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Poland

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Poland: New Bill Could Ban Journalists from Historical Debate

Resolved

SOURCE OF THREAT ▶ State

CATEGORY ⓘ ▶ Other acts having chilling effects on media freedom

PARTNER: Article 19, AEJ

On 1 February 2018 the Polish Senate approved an amendment to the National Remembrance Institute Act (NRIA), introducing criminal liability for 'publicly ascribing responsibility or co-responsibility to the Polish People or State for Nazi crimes committed by the Third Reich', as well as for 'grossly reducing the responsibility of the actual perpetrators of these crimes.' This act is punishable by a fine or imprisonment of up to 3 years.

The authors of the bill state its aim as counteracting the phrase "Polish concentration camps", used by non-Polish commentators to describe Nazi concentration camps on the territory of Poland, during the occupation of Poland during the Second World War. While the Bill includes an exception for artistic or scientific expression, it does not clearly state how artistic or scientific activity would be defined. There is a risk the legislation could affect media freedom, particularly with regard to journalists engaged in debates about Poland's history.

The Bill also introduces vague provisions on civil liability for 'infringement of the good name of the Republic of Poland and the Polish Nation', in violation of international standards, which do not permit restrictions on freedom of expression made in order to protect "the state" or its symbols from insult or criticism. The amendments based on existing provisions in the Civil Code aimed at the "Protection of Personal Interests" (Articles 23-24). The amendments would enable the National Remembrance Institute or a non-governmental organisation to bring a claim against an individual. Remedies could include a retraction of the statement and/or compensation. Compensation would be awarded to the State Treasury, and the amount awarded at the discretion of the courts, opening up the possibility of very large fines, that could cripple independent outlets.

The bill is now awaiting approval by the Polish President.

RESOLVED

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06 Aug 2018: Following the amendments to the law adopted on 27 June 2018 and removing provisions foreseeing fines or criminal penalties for anyone found guilty of “ascribing to the Polish nation or State the responsibility for the crimes of the Third German Reich”, on 6 August 2018, the partner organisations to the Platform declared this case to be “resolved”, concluding it was no longer an active threat to media freedom.

UPDATES

27 Jun 2018: On 27 June 2018, Polish Parliament amended the law, removing fines or criminal penalties for anyone found guilty of ascribing Nazi crimes to the Polish nation or state.

- ➔ [Article by the Telegraph: « Polish government backs down from controversial Holocaust law that angered Israel »](#)

ADDITIONAL INFORMATION

- ➔ [Statement by the Helsinki Foundation for Human Rights \(in Polish\)](#)
- ➔ [Text of the bill \(in Polish\)](#)

STATE REPLIES



06 Feb 2018 | Response of the Government of Poland

- ➔ [Letter from the Permanent representation of Poland to the Council of Europe](#)

FOLLOW-UPS

 **02 Feb 2018** | New law on World War II crimes in Poland can threaten freedom of expression, says OSCE Representative Désir.

- ➔ [Statement by Harlem Désir](#)

