of its basic function of defending society, even though it is precisely this group that is supposed to anticipate threats. Instead, it has been deprived of the means of self-defense. The story of the three hundred Spartans shows that they defended their families and homes not only because they had something to protect, but because they had the means to do so. What, legally, do Poles have to defend themselves with today? Essentially, the law reduces citizens to javelin throwers or swordsmen.

Professions of public trust hold a special position in the rule of law. Judges and prosecutors, in particular, decide on the most fundamental rights of individuals – freedom, property, family, and status. They are not mere officials but pillars of the justice system, expected to maintain the highest levels of ethics, professionalism, and independence.

It would seem natural for the state to place the utmost trust in them. Yet, paradoxically, while they are entrusted with ultimate power, they are treated with less trust regarding access to firearms than many other public officials.

The Polish Weapons and Ammunition Act grants special access to weapons for certain professional groups, including police, border guards, and special services. Judges and prosecutors are excluded, despite the fact that their work exposes them to risk from those against whom they issue decisions.

As a result, judges and prosecutors must go through the full civil procedure to obtain a firearm – demonstrating need, meeting all formal requirements, and passing an exam. Meanwhile, officers of other formations are granted access under simplified or mandatory rules.

Public trust should be a consistent legislative category. If judges and prosecutors are required to meet the highest moral and professional standards, confirmed by strict recruitment and disciplinary procedures, denying them privileged access to firearms is incoherent.

This inconsistency becomes striking when one considers that judges and prosecutors frequently face real threats to themselves and their families. Denying them special access to firearms is a clear gap in the state's security system.

The Internal Security Agency does not conduct security clearance procedures for judges and prosecutors, even when they handle top-secret materials. This absence has already produced crises in which state interests were compromised.

In the matter of firearms, this lack of systemic trust is glaring. The legislator accepts that judges and prosecutors may handle classified information but refuses to recognize them as persons who can be trusted with a service weapon or privileged access to one.

Including judges and prosecutors in the list of those with privileged firearm rights would enhance public safety. Their work requires the highest legal standards, and any violations would be swiftly punished. Such a change would not only increase their personal protection but also strengthen security in situations where they confront dangerous individuals in the line of duty.

The current law on access to firearms for judges and prosecutors contradicts their constitutional role and the level of trust they merit. Entrusting them with decisions over citizens' rights and access to top-secret information, while denying them special firearm rights, is illogical and exposes a serious gap in the state's security system. Reform in this area is necessary both for legal consistency and for protecting the judiciary.

Why does access to firearms in Poland remain a half-measure? No one argues for unrestricted access in supermarkets, but surely there are social groups the state should trust. In case of attack, such groups could serve as local defense forces, and in war, as a genuine guerrilla resistance. But will that resistance be armed with rifles – or with spears?

An amendment to the Weapons and Ammunition Act introducing Article 10(3a) expanded the categories eligible for permits to carry firearms for per-

sonal protection and defense of persons and property. The legislator included officers of certain state formations (Police, Internal Security Agency (ABW), Foreign Intelligence Agency (AW), Military Counterintelligence Service (SKW), Military Intelligence Service (SWW), Central Anti-Corruption Bureau (CBA), State Protection Service (SOP), Border Guard (SG), Marshal's Guard, Customs and Tax Service, Prison Service) and professional soldiers assigned service weapons, as well as individuals who have performed territorial military service for at least two years.

Unlike many other permits, this one allows the carrying of a loaded firearm, even at home. The result was a sharp rise in issued permits, from around 150 per year to several thousand. However, the list of eligible persons is closed, raising questions about the criteria.

From a public safety perspective, amending Article 10(3a) to include all law-abiding public officials, not just those listed, would be reasonable. Such reform would enhance both state defense and personal protection for those performing public duties.

The need for change is underscored by incidents where violent attacks against officials or other professions (such as bailiffs or academic teachers) demonstrated that access to firearms could have altered outcomes and improved protection of life.

Recommendations

1. Amendment to the Weapons and Ammunition Act – introduce a provision granting judges and prosecutors the right to obtain a firearms license through a simplified procedure, equivalent to that applicable to uniformed service officers.
2. Security procedures – implement a security clearance mechanism for judges and prosecutors, particularly those with access to classified documents, with successful clearance resulting in the right to a firearms license.
3. Training and standards – establish a dedicated program in firearms use and self-defense for officers who meet the necessary qualifications, ensuring that their rights are exercised responsibly and in full compliance with the law.
4. Recognition of opposition figures – persons distinguished in the struggle for Poland's independence from the communist regime should benefit from a simplified procedure for obtaining a firearms license.

Andrzej Golec
(prosecutor of the Lustration Bureau of the Institute of National Remembrance, President of the Ad Vocem Independent Prosecutors' Association)

Wojtek the Bear under Scrutiny: Educational Institutions in Poland and Abroad Targeted for Promoting Certain Aspects of Polish World War II History

1. Introduction – Wojtek the Bear as a symbol

The story of Wojtek the Bear – a brown bear adopted in 1942 by soldiers of General Władysław Anders' 2nd Polish Corps – remains one of the most remarkable accounts of World War II. While it may initially appear anecdotal, it carries profound symbolic weight – explaining why it continues to provoke such strong emotions.

Wojtek, formally enlisted as a private and later promoted to corporal, was fully integrated into the daily life of the unit. During the Battle of Monte Cassino, he helped carry boxes of artillery ammunition, as confirmed by eyewitness accounts and photographs. More than a mascot, he became a genuine member of the army, sharing in the hardships of war.

Today, Wojtek's memory is preserved both in Poland and abroad. Monuments have been erected in Edinburgh, London, and Warsaw's General Anders Park. His story has been retold in books, documentaries, and theater productions. He also features in educational games developed by the Institute of National Remembrance and in comics designed for younger audiences. As a result, Wojtek functions not only as a historical figure but also as a **powerful tool of patriotic education**.

Wojtek the Bear as a Metaphor for the Polish Fate

The distinguished British historian Norman Davies has remarked: "Wojtek is not just a story about a bear, it is a metaphor for the fate of Poland." This concise observation captures the essence of his symbolism. Wojtek embodies qualities Poles have long associated with their national identity: loyalty, courage, solidarity, and – crucially – a sense of humor and humanity in the darkest of times.

Veterans of Anders' Army consistently described him as a comrade-in-arms rather than an animal. To them, Wojtek represented a fragment of nor-

mality in an inhuman war. One soldier observed: "Wojtek the bear became the most beautiful testimony that even in war, it is possible to remain human."

The Return of Wojtek the Bear to the Collective Memory

Under the communist regime, Wojtek's story was deliberately marginalized. The state narrative privileged the role of Berling's Army and the alliance with the Red Army, pushing the heroism of Anders' soldiers into obscurity. A bear-soldier, symbolizing an alternative Polish war experience, was incompatible with this imposed narrative.

Only after 1989 did his presence in culture and education revive. Children's books were published, exhibitions organized, and educational projects launched. In 2015, a monumental statue of Wojtek was unveiled in Edinburgh, attended by veterans and Polish government officials. This ceremony symbolized Wojtek's "return" to European memory.

Today, his story forms part of Poland's cultural heritage and contributes to shaping its international image. It demonstrates that Polish wartime narratives are not limited to tragedy and defeat but also reflect resilience, warmth, and humanity.

Wojtek the Bear as a Tool for Patriotic Education

For educators, Wojtek is an ideal figure used to introduce children to the complex history of World War II. The tale of a soldier-bear captures the imagination of the youngest audiences while providing a gateway to discussions about Anders' Army, the long wartime odyssey of Polish soldiers, the Battle of Monte Cassino, and the fate of Poles in exile.

It is therefore unsurprising that Wojtek has been consistently featured in educational initiatives organized by the Institute of National Remembrance, the Pilecki Institute, and Polish schools abroad. His story enables educators to combine historical content with engaging forms of communication: theater, games, comics, and art workshops.

Controversy Surrounding the Symbol

One might expect that such an appealing figure would serve to unite rather than divide. Yet since 2024, reports have surfaced of educational institutions questioning the teaching of Wojtek's story. The most striking case occurred at the Berlin branch of the Pilecki Institute, where a Ministry of Culture audit concluded that the course "Wojtek – the story of a brave bear" was "inconsistent with the law." This decision caused widespread shock and provoked serious concerns about the boundaries of educational freedom.

Thus, Wojtek – a symbol of courage and humanity – has been drawn into political conflict and subjected to bureaucratic pressure. These events mark

the starting point for this analysis, which demonstrates how efforts to restrict teaching about Wojtek form part of a broader pattern of persecution directed against educators and institutions engaged in presenting certain aspects of Polish history.

2. The Story of Wojtek the Bear and His Role in Collective Memory

The Beginnings – from Persia to Palestine

Wojtek joined the Polish soldiers in Persia in 1942, purchased as a cub from an Iranian boy by members of the 22nd Artillery Supply Company. Initially regarded as a curiosity, he soon became part of the military family. Raised by soldiers and fed condensed milk from a bottle, he slept in tents alongside them.

Over time, Wojtek adopted behaviors associated with military life. He drank beer from a canteen, smoked (or rather played with) cigarettes, marched on his hind legs, and even saluted. Accounts emphasize his gentleness and sociable character. As one soldier recalled: "He was a bear with a human soul, a friend, not a mascot."

Monte Cassino – The Apogee of Wojtek's Legend

Wojtek's legend reached its peak at the Battle of Monte Cassino in May 1944. During the fighting, the 22nd Company supplied artillery units by transporting heavy boxes of ammunition. Soldiers observed that Wojtek spontaneously lifted the boxes, sometimes weighing several dozen kilograms, and carried them to the cannons. Wojtek quickly acquired legendary status among the Allied forces. His image was used on company insignia, depicting a bear carrying an artillery shell as its emblem.

The Battle of Monte Cassino – one of the most heroic engagements fought by Polish forces during the Second World War – indelibly linked Wojtek's name with the history of the Polish Army. For many soldiers, he served as a talisman, embodying the belief that even in the most desperate circumstances it was possible to endure and to fight on.

After the War – Edinburgh and the Memory of Emigration

The end of the war brought difficult choices for Anders' Army. Many soldiers were unable to return to a Poland dominated by the communist regime. Wojtek accompanied his unit to Scotland, and in 1947 he was placed in Edinburgh Zoo.

He remained there for 16 years, frequently visited by former comrades who threw him cigarettes and bottles of beer – reminders of their shared wartime past. The British press referred to him as the "soldier bear," a living attraction that recalled the contribution of Polish soldiers to the Allied cause.

Among Polish émigré communities in Britain, Wojtek's memory endured. His story was passed on to children, and veterans viewed him as a symbol of their own fate – proof, in their words, that "Poles never gave up."

Wojtek in Poland – From Oblivion to Rebirth

In communist Poland, Wojtek's story was deliberately suppressed. The authorities consistently marginalized Anders' Army and erased its most unusual "soldier."

Only after 1989 did Wojtek re-emerge in public consciousness. Press articles, historical studies, and children's books restored him to cultural memory. The Institute of National Remembrance (IPN) played a central role in promoting his story through educational initiatives.

In 2013, an educational comic for children entitled *Przygody Misia Wojtka* [The Adventures of Wojtek the Bear] was published in Kraków. In 2015, a monument depicting Wojtek with a soldier was unveiled in Edinburgh. The ceremony was attended by representatives of the Polish and British authorities – symbolic recognition of his international significance. Warsaw later erected its own monument to him in General Anders Park, and his image now appears in textbooks and educational materials.

Wojtek in Culture and Education

Today, Wojtek features prominently in popular culture and historical education. His story appears in children's literature, theatre productions, and even board and computer games. The IPN organizes workshops titled "The Story of Wojtek the Bear," and many primary schools use his tale as an accessible introduction to the history of Anders' Army, the Battle of Monte Cassino, and the broader wartime fate of Poles.

Educators hihglight Wojtek's unique didactic value: children are drawn to his story as an engaging narrative, while simultaneously gaining insight into the complex realities of war and exile.

Wojtek as a Tool of Historical Diplomacy

Wojtek has also become an instrument of historical diplomacy. Through monuments and international promotion of his story, Poland presents itself as a nation with a distinct wartime narrative in which heroism is intertwined with humanity.

For foreign audiences, the story of the soldier-bear is compelling, memorable, and easily transmitted. In this way, Wojtek contributes to Poland's "soft power," reinforcing its cultural presence and shaping its image abroad.

3. The Pilecki Institute in Berlin – Behind the Scenes of the Audit (2024–2025)

The Origins and Tasks of the Institute

The Pilecki Institute was established in 2017 as a state cultural institution tasked with commemorating Polish experiences of the 20th century – particularly World War II and the communist period – and promoting Polish history abroad. One of its statutory aims is historical education directed both at Poles living outside the country and at foreigners interested in Polish history.

The Institute's Berlin branch, created in 2019, quickly became an important center for the local Polish community. It organized exhibitions, lectures, language workshops for children and young people, and projects promoting Polish culture. Among its initiatives was a series of classes entitled "Wojtek – the story of a brave bear," which combined language learning with historical education.

The Wojtek Course – Idea and Implementation

The Wojtek course became one of the Institute's most popular programs. It was designed for children of Polish origin attending German schools who often had limited contact with the Polish language.

According to teachers, the classes used storytelling and art workshops. Children learned history-related vocabulary, drew pictures of Wojtek, role-played scenes, and listened to recollections of Anders' Army veterans. "It was not a language course in the strict sense," one employee explained in an interview with *Rzeczpospolita*. "It combined vocabulary and writing with historical content."

The classes were popular and highly rated by parents and the Polish community. Importantly, the project had been approved by the Institute's Warsaw headquarters and included in official activity reports.

Ministerial Audit and its Conclusions

In 2024, the Ministry of Culture and National Heritage conducted an audit of the Institute's activities. The post-audit report, excerpts of which were published by *Rzeczpospolita*, contained striking conclusions. It stated that the Wojtek course "goes beyond the scope of the Institute's tasks" and is "inconsistent with the Act on the Pilecki Institute." The Ministry also questioned the legitimacy of courses concerning Janusz Korczak, Kazimierz Nowak, and the Polish emblem.

The auditors insisted that the Institute should restrict itself to scientific research and documentation of the fate of Poles in the 20th century, rather than "organizing courses for children about bears." Such claims caused outrage within the educational community.

Prof. Magdalena Gawin, former Deputy Minister of Culture and co-founder of the Institute, declared at a press conference in the Sejm in March 2025: "The Pilecki Institute is being harassed with inspections. Ministry officials have deemed teaching about Anders' Army, including about Wojtek the Bear, to be contrary to the law. This is absurd and leads to the paralysis of educational activities." According to Gawin, the audit was political in character, aimed at imposing a "politically correct" version of history in which patriotic initiatives have no place.

Reactions from Employees and Parents

For teachers and educators, the audit was a major blow. Many feared for their jobs and for the continuation of their programs. "After this report, we all feel that our activities are being censored. Instead of support, we have been accused of doing something illegal," one employee stated anonymously.

Parents also expressed outrage in letters to the Institute. They emphasized that the courses were educationally valuable, fostered a sense of connection with Poland, and strengthened their children's national identity.

Consequences of the Audit – A Chilling Effect

Although the Wojtek course was not formally banned, the audit produced a **chilling effect**. Employees grew reluctant to initiate similar projects, and other institutions abroad monitored the situation with alarm. The Ministry's actions thus amounted to a form of **institutional harassment**: no outright prohibition, but the deliberate creation of an atmosphere of fear and uncertainty to suppress patriotic education.

Legal Analysis – Did the Minister Have Grounds?

Under the 2017 Act on the Pilecki Institute, the Institute's mandate includes "conducting educational and promotional activities in the field of 20th-century Polish history." The Wojtek course – dealing with Anders' Army and the wartime odyssey of Poles – clealry falls within this scope.

The auditors' claim that the course exceeded the Institute's statutory role lacks legal basis. On the contrary, the audit itself appears inconsistent with the principle of legality under Article 7 of the Polish Constitution, which requires administrative bodies to act on the basis of and within the limits of the law.

Furthermore, interference in the content of educational programs may constitute a violation of Article 70 of the Constitution (right to education and autonomy of educational institutions) as well as Article 10 of the European Convention on Human Rights (freedom of expression).

International Resonance

The case also drew international attention. German media described it as "political censorship of historical memory" and stressed that Wojtek was not only a Polish hero, but also recognized in Britain and Italy due to his role in the Italian campaign.

The *Berliner Zeitung* observed: "If Poland is removing its own symbols from memory, what image of history does it want to convey to the world?"

4. The IPN and Schools – Patriotic Education Under Pressure

The Educational Activities of the IPN

From its inception, the Institute of National Remembrance (IPN) has placed strong emphasis on historical education. One of its core priorities has been to popularize the history of World War II in forms accessible to children and young people. The figure of Wojtek the Bear fit this mission perfectly – memorable, likeable, and firmly rooted in historical fact.

The IPN developed numerous projects around Wojtek: theater performances, art workshops, field games, and children's publications. In 2024, for example, the play *The Story of Wojtek the Bear* was staged at Public Kindergarten No. 21 in Opole, while open lessons for second-grade students were held at Primary School No. 4 in Łęczna.

These initiatives were enthusiastically received. Children responded with genuine interest, and parents emphasized that they allowed the youngest generation to encounter "the joyful and at the same time moving face of Polish history."

Reactions of Parents and Teachers

Parents repeatedly noted that Wojtek made the subject of war less frightening for children. "When they hear about battles or bombings, they are terrified. When they hear that a bear carried boxes of ammunition, suddenly the story becomes closer and more understandable," said one mother from Łęczna.

For teachers, Wojtek offered an accessible way to introduce students to World War II without overwhelming them with tragic imagery. Lessons built around him were engaging, memorable, and effective pedagogical tools.

Growing Criticism

Despite this positive reception, certain political and media circles began criticizing such initiatives. Accusations of "militarizing childhood" or "promoting violence" through the bear-soldier narrative appeared in the press. Some commentators suggested these lessons risked presenting an "overly

attractive" image of war. One columnist wrote with irony: "A bear carrying shells is supposed to be a hero for preschoolers? Where is the reflection on the horror of war?"

Administrative Pressure

Although no formal ban was issued, the climate of criticism and media scrutiny began to intimidate teachers. One high school principal admitted anonymously: "Every patriotic initiative must take into account the possibility of an audit or accusations of politicization. Many teachers are abandoning such projects to avoid bringing trouble on themselves."

Regional education authorities in several provinces also began questioning whether such programs complied with the national curriculum. While framed as routine oversight, in practice this served as a warning: "be careful not to overdo patriotism."

Chilling Effect in Schools

The result was a textbook **chilling effect**. Even without direct repression, teachers began to avoid topics they feared might prove controversial. Instead of lessons on Wojtek, they opted for neutral art projects or general nature classes.

For many students, this meant the loss of a unique opportunity to engage with Polish history in a vivid and meaningful way. By withdrawing such lessons, schools reduced the scope of patriotic education and weakened the diversity of historical narratives available to young people.

Thus, while Wojtek was intended to serve as a bridge between past and present, he became instead a casualty of political disputes and mounting distrust toward patriotic education.

5. Media and Political Narrative

Pro-Government Media – "Whim" and "Mismanagement"

Pro-government media played a decisive role in shaping the dispute over historical education surrounding Wojtek the Bear. They were the first to amplify the results of the audit at the Pilecki Institute in Berlin, framing the Wojtek courses as "inconsistent with the law," "detached from the Institute's mission," and demonstrating its "inefficiency." One newspaper wrote: "Instead of researching archives, the Pilecki Institute is preoccupied with stories about a bear. This is a frivolous approach to history and a waste of public funds."

Such rhetoric was intended to discredit educational initiatives, presenting them as trivial, childish, and unworthy of a serious research institution. In this context, the very word "bear" became shorthand for the alleged infantilization of history.

Independent Media – "Gagging Memory" and "Scandalous Censorship"

Independent outlets presented a starkly different narrative, warning of political censorship. *wPolityce.pl* ran an article titled: *Korczak i Miś Wojtek na cenzurowanym! Gawin ujawnia* [Korczak and Wojtek the Bear censored! Gawin reveals]. TV Republika reported: *Knebel na pamięć: Jak rząd usuwa Korczaka i Misia Wojtka!* [A gag on memory: How the government is removing Korczak and Wojtek the Bear!]. These headlines were designed to provoke outrage and underline the risk to fundamental values: educational freedom, pluralism of historical narrative, and the right to national memory.

Even the daily *Fakt* published an article entitled: *Afera o słynnego Misia Wojtka. Dzieci się nie dowiedzą?* [The scandal surrounding the famous Wojtek the Bear. Will children not learn about him?"] Although sensationalist in tone, the piece nevertheless highlighted the real risk of restricting patriotic education.

The Role of Language in the Dispute

A linguistic analysis shows some striking differences:

- pro-government media relied on bureaucratic and legalistic vocabulary: "non-compliance with the law," "mismanagement," "lack of legal basis,"
- independent media adopted highly emotive language: "gag," "censorship," "scandal," "affair."

This contrast transformed the Wojtek controversy from an educational question into a battlefield of competing narratives, with each side mobilizing its audience through language.

Statements by Politicians

At the political level, the conflict escalated. Former Deputy Minister of Culture Prof. Magdalena Gawin stated at a press conference: "This is an attempt to limit patriotic educational initiatives in favor of a politically correct narrative. Removing Wojtek from the curriculum is a symbolic attack on Polish historical memory."

By contrast, representatives of the Ministry downplayed the matter, describing the audit as a "routine inspection" and insisting that "no educational projects had been banned." Nevertheless, the report's explicit questioning of the legitimacy of Wojtek courses spoke for itself.

The Effect of the Media Smear Campaign

Through constant repetition of the "mismanagement" narrative, pro-government media fostered an atmosphere in which teachers and cultural workers

feared accusations of "wastefulness" and "illegal activities." This translated directly into self-censorship and avoidance of patriotic initiatives.

Independent media, meanwhile, by emphasizing "gagging memory," reinforced the perception that the dispute represented a direct assault on educational and historical freedoms.

Thus, the controversy surrounding Wojtek the Bear was never merely about one educational program. It became part of a larger political struggle over the control of historical memory in Poland. Wojtek – a symbol of friendship, courage, and the human dimension of war – was instrumentalized as a propaganda tool.

In consequence, a debate ostensibly about a likeable bear turned into a dispute over core democratic values: freedom of expression, pluralism in education, and the right to cultivate national memory.

6. The Right to Education and Educational Freedom – The Constitution of the Republic of Poland and the European Convention on Human Rights

The Right to Education in the Constitution of the Republic of Poland

Article 70(1) of the Polish Constitution provides: "Everyone has the right to education. Education is compulsory until the age of 18. Education in public schools is free of charge." Although phrased in general terms, this provision is fundamental: it imposes on the state not only the duty to guarantee formal access to education, but also to secure conditions conducive to pluralistic educational content.

Article 70(3) adds that "Parents shall have the freedom to choose schools other than public schools for their children." This safeguard is particularly significant in the realm of history teaching and the transmission of values. Article 70(5) further obliges public authorities to ensure "universal and equal access to education" for citizens.

Applied to the case of Wojtek the Bear, any attempt to restrict educational initiatives relating to Polish history risks violating the constitutional guarantee of a full and plural education.

Educational Autonomy and Pluralism

Article 25 of the Constitution enshrines the principle of the state's ideological neutrality. In practice, this means that public authorities may not privilege one historical narrative over another. Their role is to safeguard pluralism: an educational model in which different interpretations of history may coexist, provided they are based on facts and reliable sources.

Polish constitutional doctrine has long recognized that pluralism in education is a pillar of democracy. Efforts to eliminate patriotic content – such

as teaching about Anders' Army or Wojtek the Bear – stand in direct contradiction to this principle.

The Right to Education in the European Convention on Human Rights

International standards reinforce these obligations. Article 2 of Protocol No. 1 to the European Convention on Human Rights (ECHR) states: "No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."

The European Court of Human Rights has consistently interpreted this provision to mean that the state cannot impose a single ideological vision of education. It must respect pluralism, safeguard teaching freedom, and uphold the rights of parents to determine the content shaping their child's worldview.

Freedom of Expression for Teachers

Article 10 of the ECHR, guaranteeing freedom of expression, applies equally to teachers. The ECtHR has underscored that this freedom extends to the professional sphere: teachers are entitled to share views and interpretations grounded in reliable scholarship.

In *Vogt v. Germany*, the Court held that the dismissal of a teacher for her political activities violated Article 10, even though she was employed in a state school. The judgment confirms that teachers enjoy broad expressive rights and that state interference in this sphere must be narrowly justified.

Labor Law and the Protection of Teachers

Polish labor law provides additional guarantees. Article 94^3 of the Labor Code defines mobbing as actions or behaviors directed against an employee that consist of persistent and long-term harassment or intimidation, leading the employee to question their professional competence. In the Pilecki Institute case, audits, inspections, and allegations of "mismanagement" bear strong resemblance to institutional mobbing.

Moreover, Article 18^3a of the Labor Code prohibits discrimination in employment on grounds including beliefs and convictions. A teacher or educational employee may not lawfully be penalized for incorporating patriotic content or Polish historical themes into their professional work.

Conclusions for Wojtek's Case

Taken together, the Polish Constitution, the ECHR, and Polish labor law establish a robust framework protecting educational freedom, pluralism, and the

rights of both teachers and parents. Restricting patriotic initiatives through audits, allegations of "non-compliance with the law," or bureaucratic pressure that chills legitimate activity represents a violation of these guarantees.

The Wojtek case demonstrates not only a failure of common sense, but also a breach of constitutional commitments and international principles protecting the freedom of education.

7. Case Law of the European Court of Human Rights and Polish Courts

7.1. European Court of Human Rights (ECtHR)

Vogt v. Germany (1995)
One of the most significant ECtHR judgments on teachers' freedom of expression is *Vogt v. Germany* (application no. 17851/91). A German teacher was dismissed from public service for her membership in the Communist Party of Germany, on the ground that her political involvement violated her duty of loyalty to the state.

The Court held that her dismissal violated Article 10 of the ECHR (freedom of expression). It stressed that teachers, entrusted with the mission of educating future generations, do not forfeit their fundamental rights. While the state may demand neutrality in the performance of professional duties, it may not punish activities outside of school unless they endanger state security.

Applied to the Wojtek case, this precedent makes clear that teachers and educators cannot be sanctioned for promoting patriotic historical content merely because it diverges from the political narrative of the government.

Kjeldsen, Busk Madsen and Pedersen v. Denmark (1976)
In this case, parents challenged compulsory sex education, arguing that it violated their right to raise children according to their convictions. The Court upheld the state's authority to shape curricula but emphasized that such authority must be exercised in a pluralistic and ideologically neutral manner.

For the Wojtek controversy, this judgment underscores that the state may not eliminate patriotic or historical content – such as Anders' Army or Wojtek – without breaching the principle of pluralism and neutrality in education.

Folgerø and Others v. Norway (2007)
Here, Norwegian parents objected to compulsory Christian religious instruction, claiming it disregarded their convictions. The Court found a violation of Article 2 of Protocol No. 1 ECHR (right to education).

This judgment establishes that the state cannot impose a single worldview or narrative that marginalizes others. In the Polish context, attempts to suppress Wojtek from curricula undermine parents' and children's rights to an education informed by patriotic values.

7.2. Case Law of Polish Courts

Constitutional Tribunal (2003, K 11/03)
In its ruling of 27 May 2003, the Constitutional Tribunal addressed the right of parents to raise children in line with their convictions. The Tribunal concluded that the state cannot impose educational programs in ways that limit pluralism or parental autonomy.

This reasoning directly applies to interference with the Pilecki Institute or IPN programs. If parents wish their children to participate in courses on Wojtek, the state lacks authority to obstruct such initiatives.

Supreme Administrative Court (2006, I OSK 1237/06)
In its judgment of 7 December 2006, the Supreme Administrative Court considered the scope of administrative oversight in education. It held that while public administration may supervise compliance with the law, it has no competence to dictate substantive educational content.

This ruling is particularly relevant to the ministerial audit of the Pilecki Institute, which, by questioning the Wojtek courses, went beyond legality review and effectively imposed a preferred historical narrative.

7.3. Conclusions from Case Law

A review of the ECtHR and Polish jurisprudence leads to several clear conclusions:

I. Teachers retain freedom of expression and may not be punished for promoting historical content (Vogt).
II. The state must preserve educational pluralism; factual and parent-supported content cannot be excluded (Kjeldsen, Folgerø).
III. Polish courts confirm that administrative control is limited to legality, not substantive content (NSA 2006).
IV. Parents have a constitutional right to shape their children's upbringing, including patriotic education (TK 2003).

Against this jurisprudential background, the Ministry's actions toward the Pilecki Institute in Berlin and the pressure placed on IPN and schools appear contrary to both domestic constitutional guarantees and international human rights law.

8. Chilling Effect – The Sociology of Censorship in Education

Definition of the Phenomenon

The "chilling effect" is a concept well established in both legal studies and sociology. It describes a situation in which individuals refrain from lawful conduct out of fear of potential negative consequences. This effect is particularly

pronounced in environments where legal provisions are vague, enforcement is selective, and sanctions – though infrequent – carry a strong deterrent effect.

In education, the chilling effect arises when teachers avoid addressing certain subjects – such as recent history, patriotism, lustration, or the figure of Wojtek the Bear – for fear of criticism, audits, or accusations of politicization.

Wojtek as an Example of Self-Censorship

The case of Wojtek demonstrates that the chilling effect in Polish education is not theoretical but real. The audit at the Pilecki Institute in Berlin, combined with hostile media coverage, led many teachers to steer clear of patriotic themes in order to avoid risk.

As one school principal admitted anonymously: "Every patriotic initiative must take into account the possibility of an audit or accusations of politicization. It's better not to risk it."

This illustrates that the restriction is not statutory but atmospheric: self-censorship induced by fear rather than direct prohibition.

Mechanisms of the Chilling Effect

Sociological analysis identifies several mechanisms that generate a chilling effect:

1. **Unclear regulations** – educators are uncertain whether their initiatives meet official expectations.
2. **Threat of control** – audits and inspection reports, even without sanctions, instill a sense of vulnerability.
3. **Media stigmatization** – teachers publicly criticized in the press risk reputational damage.
4. **Peer pressure** – colleagues, observing negative consequences, avoid similar actions themselves.

Each of these mechanisms was evident in the Wojtek case.

International Comparisons

The chilling effect in education is not unique to Poland. In the German Democratic Republic, history teachers systematically avoided criticism of the communist regime out of fear of Stasi surveillance. In Turkey, following the failed coup of 2016, many educators avoided topics related to politics or recent history to avoid being accused of "subversive activity."

A 2012 OSCE report observed: "Teachers avoid controversial topics when the authorities send a signal that they will be sanctioned. This impoverishes education and leads to the marginalization of part of history."

In Poland, questioning lessons about Wojtek sent precisely such a signal.

The Impact on Education

The chilling effect has long-term and corrosive consequences:

- it produces *programmatic impoverishment*, as teachers limit themselves to "safe" topics;
- it weakens the development of national identity in younger generations;
- it undermines the professional authority of teachers, reducing them from educators to passive executors of political directives;
- it erodes pluralism by ensuring that only narratives aligned with the ruling authorities remain in circulation.

The Wojtek case illustrates how the chilling effect can be more effective than overt censorship. A handful of audits, media attacks, and official reports sufficed to push teachers into retreat. It is a silent but highly effective form of educational censorship – difficult to detect, yet deeply damaging to democratic pluralism.

9. Conclusions and Recommendations

Summary of the Analysis

The case of Wojtek the Bear demonstrates how easily a seemingly neutral and sympathetic subject – the story of a bear adopted by soldiers of Anders' Army – can become politicized and subjected to administrative control. From the perspective of law and the sociology of education, this case reveals growing pressure on teachers and institutions that promote patriotic content.

The audit at the Pilecki Institute in Berlin, criticism of the Institute of National Remembrance's school programs, and media attacks on patriotic initiatives have collectively created an atmosphere of uncertainty and self-censorship. The resulting chilling effect has discouraged many educators from addressing patriotic themes, even when such topics are historically accurate and supported by parents.

These practices violate not only common sense but also fundamental rights: Article 70 of the Polish Constitution (right to education), Article 25 of the Polish Constitution (ideological impartiality of the state), Article 10 of the ECHR (freedom of expression), and Article 2 of Protocol No. 1 to the ECHR (right to education).

Proposals *de Lege Ferenda*

To prevent similar situations in the future, several legal and institutional reforms are required:

1. Strengthening educational pluralism – amend the Act on the Education System to guarantee that patriotic and historical content cannot be eliminated for political reasons.

2. Prohibition of institutional mobbing – extend the Labor Code to define and prohibit administrative pressure on teachers and educational institutions.
3. Statutory guarantees of teachers' freedom – expressly affirm that teachers may present diverse historical narratives in their professional activities, provided they are based on sound scholarship.
4. Appeal mechanisms – create a procedure allowing teachers or institutions to challenge administrative decisions restricting educational programs.
5. Support for Polish community initiatives abroad – provide financial and legal support for schools and cultural institutions that promote Polish history outside Poland.
6. Independent monitoring – establish a body such as a Teacher Ombudsman to record and address violations of educational freedom.
7. Legal education for teachers – develop training in constitutional and human rights protections so educators can defend themselves against undue pressure.

Appeal for the Protection of Historical Memory

The story of Wojtek the Bear is not a mere curiosity. It is part of Polish national identity and the legacy of World War II. Efforts to marginalize it in education amount to an attack on historical memory and deny future generations the right to learn the full, rather than a curated, version of Poland's past.

As a nation that has lived under totalitarianism, Poland should be particularly sensitive to all forms of censorship and administrative interference in education. Protecting the freedom of teachers and educational institutions is not only a constitutional requirement but also a moral obligation to future generations.

Decisive action is therefore necessary, both at the level of national law and through international remedies, including potential applications to the European Court of Human Rights.

Wojtek the Bear – a symbol of courage, loyalty, and, paradoxically, humanity – should be taught without fear or restriction. His story proves that even in times of war, it is possible to remain human. Restricting his teaching would be more than an error of policy; it would symbolize a return to the practices of censorship from which Poland should definitively break.

Konrad Wytrykowski
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The Legalization of the Killing of Unborn Children

1. The Right to Life

The foundations of our civilization rest on a synthesis of the heritage of ancient Greece and Rome, together with Christian values. Greece contributed philosophy and the pursuit of beauty, Rome gave us respect for the law, while Christianity introduced the concept of human dignity. Today, the principle of human dignity remains the fundamental legal norm. The Preamble to the Constitution of the Republic of Poland calls upon "all those who will apply this Constitution for the good of the Third Republic to do so paying respect to the inherent dignity of the person." Article 30 of the Constitution provides: "The inherent and inalienable dignity of the person shall constitute a source of freedoms and rights of persons and citizens. It shall be inviolable. The respect and protection thereof shall be the obligation of public authorities." This principle is reinforced by Article 38: "The Republic of Poland shall ensure the legal protection of the life of every human being."

Human life, at every stage of development, is the highest value and requires both legal and factual protection. Human life as such – and thus the human right to life – is constitutionally guaranteed. It follows logically, without the need for legal training, that the right to life forms the basis and precondition for the enjoyment of all other rights. Only a living person can exercise dignity, freedom, equality before the law, and the full range of personal, political, and social rights derived from the inherent and inalienable dignity of the human being (D. Dudek, "Konstytucja i kompromis aborcyjny," *Consilium Iuridicum* No. 1–2 (13–14)/2025, p. 47, www.krs.pl/pl/kwartalnik-consilium-iuridicum/opublikowane-numery/2025/2809-consilium-iuridicum-nr-1-2-13-14-2025.html).

Since every human life is priceless, this principle necessarily extends to unborn life, the so-called *nasciturus*. The classical maxim is clear: *nasciturus pro iam nato habetur, quotiens de commodis eius agitur* – the unborn is considered as born whenever his or her benefit is at stake (op. cit., p. 48 and literature cited therein).

The jurisprudence of the Polish Constitutional Tribunal affirms that constitutionally protected human life cannot be differentiated according to its developmental stage. In its announcement of 18 December 1997 (Journal of

Laws No. 157, item 1040), the Tribunal stated that human life in the prenatal phase enjoys equal constitutional protection. In its judgment of 28 May 1997 (K 26/96, OTK 1997, No. 2, item 19), the Tribunal held that from the moment of conception human life constitutes a constitutionally protected value.

This position is further reinforced by international law. The Convention on the Rights of the Child, ratified by Poland on 30 September 1991, declares in its preamble (para. 10) that "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth." The inclusion of this language requires the conclusion that the Convention's guarantees extend to the prenatal stage (ibid.).

The inherent and inalienable dignity of every human being, and its uniformity, prohibit any differentiation in the value of human life. It is inadmissible to argue that one individual is of lesser value than another because of certain characteristics. This principle applies equally to prenatal and postnatal life. Birth does not alter the essential characteristic of being human (Constitutional Tribunal judgment of 22 October 2020, K 1/20, OTK-A 2021, No. 1).

European legal tradition likewise recognizes the right to life as foundational and has long extended its protection – through various legal doctrines – to unborn children. Across Europe, the prohibition of abortion is treated as the rule, with legal exceptions narrowly constructed in most systems. As noted in the dissenting opinion of judge Lech Garlicki in the Constitutional Tribunal's ruling of 28 May 1997 (K 26/96, OTK 1997, No. 2, item 19), the framework of exceptions only underscores the normative primacy of the prohibition.

2. Attempts to Legalize Abortion

Since the 2023 parliamentary elections and the formation of the government of the so-called December 13 Coalition, repeated attempts have been made to undermine Christianity and universal human values, including the dignity of the human person and the protection of prenatal life.

Already during the first session of the Sejm, a draft bill on the "safe termination of pregnancy" was submitted. It proposed an actual "right to abortion," declaring in Article 1(1): "Every person has the right to self-determination regarding their fertility, reproduction, and parenthood." The bill reframed abortion not as an exceptional derogation from the rule of its inadmissibility, but rather as a general entitlement. It provided for abortion "on demand," with only one temporal condition: up to the end of the 12th week of pregnancy (see D. Dudek, cit., p. 54).

This bill did not obtain parliamentary approval, but further initiatives have sought both to legalize abortion on demand and to abolish the conscience clause protecting medical personnel.

When on 12 July 2024 the Sejm rejected yet another bill providing for abortion on demand (which lacked even the full support of the ruling coali-

tion), the government attempted to expand abortion access without amending the law. On 30 August 2024, Health Minister Izabela Leszczyna issued "Guidelines on the applicable legal provisions concerning access to the procedure of termination of pregnancy" (www.gov.pl/web/zdrowie/wytyczne-dla-lekarzy-i-podmiotow-leczniczych-ws-dostepu-do-procedury-przerwania-ciazy). These guidelines sought to open broad access to abortion without statutory change. According to the document, the decision to terminate a pregnancy need not rest on serious medical grounds, but may be justified solely by the woman's will. Any pregnant woman reporting discomfort, including "mental discomfort," was deemed entitled to request abortion, potentially on the basis of a psychiatrist's certificate. The guidelines further imposed an obligation on gynecologists to perform abortions when so recommended.

Such provisions are in clear conflict with existing law, which – consistent with the constitutional principles of dignity and the protection of life – permits abortion only in cases of serious threat to a woman's health, not for minor ailments such as sadness, fatigue, or insomnia (see: *Rok dewastacji państwa prawa*, ed. Ł. Bernaciński, Warsaw 2024, p. 68, www.ordoiuris.pl/wolnosci-obywatelskie/rok-dewastacji-panstwa-prawa-raport-ordo-iuris).

3. The Effects of Government Policy

The effects of this policy soon became visible. In March 2025, in the town of Oleśnica, a pregnancy was terminated at the 36th week of gestation. Although the child was fully viable outside the womb, it was killed by an injection of potassium chloride directly into the heart, causing asystole, after which the stillborn child was delivered.

Before that, the mother had been informed of the child's dignosis with osteogenesis imperfecta (congenital bone fragility) – a serious but highly variable condition, ranging from mild forms compatible with normal life to lethal variants. Another hospital had earlier refused to terminate the pregnancy, offering instead delivery by caesarean section.

According to National Health Fund (NFZ) data, 896 abortions were performed in Polish hospitals in 2024, compared to 425 in 2023 (www.rmf24.pl/fakty/polska/news-tyle-aborcji-przeprowadzono-w-szpitalach-w-2024-r-sa-dane-nf,nId,7918995). In Oleśnica alone, 85 abortions were performed between January and June 2024, compared to 53 in the entire year 2023. These abortions were carried out under the formal justification of threats to maternal "mental health." Notably, in the first half of 2024, abortions in Oleśnica included three children in the eighth month of prenatal development – children who were entirely viable. Furthermore, ten children aborted during this period were completely healthy, with no suspected pathologies.

According to Mariusz Dzierżawski of the Pro-Life Foundation, "all these children were aborted in Oleśnica because of their mothers' alleged 'adjustment disorders.' These could mean almost anything, including, for example,

a woman feeling stress about raising a child or changing her lifestyle. Since the term is undefined, this amounts in practice to abortion on demand" (www.opoka.org.pl/News/Polska/2024/zabite-dziecko-mialo-8-miesiecy-szpital-w-olesnicy-opublikowal).

In response to the events at the hospital in Oleśnica, the Polish Society of Gynecologists and Obstetricians addressed a request to the Minister of Health, Izabela Leszczyna, seeking clarification of the interpretation of the regulations governing the termination of pregnancy. The Society emphasized that, where a pregnancy poses a threat to the life or health of a woman, termination of even a very advanced pregnancy is permissible. However, such termination must not involve the deliberate killing of the fetus, as such conduct may constitute a criminal offence.

The Society highlighted the need to clarify the correct interpretation of "termination of pregnancy" within the meaning of the Family Planning Act. While termination may be legally permissible at advanced stages, it must not involve active measures to end the life of a viable child. Legal experts, such as Dr. Radosław Tymiński, noted that intentionally killing a fetus capable of survival may constitute homicide: "If the fetus is not capable of survival, termination of pregnancy inevitably results in fetal death. However, if the fetus is capable of life, termination of pregnancy requires simultaneous efforts to save the child" (www.medonet.pl/zdrowie/wiadomosci,aborcja-w-dziewiatym-miesiacu-w-olesnicy – lekarka--byly-przeslanki-medyczne,artykul,13114695.html).

4. Summary

As St. John Paul II wrote in his apostolic exhortation *Familiaris Consortio*, "Concern for the child [...] is the primary and fundamental test of the relationship of one human being to another." The right to life is not merely a matter of worldview or religious doctrine, but a universal human right. "A nation that kills its own children is a nation without a future!" – the Polish Pope warned in Kalisz in 1997 (www.opoka.org.pl/News/Polska/2020/sw-jan-pawel-ii-krzyczal-o-obrone-zycia-nienarodzonych).

The current attempts to legalize abortion and to introduce a so-called "right to abortion" – understood technically as a form of health care fully approved and guaranteed by the state – represent not only a breach of existing law, which allows termination of pregnancy solely as an exceptional measure justified by extraordinary circumstances. Such actions also generate profound cultural and moral consequences: they alter the way life itself is perceived, as well as the nature of human relationships. If the state, in disregard of the fundamental principles of its Constitution, ceases to punish anti-life practices and instead recognizes them as lawful and encourages them, this reflects a deep moral crisis. Acts that were once universally condemned as both criminal and morally unacceptable are gradually accord-

ed legal recognition and social legitimacy (*Evangelium vitae*, John Paul II, March 25, 1995).

The Polish government's policy of liberalizing abortion law therefore entails not only tragedy for unborn children and their families, but also the dismantling of the moral order that has underpinned Polish constitutional doctrine. The right to decide to become a parent cannot be equated with a "right to not give birth to a child," understood as a supposed entitlement to destroy a conceived child who is already developing in the prenatal phase and who, in this sense, already belongs to the parents' responsibility (Constitutional Tribunal judgment of May 28, 1997, K 26/96, OTK 1997, No. 2, item 19).

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The Evacuation of Polish Citizens from Areas Affected by the Israeli–Iranian Conflict as a Case Study in the Delayed Implementation of Article 36 of the Constitution of the Republic of Poland

Public international law does not recognize a general obligation of states to provide diplomatic or consular protection to their citizens abroad. Such protection may be offered, but it is not mandatory. In practice, most states either do not provide protection to their citizens abroad or limit such measures to narrowly defined circumstances. However, once a state undertakes to provide such protection, the state on whose territory its citizens are has a duty not to obstruct such efforts. Many developed countries – including EU member states – have introduced internal mechanisms, at the constitutional or statutory level, requiring their diplomatic and consular services to act on behalf of citizens who encounter emergencies abroad.

In Poland, this right is guaranteed at the constitutional level. Article 36 of the Constitution of the Republic of Poland provides: "A Polish citizen shall, during a stay abroad, have the right to protection by the Polish State." Importantly, the term "protection" in this provision cannot be reduced to diplomatic protection in the strict sense of international law (i.e. state action, usually through diplomatic or consular channels, against another state for breaches of law affecting teh former state's citizens). Rather, the constitutional concept is broader: it encompasses both protective measures and assistance, including situations where a citizen is in need without any unlawful act being committed by the foreign state.

Accordingly, the Polish state is under a constitutional obligation to act under Article 36 whenever a citizen abroad is in a state of emergency. While the ability to act may sometimes be limited – for example, when a citizen is located in the territory of a non-recognized state, in a state with which Poland lacks diplomatic or consular relations, or where intervention would pose disproportionate risks to consular staff (see Article 35(2)(1) of the Consular Law Act of 25 June 2015) – each emergency nevertheless triggers the duty to conduct a thorough assessment and, where feasible, to provide protection.

Mass evacuation in crisis situations is a clear manifestation of the obligation flowing from Article 36. Such operations are an inherent responsibility of the Polish State, financed by the State Treasury, with no costs borne by evacuated citizens. EU law provides additional mechanisms for coordination of such evacuations (see Article 20(2)(c) and Article 23 TFEU, as well as Council Directive (EU) 2015/637 of 20 April 2015 on measures to facilitate consular protection for unrepresented EU citizens in third countries). Interest in this form of activity at the international level remains high. In practice, evacuations are coordinated not only within the EU but among all civilized states whose citizens are affected. Since the early 21st century, mass evacuations have been carried out in response both to natural disasters (e.g. earthquakes, tsunamis) and, more frequently, to armed conflicts and political instability.

Over the past two decades, Poland has repeatedly undertaken such operations when large numbers of its citizens were involved. For example, in 2008 Poland assumed a leading role in the evacuation of nationals of all civilized states from Georgia: in addition to Polish citizens and citizens of European Union Member States, the operation also encompassed third-country nationals who held permanent residence in EU states or who benefited from visa-free entry into the EU. More recently, in 2023, a large-scale and immediate evacuation from Israel, involving more than 1,000 persons, was successfully executed within twenty-four hours of the emergence of the threat. In each of these cases, the actions of the Polish consular services have been exemplary and highly professional. Evacuations were carried out in a coordinated and timely fashion, ensuring the highest possible level of safety for Polish citizens and other evacuees, whether pursuant to European Union law or on the basis of informal international agreements.

In 2025, however, for the first time, a mass evacuation operation raised serious concerns about the delayed and inadequate implementation of Article 36. Compared with other countries' operations, the Polish evacuation for the first time appeared disorganized and belated. Moreover, representatives of the ruling coalition disseminated misinformation in the media, including false statements and unlawful demands.

On 13 June 2025, Israel launched missile strikes on Iran's nuclear and missile installations. Iran retaliated with a large-scale ballistic missile attack on Israeli cities. At the time, a significant number of Polish citizens were in Israel – mainly pilgrims and tourists, but also permanent residents. This situation clearly required immediate protective measures from the Polish diplomatic mission in Tel Aviv. Yet the Ministry of Foreign Affairs did not order a mass evacuation until 16 June, and the first phase of evacuation did not begin until 18 June.

Remarkably, evacuation measures were initiated earlier – already on 15 June – by the Honorary Consulate of the Republic of Poland in Bethlehem. The Honorary Consul, Mr. Salah Omar Atallah, a local entrepreneur and board member of Grafitti Travel with access to his own bus fleet, began organiz-

ing the transport of Polish citizens from Israel on a commercial basis. In the absence of state action, he used his private resources to provide evacuation services. Meanwhile, the Ministry of Foreign Affairs, instead of immediately organizing a mass evacuation under Article 36 of the Constitution, publicly applauded this initiative and even promoted it. On Polsat News, MFA Spokesman Paweł Wroński stated:

> The Honorary Consul in Bethlehem proposed to organize, on a commercial basis, the transport of people who want to leave Israel. We were informed about this initiative. We respect such initiatives. Our office informs Polish citizens staying in Israel about possible routes and which roads are passable. I would like to clarify that this is not being organized by the Ministry of Foreign Affairs. There have already been reports that the Ministry of Foreign Affairs is demanding payment. No, this information is inaccurate.

Media reports, however, indicated that the Honorary Consul relied on access to the personal data of Polish citizens from the MFA's Odyseusz registration system to promote his commercial offer. The Ministry neither denied these allegations nor condemned the apparent use of official data for private financial gain (see *Ewakuacja Polaków z Izraela. Chaos informacyjny, co na to rząd?* [Evacuation of Poles from Israel. Information chaos, what does the government say?], Kanał Zero, https://www.youtube.com/watch?v=M5EfFTMt0NQ, min. 9:30).

Prior to the Polish government's decision to initiate an evacuation – delayed by Minister Sikorski, who stated that he was uncertain as to the prospective scale of the bombing of Israel and the number of persons who might ultimately require evacuation – Polish Embassy staff families in Tel Aviv were evacuated on June 14, 2025. Notably, this evacuation was carried out from an airport in Jordan within the framework of a Slovak-led mass evacuation operation (*sic!*) (see Edyta Hołdyńska, *Ewakuacja Polaków z Izraela, czyli kompromitacja rządu Tuska* [Evacuation of Poles from Israel, or the disgrace of the Tusk government], #DzisiajSprawdzam, https://www.youtube.com/watch?v=G7NX-M6vieoQ, min. 2:40).

The protracted absence of concrete protective measures was presented in the media by politicians from the ruling coalition with little apparent embarrassment. False information was even disseminated, suggesting that citizens could seek protection from the consul of another EU member state, which was manifestly untrue. Under European law, consular protection by a foreign consul is available only in circumstances where no consul of the citizen's own state is present within the consular district. Since Polish consuls had been operating continuously in Israel from the outset of the hostilities, the provisions concerning EU consular protection for Polish nationals were inapplicable. Equally problematic was the dissemination of vague information that exposed citizens to additional risks, including recommendations that they should independently travel to Jordan. The Ministry of Foreign Affairs ultimately failed to unambiguously repudiate such advice. In addition, highly un-

usual statements were made, such as the claim that citizens themselves bore responsibility for their predicament, since they ought not to have travelled to the Holy Land, which was allegedly dangerous – as articulated by Deputy Minister of Foreign Affairs Władysław Teofil Bartoszewski in an interview with Polsat Television (see https://www.youtube.com/watch?v=CWDuiGXHc5w). The Spokesman for the Ministry of Foreign Affairs, for his part, attributed the chaos among Polish nationals in Israel to the activities of journalists and other parties interested in the evacuation, who were said to be "heating up the situation" (*Dzisiaj Informacje*, Telewizja Republika, June 18, 2025, https://www.youtube.com/watch?v=jCIEkfyGWX0).

Deputy Minister of Foreign Affairs Henryka Mościcka-Dendys, in her public statements, emphasized the distinctive circumstances surrounding the evacuation from Israel (https://warszawa.tvp.pl/87364205/ewakuanci-z-iranu-juz-w-warszawie-trwa-ewakuacja-polakow-z-izraela). The scale of the operation clearly took the Ministry of Foreign Affairs by surprise. At the outset, the Ministry anticipated the evacuation of approximately 200 persons (with 300 individuals registered in the Odyseusz evacuation system), whereas nearly 300 individuals were ultimately evacuated. The Deputy Minister rejected as unfounded the allegations that the evacuation had been belated. She conceded, however, that smaller EU member states had commenced their operations earlier (as reflected by the Slovak evacuation of the families of Polish Embassy staff), while larger states began only after Poland's decision to act. She further explained that many Polish nationals residing in Israel also hold Israeli citizenship, as a result of which they are treated primarily as Israeli citizens under Israeli law. It is correct that the consul's capacity to act with respect to such individuals may be constrained, insofar as the host state does not facilitate consular intervention. This, she argued, limits the scope of consular protection afforded to them. According to her, this circumstance created "difficulty in estimating how many people might be interested in moving to Poland." This argument, however, is unpersuasive. The particularities of Israel's situation have long been taken into account by diplomatic and consular missions accredited in that country. Foreign service officials operating in Israel are expected to maintain current, detailed evacuation plans. The delay in launching the evacuation was therefore more plausibly attributable to the actions of Donald Tusk's government. This conclusion is reinforced by the fact that, under almost identical conditions, a comparable evacuation from Israel in 2023 – encompassing nearly four times as many individuals – was executed effectively and almost immediately after the threat to citizens had arisen (see below).

Ultimately, the evacuation was carried out between 18 and 23 June 2025. The first convoy, protected by the Israeli army, crossed into Egypt, and on the morning of 18 June a plane departed from Sharm el-Sheikh to Warsaw carrying 154 people, including 130 Polish citizens and nationals of Germany, Austria, France, and Ukraine. On 19 June, another evacuation took place via Jordan: 65 Polish citizens were flown from Amman airport to

Warsaw aboard a military aircraft. Finally, during the night of 22–23 June, a last transport of 64 Polish citizens departed Amman, concluding the operation (see https://www.bankier.pl/wiadomosc/Zakonczyla-sie-ewakuacja-Polakow-z-Bliskiego-Wschodu-Do-kraju-wrocilo-okolo-300-obywateli-8964786.html). On 23 June, the Consular Section of the Polish Embassy in Tel Aviv declared the evacuation completed.

The consular service ultimately demonstrated operational independence from its political superiors in the execution of its tasks. Although the decision to commence a mass evacuation was delayed, its implementation was, in essence, carried out in a professional manner. Nonetheless, numerous complaints were lodged regarding the failure of the Ministry of Foreign Affairs to provide citizens with adequate information and, moreover, the deliberate misleading of citizens by embassy personnel. As one Polish national stated: "There is practically no contact; there is no official channel for informing citizens, no email, no Odyseusz system, and the embassy's phones are also inactive. A group of lucky people found out yesterday about the evacuation by bus to Egypt" (see *Polak oburzony organizacją ewakuacji z Izraela. "Ktoś tu kłamie"* [Polish citizen outraged by the organization of the evacuation from Israel. "Someone is lying here,"] Polsat News, https://www.youtube.com/watch?v=-KoEJU2r6i8).

The group of Polish citizens in Iran was small. Thirteen individuals were evacuated via Azerbaijan and reached Warsaw on 19 June 2025. Yet even here constitutional concerns arose: the evacuation was not fully covered by the State Treasury. Some citizens were required to pay both for Azerbaijani visas and for airline tickets from Baku to Warsaw. This contradicted earlier public assurances from Foreign Minister Radosław Sikorski, who had himself declared that the Treasury could afford the evacuation (see *Polacy wracają z Iranu. Musieliśmy zapłacić za ewakuację* [Poles are returning from Iran. We had to pay for the evacuation], Wirtualna Polska, https://wiadomosci.wp.pl/polacy-wracaja-z-iranu-musielismy-zaplacic-za-ewakuacje-7169269036981120a). Deputy Prime Minister Władysław Kosiniak-Kamysz and Minister Jan Grabiec likewise publicly guaranteed that the evacuation would be free of charge (see *Ewakuacja Polaków z Izraela...*, op. cit., min. 7:00). The Ministry of Foreign Affairs later clarified that the free evacuation applied exclusively to Polish citizens who were not residents of the host country (Iran); Polish citizens residing in Iran were required to bear the costs themselves (see TVN24, https://tvn24.pl/polska/ewakuowana-z-iranu-polka-musiala-zaplacic-za-bilet-lotniczy-rzecznik-msz-pawel-wronski-odpowiada-st8519144). This practice raises serious doubts as to its compatibility with Article 36 of the Constitution, which establishes an absolute obligation of the Polish State to protect its citizens abroad – without distinction between those residing in Poland and those residing permanently abroad.

The entire evacuation in 2025 stands in stark contrast to the operation carried out two years earlier, in October 2023, following Hamas' attack on

Israel, when the then-governing Law and Justice party organized a mass evacuation codenamed "Neon." That operation commenced almost immediately. On October 8, 2023 – one day after the attack – three aircraft (a Boeing 737 and two C-130 Hercules) departed Tel Aviv with 251 passengers on board. Additional aircraft arrived in the following days, and within the first few days more than one thousand persons, including foreign nationals, were successfully evacuated. The October 2023 evacuation was widely regarded as a model of an efficiently executed mass operation (see https://www.pap.pl/aktualnosci/premier-o-ewakuacji-polakow-z-izraela-nie-zostawiamy-naszych-obywateli-0), and fully consistent with Article 36 of the Constitution. Tellingly, in June 2025 – at the height of uncertainty surrounding the delayed evacuation and while Polish citizens in Israel remained in peril – the Spokesman of the Ministry of Foreign Affairs, rather than announcing protective measures consistent with constitutional obligations, publicly criticized the previous government for allegedly wasting public funds in 2023 by providing free transportation to Polish citizens permanently residing in Israel (see *Dzisiaj Informacje*, Telewizja Republika, June 18, 2025, https://www.youtube.com/watch?v=jCIEkfyGWX0, min. 18:39).

The Ministry of Foreign Affairs operates a crisis management center capable of responding almost immediately to emergencies (see Edyta Hołdyńska, *Ewakuacja Polaków z Izraela...,* op. cit., min. 3:50). Yet since December 2023, there has been a noticeable decline in the effectiveness of the Polish foreign service. The government of Donald Tusk dismissed a number of sitting ambassadors without the consent of President Andrzej Duda, contrary to established constitutional practice and international custom (see *Violating the Constitutional Principle of Inter-Institutional Cooperation in Ambassadorial Appointments*, https://prawnicydla.pl/publikacja/prawo-w-czasach-koalicji-z-13-grudnia/, pp. 64–71). As a result, many diplomatic missions have been left under interim leadership, which undermines both the continuity of Poland's foreign policy and the operational credibility of its diplomatic network.

Although an ambassador has been duly accredited in Israel, the government's broader policy clearly does not prioritize ensuring citizens' confidence in the state – also abroad. Instead, it reflects a withdrawal from active international engagement. This shift risks relegating Poland to the status of a secondary power, less able to take swift, autonomous decisions in foreign policy and less effective in protecting citizens in danger. So far, thanks to the professionalism of the foreign service, once political decisions were finally made, the change in governmental approach has not produced direct negative consequences for Polish citizens abroad. Nonetheless, the change in attitude is clear and deeply troubling. If allowed to continue, it may eventually result in avoidable human tragedies, especially given that Poles, as a society, travel abroad in large numbers – primarily for tourism – while the international environment is increasingly unstable, with armed conflicts and new security threats continually emerging.

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AD VOCEM
Niezależne Stowarzyszenie Prokuratorów

The Independent Association of Prosecutors "Ad Vocem" was founded in 2008 by prosecutors from across Poland who wished to publicly express their position on the then-planned negative changes to the prosecutor's office.

Today, the primary goals of the "Ad Vocem" Association, as defined in its statute, include:

- representing the community of prosecutors and assessors before authorities and offices, as well as other organizations, both public and private;
- participating in the creation and amendment of law and strengthening the rule of law to ensure the greatest possible independence of prosecutors;
- professional development and qualification enhancement;
- shaping the moral, ethical, and professional attitudes of prosecutors and assessors;
- striving for openness and transparency in the functioning of the broadly understood justice system;
- collaborating with other organizations of legal professionals that prioritize the good of the state;
- exchanging experiences and collaborating with representatives of legal doctrine. The Ad Vocem Association currently pursues these goals by participating as amicus curiae in court proceedings brought by their initiators against independent judges and prosecutors, as well as through conceptual work on the reform of the prosecutor's office.

Prawnicy dla Polski

The Association **Prawnicy dla Polski** (PDP, „Lawyers for Poland") is a nationwide non-profit organization uniting representatives of all legal professions operating within the justice system. The primary objectives of the Association are as follows:

1. to protect and promote the values enshrined in constitutional principles, including the rule of law, social justice, democracy, the balance of powers, the separation of public authority, the Republic of Poland as a shared good, and the principle of subsidiarity;
2. to promote and safeguard human and civil rights and freedoms in accordance with international standards;
3. to strengthen judicial independence and the impartiality of judges, ensuring full adherence to principles derived from European legal heritage, including the right to a fair trial;
4. to represent and advocate for the views of the legal community on issues impacting its members and Poland's legal culture;
5. to enhance the professional qualifications of the Association's members;
6. to foster collaboration between legal organizations;
7. to promote the integration of the legal profession in Poland;
8. to ensure adherence to constitutional and statutory ethical and legal standards within the legal professions, in a manner that guarantees citizens the right to a fair trial;
9. to increase public awareness of the role and significance of various legal professions in Poland;
10. to advance public legal awareness and culture.

Currently, PDP is engaged in a non-partisan campaign to disseminate accurate information regarding the state of Poland's legal system, particularly the judiciary and prosecution, following the recent change in political leadership. Official government media have been presenting a distorted portrayal of reality, aimed at misinforming the international community by obscuring the actions of Poland's ruling coalition since December 13, 2023, under the leadership of Donald Tusk.

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