

Congress of the United States

Washington, DC 20515

May 13, 2025

Mr. Michael McGrath
Commissioner for Democracy, Justice,
the Rule of Law, and Consumer Protection
European Commission
Rue de la Loi / Wetstraat 200
1049 Brussels, Belgium

Dear Commissioner McGrath:

The Committee on the Judiciary of the U.S. House of Representatives is investigating how and to what extent foreign laws, regulations, and judicial orders compel or coerce companies to censor speech in the United States.¹ We write to express concern about recent allegations that Polish Prime Minister Donald Tusk's government is weaponizing Poland's justice system to target and censor political opponents.² As we examine how these allegations affect the potential that Europe's censorship regime will affect free speech in the United States, we respectfully request information about whether, and how, the European Union (EU) intends to address these actions.

Since entering office in December 2023, Prime Minister Tusk has pursued legal actions against his government's political opposition, the Law and Justice (PiS) party, including party leaders, former officials, and supporters that appear designed to silence and damage its political opposition ahead of Poland's 2025 presidential election.³ For example, in March 2025, the Polish Parliament, controlled by Prime Minister Tusk's party, stripped PiS leader Jarosław Kaczyński's legal immunity so he could face a defamation case brought by a politician from the ruling coalition.⁴ Additionally, in the course of a separate investigation into the PiS leader, there are reports that investigators severely mistreated PiS associates, including one former top aide who died of a heart attack just a few days after she was denied access to her attorney during an interrogation.⁵ Earlier, in March 2024, Poland's Internal Security Agency (ISA) arrested Father

¹ See Annie Palmer, *House Judiciary Committee subpoenas Alphabet, Meta, other tech giants over 'foreign censorship' of speech*, CNBC (Feb. 27, 2025); see also Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Henna Virkkunen (Jan. 31, 2025).

² See, e.g., Matthew Boyse & Peter Doran, *When Democrats Govern Undemocratically: The Case of Poland*, HUDSON INST. (Feb. 18, 2025).

³ See, e.g., Wojciech Kosciuszko, *Priests, Patronage and Power: Poland's Tusk Goes After His Political Enemies*, POLITICO (July 11, 2024).

⁴ *Polish Parliament Strips Opposition Leader and Deputy Leader of Immunity*, NOTES FROM POLAND (Mar. 7, 2025).

⁵ *Polish opposition blame death of Kaczyński associate on prosecutors who questioned her days earlier*, NOTES FROM POLAND (Mar. 17, 2025); Krzysztof Mularczyk, *Polish opposition leader claims prosecutors hounded to death his ex-chief of staff*, BRUSSELS SIGNAL (Mar. 18, 2025). Polish President Andrzej Duda sent a letter to Prime Minister Tusk requesting explanations regarding these "extremely disturbing" allegations, and an investigation has been opened into the matter. *President Duda Addresses Silent Tusk – Content of the Questions Revealed*, POLAND

Michał Olszewski, a Catholic priest with a reported friendship with the Polish Justice Minister under the PiS government, on charges that reportedly lacked supporting facts or documentation.⁶ Reports also indicate that the ISA inhumanely treated Father Olszewski by using excessive physical restraints and depriving him of basic necessities.⁷

In addition to targeting PiS, reports also suggest Prime Minister Tusk's government has targeted conservative Polish media.⁸ Deputy Prime Minister Krzysztof Gawrowski suggested withdrawing the broadcasting license of media outlet Telewizja Republika, a station critical of the Tusk government.⁹ Together, these actions raise concerns about whether the Tusk government is upholding the EU's democratic values and whether it will further attempt to silence its political rivals by using anti-democratic laws like the EU's Digital Services Act (DSA) to censor speech that criticizes the Tusk government.

The DSA requires social media platforms to have systemic processes to censor "misleading or deceptive content," including so-called "disinformation."¹⁰ Because many social media platforms generally maintain one set of content moderation policies they apply globally, restrictive government censorship laws like the DSA may set *de facto* global censorship standards and thus restrict Americans' online speech.¹¹ In this way, laws like the DSA violate the fundamental principles embraced by liberal democracies like the United States and the EU member countries.

Documents obtained to date in the course of the Judiciary Committee's oversight have revealed that the Tusk government is willing to attempt to censor online content with which it disagrees. For example, in November 2024, Poland's National Research Institute (NRI), within the Ministry of Digital Affairs, asked TikTok Inc. (TikTok) to remove content suggesting that

DAILY 24 (Mar. 19, 2025); *The Warsaw-Praga Prosecutor's Office to Investigate the Circumstances of Barbara Skrzypek's Death*, POLAND DAILY 24 (Mar. 18, 2025).

⁶ *Polish Government Rejects Opposition Claims Imprisoned Priest was Tortured*, NOTES FROM POLAND (July 4, 2024); Jonathan Luxmoore, *Head of Sacred Heart Order Appeals to Polish Authorities to Respect Dignity of Attested Priest*, NATIONAL CATHOLIC REPORTER (Sept. 13, 2024).

⁷ *Human Rights Violations in the Detention of Father Michał Olszewski*, POLAND DAILY 24 (Dec. 23, 2024). Two former PiS Justice Ministry clerks, Karolina Kucharska and Urszula Dubejko, who were arrested and detained alongside Father Michał Olszewski, have also reportedly received inhumane treatment. *See, e.g., Urszula says about the time spent behind bars: it was a nightmare and humiliation. I felt like trash because I was treated like that*, TV REPUBLIKA (Oct. 25, 2024).

⁸ *See Polish deputy PM suggests withdrawing conservative TV station's license*, NOTES FROM POLAND (Jan. 14, 2025).

⁹ *Id.*

¹⁰ *See* Regulation (E) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and Amending Directive 2000/31/EC (Digital Services Act), 2022 O.J. (L 277) 9, 84, Art.35.

¹¹ *See, e.g.,* STAFF OF THE SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FED. GOV'T OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., *THE WEAPONIZATION OF THE FEDERAL GOVERNMENT* (Comm. Print Dec. 20, 2024), at 1988-2618; *see also* Steven Lee Myers, *E.U. Law Sets the Stage for a Clash Over Disinformation*, N.Y. TIMES (SEPT (Sept. 27, 2023) ("The law, the Digital Services Act, is intended to force social media giants to adopt new policies and practices If the measure is successful, as officials and experts hope, its effects could extend far beyond Europe, changing company policies in the United States and elsewhere."); Dawn Carla Nunziato, *The Digital Services Act and the Brussels Effect on Platform Content Moderation*, 24 CHIC. J. INT. LAW 115 (2023).

“electric cars are neither ecological nor an economical solution.”¹² The NRI is supervised by the Deputy Prime Minister Krzysztof Gawkowski, who is charged with implementing EU President Ursula von der Leyen’s Democracy Shield proposal to “detect, track, and delete [allegedly] deceitful online content in coordination with national agencies.”¹³ Although TikTok has thus far resisted the Tusk government’s efforts to have the content removed, the Tusk government’s willingness to seek the removal of this content, alongside the government’s actions against its political opponents, is deeply concerning. A foreign government’s efforts to remove allegedly objectionable content can directly and indirectly implicate global online speech, including American speech.

Under the Treaty on European Union, the EU is obligated to ensure Member States, including Poland, uphold the rule of law.¹⁴ However, in stark contrast to EU criticism of Poland when PiS was governing, including the European Parliament’s vote to strip conservative Polish members of immunity for merely signaling support for a PiS campaign video, the European Commission does not appear to as readily criticize the Tusk government for its questionable actions.¹⁵ This apparent double standard raises concerns about the EU’s impartiality and its commitment to protecting fundamental rights across all member states. The EU’s silence may embolden the Tusk government’s censorship efforts, leading the Polish government to seek global removal of speech it disagrees with, which could ultimately result in the censorship of American speech.

Accordingly, we respectfully request a briefing on the EU’s position and actions regarding these troubling developments. Please ask EU staff to arrange a briefing as soon as possible to address how the EU is ensuring Prime Minister Tusk’s government is respecting due process, freedom of expression, and the rule of law, as enshrined in EU treaties; the steps that the European Commission has taken to investigate allegations of politically motivated prosecutions and rule of law violations in Poland since December 2023; and how the EU plans to implement a new European Democracy Shield, which will address so-called “misinformation” in a manner that will not chill Americans’ free speech rights.

¹² Submission by Poland’s National Research Institute (NASK) to TikTok Inc. (Nov. 25, 2024) (on file with the Comm.).

¹³ Irene Sanchez & Giorgos Verdi, *Digital deceptions: How a European Democracy Shield can help tackle Russian disinformation*, EUROPEAN COUNCIL ON FOREIGN RELS. (May 28, 2024); see also Mared Gwyn Jones, *Von der Leyen pitches plan to shield EU from foreign interference if re-elected*, EURO NEWS (May 14, 2024) (“The Shield would be tasked with detecting and removing online disinformation[.]”).

¹⁴ See Treaty on European Union (TEU), OJ C 202, 7 June, 2016, p. 17 (art. 2); p. 19-20 (art. 7).

¹⁵ *EU Parliament Strips Polish Ruling Party MEPs of Immunity to Face Hate Crime Indictment*, NOTES FROM POLAND (Nov. 9, 2023).

Mr. Michael McGrath

May 13, 2025

Page 4

Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning “civil liberties” to inform potential legislative reforms.¹⁶ If you have any questions about this matter, please contact Committee on the Judiciary staff at +1 (202) 225-6906.

Sincerely,



Jim Jordan
Chairman
Committee on the Judiciary



Darrell Issa
Chairman
Subcommittee on Courts, Intellectual Property,
Artificial Intelligence, and the Internet
Committee on the Judiciary



Chris Smith
Member of Congress



Warren Davidson
Member of Congress



Andy Harris
Member of Congress

cc: The Honorable Jamie Raskin, Ranking Member, Committee on the Judiciary

¹⁶ Rules of the House of Representatives, R. X(l), 119th Cong. (2025).