

Warszawa, dnia 17 kwietnia 2018 r.

prok. Marcin Gołębiewicz – naczelnik
Oddziałowej Komisji Ścigania Zbrodni
przeciwko Narodowi Polskiemu w
Warszawie
Plac Krasińskich 2/4/6,
00-207 Warszawa

Zawiadamiający: Robert Winnicki

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Sprawca: prezydent Państwa Izrael Reuven
Riwlin

miejsce pobytu nieznane

ZAWIADOMIENIE O POPEŁNIENIU PRZESTĘPSTWA

W imieniu własnym, na podstawie art. 304 Kodeksu postępowania karnego (dalej jako „*kpk*”) zawiadamiam o popełnieniu przestępstwa przez prezydenta Izraela Reuwena Riwlina polegającego na przypisywania Narodowi Polskiemu lub Państwu Polskiemu odpowiedzialności za zbrodnie nazistowskie tj. o czyn określony w art. 55a § 1 ustawy z dnia 18 grudnia 1998 r. o Instytucie Pamięci Narodowej - Komisji Ścigania Zbrodni Przeciwko Narodowi Polskiemu (tj. z dnia 8 września 2016 r. (Dz.U. z 2016 r. poz. 1575 z późn. zm., dalej jako „*ustawa o IPN*”) i wnoszę o ściganie sprawcy.

Zwracam się o informowanie o wszelkich czynnościach podejmowanych przez Prokuraturę w niniejszej sprawie.

UZASADNIENIE

I. Uzasadnienie faktyczne

Dnia 12 kwietnia 2018 r. prezydent Izraela Reuven Riwlin wypowiedział w trakcie spotkania z prezydentem Polski Andrzejem Dudą w Krakowie słowa: "It is not for nothing that we call the extermination camps the

extermination camps of the Nazis and their collaborators. There is no doubt that there were many Poles who fought the Nazi regime, but we cannot deny that Poland and Poles had a hand in the extermination.”
Tłumaczenie tych słów brzmi następująco: „To nie przypadek, że nazywamy obozy śmierci obozami nazistów i ich kolaborantów. Nie ma wątpliwości, że było wielu Polaków, którzy walczyli z reżimem nazistów, ale nie możemy zaprzeczać, że Polska i Polacy przyłożyli rękę do eksterminacji.”

Wymienienie przez prezydenta Izraela zarówno Polski jak i Polaków jako tych, którzy jakoby dopomogli w eksterminacji ludności żydowskiej w niemieckich obozach koncentracyjnych w czasie Holokaustu oznacza, że Reuwen Riwlin przypisał narodowi polskiemu i państwu polskiemu odpowiedzialność za zbrodnie nazistowskie.

Dowodem wypowiedzenia owych słów jest obszerny komunikat prasowy rzecznika prezydenta Izraela rozesłany izraelskim mediom i opublikowany na stronie internetowej izraelskiego MSZ oraz napisane na jego podstawie artykuły prasowe ze stron dzienników „Haaretz” i „Times of Israel”. Pośrednim dowodem wypowiedzenia tych słów jest także brak ich zdementowania przez polskie lub izraelskie ministerstwo spraw zagranicznych, mimo oburzenia opinii publicznej tymi wypowiedzianymi słowami.

Wnioskuje o przeprowadzenie dowodu z przesłuchania świadków - osób, które były świadkami wypowiedzenia tych słów tj. Prezydenta RP Andrzeja Dudę, ministra Krzysztofa Szczerskiego i ambasador Izraela Annę Azari.

II. Uzasadnienie prawne

Należy wskazać, że sprawca publicznie, umyślnie i z zamiarem bezpośrednim dokonał naruszenia czynu przestępnego określonego w art. 55a § 1 ustawy o IPN, który stanowi, że:

„Kto publicznie i wbrew faktom przypisuje Narodowi Polskiemu lub Państwu Polskiemu odpowiedzialność lub współodpowiedzialność za popełnione przez III Rzeszę Niemiecką zbrodnie nazistowskie określone w art. 6 Karty Międzynarodowego Trybunału Wojskowego załączonej do Porozumienia międzynarodowego w przedmiocie ścigania i karania głównych przestępców wojennych Osi Europejskiej, podpisanego w Londynie dnia 8 sierpnia 1945 r. (Dz.U. z 1947 r. poz. 367), lub za inne przestępstwa stanowiące zbrodnie przeciwko pokojowi, ludzkości lub zbrodnie wojenne lub w inny sposób rażąco pomniejsza odpowiedzialność rzeczywistych sprawców tych zbrodni, podlega grzywnie lub karze

pozbawienia wolności do lat 3. Wyrok jest podawany do publicznej wiadomości."

W zakresie stosowania ustawy wobec sprawcy będącego cudzoziemcem wskazać należy, że na podstawie art. 55b ustawy o IPN w odniesieniu do wskazanego powyżej czynu przestępnego uregulowano zasadę odpowiedzialności sprawy bez względu na przepisy obowiązujące w miejscu popełnienia czynu zabronionego. W związku z tym, obowiązkiem organów ścigania jest podjęcie wszelkich możliwych przewidzianych prawem środków w celu ujęcia sprawcy w kraju pobytu.

Zachowanie sprawcy zasługuje na wszczęcie śledztwa, z uwagi na dyrektywy oceny społecznej szkodliwości czynu zabronionego, w szczególności rodzaj i charakter naruszonego dobra, rozmiary wyrządzonej lub grożącej szkody, sposób i okoliczności popełnienia czynu, postać zamiaru oraz motywację sprawcy. Wskazać należy, że naruszonym przez sprawcę dobrem jest godność Narodu i Państwa Polskiego, któremu sprawca fałszywie przypisał odpowiedzialność za zbrodnie popełnione przez Niemców i III Rzeszę Niemiecką w czasie II wojny światowej. Bez wpływu na ocenę czynu sprawcy pozostać nie może bohaterska działalność Polskiego Państwa Podziemnego, setek tysięcy Polaków pomagających w ukrywaniu Żydów z narażeniem życia swojego i najbliższych, działalność Rady Pomocy Żydom ŻEGOTA, heroiczna misja rtm. Witolda Pileckiego (nazywanego „Ochotnikiem do Auschwitz”), działalność niosąca pomoc Żydom wielu wybitnych Polaków w niemieckich obozach zagłady w tym w szczególności św. Ojca Maksymiliana Marii Kolbę. Mając na uwadze powyższe fakty, działalności czyn popełniony przez sprawcę zasługuje na szybkie i sprawne ściganie oraz surowy wymiar kary, także w ramach prewencji ogólnej i społecznym oczekiwaniom. Sprawca działał w celu świadomego i zamierzonego popełnienia czynu zabronionego w zamiarze bezpośrednim.

Na podstawie art. 45a ustawy o IPN właściwym organem do wszczęcia śledztwa jest prokurator Oddziałowej Komisji Ścigania Zbrodni przeciwko Narodowi Polskiemu w Warszawie.

W związku z powyższym zawiadomienie jest uzasadnione, a sprawne podjęcie ścigania sprawcy konieczne dla ochrony godności Narodu i Państwa Polskiego oraz prawdy historycznej.

Robert Winnicki

Posel na Sejm RP

Załączniki:

- Komunikat prasowy rzecznika Prezydenta Izraela

- Artykuł z izraelskiego dziennika „Haaretz”
- Artykuł z izraelskiego dziennika „Times of Israel”

Załącznik nr 1

Komunikat prasowy rzecznika prezydenta Izraela ze strony anglojęzycznej Ministerstwa Spraw Zagranicznych Izraela (dostęp: 13 kwietnia 2018 r.)

President Rivlin meets with Polish President Duda of Poland in Krakow

12 Apr 2018

President Rivlin: Today the bilateral relations between Israel and Poland are excellent. However, I must tell you that a great shadow clouded our relations, even if at the bilateral level we understand each other.

(Communicated by the President's Spokesperson)

President Reuven Rivlin this morning, (Thursday, 12 April 2018), arrived in the city of Krakow in Poland in order to take part in the March of the Living. On his arrival, the President expressed his appreciation to the heads of Israel's security services, IDF Chief of Staff, the Chief of Police, and the heads of the Mossad and ISA, and all the members of the delegation from the President's Office together with the organizations taking part in the March of the Living.

The President then went on to hold a working meeting with Polish President Andrzej Duda. Following their meeting President Rivlin said, "Today, 75 years since the Warsaw Ghetto Uprising, and 70 years since the founding of the State of Israel, I have arrived here to march together with you Mr. President, together with survivors of the Holocaust, together with the heads of Israel's security services, in the March of the Living. This land was a creative home for the soul of the Jewish people, and to our great sorrow, also the largest Jewish graveyard. One cannot erase such a rich history, such a broad history, such a painful history."

He continued, "Israel is following from afar the academic and political debate in Poland on the issue of remembrance and responsibility. We appreciate the internal examination, and for the soul-searching of Polish society. Yet, there is also great disagreement about which we have spoken. Especially because of the special Jewish connection to Poland, we demand that Poland continue to be committed to comprehensive and unrestricted research on the events of the Holocaust period. As was agreed between the two countries, and as is appropriate. Policymakers have a duty to shape the future. Historians have a duty to describe the past and investigate history. One must not overstep into the field of the other."

The President went on to stress, "If there was to be another issue more important than researching the past, it would be the shaping of the future, and the shaping of the future is in education. Cooperation between Israel, Poland, and the Jewish people on remembrance and memorial, in education and research is the way to pass the torch of remembrance and responsibility to the next generations. It is important that Jews and Israelis will know all the aspects of the Jewish history in Poland. It is important Poles, young and old, will know and

learn about what happened here in the days of the Second World War. I greatly appreciate the cooperation between the Polish Government and the national museum at Auschwitz with the March of the Living, and I hope that we will find the right path to continue to intertwine remembrance, research, and education, for the benefit of future generations.”

President Duda welcomed the President and said, “Our meeting today is a great honor, but also of course a testimony to the enormity of the disaster that happened here. We are meeting here for the March of the Living as a testimony to memory of the Jewish Holocaust. We say to the world – especially from here, the place where the terrible disaster was carried out – we say Never Again. We call on the whole world to see where hatred of the other and anti-Semitism can lead. This is a cry for the whole world to remember that all human kind must relate with respect to one another and that Never Again. I am very thankful to President Rivlin for agreeing to come to the free Poland, and to this terrible place, this place of testimony. I am grateful to the President for his invitation to march alongside him today. This is important to me as a leader and as an individual. This is one of the most tragic events in our history.”

He continued, “So many Jews over the years dedicated their lives to Poland and its independence and their graves are scattered across Poland, not because they were murdered but because they fought for Poland’s independence. Three million Jews were murdered in Poland in the Holocaust, and want to say today that we will never forget them. The testimony of their lives is so important to us as an important element of remembrance. There is nothing more important than memory. Mr. President, I want to reiterate – there is great disagreement on the issue of amending the law which was passed in the Polish Parliament, which is being examined by the courts, but I want to clarify that at no point did we want to block testimony, on the contrary we wanted to defend the historical truths, and as a leader, I want to do this at any price, even when it is difficult for us.”

He added, “I am not scared to say that there were people whose behaviour should be condemned, but there were also people of whose behaviour we are proud. There were authorities that tried to defend the Jews, but their leaders were condemned to death. We are not seeking to block testimony, not even the difficult testimony. Mr. President, I think that our marching together here will make clear for the whole world that we mean Never Again. I am certain that we will continue to partner and cooperate in all fields, and especially with regard to security, and I believe that that in building a strong Poland, we can use the experience of the State of Israel and develop our cooperation in a way that will help the youth.”

In their meeting, the two Presidents spoke at length about the state of the relations between the two countries in the light of the recent Polish legislation. President Rivlin stressed to his Polish counterpart, “The relationship of the Jewish people with Poland is a thousand years old. Every Jew felt a connection to Poland as a place where Judaism flourished. Today the bilateral relations between Israel and Poland are excellent. However, not only because it is

Holocaust Heroes' and Martyrs' Remembrance Day, I must tell you that a great shadow clouded our relations, even if at the bilateral level we understand each other."

The President went on to say, "You must understand the sensitivity of the Jewish people in Israel. We see the Holocaust as a result of anti-Semitism which led to the slaughter of the Jewish people, out of the Nazi ideology which flourished on Polish soil." He added, "We greatly appreciate all those who risked their lives to save Jews, but there were other phenomena as well, people who murdered and inherited. This was a terrain that allowed the Nazis to do whatever they liked not only in Poland but throughout Europe."

The President reiterated and stressed, "Leaders of nations need to care for the future, those who decide what happened in the past are the historians and the researchers, not the laws passed by the leaders. Europe's history is far from easy, and today we see the phenomenon of racism and anti-Semitism, and all the people of the free world who oppose anti-Semitism see this as very worrying indeed."

He added, "When we say 'never again', we know what we must do, and that every nation must do their own soul-searching. We are ready to research the past together, but the truth will not change because of this or that law. I know that there is public opinion and that there is sometimes a desire to please it and sometimes to change laws with that aim, but in this case we are all waiting for your court's view in the hope that this cloud will disappear."

The President stressed, "For us in Israel, Poland is the cradle of a culture that blossomed, and at the same time, a place of destruction for the Jewish people. True, the Germans wanted to hurt us, but they also had helpers. We agree on many things, but the Holocaust Law creates a serious crisis. I had to tell you these things. We do not interfere with the legislation of other countries, but I could not help but convey to you the feelings of the entire Jewish people."

"Polish soil enabled the execution of Hitler's horrific ideology of genocide and saw the waves of anti-Semitism that the law created. We live today as a free people in our own country, but the anti-Semitic feeling in Poland and throughout Europe is raising its head and Holocaust denial is actually a statement that tries to say the Holocaust was justified."

The President concluded, "The bilateral relations between us can lead to cooperation in any field, but this law can make people think that you are not prepared to deal with your past in the Holocaust. It is not for nothing that we call the extermination camps the extermination camps of the Nazis and their collaborators. There is no doubt that there were many Poles who fought the Nazi regime, but we cannot deny that Poland and Poles had a hand in the extermination."

Źródło: <http://mfa.gov.il/MFA/Pages/default.aspx>

Załącznik nr 2

Artykuł w izraelskim dzienniku „Haaretz” z dnia 12 kwietnia 2018 r. (dostęp: 13 kwietnia 2018 r.)

Israeli President to Polish Counterpart: We Cannot Deny That Poland and Poles Participated in Holocaust

This year's march at Auschwitz comes weeks after Poland passed controversial legislation criminalizing allegations of Polish complicity in the Holocaust

Ofer Aderet

12.04.2018 | 17:33

Polish collaboration with the Nazis during the Holocaust cannot be ignored, President Reuven Rivlin told his Polish counterpart, Andrzej Duda, Thursday in a meeting ahead of the annual March of the Living, in which thousands march at the former death and concentration camp of Auschwitz.

This year's march comes several weeks after Poland passed controversial legislation criminalizing allegations of Polish complicity in the Holocaust. The bill still awaits final approval from Poland's Constitutional Court.

"Not for nothing we describe the death camps as the camps of Nazis and their helpers," Rivlin said. "There is no doubt that many Poles fought against the Nazi regime, but we cannot deny the fact that Poland and Poles lent a hand to the annihilation" of Jews during the Holocaust, Rivlin said.

Rivlin called for a "comprehensive and unrestricted study about the events and processes during the Holocaust." Israel's president further said that "statesmen must shape the future, and the historians have the duty to describe the past. One must not stray into the other's field."

Duda, for his part, said regarding the legislation: "There is controversy over the law, but I want to repeat that the Polish parliament has no intention of preventing survivors from giving their testimony. I, as president of Poland, wish to defend history – including its difficult parts."

Holocaust survivor Zoltan Matyah shows the number tattooed on his arm in front of the front of the "Arbeit macht frei" (Work sets you free) gate in the former Nazi death camp Auschwitz before the start of the annual "March of the Living" to commemorate the Holocaust in Oswiecim, Poland, April 12, 2018.

He noted that there was "unacceptable behavior" on the part of some Poles during the Holocaust and said he was "not afraid to talk about it." However, he said, "there was no systematic hatred of the Jews, because they were themselves citizens of Poland."

Duda, whose wife has a Jewish father, further stressed that the disputed legislation was never meant to "block testimony" about the Holocaust.

"Just the opposite," the Polish president said. "We want to defend historical truth. I as Polish president want to defend this truth with all my power, including those elements that are difficult for Poles."

The Polish president also noted in a joint press conference prior to the march that his and Rivlin's presence here "shows the world: never again anti-Semitism, never again genocide, never again Holocaust.

Also taking part in the march this year are senior Israeli security officials, including Chief of Staff Gadi Eisenkot, police chief Roni Alsheich, and the chiefs of the Shin Bet and Mossad security services.

The route from Auschwitz to the remains of crematoria at the nearby Birkenau camp is followed every year by young Jews, Poles and elderly survivors to remember the six million Jews killed in the Holocaust, including 1.5 million murdered in Auschwitz-Birkenau's gas chambers.

The Auschwitz-Birkenau complex, in southern Poland, was the biggest death camp set up by Nazi German invaders during World War II on Hitler's order to exterminate Europe's Jewry.

The Associated Press contributed to this report.

Źródło:

<https://www.haaretz.com/amp/world-news/europe/israeli-polish-presidents-to-take-part-in-march-of-the-living-1.5993292>

Załącznik nr 3

Artykuł ze strony izraelskiego dziennika „Times of Israel” z 12 kwietnia 2018 r.

Poles helped in Nazi extermination, Rivlin tells Polish counterpart

Israel's president says Warsaw has witnessed a 'wave of anti-Semitism' sparked by law criminalizing mention of complicity in Holocaust

By TOI STAFF

12 April 2018, 4:53 pm

On Polish soil, President Reuven Rivlin told his Polish counterpart, Andrzej Duda, on Thursday that while some Poles helped rescue Jews during the Holocaust, others took part in their extermination.

“There is no doubt that there were many Poles who fought the Nazi regime, but we cannot deny that Poland and Poles had a hand in the extermination,” Rivlin said during a joint press conference with Duda in Krakow.

“The country of Poland allowed the implementation of the horrific genocidal ideology of Hitler, and witnessed the wave of anti-Semitism sparked by the law you passed now,” the president added, challenging recently passed legislation that criminalized the mention of complicity by the Polish state in the Holocaust.

The president noted that Israel honors those Poles who gave their own lives to save Jews, but pointed out the widespread anti-Semitism that existed in Holocaust-era Poland and the fact that many Poles also participated in the extermination.

“People murdered and then inherited [the property of the dead]. Here was the foundation” of anti-Semitic feeling “that allowed the Nazis to do as they wished, not only in Poland but throughout Europe,” Rivlin said.

“This land was a forge of the Jewish nation’s soul, and to our deep sorrow, also its largest Jewish graveyard. You can’t erase such a rich history, full, painful history,” Rivlin told Duda.

“Policymakers have a duty to shape the future. Historians have a duty to describe the past and investigate history. One must not overstep into the field of the other.”

For his part, Duda welcomed his Israeli counterpart to Poland. “Our meeting today is a great honor, but also of course a testimony to the enormity of the disaster that happened here,” Duda said.

The Polish president acknowledged that “three million Jews were murdered in Poland in the Holocaust” and assured Rivlin that Poland “will never forget them.”

Addressing the recent controversy over the Holocaust legislation, Duda admitted “there is great disagreement” on the matter but reiterated that “at no point did we want to block

testimony [on the Holocaust]; on the contrary we wanted to defend the historical truths, and as a leader, I want to do this at any price, even when it is difficult for us.”

Rivlin’s own words ahead of the annual March of the Living from Auschwitz barracks to the Birnenu death camp, which he led, echoed a speech he gave the previous evening in Israel at a state ceremony marking Holocaust Remembrance eve.

He asserted that no country can “legislate the forgetting” of Jews murdered during the Holocaust, in what ostensibly was meant to be a jab at Warsaw.

“We do not expect European countries to pass on to the younger generation a sense of guilt. However, we do expect and demand that they pass on the torch of memory and responsibility,” he said.

Rivlin used similar rhetoric during the Thursday press conference, telling Duda that “cooperation between Israel, Poland, and the Jewish people on remembrance and memorial, in education and research is the way to pass the torch of remembrance and responsibility to the next generations.”

Passed in February, the Polish law calls for prison terms of up to three years for attributing the crimes of Nazi Germany to the Polish state or nation. The law also sets fines or a maximum three-year jail term for anyone who refers to Nazi German death camps as Polish.

One key paragraph of the law states, “Whoever claims, publicly and contrary to the facts, that the Polish nation or the Republic of Poland is responsible or co-responsible for Nazi crimes committed by the Third Reich... or for other felonies that constitute crimes against peace, crimes against humanity or war crimes, or whoever otherwise grossly diminishes the responsibility of the true perpetrators of said crimes – shall be liable to a fine or imprisonment for up to three years.”

The legislation, which was introduced by Poland’s conservative ruling party, has sparked a bitter dispute with Israel, which says it will inhibit free speech about the Holocaust. The United States also strongly opposes the legislation, warning it could hurt Poland’s strategic relations with Israel and the US.

Jewish groups, Holocaust survivors and Israeli officials fear its true aim is to repress research on Poles who killed Jews during World War II. The law and subsequent backlash have unleashed a wave of anti-Semitism in Poland.

Earlier this month, senior Israeli and Polish diplomats met in Jerusalem in a bid to resolve differences, with both sides vowing to preserve “the truth.”

But last month, Poland demanded that the Yad Vashem Holocaust museum in Jerusalem remove a reference to “Polish police” guarding the Lodz ghetto.

Źródło: <https://www.timesofisrael.com/poland-and-oles-helped-in-nazi-extermination-rivlin-tells-polish-counterpart/amp/>