



**SPECIAL REPORT:
Polish Delegation Meeting to Discuss Anti-Defamation Legislation**

February 26, 2018

Participants

NCSEJ hosted a Polish government delegation at NCSEJ's office on Monday, February 26, 2018. B'nai B'rith International (BBI) and the World Jewish Congress (WJC) also participated. Representing the Polish government were Deputy Foreign Minister Marek Magierowski, Ambassador to the United States Piotr Wilczek, Director of the Americas Division at the Ministry of Foreign Affairs Anna Perl, and Ministry of Foreign Affairs Associate Lukasz Smalec.

NCSEJ CEO Mark Levin, Deputy Director Lesley Weiss, Program Associate Benjamin Cohen; BBI CEO Daniel Mariaschin and Legislative Director Eric Fusfield; and WJC Jewish Diplomatic Corps Member David Shulman attended the meeting. NCSEJ Chairman Daniel Rubin participated by phone.

The Polish Position

Mr. Magierowski opened the meeting by underscoring the sensitive nature of the discussion and the need for candid dialogue surrounding passage of Poland's anti-defamation legislation and the global controversy that has arisen consequently. He emphasized the bill is not a "Holocaust denial law" but an "anti-defamation law" that addresses unfair usage of the phrase "Polish death camps" and "Polish [State] co-responsibility" in Nazi crimes. Poland has been combatting use of the phrase "Polish death camps" (in place of Nazi death camps) for several years. He also emphasized the bill is not meant to address the past, but the present, and present-day language surrounding the Holocaust in Poland.

Mr. Magierowski admitted the government has miscommunicated about the bill and its contents. On the other hand, he wanted to reinforce that several Israeli politicians and other government and community leaders have negatively escalated rhetoric surrounding the bill. Meeting participants disagreed with parts of this assessment.

Mr. Magierowski acknowledged WJC President Ronald Lauder's letter in the *New York Times* seeking to mend ties and highlighted the success Poland has seen in rebuilding Jewish communal life in the country over the last several years, including the opening of the POLIN Museum in Warsaw that leaves no stone unturned in discussing the history of Jews in Poland.

Mr. Magierowski said there were Poles who killed Jews, including in the infamous Jedwabne massacre, just as there were several thousand who saved Jews. The anti-defamation legislation does not seek to hide this, in theory or in practice.

Responses

Mark Levin voiced his agreement with several of the points Mr. Magierowski made, including that use of the phrase “Polish death camps” is illegitimate. He stated that NCSEJ acknowledges how Poles saved Jews and reiterated that there were Poles who murdered Jews. He praised Poland’s embrace of its Jewish community since becoming a democracy. In speaking of the law, however, Levin reinforced that the wording of the bill is vague. He expressed his desire to help the Polish government in any way possible to move forward on this issue.

Dan Mariaschin highlighted how he and Mark Levin recently returned from a trip to Israel where fallout over the anti-defamation legislation was a major topic of conversation. He mentioned the law’s current review in the Constitutional Court and recent statements from the Polish Minister of Justice that the law will not negatively affect research, academics, and the arts. He emphatically stated that the government should not wait for the court’s decision and should instead release a declaration clarifying these points in the law to help alleviate concerns regarding the bill’s potential to stifle speech. Mark Levin also reinforced a statement would be a useful and welcome step.

Mr. Magierowski replied that paragraph 52 of the legislation addresses this point directly. Furthermore, he clarified that contrary to reports in the Israeli media over the preceding days, the law has not been suspended and is still due to go into effect on March 1st; however, any prosecutions under the law would not be carried out until after completion of the court’s review.

Lesley Weiss expressed concern that prosecutors alone would determine what is a true or false statement regarding presentation of historical information. Furthermore, she shared her perspective as the daughter of a Holocaust survivor and longtime Jewish community leader that Poland, while impressively supportive of Jewish communal life in recent years, has a negative image in the Jewish diaspora and Israel. She explained from her own personal conversations with others, that there is a persistent negative feeling from some in the U.S. Jewish community toward Poland and belief that the country was complicit in the Holocaust. Recent passage of the legislation has not ameliorated, but exacerbated this issue.

Mr. Magierowski stated he was aware of Poland’s image problem and Mark Levin reinforced the need to send the right message on a global level.

Eric Fusfield noted that the legislation and the issues it addresses have not been treated with appropriate nuance. In efforts to explain the legislation and its true intent, Polish government leaders, including Prime Minister Morawiecki, have missed critical “teachable moments” to highlight nuances in Polish history and the role Poles played in World War II. Fusfield cited the research of Jan Grabowski, who found that more than 200,000 Poles committed crimes, including murder, against Jews during the Holocaust. He underscored that the nation as a whole cannot be held responsible for such crimes. However, the equation of Polish and Jewish victimhood and lack of nuance in the government’s discussion around the legislation paint an incomplete and inaccurate picture of history.

Mr. Magierowski noted that President of Poland Andrzej Duda has expressed similar concerns regarding the vagueness of language in the legislation and for this reason sent the bill to the Constitutional Court. He stated it is quite possible the court’s decision will lead to amendment of the legislation.

It was recommended that a high-level government official release a statement or give a speech addressing issues with the legislation, particularly that survivor statements are protected from prosecution.

Mr. Magierowski stated that survivors and survivor statements are protected and that the bill, in part, is an attempt to address “fake news” and obviously false statements about the Holocaust and Poland’s role in it.

Concerns were raised that the government is pursuing criminalization of speech and rhetoric instead of education and emphasis on dissemination of accurate historical information. In addition, reports from Poland indicate anti-Semitism in the country is rising. Passage of the legislation within a right-of-center government whose base includes those on the margins with anti-Semitic views has dredged up deeply rooted anti-Semitism in the country.

Mr. Magierowski responded by saying that, according to official European Union statistics, Poland has some of the lowest levels of anti-Semitism in Europe. He acknowledged that Israeli Ambassador to Poland Anna Azari has highlighted the rise of anti-Semitism in Poland since the law was passed, including a spike in public anti-Semitic statements. Mr. Magierowski underscored his belief that such statements remain at the margins of society but that there is anti-Semitism in Poland as there is in the United States and any other country in the world.

Mark Levin noted that the government is following a trend in passing legislation that overlooks Jewish community concerns, including a draft law that would limit the export of kosher meat from Poland.

Mr. Magierowski noted that this law is in its early stages and is part of a much broader animal protection bill.

The Taube Foundation, a key driver of Poland’s Jewish renaissance, has expressed concerns that the anti-defamation legislation and subsequent fallout have negative consequences for Polish-Jewish relations. Jewish communal leaders in the United States are ambassadors for the Polish-Jewish relationship and passage of this law and the government’s subsequent responses have made it much more difficult to fulfill the duties of this role.

Jan Karski, a Polish resistance fighter who reported to the Polish government in exile about the situation in Nazi-occupied Poland and the genocide of Polish Jews, was referenced to express a feeling that Karski would regret hearing about the anti-defamation law.

Mr. Magierowski went on to read from a 1942 *New York Times* article that reported about the Nazis’ plans to exterminate Jews and Poles alike. He agreed to suggest to Prime Minister Morawiecki to issue a statement of clarification. He stressed that emotions in Poland run very high on this issue, especially when taking into account the Nazis’ plan to commit genocide against Poles, Jewish and non-Jewish.

Mark Levin noted that emotions surrounding the Holocaust run high more than 70 years after it ended and reinforced this would never change. He underscored how NCSEJ advocated on behalf of Poland to join the EU and NATO and remains a friend and supporter of the country.

Mr. Magierowski asked those in attendance to help Poland counter unhelpful and harmful narratives, including the short film published by the Ruderman Foundation that ascribed responsibility for the

Holocaust directly to the Polish State. Open and honest communication must be reinforced on both sides.

It was noted that a Polish Senator had shared a video with anti-Semitic content depicting Jewish police officers committing abuses against Poles; Mr. Magierowski acknowledged he knew about this and that the Senator had been suspended. He stated he was equally shocked by this and by the Ruderman Foundation publication.

NCSEJ also raised the issue of Poland's draft restitution law, first raised in October 2017. Parliament has since sent the legislation to the Ministry of Justice for review. Mr. Magierowski stated there is no timeline for re-release of the legislation for debate but that the Ministry is considering the concerns of Jewish organizations.

Mr. Magierowski shared that, on the issue of the anti-defamation legislation, the Polish government informed and consulted Israeli Ambassador to Poland Anna Azari every step of the way. The universally negative and heavy Israeli reaction therefore surprised him.

Ambassador Wilczek reinforced that misunderstanding of the bill is quite unfortunate and partially rooted in a linguistics problem. The legislation discusses the Polish State and Nation as separate entities, with the "nation" meant to refer to all Poles as a group, not individuals. He said misunderstanding on this point has led many to believe the bill protects individuals who committed crimes against Jews during the Holocaust and this is not true.

Mr. Magierowski was asked about progress regarding dialogue between Israeli and Polish government delegations. He stated that a Polish delegation is flying to Israel this week to continue talks with the Israeli government ahead of this year's AIPAC Conference.

Mark Levin noted he will moderate a panel on Europe and Eurasia at the AIPAC Conference and the Polish legislation issue is likely to come up.

In returning to the mention of Jan Grabowski, Filip Jasinski reinforced that someone like Grabowski would not be prosecuted under the law as Grabowski's work concerned academic research.

Mark Levin reinforced that the issues at hand come down to an understanding of identity. Jews in Poland have not always been seen as Polish citizens or members of the Polish nation, but as a separate group entirely. The Jewish community in the United States, Israel, and other countries must work with Poland and the Polish Jewish community to continue building Polish-Jewish ties.

Daniel Rubin concluded the meeting with his belief that the visit of the Polish delegation reinforces Poland's commitment to moving forward past the legislation crisis and that we can and will work together to continue securing a solid future for the Polish Jewish community.

Report prepared by NCSEJ Program Associate Benjamin Cohen.