

Tusk government prepares to defy Polish President and move in judges by force



The Constitutional Court (TK) justices in the court's chamber. The dispute over the make-up of the court has been running for over ten years. EPA/PAWEL SUPERNAK

Poland's centre-left government led by Prime Minister Donald Tusk is preparing to forcibly install four constitutional court judges.

The judges were elected by Parliament but rejected by the country's Conservative (PiS)-aligned President Karol Nawrocki.

In March, Parliament elected six constitutional court judges to fill vacancies on that court.

Today, President Nawrocki decided to receive the oaths of office from only two of them.

It is the first time new justices on the court have been sworn in for over four years.

The judicial appointments take place amid a standoff between the government and opposition over the court.

The conflict continues because of Nawrocki's refusal to administer the oath of office to the four other judges Parliament elected.

Nawrocki says only two vacancies on the court have arisen since he took office last August.

The election of the other four, he argues, was delayed since 2024, due to the Tusk government's refusal to recognise the constitutional court's legitimacy.

It therefore stopped the selection of new judges for that body when vacancies arose.

For its part, the Tusk government's stance was based on a view that the court is illegitimate. Three of its members, the government argues, were elected by the previous PiS-dominated parliament – in place of three nominations made by the parliament that preceded it.

The Tusk government does not question the election of the remaining judges in the 15-person court.

The origins of the dispute date back to 2015 when parliament, which then had a pro-Tusk majority, decided to elect two judges to the constitutional court ahead of schedule.

The incoming PiS-allied President Andrzej Duda refused to take the oaths of office of those two, as well as three more judges who had been elected at the same time.

The new parliament's PiS majority voted to cancel the election of all five, on the grounds parliamentary standing orders had been violated.

The PiS majority then elected five justices in their place, who were accepted by the head of state.

The present Tusk government has, since coming to office refused to publish the decisions of the constitutional court.

The European Court of Justice, in a recent ruling, questioned the nominations made during the time of the previous PiS government.

As a result, since December 2025, when one judge's nine-year term expired and another retired for health reasons, the court has operated with just nine judges.

This is below the quorum of 11 judges required for the court, to have a full bench to make rulings on some matters.

After Nawrocki's appointment of two more justices, the court has now reached the required quorum for its decisions to be valid.

The Tusk government has indicated that it has a "plan B" in place for the four of its nominees to be appointed despite the President's opposition, involving them taking their oath elsewhere and then communicating it to the president in the form of correspondence.

However, Nawrocki's chief of staff Zbigniew Bogucki made clear the president would not accept any oaths which were not taken in his presence and warned of legal consequences for anyone who attempts to circumvent the established process.

"There is no legal basis for the oath to be taken in any other way let alone before any other body," he said. Anyone who tries to "create crazy constitutional concepts" would be committing "a serious criminal offence".

Nevertheless, the government is determined to proceed with the appointments.

"Taking an oath 'before the president' may no longer mean 'directly face to face, in the presence of the president'," argued justice minister Waldemar Żurek responding to the President's actions.

Żurek claimed the law does not give the President the authority to choose who becomes a constitutional court judge.

He accused Nawrocki of "once again trying to usurp power" by receiving the oaths of only two of the six judges. Poland's constitution states that the President has the sole power in the appointment of judges.

Sources close to the government have hinted once the four justices have taken their oaths, the government will ensure they can physically enter the constitutional court building to take up their offices – even if police assistance is necessary.

The court's chief justice Bogdan Świączkowski, who was elected during the PiS's term of office, is unlikely to allow the four to take part in any legal proceedings.

This sets up another conflict between the opposition and the constitutional court on the one hand, and the Tusk government on the other, in a long-running rule of law crisis in Poland which shows no signs of being resolved any time soon.

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