G. Gochin v Genocide and Resistance Research Centre of Lithuania (LGGRTC) (Administrative procedure)

FACTS

Grant Gochin is a Lithuanian citizen, having full spectrum of rights granted by Constitution, including, Art. 30, the right to defend his interest in court. Captain Jonas Noreika (AKA General Storm) operated in the area Grant's family lived and therefore murdered Grant's family. When Grant discovered that Noreika was a national hero, he tried to have Noreika's honours revoked. No NGO's would do it, so Grant litigated it himself with his own funds.

In 2016 Genocide and Resistance Research Centre of Lithuania (LGGRTC), a budget institution accountable to Parliament, conducting official historical research of Soviet/Nazi crimes & Lithuanian resistance during and post WWII, published a historical memorandum on Noreika, who was the head of Siauliai district during 1941-1943 and signed orders on Jewish ghettoization and isolation in Zagare ghetto as well as numerous orders on the confiscation of Jewish property.

In their memorandum (Certificate) all accusations and testimonies on Noreika's participation in the Holocaust and his giving personal orders were dismissed as unfounded. Noreika was portrayed as a victim of war who was involved in Nazi administration against his will, he was unaware of the consequences of the orders he signed, and he did no wrong because his position as Head of the Siauliai district office was a mere civil institution. He himself was not involved with bodies executing or transferring Jews. The memorandum is very fragmented. It is silent about Noreika's leadership in pro Nazi political parties - Lithuanian Activist Front (LAF) and Lithuanian Nationalist Party (LNP), his personal orders and personal history of antisemitism and his murderous comrades. Albeit numerous glorifications in regards his national resistance movement are made.

The name LGGRTC is deceptive as it leads one to think of the Convention of the Prevent and Crime of Genocide. To the contrary, it is a propaganda machine mitigating the issue of the butchering of Jews by Lithuanians, and resurrecting the butchers as national heroes.

A summary list of Grant's litigation is here: **https://www.grantgochin.com/summary-of-legal-actions-5-10-15-6-22-20/**

ISSUE

Numerous documents were found relating to the events of 1941, evidencing that Noreika took an active role in the Holocaust in the Zemaitija region. Documents signed by him or his office, documents evidencing his leadership in Lithuanian Activist Front - anti Soviet - pro Nazi resistance movement, etc. Collected historical documents show contrary to what was stated in the memorandum, Noreika's war crimes are interpreted contrary to Nuremberg statute and Genocide convention.

LGGRTC is in breach of its statutory obligation to reveal truth, in breach of main administrative law principles of objectivity, due use of powers, non damage to residents, in breach of mass media law requirements for objectivity & non disinformation.

The historical memorandum is denial of Holocaust, causing suffering to applicant, who's relatives were murdered in Siauliai district, therefore LGGRTC should be given court order to review memorandum in the light of historical documents submitted to court, covering aspects indicated in claim.

HOLDING
2019-03-27 Vilnius County Administrative Court decision is taken to dismiss the claim. No evaluation of Genocide Centre issued memorandum was made.

RATIONALE
Complaint sent to LGGRTC is not to be held as a claim to start administrative procedure (evaluate memorandum, evaluate arguments and negative consequences caused to applicant, take action) but a mere request to provide information, which was rendered to applicant in a good manner - in a complete neglect answer given to applicant earlier. Therefore LGGRTC did not breach administrative procedures.

HOLDING (appeal)
2020-04-01 Lithuanian Supreme administrative court order is taken to dismiss appeal, reverting the court order.

RATIONALE (appeal)
LGGRTC performs two types of activities one which fall in scope of administrative law (i.e. sustainability of resistance veterans) whereas historical research and publication fall outside administrative powers. Court of first instance went too far saying that answer given to applicant was served in a good manner, claims falling outside administrative capacity of institution are not in jurisdiction of administrative courts, therefore claim is dismissed as not adjudicated, earlier court arguments on due service eliminated from decision and decision reverted accordingly.

G. Gochin v LGGRTC (Civil procedure)

FACTS
Same as in administrative procedure with the addition of LGGRTC subsequent publication of a new memorandum in December 2019 claiming that Jonas Noreika was leader of a ring that was saving Jews from Nazi crimes in Siauliai district. This new memorandum was under severe public opposition by Lithuanian chief historians, the Dean of Vilnius University History Faculty, and the head of the Lithuanian History Institute, all of whom who declared memorandum unfounded, null and void.

ISSUE
The historical memorandums are illegal, in breach of mass media law, it is a denial of Holocaust, causing suffering to applicant. LGGRTC memorandums are causing moral damage to applicant, continuous tort, therefore memo's should be upheld illegal & removed from public domain, in this way rectifying the situation and eliminating the source of applicant's suffering. Even though civil code does not grant such rectification of tort, Lithuanian Constitution and Constitutional court doctrine indicates that all damage caused should be rectified.

HOLDING
2020-06-08 Vilnius regional court order is taken not to accept the claim as not adjudicated.

RATIONALE
One may raise claims only in his own name and interest, to defend personal rights. Requested litigation does not influence rights and obligations of applicant therefore "such litigation is useless" as court decision will not impact scope of applicant's rights or obligations. Requested satisfaction for moral damages in tort (removal of memorandums from public domain) is not enshrined in civil code, providing only monetary means of compensation.

HOLDING (appeal)
2020-07-16 Vilnius district court order is taken to dismiss appeal.

RATIONALE (appeal)
One may defend only his own rights and obligations. Historical memorandums do not speak or mention applicant or his relatives, therefore upholding them illegal will not impact material rights or obligations of applicant. Claim seeks compensation of moral damage however there is no request for monetary remuneration as per civil code. Therefore court of first instance was right not accepting the claim.

HOLDING (cassation)
2020-09- Lithuanian Supreme court declines request for cassation review.

RATIONALE (cassation)
Standard decline. Issues raised in the cassation claim are not affecting current Lithuanian jurisprudence.