

RESOLUTION No. 63/2018
of the Presidium of the Polish Bar Council,
27 February 2018.

The debate which has been continuing since the adoption by the Parliament of the provision stipulating criminal liability for public propagation of the historical lie incriminating the Polish Nation for the Holocaust has brought a great deal of damage, both internally as well on the international scene. Regardless of the intentions of the authors of the adopted legal solution and due to highly the imperfect structure of the clause which provides for the crime, the legislation, which is erroneous from the legal point of view, already generates and will continue to generate irreparable damage.

What once again comes to light in this case are the flaws of the legislative process based solely on the autonomous concepts presented by the parliamentary majority which lack the necessary consultations with the legal community. The Bar has pointed on various occasions to the need to change this approach to law making. As a community which historically included advocates holding diverse opinions and representing different religions, particularly during the inter-War period a considerable number of Polish advocates of Jewish origin who frequently held the most prestigious positions in the organization of the Polish Bar, the legal community reminds about the need to take into account all the concerns and objections against the adopted regulations. From the legal perspective an erroneous and structurally defective legal solution ought to be rectified, particularly if signals are received about the threats resulting from a too broad interpretation of the new regulation, which evidently diverge from the intentions of its authors and were not taken into consideration during the law making process. In this case a review and modification of the legal solution would be a sign of legal maturity. On no account can it be considered a symptom of weakness or bowing down to criticism.

In view of the foregoing we appeal to all the entities responsible for law making in the Republic of Poland to conduct an in-depth analysis of the generally criticized structure and to start the appropriate amendment process, which will ensure implementation of the legislator's objectives without creating the risk of negative internal and international consequences resulting from errors in legislation.

President of
The Polish Bar Council

Adv. Jacek Trela