



## *Polish-Jewish Dialogue Committee*

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February 15, 2018

### **Statement of the Polish – Jewish Dialogue Committee (New York) regarding Amendment to the Act on the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation.**

The Polish-Jewish Dialogue Committee was formed by the Polish American Congress and the Queens Jewish Historical Society in 2010 to further understanding between Polish Christians and Jews. The organization has worked on joint ventures to improve relations. We co-sponsored three Annual Queens International Holocaust Remembrance Days, organized a tribute to the late Polish president Lech Kaczynski at Queens College, strongly advocated the truth that concentration camps in Poland were not Polish but German facilities, organized many sessions where we discussed the roots of prejudice and how it can be thwarted, sponsored a symposium at Queens College dedicated to the work of Polish film director Roman Polanski, initiated and co-sponsored the "Pope John Paul II Way" street name co-change in Maspeth, Queens, discussed and worked toward bilingual applications for Holocaust survivors so they could receive Polish government pensions, researched the ramifications of restitution of property seized by the German Nazi and Communist governments from the original Jewish property owners, co-sponsored the Polish-American Legal Advisory Forum at Christ the King High School, Middle Village, and many other. We also created the Jan Karski Humanitarian Awards. The 2014 Jan Karski Awards ceremony was held at the Polish Consulate in New York. The honorees were the late Polish Christian Irena Sendler (who save an estimated 2500 Jewish lives in the Warsaw Ghetto) and Rabbi Joseph Polatnik (Executive Vice President of the New York Board of Rabbis who promoted, for decades, intergroup and interfaith

understanding). The 2016 Jan Karski Awards ceremony was also held in the Polish Consulate in New York. The Honorees included Brooklyn Diocese Auxiliary Bishop Witold Mroziowski (who has worked with the Polish-Jewish Dialogue Committee on several projects), celebrated television and radio journalist and book author Rita Cosby (whose father was a resistance hero in Poland) Sigmund Rolat (a humanitarian philanthropist who has received the highest honors from Yad Vashem and the Polish Government) and documentary film producers Julita and Rafal Wieczynski (who commemorated the life of the Ulma family, who harbored Jews during the Holocaust and paid with their lives for this Righteous Christian activity), Director of the Ulma Museum in Markowa - Mateusz Spytma and Vice President of the Podkarpacie Region in Poland Bogdan Romaniuk. We also honored Auxiliary Bishop Witold Mroziowski with an Israeli-produced Ibex Shofar for his activities in promoting Polish Christian-Jewish amity. We also created the Andrzej Wajda Honors Awards for a High School Student who prepare essays, film or sculpture) related to renewal of Jewish life in Poland.

We carefully reviewed and discussed the most recent amendment to the Institute of National Remembrance Law regarding Commission for the Prosecution of Crimes against the Polish Nation.

There are three parts of this new legislation regarding the Nazi Germany's occupation of Poland and the Holocaust.

***“Art. 55a. 1. Anyone attributing, in public and against facts, responsibility or co-responsibility to the Polish Nation or to the Polish State for the Nazi crimes committed by the Third German Reich defined in Article 6 of the Charter of the International Military Tribunal annexed to the International Agreement on the prosecution and punishment of major war criminals of the European Axis, signed in London on 8 August 1945 (Journal of Laws of 1947, Item 367)...”***

The Third German Reich accepted 100% responsibility for their crimes committed during World War II in occupied Poland. Therefore, the Polish Nation (understood as such ethnic group) or the Polish State (which did not exist during the Holocaust) cannot share any blame for the Holocaust. The term "Nation" must be understood as the entirety of Polish citizens living both in the Republic of Poland and abroad.

***“(Anyone attributing, in public and against facts, responsibility or co-responsibility to the Polish Nation or to the Polish State)... for other offenses constituting crimes against peace, humanity or war crimes...”***

While the first part of this paragraph concerns the crimes of the Third German Reich, this offence concerns all crimes against peace, humanity or war crimes, and include crimes of genocide (as defined in the Convention on the Prevention and Punishment of the Crime of Genocide, adopted on 9 December 1948), as well as other serious persecution because of belonging to a particular ethnic, political, social, racial or religious group if they were carried out or inspired or tolerated by public officials.

Criminal liability will only apply to inculpation of the "Polish State" or the "Polish Nation", as it is unacceptable to attribute responsibility for crimes committed by the Third German Reich, or for example the USSR, to the entire Polish Nation or the Polish State.

Consequently, a perpetrator who states, for example, that "the Polish Nation committed the extermination of Jews" or "the Polish State mass murdered the Jews" will be subject to criminal liability, however, it will not apply for instance to a Holocaust survivor informing about crimes against Jews by individual Poles.

***"...or otherwise grossly reducing the responsibility of the actual perpetrators of these crimes..."***

The third type of conduct is gross trivialization of the responsibility of the actual perpetrators of crimes against peace, humanity or war crimes (in particular, of the Third German Reich). It is required to protect historical memory of crimes against "washing away" of responsibility of the actual perpetrators, which strengthens the protection of memory of Shoah Victims and victims of other crimes, including those committed by the Ukrainian Bandera nationalists collaborating with the Third German Reich.

***"Art. 55a. 2. Should the perpetrator of the act referred to in Section 1 act unintentionally, they shall be subject to a fine or restriction of liberty"***

Punishment will also be imposed in case of wording inculcating the entire Polish Nation or Polish State that arises from the failure to observe caution in the given circumstances, despite the fact that the perpetrator predicted or could have predicted the possibility of committing the offense (e.g. lack of fair journalism).

***"Art. 55a. 3. Perpetrator of the act referred to in Section 1 and 2 does not commit a crime if he has committed this act as part of their artistic or scientific activity"***

This is a solution based on the provisions of Article 256 § 3 of the Criminal Code and provides for the so-called justification of artistic or scientific activity. Consequently, for example, a teacher or historian who, as part of one's activities, states that Poles bear responsibility for murdering Jews during the Second World War shall not be subject to criminal responsibility.

This bill intends to punish the so-called historical lie, encompassing different forms of legal protection against Holocaust denial and genocide denial. The punishment of this type of conduct is already effective in a number of countries. For example, in Austria, Hungary and Belgium, those who "negate, understate or justify the genocide of the National Socialist dictatorship" are subject to criminal liability (in Austria, this is punishable by up to 25 years of imprisonment). A similar provision is in force in Israel (with the penalty of up to 5 years in prison). In the Czech Republic it was decided to punish conduct referring to communist crimes (with the penalty of up to 3 years of imprisonment). Similar rules apply in France and Germany, referring to the crimes identified by the International Criminal Court in Nuremberg.

While this new law clearly restricts freedom of expression, guaranteed in Article 54 Section 1 of the Constitution of the Republic of Poland or a series of acts of international law (e.g. Article 10 Section 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950), many experts, including the Ordo Iuris Institute for Legal Culture analysis dated 2/2/2018 (which we used extensively for this Statement), believe such restriction is acceptable in this case. Please note that after the laws was signed by

President Andrzej Duda, it was referred by him for review to the Constitutional Tribunal for further constitutional review.

We believe that this bill does not restrict those who want to talk about cases of disgraceful behavior of some Poles, examine a specific issue or talk about their experiences. It provides even more protection to the memory of victims of anti-Semitic and racist purges. It is not intended to rewrite memory of the mass extermination of the Jews planned by the Third German Reich. Furthermore, it has been consulted with the representatives of the Israeli Government for over year and a half. Therefore, it seems that misunderstandings of this bill result from the lack of proper analysis of its provisions and completely unnecessarily introduce a crisis in diplomatic relations between Poland and Israel and between Polish Catholics and Jewish people worldwide.

Respectfully,

Polish – Jewish Dialogue Committee (New York)  
Zygmunt Staszewski and Jeffrey Gottlieb, Co-Chairs