

Rethinking Constitutional Courts. The Case of Poland

(abstract for the general public)

How can a constitutional order be restored in times of ongoing constitutional backsliding? How can the position and reputation of constitutional courts, which have been assaulted and captured during a constitutional crisis, be rebuilt? What measures should be taken to avoid or reduce the risk of deepening constitutional backsliding and the takeover of constitutional courts by subsequent parliamentary majorities? Finally, what lessons can the Polish constitutional crisis teach us on this matter?

The project aims to provide new knowledge that will help answer these questions. The research concept draws upon an **assumption** (to be tested in the project) that **constitutional courts affect the condition of constitutional order in a given state**. Specifically that **the behaviors constitutional courts engage in** (their constitutional practice) **can either reduce or increase the danger** of attack and attempted takeover by other branches (public authorities).

The assumption will be tested during the project, focusing **on Poland and the practice of the Polish Constitutional Tribunal (PCT)**.

Hence, the project proposed by the PI focuses on **a critical analysis of the practice of the PCT** before the constitutional crisis occurred, examining the **relationship between the criticism** addressed to the Polish Tribunal prior to the crisis **and the emergence of the constitutional crisis in Poland**. The main goal of the project is to **explain the role of the PCT in the emergence of the constitutional crisis in Poland**.

To achieve this, the research project will address **three research questions**:

- **(Q1):** What allegations were made against the PCT before it was taken over by the previous parliamentary majority?
- **(Q2):** Were the allegations against the PCT made before the “hostile takeover” legitimate, and if so, to what extent?
- **(Q3):** What is the relationship between the PCT and its practice before the “hostile takeover” and the causes of the ongoing constitutional crisis in Poland?

By answering these questions, the **project will expand our knowledge and produce three (predicted) outcomes**:

- **O1:** A set of allegations against the PCT made before it was taken over by the previous parliamentary majority, identifying the main points of criticism addressed to the PCT before the “hostile takeover” and exploring sticking points and potential causes of conflicts between constitutional courts and other branches/public authorities.
- **O2:** An evaluation of the allegations and criticism addressed to the PCT before the “hostile takeover,” investigating the hypothesis on “risky behaviors” the Tribunal could have taken before it was taken over by the previous parliamentary majority.
- **O3:** An account determining the relationships between the PCT, its practice before the “hostile takeover,” and the causes of the ongoing constitutional crisis in Poland, explaining the role of the Tribunal in the emergence of the Polish constitutional crisis. This includes examining the importance of the “risky behaviors” taken by the Tribunal before the crisis occurred and answering whether and how the Polish Tribunal might have unintentionally contributed to the emergence of this crisis.

The project results will be presented in at least **four peer-reviewed, open-access journal articles** (both in English and Polish).