

## KANTOR CENTER POSITION PAPERS

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### **MAINSTREAM ANTI-SEMITISM IN POLAND**

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For several years now, and for the last few months and weeks in particular, the destruction of the rule of law, the persecution of independent judges and prosecutors, undermining of the fundamental principles of EU law, spreading xenophobia, homophobia and the use of anti-Semitic stereotypes in the mainstream of public life, have become the new Polish "normality". These phenomena are the subject of many scientific studies and expert analyzes.<sup>1</sup> At this point I would like to refer only to one aspect of these extremely dangerous tendencies, which is the unhampered spread of anti-Semitic motifs in the mainstream public debate, and even among representatives of the authorities of the Polish state.

In the course of the Polish presidential election campaign, which took place in the spring and summer of 2020, the incumbent and at the same time candidate for the office, President Andrzej Duda, uttered highly disturbing words regarding "Jewish claims" that his opponent, a pro-democratic candidate Rafał Trzaskowski would allegedly want Poland to satisfy. President Duda, referring to the still unregulated issue of post-Jewish heirless property, said that as long as he remains in office, he will never agree to a change in Polish law that would allow for satisfying such claims:

*"Compensation may be paid by the one who caused the Second World War. Who caused the Second World War? It is known who caused the Second World War, therefore if someone has a grudge, if someone wants compensation, please turn to those who caused the Second World War (...) and hold them accountable for all these terrible crimes, not us, Poles, Polish society".* As he added, as long as he is President, *"there will be no solution that will force us to pay any compensation or other compensation for the so-called heirless*

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<sup>1</sup> For a detailed account on the dismantling of the system of liberal democracy and the rule of law in Poland, see Wojciech Sadurski, *Poland's Constitutional Breakdown* (Oxford University Press, Oxford, 2019). See also the Report of the Iustitia Association of the Polish Judges: Jakub Kościerzyński (ed.), *Justice under pressure – repressions as a means of attempting to take control over the judiciary and the prosecution in Poland. Years 2015–2019*, Warszawa 2019, available at: [https://www.iustitia.pl/images/pliki/raport2020/Raport\\_EN.pdf](https://www.iustitia.pl/images/pliki/raport2020/Raport_EN.pdf).

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*property." Anyway, there is such a solution that if property is heirless, it becomes the property of the state (...).*<sup>2</sup>

This motif was also repeatedly present in the national television, staying under full control of the ruling party. Thus, the primetime news host asked, rhetorically, only three days before the elections: "Will Trzaskowski fulfill Jewish demands?". Anti-Semitic themes appearing in the national media in the election context were protested by the American Jewish Committee (AJC), commenting on Twitter: "*Unbelievable. Polish state owned TV channel & its @WiadomosciTVP news service used the myth of 'Jewish organisations' allegedly seeking to extort billions in property restitution. Reason? To smear a presidential candidate*".<sup>3</sup> AJC also filed a complaint to the Council for Media Ethics claiming that "Wiadomości" included in its materials purely anti-Semitic tropes.<sup>4</sup>

Such themes also appear in the statements of various mainstream public journalists in right-wing circles. In June 2020 Rafał Ziemkiewicz, a prominent journalist and commentator (until recently appearing regularly in the Polish state-controlled TV) announced the launch of his new book "Cham niezbytowany" [A Non-rebellious Lout]. The book includes, among others, shocking statements such as: "*Under the influence of the Holocaust, or rather a myth of the Holocaust (...), Zionism became particularly cruel. Shoah proved – as its prominent representatives say nowadays – that Jews must be ruthless*". He also calls young Israelis "killing machines" and refers to a Jewish "race": "*Subsequent generations of Jews, especially young inhabitants of Israel, are brought up from an early childhood in a paranoid sense of encirclement. Children formed to be killing machines must have their minds filled with the conviction that they are representatives of a special race, which has always been persecuted by everybody and everybody still wants to murder them all. Anything that your commanders order you to do is only a defence – a pre-emptive attack, so that the horror of the Holocaust does not repeat. If your enemy plots against you, get up*

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<sup>2</sup> „Andrzej Duda: Nie zgodzę się na odszkodowania za mienie bezspadkowe”, RMF24.pl information service, 9 July 2020, <https://www.rmf24.pl/raporty/raport-wybory-prezydenckie2020/najnowsze-fakty/news-andrzej-duda-nie-zgodze-sie-na-odszkodowania-za-mienie-bezsp.nId.4601956> (in Polish). See also: "Notes from Poland" information service, 9 July 2020, <https://notesfrompoland.com/2020/07/09/opposition-candidate-may-fulfil-jewish-demands-if-he-wins-presidency-warns-polish-state-tv/>.

<sup>3</sup>AJC's Twitter account, 15 June 2020, [https://twitter.com/AJC\\_CE/status/1272668260463452165](https://twitter.com/AJC_CE/status/1272668260463452165). See also: *Jewish group slams Polish public TV for 'hateful' role in election race*, Reuters, 10 July 2020, <https://www.jpost.com/diaspora/antisemitism/jewish-group-slams-polish-public-tv-for-hateful-role-in-election-race-634624>.

<sup>4</sup> ACJ's position was fully shared by the Council, which is, what should be noted, an independent organization with no factual prerogatives to impose penalties etc.

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*and be the first to kill him, Zionists repeat*".<sup>5</sup> The Open Republic Association against Anti-Semitism issued a strong public statement condemning Ziemkiewicz and, unsuccessfully, asking all distributors of his book to consider if they want to be involved in spreading anti-Semitic hatred. The Association has also notified the Prosecutor's Office, as the content of the book clearly violates several provisions of the Polish anti-hate speech laws.<sup>6</sup> However, this action also remained a helpless, symbolic attempt to stop hatred and contempt.

It should be noted that this is yet another example of Ziemkiewicz's rhetoric considered by many to be anti-Semitic. Previously, along with another prominent national TV personality, he was "joking" in a purportedly satirical TV show about the Holocaust. The audience of the show could find out that these were actually the Jews themselves who can be accused of complicity in the Holocaust.<sup>7</sup> Ziemkiewicz also used, in his social media, the words "scab" while referring to Jews in the context of controversies surrounding the infamous so-called Holocaust bill enacted in January 2018 in Poland. "Jewish scab" has a historical, extremely anti-Semitic connotation and was used in pre-war Poland as one of the most dehumanizing and insulting anti-Semitic invectives.<sup>8</sup> Since then, it has been understood in one way and in one way only: as an extremely hateful word to denote Jews.

Even Polish academia hasn't been fully immune from the plague of anti-Semitism. The Prosecutor's Office, headed by Zbigniew Ziobro, the Prosecutor General acting at the same time as the Minister of Justice (one of the political leaders of the ruling coalition), did not find anything which would warrant a legal response on the basis of Polish anti hate speech laws in a clearly anti-Semitic (according to the standards of international law and

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<sup>5</sup> Katarzyna Markusz, „Right-wing Polish journalist calls Jews ‘ruthless’, Holocaust ‘a myth’ in book”, Times of Israel, 5 June 2020, <https://www.timesofisrael.com/right-wing-polish-journalist-calls-jews-ruthless-holocaust-a-myth-in-book/>.

<sup>6</sup> A full statement by Open Republic Association is to be found here: <http://www.otwarta.org/otwarta-rzeczpospolita-w-sprawie-najnowszej-ksiazki-rafala-ziemkiewicza/> (in Polish).

<sup>7</sup> The case was even reported in the annual report of the US State Department: „On January 29, the director of state-run television station TVP-2, Marcin Wolski, stated on air that Nazi concentration camps were “not German or Polish camps, but Jewish camps,” arguing that Jews operated the crematoria at Auschwitz. During the same program, political commentator and author Rafal Ziemkiewicz stated, “Jews were part of their own destruction” during the Holocaust”. As further and rightfully stated in the report: „On February 7, Prosecutor General Zbigniew Ziobro asked the Warsaw prosecutor's office to conduct a preliminary review to determine whether Wolski and Ziemkiewicz's comments violated the law preventing public offense on the grounds of national, ethnic, racial, or religious identity.” However, as could be expected, the Prosecutor's Office discontinued the investigation in July 2018. For the US State Department report see: <https://www.state.gov/report/custom/95cb9dce1/>.

<sup>8</sup> “Polish journalist calls World Jewish Congress ‘gang of blackmailers’”, The Jerusalem Post, 6 April 2018, <https://www.jpost.com/Diaspora/Polish-journalist-calls-World-Jewish-Congress-gang-of-blackmailers-549026>.

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jurisprudence of the European Court of Human Rights<sup>9</sup>) statement of Professor Jan Bartyzel of the Mikołaj Kopernik University of Toruń. In February 2018, following Israeli Minister Katz's unacceptable comments on Polish anti-Semitism<sup>10</sup>, Professor Bartyzel posted on Facebook that: *"I can't get worked up about the fact that Jews hate us and spit upon us – what can you expect from that viperish tribe full of arrogance, venom and anger?"*. As he also stated: *"ethnic Poles' who accuse their country of anti-Semitism abroad, should be punished with "public flogging"*.<sup>11</sup>

However, it is the case of Judge Jarosław Dudzicz which is the most disturbing and shocking of all. Since 2015 an investigation has been underway into the anti-Semitic posts on social media.<sup>12</sup> He is currently a member of the National Council of the Judiciary (unconstitutionally reconstituted in 2018), and the nominee of the authorities to this key position, notorious for the prosecution of independent Polish judges still standing bravely against the demolition of the judiciary. For two years now Professor Adam Bodnar, the Polish Ombudsman, has been trying to determine how the Prosecutor's investigation into this case is proceeding -- with no results, even though the case seems to be, legally and factually, very simple.<sup>13</sup> In the near future the case will be covered by the statute of limitations and Judge Dudzicz will not bear any consequences. The anti-Semitic Internet entries that are under investigation include the one calling Jews "a vile, lousy nation". Another entry concerned the Kielce Pogrom of 1946<sup>14</sup>, calling it the communist secret service "provocation". (this sentence is unclear) D.) Interestingly, when questioned on the radio about whether he had authored those words he did not even deny it but only asserted, somewhat incredibly, that he "could not remember".<sup>15</sup>

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<sup>9</sup> See Aleksandra Gliszczyńska-Grabias, *'Never Again' as a Cornerstone of the Strasbourg System: The Reminiscence of the Holocaust in the Jurisprudence of the European Court of Human Rights* in: Esra Demir and Helmut Ast (eds.), *The European Court of Human Rights: Current Challenges in Historical and Comparative Perspective*, Edward Elgar 2020, (forthcoming).

<sup>10</sup> Minister Katz quoted late Prime Minister Yitzhak Shamir, and said "Poles suckle anti-Semitism with their mothers' milk."

<sup>11</sup> The case was reported widely. See "Polish Jewish leaders call for dialogue in wake of Israel-Poland row", The Jerusalem Post, 15 March 2019, <https://www.jpost.com/israel-news/polish-jewish-leaders-call-for-dialogue-in-wake-of-israel-poland-row-583561>.

<sup>12</sup> "Polish judge called Jews a 'despicable, filthy nation' in online forum", Times of Israel, 13 September 2019, <https://www.timesofisrael.com/polish-judge-called-jews-a-despicable-filthy-nation-in-online-forum/>.

<sup>13</sup> For all interventions in the case by Ombudsman Bodnar see: <https://www.rpo.gov.pl/pl/content/rpo-sedzia-krs-zamieszczal-antysemickie-wpisy-a-sledztwo-trwa-cztery-lata>.

<sup>14</sup> On Kielce Pogrom, which was a „Blood libel massacre of Holocaust survivors” perpetrated by Poles see: <https://encyclopedia.ushmm.org/content/en/article/the-kielce-pogrom-a-blood-libel-massacre-of-holocaust-survivors>.

<sup>15</sup> Wojciech Czuchnowski, Antoni Kowalski, "Jarosław Dudzicz, sędzia 'dobrej zmiany', o Żydach: 'Podły, parszywy naród'", Gazeta Wyborcza, 12 September 2019, <https://wyborcza.pl/7,75398,25182479,jaroslaw-dudzicz-sedzia-dobrej-zmiany-o-zydach-podly-parszywy.html>.

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Judge Dudzicz is one of the symbols of the destruction of the Polish system of justice, one of the most prominent members of the "new judicial elite." The fact that such a person is still exercising his high official positions (not only as a ranking judge and a member of the Council of Judiciary but in addition boasts a title of deputy spokesman of that Council, and frequently appears in the media on its behalf), and that a message is conveyed to the general public according to which anti-Semitic slogans can be publicly proclaimed, is highly alarming.

One of the indicators for the democratic maturity of any government is the way it relates to the protection of minorities from hatred, and implements its international legal obligations in this regard. The lack of reaction by the Polish authorities to the spread of anti-Semitic hatred and contempt, however, makes one wonder not about the degree of the collapse of democratic standards (and standards for the protection of human rights), but about the entire nature of the governing system in force in Poland today. Legal, social and international consequences of tolerating hatred and inciting it, will certainly turn out to be catastrophic, especially in the long run.