

# Institute of National Remembrance

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## The Act on the Institute of National Remembrance

Consolidated text as at 16 June 2016

(based on: Dz.U. Polish Journal of Laws of 2016 items 152, 178, 677, 749)

ACT

of 18 December 1998

on the Institute of National Remembrance – Commission for the Prosecution of Crimes  
against the Polish Nation

Bearing in mind:

- the remembrance of the enormity of the number of victims, the losses and damages suffered by the Polish people during World War II and after it ended;
- the patriotic tradition of the struggle of the Polish people against the occupiers, the Nazism and communism;
- the actions of the citizens for the sake of the independence of the Polish State and in defence of freedom and human dignity;
- the obligation to prosecute the crimes against peace and humanity and war crimes;
- as well as the obligation of our state to compensate all the aggrieved by a state which violated human rights;

as an expression of our belief that no unlawful action by the state against the citizens can be guarded as classified or left to oblivion – the following shall apply:

## Chapter 1

### General provisions

#### Art. 1.

The act regulates:

1) the recording, collecting, storing, processing, securing, making available and publishing of the documents of the state security authorities, produced and accumulated from 22 July 1944 until 31 July 1990, as well as the documents of the security authorities of the Third Reich and the Soviet Union relating to:

a)

- the Nazi crimes,
- the communist crimes,
- other crimes against peace, humanity or war crimes, perpetrated on persons of Polish nationality or Polish citizens of other nationalities between 08 November 1917 until 31 July 1990

b) other politically motivated reprisals, instigated by the officers of the Polish law enforcement agencies or the judiciary or persons acting on their order which were disclosed in the contents of the rulings made on the strength of the Act, dated 23 February 1991, on considering as invalid the rulings made in the cases of persons oppressed for their activities for the cause of an independent Polish State (Journal of Laws of 2015 item 1583),

c) the actions of the state security authorities described in art. 5;

- 2) the procedure for the prosecution of the crimes specified in point 1, letter a;
- 3) the protection of the personal data of the people referred to in the documents collected in the archive of the Institute of National Remembrance;
- 4) performing activities in the field of public education;
- 5) looking for resting places of persons killed in the fight for independence and unity of the Polish State, in particular those killed in the fight with the imposed totalitarian system or as a consequence of the totalitarian repressions or ethnic cleansing in the period between 08 November 1917 and 31 July 1990;

6) conducting activities related to commemorating historic events, places, and persons in the history of the struggle and martyrdom of the Polish nation, both in the country and abroad, as well as the places of struggle and martyrdom of other nations within the territory of the Republic of Poland, in the period between 08 November 1917 and 31 July 1990.

#### Art. 2.

1. As conceived of by the Act, communist crimes are actions performed by the officers of the communist state between 08 November 1917 and 31 July 1990 which consisted in applying reprisals or other forms of violating human rights in relation to individuals or groups of people or which as such constituted crimes according to the Polish penal act in force at the time of their perpetration. As communist crimes are also regarded the actions of those officers in the period in question in the preceding sentence which bear the hallmarks of the unlawful acts defined in art. 187, 193 or 194 of the ordinance of the President of the Republic of Poland, dated July 11, 1932 - the Penal Code or Article 265(1), Article 266(1, 2, or 4), or Article 267 of the Act dated 19 April 1969 - the Penal Code, performed in relation to the documents within the understanding of Article 3(1 and 3) of the Act dated 18 October 2006 on the disclosure of information relating to the documents of the state security authorities from the period between 1944 and 1990 and the contents of those documents (Journal of Laws of 2013 item 1388) to the detriment of the persons referred to in the documents.

2. As conceived of by the Act, the communist state officer is a public functionary, as well as a person who was granted equal protection to that of a public functionary and in particular, a public functionary and a person who performed executive functions within the statutory body of the communist parties.

#### Art. 3.

As crimes against humanity are especially considered the crimes of genocide as understood by the Convention on the Prevention and Punishment of the Crime of Genocide, adopted on 09 December 1948 (Journal of Laws of 1952 No. 2, item 9 as amended), as well as other serious persecutions based on the ethnicity of the people and their political, social, racial or religious affiliations, if they were performed by public functionaries or either inspired or tolerated by them.

#### Art. 4.

1. The crimes mentioned in Article 1(1)(a) which, according to the international law, constitute crimes against peace, humanity or war crimes shall not be subject to a limitation period.

1a. The limitation period for the communist crimes, as conceived of in Article 2, which are not war crimes or crimes against humanity commences as of 01 August 1990. The penalty of those crimes expires after 40 years, if the act is the crime of homicide, and after 30 years, if the act constitutes a different communist crime. The provision of Article 4(1) of the Penal Code shall

person, or the name, seat, address of the distinguished organisational unit.

4. The person or organizational unit that received the medal mentioned in section 1 shall be granted a medal and an ID confirming that the medal was granted.

5. The Prime Minister, having consulted with the President of the Institute of Remembrance, shall specify in a resolution:

- 1) the template of the request mentioned in section 2;
  - 2) detailed mode of procedure in the matters to grant the medal mentioned in section 1;
  - 3) the manner of granting and wearing the medal mentioned in section 1;
  - 4) sample medals and IDs confirming that the medal was granted, mentioned in section 1;
- taking into consideration the necessity to ensure that the procedure to grant the medal and the ceremonial and appropriate way to honour the persons and organizational units to which the medal is granted.

## Chapter 7

### Penal provisions

#### Art. 54.

1. Any person who, without being authorised, destroys, hides, damages, removes or modifies the contents of the documents or information records subject to be transferred to the Institute of Remembrance on the basis of Article 25 and 28(1) or those which are in the archives of the Institute, otherwise thwarts or considerably impedes the authorised person or institution in becoming familiar with them or disrupts or makes it impossible to automatically collect or transfer of such information shall be subject to the penalty of imprisonment of between six months and 8 years.

2. The same punishment shall apply to the person who, being in possession of the documents or information records subject to be transferred to the Institute of Remembrance on the basis of section 1, refrains from transferring them, impedes their transfer or thwarts it.

3. (repealed).

4. (repealed).

#### Art. 55.

Anyone who publicly and contrary to the facts denies crimes referred to in Article 1(1) shall be subject to a fine or the penalty of imprisonment of up to 3 years. The sentence shall be made public.

## Chapter 8

### Changes in the Valid Provisions, Temporary and Final Provisions

Art. 56-67.

(omitted)

Art. 68.

1. The archival resources of the former Chief Commission for the Investigation of Crimes against the Polish Nation - the Institute of National Remembrance and of the district commissions shall become the archival resources of the Institute of Remembrance.

2. The property of the former Chief Commission for the Investigation of Crimes against the Polish Nation -the Institute of National Remembrance and of the district commissions shall become the property of the Institute of Remembrance.

Art. 69.

As regards the cases which are not regulated by the Act and which concern the academic employees of the Institute of Remembrance, the provisions of the *Act dated 25 July 1985 on research and development units (Journal of Laws of 2008 No. 159 item 993 and of 2009 No. 168 item 1323) shall be applied.*

Art. 70.

In the case of Institute of Remembrance employees other than the prosecutors and the academic employees the provisions of the Act dated 16 September 1982 on the employees in state institutions (Journal of Laws of 2013 item 269, of 2014 item 1199, and of 2015 item 1220) shall be applied.

Art. 71.

The provisions of the Act of 29 August 1997 on personal data protection does not apply to the operations of the Institute of Remembrance as specified in Article 1, except for running the Database mentioned in Article 53f.

Art.72.