

CENTER FOR THE STUDY OF THE GENOCIDE AND RESISTANCE OF RESIDENTS OF
LITHUANIA

[address, contact info]

To Grant Arthur Gochin
represented by attorney Rokas Rudzinskas
[address]

No. 14R-14, February 20, 2020

re: [letter of] February 2, 2020

ON THE REQUEST TO RETRACT INFORMATION

We received your request on February 2, 2020, to retract information in the Lithuanian Public Radio and Television publication "Genocide Center Director: It's Not History Education But Belief in Research Results Which Are Important" [hereinafter Publication] and based on the Publication the Lithuanian Public Radio and Television program Aktualijų Studija [Current Events Studio] (date not provided) given by Center for the Study of the Genocide and Resistance of Residents of Lithuania (hereinafter Center) director Teresė Birutė Burauskaitė as untrue. In the request you indicated the Publication was also posted in English and possibly in Russian.

After acquainting ourselves with your request and the arguments contained in it, we find your request is unfounded because of the following facts and circumstances noted and legal arguments.

First, the Publication conveyed the personal, subjective opinion of the Center director regarding specific really existing events, i.e., Teresė Birutė Burauskaitė operating as a representative of the Center publicly commented on the finding of the Vilnius District Administrative Court made on March 27, 2019, in case no. el-534-281/2019 (hereinafter Finding) and provided an assessment of this Finding. It should be noted the Center director did not claim the Finding was final and unappealable, so it cannot be agreed that your argument is true, that quoting and commenting *per se* on the Finding rendered, even if it hasn't been appealed, constitutes the spreading of false information, because there is a possibility a higher court might change that verdict.

Second, the opinion expressed in the Publication has sufficient factual basis because based on the factual circumstances it is clear that this Finding which was commented upon in the Publication was adopted by the court. It should be noted the information posted in the Publication was accurate and true, and was published based on the conclusions arrived at by the court in the Finding, without distorting them, but rather as the director of the Center understood and assessed this Finding by the court. That your client didn't like the Finding adopted is not and cannot be sufficient basis to forbid other people from commenting upon it publicly, so this sort of request *per se* is completely unfounded and void.

It should also be noted that, contrary to what you indicated in your request, the Vilnius District Administrative Court considered the content of the Center's finding of history, i.e., judging from the arguments contained in the Finding, it is obvious the court exhaustively considered the finding presented by the Center and determined that it "...presented specific bases for the arguments given, i.e., information from history research and archives, the historical context of

the facts, excerpts from academic articles," which led to the well-founded conclusion "the court recognized the findings [of history] were made based on academic methodology." Thus there is no basis for agreeing with the arguments in your request that the Center's director was unable to form an informed opinion because the court hadn't looked at whether the findings [of history] were made based on academic methodologies or not. We point out to you that in the Republic of Lithuania only the courts dispense justice, not your client, and therefore only the court itself could annul the Finding adopted and adopt a new finding which would set forth contrary findings [of history] other than those adopted in the Finding [by the court].

Third, it's completely impossible to understand from your request how a personal opinion published in the Publication could insult the honor and dignity of your client, i.e., how an assessment of the Finding by the court presented in the Publication which didn't mention your client's name or surname, nor information which would for the identification of your client, could be connected to your client as somehow insulting his honor and dignity. Therefore this request of yours in essence could not be fulfilled, because it fails to conform to the goals and regulations of the legislator of the law, as well as jurisprudence by the courts in cases of this kind.

According to article 2.24 section 1 of the civil code of the Republic of Lithuania and article 44 of the law on the provision of information, a person has the right to demand the retraction of information which has been distributed which is untrue and does harm to honor and dignity (or the public reputation of corporate entities). Article 2.24 defines that information as news or information which can be verified by methods of objective proof, applying the criteria of true or false. Only this kind of information, if it does harm to a person's honor and dignity (or public reputation) can be retracted. Based on the explanation and application of article 2.24 by the Lithuanian Supreme Court, the retraction of information released is impossible if the person has expressed their own opinion, assessment, conclusion or observations connected with real events. An opinion is always subjective, so that the criteria of truth and accuracy do not apply, although it should be expressed honestly and ethically, without intentionally omitting or distorting facts and information.

From the above explanations it is obvious your request is totally unfounded because the Center's director cannot be obligated to retract subjective opinions published in the Publication which were expressed honestly and ethically and with sufficient factual basis (the court's Finding now in force), nor can the Center's director retract opinions which allegedly damage your client's honor and dignity because the opinion published in the Publication is not about your client and it is entirely impossible to connect him with the content of the Publication.

Additionally, we bring your attention to the fact that in the remedial section of your request your citation of article 19, section 2 and article 22, section 11, points 1 and 2 of the law on the provision of information cannot be applied to the Center and/or the Center's director because neither the Center nor its director are preparers, publishers or journalists of public information, and it is completely unclear from your request by which arguments these legal acts in your opinion should be applied to the opinion expressed by the Center's director in the Publication.

Taking the above into consideration, we report we see no objective factual foundation for satisfying your request.

[signed]

Teresė Birutė Burauskaitė, general director