Written Contribution by the Open Dialogue Foundation

to the Plenary Session 5: Rule of Law II

Politicisation of the Prosecution Service and Malicious Prosecution of Entrepreneurs in Poland: Rule of Law Implications

ODIHR has engaged directly with Poland's rule-of-law crisis: it organised a meeting on the independence of judges and prosecutors in Poland (March 2021), issued opinions on the reform of the National Council of the Judiciary at the request of the Polish government (December 2024), and published a legal note accepting the suspension of limitation periods for offences by judges and prosecutors that went unpunished for political reasons (July 2025).

On behalf of the Open Dialogue Foundation, I present this contribution asking ODIHR and participating States to extend the same principles to the prosecution service's systematic abuse against entrepreneurs for political and corrupt purposes between 2015 and 2023. This submission documents cases of fifteen entrepreneurs who were subjected to fabricated charges, arbitrary detention, asset seizure and extortion by prosecutors acting under the direction of the then-ruling Law and Justice (PiS) party. These cases are demonstrative, not exhaustive; the Polish National Prosecutor's Office itself found significant irregularities in 233 of 400 selected cases it reviewed, while the cases of entrepreneurs have been largely excluded from that analysis. The submission sets out the obstacles that have prevented review of these cases since the change of government, and proposes specific recommendations to ODIHR, the Polish government and participating States.

Despite the change of government in 2023, most of these cases remain unresolved. Presidential vetoes have blocked the legislative reforms needed to reconstitute the National Council of the Judiciary and review politicised judicial appointments; prosecutors appointed during the PiS era continue to obstruct or delay the review of politically motivated proceedings. For many of those affected, the harm has already lasted over a decade and, absent effective action, will continue for another.

Context: the prosecution service as a political instrument (2015-2023)

Between 2015 and 2023, the prosecution service in Poland largely functioned as the political police of the then-ruling Law and Justice (PiS) party. It was used to conduct politically motivated proceedings against opponents of the government and to pursue the financial interests of individuals associated with those in power, facilitating corrupt extortion reminiscent of practices in post-Soviet countries. Prominent Polish entrepreneurs were particularly vulnerable to this form of malicious prosecution.

Despite the change of government in 2023, most of these cases remain unresolved: core judicial and prosecutorial reforms have been blocked by successive PiS-aligned presidents (Andrzej Duda until August 2025, and Karol Nawrocki since), while prosecutors appointed during the PiS era and loyal to the former Prosecutor General Zbigniew Ziobro continue to obstruct or delay the review of politically motivated proceedings.

Some of the most prominent cases of political extortion and prosecution, which have lasted nearly a decade without reaching even a court, involve:

- **Przemysław Krych**, philanthropist and founder of Griffin Real Estate and Cornerstone Investment Management. A demand for a €1.5 million bribe, together with political infighting within the ruling camp, lay behind the charges against Przemysław Krych and his **arbitrary** six-month pre-trial detention. Krych, a prominent philanthropist who over the preceding decade had donated or arranged approximately PLN 16 million to charitable causes, was detained after refusing to pay the sum demanded on behalf of Grzegorz Ocieczek, then deputy head of the Central Anti-Corruption Bureau, who had close ties to the then Minister of Justice and Prosecutor General, Zbigniew Ziobro. [1] The prosecution framed Krych's charitable donations to the Foundation for Disabled Persons as alleged bribes to PiS Senator Stanisław Kogut, effectively criminalising his philanthropic activity. **After the change of government, President Andrzej Duda, himself from PiS, awarded Krych the Gold Cross of Merit (July 2024) for exemplary public and charity service, the very activity that Ziobro's prosecutors had criminalised as bribery to justify his detention.[2]**

- **Leszek Czarnecki**, founder of Getin Holding, owner of Idea Bank and Getin Noble Bank, has faced a politically motivated criminal investigation relating to the sale of GetBack bonds through Idea Bank's network. The prosecution began targeting Czarnecki in late 2018, after he revealed a corruption offer he had received from Marek Chrzanowski, Chairman of the Polish Financial Supervision Authority (Komisja Nadzoru Finansowego), who promised to drop the investigation in return for a PLN 40 million-per-year position for his associate. **Courts have twice rejected the prosecution's detention requests and refused a European arrest warrant, with the Warsaw District Court finding that the prosecution had manipulated evidence by omitting favourable witness testimony and that "there is no evidence whatsoever" that Czarnecki was aware of fraudulent sales practices.** In parallel, Idea Bank was forcefully taken over by state-controlled Bank Pekao S.A. in January 2021, **raising concerns that the prosecution served as a vehicle for the state to seize Czarnecki's assets**.[3,4]

- **Piotr Osiecki,** founder and former CEO of Altus TFI, was targeted with a fabricated criminal case to redirect the blame for the GetBack affair away from PiS. The prosecution charged him with acting against GetBack's interest by selling EGB Investments at an allegedly inflated price, despite Osiecki's duty being to the shareholders of Altus and its clients, not to GetBack. Osiecki spent a total of 16 months of arbitrary detention, including a period in which he was illegally incarcerated despite having posted a record bail of PLN 108 million (approximately EUR 24 million), higher than the alleged losses incurred by GetBack. **On 12 September 2025, the Warsaw District Prosecutor's Office partially discontinued the proceedings after seven years of investigation, without the case ever reaching trial. [5] Osiecki himself stated that he had been "a suspect for seven years in a case that, in the form of the charges brought against me, should never have stood before law**

[1] ODF, "Punishing Philanthropy in Poland: Case of Przemysław Krych" (June 2023) — for the Krych paragraph. https://en.odfoundation.eu/a/637094,punishing-philanthropy-in-poland-case-of-przemyslaw-krych/

[2] Decree of the President of the Republic of Poland on the conferral of state decorations, Monitor Polski 2024, item 706. Available at: https://monitorpolski.gov.pl/M2024000070601.pdf

[3] Open Dialogue Foundation, "Polish Public Prosecutor's Office: Selected Cases of Malicious Prosecution and Dereliction of Duties since 2015," available at: https://en.odfoundation.eu/a/724968,polish-public-prosecutors-office-selected-cases-of-malicious-prosecution-and-dereliction-of-duties-since-2015/

[4] Parliamentary Assembly of the Council of Europe, Written Declaration on political prosecution in Poland, 30 September 2024, available at: https://pace.coe.int/en/files/33794/html

[5] Polish Business Roundtable, "Statement on the Illegal Detention of Piotr Osiecki," 31 January 2019, available at: https://prb.pl/en/2019/01/31/statement-of-the-polish-business-roundtable-on-the-illegal-detention-of-piotr-osiecki/; Open Dialogue Foundation, "The Case of Entrepreneur Piotr Osiecki and Altus TFI," 16 February 2022, available at: https://en.odfoundation.eu/a/203407,the-case-of-entrepreneur-piotr-osiecki-and-altus-tfi/.

enforcement agencies."[6] **However, one of the charges has remained in place despite having no merit whatsoever, leaving Osiecki with the status of a suspect and maintaining preventive measures in the form of asset freezes, with no clear end to the investigation in sight.**

- **Mariusz Adamczewski**, founder of the PAD RES Group, operating in the renewable energy sector. Mariusz Adamczewski was pressured to withdraw a claim against Poland before an arbitration court in Stockholm (the SCC Arbitration Institute), brought in connection with the destruction of his previous business following the so-called anti-wind farm act (which had effectively blocked the development of wind farms in Poland). The demand came from the then-Minister of Energy, Krzysztof Tchórzewski of PiS. After he refused, criminal charges were brought against him in 2020 order to undermine his business reputation and sabotage the arbitration claim. **Currently, the investigation is suspended and the prosecution is not carrying out any activities, while Adamczewski remains under the burden of suspect status indefinitely.** This seriously obstructs his company's investor relations and multimillion-euro investments in the green energy sector in Poland.
- **Tomasz Misiak**, founder of Work Service and a former Civic Platform senator, and **Maciej Witucki**, then President of the Polish Confederation Lewiatan, one of the most prominent business organisations in Poland. Both were detained on 12 October 2022, the opening day of the European Forum for New Ideas, Lewiatan's flagship conference. Prosecutors accused them of serious financial offences and sought their pre-trial detention. The timing and manner of the arrests prompted exceptionally strong protests from business organisations and serious concerns about their potential political and intimidating effect on disobedient and critical Polish businesspeople.
- **Wojciech Tesarczyk** – an entrepreneur former CEO of Mutag Polska, a company specialising in the design and construction of biogas plants, which was driven into bankruptcy following a dispute with contractor Zbigniew Dowgiało, who had business ties to Daniel Obajtek. In 2015, a criminal case concerning alleged commercial fraud was fabricated against Tesarczyk, with the prosecution service being used to resolve an artificial business dispute that was intended to bankrupt his company. The prosecutor in charge of the investigation, Elżbieta Biernacka, initially discontinued the proceedings and later allegedly informed him, that while she did not see him as guilty: "you have some big players against you". Despite allegations concerning the unreliability of the evidence, and against the background of Dowgiało's alleged influence within the justice system, Tesarczyk was finally convicted in 2023 and given a suspended prison sentence. The judgment was upheld by an appellate court panel whose composition was questioned due to the participation of so-called "neo-judges". Tesarczyk lost his company, and ordered to pay nearly PLN 1.2 million in compensation for the disputed loss, putting his family home at risk. Efforts are currently under way to have a cassation appeal lodged by the Commissioner for Human Rights and the Prosecutor General.

Further cases documented by the Open Dialogue Foundation include, amongst others, **Rafał Markiewicz**, whose disputed prosecution concerning EU funding was accompanied by alleged regulatory pressure on businesses in the fintech sector; **Rafał Paluszkiewicz**, a payments-sector entrepreneur who alleges the misuse of anti-money-laundering legislation against him; and **Michał Lubiński**, founder of the defence contractor Works 11, whose prosecution and exclusion from procurement processes have raised concerns about supplies and logistical support to Poland's elite GROM military unit. Lubiński's family is now

[6] Piotr Osiecki, statement on LinkedIn, 12 September 2025, as reported in Analizy.pl, available at: https://www.analizy.pl/puls-rynku/38298/piotr-osiecki-o-umorzeniu-postepowania-w-sprawie-getback

involved in the strategically significant artillery ammunition production business, while his business efforts have been sabotaged by state-owned competitors, influencing the country's prosecution and special services.[7]

Other cases warranting scrutiny include: **Jacek Kicerman**, a prominent hotelier from the city of Olsztyn; **Paweł Golema**, a restaurateur from Szczecin;[8] **Cezary Kucharski**, a football agent and former MP, **Jarosław Gasewicz**, whistleblower and former manager at Remmers Polska, and **Bartosz Kramek**, an entrepreneur and pro-democratic civic activist.

Despite the change of Polish government in 2023, the cases raised in this statement have not been subjected to a sufficiently thorough and objective review; most of the disputed charges and proceedings remain unresolved**. For many of those affected, the proceedings have already consumed seven to eight years of their lives; full resolution may extend this to a decade or more, and there is no guarantee of continuity**: the governing coalition's parliamentary majority depends on junior partners whose support now falls below the electoral threshold, while combined right-wing opposition forces remain competitive.

A return of PiS or a PiS-led coalition to power would in all likelihood halt any remaining accountability processes entirely. Even where charges have been dropped, as in the case of Piotr Osiecki, the practical consequences are largely irreversible: destroyed businesses, reputational damage persists, and no effective legal mechanism exists in Poland to compensate the victims or hold the responsible prosecutors accountable.

Obstacles to Review and Accountability

The new government has brought the rule-of-law dispute with the European Union to an end at the political level and is seeking to introduce reforms.[9] However, these efforts face serious obstacles, including presidential vetoes of legislation intended to restore the rule of law, the continued presence within the prosecution service and the judiciary of officials associated with the previous government,[10] and credible concerns that some prosecutors continue to frustrate the efforts of the current Prosecutor General and Minister of Justice Waldemar Żurek, maintain politically motivated charges and prolong investigations indefinitely.[11,12]

[7] Open Dialogue Foundation, "Polish Public Prosecutor's Office: Restoring Independence and Reviewing Politicised Criminal Cases in Poland," 12 February 2025, submission to the European Commission's 2025 Rule of Law Report, available at: https://en.odfoundation.eu/a/726958,polish-public-prosecutors-office-restoring-independence-and-reviewing-politicised-criminal-cases-in-poland/

[8] Helena Kowalik-Ciemińska and Szymon Krawiec, "Polowanie. Jak się w Polsce niszczy biznes" (Wprost, 2023); Wprost, "300 tys. zł zadośćuczynienia dla znanego restauratora," available at: https://www.wprost.pl/11676949

[9] Notes from Poland, "EU closes Article 7 rule-of-law proceedings against Poland after seven years," 29 May 2024, available at: https://notesfrompoland.com/2024/05/29/eu-closes-article-7-rule-of-law-proceedings-against-poland-after-seven-years/

[10] Justice Minister Waldemar Żurek stated that the veto would worsen delays and disorder in the courts. The governing coalition lacks the three-fifths majority required to override a presidential veto under the Polish Constitution. Notes from Poland, "President vetoes bill reforming judicial body at heart of Poland's rule-of-law crisis," 19 February 2026, available at: https://notesfrompoland.com/2026/02/19/president-vetoes-bill-reforming-judicial-body-at-heart-of-polands-rule-of-law-crisis/.

[11] European Commission, 2026 Rule of Law Report, Country Chapter on Poland, SWD(2026) 921 final, 17 July 2026, available at: https://data.consilium.europa.eu/doc/document/ST-11674-2026-ADD-22/en/pdf; Wprost, "Byli prezesi TK zabrali głos w sprawie Żurka: staje przed wyjątkowo trudnym zadaniem" [Former TK presidents speak on Żurek: he faces an exceptionally difficult task], 2026, available at: https://www.wprost.pl/12377748; Polish Radio, "Prosecutors search offices of PiS-era judicial disciplinarians in Warsaw, sparking political row," 23 January 2026, available at: https://www.polskieradio.pl/395/7784/Artykul/3637865

[12] OKO.press (in Polish) on PiS-era prosecutors still present in the internal affairs department: Some prosecutors do not want to engage in holding the previous government accountable, and three prosecutors who arrived during the PiS era remain in the internal affairs department. https://oko.press/czy-polska-rozliczy-represje-wobec-sedziego-zurka-sad-nie-zgodzil-sie-na-sciganie-szefowej-neo-krs

On 19 February 2026, President Karol Nawrocki vetoed two bills that would have reconstituted the National Council of the Judiciary and reviewed appointments of judges made through politicised procedures, and the governing coalition lacks the supermajority required to override.[13] For the victims, this means that proceedings which have already lasted up to a decade will continue indefinitely; they remain formally treated as criminal suspects, their businesses and personal reputations destroyed, with no access to effective remedies.

The institutional scale of the problem is confirmed by the government's own findings. In the second part of its review published on 29 April 2025, Poland's National Prosecutor's Office reported significant irregularities in 233 of 400 selected cases examined. Yet the cases of entrepreneurs have been largely excluded from this analysis, and the review's recommendations have not been implemented even for the cases that were included.[14]

The Open Dialogue Foundation has documented these cases in detail in two reports: *Polish Public Prosecutor's Office: Selected Cases of Malicious Prosecution and Dereliction of Duties since 2015* (October 2023) and *Polish Public Prosecutor's Office: Restoring Independence and Reviewing Politicised Criminal Cases in Poland* (February 2025).[15]

International attention

The Parliamentary Assembly of the Council of Europe (PACE) has repeatedly raised these concerns. In Resolution 2316 (2020), PACE warned that combining the offices of Minister of Justice and Prosecutor General undermined prosecutorial independence. In Resolution 2359 (2021), it condemned the intimidation and harassment of judges. Members of PACE have also raised individual cases in written declarations Doc. 15753 (2023), Doc. 15755 (2023) and Doc. 16049 (September 2024), naming Przemysław Krych, Piotr Osiecki, Maciej Witucki, Tomasz Misiak, Rafał Markiewicz, Michał Lubiński and Bartosz Kramek, among others, and warning about the hostile environment for business, investment and property rights.

These matters were also brought to the European Commission's attention. In a letter of 26 May 2025, twelve Members of the European Parliament raised the cross-border consequences of allegedly politically motivated prosecutions in Poland, including financial exclusion, reputational damage and risks to competitiveness. The signatories expressly mentioned Przemysław Krych, Piotr Osiecki, Leszek Czarnecki,

[13] Polish Radio, "Polish president vetoes judicial overhaul bills," 19 February 2026, available at: https://www.polskieradio.pl/395/7784/Artykul/3650283; see also Notes from Poland, "President vetoes bill reforming judicial body at heart of Poland's rule-of-law crisis," 19 February 2026, available at: https://notesfrompoland.com/2026/02/19/president-vetoes-bill-reforming-judicial-body-at-heart-of-polands-rule-of-law-crisis/

[14] Prokuratura Krajowa [National Prosecutor's Office], "Druga część raportu zespołu prokuratorów do zbadania spraw pozostających w zainteresowaniu opinii publicznej" [Second part of the report of the team of prosecutors examining cases of public interest], 29 April 2025, available at: https://www.gov.pl/web/prokuratura-krajowa/raport. On the selective scope of the review and the exclusion of key cases, see Verfassungsblog, "A PR Stunt Over Accountability: Review of Political Prosecution Cases in Poland," 12 March 2025, available at: https://verfassungsblog.de/pr-stunt_public-prosecutors-office/

[15] Open Dialogue Foundation, "Polish Public Prosecutor's Office: Selected Cases of Malicious Prosecution and Dereliction of Duties since 2015," October 2023, available at: https://en.odfoundation.eu/a/724968,polish-public-prosecutors-office-selected-cases-of-malicious-prosecution-and-dereliction-of-duties-since-2015/; Open Dialogue Foundation, "Polish Public Prosecutor's Office: Restoring Independence and Reviewing Politicised Criminal Cases in Poland," February 2025, available at: https://en.odfoundation.eu/a/726958,polish-public-prosecutors-office-restoring-independence-and-reviewing-politicised-criminal-cases-in-poland/

Maciej Witucki and Cezary Kucharski, among others, and requested that these issues be considered within the Commission's rule-of-law work and addressed through effective remedies.[16]

Issues concerning the rule of law and the politicisation of the judiciary and prosecution service in Poland have also attracted the attention of the OSCE, particularly its Office for Democratic Institutions and Human Rights (ODIHR). On 30 March 2021, ODIHR organised a meeting devoted to the independence of judges and prosecutors in Poland. On 31 July 2025, it published a legal note concerning the possible suspension of limitation periods for criminal and disciplinary offences committed by judges and prosecutors, or at their direction, which might previously have gone unpunished for political reasons. ODIHR addressed the question of accountability while emphasising the importance of legal safeguards and judicial and prosecutorial independence.[17]

While ODIHR has addressed the independence and accountability of the judiciary, it has not yet issued a comparable assessment of the prosecution service, which during 2015–2023 was arguably the more directly weaponised institution. The same factual findings that justify suspending limitation periods for judges and prosecutors, namely systemic irregularities, political instrumentalisation and corrupt purpose, constitute grounds for the discontinuation of the proceedings those prosecutors initiated and for effective remedies for the persons harmed by them.

Recommendations

To the Government of Poland

These actions fall within the government's existing legal authority and **do not require legislation subject to presidential veto**. We call on the Government of Poland to:

1. Formally request ODIHR to prepare a dedicated legal opinion on the independence and accountability of the prosecution service in Poland, providing the government with an independent legal framework for the review and discontinuation of proceedings initiated during 2015–2023 where existing legislative remedies have been blocked by presidential veto.
2. Direct the Prosecutor General to include the cases of entrepreneurs within the scope of the ongoing review conducted by the National Prosecutor's Office, and to report publicly on the results of that expanded review within six months.
3. Exercise existing supervisory authority over the prosecution service to reassign cases meeting any of the following criteria: (a) the case was initiated by a prosecution service that functioned as a political instrument; (b) the proceedings have lasted up to a decade without resolution, in violation of the right to trial within a reasonable time; (c) the Prosecutor General's own review has found irregularities in the case or in comparable proceedings; (d) there is specific evidence of corrupt purpose, such as bribe demands or political retaliation.
4. Where cases meeting these criteria are discontinued, ensure that victims have access to effective remedies, including: (a) formal discontinuation with a finding of no grounds for prosecution; (b) notification to financial institutions, credit agencies and business registries to remove adverse records arising from the proceedings; (c) access to compensation proceedings for material and reputational harm.

[16] Letter from Members of the European Parliament to European Commissioners Albuquerque, McGrath and Serafin, 26 May 2025, available at: https://odfoundation.eu/content/uploads/2025/07/gu9cnmqwmaa4nxm_merged.pdf

[17] OSCE/ODIHR, *Poland: Note on Certain Aspects Related to Suspension of Limitation Periods for Disciplinary and Criminal Offences Committed by Judges and Prosecutors*, available at: https://www.osce.org/odihr/596078)

To ODIHR

We call on ODIHR to prepare, by mid-2027, a dedicated legal opinion on the independence and accountability of the prosecution service in Poland, complementing its existing work on the judiciary and its legal note of 31 July 2025 on the suspension of limitation periods. In particular, the opinion should:

1. Assess the compatibility of current review procedures with OSCE commitments on prosecutorial independence and the right to a fair trial within a reasonable time, and identify standards for the review and discontinuation of proceedings: (a) the prosecution service functioned as a political instrument; (b) the proceedings have lasted up to a decade without resolution, in violation of the right to trial within a reasonable time; (c) the Prosecutor General's own review has found systemic irregularities; (d) there is specific evidence of corrupt purpose, such as bribe demands or political retaliation.
2. Address the legal basis for discontinuation under Polish criminal procedure, so that the opinion provides operationally applicable guidance to the Prosecutor General and the courts.
3. Propose effective safeguards against future politicisation of the prosecution service, including structural separation of the offices of Minister of Justice and Prosecutor General, in line with PACE Resolution 2316 (2020).
4. Address the cross-border consequences of politically motivated prosecutions, including adverse effects on access to financial services, credit ratings and business registries in other OSCE participating States, and recommend mechanisms by which the discontinuation of such proceedings is given effect beyond Poland's jurisdiction.

To OSCE Participating States

We call on OSCE participating States to:

1. Raise the review and discontinuation of politically motivated prosecutions in Poland within the OSCE Human Dimension Committee and relevant OSCE meetings.
2. Support the formal request for an ODIHR legal opinion on the prosecution service and ensure that ODIHR has the resources and mandate to prepare it by mid-2027.
3. Request that the Polish government provide a written update to the Human Dimension Committee on the progress of the Prosecutor General's review, including on the inclusion of entrepreneur cases and the implementation of the review's findings.

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