

# Judicial reforms in Poland – getting the public on board



On 24 July, Poland's President, Andrzej Duda, indicated that he would veto several judicial reforms that had generated protests within the country. [Anna Matczak](#) argues that the views of the public toward judicial reform have become obscured. She highlights that there is a deep level of mistrust among Polish citizens toward the criminal justice system and that the recent controversy should be used as motivation to give the public a greater say over improving the quality of criminal justice processes.



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Poland has seen widespread national demonstrations against hotly-debated changes to the judicial system that have been portrayed as a move toward authoritarian rule. There's a lot at stake. The three reforms, if implemented, would give the minister of justice and MPs broad powers to select, appoint and dismiss Supreme Court judges as well as judges in lower courts. Although the governing right-wing Law and Justice (PiS) party has justified the reforms as being necessary to make the Polish judiciary efficient and restore public confidence in the justice system, the changes would significantly strengthen government influence over courts and damage the separation of powers between the legislative, executive and judicial branches.

The Polish protesters have been praised for achieving a victory and influencing the President's decision to veto two out of the three proposed reforms. What is of great interest to me is the involvement and role of the public in these events: in my recently defended PhD thesis, I argued that criminal justice systems are, to a certain extent, mirrors of societies because justice processes (and their reforms too) reflect the context in which they occur. It is true that the majority of Poles oppose a politicised judiciary. However, there is something that has been lost in translation – that the Polish public's exceptionally low trust in the country's criminal justice system is a well-known feature of the Polish legal culture.

Whereas the public perception of the police has improved over time in Poland, trust in courts and the prosecution service has fluctuated significantly and deteriorated overall. In the latest 2017 CBOS opinion poll on people's views of the Polish criminal justice system, the overwhelming majority of respondents (51%) expressed a negative view toward the Polish criminal justice system, and only 36% held a positive view. This negative trend has been gradually increasing since 2008, when 44% of respondents were of a generally positive opinion, compared to 2017. The latest opinion poll also revealed that only 38% of respondents had reservations regarding judges' impartiality.

The same opinion poll included questions on potential criminal justice pitfalls. Among the most frequently indicated problems in the Polish criminal justice system, the respondents pointed to the excessive time taken to complete court proceedings (48%), the complexity of court procedures (33%), judicial corruption (30%), courts' leniency (23%), sentencing based on insufficient evidence (15%), notorious court delays (15%), high costs (13%), poor information sharing between courts (11%), and poor court management (11%). Interestingly, the 2017 opinion poll (carried out in March this year) also included questions about the proposed changes to how judges are elected for the National Council of the Judiciary. The responses suggest Polish society is divided on the issue as only 37% of respondents were against the idea of judges being selected by the Parliament, 33% supported the change, and 30% did not have an opinion.

I found similar negative views about the Polish criminal justice system in my doctoral research. When interviewees spoke about the Polish courts, one of the most prominent deficiencies identified in the Polish criminal justice system was the excessive length of court proceedings – something that resonates with a well-known legal maxim that 'justice delayed is justice denied'. Among my participants there was a strong perception of 'unfair' sentencing and their understanding of justice was that of a privilege for the rich, who can effortlessly evade justice, and as oppression for the poor who were seen as 'easy prey'.

There are a number of potential interpretations as to why people's trust in courts is so low in Poland. The post-1989 changes in the judicial system brought recognition of human rights, but also less punitive sentencing policies than under socialism. The exceptionally lengthy court proceedings may still derive from the sudden and significant increase in the volume of court cases post-1989. Some Polish scholars have pointed out that the low trust in courts/prosecution might indicate widespread expectations of harsh sentencing and, by extension, speak to the punitiveness of society at large. Others have argued that the difference between views on the police and criminal justice system lies in how these agencies have handled their public image.

For example, Polish police forces, since the beginning of the transformation process, have carefully managed their contact with the Polish media and appointed a number of press officers, while the courts' press service has not developed in such a way. The result has been the development of a less favourable view of the court system among lay people. Moreover, my participants' accounts on the administration of justice were strongly interwoven with the post-1989 transformations. Not all Polish citizens participated in post-1989 privatisation processes, and this unequal privatisation of property strongly affected the sense of social justice that has been steadily projected onto people's understandings of the administration of justice in Poland.

Finally, among all the recent acts of protest, what arguably has the greatest value is the initiative of public consultations, launched by the Polish Judges Association "IUSTITIA", to consider and discuss amendments to the Polish criminal justice system. Speedy delivery of heavily politically charged reforms *à la PiS* has proven not to be the best way forward to change public perceptions of the justice system. However, it might indeed set the groundwork for energising the Polish public, making their input valuable for improving the quality of criminal justice processes, and long-term hopefully increasing their confidence in the Polish justice system.

Let the waters calm – this is still democracy in the making.

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*Note: This article gives the views of the author, and not the position of EUROPP – European Politics and Policy, nor of the London School of Economics.*

## About the author



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