

# 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 not be applied.

2. The crimes mentioned in Article 1(1)(a), committed against other persons than Polish citizens are within the cognizance of the organs established by the Act, provided they were committed on the territory of the Polish State.

3. In relation to the perpetrators of war crimes, crimes against the humanity, and communist crimes, the provisions of the Acts and Decrees issued prior to 07 December 1989 which stipulate amnesty or

abolition shall not be applied.

## **Art. 5.**

1. Within the understanding of the act the state security authorities are:

- 1) the Department of Public Security of the Polish Committee of National Liberation;
- 2) the Ministry of Public Security;
- 3) the Committee for Public Security;
- 4) the organizational units subordinate to the organs mentioned in points 1-3, in particular the units of the Civil Militia (Milicja Obywatelska) in the period until 14 December 1954;
- 5) the central institutions of the Security Service of the Ministry of Internal Affairs and its subordinate local units in the provincial, district and equivalent Civil Militia departments as well as in the provincial, district and equivalent internal affairs offices;
- 6) the Academy of Internal Affairs;
- 7) the Reconnaissance Border Defence Troops;
- 8) the Internal Service Chief Directorate of the military units in the Ministry of Internal Affairs and its subordinate units;
- 9) the Military Information;

10) the Internal Military Service;

11) the Directorate of the Second Section of General Staff of the Polish People`s Army;

12) other services of the Armed Forces which performed operational and reconnaissance or investigative tasks, including different arms and military districts;

13) the Main Office for Control of the Press, Publications and Public Performances, along with the provincial and municipal offices for control of the press, publications and public performances, as well as the Main Office for Control of Publications and Public Performances together with the district offices;

14) the Office for Religions and the local organs of state administration specifically competent in the matter of religions at the provincial level.

2. According to the Act, the state security authorities also include the civilian and military organs and institutions of other states which had similar tasks to those of the organs mentioned in section 1.

3. According to the Act the Security Service Units those Ministry of Internal Affairs units which, by virtue of the law, were subject to dissolution at the moment of the creation of the Office for State Protection, as well as those units which were their predecessors.

## **Art. 6.**

(repealed).

### **Art. 7.**

According to the Act, the documents are:

- 1) any data carriers, regardless of the form of information storage, in particular: files, records, registers, computer files, letters, maps, plans, films and other image carriers, sound carriers and any other records, as well as copies, counterparts and other duplicates of those data carriers;
- 2) indispensable aids for the analysis of the information, in particular programs used to automatically process data.

## **Chapter 2**

### **The Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation and its Organs**

#### **Art. 8.**

1. In order to fulfil the tasks defined in Article 1 the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation, hereinafter called the "Institute of Remembrance" shall be established.

2. The Institute of Remembrance is financed by the state budget, in which it has a separate share.

3. The organization of the Institute of Remembrance, to the extent in which it is not regulated by the Act, is defined by the statute adopted by the President of the Institute of Remembrance.

### **Art. 9.**

1. The Institute of Remembrance shall be directed by the President of the Institute of Remembrance.

2. The President of the Institute of Remembrance shall be independent in his functions from the organs of state authority.

### **Art. 10.**

1. The President of the Institute of Remembrance shall be appointed and dismissed by the lower chamber (Sejm) of the Parliament of the Republic of Poland, at the agreement of the Senate and at the application of the Council of the Institute of Remembrance which shall present a candidate who is not its member.

2. The tenure of the President of the Institute of Remembrance shall last 5 years, beginning from the date of his oath. After the termination of his tenure he shall perform his responsibilities until the assumption of the post by the new President of the Institute of Remembrance.

2a. Should the President of the Institute of Remembrance die, until the position is taken over by the newly appointed President of the Institute of Remembrance, the acting President shall be one of the deputies of the President of the Institute of Remembrance appointed by the Speaker of the Sejm.

3. No sooner than 6 months and no later than 3 months before the termination of the tenure of the President of the Institute of Remembrance the Chairman of the Council of the Institute of Remembrance shall announce a public competition for this post. Should the post of the President of the Institute of Remembrance be vacated for any other reason, the time limit for the presentation of candidates in the competition for this post shall be 30 days from date of the announcement of the competition. The interviews with the candidates for the post of the President of the Institute of Remembrance shall be public.

4. One and the same person cannot be the President of the Institute of Remembrance for more than two terms.

### **Art. 10a.**

1. The Chairman of the Council of the Institute of Remembrance discloses the notice of the competition for the position of the President of the Institute of Remembrance in the Public Information Bulletin of the Institute of Remembrance.

2. The competition notice should contain:

- 1) specification of the position concerned by the competition;
- 2) requirements for holding the position, in particular those listed in Article 11;
- 3) list of documents and statements to be provided by the candidate and information on the manner, deadline, and place of submission;
- 4) information on the dates of commencing and concluding the competition.

3. A Member of the Council of the Institute of Remembrance, who is a spouse of the candidate, or is related by blood or by marriage up until the second degree, or remains in such legal or factual relationship with them that there might be reasonable doubt as to that Member's impartiality, may not participate in holding the competition. A Member of the Council of the Institute of Remembrance makes a statement on the lack of such circumstances before the commencement of the first stage of the competition, and if such circumstances are revealed after the first stage of the competition commences, the Member of the Council of the Institute of Remembrance makes a statement to excuse themselves from participating further in the competition procedure.

4. The activities performed with the assistance of a member of the Council of the Institute of Remembrance so excused may be considered invalid, if such activities could influence the results of the competition. The decision in this respect is made by the Council of the Institute of Remembrance by absolute majority of votes.

5. The competition has two stages:

1) stage one consists in verifying the documents and statements submitted by the candidates, determining on their basis whether they meet the formal requirements specified in the competition notice, and in moving to the relevant organs and state institutions to grant information within the scope mentioned in Article 11(2-2b);

2) stage two consists in hearing the candidates in public, when the candidate presents their skills and presents their idea of managing the Institute of Remembrance as well as the plans concerning the Institute's operations, and each Member of the Council of the Institute of Remembrance has the right to ask questions of the candidates.

6. The list of candidates that meet formal requirements, admitted to stage two of the competition is published in the Public Information Bulletin of the Institute of Remembrance.

7. The date and the place of stage two of the competition shall be determined by the Chairman of the Council of the Institute of Remembrance, by notifying the candidates admitted to stage two of the competition and the members of the Council of the Institute of Remembrance. The information about the date and the place of holding the stage two of the competition shall be disclosed in the Public Information Bulletin of the Institute of Remembrance. The Chairman of the Council of the Institute of Remembrance may specify the maximum number of persons present at the place of the public hearing of the candidates, for security reasons.

8. In the course of the competition, the Council of the Institute of Remembrance shall verify the knowledge, predispositions, and skills of the candidates required to perform the tasks of the President of the Institute of Remembrance.

9. The Council of the Institute of Remembrance makes a resolution to select the candidate to hold the position of the President of the Institute of Remembrance in a secret ballot, by absolute majority of votes. If no candidate receives an absolute majority of votes, another vote is held by simple majority of votes, with the participation of the candidates who received the two top number of votes. If no candidate receives the required majority of votes in the votes mentioned in the first and second sentence, the Council of the Institute of Remembrance, by means of a resolution, deems the competition as unresolved, and the Chairman announces the competition once again.

10. Each Member of the Council of the Institute of Remembrance may cast one vote in each round of voting.

11. The resolution of the Council of the Institute of Remembrance mentioned in section 9 is signed by all Members of the Council of the Institute of Remembrance. Each Member of the Council of the Institute of Remembrance may file a dissenting opinion with explanation.

### **Art. 11.**

1. The post of the President of the Institute of Remembrance can be held by a person who:

1) is a Polish citizen;

2) has not been sentenced with a valid sentence for an intentional criminal offence prosecuted ex officio;

3) is distinguished by a strong moral character and the knowledge necessary to perform the tasks of the Institute of Remembrance;

4) holds the following Polish scientific titles: doktor, doktor habilitowany, or profesor (PhD, post-PhD degree, professor).

2. The post of the President of the Institute of Remembrance cannot be held by a person who served, worked or collaborated with the state security organs mentioned in Article 5, or by a judge who, in his verdicts, offended the dignity of his office, violating the independence of the judiciary.

2a. The post of the President of the Institute of Remembrance cannot also be held by a person about whom the archives which are subject to be transferred to the Institute of Remembrance or other state archives contain information implying the premises defined in section 2.

2b. The post of the President of the Institute of Remembrance cannot also be held by a person whose tasks connected with the access to classified information or information protected as classified information make it impossible to present information on his or her course of service, work or collaboration.

3. The President of the Institute of Remembrance cannot belong to any

political party, trade union or carry on political activity which is incompatible with the dignity of the office.

4. The President of the Institute of Remembrance cannot perform any other job, apart from being a professor of an institution of higher education.

5. The post of the President of the Institute of Remembrance cannot be combined with the mandate of a member of Parliament or a senator.

6. The prosecutor of the Institute of Remembrance may be a person who:

1) is distinguished by a strong moral character and the knowledge necessary to perform the tasks of the Institute of Remembrance;

2) meets the conditions specified in sections 2-2b.

7. An employee of the Institute of Remembrance may be a person who meets the conditions specified in section 1(2) and sections 2-2b and does not conduct public activity that cannot be reconciled with the operations of the Institute of Remembrance.

## **Art. 12.**

Before assuming the responsibilities, the President of the Institute of Remembrance shall take an oath before the Sejm of the Republic of Poland to the following effect:

“I solemnly swear to serve faithfully the Polish Nation on the post of the President of the Institute of National Remembrance with which I am entrusted, to protect the law, conscientiously perform the responsibilities of my office and apply the principles of dignity and honesty in my conduct.”

The oath can be sworn by adding the sentence “So help me God”.

### **Art. 13.**

1. The tenure of the President of the Institute of Remembrance shall be terminated as a result of:

- 1) death;
- 2) resignation;
- 3) dismissal;
- 4) being sentenced with a final and binding sentence for a criminal offence prosecuted ex officio;

2. The Sejm of the Republic of Poland dismisses the President of the Institute of Remembrance if:

- 1) due to illness, disability or decrease of strength the President becomes unable to fulfil tasks of the President of the Institute of Remembrance;

2) the President does not fulfil the tasks imposed by the Act or acts in disservice of the Institute.

3) the annual report on the activities of the Institute of Remembrance for a given calendar year has not been accepted.

#### **Art. 14.**

1. The President of the Institute of Remembrance cannot, without the prior consent of the Sejm of the Republic of Poland, be prosecuted or imprisoned, subject to section 2.

2. The President of the Institute of Remembrance may give consent to being prosecuted for the infractions mentioned in section 3, in the mode specified in this provision.

3. Should the President of the Institute of Remembrance commit an infraction mentioned in Chapter XI of the Act of 20 May 1971 - Code of Infractions (Journal of Laws of 2015 item 1094 as amended), acceptance by the President of the Institute of Remembrance of a ticket or paying a fine, in the event of a penal fine, mentioned in Article 98(1)(3) of the Act of 24 August 2001 - Code of Procedure in cases of infractions (Journal of Laws of 2013 item 395 as amended) constitutes a statement to express consent to being prosecuted for the infraction in this form.

4. The President of the Institute of Remembrance cannot be detained or arrested, unless he is detained in the act of committing a crime and his detention is indispensable to ensure the correct course of the

proceedings. The Speaker of the Sejm shall be immediately notified about the detention and can order an instant dismissal of the detainee.

#### **Art. 14a.**

The limitations period in a criminal procedure with respect to a deed covered by immunity does not run while the immunity is valid.

#### **Art. 14b.**

1. The request for prosecuting the President of the Institute of Remembrance for a criminal offence prosecuted on public indictment shall be filed through the Prosecutor General.
2. The request for prosecuting the President of the Institute of Remembrance for a criminal offence prosecuted on private indictment shall be filed by the private prosecutor, after the matters is filed with the court.
3. The request mentioned in section 2 shall be drawn up and signed by an advocate or a legal adviser, except for the requests filed by judges, prosecutors, advocates, legal advisers, notaries, and professors and post-PhD degree holders in legal science in cases concerning them.
4. The requests mentioned in (1 and 2) shall specify:
  - 1) the designation of the applicant and the attorney, if appointed;
  - 2) name and surname, and the date and place of birth of the President of the Institute of Remembrance;

- 3) specification of the legal basis of the request;
- 4) exact specification of the deed concerned by the request, indicating the time, place, manner, and circumstances of committing it and its consequences, in particular the nature of the incurred loss;
- 5) statement of grounds.

### **Art. 14c.**

1. The request to issue consent to prosecuting the President of the Institute of Remembrance shall be filed with the Speaker of the Sejm.
2. Should the request fail to meet the formal requirements mentioned in Article 14b(3 or 4), the Speaker of the Sejm calls the applicant to correct or supplement the request within 14 days, noting necessary scope of corrections or supplements. Should the request fail to be corrected or supplemented within the specified deadline and scope, the Speaker of the Sejm decides to disregard the request.
3. If the request does meet formal requirements mentioned in Article 14b(3 and 4), the Speaker of the Sejm forwards it to the competent organ pursuant to the by-laws of the Sejm to consider the request, notifying the President of the Institute of Remembrance about the contents of the request.
4. The organ competent to consider the request notifies the President of the Institute of Remembrance about the deadline of consideration of

the request. Between the submission date and the consideration date, unless the case is urgent, at least 7 days should pass.

5. On request of the organ competent to consider the request, the court or the competent organ before which the procedure against the President of the Institute of Remembrance is held, discloses the case files.

6. The President of the Institute of Remembrance submits to the organ competent for resolving the request all and any explanations and requests in the case in writing or orally.

7. Having considered the case, the organ competent to resolve the request issues a report and a proposal to accept or reject the request.

8. During consideration by the Sejm of the report mentioned in section 7, the President of the Institute of Remembrance may speak up.

9. The Sejm consents to prosecuting the President of the Institute of Remembrance by means of a resolution adopted by absolute majority of the statutory number of members of the Parliament. Failure to attain the required majority of votes means adopting a resolution to reject the request to prosecute the President of the Institute of Remembrance.

#### **Art. 14d.**

1. The prohibition to detain mentioned in Article 14 extends to all forms of depriving or restricting the personal freedom of the President

of the Institute of Remembrance by the enforcement authorities.

2. The request to consent to detaining or arresting the President of the Institute of Remembrance shall be filed through the Prosecutor General.

3. The request mentioned in section 2 shall specify:

1) designation of the applicant;

2) name and surname, and the date and place of birth of the President of the Institute of Remembrance;

3) exact specification of the deed and its legal qualification;

4) legal basis for applying the relevant measure;

5) statement of grounds, listing in particular the necessity to apply the relevant measure.

4. The provisions of Article 13c (1-8) apply accordingly to processing the request to issue consent to detain or arrest the President of the Institute of Remembrance.

5. The Sejm consents to detaining or arresting the President of the Institute of Remembrance by means of a resolution adopted by absolute majority of the statutory number of members of the Parliament. Failure to attain the required majority of votes means adopting a resolution to reject the request to issue consent to detain or arrest the President of the Institute of Remembrance.

6. The requirement of obtaining the consent of the Sejm does not apply to executing the penalty of imprisonment imposed in a valid court sentence.

#### **Art. 14e.**

1. The Speaker of the Sejm immediately submits to the applicant the resolution mentioned in Article 14c(9) and Article 14d(5).

2. The resolutions mentioned in section 1 are to be published in the Official Gazette of the Republic of Poland "Monitor Polski".

#### **Art. 14f.**

The provisions of the Act concerning the criminal liability of the President of the Institute of Remembrance apply accordingly to the liability for infractions.

#### **Art. 14g.**

The detailed mode of proceeding in the cases mentioned in Articles 14a-14f shall be specified in the by-laws of the Sejm.

#### **Art. 15.**

1. The Council of the Institute of Remembrance shall be created within the Institute of Remembrance.

2. The Council of the Institute is a opinion-making and counselling body of the President of the Institute of Remembrance in the matters related

to the scope of operations of the Institute of Remembrance and performs the tasks and has the competence as provided for in the Act.

3. The Council of the Institute of Remembrance is composed of nine members, including:

1) two members appointed by the President of the Republic of Poland;

2) five members appointed by the Sejm of the Republic of Poland;

3) two members appointed by the Senate.

4. The post of a Member of the Institute of Remembrance may be held by a Polish citizen who has a strong moral character and the necessary knowledge for the tasks of the Institute of Remembrance.

5. The post of a Member of the Council of the Institute of Remembrance cannot be held by a person who served, worked or collaborated with the state security organs mentioned in Article 5, or by a judge who, in his verdicts, offended the dignity of his office, violating the independence of the judiciary.

6. The post of the Member of the Council of the Institute of Remembrance cannot also be held by a person about whom the archives which are subject to be transferred to the Institute of Remembrance or other state archives contain information implying the premises defined in section 5.

7. The Member of the Council of the Institute of Remembrance may not

be an employee or the prosecutor of the Institute of Remembrance nor render other services under a contract.

8. The term of office of the Council of the Institute of Remembrance shall be 7 years. Members of the Council of the Institute are not appointed for more than 2 terms.

9. Membership in the Council of the Institute shall be terminated as a result of:

- 1) death;
- 2) resignation;
- 3) being sentenced with a final and binding sentence for a criminal offence prosecuted ex officio;
- 4) being dismissed, respectively, by the President of the Republic of Poland, the Sejm of the Republic of Poland, or the Senate, on request of the Council of the Institute of Remembrance passed by the majority of two-thirds of votes of the statutory composition of the Council of the Institute of Remembrance, due to extended period of illness or being unfit to hold the position or comply with the obligations imposed by the Act, or to violate the prohibitions specified in section 7.

10. In the event of termination of the membership before the end of Institute's Council term, appropriate authority appoints a new member, for a period until the end of Institute's Council term.

11. Each Member of the Council of the Institute of Remembrance shall receive a monthly allowance for the performed tasks.

12. The Prime Minister will define by a decree the amount of the monthly allowance to which members of the Council of the Institute are entitled due to the performed tasks, considering the fact that the allowance cannot be higher than 4 minimal remunerations.

13. The first session of the Council of the Institute of Remembrance shall be convened by the Speaker of the Sejm of the Republic of Poland.

14. The Council of the Institute of Remembrance specifies in its organizational by-laws and the detailed organization and mode of work of the Council of the Institute of Remembrance.

#### **Art. 16.**

1. The President of the Institute of Remembrance shall perform his tasks with the aid of the organisational units of the Institute of Remembrance referred to in Article 17.

2. The President of the Institute of Remembrance can appoint no more than three deputies.

#### **Art. 17.**

1. In order to perform the tasks of the Institute of Remembrance in places which are seats of appellate courts, there shall be created branch offices, hereinafter called "branches", of the Institute of

Remembrance, while in other cities there can be created delegation of the Institute of Remembrance, hereinafter called “ delegations”.

2. A branch office of the Institute of Remembrance shall be headed by a director of the office, whereas a delegation shall be managed by a head of the delegation. A branch office director and a delegation head shall be appointed and dismissed by the President of the Institute of Remembrance.

### **Art. 18.**

1. The following organizational units operate at the Institute of Remembrance:

- 1) The Chief Commission for the Prosecution of Crimes against the Polish Nation, hereinafter called “ the Chief Commission”;
- 2) The Archive of the Institute of National Remembrance;
- 3) The Office for Commemorating the Struggle and Martyrdom;
- 4) The Office of Search and Identification;
- 5) The National Education Office;
- 6) The Historical Research Office;
- 7) The Vetting Office.

2. The following organizational units operate at the Institute of Remembrance:

- 1) branch commissions for the prosecution of crimes against the Polish nation, hereinafter called “the departmental commissions”;
- 2) branch vetting offices;
- 3) other organizational units listed in the statutes of the Institute of Remembrance.

3. The delegations of the Institute of Remembrance have the departments and sections listed in the statutes of the Institute of Remembrance.

### **Art. 19.**

1. The prosecutors in the Chief Commission and in the departments shall be appointed and dismissed by the President of the Institute of Remembrance.
2. The organisational units mentioned in Article 18(1)(2-6) shall be headed by directors appointed and dismissed by the President of the Institute of Remembrance.
3. The organisational units mentioned in Article 18(2)(3) and Article 18(3) shall be headed by managers appointed and dismissed by the President of the Institute of Remembrance.
4. (repealed).
5. A departmental commission shall be managed by the head of the departmental commission. The head of the departmental commission

shall be appointed, from among the prosecutors mentioned in section 1, and dismissed by the Public Prosecutor General at the application of the President of the Institute of Remembrance.

5a. The Director of the Chief Commission can entrust a prosecutor of a departmental commission with the performance of the responsibilities of the head of the departmental commission for the period of not more than 6 months.

6. An employee of the Institute of Remembrance cannot, without the permission of the President of the Institute of Remembrance, assume another job.

7. The prosecutors of the Vetting Office and the prosecutors of the departmental vetting offices shall be appointed and dismissed by the Public Prosecutor General at the application of the President of the Institute of Remembrance.

8. A departmental vetting office shall be managed by the head of the departmental vetting office. The head of the departmental vetting office shall be appointed, from among the prosecutors mentioned in section 7, and dismissed by the Public Prosecutor General at the application of the President of the Institute of Remembrance.

9. The Director of the Vetting Office can entrust the prosecutor of a departmental vetting office with the performance of the responsibilities of the head of the departmental vetting office for a period of not more than 6 months.

10. The Vetting Office shall be headed by the director of the Vetting Office, appointed from among the prosecutors of the Vetting Office and dismissed by the Prosecutor General at the application of the President of the Institute of Remembrance, having consulted with the Council of the Institute of Remembrance.

11. The tenure of the Director of the Vetting Office shall last 3 years, beginning on the date of appointment; after the lapse of his tenure the Director of the Vetting Office shall perform his responsibilities until a new Director of the Vetting Office is appointed.

12. One and the same person can be the Director of the Vetting Office not longer than for two successive terms.

13. The tenure of the Vetting Office Director shall be terminated upon his death or dismissal.

14. The Vetting Office Director shall be dismissed, if:

1) they have renounced their post;

2) a legally valid court ruling states that their vetting declaration is false;

3) there is a lasting impediment to the performance of their official responsibilities;

4) they are sentenced with a final and binding sentence for a criminal offence prosecuted ex officio;

5) they are sentenced to prison without a conditional suspension of the

penalty.

### **Art. 20.**

The Institute of Remembrance employees, also after the termination of their employment contracts, are bound to keep in secret any information relating to the activities of the Institute of Remembrance which was obtained on account of their employment in the Institute of Remembrance, except for information obtained during the course of academic research.

### **Art. 21.**

The President of the Institute of Remembrance and the members of the Council of the Institute of Remembrance are obliged, also after the lapse of their tenure or termination of membership, to keep in secret any information to which they had access on account of the performed functions. This shall not concern commonly known facts.

### **Art. 22.**

1. The President of the Institute of Remembrance can, in special cases, agree to the disclosure of information which constitutes classified information and to give access to documents or materials containing classified information to a person or institution, if the keeping of the secret made it impossible to perform the statutory tasks of the Institute of Remembrance.

2. As regards the documents transferred to the archives of the Institute

of Remembrance, the President of the Institute of Remembrance shall be accorded the rights defined in Article 6(7) of the Act dated 05 August 2010 on the protection of classified information (Journal of Laws No. 182 item 1228 as amended).

### **Art. 23.**

1. The President of the Institute of Remembrance shall periodically inform the Council of the Institute of Remembrance about important matters connected with the activities of the Institute of Remembrance.

2. The Council of the Institute of Remembrance:

1) accepts the annual report of the President of the Institute of Remembrance on the activities of the Institute of Remembrance;

2) issues an opinion on the candidates for the managerial positions at the Institute of Remembrance listed in the statutes of the Institute of Remembrance, presented by the President of the Institute of Remembrance;

3) issues opinions and recommends courses of activities and research programmes of the Institute of Remembrance;

4) confirms the specific rules for the recording, storing, compiling, securing, disseminating and publishing of the documents;

5) expresses, by virtue of Article 36(9), its opinion on the legitimacy of its refusal to make available the documents collected by the Institute of Remembrance;

6) sets priorities as regards disclosing the documents collected by the Institute of Remembrance;

7) takes a position in the matters of significance for the Institute of Remembrance;

8) performs other tasks and has the competence provided for in the Act.

3. The Council of the Institute of Remembrance shall endorse the annual report referred to in Article 24(1).

4. The Council of the Institute of Remembrance shall make its resolutions with a majority of votes in the presence of at least half the statutory number of the Council members.

#### **Art. 24.**

1. Once a year the President of the Institute of Remembrance shall make a report to the Sejm and Senate on the activities of the Institute of Remembrance.

2. The report referred to in section 1, as regards its part relating to state security or defence, can be classified.

3. The report of the President of the Institute of Remembrance shall be made public, except for the part referred to in section 2.

4. Once a year, by the agency of the Speaker of the Sejm, the President of the Institute of Remembrance shall make a report for the

exclusive information of the members of the Sejm Commission for Special Services, on the issues defined in Article 38

### **Art.24a.**

1. The President of the Institute presents to the Council of the Institute the report on the activities of the Institute for a given calendar year no later than until 31 March of the next year.
2. The Council of the Institute accepts the report on the activities of the Institute for a given calendar year with an absolute majority of votes.
3. With regards to the report referred to in section 1, provisions of Article 24(2-3) are applied accordingly.

### Chapter 3

## **Collection of Documents by the Institute of Remembrance**

### **Art. 25.**

1. Not later than within 60 days since the date of the establishment of the Institute of Remembrance the organs mentioned below shall be obliged to prepare and transfer to the archives of the Institute of Remembrance documents, data collections, registers and files created and collected by state security organs, prison institutions, courts and public prosecutor offices as well as the security organs of the Third Reich and the Soviet Union. This obligation shall rest with:

- 1) the Minister of Internal Affairs and Administration and the Head of the Office for State Protection - as regards the documents, data collections, registers and files, as well as the files of the officials, created or collected until 06 May 1990;
- 2) the Minister of Defence - as regards the documents, data collections, registers, files of the military security organs, as well as the files of the functionaries of the services, created or collected until 31 December 1990;
- 3) the Minister of Justice - as regards the documents, data collections, registers, files created or collected by the prison institutions until 31 December 1956, the documents, data collections, registers and files created or collected by the security department of the Central Directorate of Prison Institutions and its subordinate units until 31 December 1989, as well as the prison files of people oppressed or political reasons and placed in prison institutions, detention facilities and isolation camps;
- 4) the heads of courts of law and military courts - as regards the case files of persons oppressed for political reasons;
- 5) <sup>(4)</sup> the public prosecutors managing the organizational units of general prosecutor's offices - as regards the files, including the reference files, of the cases referred to in point 4;
- 6) directors: of the Archives of New Files and other state archives - as regards the files of the former Polish Workers' Party and of the former Polish United Workers' Party relating to the state security

organs, as well as the files of the security organs of the occupying states;

7) directors: of the Archives of New Files and other state archives - as regards the documents, data collections, registers and files referred to in points 1-5, and stored in those archives; their transfer to the Institute of Remembrance shall take place on the basis of a loan for use.

2. The transfer of the files referred to in section 1(6) shall consist in providing a copy.

3. The obligation defined in section 1(1-5) also concerns the copies of the documents, data collections and files, regardless of the date of their creation.

4. At any time the President of the Institute can demand that:

- 1) the Minister competent in internal affairs,
- 2) the Minister of National Defence,
- 3) the Minister of Justice,
- 4) the head of a court of law or a military court,
- 5) <sup>(5)</sup> the prosecutor managing a general prosecutor's office organisational unit,
- 6) the director the Archives of New Files or any other state

archives,

7) the heads of the Internal Security Agency, the Foreign Intelligence Agency, the Military Counterintelligence Service and the Military Intelligence Service,

as well as other institutions, hand over the documents which have not been transferred.

5. For official purposes the Minister of Internal Affairs and Administration, the Head of the Office of State Protection, as well as the Minister of National Defence can make copies of the files of the functionaries who remain in service which were created at that time referred to respectively in section 1(1 or 2).

6. For the needs of the organs defined in section 1(1-7), the President of the Institute of Remembrance shall determine the dates for the transfer of the documents, data collections, registers and files referred to in this regulation.

## **Art. 26.**

1. The Archives of the Institute of Remembrance shall receive the documents created in the course of the proceedings carried on by courts in the cases referred to in the Act dated 18 October 2006 on the disclosure of information about the documents of the state security organs from the years 1944-1990, as well as of the contents of those documents, as of the moment when the proceedings in a given case have been terminated in a legally binding way, without prejudice of

section 2.

2. The documents created in the course of the proceedings carried on by courts in the cases referred to in Article 17 of the Act mentioned in section 1 shall be transferred after the lapse of the time limit defined for the application to annul the case and, if the application has been filed - after its investigation. As soon as the proceedings in a given case have been terminated in a legally binding way, the copies of the documents shall be transferred.

### **Art. 27.**

1. The President of the Institute of Remembrance, after notifying the proper organ of government administration, local government or professional association, can obtain the right to inspect the documents, if there is a founded suspicion that they contain information pertaining to the tasks of the Institute of Remembrance.

2. Any person in possession of the documents referred to in Article 25 is obliged immediately to notify the President of the Institute of Remembrance about this.

3. Any organ of government administration, local government or professional association is obliged immediately to hand over to the President of the Institute of Remembrance, on his demand, any documents that they possess which are referred to in Article 25. The obligation also concerns the transfer of copies.

4. The President of the Institute of Remembrance can also demand the

issuance of any other documentation than that mentioned in Article 25, regardless of the time of its creation or collection, if it is indispensable to fulfil the tasks of the Institute of Remembrance defined in the Act.

5. If the documents are necessary for the organ referred to in section 3, for the fulfilment of its statutory tasks, it shall suffice that only their copies be handed over to the President of the Institute of Remembrance.

### **Art. 28.**

1. Any person who, without legal authorisation, is in possession of documents which contain information pertaining to the tasks of the Institute of Remembrance is obliged to immediately transfer them to the President of the Institute of Remembrance.

2. The owner or any other person with a legal title to the ownership of the documents referred to in section 1 is obliged to make them available to the President of the Institute of Remembrance, on his demand, for the purpose of preparing a copy.

3. The President of the Institute of Remembrance can refer to any foreign persons or institutions for help in obtaining access to the documents.

### **Art. 29.**

1. As regards its archiving tasks, the Institute of Remembrance collects, records, stores, prepares, secures and makes available the

documents describing the 1917-1990 crimes and the documents which depict the facts and circumstances relating to the fate of the Polish Nation in the years 1939-1990 and provide information on the losses and damage. On their basis the Institute of Remembrance issues certified copies, transcripts, extracts and reproductions of the stored documents.

2. The Institute of Remembrance collects, registers, stores, studies, secures, and makes available also other archival materials than those listed in section 1 and in Articles 25-28 obtained in the form of original documents, copies, or on electronic data carriers from the institutions running archives in other states, Polish emigration and Polish diaspora institutions, as well as private persons from the country and abroad.

## **Chapter 4**

### **Granting Access to the Documents by the Institute of Remembrance**

#### **Art. 29a.**

1. The President of the Institute of Remembrance, at a application, shall inform within 14 days in the form of a certificate whether the personal data of the applicant are identical with the personal data contained in the catalogue of the functionaries, collaborators, candidates for collaborators of the state security organs referred to in Article 5 or of other persons, rendered available in the Institute of

Remembrance as of 26 November 2004.

2. (repealed).

3. At the request of the applicant the contents of the certificate referred to in section 1 shall be published in the Public Information Bulletin of the Institute of Remembrance.

### **Art. 30.**

1. Any person shall have the right to application the Institute of Remembrance to be granted the permission to inspect the copies of documents which concern him or her.

2. The Institute of Remembrance shall grant access of the documents referred to in section 1 which concern the applicant, or their copies if the material state of the document does not allow their access or if the access is requested by several persons at the same time or when the Institute possesses only copies of the documents, provided:

1) The Institute of Remembrance grants access of the documents referred to in section 1, which concern the applicant and prepared by the applicant or with his cooperation within his work or service in the security authorities or within his work as a secret informer or assistant in compiling operational information;

2) (expired).

3. (repealed).

4. The request mentioned in section 1 shall specify:

- 1) the name and surname, as well as the address of the applicant;
- 2) the type and number of their identity document;
- 3) the date of the issuance of the identity document and the name of the organ which issued it;
- 4) any data facilitating the finding of the documents.

5. Should any documents concerning the applicant be later found in the archives of the Institute of Remembrance, the applicant should be informed thereof and instructed about the possibility of making another application referred to in section 1.

### **Art. 31.**

1. Dissemination by the institute of Remembrance copies of documents referred to in Article 30(2)(1) is performed in a course of administrative decision.

2. Decision referred to in section 1 can be appealed to the President of the Institute.

### **Art. 32.**

1. After investigating the appeal referred to in Article 31(2) the President of the Institute of Remembrance shall make a decision in which:

- 1) the decision referred to in Article 31(1) shall remain binding;
- 2) the decision referred to in Article 31(1) shall be reversed and the case transferred to be investigated again by the organ of first instance.

2. The applicant shall have the right to complain to an administrative court about the decision referred to in section 1, point 1, within a time limit defined in Article 53 of the Act of 30 August 2002 – the Law of Administrative Court Proceedings (Journal of Laws of 2012 item 270 as amended).

3. (revoked)

4. (revoked)

5. (repealed).

6. After passing the sentence the administrative court shall immediately return the case files to the Institute of Remembrance.

7. (repealed).

### **Art. 33.**

1. (repealed).

2. Anyone who gained access to the documents mentioned in Article 30(1) has the right – on the terms and within the scope specified in the Act – to obtain copies of these documents and the right to return the

items stored in the Archive of the Institute of Remembrance, which at the time of loss constituted their property or possessions.

3. Documents can be accessed in the headquarters of the branch office appropriate in terms of applicant's place of residence or any other indicated branch office in a period of 4 months from the date of submitting the application, referred to in Article 30(1). Article 34(4) shall apply accordingly.

4. (repealed).

5. Receiving copies of documents is free of charge, subject to section 6.

6. For preparing and issuing reproductions of documents for purposes referred to in Article 36(1)(2 and 3) a fee will be taken, which constitutes income of the Institute of Remembrance

7. The Prime minister will define by a decree the sort and scope of reproduction services, which are subject to a fee, maximum amounts of fees and the manner of their assessing and collecting, taking into consideration the need of fulfil scientific and publishing ends. The amount of fees cannot exceed additional financial costs regarding reproduction services bore by the Institute of Remembrance.

#### **Art. 34.**

1. The issuance of the document copies shall take place at a written application of the person referred to in Article 33(2).

2. On the demand of the applicant the issued copies of documents should be authenticated.
3. The issuance of the copies of the documents shall take place at the branch office of the Institute of Remembrance proper with regard to the domicile of the applicant, unless he indicated another branch office within 30 days as of the date of filing the application referred to in section 1.
4. The applicant should be notified in writing about the time of the issuance of the copies of the documents at least 7 days before that time. The issuance of the copies of the documents should be recorded in a report signed by the applicant and an authorized employee of the Institute of Remembrance.
5. At a written application of the person referred to in Article 33(2) the Institute of Remembrance shall issue the objects which are in its archives which at the moment of being lost constituted his or her property or were in his or her possession.
6. Before issuing the objects the Institute of Remembrance may prepare and keep their copies; this fact should be reported to the applicant.
7. To the extent defined in section 5 the provisions of sections 3 and 4 shall be applied respectively.

**Art. 35.**

1. At a written application of the person referred to in Article 33(2), that person shall be given the names and further data which identify the persons who passed information about him or her to the state security organs, if they can be unequivocally determined on the basis of the documents of a given state security organ and to the extent in which the documents rendered available for inspection on the basis of the application referred to in art. 30(1) contain nick names or surnames of such persons.

2. The provision of section 1 shall be applied accordingly, if the documents rendered available for inspection on the basis of the application referred to in Article 30(1) contain the names of the employees and functionaries who collected or assessed information about the applicant or managed the persons who passed this information to the state security organs.

3. It shall be refused to communicate the names or other data identifying the persons who only provided information about common crimes.

4. The refusal to render available the data identifying the persons referred to in sections 1 and 2 can be appealed against with the President of the Institute of Remembrance.

5. To the extent defined in sections 1 and 2 the provisions of Article 34(3 and 4) shall be applied accordingly.

### **Arti.35a.**

1. The applications referred to in Article 30(1), Article 34(1 and 5), shall be filed personally at the office of the Institute of Remembrance, its branch offices and delegations or by mail operator as understood in the Act of 23 November 2012 – Postal Law (Journal of Laws item 1529 and of 2015 item 1830), if the signature of the applicant has been authenticated by a notary public.

2. A person with a permanent domicile abroad can file an application personally at a Polish consulate, the applicant's signature being authenticated by the consul. The application can also be filed by mail, if the applicant's signature has been authenticated by a notary public or other person authorised to authenticate signatures in accordance with the law of the country in which this action is to take place.

3. After filing his request, the applicant can assign an attorney to execute his rights defined in the Act.

4. The entitlements arising from Articles 30-35 and Article 35b may be executed by the closest relative of the deceased in the understanding of Article 115(11) of the Penal Code, and if no such person exists – by a relative up to the fourth degree, provided that such a person makes a statement on the lack of the closest relative of the deceased in the understanding of Article 115(11) of the Penal Code under the pain of criminal liability for misrepresentation.

5. If the rights defined in Articles 30-35 and 35b are executed by the closest relative referred to in section 4, the adequate application form should bear the name and surname of the deceased whose rights it

concerns.

### **Art. 35b.**

1. Any person shall have the right to incorporate in the set of documents relating to him or her his own supplements, corrections, updates, explanations and documents or its copies. The data already contained in the documents shall not be changed.
2. The supplements, corrections, updates, explanations and documents or its copies shall be incorporated in the set of documents and marked so that they can be readily distinguished from the documents collected by the Institute of Remembrance according to the procedure of Article 25.

### **Art. 35c.**

1. Any person shall have the right to file an application with the Institute of Remembrance to be granted the right to inspect the personal documents relating to an employee or functionary of a state security organ.
2. The request mentioned in section 1 shall specify:
  - 1) the name and surname, as well as the address of the applicant;
  - 2) the type and number of their identity document;
  - 3) the date of the issuance of the identity document and the name of the organ which issued it;

4) any data facilitating the finding of the documents; in particular, the name and surname, as well as the information about the place of work or activity of the employee or functionary of the state security organ to whom the documents relate.

3. Functionaries and employees of state security organs can obtain, at their own application, copies of the personal documents concerning them.

4. Should any personal documents be later found in the archives of the Institute of Remembrance which relate to the employee or functionary of the state security organ and in which the applicant was interested, he should be informed thereof and instructed about the possibility to file again the application referred to in section 1.

### **Art. 36.**

1. The documents collected by the Institute of Remembrance shall be made available in order to:

- 1) perform the statutory tasks;
- 2) conduct academic research;
- 3) publish press materials, in the understanding of the provisions of the Act of 26 January 1984 - Press Act (Journal of Laws No. 5, item 24, as amended), on the authorization of the editorial team or the publisher.

2. The documents referred to in section 1 shall be rendered available

at a written application, referred to the director of the department of the Institute of Remembrance proper with regard to the domicile or office of the applicant.

3. The request mentioned in section 2 shall specify:

- 1) the name and surname or the name and domicile or office of the applicant;
- 2) the type and number of the identity document of the person who is to be granted access;
- 3) the date of the issuance of the identity document belonging to the person who is to be granted access and the name of the organ which issued it;
- 4) any data facilitating the finding of the documents.

4. The application to be granted access to the documents with the purpose mentioned:

- 1) in section 1(1) - should also contain the legal grounds concerning the performance of the tasks referred to in section 1(1);
- 2) in section 1(2) - should also contain:
  - a) an indication of the topic of the conducted academic research,
  - b) a recommendation of an academic competent to conduct research in the humanities, sociological, economical or legal areas

- in the case of persons who are not such academics;

3) in section 1(3) - should also contain:

a) an indication of the topic of the press material,

b) an enclosed authorisation from the editorial staff or publisher to file such a application.

4a. The documents mentioned in section 1, whose catalogue numbers are known, and finding which does not requires additional inquiries, shall be disclosed within 7 days since a request is submitted.

4b. The persons that use the documents mentioned in section 1 for the purposes mentioned in section 1(2-3) are entitled to obtain, on request, information from the databases, registers, files of the security agencies of the state stored in the archives of the Institute of Remembrance, including those concerning the identity of secret informants or assistants helping to obtain information.

5. The entities who have presented the application and were granted access to the documents, shall bear the legal responsibility for the way they are used, which shall be subject to a written notification.

6. The director of a department of the Institute of Remembrance, by virtue of an administrative decision, shall refuse access to the documents referred to in section 1, if the application does not comply with the conditions defined in sections 1-4 or there are premises referred to in Article 30(2)(1) or Article 37.

7. The decision mentioned in section 6 should contain a factual and legal justification. The factual justification can be omitted or limited to the extent in which rendering the information available to the applicant makes it impossible to implement the Act dated 18 October 2006 on the disclosure of information about the documents of the state security organs from the years 1944-1990 and of the contents of those documents.

8. Decision referred to in section 6 can be appealed to the President of the Institute.

9. As a result of investigating the appeal referred to in section 8, the President of the Institute of Remembrance, having consulted the Council of the Institute of Remembrance, shall make a decision with which:

- 1) they shall maintain the decision mentioned in section 6;
- 2) they shall reverse the decision referred to in section 6 and refer the case to be investigated again by the organ of first instance.

10. In the case of the decision of the President of the Institute of Remembrance mentioned in section 9 the provision of section 7 shall be applied.

11. The applicant shall have the right to complain to an administrative court about the decision referred to in section 9(1), within a time limit defined in Article 53 of the Act of 30 August 2002 – the Law of Administrative Court Proceedings.

12. The administrative court shall investigate the complaint at a closed session.

13. After the sentence has become legally binding, the administrative court shall immediately return the case files to the Institute of Remembrance.

14. In the case of an annulment complaint the provision of section 12 shall be applied accordingly.

### **Art. 37.**

1. The person who, by virtue of Article 33, has been granted the right to inspect documents relating to him or her, while there are no existing documents concerning him or her which are referred to in Article 31(1), may stipulate that the personal data concerning him or her collected in a secret way in the course of operational and reconnaissance activities of state security organs shall not be made available for the purposes mentioned in Article 36(1)(2 and 3) for a specified period of time, though no longer than for 50 years from the date of their creation.

2. The person who, by virtue of Article 33, has been granted the right to inspect documents relating to him or her mentioned in Article 30(2)(1) can stipulate that the information disclosing his or her ethnic or racial origin, religious beliefs, denomination or data on his or her health state and sexual life, as well as disclosing her material status, especially the real estate and personal property which constitute goods of cultural value within the understanding of the regulations protecting those goods of cultural value shall not be made available.

3. The President of the Institute of Remembrance shall inform about the right to stipulate mentioned in sections 1 and 2.

4. The person who, by virtue of Article 33, has been granted the right to inspect documents concerning him or her may agree to disclose his or her personal data, defined in section 1, to particular public authority organs, other institutions, organisations and persons, as well as to make them generally available.

5. The personal data, defined in section 1, can be made available for the purposes referred to in Article 36(1)(2-3) if:

- 1) the person to whom these data refer, or in the event of death, his or her closest person has agreed to it;
- 2) they relate to a public appearance of the person they concern, his or her public or political activity or constitute personal data required by the act in connection with the performance of a public function.

6. The purposes mentioned in Article 36(1)(2-3) can be fulfilled also after making anonymous the personal data and information, referred to in sections 1 and 2, in the copies of the documents.

7. The right to stipulate referred to in sections 1 and 2, as well as the right to express the agreement to disclose one's personal data, defined in section 1, to particular public authority organs, other institutions, organisations and persons shall not remain in force in relation to the documents referred to in Article 30(2)(1).

## **Art. 38.**

1. The functionaries or soldiers of special services, authorised accordingly by the head of the Internal Security Agency, the head of the Intelligence Agency, the head of the Military Counterintelligence Service, the head of the Military Intelligence Service or the head of the Central Anticorruption Bureau, acting within the scope of statutory tasks, having notified the President of the Institute of Remembrance, can be granted the right to inspect the data contained in the documents collected by the Institute of Remembrance within the bounds of their authorisation.

2. The documents of state security organs can be used by authorised functionaries of special services within the framework of their statutory tasks, if they contain information on the crime of espionage, a crime of a terrorist nature, a crime against the economic base of the state or a crime of corruption as conceived of by the Act dated 24 May 2002 on the Internal Security Agency and the Intelligence Agency (Journal of Laws of 2015 items 1929 and 2023) or a crime against the constitutional order of the Republic of Poland.

3. The provision of section 2 shall be applied accordingly to the functionaries of the special services of the states with which the Republic of Poland is bound with an international agreement, if those documents contain information on the crime of espionage or terrorism.

## **Art. 39.**

(revoked)

### **Art. 39a.**

(repealed).

### **Art. 40.**

If the President of the Institute of Remembrance, in connection with the performance of his tasks, concludes that the documents contain information on the crimes defined in Article 5(1)(2) of the Act dated 24 May 2002 on the Internal Security Agency and the Intelligence Agency, he shall immediately notify the head of the Internal Security Agency about the fact. The provision of Article 304 of the Penal Code shall not be applied.

### **Art. 41.**

(repealed).

### **Art. 42.**

If the Director of the Office for the Preservation and Dissemination of the Archival Records of the Institute of Remembrance is notified that the personal data contained in the documents are false, the information about this fact shall be included in the collection of documents concerning a given person.

### **Art. 43.**

1. The proceedings in the cases regulated by the Act shall be carried on according to the provisions of the Administrative Code, unless it is defined otherwise by the provisions of the Act.

2. As regards the cases resolved by means of an administrative decision, in accordance with the provisions of the present Act, the organ of first instance shall be the director of a department of the Institute of Remembrance. The appellate organ is the President of the Institute of Remembrance.

#### **Art. 44.**

(repealed).

### **Chapter 5**

## **The Investigative Functions of the Institute of Remembrance**

#### **Art. 45.**

1. An investigation in the cases of the crimes mentioned in Article 1(1)(a), shall be commenced and conducted by the prosecutor of a departmental commission.

2. The prosecutors of the Chief Commission for the Prosecution of

Crimes against the Polish Nation and those of the departmental commissions for the prosecution of crimes against the Polish Nation in the cases defined in Article 1(1)(a) shall have all the prosecuting powers, also in the cases subject to the judicial decisions of military courts.

3. The purpose of an investigation in the cases of the crimes referred to in Article 1 shall also be to provide an explanation of the circumstances of the case, in particular to determine the aggrieved parties.

4. The circumstance mentioned in Article 17(1)(5) of the Penal Code cannot constitute an impediment to the fulfilment of the purpose referred to in section 3. After fulfilling the purpose the proceedings shall be discontinued.

5. In the case of investigations by the Institute of Remembrance the provisions of the Penal Code shall be applied.

6. The prosecutor of a departmental commission can refrain from commencing an investigation and discontinue a commenced one in relation to the perpetrator of a crime referred to in Article 1(1)(a) if, of their own accord, they disclosed to the organ appointed for the prosecution of crimes all the important information about the accomplices in the crime, as well as the circumstances in which it was committed, if the information makes it possible to commence proceedings against a given person. In refraining from prosecuting the perpetrator of a crime, the prosecutor shall allow for the degree of

social harm of the unlawful act committed by him and for the extent of his guilt, as well as the type and nature of the disclosed crime; in particular, shall determine whether it is possible to detect the accomplices to the crime in another way and assesses the importance of the disclosure of the crime for the fulfilment of the tasks of the Institute of Remembrance.

7. The prosecutor can commence proceedings in the case of the perpetrator in relation to whom the prosecution was discontinued on the basis of section 6, only if, in the course of further proceedings, they evade giving evidence or gives evidence that differs from that which gave rise to the forbearance from commencing the proceedings against him or to the discontinuation of those already started.

8. If the person in relation to whom the prosecution was discontinued on the basis of section 6 is summoned as a witness, the prosecutor at the departmental commission can issue a resolution ordering the protection of his or her personal data, even though the circumstances defined in Article 184(1) of the Code of Penal Procedure are not applicable.

9. The appellate court proceedings started due to an appeal and application for annulment being made shall take place with the participation of the prosecutors of the Chief Commission.

10. The Director of the Chief Commission shall order an annulment, standing in for the Public Prosecutor General, in the cases referred to in Article 1(1)(a), including also those pertaining to the competence of

military courts.

**Art. 45a.**

The investigations concerning the crimes defined in Articles 54 and 55 shall be initiated ex officio and conducted by the prosecutor of the departmental commission.

**Art. 45b.**

The prosecutor of the Chief Commission or the prosecutor of the departmental commission shall be entitled to file motions and to stand before courts in the matters related to recognizing invalidity of judgements in the mode specified in the Act of 23 February 1991 on recognizing invalidity of judgements issued with respect to persons repressed for their activities for the independent existence of the Polish State.

**Art. 46.**

The President of the Institute of Remembrance, having consulted the Director of the Chief Commission, can disclose to the public, as well as to other persons than those mentioned in art. 156(5) of the Penal Code, the personal data of the perpetrator of the crimes referred to in Article 1(1)(a), if the criminal proceedings did not end in passing a legally binding sentence on the basis of the reason indicated in Article 17(1)(5) of the Code of Penal Procedure or were suspended on the basis of Article 22(1) of that Code.

## **Art. 47.**

1. The Director of the Chief Commission shall be a prosecutor superior to the prosecutors of this Commission and of the departmental commissions. The head of a departmental commission is a prosecutor superior to the prosecutors of this commission.

1a. The directly superior prosecutors shall be:

1) the Director of the Chief Commission - in relation to the prosecutors performing tasks in that Commission and the heads of the departmental commissions;

2) the heads of the departmental commissions - in relation to the prosecutors of a given departmental commission.

2. Other orders of the Public Prosecutor General exceeding the scope of the tasks of the Institute of Remembrance, can be directed to the prosecutors of the Chief Commission and of the departmental commissions only with the agreement of the President of the Institute of Remembrance.

3. The prosecutors superior in relation to the prosecutors of the departmental commissions shall be the Director of the Chief Commission and the prosecutors of that Commission.

4. A prosecutor dismissed on account of renouncing the post of a prosecutor in the Institute of Remembrance shall have the right to return to the post held before or be assigned an equivalent post to the

one held previously, if no legal impediment arises.

4a. (repealed).

4b. Should it be concluded that a prosecutor of the Chief Commission or a departmental commission cannot, for health reasons, perform service in the Institute of Remembrance, the Public Prosecutor General shall transfer him to an equivalent post in another organisational unit of the prosecution service, the Ministry of Justice or other organisational unit subordinate to or supervised by the Minister of Justice, in accordance with the competence of the prosecutor.

5. The remuneration of the prosecutors of the Chief Commission shall be defined by the provisions on the remuneration of the prosecutors of the State Prosecution Service, whereas the remuneration of the prosecutors of the departmental commissions shall be defined by the provisions on the remuneration of the prosecutors of the appellate prosecution service. The remuneration, along with the accompanying benefits of a personal nature, shall be financed from the resources of the Institute of Remembrance.

6. In the case of the prosecutors of the Institute of Remembrance, in the matters not regulated by the Act, the provisions of the Act dated 28 January 2016 – Prosecution Service Law shall be applied (Journal of Laws 177).

#### **Art. 48.**

The prosecutor of a departmental commission shall order or refuse to

order the commencement of an investigation into the case of the crime referred to in Article 1(1)(a) within the time limit of 3 months from being notified about the crime. If the person or institution which made that notification are not, within 4 months from the date of making the notification, informed about the commencement or refusal to commence the investigation, they can complain with a superior prosecutor.

#### **Art. 49.**

(revoked)

#### **Art. 50.**

1. The Chief Commission and the departmental commissions shall constitute organisational units of the prosecution service within the understanding of the international agreements that bind the Republic of Poland with other states and concern legal aid and legal relations in civil, family, employment and penal cases.

2. The Minister competent for justice may, at the application of the President of the Institute of Remembrance, delegate a judge to perform tasks in the Chief Commission and serve with legal aid.

#### **Art. 51.**

1. <sup>(8)</sup> In the case of the assembly and Council of prosecutors of the Chief Commission the provisions of the Act dated 28 January 2016 – Prosecution Service Law and the assembly and Council of the appellate

prosecution service shall be applied accordingly.

2. The members of the Disciplinary Court and the Appellate Disciplinary Court for the prosecutors of the Institute of Remembrance shall be elected, in a number agreed upon among themselves, for the term of 4 years, by the assembly of the prosecutors of the Chief Commission from among the prosecutors of the Institute of Remembrance. The Disciplinary Court and the Appellate Disciplinary Court shall elect from among its composition the chairmen.

3. The Disciplinary Court in the Institute of Remembrance shall pass first instance judgements composed of three members, whereas second instance judgements - composed of five members. The set of the judges of the second instance cannot include a member of the Court who participated in passing the appealed against sentence.

4. The Director of the Chief Commission is the disciplinary superior in relation to the prosecutors of the Chief Commission for the Prosecution of Crimes against the Polish Nation and of the departmental commissions for the prosecution of crimes against the Polish Nation.

5. The Disciplinary Spokesman for the prosecutors of the Chief Commission for the Prosecution of Crimes against the Polish Nation and of the departmental commissions for the prosecution of crimes against the Polish Nation shall be appointed by the Public Prosecutor General from among the prosecutors of the Chief Commission for the Prosecution of Crimes against the Polish Nation and of the departmental commissions for the prosecution of crimes against the

Polish Nation at the application of the Director of the Chief Commission for the Prosecution of Crimes against the Polish Nation. The disciplinary spokesman shall be bound with the instructions of the Director of the Chief Commission for the Prosecution of Crimes against the Polish Nation.

### **Art. 52.**

The organs of the judiciary, the prosecution offices, the organs and organisational units subordinate, supervised or subservient to the minister competent for the internal affairs, the Minister of National Defence, the minister competent for the foreign affairs and, respectively, to the head of the Internal Security Agency and the head of the Intelligence Agency, as well as the organs of government administration and local government shall be obliged, each within the scope of its competence, to provide help to the Institute of Remembrance in the fulfilment of the tasks of the Institute of Remembrance referred to in Article 1

## **Chapter 5a**

### **The Vetting Functions of the Institute of Remembrance**

#### **Art. 52a.**

The tasks of the Vetting Office shall especially include:

- 1) keeping a register of the vetting declarations referred to in Article 7 of the act dated 18 October 2006 on the disclosure of

information on the documents of the state security organs from the years 1944-1990 and of the contents of those documents;

2) the analysis of vetting decorations and the collection of necessary information for a correct assessment thereof;

3) the preparation of vetting proceedings;

4) the notification of proper organs about the lack of fulfilment by non-judicial organs of the obligations imposed by the act;

5) (expired);

6) the preparation and publication, on the basis of the documents collected in the archives of the Institute of Remembrance, of catalogues containing the personal data of the employees, functionaries and soldiers of the state security organs, indicating the service rank of the held posts and the state security organs in which they served or worked;

7) The preparation and publication of catalogues containing the personal data of the persons in relation to whom there are existing documents which testify that the security organs collected information on them on the basis of deliberately gathered data, including data collected in a confidential way, and it has been concluded that there are no existing documents relating to the persons which confirm that they were employees, functionaries, soldiers of the state security organs or that they collaborated with the state security organs; the publications shall not include the

personal data of the persons in relation to whom there are existing documents which justify the publication of their personal data on the strength of point 8; before being placed in the catalogue it is necessary to obtain the approval of the person to which the data refer, and should this person die – the approval of the closest relative of the deceased in the understanding of Article 115(11) of the Penal Code; however, no such approval is necessary if at least 20 years have lapsed since the death of such person, and if there are no persons entitled to give such authorization, the placement in the catalogue takes place on the basis of the decision of the President of the Institute of Remembrance;

8) the preparation and publication of catalogues containing the personal data of the persons who occupied managing positions in the former Polish Workers' Party and in the former Polish United Workers' Party, as well as in the United People's Party and the Democratic Party, and who were also members of the Council of Ministers, held the posts of secretaries and under-secretaries of the Communist state until August 23, 1989 or were the managers or deputy managers or central state administration organs, central state authorities, in that period.

### **Art. 52aa.**

The tasks of a departmental vetting office shall especially include:

- 1) the preparation of the data for the register referred to in Article

52(1);

- 2) the fulfilment of the tasks defined in Article 52a(2-4);
- 3) the preparation of the catalogues referred to in Article 52a(5-8).

### **Art. 52b.**

1. Each catalogue referred to in Article 52(5, 6 and 8) shall include:
  - 1) the personal data: the name and surname (the name and surnames, including previous names and surnames, if they were used, as well as the family name), the names of the parents, the date and place of birth;
  - 2) a description of a given type of work, service or collaboration;
  - 3) information about the types of the documents collected in the archival resources of the Institute of Remembrance which contain the personal data of the person whose personal data have been inserted in the catalogue;
  - 4) the course of work, service or collaboration with the state security organs of the person whose personal data have been inserted in the catalogue;
  - 5) the contents of the records in the documents collected in the archives of the Institute of Remembrance which refer to the person

whose personal data have been placed in the catalogue, successive records being treated separately;

6) a note about the possible supplements, corrections, updates, explanations or documents provided by the person whose personal data have been placed in the catalogue, which have been incorporated in the collection of the documents of the state security organs stored in the archives of the Institute of Remembrance;

7) information about making the declaration referred to in Article 52a(1);

8) information about the result of the vetting procedure.

2. The catalogue referred to in Article 52a(5) shall also include information about the application referred to in Article 52d(2).

2a. The catalogue referred to in Article 52a(7) shall include the data mentioned in section 1(1, 3, and 6-8).

3. At the application of the person whose personal data have been placed in the catalogue referred to in Article 52a(5), the catalogue shall incorporate the clarifications, presented by that person, which refer to the information mentioned in section 1(2-5).

4. The records referred to in section 1(5) shall constitute the information contained in the registers, archival registers, files and documents of a similar nature.

5. The catalogue referred to in Article 52a(6) shall not include the

personal data and information relating to the persons:

- 1) who, by virtue of Article 7a(1) of the Act dated 18 October 2006 on the disclosure of information about the documents of the state security organs from the years 1944-1990 and of the contents of those documents, do not communicate information about their work or service in the state security organs in a vetting declaration;
- 2) who make the vetting declaration according to the principles defined in Article 11(4) of the Act mentioned in point 1;
- 3) who, by virtue of Article 3(1-2) of the Act dated 13 April 2007 on the change of the Act on the disclosure of information about the documents of the state security organs from the years 1944-1990 and of the contents of those documents and the change of the Act on the Institute of National Remembrance - Commission for the Prosecution of Crimes against the Polish Nation (Journal of Laws No. 83, section 561), do not communicate information about their work or service in the state security organs in a vetting declaration;
- 4) who are referred to in Article 4 of the Act mentioned in point 3.

**Art. 52c.**

(expired).

**Art. 52d.**

1. The person whose personal data have been placed in the catalogue referred to Article 52a(5), who does not accept the information

contained a catalogue which refers to the person can make a vetting declaration. The provisions concerning the vetting procedure shall be applied accordingly.

2. At the application of the person whose personal data have been placed in the catalogue referred to in section 1, and who has made a vetting declaration, anyone has the right to inspect the copies of the documents relating to the person which have been gathered in the archives of the Institute of Remembrance. The provisions of Article 30(1 and 4) shall be applied accordingly.

3. The rights resulting from section 2 can be executed by the closest person to the deceased as defined by Article 115(11) of the Penal Code, with the reservation that that person shall not make a vetting declaration.

4. The person referred to in section 3, who does not accept the information contained in the catalogue mentioned in Article 52a(5) which relates to the deceased, can file a suit. The court determines the grounds lack thereof for the insertion in the catalogue of the personal data of the deceased. The provisions concerning the vetting procedure shall be applied accordingly.

### **Art. 52e.**

1. The analysis of the vetting declarations shall be carried out allowing for the order in which the public functions are enumerated in Article 22(1) of the Act dated 18 October 2006 on the disclosure of information about the documents of the state security organs from the

years 1944-1990 and of the contents of those documents.

2. In justified cases the analysis of the declarations according to the order referred to in section 1 can be omitted. The information about such omissions, along with the justification, shall be communicated to the court.

3. In the case of a doubt as to the truthfulness of the declaration, the prosecutor of the Vetting Office or the prosecutor of a departmental vetting office shall inform the person obliged to make the declaration about the fact and shall also inform another possibility of providing clarifications; the classification proceedings shall be described in a report.

3a. The prosecutor of the Vetting Office and of a departmental vetting office, within the scope of the tasks defined in Article 52a(3), can require to be sent or presented the files or documents and written explanation, and, if necessary, hear the witnesses, consult experts and commandeer objects or perform searches, as well as apply penalties for breach of order. In the case of these activities the provisions of the Code of Penal Procedure shall be applied accordingly.

4. Within the time limit of 6 months from the date of being delivered the information referred to in section 3, the prosecutor of the Vetting Office or the prosecutor of a departmental vetting office shall file a application with the court to commence the vetting procedure or shall notify the person obliged to make the declaration about the lack of grounds for filing such a application.

## **Art.52 f.**

The prosecutor of the Vetting Office, the prosecutor of a departmental vetting office or the authorised employees of the Vetting Office and of the departmental vetting offices shall have full access to the documentation, records, information aids, regardless of the form in which they are recorded, which had been collected or created until 31 July 1990 by:

- 1) the Minister of National Defence, the minister competent for the internal affairs, the Minister of Justice and the minister competent for the foreign affairs, as well as by the organisational units subordinate, subservient or supervised by them;
- 2) the head of the Internal Security Agency and the head of the Intelligence Agency.

## **Art. 52g.**

1. With the reservation of section 2, the provisions of Articles 47 and 51 shall be accordingly applied to the prosecutors of the Vetting Office and to the prosecutors of the departmental vetting offices, allowing for the fact that the competence of the Director of the Chief Commission in relation to the prosecutors of the Vetting Office and the prosecutors of the departmental vetting offices is accorded to the director of the Vetting Office.

2. The Director of the Vetting Office is a prosecutor superior to the prosecutors of that Office and of the departmental vetting offices. The

head of a departmental vetting office is a prosecutor superior to the prosecutors of that office.

## **Chapter 6**

### **The Educational Functions of the Institute of Remembrance**

#### **Art. 53.**

The Institute of Remembrance:

- 1) shall inform the society about the structures and methods of action applied by the institutions within the framework of which the crimes against the Polish Nation were committed and shall inform about the structures, the personnel and the methods applied by the state security organs;
- 2) shall conduct academic research about the post-partition and recent Polish history, including the history of Polish emigration and the history of Polish cultural heritage in the East, as well as grant access to the collected documents to other academic institutions and persons or purposes of such research, complying with the conditions defined in the Act;
- 3) shall provide information about the collected documents and publish academic and popular academic publications, including

archival inventories;

4) shall disseminate within the country and abroad the results of its work and of the research performed by other institutions, organisations and persons on the problems which are the subject of its activity;

5) shall conduct educational activity, shall hold exhibitions, shall act as a publisher in the country and abroad, including in the area of post-partitions and recent history of Poland;

6) shall formulate conclusions relating to historical education;

7) informs the society about the discovered 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, as well as about their activities for independence and the circumstances of their deaths.

### **Art. 53a.**

1. Performing the educational function of the Institute of Remembrance takes place in particular through:

1) disseminating in the country and abroad the positions and opinions concerning the most important historic events for the Polish Nation;

2) popularizing the post-partitions and recent history of Poland as an element of patriotic education;

3) promoting the knowledge about the participation of Poles and Polish military formations in the fights at the fronts;

4) preventing dissemination of information and publications containing false historic contents that are harmful, detrimental or libellous for the Republic of Poland or the Polish Nation in the country and abroad;

5) informing about the methods, places, and perpetrators of the crimes against the Polish Nation;

6) supporting social undertakings intended to promote patriotism and to strengthen the national identity.

2. The tasks of the Institute of Remembrance in the area of its educational functions may be performed in cooperation with schools, universities, educational and cultural centres, associations, foundations, and other NGOs, as well as mass media, Polish organisations and institutions for emigrants, and public authorities.

3. The tasks of the Institute of Remembrance performed abroad are performed in cooperation with the minister competent for the foreign affairs.

## **Chapter 6a**

**Looking for resting places of persons 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**

**Art. 53b.**

The Institute of Remembrance seeks the resting places of persons 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, hereinafter referred to as “exploration works”, and if bodies, remains, or ashes are found, the identity of such persons is determined.

**Art. 53c.**

1. Such exploration works require a prior consent of the owner or holder of the real property, where the works are to be conducted, and arranging by means of an agreement (including for a fee) the manner, the scope, and the dates of using the real property as well as the principles and the manner of remedying all and any losses incurred in connection with the exploration works conducted.

2. If no arrangements mentioned in section 1 are made, the competent starost for the location of the real property, performing the governmental administration task, on request of the President of the Institute of Remembrance, may issue a decision ordering the owner or holder of the real property to provide access to it for the duration of the necessary exploration works, no longer than 9 months since the

day the decision became final.

3. The decision mentioned in section 2 is concerned by the following provisions: Article 124(4-7) of the Act of 21 August 1997 on real property management (Journal of Laws of 2015 items 1774 and 1777 and of 2016 item 65).

4. A compensation is granted for the losses incurred in connection with the exploration works. The provisions of the Act of 21 August 1997 on real property management apply to determining the value and paying such compensation.

5. The provision of section 4 does not apply if disclosure of the real property for the purposes of exploration works took place under an agreement mentioned in section 1.

### **Art. 53d.**

1. Should human bodies, remains, or ashes be discovered during exploration works, or should it be determined that human bodies, remains, or ashes are present at a given location, the President of the Institute of Remembrance shall notify the prosecutor of the competent departmental commission.

2. The prosecutor of the competent departmental commission notifies the President of the Institute of Remembrance about an exhumation order, specifying the place and time of the exhumation.

3. The prosecutor of the competent departmental commission submits

to the database mentioned in Article 53f the details concerning the discovery of the human bodies, remains, or ashes, genetic testing of the exhumed human bodies, remains, or ashes, and the place they are stored.

### **Art. 53e.**

1. As regards the burial of the human bodies, remains, or ashes, whose identity was determined, the provision of Article 10(1) of the Act of 31 January 1959 on cemeteries and burials applies accordingly (Journal of Laws of 2015 items 2126, 2281, and...).

2. If there are no persons entitled to bury the human bodies, remains, or ashes, or it was not possible to determine the identity of the persons mentioned in Article 53b, the place of burial shall be determined by the President of the Institute of Remembrance, having consulted with the social organizations dealing with commemorating and caring for the national memorial sites. Organization of the burial and its costs are the responsibility of the Institute of Remembrance.

3. The details concerning the place of burial of human bodies, remains, or ashes, mentioned in Article 53b, including the location of the cemetery and the grave (section, row, number in the row), shall be submitted to the database mentioned in Article 53f.

### **Art. 53f.**

1. For the purposes of conducting the exploration works and of identifying the persons mentioned in Article 53b, the Institute of

Remembrance shall establish a Database of Genetic Material, hereinafter referred to as the Database, whose administrator in the understanding of the Act of 29 August 1997 on personal data protection (Journal of Laws of 2015, items 2135 and 2281 and of 2016 item 195) shall be the President of the Institute of Remembrance.

2. The Database shall include:

1) details and information on persons whose relatives lost their lives as a consequence of fighting 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 and their place of burial is unknown:

a) name and surname;

b) address for service;

c) designation of the genetic material and its place of storage;

d) specification of the degree of relation with the relative, their name and surname, date of birth, name of the father, and military rank;

e) specification of the circumstances that might be used to find the resting place and to determine identity, in particular the details of being arrested, places of detention, and security organs and their officers that conducted an investigation in the matter of the relative;

2) details and information on the human bodies, remains, or ashes, mentioned in Article 53b:

a) place of discovery of the human bodies, remains, or ashes, designation of the genetic material from the exhumed human bodies, remains, or ashes, and the place they are stored;

b) place of burial of the human bodies, remains, or ashes, including the location of the cemetery and the grave (section, row, number in the row);

3) results of genetic testing.

3. The persons mentioned in section 2(1) may file requests to register their details in the Database and provide their genetic material.

4. The President of the Institute of Remembrance verifies the details and information on the persons mentioned in section 2(1) no less frequently than every 10 years since they are registered in the Database as regards their continued processing or use.

5. Deletion of the data and information on the persons mentioned in section 2(1) shall take place on request of such persons. If such details and information are deleted from the Database, the genetic material provided by such persons shall be destroyed.

6. The deletion of the details and information on the persons mentioned in section 2(1) and the destruction of the genetic material provided by such persons shall also be performed if, as a result of the

verification mentioned in section 4, it was determined that the continued processing or using of such details or information is groundless, and informing such persons about it.

7. The deletion of the details and information on the persons and the destruction of the genetic material shall be performed by the commission established by the President of the Institute of Remembrance against a report on such activities.

8. The information included in the Database, except for the information on the discovery of human bodies, remains, or ashes, and the places where the human bodies, remains, or ashes were buried, including the location of the cemetery and the grave (section, row, number in the row) are not subject to disclosure to third parties.

9. Collecting and storing the genetic material and conducting comparative testing of the genetic material collected from the exhumed human bodies, remains, or ashes with the genetic material located in the Database shall be commissioned by the Institute of Remembrance from:

1) a group of medical universities, or

2) a group of universities conducting educational and research activity in the area of medical sciences; or

3) a group of other entities entitled to conduct comparative testing of the genetic material under separate provisions, or

4) a group of universities and entities listed in items 1-3 - established under a contract to perform such tasks.

10. Changes in the group mentioned in section 9 requires obtaining a consent of the President of the Institute of Remembrance.

### **Art. 53g.**

The minister competent for health affairs shall define, by means of a resolution, the manner of collecting the genetic material mentioned in Article 53f(2)(1)(c) and the manner and conditions of storing the genetic material mentioned in Article 53f(2)(1)(c) and (2)(a), considering the assurance of rights of persons mentioned in Article 53f(2)(1), the human bodies, remains, and ashes, and sanitary safety.

### **Art. 53h.**

1. The entity being the administrator of the database of the genetic material or the database of the biological material stored for the purposes of determining the identity of the persons mentioned in Article 53b submits to the Database the information about the samples of the genetic or biological material held, and the accompanying details and information specified in Article 53f(2).

2. The entity mentioned in section 1 shall be obliged to update the details and information every three months.

3. In the event of deletion from the database, as mentioned in section 1, from the register of database collections in line with the Act of 29

August 1997 on personal data protection, the entity being the administrator of the said database submits to the Institute of Remembrance the information and details mentioned in section 1 and the samples of the genetic and biological material held.

### **Art. 53i.**

1. The President of the Institute of Remembrance may gain access to the database of the genetic material or the database of the biological material administered by another entity, if there is a reasonable suspicion that these databases contain information and data pertaining to the tasks of the Institute of Remembrance.
2. Any person in possession of the databases referred to in section 1 is obliged immediately to notify the President of the Institute of Remembrance about this.
3. Each entity shall be obliged to immediately deliver to the President of the Institute of Remembrance, on their request, the information or details held in the databases mentioned in section 1.

## **Chapter 6b**

### **The performance of tasks in the area of commemorating the struggle and martyrdom**

### **Art. 53j.**

1. The Institute of Remembrance conducts 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 particular as regards:

1) initiating care of the places of struggle and martyrdom and permanent commemoration of facts, events, and persons related to these places;

2) cooperating in organizing celebrations, anniversaries, publishing and exhibition undertakings;

3) popularizing in the mass media the places, events, and historic persons related to struggle and martyrdom;

4) assessing the state of care over the places and permanent national memorial sites, in particular military graves and cemeteries, and the fights to liberate the nation, cemeteries of the victims of the totalitarian terror, and the national memorial chambers;

5) issuing historic opinions as regards the requests for the permanent commemoration of historic places and events, as well as extraordinary persons related to the history of the struggle and martyrdom;

6) cooperating in particular with the emigration and Polish diaspora communities and organizations in Poland and outside the territory

of the Republic of Poland, in caring for the places of struggle and martyrdom of the Polish Nation abroad;

7) performing permanent commemoration of facts, events, and persons related to the places of struggle and martyrdom.

2. In the cases that might affect the politics of the state concerning the national memorial sites as well as military graves and cemeteries, the President of the Institute of Remembrance acts in conjunction with the minister competent for culture and protection of national heritage.

3. In the cases that might affect the international agreements concerning the national memorial sites as well as military graves and cemeteries, the President of the Institute of Remembrance acts in conjunction with the minister competent for culture and protection of national heritage.

### **Art. 53k.**

Performing the tasks specified in Article 53j(1) takes place in particular through:

1) taking positions, issuing opinions, filing requests concerning caring for the places of struggle and martyrdom and permanent commemoration of facts, events, and persons related to these places;

2) filing requests and cooperating with the competent state authorities, local government units, and the interested social

organizations in organizing celebrations and anniversaries, initiating publications and organizing exhibitions to commemorate the places of struggle and martyrdom and the related historic events and persons;

3) presenting in the mass media the publications popularizing the places, events, and persons related to the struggle and martyrdom, as well as undertaking other actions to popularize the memory of the struggle and martyrdom;

4) cooperating, in agreement with the minister competent for culture and protection of national heritage and the minister competent for the foreign affairs, with foreign institutions dealing with commemorating and protecting the sites of struggle and martyrdom of Poles in other countries as well as the places of struggle and martyrdom of other nations in the Republic of Poland;

5) cooperating, in agreement with the minister competent for culture and protection of national heritage, with the emigration, Polish diaspora and Polish organizations and communities outside the territory of the Republic of Poland, and also the diplomatic representations and consular offices as regards:

a) caring for the places of struggle and martyrdom of the Polish Nation abroad, in particular Polish military cemeteries;

b) commemorating Polish historic events that took place outside the territory of the Republic of Poland and outstanding Polish citizens who died or were killed outside the territory of the Republic

of Poland;

c) looking for and commemorating the places of martyrdom of Polish citizens and the places they are buried in outside the territory of the Republic of Poland;

d) exhuming and transporting the remains of Poles who were killed or murdered abroad to military cemeteries and locations in Poland;

6) cooperating with schools and other educational and cultural centres as regards establishing national memorial chambers;

7) cooperating with local government units, scout organizations, tourist organizations, and other interested social organizations in creating and promoting national memorial trails;

8) supporting the establishment of regional or local museums of the fight for independence;

9) financing and conducting the works intended to permanently commemorate the facts, events, and persons related to the places of struggle and martyrdom undertaken at own initiative.

### **Art. 53l.**

The organs competent to issue permits to execute permanent signs and objects commemorating the struggle and martyrdom shall issue a permit having consulted with the President of the Institute of Remembrance.

## **Art. 53m.**

1. In order to perform the tasks specified in Article 53j, commissions to protect the memory of the struggle and martyrdom are established at the branches of the Institute of Remembrance.
2. The representatives of local government units, as well as social organizations whose area of activity is related to commemorating historic events, places, and persons in the history of the struggle and martyrdom of the Polish nation, including veteran foundations and veteran associations under Article 6 of the Act of 24 January 1991 on veterans and certain other persons being victims of war-time and post-war repressions may be members of the commissions to protect the memory of the struggle and martyrdom (Journal of Laws of 2014, item 1206 and of 2015 items 693 and 2281).
3. The competent director of the branch of the Institute of Remembrance shall publish in the local press and at the website of the branch a notice announcing that candidates for members of the commission to protect the memory of the struggle and martyrdom are accepted, as well as the deadline and place of submitting requests in this case.
4. Members of the said commission are appointed and dismissed by the President of the Institute of Remembrance at the application of the competent director of the branch of the Institute of Remembrance.
5. Participation in the works of the said commission is of social nature.

6. The organizational support for the said commission is provided by the competent director of the branch of the Institute of Remembrance.

### **Art. 53n.**

1. The persons and organizational units that deserve distinction for their great service for the idea of national memory and for caring for the places of struggle and martyrdom may be granted the medal “Carer of National Memorial Sites”.

2. The medal mentioned in section 1 shall be granted by the President of the Institute of Remembrance on a justified request of a social organization or institution dealing with commemorating and caring for the places of struggle and martyrdom of Polish citizens, having consulted with the relevant commission to protect the memory of the struggle and martyrdom.

3. The request mentioned in section 2 shall specify in particular: the name, surname, name of the father, date and place of birth, education, and place of residence of the distinguished 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.**

The Act dated 06 April 1984 on the Chief Commission for the Investigation of Crimes against the Polish Nation – the Institute of National Remembrance (Journal of Laws No. 21 item 98 and of 1991 No. 45 item 195) shall no longer be binding.

### **Art. 73.**

The act shall become valid after 30 days from the date of publication.

## **APPENDIX**

(expired).

## **TRANSITIONAL PROVISIONS**

**Act of 29 April 2016 to amend the Act**  
**on the Institute of National Remembrance – Commission for**  
**the Prosecution of Crimes**  
**against the Polish Nation and certain other acts**

(Journal of Laws of 2016 item 749)

(excerpt)

**Art. 10.**

1. The following institutions are hereby dissolved:

- 1) Board of the Council for the Protection of Struggle and Martyrdom;
- 2) voivodship commissions to protect the memory of struggle and martyrdom;
- 3) commissions to protect the memory of struggle and martyrdom;
- 4) the Board of the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation.

2. The Office of the Board for the Protection of Struggle and Martyrdom

is hereby dissolved.

3. The activities related to the dissolution of the Office of the Board for the Protection of Struggle and Martyrdom, in particular the stock inventory of the financial and non-financial assets, closing bank accounts and accounting books, drawing up reports, submitting documentations according to the scope of the tasks taken over either to the minister competent for culture and protection of national heritage, the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation, hereinafter referred to as the “Institute of Remembrance”, shall be performed by the liquidator designated by the minister competent for culture and protection of national heritage in cooperation with the President of the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation, hereinafter referred to as the “President of the Institute of Remembrance”.

**Art. 11.** The procedures in the matters related to the scope of operations of the Board for the Protection of Struggle and Martyrdom initiated before the Board and still on-going before this Act enters into force shall continue in line with the scope of the tasks taken over, before the minister competent for culture and protection of national heritage or before the President of the Institute of Remembrance, pursuant to the provisions of the acts amended in Article 1 and Article

4 in the wording granted by means of this act.

## **Art. 12.**

1. The rights and obligations arising from the contracts and agreements made by the Board for the Protection of Struggle and Martyrdom and the Office of the Board for the Protection of Struggle and Martyrdom shall be taken over, depending on the scope of the tasks, by the minister competent for culture and protection of national heritage or the Institute of Remembrance.

2. The liabilities and obligations of the Board for the Protection of Struggle and Martyrdom shall become, in line with the rights and obligations taken over under the contracts and agreements, the liabilities and obligations of the minister competent for culture and protection of national heritage or the Institute of Remembrance.

3. The property held by the Board for the Protection of Struggle and Martyrdom shall become, in line with the taken over scope of tasks by the minister competent for culture and protection of national heritage or the Institute of Remembrance, the property of the office of the competent minister competent for culture and protection of national heritage or the Institute of Remembrance.

4. The documentation held by the Board for the Protection of Struggle and Martyrdom shall become, in line with the scope of the tasks taken over by the office of the competent minister competent for culture and protection of national heritage or the Institute of Remembrance.

### **Art. 13.**

1. The employees of the Board for the Protection of Struggle and Martyrdom and of the Office of the Board for the Protection of Struggle and Martyrdom shall, after the lapse of 60 days since the announcement of this act, shall become the employees of the office of the minister competent for culture and protection of national heritage.

2. The manager of the office for the minister competent for culture and protection of national heritage, as at the day mentioned in section 1, shall be obliged to propose new terms and conditions of work and pay in line with the qualification requirements and the payment principles binding at the office to the employees of the Board for the Protection of Struggle and Martyrdom and of the Office of the Board for the Protection of Struggle and Martyrdom, and specify a deadline that is no shorter than 7 days, by which the employees may file a statement on accepting or refusing the proposed terms and conditions. In case the new work and pay conditions are not agreed, the employment relationship terminates after the expiry of the period equal to the period of notice, counted from the day the employee submitted a statement on refusing the offered conditions, or from the day to which he could submit such a statement. Termination of the employment relationship in this mode has the same results for the employee as the results of the termination of the employment relationship by the employer with adherence to the period of notice as provided for in the labour code.

3. The provisions of Article 23<sup>1</sup>(2-4) of the Act of 26 June 1974 -

Labour Code (Journal of Laws of 2014 item 1502 as amended <sup>[41]</sup>) shall apply accordingly.

#### **Art. 14.**

1. The tenure of the current President of the Institute of Remembrance shall expire upon the entrance into force of this Act, and the current President of the Institute of Remembrance shall remain on the post until the new President of the Institute of Remembrance takes over the post.

2. The Council of the Institute of Remembrance announces its first public competition for the position of the President of the Institute of Remembrance within 10 days since the Council is established.

3. The competition mentioned in section 2 is governed by the provisions of Article 10a amended in Article 1, provided that:

1) the deadline for submitting candidates is 14 days since the competition notice is published in the Polish Information Bulletin of the Institute of Remembrance;

2) the Council of the Institute of Remembrance shall present the candidate within 3 days since the day the second stage of the competition ends.

#### **Art. 15.**

1. A member of the Museum Council mentioned in Article 11(5)(5) of the Act amended in Article 4 in its current wording, remains a member

of the council until the end of the term.

2. The members of the Council for Museums mentioned in Article 7(1) of the Act amended in Article 4 in its current wording, become members of the Council for Museums and National Memorial Sites until the end of their term of office.

### **Art. 16.**

A representative of the Board for the Protection of Struggle and Martyrdom mentioned in Article 24(1)(1)(l) amended in Article 6 in the current wording shall remain a member of the Joint Commission of the Government and National and Ethnic Minorities until a representative of the President of the Institute of Remembrance is appointed in their place.

### **Art. 17.**

1. As regards the matters mentioned in Article 4 of the amended Act in Article 2 initiated before the date this Act enters into force, the provisions of the amended Act in Article 2 in the wording granted by this Act shall be applicable.

2. The activities performed by the voivod under the Act amended in Article 2 in the current wording are effective.

3. The voivod submits to the President of the Institute of Remembrance the case files mentioned in section 1.

4. The tasks of the Board of the Protection of Struggle and Martyrdom

arising from the international law, including international agreements concerning the national memorial sites and war-time graves and cemeteries concluded before this Act enters into force shall be taken over by the minister competent for culture and protection of national heritage.

### **Art. 18.**

1. As regards the matters mentioned in Article 15a of the amended Act in Article 3 initiated before the date this Act enters into force, the provisions of the amended Act in Article 3 in the wording granted by this Act shall be applicable, unless the voivod, by means of negotiations, established a new place of burial.
2. The activities performed by the voivod under the Act amended in Article 3 in the current wording are effective.
3. The voivod submits to the President of the Institute of Remembrance the case files mentioned in section 1.

### **Art. 19.**

1. In cooperation with the President of the Institute of Remembrance:
  - 1) head of the Internal Security Agency and the head of the Intelligence Agency - in agreement with the Minister - Special Services Coordinator;
  - 2) the Minister of National Defence;

3) the Chief Commander of the Border Guard – as regards the documents generated by the former Border Protection Army – within 12 months since the entrance into force of this Act, they shall review the documentation stored in a separate, classified collection at the archive of the Institute of Remembrance.

2. In the course of the review of the documentation mentioned in section 1, the documents may be made classified in the mode and on the terms and conditions specified in the Act of 05 August 2010 on the protection of classified information (Journal of Laws of 2010 item 1228, of 2015 items 21, 1224, 2281 and of 2016 item ...). During the review, these documents shall not be subject to disclosure on general terms. The President of the Institute of Remembrance makes the documents classified and ensures their protection.

3. The documents specified in section 1, which were not made classified during the review, become public and subject to being disclosed on a current basis after the review, no later than within the deadline provided for in section 1.

### **Art. 20.**

In order to perform the provisions hereof, the Prime Minister transfers, by means of a resolution, the planned budgetary income and expenses, including remuneration, among the parts, divisions, and chapters of the state budget while retaining the allocation of the public funds arising from the budget act.

### **Art. 22.**

The act shall become valid after 14 days from the date of publication, except for:

- 1) Article 13 that enters into force on the date of publication;
- 2) Article 1(27) as regards Article 53j, Article 53k, and Article 53l, Article 4, Article 10(1)(1-3) and (2) and (3), Article 11, Article 12, Article 15, and Article 21, which enter into force after 60 days from the date of publication.

## **AMENDMENTS IN OTHER ACTS**

**Act of 29 April 2016 to amend the Act  
on the Institute of National Remembrance – Commission for  
the Prosecution of Crimes  
against the Polish Nation and certain other acts**

(Journal of Laws of 2016 item 749)

(excerpt)

## **Art. 2.**

In the Act of 28 March 1933 on military graves and cemeteries (Journal of Laws item 311 as amended <sup>[21]</sup>) shall be amended as follows:

1) in Article 1, section 1(8) takes the following wording:

“8) persons 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”;

2) article 4 takes the following wording:

“Art. 4. 1. The President of the Institute of Remembrance – Commission for the Prosecution of Crimes against the Polish Nation, hereinafter referred to as the “President of the Institute of Remembrance”, shall be entitled to order exhumation of the remains from a war-time grave and to transfer them to another grave.

2. The President of the Institute of Remembrance, upon a justified request of the family or the community of the person buried in the war-time grave or the request of a social institution, may allow for exhuming remains from a war-time grave and for transferring it to another place in the country or outside the territory, and bringing in the remains from a foreign state in order to bury them in the country in a war-time grave”;

3) after article 4, Article 4a is added in the following wording:

"Art. 4a. An appeal may be filed against the decision of the President of the Institute of Remembrance, mentioned in Article 4, to the Council of the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation.";

4) after article 5, Article 5a is added in the following wording:

"Art. 5a. The confirmation of the plans of war-time cemeteries and the matters concerning the general management of military cemeteries, in particular the matters related to recording, renovating, and maintaining the graves and cemeteries as well as the issues related to regulating the ownership of the lands occupied by war-time cemeteries, belong to the tasks of the voivod.";

5) in article 6:

a) paragraph 1 takes the following wording:

"1. Military graves and cemeteries are under the care of the State. The supervision over them, consisting e.g. in verifying and controlling the actions of subordinates as to the legality and administrative decisions made in this respect, shall be exercised by the minister competent for culture and protection of national heritage, subject to the entitlements granted to the Church and other congregations, as well as voivods (mayors of towns or cities) pursuant to the Act of 31 January 1959 on cemeteries and burials (Journal of Laws of 2015 items 2126, 2281, and ...) and the entitlements of the President of the Institute of

Remembrance pursuant to Article 4 and under the Act of 18 December 1998 on the Institute of National Remembrance – Commission for the Prosecution of the Crimes against the Polish Nation (Journal of Laws of 2016, item 152, 178, and ...).”;

d) after section 4, sections 4a and 4b shall be added in the following wording:

“4a. In the case mentioned in section 4, the supervision over the performance by the foundations, associations, and social institutions of the obligation to maintain the military graves and cemeteries, shall be exercised by the voivod.

4b. The minister competent for culture and protection of national heritage may provide the entities indicated in section 4, as well as in the local government units, congregations, and other entities caring for the military graves and cemeteries, finances to perform the tasks related to maintaining military graves and cemeteries.”;

6) in Article 7, the current wording is marked as section 1 and a section 2 is added in the following wording:

“2. If a grave or any facilities on a military cemetery is damaged, the voivod (mayor of a town or city) or another entity exercising supervision over the military graves and cemeteries shall be obliged to notify the voivod about it.”;

7) Article 8 is hereby revoked.

### **Art. 3.**

In the Act of 31 January 1959 on cemeteries and burials (Journal of Laws of 2015 items 2126 and 2281), Article 15a takes the following wording:

"Art. 15a. 1. If, as a result of the exploration works conducted by the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation it was determined or it is suspected that under the existing grave there is a resting place of persons who died as a consequence of fighting 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, and pursuant to the order of the prosecutor of the competent commission for prosecuting the crimes against the Polish nation exhumation of human remains or bodies was conducted from the existing grave and it is not possible to bury the bodies and remains in the same grave, the voivod competent for the location of the grave, on request of the President of the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation, a decision is issued to bury the bodies and remains from the existing grave again in another grave, hereinafter referred to as “reburial”.

2. The reburial request contains:

1) details of the persons buried in the grave and designation of the specification of the location of the grave according to the cemetery’s development plan;

2) conditions justifying the need for reburial;

3) statement of grounds.

3. If it is not possible to rebury the bodies and remains in another grave at the same cemetery due to the lack of space or due to the fact that the cemetery is closed, the remains and the bodies may be reburied at another cemetery.

4. The parties to the procedure in the matter of reburial are:

1) the President of the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation;

2) a spouse, the descendants, the ascendants or other persons who buried deceased persons and whose details are recorded in the register of graves kept by the administration of the cemetery;

3) in the event of the persons mentioned in 2, other relatives up to the third degree.

5. If, pursuant to the data obtained from the registers and public records, it is not possible to determine the persons mentioned in section 4(2-3), the voivod announces, in a manner that is commonly adopted and in the Public Information Bulletin to initiate the reburial procedure.

6. The issue of the decision to rebury shall be preceded by the negotiations with the persons mentioned in section 4(2-3) for a period that is no longer than 3 months as regards the new burial place,

building or rebuilding the grave. The negotiations are minuted.

7. If, within 2 months since the date of the announcement mentioned in section 5, no person mentioned in section 4(2-3) comes up, the voivod specifies the new place of burial, building or rebuilding the grave.

8. The cost of reburial, including the transfer of remains and bodies, purchasing the new burial place, building and rebuilding the grave equivalent to the old one, shall be borne by the voivod.

9. The contracts mentioned in Article 7(4) shall expire on the day the decision on the reburial became final and binding.

10. An appeal against the decision of the voivod on the reburial may be filed with the minister competent for public administration affairs.”.

#### **Art. 4.**

In the Act of 21 November 1996 on museums (Journal of Laws of 2012 item 987, of 2015 item 1505, and of 2016 item 352) introduces the following changes:

1) in Article 5a, section 2 takes the following wording:

“2. The combination mentioned in section 1 may take place following a positive opinion of the Council for Museums and National Memorial Sites, hereinafter referred to “Council for Museums”.”;

2) in Article 6, section 5 is revoked;

3) after article 6, Articles 6a is added in the following wording:

"Art. 6a. 1. The minister competent for culture and protection of national heritage shall coordinate and perform the state policy as regards the operations of museums and the national memorial sites, including holocaust monuments and military graves and cemeteries, in particular by:

1) establishing museums;

2) exercising supervision over museums and inspecting their activities;

3) exercising care over national memorial sites and permanent commemoration of facts, events, and persons related to them in the country and abroad;

4) supporting initiatives in the area of exercising care over national memorial sites and permanent commemoration of facts, events, and persons related to them by other entities;

5) performing permanent commemorations at the national memorial sites, including at the places of struggle and martyrdom of the Polish Nation and the commemorations of the related facts, events, and persons;

6) issuing opinions as to the status of care over the holocaust monuments and museums of struggle and martyrdom;

7) organizing cooperation between the emigration, Polish diaspora, and Polish communities and organizations outside the territory of the

Republic of Poland, in exercising care over the national memorial sites, including the places of struggle and martyrdom of the Polish Nation;

8) popularizing knowledge about national memorial sites and their significance for the history, heritage and national identity;

9) performing other tasks arising from international agreements concerning national memorial sites, including graves and military cemeteries.

2. The authorities competent for issuing the permits to perform permanent signs and objects commemorating the struggle and martyrdom issue a permit after having consulted with the minister competent for culture and protection of national heritage, subject to the entitlements of the President of the Institute of National Remembrance - Commission for the Prosecution of the Crimes against the Polish Nation mentioned in Article 53l of the Act of 18 December 1998 on the Institute of National Remembrance - Commission for the Prosecution of the Crimes against the Polish Nation (Journal of Laws of 2016 items 152, 178, and ...).”;

4) in article 7 paragraphs 1 and 2 take the following wording:

“1. At the minister competent for culture and protection of national heritage the Council for Museums operates as a opinion-making and counselling body in terms of managing, financing, and cultural policy in the area of museums and affairs related to national memorial sites, including holocaust monuments.

2. The Council has 21 members: 10 members appointed by the minister competent for culture and protection of national heritage, including 3 representing martyrdom museums and 11 selected at the convention of registered museums.”;

5) in article 10 paragraph 5 takes the following wording:

“5. The minister competent for culture and protection of national heritage, having consulted the Council for Museums, shall determined by means of a resolution a list of state martyrdom museums with free admission due to the specific historic and educational character of these museums.”;

6) in Article 11, section 5(5) takes the following wording:

“5) the minister competent for culture and protection of national heritage at the museums of struggle and martyrdom;”;

7) in Article 18, section 2 is revoked;

8) in Article 23, section 3 is revoked.

### **Art. 5.**

In the Act of 4 September 1997 on sections of governmental administration (Journal of Laws of 2016 item 543), in Article 14, section 3 is revoked.

### **Art. 6.**

In the Act of 06 January 2005 on national and ethnic minorities and regional language (Journal of Laws of 2015 item 573), in Article 24(1):

1) in point 1, letter l is revoked;

2) after point 1, point 1a is added in the following wording:

“1a) representative of the President of the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation;”;

### **Art. 7.**

In the Act of 18 October 2006 on the disclosure of information on the documents of the state security organs from the years 1944-1990 and of the contents of those documents (Journal of Laws of 2013 item 1388 and of 2016 item 178), the following changes are introduced:

1) in Article 4, point 6 takes the following wording:

“6) member of the Council of the Institute of National Remembrance;”;

2) in Article 7a in section 6 the second sentence shall be deleted;

3) in Article 22, section 1(14) takes the following wording:

“14) the President of the Institute of National Remembrance and members of the Council of the Institute of National Remembrance;”;

### **Art. 8.**

In the Act of 05 August 2010 on the protection of classified information (Journal of Laws of 2010, item 1228, and of 2015, items 21, 1224, and 2281) in Article 7, section 2 takes the following wording:

“2. The protection is not extended to the details mentioned in section 1(1-2), included in documents, collections of data, registers and records, as well as in the files of the functionaries and soldiers of the state security organs, provided to the Institute of National Remembrance – Commission for the Prosecution of the Crimes against the Polish Nation pursuant to the provisions:

1) of the Act of 18 December 1998 on the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation (Journal of Laws of 2016 items 152, 178, and ...);

2) of the Act of 18 October 2006 on the disclosure of information on the documents of the state security organs from the years 1944-1990 and of the contents of those documents (Journal of Laws of 2013, item 1388 and of 2016 items 178 and ...).

- unless they were made classified as a consequence of a review mentioned in Article 19 of the Act of 29 April 2016 amending the act on the Institute of National Remembrance – Commission for the Prosecution of Crimes against the Polish Nation and certain other acts (Journal of Laws item ...) or the review mentioned in Article 6(4).”.

### **Art. 9.**

In the act of 12 May 2011 on the National Council of the Judiciary of

Poland (Journal of Laws item 714, as amended <sup>[3]</sup>) in Article 3(2) in point 8 the semi-colon is replaced by a dot, point 9 is revoked.

## **Art. 21.**

The Act of 21 January 1988 on the Board for the Protection of Struggle and Martyrdom (Journal of Laws item 2, of 1996 item 496 and of 2000 item 382) expires.

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