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POLISH LEAGUE AGAINST DEFAMATION

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Warsaw, 5.03.2018 r.

**Statement of the Polish League Against Defamation concerning the claim brought in against  
Pagina12**

1. The claim was brought in by the Good Name Redoubt - the Polish League Against Defamation (RDI) pursuant to Article 53o of the Act on the Institute of National Remembrance. The provision stipulates that “claims concerning the good name of the Republic of Poland or the Polish Nation may be brought in by non-government organisations if it is part of their statutory activities.” In previous cases, claims concerning the damage of the good name, e.g. on account of using the phrase “Polish concentration camps”, were brought in by a person who had been a prisoner of a German camp (e.g. Mr Karol Tendera, prisoner of the Auschwitz German concentration camp). In accordance with the amended Act, the right to file a claim is not restricted only to camp survivors and can be exercised also by non-government organisations such as RDI.
2. This is a civil-law case, not a criminal one, which means that a public prosecutor is not participating in the proceedings. RDI has not moved the Court to apply any penal measures.
3. RDI is demanding apology for using a photograph of soldiers from a unit led by “Rój”, who were murdered on 25 February 1950 by Communist soldiers, in an article on “Polish anti-Semitism” and genocide in Jedwabne in 1941. RDI is further demanding to include in the correction an explanation on who the persons in the photograph are.

The wording of the correction for which RDI has petitioned:

“An apology by the editors of Pagina12 portal:

The editors the Pagina12 portal hereby apologise for damaging the good name of the Polish Nation, in particular the families of all those who had been murdered by Communist occupiers while fighting for the country's independence.

The editors declare that they regret having illustrated their article on the Jewish genocide in Jedwabne, which had taken place during German occupation, with a photograph showing murdered Polish soldiers who had been fighting with Communist occupiers after World War II.

The editors further declare that the photograph accompanying the article entitled “Familiar Faces” (Spanish: “Rostros familiares”) dated 18 December 2017 shows Polish soldiers who took a heroic and solitary attempt to oppose Soviet presence in Poland after World War II, and died as a result of this unequal fight.”

4. The Good Name Redoubt Foundation believes that such manipulation with the use of the photograph and its description, and presenting the execution of Polish soldiers of anti-Communist resistance forces as an alleged execution in Jedwabne (or as a proof of Polish anti-Semitism - Polish “pogroms”) damages the good name of the Polish Nation (and of each Pole individually, in particular the families of victims - soldiers of the “Tiger Patrol” from the unit led by Mieczysław “Rój” Dziemiszkiwicz).
5. The claim was filed with the Regional Court in Warsaw. Under Article 53q of the Act on the Institute of National Remembrance, the governing law in this case is Polish law, irrespective of which jurisdiction is proper for the registered office of the defendant (e.g. an editorial team) in cases concerning the infringement of personal interests. Therefore, a Polish court will hear the case pursuant to Article 53q in conjunction with the provisions of the Act of 23 April 1964 - Polish Civil Code (Dz. U. [Journal of Laws] of 2017, items 459, 933 and 1132) with regard to the protection of personal interests.
6. In view of the fact that the Pagina12 article was published online (and thus available in Poland via the website, where it could be read), under Article 35 of the Polish Code of Civil Procedure, and the most recent case law of the Supreme Court, the case may be brought before a Polish court if the text which is the subject of the claim is available on the territory of Poland (via a website).
7. We cannot agree that this is a case of censorship, as the article has been and still is available on the Internet together with the photograph, while censorship involves refraining from publishing given content or from making it available.
8. No allegations should be made against any entity which wishes to protect its rights or the good name of the Polish Nation (to which it is entitled under the Act on the Institute on National Remembrance).
9. As of 1 March 2018, RDI may take legal action in order to protect the good name of the Polish Nation. It should be stressed that this is not the case of retroactive effect of law, and it should be treated as benefiting from new regulations in force since 1 March 2018. It should also be noted that, as a rule, any person whose good name has been damaged has the right to take legal action under civil law any time. The limitation period (as far as personal interests are concerned) refers only to pecuniary claims and lasts for 3 years of the date a claimant was informed of the damage or, acting with due diligence, could have been informed of the damage and the details of the person obliged to redress it (e.g. the date of publishing the material). As a rule, non-pecuniary claims (brought in by RDI) are not subject to the limitation period. Therefore, this is not the case of retroactive effect of law.
10. Numerous Poles and representatives of Polish Embassy in Argentina have expressed their dissatisfaction about the matter with the Pagina12 editor’s office. However, the photograph has not been changed and is still available on the website next to the article.