

[PL] Controversial Holocaust Act enters into force

IRIS 2018-5:1/26

*Sebastian Klein
Institute of European Media Law*

Poland's controversial Holocaust law entered into force on 1 March 2018. Under the new law, it is a punishable offence to accuse the Polish nation or the Polish State of being responsible for or complicit in the crimes committed by the Nazi regime. Whereas the Polish Government has said that the law is only designed to punish manifestly false phrases such as 'Polish death camps', its opponents doubt this is the case, fearing that the government could use it to silence political opponents. The law has faced particular criticism in Israel, where it has been suggested that it restricts the freedom of expression of Holocaust survivors. Diplomatic relations between the two countries have deteriorated in recent weeks as a result of the new law.

The governing PiS party has been planning the law for a long time, with initial drafts dating back several years. Serious doubts about the law's constitutionality were raised during the legislative process. Immediately after signing it, for example, president Andrzej Duda submitted it to the Polish Constitutional Court to be reviewed under the so-called 'follow-up' procedure. This raised the question as to whether the law would be applied before it had been reviewed. While the Ministry of Justice commented that the law was now valid, the Senate said that no prosecutions would be brought until the Constitutional Court had issued its decision. However, the question of the law's applicability has, in the meantime, been answered since, on 4 March, the Argentinian newspaper 'Pagina 12' was sued on account of a report published in December 2017. The report concerned the massacre in Jedwabne in 1941, when Nazis and locals murdered at least 340 Jews. Images of anti-Communist resistance fighters who were said to have participated in the massacre were published. It remains to be seen how the Constitutional Court will view the law and to what extent it will be applied by the country's courts and prosecution authorities.

Ustawa z dnia 26 stycznia 2018 r. o zmianie ustawy o Instytucie Pamięci Narodowej - Komisji Ścigania Zbrodni przeciwko Narodowi Polskiemu, ustawy o grobach i cmentarzach wojennych, ustawy o muzeach oraz ustawy o odpowiedzialności podmiotów zbiorowych za czyny zabronione pod groźbą kary

<http://prawo.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20180000369>

Act of 26 January 2018 amending the Act on the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation, the Act on War Graves and Cemeteries, the Act on Museums, and the Act on the Liability of Collective Entities for Prohibited Offences

