



## JUDGEMENT

### IN THE NAME OF THE REPUBLIC OF POLAND

June 29, 2022

District Court in Warsaw, XXV Civil Division,

composed of: Presiding Judge: Judge Paweł Duda

Court reporter: Court secretary Patryk Kaniecki

having examined on June 3, 2022 in Warsaw

at the hearing

the case brought by **the Open Dialogue Foundation with its seat in Warsaw, Lyudmyla Kozlovska and Bartosz Kramek** against **Maciej Wąsik** for the protection of personal rights

I. obliges Maciej Wąsik to submit the following statements within 14 days of the judgement becoming final:

1. *“I, Maciej Wąsik, hereby apologise to Mrs. Lyudmyla Kozlovska and Mr. Bartosz Kramek for violating their personal rights in the form of a good name, as well as to the Open Dialogue Foundation with its registered office in Warsaw (KRS: 0000353754) for violating its personal rights in the form of reputation and goodwill, by disseminating harmful and untrue information in TVP Info.*

*I would like to point out that my statement contained false information regarding the sources of financing of the Open Dialogue Foundation, its connections with Russia, and the call to Poles for a coup and bloodshed, by which*

*I have put Mrs Lyudmyla Kozlovska, Mr Bartosz Kramek and the Open Dialogue Foundation in a negative light. The statement appears as a result of a lost lawsuit.”,*

the statement should be made on an A4 page, written in bold Times New Roman in black and no smaller than 24 typographical points, spacing: 1.5, in the vertical page layout, against a white background, in a rectangular black frame with a thickness of 3 typographical points, and the statement prepared in this way should be printed, then hand-signed by Maciej Wąsik, and then digitally reproduced and published without any editing procedures diminishing the meaning of the statement or indicating the detachment of the defendant from the content of the statement, and in a way that no advertising or other

content aimed at distracting from the statement interferes with it, at [www.tvpinfo.pl](http://www.tvpinfo.pl), for a continuous period of 7 days, in such a way that it is at the top of the main page of the website before all other content contained on the website, in the form of a digital copy (photo, scan) of the signed statement, with the reproduced statement corresponding to the specified requirements before its signing and digital reproduction;

2. *"I, Maciej Wąsik, hereby apologise to Mrs. Lyudmyla Kozlovska and Mr. Bartosz Kramek for violating their personal rights in the form of a good name, as well as to the Open Dialogue Foundation with its registered office in Warsaw (KRS: 0000353754) for violating its personal rights in the form of reputation and goodwill, by disseminating harmful and untrue information in Telewizja wPolsce on the website [www.youtube.pl](http://www.youtube.pl). I would like to point out that my statement contained false information about the connections of the Foundation with Russia, the Foundation's hybrid war activities, calling on Poles to a bloodshed and maidan in Poland, by which I put Mrs Lyudmyla Kozlovska, Mr Bartosz Kramek and the Open Dialogue Foundation in a negative light.*

*The statement appears as a result of a lost lawsuit."*

the statement should be made on an A4 page, written in bold Times New Roman in black and no smaller than 24 typographical points, spacing: 1.5, in the vertical page layout, against a white background, in a rectangular black frame with a thickness of 3 typographical points, and the statement prepared in this way should be printed, then hand-signed by Maciej Wąsik, and then digitally reproduced and published without any editing procedures diminishing the meaning of the statement or indicating the detachment of the defendant from the content of the statement, and in a way that no advertising or other content aimed at distracting from the statement interferes with it, at [www.wpolsce.pl](http://www.wpolsce.pl), for a continuous period of 7 days, in such a way that it is at the top of the main page of the website before all other content contained on the website, in the form of a digital copy (photo, scan) of the signed statement, with the reproduced statement corresponding to the specified requirements before its signing and digital reproduction;

3. *"I, Maciej Wąsik, hereby apologise to Mrs. Lyudmyla Kozlovska and Mr. Bartosz Kramek for violating their personal rights in the form of a good name, as well as to the Open Dialogue Foundation with its registered office in Warsaw (KRS: 0000353754) for violating its personal rights in the form of reputation and goodwill, by disseminating harmful and untrue information in Telewizja Republika. I would like to point out that my statement contained false information regarding the financing of the Open Dialogue Foundation, its connections with the Russian structures, and calls for the overthrow of the Polish government and bloodshed, by which I put Mrs Lyudmyla Kozlovska, Mr Bartosz Kramek and the Open Dialogue Foundation in a negative light.*

*The statement appears as a result of a lost lawsuit."*

the statement should be made on an A4 page, written in bold Times New Roman in black and no smaller than 24 typographical points, spacing: 1.5, in the vertical page layout, against a white background, in a rectangular black frame with a thickness of 3 typographical points, and the statement prepared in this way should be printed, then hand-signed

by Maciej Wąsik, and then digitally reproduced and published without any editing procedures diminishing the meaning of the statement or indicating the detachment of the defendant from the content of the statement, and in a way that no advertising or other content aimed at distracting from the statement interferes with it, at [www.telewizjarepubilka.pl](http://www.telewizjarepubilka.pl), for a continuous period of 7 days, in such a way that it is at the top of the main page of the website before all other content contained on the website, in the form of a digital copy (photo, scan) of the signed statement, with the reproduced statement corresponding to the specified requirements before its signing and digital reproduction;

- II. orders Maciej Wąsik to pay Lyudmyla Kozlovska the amount of PLN 10,000 (ten thousand zlotys) together with statutory interest for delay from June 26, 2020 until the date of payment;
- III. orders Maciej Wąsik to pay Bartosz Kramek the amount of PLN 10,000 (ten thousand zlotys) together with statutory interest for delay from June 26, 2020 until the date of payment;
- IV. orders Maciej Wąsik to pay the Open Dialogue Foundation with its registered office in Warsaw the amount of PLN 10,000 (ten thousand zlotys) together with statutory interest for delay from June 26, 2020 until the date of payment;
- V. dismisses the remainder of the action;
- VI. orders Maciej Wąsik to pay Lyudmyla Kozlovska the amount of PLN 2,557 (two thousand five hundred and fifty-seven zlotys) for the reimbursement of the costs of the proceedings;
- VII. orders Maciej Wąsik to pay Bartosz Kramek the amount of PLN 2,557 (two thousand five hundred and fifty-seven zlotys) for the reimbursement of the costs of the proceedings;
- VIII. orders Maciej Wąsik to pay the Open Dialogue Foundation with its registered office in Warsaw the amount of PLN 2,557 (two thousand five hundred and fifty-seven zlotys) for the reimbursement of the costs of the proceedings;

**Justification**  
**of the judgement of June 29, 2022**

The plaintiffs, Open Dialogue Foundation with its registered office in Warsaw, Lyudmyla Kozlovska and Bartosz Kramek, by a lawsuit of October 10, 2019 against the defendant Maciej Wąsik, have claimed for:

1. obliging the defendant to submit the following statements within 14 days of the judgement becoming final:

a) *“I, Maciej Wąsik, hereby apologise to Mrs. Lyudmyla Kozlovska and Mr. Bartosz Kramek for violating their personal rights in the form of a good name, as well as to the Open Dialogue Foundation with its registered office in Warsaw (KRS: 0000353754) for violating its personal rights in the form of reputation and goodwill, by disseminating harmful, untrue and offensive information and footage published in TVP Info.*

*I would like to point out that my publication contained false information, in particular regarding the sources of financing of the Open Dialogue Foundation, its connections with Russia, and the call to Poles for a coup and bloodshed, by which I put Mrs Lyudmyla Kozlovska, Mr Bartosz Kramek and the Open Dialogue Foundation in a negative light, exposing them to moral and financial losses.*

*The statement appears as a result of a lost lawsuit.”*

- the statement should be made on an A4 page, written in bold Times New Roman in black and no smaller than 24 typographical points, spacing: 1.5, in the vertical page layout, against a white background, in a rectangular black frame with a thickness of 3 typographical points, and the statement prepared in this way should be printed, then hand-signed by Maciej Wąsik, and then digitally reproduced, i.e. photocopied or scanned and published without any editing procedures diminishing the meaning of the statement or indicating the detachment of the defendant from the content of the statement, and in a way that no advertising or other content aimed at distracting from the statement interferes with it, at [www.tvpinfo.pl](http://www.tvpinfo.pl) for a continuous period of 60 days, in such a way that it is at the top of the main page of the website before all other content contained on the website, in the form of a digital copy (photo, scan) of the signed statement, with the reproduced statement corresponding to the specified requirements before its signing and digital reproduction, i.e. written in bold Times New Roman in black and no smaller than 24 typographic points, against a white background, in a rectangular black frame with a thickness of 3 typographic points, and after 60 days as a regular post – without being pinned;

b) *I, Maciej Wąsik, hereby apologise to Mrs. Lyudmyla Kozlovska and Mr. Bartosz Kramek for violating their personal rights in the form of a good name, as well as to the Open Dialogue Foundation with its registered office in Warsaw (KRS:*

0000353754) for violating its personal rights in the form of reputation and goodwill, by disseminating harmful, untrue and offensive information and footage published in *Telewizja wPolsce* on the website [www.youtube.pl](http://www.youtube.pl).

*I would like to point out that my publication contained false information, in particular about the ban on entry into the Schengen Area issued to Mrs Lyudmyla Kozlovska, the Foundation's connections with Russia, the Foundation's hybrid war activities, calling on Poles, among others, to a bloodshed and maidan in Poland, by which I put Mrs Lyudmyla Kozlovska, Mr Bartosz Kramek and the Open Dialogue Foundation in a negative light, exposing them to moral and financial losses. The statement appears as a result of a lost lawsuit."*

- the statement should be made on an A4 page, written in bold Times New Roman in black and no smaller than 24 typographical points, spacing: 1.5, in the vertical page layout, against a white background, in a rectangular black frame with a thickness of 3 typographical points; the statement prepared in this way should be printed, then hand-signed by Maciej Wąsik, and then digitally reproduced, i.e. photocopied or scanned and published without any editing procedures diminishing the meaning of the statement or indicating the detachment of the defendant from the content of the statement, and in a way that no advertising or other content aimed at distracting from the statement interferes with it, at [www.wpolsce.pl](http://www.wpolsce.pl), for a continuous period of 60 days, in such a way that it is at the top of the main page of the website before all other content contained on the website, in the form of a digital copy (photo, scan) of the signed statement, with the reproduced statement corresponding to the specified requirements before its signing and digital reproduction, i.e. written in bold Times New Roman in black and no smaller than 24 typographic points, against a white background, in a rectangular black frame with a thickness of 3 typographic points, and after 60 days as a regular post – without being pinned;

c) *I, Maciej Wąsik, hereby apologise to Mrs. Lyudmyla Kozlovska for violating her personal rights in the form of a good name by disseminating harmful, untrue and offensive information published on the website [www.polskieradio.pl](http://www.polskieradio.pl).*

*I would like to point out that my publication contained false information, in particular regarding the ban on the stay of Mrs. Lyudmyla Kozlovska in Poland and the European Union and its reasons, by which I put Mrs Lyudmyla Kozlovska in a negative light, exposing her to moral and financial losses.*

*The statement appears as a result of a lost lawsuit."*

- the statement should be made on an A4 page, written in bold Times New Roman in black and no smaller than 24 typographical points, spacing: 1.5, in the vertical page layout, against a white background, in a rectangular black frame with a thickness of 3 typographical points; the statement prepared in this way should be printed, then hand-signed by Maciej Wąsik, and then digitally reproduced, i.e. photocopied or scanned and published without any editing procedures diminishing the meaning of the statement or indicating the detachment of the defendant from the content of the statement, and in a way that no advertising or other content aimed at distracting from the statement interferes with it, at [www.polskieradio.pl](http://www.polskieradio.pl), for a continuous period of 60 days, in such a way that it is at the top of the main page of the website before all other content contained on the website, in the form of a digital copy (photo, scan) of the signed statement, with the reproduced statement corresponding to the specified requirements before its signing and digital reproduction, i.e. written in

bold Times New Roman in black and no smaller than 24 typographic points, against a white background, in a rectangular black frame with a thickness of 3 typographic points, and after 60 days in the form of a regular post – without being pinned;

d) *“I, Maciej Wąsik, hereby apologise to Mrs. Lyudmyla Kozlovska and Mr. Bartosz Kramek for violating their personal rights in the form of a good name, as well as to the Open Dialogue Foundation with its registered office in Warsaw (KRS: 0000353754) for violating its personal rights in the form of reputation and goodwill, by disseminating harmful, untrue and offensive information and footage published in Telewizja Republika. I would like to point out that my publication contained false information, in particular regarding the financing of the Open Dialogue Foundation, its connections with the Russian structures and calls for the overthrow of the Polish government and bloodshed, by which I put Mrs Lyudmyla Kozlovska, Mr Bartosz Kramek and the Open Dialogue Foundation in a negative light, exposing them to moral and financial losses. The statement appears as a result of a lost lawsuit.”*

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- 2. ordering the defendant to pay Lyudmyla Kozlovska the amount of PLN 10,000 as compensation, together with statutory interest for the period of delay from August 27, 2018 until the date of payment;
- 3. ordering the defendant to pay Bartosz Kramek the amount of PLN 10,000 as compensation, together with statutory interest for the period of delay from August 27, 2018 until the date of payment;
- 4. ordering the defendant to pay the Open Dialogue Foundation with its registered office in Warsaw (KRS: 0000353754) the amount of PLN 10,000 as compensation, together with statutory interest for the period of delay from August 27, 2018 until the date of payment.

To justify the above claims, the plaintiffs stated that they seek to remove the effects of violating their personal rights – good name in Lyudmyla Kozlovska and Bartosz Kramek’s case, and reputation and goodwill in Open Dialogue Foundation’s case – by defendant Maciej Wąsik in the interviews he gave. The plaintiffs pointed to the defendant’s statements of April 24, 2019 in the “Minęła 20” programme on TVP Info, of September 19, 2019 in the “O co chodzi” programme on TVP Info, of

September 12, 2019 in the “Puls Trójki” audition on Polish Radio, of April 25, 2019 in the “W punkt” programme on the Telewizja Republika and of August 27, 2019 on “wPolsce” television. In these interviews, the defendant accused the plaintiffs that the sources of financing of the Open Dialogue Foundation were hidden and non-transparent, and that the Foundation’s activity itself posed a threat to European states. He pointed out that part of the money used to finance the Foundation came from companies producing weapons in Crimea or from unspecified Scottish companies – “money mules” associated with the Panama Papers scandal. The defendant accused the plaintiffs of laundering money, called the Foundation “hybrid”, and stated that the reason for the ban on Lyudmyla Kozlovska’s entry into the European Union was the opaque financing of the Foundation. In addition, the defendant, referring to the manifesto published by Bartosz Kramek, stated that it was aimed at leading to bloodshed and Maidan in Poland, that Bartosz Kramek called on Poles to illegal activities, i.e. not paying taxes and preparing a coup in the state and that the activity of the plaintiff Bartosz Kramek was part of the hybrid activity. The plaintiffs stated that the defendant’s allegations were unfounded and untrue. The rules of funding of the Foundation have been public, all donations are subject to accounting recording and qualification, and the lists of donors are included in the reports. The Foundation’s funds are allocated to its statutory purposes. The defendant’s suggestions that the Foundation has Russian sources of financing are also illogical and unfounded. Bartosz Kramek’s publication of July 21, 2017 entitled “Let the state come to a stop: let’s shut down the government!” was an expression of anxiety and opposition to the current political and social situation in Poland. Bartosz Kramek did not call for a revolution or a coup, but expressed opposition to the attack on fundamental rights and the rule of law. An analysis of the entire text of the plaintiff indicates that his goal was to propose peaceful solutions. Moreover, the publication by the plaintiff of the above-mentioned study on his private Facebook profile was not an activity of the Foundation. After this publication, the Foundation became the target of numerous attacks by pro-government and pro-Russian media. The plaintiffs claimed that as a result of the defendant’s actions they suffered significant harm and became less credible in the eyes of the public.

The defendant Maciej Wąsik, in response to the lawsuit, requested that the action be dismissed in its entirety.

The defendant argued that the parts of the defendant’s statements indicated by the plaintiffs were out of the context of the questions asked to the defendant by the journalists and his entire statements, which distorted their perception as statements of an evaluative nature, having the nature of opinions. The critical assessment by the defendant of the manifesto of the plaintiff Bartosz Kramek referred to the content of this manifesto and was within the framework of the right to criticism and freedom of expression. The defendant disputed that the personal rights of the plaintiffs had been violated. In 2019, the plaintiffs were featured in numerous publications relating to the circumstances contained in the defendant’s statements, so it is not possible to say about a broad and harmful public perception of the defendant’s statements. The defendant also contested the illegality of his actions, pointing out that the plaintiffs carried out active public and political activities, while the defendant’s statements constituted a critical voice in the public debate on their activities and opinions based on available sources of information. All actions taken by the defendant were carried out in order to protect an important public interest.

## **The Court has established the following facts:**

Lyudmyla Kozlovska is a Ukrainian social activist and human rights activist, especially in the post-Soviet countries. She is also the founder of the Open Dialogue Foundation, active within its statutory objectives (*circumstances determined on the basis of Article 230 of the Code of Civil Procedure – given by the plaintiffs in the lawsuit, unchallenged by the defendant*).

Bartosz Kramek – husband of Lyudmyla Kozlovska – engaged in activities in the NGO sector. Since 2010, he has been an activist of the Open Dialogue Foundation (*circumstances determined on the basis of Article 230 of the Code of Civil Procedure – given by the plaintiffs in the lawsuit, unchallenged by the defendant*).

The Open Dialogue Foundation with its registered office in Warsaw (hereinafter also referred to as the “Foundation”) was established in 2009 on the initiative of Lyudmyla Kozlovska. The Foundation was entered into the National Court Register on April 12, 2010. Lyudmyla Kozlovska has been the President of the Foundation’s Management Board since 2013. Bartosz Kramek has been a member of the Foundation Board (supervisory body) since 2012, and since May 2013 he has also been an independent proxy of the Foundation (*information from the National Court Register regarding the Open Dialogue Foundation, case file sheet 53-62*).

The statutory objectives of the Foundation include the protection of human rights, democracy and the rule of law in the post-Soviet area. The Foundation pursues its goals through the organisation of observation missions, monitoring individual cases of human right violations. It also promotes international legislation providing for sanctions against governments and persons responsible for violations of European values and standards, supporting, among others, the so-called Magnitsky Act and the connection of EU and international financial assistance programmes with the respect for the rule of law and human rights. An important area of the Foundation’s activity is the protection of the rights of prisoners and political refugees. Based on its work, the Foundation publishes analytical reports and uses them for the purposes of communication with EU institutions, OSCE, Council of Europe, the UN, as well as other human rights organisations, foreign ministries and parliaments and the media. It is actively engaged in cooperation with members of parliaments involved in foreign affairs, human rights and official relations with the monitored third countries. The Foundation advocates for the reform of Interpol and – from 2018 – of the Schengen Information System (SIS/SIS II) to prevent their mechanisms from being used by authoritarian and hybrid regimes to persecute their opponents. In 2013-14 the Foundation organised a mission to support Ukrainian civil society in their struggle for European integration during the [Revolution of Dignity](#) at Kyiv’s Maidan square. In 2014, the Foundation’s humanitarian aid programme that started during the Maidan was expanded to help those affected by the occupation of Crimea and the war in the East of Ukraine.

In the years 2014–2016 in Warsaw the ODF ran a centre for assistance and integration of migrants and refugees from Ukraine under the name “Ukrainian World”. The area of activity of the Foundation was also Kazakhstan and Moldova. Since July 2017, the Foundation and its representatives have also spoken on the situation related to the constitutional crisis and the violations of the rule of law in Poland by the ruling PiS party and its subordinate structures (*circumstances determined on the basis*

*of Article 230 of the Code of Civil Procedure – given by the plaintiffs in the lawsuit, unchallenged by the defendant, testimony of the witness Katarzyna Szczypka – case file sheet 672-673, interrogation of the plaintiff Bartosz Kramek – case file sheet 713-715, interrogation of the plaintiff Lyudmyla Kozlovska – case file sheet 715-716).*

Maciej Wąsik is a Polish politician, state and local government official. In the years 2006-2009, he served as deputy head of the Central Anti-Corruption Bureau, and as a member of the Sejm of the 8th and 9th parliamentary terms. Since 2015, Maciej Wąsik has been the Secretary of the Special Services College, in 2019 he was a member of the Sejm of the Republic of Poland from the PiS party and the Secretary of State in the Chancellery of the Prime Minister, and in the second half of 2019, he became Secretary of State at the Ministry of the Interior and Administration (*circumstances determined on the basis of Article 230 of the Code of Civil Procedure – given by the plaintiffs in the lawsuit, unchallenged by the defendant, interrogation of the defendant Maciej Wąsik – case file sheet 716-717*). In 2017, when public protests against the changes in the judiciary planned by the Polish government and teacher strikes took place in Poland, on July 21, 2017, Bartosz Kramek published a manifesto entitled “*Let the state come to a stop: let’s shut down the government!*” on Facebook social networking site. This manifesto starts with the following introduction: How can the attack of Law and Justice (PiS) on the rule of law in Poland be stopped? *Protests are the foundation of social resistance, but they do not exhaust the catalogue of instruments to enhance the effectiveness of civil disobedience. Radical methods of resistance from Eastern countries are justified by the unique circumstances in the history of the Third Republic of Poland. Power that destroys public life and the political system in the Eastern style has to reckon with an adequate and analogically inspired response of the society. This study presents 16 points based on, among others, the experience gained from observation missions and support of the Ukrainian Euromaidan.* In the further part of the article, the author referred to the current political situation in Poland, expressing criticism about the rule of the PiS political party. Bartosz Kramek pointed out that: This fight is just beginning. *Kaczyński's government will not last forever, and the more mistakes he makes and the more he stirs the public sentiment, the sooner his governance will come to an end. However, this does not mean that we can only passively wait for the development of events. On the contrary: we must make the authorities face the consequences of their own actions. And we must make sure that the general public does not remain passive by ignoring the current events. Mere protests and appeals are not enough; extraordinary and resolute actions based on the idea of civil disobedience must be taken immediately. Nobody wants Maidan or bloodshed in Poland, but the escalating tension makes us take almost any unimaginable scenario into account — and be prepared for it. At the same time, the red line must be very clear for us: it's aggression, violence, and blood. Is it also a red line point for the government? We do not know. But it is certain that any use of force — as a factor escalating further tension — will not be in their interest. It is also questionable whether the power structures would be loyal to the authorities if they try to use violence against their citizens. It is certain, however, that we must maintain the peaceful nature of the protests at all costs.* Further, the author of the article, referring to the comparison with the Ukrainian Maidan, wrote: “*What stands in our way — as a civil society and a sovereign nation — to shut down the government? And how can we achieve that?*”, followed by a list of sixteen actions he proposed: “*1. Firstly, despite all the differences, we need close cooperation and coordination of the broadly understood opposition and civic communities, which will create a common framework for key decision making and form an official representation (...)* 2. *Efficiency requires the mobilisation of a large section of the society, and — before this can happen — many environments, the*

resistance of which can paralyse the functioning of the State (...) 3. General teachers' strike or — in the case of judges of common and administrative courts, who cannot strike in a formal way — a broad-based protest in the form of breaks at work and refraining from performing official duties (...) 4. It is worth considering an open and wide temporary action which would consist in abstaining from paying taxes and other budgetary receivables, for example, under the slogan I'm not paying for PiS (...) 5.' Under no circumstances can the Supreme Court capitulate against legal violence (...) 6. Social pressure in the form of protests and manifestations must be constant and high (...) 7. Caring for good organisation, image and attractiveness of the protest sites (...) 8. The leading PiS politicians and officers must bear personal consequences; the goal of this measure is to induce social ostracism (...) 9. It is absolutely necessary to have good relations with the police and other law enforcement agencies (...) 10. A broad-based educational campaign is necessary (...) 11. We cannot give up the talks and negotiations with a potentially constructive part of the current ruling elite (...) 12. Local governments are the power of Poland, and the local government of Warsaw should play a special role in this endeavour (...) 13. Local legal authorities can and should set up special task teams that would use all the possible instruments of civil, criminal and administrative laws to sabotage the unlawful conduct of the government and bring consequences to those responsible (...) 14. Europe and the world. Close cooperation with other countries (including the organisation of observation missions to Poland and hearings on Poland's situation in the European Parliament and the Council of Europe, as well as in national parliaments of the most important and interested States) is also necessary (...) 15. The Internet and social media: their potential must be used to the fullest (...) 16. Engaged environments, in particular, business, local governments, but also the general group of protesters, should make contributions to a special civil society fund, serving to finance the aforementioned activities (...).” In the further part of the article, it is indicated: “The slogan: ‘Ulica i zagranica’ [‘The Street and Foreign Countries’] does not constitute a calling for treason or a coup. It makes perfect sense in the reality of a parliament dominated by anti-constitutional majority.” (Bartosz Kramek’s manifesto “Let the state come to a stop: let’s shut down the government!” – case file sheet 194-197).

Bartosz Kramek published the above manifesto in defence of the independence of the judiciary in Poland, considering that he cannot be passive in the situation of violations of the constitutional order in Poland by the authorities and ongoing social protests (*interrogation of the plaintiff Bartosz Kramek – case file sheet 713-715*).

Bartosz Kramek’s manifesto was then shared on the website of the Open Dialogue Foundation on Facebook (*interrogation of the plaintiff Lyudmyla Kozlovska – case file sheet 715-716, interrogation of the defendant Maciej Wąsik – case file sheet 716-717*).

After Bartosz Kramek published the above manifesto on Facebook, a wave of comments appeared on the Internet, and a lot of statements about this publication appeared in the media (*testimony of the witness Katarzyna Szczypka – case file sheet 672-673*).

Bartosz Kramek’s article entitled “Let the state come to a stop: let’s shut down the government!”, as well as the activities of the Open Dialogue Foundation and its sources of funding, became the subject of a report prepared in August 2017 by the

blogger Marcin Rey entitled “Activities and links of the Open Dialogue Foundation”, in which the author questioned the way of financing the Foundation. The author pointed out that: “Nearly 4/5 of almost 6.6 million zlotys of revenues of the Open Dialogue Foundation during its existence came from persons and entities directly connected to the family and business of Petro Kozlovsky from Sevastopol in Crimea, his sister Lyudmyla Kozlovska and her husband Bartosz Kramek,” and pointed out the unclear links between the activities of the plaintiff’s brother and Russian contractors and doubts related to other donors of the Foundation (Marcin Rey’s report entitled “Activities and links of the Open Dialogue Foundation” – case file sheet 243-324v.).

After the publication of the manifesto by Bartosz Kramek, the activities of Bartosz Kramek, Lyudmyla Kozlovska and the Open Dialogue Foundation, including in the context of the Foundation’s sources of financing, became the subject of numerous press articles published in 2017-2018. Articles appearing in the media favouring the then ruling power in Poland were critical of the activities of the plaintiffs and provoked hatred towards the plaintiffs in the comments appearing on Internet portals (article entitled “Another instruction for the ‘Polish Maidan’? “Let the state come to a stop: let’s shut down the government”, 22.07.2017 at dorzeczy.pl – case file sheet 325-331, article entitled “Moldavian edition of the Kozlovska war. Local oligarch used the Internal Security Agency to fight the opposition”, 16.09.2018 – case file sheet 332-333, article entitled “Shocking! Who is behind the Open Dialogue Foundation?”, 14.08.2017 – case file sheet 334-335, article entitled “Controversies around the President of the Open Dialogue Foundation. Could Lyudmyla Kozlovska have been an agent of the Kremlin?”, 21.08.2018 – case file sheet 336-338, article entitled “Open Dialogue financed by Russian companies? Kramek: We give our own money,” 23.08.2018 – case file sheet 339-340, article entitled “Is Open Dialogue a money launderer? Lyudmyla Kozlovska’s Foundation targeted by the Internal Security Agency!”, 23.11.2018 – case file sheet 341, article entitled “In the shadow of the Kremlin. Russian footprint at the Open Dialogue Foundation”, 15.08.2017 – case file sheet 350-352, article entitled “Attempt to violate the integrity of Ukraine and high treason are the crimes that the SBU suspects the President of the Open Dialogue Foundation Lyudmyla Kozlovska of. In August, at the request of the Polish secret services, Kozlovska was expelled from the European Union”, 10.10.2018 – case file sheet 353-353v., article entitled “What is Lyudmyla Kozlovska afraid of? The truth. Especially about the sources of financing her business”, 14.09.2018 – case file sheet 354-355v, article entitled “The Open Dialogue Foundation’s Lyudmyla Kozlovska expelled from Poland”, 15.08.2018 – case file sheet 361, article entitled “Internet users demand the response of the government and services in the case of the Open Dialogue Foundation”, 06.10.2017 – case file sheet 366, article entitled “The Internal Security Agency is interested in the Open Dialogue Foundation. In the background: the money that may come from a crime”, 23.11.2018 – case file sheet 367-369, article entitled “Open Dialogue had a licence for arms trade. There is proof”, 02.08.2017 – case file sheet 370, article entitled “We are disclosing the report on the Open Dialogue Foundation. Oligarchs’ money and international lobbying”, 14.08.2018 – case file sheet 371-373, article entitled “What has the Open Dialogue Foundation done to the PiS government?”, 07.08.2017 – case file sheet 374-376, article entitled “Lyudmyla Kozlovska: Continuation of the scandal around the Open Dialogue Foundation”, 20.08.2018 – case file sheet 377-378, article entitled “Who financed the Open Dialogue Foundation? An interesting report by Marcin Rey”, 15.08.2017 – case file sheet 379-380, article entitled “Who is behind the Open Dialogue Foundation? Further facts come to light”, 30.07.2017 – case file sheet 381-382, article entitled “History of the Open Dialogue. Who are the people who provoked the attack on

NGOs?”, 7.08.2017 – case file sheet 458-484, testimony of the witness Kajetan Wróblewski – case file sheet 574-575, testimony of the witness Katarzyna Szczypka – case file sheet 672-673, interrogation of the plaintiff Bartosz Kramek – case file sheet 713-715, interrogation of the plaintiff Lyudmyla Kozlovska – case file sheet 715-716).

On March 1, 2018, Lyudmyla Kozlovska applied to the Mazovian Voivode for a long-term EU resident permit. In connection with the above investigation conducted by the Delegation of the Internal Security Agency, on July 6, 2018, the Head of the Internal Security Agency addressed the objections to the Mazovian Voivodeship Office in Warsaw regarding the granting of a long-term EU resident permit to Lyudmyla Kozlovska (*information of the Head of the Internal Security Agency – case file sheet 554-555, information of the Office for Foreigners – case file sheet 539-547v.*).

By decision No. WSC-II-F.6153.339.2018 dated 4 October 2018, the Mazovian Voivode refused to grant Lyudmyla Kozlovska a long-term EU resident permit, indicating that the evidence justified the refusal to grant her the permit for the reasons of protecting public safety and order. By decision No. DL.WIPO.410.1079.2018.JPP of February 15, 2018, issued in connection with the appeal filed by the plaintiff, the Head of the Office for Foreigners upheld the decision of the Voivode of October 4, 2018. The Voivodeship Administrative Court in Warsaw, by the judgement of September 5, 2019, file ref. no. IV SAWa 1311/19, overturned the decision of the Head of the Office for Foreigners of February 15, 2018 and the preceding decision of the Mazovian Voivode of October 4, 2018, indicating that the collected evidence, containing only general information, did not give grounds for conclusions on the legitimacy of refusing to grant Lyudmyla Kozlovska the permit for the reasons of state security. This judgement became final on November 13, 2019 (*information of the Office for Foreigners – case file sheet 539-547v.*)

On July 27, 2018, the Head of the Security Agency sent a request to the Head of the Office for Foreigners to include Lyudmyla Kozlovska in the list of foreigners whose stay in the territory of the Republic of Poland is undesirable – for a period of five years, due to the threat to the state security. One of the reasons for the actions taken by the Internal Security Agency was information regarding the non-transparency of the financing of the Open Dialogue Foundation, which was the subject of an investigation conducted by the Delegation of the Internal Security Agency in Lublin. On July 31, 2018, the details of Lyudmyla Kozlovska were entered by the Head of the Office for Foreigners in the list of foreigners whose stay in the territory of the Republic of Poland is undesirable, with the validity date until July 26, 2023. In addition, the details of Lyudmyla Kozlovska were sent to the Schengen Information System for the purpose of refusing entry for the period of their retention in the list. However, due to the fact that Belgium granted the plaintiff a residence permit on the grounds of family reunification – valid until May 28, 2024, the plaintiff's details were deleted from the Schengen Information System on June 13, 2019. The plaintiff's details remained only in the list of foreigners whose stay in the territory of the Republic of Poland is undesirable. In the light of Lyudmyla Kozlovska's application to the Office for Foreigners to remove her details from the list of foreigners whose stay in the territory of the Republic of Poland is undesirable, the Head of the Office for Foreigners refused to take into account her application and issue a certificate by decision of October 1, 2018 No. DL.WWC.4171.963.2018.SW. The claimant was also denied access to information on the factual basis for the entry of the details under Article 444 (2) of the

Act on Foreigners. In the light of the plaintiff's application for reconsideration of the case, the Head of the Office for Foreigners, by decision of November 20, 2018 no. DLC.WWC.4171.963.2018.AB, upheld the contested decision of October 1, 2018. This order was challenged by the plaintiff before the Voivodeship Administrative Court in Warsaw. By judgment of April 16, 2019, file ref. no. IV SA/Wa 521/19, the Voivodeship Administrative Court in Warsaw overturned the challenged decision of the Head of the Office for Foreigners of November 20, 2018, no. DLC.WWC.4171.963.2018.AB and the preceding decision of October 1, 2018 no. DL.WWC.4171.963.2018.SW, considering that on the basis of the information contained in the document covered by the "secret" clause and other evidence, there are no grounds to assume that there is a basis for entering the details in the list and the SIS, because this information was very vague and did not allow to state that the condition of threat to state security has been met. This judgement became final on July 9, 2019 (*information of the Head of the Internal Security Agency – case file sheet 554-555, information of the Office for Foreigners – case file sheet 539-547v.*).

On April 21, 2019, press materials on the links of Lyudmyla Kozlovska and the sources of financing of the Open Dialogue Foundation were published in the British "The Sunday Times" weekly magazine. In this article, its authors, citing the report of the Investigative Committee of the Moldovan Parliament published in November 2018, alleged that Lyudmyla Kozlovska and the Open Dialogue Foundation were financed from transactions with Russian military companies whose commercial activities were banned in the US and the EU under international sanctions, from supplies of military equipment to states involved in regional conflicts, from foreign accounts with questionable channels of flow and origin (companies registered in one tenement house in Scotland and in tax havens) and from money laundering operations as part of the "Laundromat" scheme. In connection with this article, numerous articles on this matter appeared again in the Polish media, and the topic was the subject of wide media debate, especially in the media favouring political power at that time (*printouts of articles from The Sunday Times of April 21, 2019, together with translations – case file sheet 735-759, article entitled "Kramek and Kozlovska involved in money laundering", 24.04.2019 – case file sheet 360-360v, article entitled "British newspaper sharply about Kozlovska and the Open Dialogue Foundation. This is an 'ordinary laundry'", 22.04.2019 – case file sheet 363, article entitled "Sunday Times: the Open Dialogue Foundation involved in money laundering", 22.04.2019 – case file sheet 364, article entitled "The Open Dialogue Foundation and 1.5 million pounds from Scotland", 22.04.2019 – case file sheet 365, article entitled "The Sunday Times: the Open Dialogue Foundation was involved in money laundering", 22.04.2019 – case file sheet 414-415, article entitled "The Moldovan press widely comments on the reports on Kramek and Kozlovska's Foundation. Huge money and tax havens in the background", 24.04.2019 – case file sheet 416-418, article entitled "The Sunday Times about Kozlovska, money laundering and the Russian hybrid war. Where are her defenders?", 21.04.2019 – case file sheet 419, article entitled "Sunday Times on the allegations of the Moldovan Parliament against the Open Dialogue Foundation", 23.04.2019 – case file sheet 420-421, article entitled "Foundation for the Defence of Embezzlement", 27.05.-2.06.2019 – case file sheet 455-457, article entitled "C. Gmyz: there are many indications that Kramek and Kozlovska are acting on behalf of the Russians", 22.04.2019 – case file sheet 485)*

On April 24, 2019, Maciej Wąsik was a guest of the "Minęła dwudziesta" programme broadcast by TVP Info, the subject of which was the activity of the Open Dialogue Foundation and the Foundation-related reports of the British "Sunday Times"

weekly magazine stating that it was related to the Russian special services. To the question of journalist Michał Rachon: *“Mr. Minister, when you read the reports of the British Sunday Times, how did the Polish services perceive it, how did the office of the coordinator minister perceive it? After all, there is information there that has been questioned by many of our European partners. Lyudmyla Kozlovska, despite the ban issued by Poland, moves freely at least in some EU countries?”*, Maciej Wąsik replied: ***“(...) I am glad that this article was published in the British press, because in my opinion it confirms the diagnosis made by the Polish services that the Open Dialogue Foundation is financed in a non-transparent way and its activities bear the features of certain hybrid activities. I would even risk the thesis that this foundation can be called a hybrid foundation.”*** Then the journalist asked: *“You are talking about “hybrid” concept, which is a term used in relation to the activities of the Russian Federation. Today we talked about such mechanisms described very precisely by the Polish secret services. The Internal Security Agency, in many of its open, publicly available documents, talked about these activities. What specific actions of the Open Dialogue Foundation do you consider to be hybrid actions?”* Maciej Wąsik replied: ***“I would like to remind you of July 2017, when there was a very hot dispute in Poland regarding the reform of the judiciary. When there were demonstrations in Poland in many places, in many cities. At that time, a manifesto of Mr. Bartosz Kramek appeared on the Facebook page of the Open Dialogue, which called for a de facto coup, for shutting down the government, for non-payment of taxes, and considered bloodshed. In my opinion, someone decided that this was the moment that the power in Poland should have been changed in an undemocratic way. Fortunately, the Poles were smart. The Poles chose peace. Polish society behaved rationally, this appeal was not heard, but at that time the Polish services were obliged to clarify this matter. I would like to remind you that the Minister Coordinator asked the Minister of Foreign Affairs, who exercised statutory custody over this foundation, to carry out an inspection. This inspection has been initiated. Few people know that the Minister of Foreign Affairs applied to the court for the suspension of the foundation board, the appointment of an external commissioner. Unfortunately, the court did not agree. According to my knowledge, the case is still pending on appeal, but at that time the audit of the National Fiscal Administration was also carried out at the Foundation. At that time, it was established that the money for the Foundation’s activities, through Mr. Bartosz Kramek’s company, came from some unspecified companies whose owners we do not know. We know of their successors, owners registered in Seychelles, Belize, Panama who arrive e.g. in the files of the Panama Paper case.”*** After that, the journalist said: *“Mr. Minister, there is a report available on the Internet, a report prepared by the blogger Marcin Rey, the author of the website “Russian Fifth Column in Poland”, who claims that although he is critical of the power currently ruling in Poland in many of his publications, he claims that the publication and registration documents of the Open Dialogue Foundation prove that 4/5 of the funds that the foundation obtained at that time come from sources directly related to an entrepreneur operating in Crimea, whose one business is the supply of materials, equipment to Russian submarines, to a company that, well, is part of, cooperates with the Russian Navy”,* and Maciej Wąsik replied: ***“I know this report, and in fact the only thing you can say is that no one does not have a certain... who is not affiliated with the authorities in Russia is able to run such a business, and this business is run in Crimea and St. Petersburg. These are extremely sensitive places and I cannot imagine Russia is not a free country and I cannot imagine that anyone can freely conduct business and compete on the free market by selling equipment to the Russian***

*army without being affiliated in some way. I would just like to emphasise and say that the Internal Security Agency is conducting an investigation under the supervision of the prosecutor's office into money laundering by the Foundation and the company Silkroad, which is owned by Kozlovska's husband, Mr. Kramek.*" To the journalist's question: "Are these findings consistent with what the British have written in the text?" the defendant replied: "These are things that have already appeared in the Polish media. Of course, there are many more of these findings, but I do not have prosecutor's powers to inform about...", after which the journalist interrupted Maciej Wąsik's statement, saying: "Mr Minister, we have 30 more seconds before the end. There is a lot of talk about the influence in today's Europe of, let's call it, far-right circles and the links these circles have with Vladimir Putin and his services. But here, in this case, we are dealing with a liberal environment, how can we explain that?" Maciej Wąsik replied: "There are various ways to disguise yourself and, of course, the darkest place is under the candlestick. I just wanted to say that wherever something starts happening in Europe, whether in Catalonia or Scotland, when there are these separatist movements, there are also various strangely funded organisations whose, let's say, origins cannot be clearly assessed.". After this statement, the interview with Maciej Wąsik was terminated (the programme entitled "Minęła dwudziesta" was aired by TVP Info on April 24, 2019 – recording on a CD, case file sheet 211, played at the hearing).

On April 25, 2019, Maciej Wąsik was a guest of the "Wpunkt" programme, broadcast on Telewizja Republika. To the question of the host: "Mr. Minister, does the Open Dialogue Foundation threaten the security of Poland?", Maciej Wąsik replied: "This is such a strong question," then the host asked: "But does it really concern the nature of the problem?". To that, Maciej Wąsik replied: "**I can say that some activities of the Open Dialogue Foundation have attracted the attention of counterintelligence services, appropriate activities have been carried out and as a result, proceedings are underway at the Warsaw prosecutor's office regarding the financing of the Open Dialogue Foundation. It is an investigation that is underway... carried out by the Internal Security Agency. The investigation focuses on money laundering. In the opinion of investigators, the Foundation is financed in a non-transparent manner, and certain activities of the Foundation, in my opinion, threaten the security of Poland. I would like to recall the summer of 2017, when the PiS government carried out difficult reforms of the judiciary through the Sejm, but they were expected by the society. The opposition called for street protests, these protests took place and suddenly on the website of the Foundation, on the Facebook page of the Open Dialogue Foundation, a manifesto appeared... well, of a political nature or maybe even... let's say, a manifesto calling for the overthrow of the government. A manifesto about shutting down the government, blocking or occupying government buildings.**" In the further part of the conversation, in which the host pointed to the reference to the teachers' strike in the manifesto, Maciej Wąsik, referring to the above-mentioned manifesto, said: "**But a strike is an action that is legal to a certain extent, in accordance with Polish law, and there were calls for illegal actions, non-payment of taxes, harassing members of the ruling camp, for example, through demonstrations in front of their homes. This manifesto did not rule out bloodshed on the streets. It was in fact a call for a coup.** This part of the activity of the Open Dialogue Foundation goes beyond...", and then the defendant's statement was interrupted by the host, who said: "Yes, but I want to ask you, because on the one hand you are talking about the fact that there are suspicions that this institution was involved in money laundering and I understand that... this is a criminal offence?",

to which Maciej Wąsik replied: ***“It used, let’s say, dirty money, it was financed in a non-transparent way.”*** In the further part, the defendant pointed out that: ***“For the most part, the funding of this Foundation is actually done with foreign money. On the one hand, these are companies registered in Scotland, which, through Mr. Bartosz Kramek’s company, spent almost 1.5 million dollars in two or three years on the Foundation’s activities. I would like to say that these companies are registered in Scotland in a building where there are probably several dozen companies registered, i.e. they are virtual companies – you have to call them this way, and the owners of these companies are other companies registered in tax havens in the Seychelles, Belize or Panama, which also appear in the Panama Papers case. Also, it is not known where this money comes from, and it is very likely that it is dirty, illegal money that is laundered through a transaction network, and on the other hand, a member of the family of Mrs. Kozlovska, who is the president of the Foundation, runs businesses and also finances this Foundation. He runs a business of trading equipment for the Russian fleet. These businesses are based in Crimea and in St. Petersburg, so this is a pretty strange direction. I wanted to ask myself whether it is possible to run a business in a Russian armaments sector without being affiliated with the local services?”*** In the further part of the conversation, to the question of the host: ***“Then was the decision regarding, well, in fact, the ban on entry, not only to Poland, imposed on Mrs. Lyudmyla Kozlovska, i.e. the wife of Mr. Bartosz Kramek, also related to this matter?”***, the defendant replied: ***“She was associated with ambiguities regarding... ambiguities regarding the financing of the Foundation that she managed. I would like to remind you that the audit that was carried out in this Foundation showed that a large part of the funds was not spent on the Foundation’s statutory purposes and should have been taxed.”*** In the further part of the conversation, to the question of the host: ***“Is it that the case of the Open Dialogue Foundation, even in the light of The Times’ publication, is still developing? Is that how the Polish services treat it?”***, Maciej Wąsik replied: ***“I would not like to disclose the findings of the investigation here. Certainly, this matter is of interest to the public and it’s a good thing that the public in the West has taken up the issue, that this problem has been noticed. I would like to say that, in general, in many places where something starts to happen... often the initiative comes from various non-transparent NGOs, financed by we don’t know who and for what purpose...”*** After that, the defendant said: ***“Well, in 2017, it was a call to overthrow the legal, democratic Polish government. And in my opinion, it was... it was part of a hybrid activity. And please pay attention to what happened on social media at that time – what a flood of fake accounts from various distant countries, from some strange servers, bots – these activities were extremely supported by social media.”*** (“Wpunkt” programme aired on Telewizja Republika on April 25, 2019 – recording on a CD, case file sheet 212, played at the hearing)

On August 27, 2019 Maciej Wąsik gave an interview on “wPolsce” television. After the host quoted Lyudmyla Kozlovska’s words regarding the harassment and repression of non-governmental activists, Maciej Wąsik said: ***“We have to be aware of the situation there is. I would like to remind you that Poland recognised Mrs. Lyudmyla Kozlovska as a persona non grata. That is why she was banned from entering the Schengen area. This ban has been broken twice for political reasons, first by the Germans and then by the EU authorities, in fact by the Belgians, but we must be aware that these were strictly political decisions related to our situation in the European Union and to some dispute that we have with Brussels... We have to be aware that countries take advantage of such situations without looking at the security of the European Union. In***

**my opinion, allowing this type of action by Mrs. Lyudmyla Kozlovska threatens the security of the European Union in a broad way.**” Then, referring to Russia’s hybrid warfare in Poland and in the world, the political crisis that took place in Poland and street demonstrations, Maciej Wąsik said: “*And suddenly there’s a manifesto that says: ‘Let’s shut down the government!’, ‘Let’s occupy the government buildings!’, ‘Let’s not pay taxes’, ‘Let’s lead to a Maidan in Poland’,*” to which the journalist added: “*It was simply put there – it was about paralysing the state. It is about paralysing the Polish state*”, to which Maciej Wąsik replied: “***This was the first time that the Open Dialogue Foundation interfered in Polish affairs, because so far it has dealt with completely different matters. And this was the first moment – someone decided that this was the right moment to lead to bloodshed in Poland, because bloodshed was taken into account there. And it is obvious that the state has taken care of this foundation. The Ministry of Foreign Affairs, which supervises this foundation in a legal way, carried out an inspection, submitted a request for a receivership. Unfortunately, the court did not agree with this decision and it is difficult for me to say for what reasons, but... let’s be clear, we have to check where this foundation is financed from, and the sources of funding of this foundation are extremely unclear.***” Then, the journalist stated that: “*We wrote about it in the “wSieci” weekly magazine a few weeks ago. We wrote about the fact that the foundation was financed largely by the people who work in it. That is by Bartosz Kramek and Lyudmyla Kozlovska. Lyudmyla Kozlovska and her family – Petro Kozlovsky, that is, a man, her brother, who... did very powerful business in Crimea, he did it also after the annexation of Crimea by Russia, but the most interesting thing that emerged from the information we described were these links of Bartosz Kramek’s company, that is Silk Road, with some suspicious entities registered in Great Britain, whose shareholders were companies from tax havens. There were companies that also appeared in Panama Papers*”, to which Maciej Wąsik replied: “***We have to say that there are companies that appear in the Panama Papers report, there are companies from tax havens, in case of which it is impossible to determine... let’s say, the actual owners, the actual financiers, and this concerns millions of dollars.***” In the further part of the interview, Maciej Wąsik said: “*I would like to remind you that the Polish state has taken appropriate actions in accordance with the law. The court did not agree with the request of the Minister of Foreign Affairs to establish a receivership and I think this is a court decision that must be respected. On the other hand, the Polish state has taken action in this direction, and I think that it is certainly necessary to say it clearly here – we do not know exactly who is behind this foundation, because it is the same person who finances it. We are not able to check at this moment whether it is clear who is financing the foundation and for what purpose. We can only guess. That is why we have taken such action and not others.*” Maciej Wąsik also said: “*I know that the foundation claims to have noble goals, but let’s look at the issues in which the foundation reacted in Kazakhstan, in Moldova. It has made some people victims of political regimes. It talked about defending human rights, and these were the people it stood for that actually robbed the local banking system, that drove huge amounts of money both from Moldova and Kazakhstan, where the sentence was passed. In one case, even 18 years in prison was given to a person, and it looks a bit like the foundation – this is my opinion – is a kind of guns for hire. They make victims of political regimes out of certain people for a lot of money.*” (“wPolsce” TV programme of 27.08.2019 – recording on a CD, case file sheet 212, played at the hearing). On September 12, 2019, Maciej Wąsik was a guest on the “Puls Trójki” programme on Polskie Radio 3. During this programme, the host raised the subject of the repeal by the Voivodeship Administrative Court in Warsaw of the decision of the Mazovian Voivode regarding the

ban on Lyudmyla Kozlovska's stay in Poland. To the question of the host: "And the Voivodeship Administrative Court ruled that these materials provided by the Internal Security Agency, are, I quote: 'very vague', 'laconic' and 'insufficient to make the decision to refuse', so is the Internal Security Agency mistaken?", Maciej Wąsik replied: "No. In my opinion, it was not mistaken, and I would like to say only that if the materials concerning Mrs. Lyudmyla Kozlovska were broad, full, then in my opinion, a report to the prosecutor's office could have been made. There were no hard evidence to notify the prosecutor's office. **However, there were indications that this woman should not be on the territory of the Republic of Poland and the European Union.**" Following that, the journalist asked: "And the court says something else and what next?", and Maciej Wąsik said: "We will wait for the court's justification and we will argue with it, I'm sure of it. **I am convinced that the materials provided by the Internal Security Agency were sufficient to make such a decision.** Because if the court expected even stronger materials, it is no longer [a case for] a court... we would have already made a report to the prosecutor's office" ("Puls Trójki" programme of September 12, 2019 – recording on a CD, case file sheet 211, played at the hearing) On September 19, 2019, Maciej Wąsik was a guest of the "O co chodzi" programme broadcast by TVP Info. To the journalist's question: "What can the services, on the basis of whose opinion it was decided to ban Ms. Kozlovska from entering Poland, say in this case today? Does that mean that the decision will no longer be upheld in court?", Maciej Wąsik replied: "We will see, because this is not the final decision and this decision will definitely be made again. I would like to say that I know roughly the materials on the basis of which such a decision was made, and I am on the side of the arguments that Internal Security Agency presented, and I want to say, firmly, that perhaps the court was looking for hard evidence that crimes had been committed. If there was hard evidence of crimes, so that the prosecutor would act and there would be criminal charges. **Mrs Lyudmyla Kozlovska has a foreign citizenship and Poland has the right to decide who it wants to host permanently or grant a residence permit. The services provided materials to the Office for Foreigners. On the basis of these materials, the Office for Foreigners decided that Ms Lyudmyla Kozlovska should have been an undesirable person in Poland, but also in the European Union.** I would like to say to you that, of course, we cooperate with Western services and – unofficially, because they cannot officially say it – many representatives share the arguments of Polish services. Nevertheless, political considerations are often decisive, and the services there do not have such power to overcome political considerations." Then the journalist asked: "Because in this case it is still about the fact that Mrs. Kozlovska presents herself as a victim of political repression, so she should not enter Poland because she has the wrong views, right? She criticises the government and so on?", Maciej Wąsik replied: "We were in a different position. There was no sign of political repression. **In our opinion the financing of the Foundation, headed by Mrs. Kozlovska, is vague and unclear. Moreover, as widely reported by the media, part of the money from which it is financed comes either from companies that produce weapons in Crimea or from the owners of these companies or from unspecified Scottish companies, which are in fact money mules, because in one place, in one building, there are 300 companies that are related "to the Panama Papers case that high profile in the West.**" After that, the journalist said: "Okay, but Mrs. Lyudmyla Kozlovska has decisions in her favour at the moment – first of all, of the European Union countries", and the defendant replied: "It is a reversal decision to be reconsidered and I think it will be similarly considered." To the question: "What will be the end of this case?" the defendant replied: "This is decided by the authority, i.e. the Office for Foreigners. My opinion is that it had all the reasons to make the decision it made". Then, referring to

the ongoing reform of the judiciary, Maciej Wąsik said: ***“We remember the hot summer of 2017, where, besides, Mrs. Lyudmyla Kozlovskaya’s environment had a huge share, and we remember Mr. Kramek’s statements shared by the Open Dialogue Foundation – Mrs. Lyudmyla Kozlovskaya’s foundation: let’s turn off the state, let’s block the government, do not pay taxes, there were also various calls that there may even be bloodshed (...)”*** (programme entitled “O co chodzi”, broadcast on TVP Info on September 19, 2019 – recording on a CD, case file sheet 211, played at the hearing).

There were a large number of publications about the plaintiffs. Some of the materials were published before the interviews given by Maciej Wąsik, and some were published after those interviews. In the media favourable to the power exercised by the PiS party, there were statements similar to the defendant’s statements (*testimony of the witness Kajetan Wróblewski – case file sheet 574-575, testimony of the witness Katarzyna Szczypka – case file sheet 672-673, interrogation of the plaintiff Lyudmyla Kozlovskaya – case file sheet 715-716*).

The Head of the Office for Foreigners, by decision of January 9, 2020, No. DL.WWC.4771.963.2018.PK, issued after supplementing the evidence by the Head of the Internal Security Agency, again refused to issue a certificate to Lyudmyla Kozlovskaya, indicating that there are grounds for including her personal data in the list of foreigners whose stay in the territory of the Republic of Poland is undesirable. This decision, after being challenged by Lyudmyla Kozlovskaya, was upheld by the decision of April 30, 2020, No. DL.WWC.4771.963.2018.KRR. As a result of Lyudmyla Kozlovskaya’s complaint against the above-mentioned decision, the Voivodeship Administrative Court in Warsaw, by the judgement of January 29, 2021, file ref. no. IV SA/Wa 2176/20, overturned the decision of the Head of the Office for Foreigners on April 30, 2020, No. DL.WWC.4771.963.2018.KRR, and the decision of January 9, 2020, no. DL.WWC.4171.963.2018.PK. In the justification, the Court indicated that the authority (the Head of the Office for Foreigners) was obliged to examine the substantive evidence and the evidence relied on by the party, which concerned the situation before the issue of the contested decision. Against the above judgment, the Head of the Office for Foreigners filed a cassation appeal with the Supreme Administrative Court. The cassation appeal has not yet been heard. (*information of the Office for Foreigners – case file sheet 539-547v, the judgement of the Voivodeship Administrative Court in Warsaw of January 29, 2021, file ref. no. IV SA/Wa 2176/20 – case file sheet 611-630*).

The Mazovian Voivode, by decision no. WSC-II-E.6153.339.2018 of October 6, 2020, again refused to grant Lyudmyla Kozlovskaya a long-term EU resident permit, indicating that the evidence justified the refusal to grant her the permit for the reasons of protecting public safety and order. As a result of the appeal brought against the above-mentioned decision, by decision no. DL.WIPO.410.1552.202/JPP of January 29, 2021, the Head of the Office for Foreigners upheld the contested decision of the Voivode. This order was challenged by Lyudmyla Kozlovskaya before the Voivodeship Administrative Court in Warsaw, which by judgment of July 7, 2021, file ref. no. IV SA/Wa 530/21 in Warsaw dismissed the complaint (*information of the Office for Foreigners – case file sheet 539-547v*.)

The information constituting the basis for refusing to grant Lyudmyla Kozlovskaya a long-term EU resident permit and the basis for including her personal details in the list of foreigners whose stay in the territory of the Republic of Poland is undesirable constitute classified information marked with the “secret” clause (*information of the Head of the Internal Security Agency – case file sheet 554-555, information of the*

The financial statements of the Open Dialogue Foundation are published on the Internet. The Foundation provides on the website the names of its donors (*financial and substantive reports of the Open Dialogue Foundation – case file sheet 64-148, interrogation of the plaintiff Bartosz Kramek – case file sheet 713-715, interrogation of the plaintiff Lyudmyla Kozlovska – case file sheet 715-716*).

Petro Kozlovsky is the brother of Lyudmyla Kozlovska, he is a Ukrainian entrepreneur, he has financed the Open Dialogue Foundation since 2013. Until 2014, he owned a business in Sevastopol, Crimea, and ran businesses in the telecommunications and new Internet technology sectors. He donated to the Foundation the amounts of several hundred thousand zlotys per year. The Foundation was also donated by Silk Road Biuro Analiz i Informacji sp. z o.o. (hereinafter also referred to as “Silk Road”), which transferred amounts from several tens to several hundred thousand per year. The owner and member of the management board of this company was and is Bartosz Kramek. The Foundation was not funded by Scottish companies or by companies based in tax havens. On the other hand, Silk Road received payments for the services provided from companies registered in Scotland (*interrogation of the plaintiff Bartosz Kramek – case file sheet 713-715, interrogation of the plaintiff Lyudmyla Kozlovska – case file sheet 715-716*).

By order of August 12, 2021, file ref. no. RP I Ds. 34.2018, the prosecutor presented Bartosz Kramek with the charge, among others, that during the period from August 10, 2012 to February 28, 2016, in Warsaw, as the President of the Management Board and owner of all shares of Silk Road Biuro Analiz i Informacji sp. z o.o., in the performance of a predetermined intention to conceal the criminal origin of funds and to obtain a financial advantage, in short intervals, making the commission of a crime a permanent source of income, received into the company's bank accounts cash originating from crime of false statements in VAT invoices to a total value of not less than PLN 5,379,274, after which he transferred these funds to bank accounts of other entities and made withdrawals and cash payments to other bank accounts, including to the Open Dialogue Foundation, i.e. as provided for in Article 299 (1) of the Penal Code in conjunction with Article 12 (1) of the Penal Code and Article 65 (1) of the Penal Code (*order of August 12, 2021, file ref. no. RP I Ds. 34.2018.S. – case file sheet 696-698v.*).

When talking about the lack of transparency of the financing of the Open Dialogue Foundation in the above-mentioned radio and television programmes, Maciej Wąsik meant activities consisting in the fact that entities from Scotland paid money to the Silk Road account, and then this company transferred money into the Foundation's account. The Scottish entities that made cash payments to Silk Road did not have a telephone number or a website and were registered in one building in Edinburgh. The defendant knew about the financing of the Foundation from the media and on the basis of the results of the fiscal control to which he had access, due to the function of the Deputy Coordinator of the Special Services (*interrogation of the defendant Maciej Wąsik – case file sheet 716-717*).

Maciej Wąsik's statements in the media had a negative impact on the activities of the plaintiffs. The plaintiffs became the subject of numerous comments of a hateful nature on Internet portals, which were posted, among others, under the statements published by the defendant. It happened that some entrepreneurs did not decide to

support the Foundation financially, because they were afraid of harassment and tax proceedings. Part of the Foundation's associates resigned from work for the Foundation (*testimony of the witness Kajetan Wróblewski – case file sheet 574-575, testimony of the witness Katarzyna Szczypka – case file sheet 672-673, interrogation of the plaintiff Bartosz Kramek – case file sheet 713-715, interrogation of the plaintiff Lyudmyla Kozlovska – case file sheet 715-716*). The above facts were established by the Court of First Instance on the basis of the above-mentioned evidence.

The Court of First Instance found the evidence in the documents cited, including printouts of press articles, comments on internet portals and video and audio material recorded on CDs filed in the case file, to be fully reliable, which did not raise doubts as to their authenticity and were not contested by the parties to the proceedings.

The court fully believed the testimony of the witness Katarzyna Szczypka, in which the witness presented the subject of the activity of the plaintiffs (in the field of the protection of the rule of law and human rights), the roles of Bartosz Kramek and Lyudmyla Kozlovska in the Open Dialogue Foundation, the impact on the activity and life of the plaintiffs incited by the defendant's statements. The testimony of the witness was consistent, logical, and in line with other evidence gathered in the case, including documentary evidence, with the testimony of the witness Kajetan Wróblewski and with the information provided by the plaintiffs during the hearing as parties to the proceedings, therefore it did not raise any doubts.

The court also found the testimony of the witness Kajetan Wróblewski and the testimonies of Bartosz Kramek and Lyudmyla Kozlovska submitted as the plaintiffs to be reliable in the above circumstances, because they were consistent with each other and with documentary evidence, forming a coherent and logical whole that presented the facts described. The testimony of the plaintiffs was also logical and beyond doubt, insofar as they provided information as to the motives for the publication of the manifesto of July 21, 2017 by Bartosz Kramek, as well as the sources of financing of the Open Dialogue Foundation, including the funds provided to the Foundation by Petro Kozlovsky (the brother of Lyudmyla Kozlovska) and the Silk Road company.

Testimony of the witness Kajetan Wróblewski and the plaintiffs Bartosz Kramek and Lyudmyla Kozlovska did not, however, lead to clarification of doubts as to the legality of transactions carried out by Silk Road, owned by Bartosz Kramek, with entrepreneurs registered in Edinburgh, Scotland, i.e. as to the actual performance of services for those entrepreneurs by Silk Road, for which the company was paid. Such doubts, which arose in connection with the preparatory proceedings conducted against Bartosz Kramek by the competent state authorities, were not able to remove the testimony of the witness and the plaintiffs, as it would require appropriate documents, which the Court did not have at its disposal as part of the evidence offered by the parties.

The Court of First Instance believed Maciej Wąsik's testimony as a defendant to the extent that the defendant provided information about his functions in the state authorities, especially during the period in which he made his statements in the media about the activities of the plaintiffs and about the sources from which he drew knowledge about the activities of the plaintiffs and about the transactions of Silk Road. In this respect, the defendant's statements were not contested by the plaintiffs and did not raise any doubts.

The defendant's testimony was not able to prove that the Open Dialogue Foundation or the company Silk Road, which was the donor of the Foundation, was involved in "money laundering" or that the Foundation received money from entities producing weapons in Crimea. The evidence gathered in the case did not allow to conclude that Silk Road was involved in "money laundering", i.e. that the funds received by Silk Road from entities registered in Edinburgh, Scotland, were indeed derived from criminal offences and that Bartosz Kramek or Silk Road or the Open Dialogue Foundation, through transactions with these entities, were involved in the legalisation of funds derived from criminal offences. Such a request is not justified by the fact that the Internal Security Agency initiated control proceedings regarding the transactions carried out by Silk Road, as well as by charging Bartosz Kramek in connection with the financial activities of Silk Road, which he owns. In the absence of the possibility for the relevant authorities to make available to the Court documentation concerning the details of the proceedings, as a result of their classification, it could not be reliably established on the basis of the hearing of the plaintiff himself that his statements regarding the above-mentioned circumstances were true. Nor has the Court been offered any credible evidence to accept the defendant's allegations that Petro Kozlovsky (who was a donor of the Foundation) manufactured weapons in Crimea or sold weapons to the Black Sea Fleet. Even if it was true, as alleged in the course of the proceedings, that the applicant's brother's company produced and sold light bulbs used in the Black Sea Fleet vessels, it would in no way imply either the production of arms or the trade in arms, since light bulbs used to illuminate ships cannot be regarded as such.

### **The Court considered the following:**

The principle of protection of human personal rights is expressed in Article 23 of the Civil Code, according to which human personal rights remain under the protection of civil law, regardless of the protection provided for in other provisions. The catalogue of protected personal rights listed in Article 23 of the Civil Code is only of an exemplary nature, as indicated by the phrase "in particular", so this is not an exhaustive catalogue. In this catalogue, health, freedom, honour, freedom of conscience, surname or pseudonym, image, secrecy of correspondence, inviolability of housing, scientific, artistic, inventive and rationalising work are explicitly mentioned. Pursuant to [Art. 24 § 1 of the Civil Code](#) the person whose personal interest is threatened by someone else's action may demand the cessation of that action, unless it is not unlawful. In the event of an infringement, he or she may also require the person who committed the infringement to complete the actions necessary to remedy its effects, in particular to make a statement of appropriate content and in appropriate form. On the terms provided for in the Code, he or she may also request monetary compensation or payment of an appropriate sum of money for the indicated social purpose. At the same time, the provision of Art. 24 § 1 of the Civil Code formulates a presumption of unlawfulness of violation of personal rights, so it is the defendant's obligation to prove that his or her action violating the plaintiff's personal rights was not unlawful. Pursuant to Art. 448 § 1, sentence 1 of the Civil Code, in the event of a violation of a personal interest, the court may award the person whose personal interest has been violated an appropriate amount as monetary compensation for the damage suffered or, at his or her request, award an appropriate sum of money for the indicated social purpose, regardless of other measures needed to remove the effects

of the violation.

Pursuant to Art. 43 of the Civil Code, the provisions on the protection of personal rights of natural persons shall apply accordingly to legal persons. A legal person whose personal rights have been violated is entitled to non-material protection measures under Art. 24 of the Civil Code and material protection measures under Art. 448 of the Civil Code. Pursuant to Article 24 of the Civil Code, a legal person may demand to refrain from any action violating their personal rights and take actions necessary to remove the effects of the violation (e.g. making a statement of appropriate content). Pursuant to Article 448 of the Civil Code, a legal person may request monetary compensation for damage or payment of an appropriate sum for a social purpose (*Supreme Court in Ordinance: of December 15, 1975, I CR 887/75, Legalis; of 24.09.2008 II CSK 126/08, Legalis; of 09.11.2017, III CZP 43/17, Legalis.*).

A good name (honour of a natural person) consists of an internal aspect called personal dignity – including the person's self-image and expectation of respect from other people, and an external aspect, including the good reputation (good opinion) of other people or the respect that a given person has from those around him or her. A violation of external honour occurs when another person is attributed conduct or qualities that may adversely affect the assessment of that person by others. A violation of external honour (defamation) occurs if a statement violating the honour reaches people (at least one) other than the person being defamed (*also: the Supreme Court in the judgment of May 8, 2014, V CSK 361/13, OSNC-ZD 2015, No. C, item 38*). Insult (violation of internal honour) occurs primarily when the insult was made in the presence of the person concerned, but also when the defamatory statement took place in circumstances indicating that the defamer should have reckoned with the possibility that the content of this statement will reach the person concerned. The protection of honour (good name) covers all areas of life – personal, professional and social life. A violation of honour may be a defamatory statement concerning both family life and professional or economic activity.

A good name (good fame) is also given to legal persons. The scope and subject matter of the legal person's activities, its recognition on the market, its length of existence, etc. are irrelevant. Violation of reputation of a legal person may consist either in the dissemination of allegations of a certain content or in a negative assessment of its activities. The good name of a legal person is violated by statements that, when objectively assessed, attribute to that legal person improper conduct that may result in a loss of confidence in it which is necessary for its proper functioning in the scope of its tasks. An element of the good name of a legal person is the reputation of that person or the company he or she runs, i.e. a general set of positive perceptions and assessments about the activities of the legal person or the products or services of the company he or she runs.

Violation of the personal good as a subjective right of a natural person and a legal person is committed by anyone who unlawfully harms such a good protected by a specific legal norm or the principles of social coexistence. It is the duty of everyone to refrain from actions that violate other persons' personal rights, which is accompanied by the right of the victim to demand that such violations be ceased or their effects be removed. As a consequence, the victim is only obliged to prove that his or her personal good has been threatened or violated, while the perpetrator, seeking release from liability, should prove that his or her action did not have the characteristics of unlawfulness. The absence of unlawfulness does not mean the

absence of a threat to or violation of a personal good, but excludes the liability of the person who has demonstrated that he or she did not act illegally.

In the context of determining whether the good name of a natural or legal person has been infringed, it is important to consider fully the meaning of the words and wording used, taking into account their connotations and references. In addition, the context of the situation or the type of expression in which the words were used and the means of communication used must be taken into account. In the event that a violation of the personal good occurs as part of a specific statement, the examination of whether this violation is unlawful must be made taking into account the constitutionally (Article 54 (1) of the Constitution of the Republic of Poland) and conventionally (Article 10 (1) of the European Convention on Human Rights and Fundamental Freedoms) guaranteed right (freedom) to express opinions. In carrying out such an examination, the Court must then, in the circumstances of the case, consider whether the view to protecting the right to respect for private and family life, honour and good name (Article 47 The Constitution of the Republic of Poland and Article 8 of the Convention) justifies interference with the right (freedom) to express views (opinions), taking into account that the limitation of the latter right must be properly justified (cf. Article 31 (3) of the Constitution of the Republic of Poland and Article 10 (2) of the Convention).

Protecting a good name as a personal good does not mean prohibiting criticism. No one can demand from others only his or her affirmation and affirmation of his or her conduct. In particular (although not only) persons exercising the profession of public trust cannot, citing the protection of honour as a personal good, demand that others remain silent and refrain from expressing critical assessments (*the Supreme Court in the judgment of January 18, 2013, IV CSK 270/12, OSNC 2013, No. 7–8, item 94*).

By transferring the above assumptions to the basis of the present case, it should be pointed out that the defendant's statements in question during the television programmes included content detrimental to the good name (honour) of Bartosz Kramek and Lyudmyla Kozlovska and to the good name (reputation) of the Open Dialogue Foundation, since the defendant, by making statements about the activities of the Foundation and the activities of Bartosz Kramek and Lyudmyla Kozlovska (in particular, their activities within the Foundation) made claims about the non-transparency of the Foundation's funding, the Foundation's acquisition of funds from arms manufacturing companies in Crimea and from Scottish "money mule" companies linked to the Panama Papers scandal, accused the plaintiffs of laundering money, of being linked to Russian services and conducting hybrid activities, and further indicated that the manifesto published by Bartosz Kramek was aimed at causing bloodshed, carrying out a coup in the state or leading to a Maidan in Poland. Such statements undoubtedly presented the plaintiffs in a negative light, undermining their activities in the field of the protection of the rule of law and human rights by attributing to the plaintiffs actions that were supposed to be illegal or contrary to the declared objectives. Such express statements or suggestions were included in the broadly cited statements of the defendant. The content of the defendant's statements made during television broadcasts and the whole tone of the defendant's narrative in the perception of the average recipient diminished the public recognition of the plaintiffs, exposed them to negative comments and damaged their reputation, and at the same time became the basis for negative feelings on the part of the plaintiffs themselves.

In view of the already widely quoted accusatory statements of the defendant, together with a description of the context in which they were made, it is necessary to pay attention here again to those parts of the defendant's statements that contained obvious content that was detrimental to the personal goods of the plaintiffs.

In a statement of April 24, 2019 in the "Minęła dwudziesta" programme on TVP Info, the defendant, referring to an article in the British "Sunday Times" weekly magazine stating that the Open Dialogue Foundation was linked to the Russian special services, said:

*„I am glad that this article was published in the British press, because in my opinion it confirms the diagnosis made by the Polish services that the Open Dialogue Foundation is financed in a non-transparent way and its activities bear the features of certain hybrid activities. I would even risk the thesis that this foundation can be called a hybrid foundation.”*

*“I would like to remind you of July 2017, when there was a very hot dispute in Poland regarding the reform of the judiciary. When there were demonstrations in Poland in many places, in many cities. At that time, a manifesto of Mr. Bartosz Kramek appeared on the Facebook page of the Open Dialogue, which called for a de facto coup, for shutting down the government, for non-payment of taxes, and considered bloodshed. In my opinion, someone decided that this was the moment that the power in Poland should have been changed in an undemocratic way”.*

*“I would like to remind you that the Minister Coordinator asked the Minister of Foreign Affairs, who exercised statutory custody over this foundation, to carry out an inspection. This inspection has been initiated. Few people know that the Minister of Foreign Affairs applied to the court for the suspension of the foundation board, the appointment of an external commissioner. Unfortunately, the court did not agree. According to my knowledge, the case is still pending on appeal, but at that time the audit of the National Fiscal Administration was also carried out at the Foundation. At that time, it was established that the money for the Foundation's activities, through Mr. Bartosz Kramek's company, came from some unspecified companies whose owners we do not know. We know of their successors, owners registered in Seychelles, Belize, Panama who arrive e.g. in the files of the Panama Paper case.”,*

and referring to the report available on the Internet prepared by blogger Marcin

Rey, he said:

*“I know this report, and in fact the only thing you can say is that no one does not have a certain... who is not affiliated with the authorities in Russia is able to run such a business, and this business is run in Crimea and St. Petersburg. These are extremely sensitive places and I cannot imagine Russia is not a free country and I cannot imagine that anyone can freely conduct business and compete on the free market by selling equipment to the Russian army without being affiliated in some way. I would just like to emphasise and say that the Internal Security Agency is conducting an investigation under the supervision of the prosecutor's office into money laundering by the Foundation and the company Silkroad, which is owned by Kozlovskaja's husband, Mr. Kramek.”*

*“There are various ways to disguise yourself and, of course, the darkest place is under the candlestick. I just wanted to say that wherever something starts happening in Europe, whether in Catalonia or Scotland, when there are these separatist movements, there are also various strangely funded organisations whose, let’s say, origins cannot be clearly assessed.”.*

On April 25, 2019, Maciej Wąsik during the “Wpunkt” programme

aired on Telewizja Republika, said:

*“I can say that some activities of the Open Dialogue Foundation have attracted the attention of counterintelligence services, appropriate activities have been carried out and as a result, proceedings are underway at the Warsaw prosecutor’s office regarding the financing of the Open Dialogue Foundation. It is an investigation that is underway..., carried out by the Internal Security Agency. The investigation focuses on money laundering. In the opinion of investigators, the Foundation is financed in a non-transparent manner, and certain activities of the Foundation, in my opinion, threaten the security of Poland. I would like to recall the summer of 2017, when the PiS government carried out difficult*

*reforms of the judiciary through the Sejm, but they were expected by the society. The opposition called for street protests, these protests took place and suddenly on the website of the Foundation, on the Facebook page of the Open Dialogue Foundation, a manifesto appeared... well, of a political nature or maybe even... let's say, a manifesto calling for the overthrow of the government. A manifesto about shutting down the government, blocking or occupying government buildings.”*

*“But a strike is an action that is legal to a certain extent, in accordance with Polish law, and there [in Bartosz Kramek’s manifesto – ed.] were calls for illegal actions, non-payment of taxes, harassing members of the ruling camp, for example, through demonstrations in front of their homes. This manifesto did not rule out bloodshed on the streets. It was in fact a call for a coup”: “It [the “Open Dialogue Foundation – e.d] used, let’s say, dirty money, it was financed in a non-transparent way.”*

*“For the most part, the funding of this Foundation is actually done with foreign money. On the one hand, these are companies registered in Scotland, which, through Mr. Bartosz Kramek’s company, spent almost 1.5 million dollars in two or three years on the Foundation’s activities. I would like to say that these companies are registered in Scotland in a building where there are probably several dozen companies registered, i.e. they are virtual companies – you have to call them this way, and the owners of these companies are other companies registered in tax havens in the Seychelles, Belize or Panama, which also appear in the Panama Papers case. Also, it is not known where this money comes from, and it is very likely that it is dirty, illegal money that is laundered through a transaction network, and on the other hand, a member of the family of Mrs. Kozlovska, who is the president of the Foundation, runs businesses and also finances this Foundation. He runs a business of trading equipment for the Russian fleet. These businesses are based in Crimea and in St. Petersburg, so this is a pretty strange direction. I wanted to ask myself whether it is possible to run a business in a Russian armaments sector without being affiliated with the local services?”. (regarding the ban on entry into Poland for Lyudmyla Kozlovska): “She was associated with ambiguities regarding... ambiguities regarding the financing of the Foundation that she managed. I would like to remind you that the audit that was carried out in this Foundation showed that a large part of the funds was not spent on the Foundation’s statutory purposes and should have been taxed.” “I would like to say that, in general, in many places where something starts to happen... often the initiative comes from various non-transparent NGOs, financed by we don’t know who and for what purpose...” .*

*„Well, in 2017, it was a call to overthrow the legal, democratic Polish government. And in my opinion, it was... it was part of a hybrid activity. And please pay attention to what happened on social media at that time – what a flood of fake accounts from various distant countries, from some strange servers, bots – these activities were extremely supported by social media.”*

In the programme aired by the “wPolsce” television on August 27, 2019 Maciej Wąsik said, among others:

*“In my opinion, allowing this type of action by Mrs. Lyudmyla Kozlovska threatens the security of the European Union in a broad way.” (regarding Bartosz*

Kramek's manifesto): *"This was the first time that the Open Dialogue Foundation interfered in Polish affairs, because so far it has dealt with completely different matters. And this was the first moment – someone decided that this was the right moment to lead to bloodshed in Poland, because bloodshed was taken into account there. And it is obvious that the state has taken care of this foundation. The Ministry of Foreign Affairs, which supervises this foundation in a legal way, carried out an inspection, submitted a request for a receivership. Unfortunately, the court did not agree with this decision and it is difficult for me to say for what reasons, but... let's be clear, we have to check where this foundation is financed from, and the sources of funding of this foundation are extremely unclear."*

*"We have to say that there are companies that appear in the Panama Papers report, there are companies from tax havens, in case of which it is impossible to determine... let's say, the actual owners, the actual financiers, and this concerns millions of dollars."*

*"I would like to remind you that the Polish state has taken appropriate actions in accordance with the law. The court did not agree with the request of the Minister of Foreign Affairs to establish a receivership and I think this is a court decision that must be respected. On the other hand, the Polish state has taken action in this direction, and I think that it is certainly necessary to say it clearly here – we do not know exactly who is behind this foundation, because it is the same person who finances it. We are not able to check at this moment*

*whether it is clear who is financing the foundation and for what purpose. We can only guess. That is why we have taken such action and not others.”*

*“I know that the foundation claims to have noble goals, but let’s look at the issues in which the foundation reacted in Kazakhstan, in Moldova. It has made some people victims of political regimes. It talked about defending human rights, and these were the people it stood for that actually robbed the local banking system, that drove huge amounts of money both from Moldova and Kazakhstan, where the sentence was passed. In one case, even 18 years in prison was given to a person, and it looks a bit like the foundation – this is my opinion – is a kind of guns for hire. They make victims of political regimes out of certain people for a lot of money.”*

In the “O co chodzi” programme aired by TVP Info on September 19,

2019, Maciej Wąsik said, among others:

*“There was no sign of political repression. In our opinion the financing of the Foundation, headed by Mrs. Kozlovska, is vague and unclear. Moreover, as widely reported by the media, part of the money from which it is financed comes either from companies that produce weapons in Crimea or from the owners of these companies or from unspecified Scottish companies, which are in fact money mules, because in one place, in one building, there are 300 companies that are related to the Panama Papers case that high profile in the West”.*

*„We remember the hot summer of 2017, where, besides, Mrs. Lyudmyla Kozlovska’s environment had a huge share, and we remember Mr. Kramek’s statements shared by the Open Dialogue Foundation – Mrs. Lyudmyla Kozlovska’s foundation: let’s turn off the state, let’s block the government, do not pay taxes, there were also various calls that there may even be bloodshed (...).”*

In the opinion of the Court, however, they did not contain any personal reasons for the defendant’s statements regarding the reasons why the competent state authorities refused to grant a long-term EU resident permit to Lyudmyla Kozlovska or issued a decision against Lyudmyla Kozlovska prohibiting her stay in Poland, and in which the defendant referred to the court decision issued in this case. This applies in particular to the statement of September 19, 2019 in the “Puls Trójki” broadcast on Polskie Radio 3, where in response to the questions of the journalist, Maciej Wąsik said: *“In my opinion, it [the Internal Security Agency – ed.] was not mistaken, and I would like to say only that if the materials concerning Mrs. Lyudmyla Kozlovska were broad, full, then in my opinion, a report to the prosecutor’s office could have been made. There were no hard evidence to notify the prosecutor’s office. However, there were indications that this woman should not be on the territory of the Republic of Poland and the European Union.”* and: *„ We will wait for the court’s justification and we will argue with it, I’m sure of it. I am convinced that the materials provided by the Internal Security Agency were sufficient to make such a decision. Because if the court expected even stronger materials, it is no longer [a case for] a court... we would have already made a report to the prosecutor’s office”,* as well as statements on the “O co chodzi” programme broadcast by TVP Info on September 19, 2019, where Maciej Wąsik said: *Mrs Lyudmyla Kozlovska has a foreign citizenship and Poland has the*

*right to decide who it wants to host permanently or grant a residence permit. The services provided materials to the Office for Foreigners. On the basis of these materials, the Office for Foreigners decided that Ms Lyudmyla Kozlovska should have been an undesirable person in Poland, but also in the European Union. I would like to say to you that, of course, we cooperate with Western services and – unofficially, because they cannot officially say it – many representatives share the arguments of Polish services. Nevertheless, political considerations are often decisive, and the services there do not have such power to overcome political considerations.”* The statements quoted were informative about the reasons for the decisions taken against Lyudmyla Kozlovska by the state authorities, and did not contain any allegations against the plaintiff (formulated by the defendant in his own name) that were detrimental to her personal rights.

Nor, contrary to the plaintiffs’ assertions, did any of the defendant’s statements contain offensive language towards the plaintiffs. The language used by the defendant did not contain words or phrases that were obscene, vulgar or similar, which could lead to an insult to the plaintiffs.

In order to assess the claims pursued by the lawsuit, it was then necessary to determine whether the defendant’s statements, containing content violating the personal rights of the plaintiffs, constituted unlawful acts. The case law indicates that the illegality of violating a good name (honour, goodwill, reputation) can only be excluded by the provision of true information if the perpetrator acted in defence of a legitimate interest. If they have given false information or if there is no legitimate interest, then a violation of personal rights is unlawful. As part of the so-called valuing (evaluative) statements, the legitimate social interest is implemented in the so-called factual criticism. Criticism must not be harassing, dictated by personal animosity, and must not seek to destroy or ridicule the opponent. Freedom of expression does not justify the violation of personal rights by providing untrue information or unjustifiably harmful assessments, even if there is a dispute between the person expressing it and the person mentioned by them (*see decision decision of the Supreme Court of 03.12.2010, I CSK 95/10, Legalis No. 414112, decision of the Court of Appeal in Katowice of 08.03.2017, I ACa 1053/16, Legalis No. 1591770*). It was therefore necessary to determine whether the content of the defendant’s statements concerning the plaintiffs was unfounded and prejudicial to them, or whether they were justified on the basis of objective factual circumstances. When determining whether there were circumstances excluding illegality, it is a counter-type recognised as an action in defence of a legitimate interest, which is freedom of expression. It is precisely the freedom of expression and evaluation that most often competes with the right to protection of honour that can lead to the conclusion that actions of a person exercising freedom of expression, not exceeding its limits, are permitted and, consequently, the violation of honour is not unlawful.

[Article 54 \(1\) of the Constitution](#) of the Republic of Poland guarantees freedom of expression, which includes the freedom to express one’s views, the freedom to obtain information and to disseminate it. On the other hand, [Article 61 \(1\) of the Constitution](#) gives citizens the right to be informed of the activities of persons performing public functions. Freedom of expression is also protected by [Article 10 \(1\) of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950](#) and Article 19 (1) and (2) of the International Covenant on Civil and Political Rights. However, freedom of expression is not absolute. The limit to its exercise – in accordance with [Article 61 \(3\) of the Constitution](#), Article 10 (2) of the

Convention for the Protection of Human Rights and Fundamental Freedoms and Article 19 (3) of the International Covenant on Civil and Political Rights – is, among others, the protection of the good name and rights (freedoms) of other persons. According to [Article 47 of the Constitution](#), the honour and good name of every person are subject to protection guaranteed at the level of the law by the standards contained, among others, in [Article 23 and Article 24 of the Civil Code](#). The protection of these personal rights also applies to public persons (see *decision of the Supreme Court of 28.03.2003, IV CKN 1901/00, Bulletin of the Supreme Court of 2003, No. 10 and of 05.11.2008, I CSK 164/08, Legalis No. 553460*). However, it is accepted in the case law that in relation to public persons, especially politicians, the freedom of expression is wider, so such persons must take into account criticism of their conduct, and consequently, to a greater extent than average, they must tolerate critical statements of their own activities. No one can demand from other people only his or her affirmation or affirmation of his or her conduct. If a person undertakes activities in the public sphere or performs a profession of public trust, they may not demand interested parties to remain silent refrain from expressing critical assessments, but must agree to subject his activity to criticism (see *justification for the judgement of the Constitutional Tribunal of 12.05.2008, Sk 43/05, OTK-A 2008, No. 4, item 57, judgements of the European Court of Human Rights of 08.07.1986, No 9815/82, LEX No 81012 and of 02.02.2010, No. 571/04, LEX No. 551622, decision of the Supreme Court of 18.01.2013, IV CSK 270/12, OSNC 2013/7-8/94*). Freedom of expression serves the public debate, which is essential for the proper functioning of a democratic society. In the course of it, there is an exchange of views and information on matters of interest to the public, including persons performing public functions. For this reason, the protection of freedom of expression aims at an important social interest. In the case of the intersection of the right to freedom of expression and the right to protection of honour and reputation, it should be assumed that the rank and level of protection of these rights are the same and none of them is absolute. It cannot be assumed that the public would benefit from freedom of speech understood as approval for the dissemination of false information or misrepresentations of reality, in a way devoid of any real justification, which does not allow the reader to distinguish statements concerning facts from the assessment formulated by the author or to cite their views as indisputable facts (*decision of the Supreme Court of 29.11.2016, I CSK 715/15, Legalis No. 1549961*).

In the aspect of violation of honour, there are cases when assessments, opinions are formulated by providing specific factual statements or by making critical statements. The dissemination of statements of fact is in principle permitted as long as they are true. In the search for a reference for determining whether there has been an infringement of honour by the dissemination of opinions, reference is made, on the one hand, to their groundlessness, understood as the lack of arguments justifying the assessment expressed, and, on the other hand, to the offending form of expression. It should therefore be assumed, in principle, that critical opinions and judgements fall within the legally protected right to express a negative assessment. Opinions, or evaluative statements, are an expression of the subjective point of view of their author and fall within the limits of acceptable criticism, even if the opinion or assessment is unfair. Therefore, in order to assess whether critical speech falls within the limits protected by the principle of freedom of expression, it is necessary to classify it as a factual statement or an evaluative statement (value judgement). In practice, a given statement rarely takes on an unambiguous form. Most often there are both factual and evaluation components, and the degree of their intensity and the proportions in which they occur are the basis for adopting a specific nature of statements. In these cases, it

is necessary to examine whether in the statement it is possible to isolate the elements subject to the test according to the true/false criterion, and then conduct such a test consistently.

In view of the above, it should be pointed out that, when examining the present case, it was necessary to take into account the nature of the statements made by the defendant in television programmes, referring to the full context of the statements and the accompanying circumstances. If the defendant's statements were only valuation statements and did not contain offensive wording, then the plaintiffs would not be able to use the protection of personal rights, unless the value judgements deviated from the factual circumstances that allowed such assessments to be formulated. It should be noted that the analysis of a given statement always takes place in the specific context in which it was disseminated. Information is a notification of something, a communication about something, a message containing a description of reality, statements about facts that can be verified according to the criteria of truth and falsehood and can be the subject of proof. On the other hand, an opinion is a statement containing views, assessments that value the state of affairs, but do not describe it, being only an interpretation of reality. A value judgement is not subject to proof, but it can be required that the assessment expressed, based on the facts and circumstances constituting the conditions for its functioning, had a sufficient factual basis, because without it there would be an abuse of freedom of speech and falsification of reality (*the Supreme Court in the decision of 18.01.2010, IV CSK 270/12, OSNC 2013/7-8/94*).

By applying the above assumptions to the present case, it should be pointed out, first of all, that the defendant's statements in question were not only critical against the plaintiffs in relation to their activity, but also contained information (claims) about the Foundation's acquisition of funds from arms manufacturing companies in Crimea and from Scottish "money mule" companies linked to the Panama Papers scandal, about "money laundering" or the use of "money laundering", linking the plaintiffs with the Russian special services, conducting "hybrid" activity aimed at destabilising the situation in Poland. The allegation that the plaintiffs obtained funds for their activities (within the Open Dialogue Foundation) from entrepreneurs manufacturing weapons in Crimea – for the benefit of the Russian armed forces, used funds derived from crime or participated in the transforming of proceeds derived from criminal activity into funds with an apparently legal source ("money laundering"), had links with the Russian special services and actually carrying out activities (referred to as "hybrid") in the interest of these services (and not in order to protect the rule of law and human rights) does not constitute evaluative statements, but contains statements of facts that can be verified in the category of truth or falsehood. Such allegations by the defendant in relation to the plaintiffs are reflected in all the above-mentioned statements of the defendant, they are formulated explicitly, and they also result from the context of the defendant's statements, who assumed that the plaintiffs conducted activities using illegal (criminal) funds or funds from entities trading weapons for the benefit of the Russian armed forces, the existence of links between the plaintiffs and the secret services of the Russian Federation and conducting hidden activities other than those actually declared in the field of protection and human rights – for the purpose of causing destabilisation in Poland and in the interest of the Russian Federation.

The above allegations made by the defendant to the plaintiffs should be considered false – the defendant did not demonstrate by evidence that such

formulations against the plaintiffs were justified by objective facts. The evidence collected in the case does not provide, first of all, grounds for stating that the plaintiffs, as part of their activities, transformed proceeds derived from criminal activity into funds with an apparently legal source (“money laundering”). As far as it could be considered, in the light of the facts of the present case, as a reasonable factual basis for the defendant’s assessment that the financing of the Foundation is non-transparent (in the context of doubts regarding transactions carried out between Silk Road, a donor of the Foundation, and entrepreneurs registered in Scotland – as to the actual performance of services for which Silk Road was paid and the inability to verify the owners of these Scottish companies), no evidence was submitted to the Court in the present case that would allow to conclude that the funds transferred to Silk Road by business entities registered in Scotland were derived from criminal activities and that the transactions indicated by the defendant served to transform proceeds derived from criminal activity into funds with an apparently legal source. It should be emphasised here that transforming proceeds derived from criminal activity into funds with an apparently legal source (so-called “money laundering”) is a prohibited act, punishable by Article 299 of the Criminal Code. Publicly making such a serious accusation against another person cannot therefore take place arbitrarily, without strong evidence. Evidence making it at least plausible that the plaintiffs committed such acts was not provided by the defendant.

Nor could be accepted as true the defendant’s claims about the Russian links of the plaintiffs, i.e. the Foundation’s use of the funds obtained from the entities producing weapons in Crimea for the benefit of the Russian armed forces, or the links of the plaintiffs with the Russian special services, whose objectives they were to pursue in Poland (in place of the declared protection of the rule of law and human rights), conducting the so-called “hybrid” activity. In particular, it has not been proven that Petro Kozlovsky (the brother of Lyudmyla Kozlovska), a donor of the Open Dialogue Foundation, ever produced weapons in Crimea and sold them to the Russian Federation. Even if it was true, as alleged in the present proceedings, that the company from Sevastopol, owned by Petro Kozlovsky, produced light bulbs which were used in the Black Sea Fleet vessels, the production of such light bulbs cannot be regarded as a production of weapons. The thesis about the Russian links of the plaintiffs cannot be defended if one takes into account their biography, especially Lyudmyla Kozlovska, who was involved in the protection of human rights in Ukraine, spoke out against the authorities of Ukraine pursuing a policy favourable to Russia as part of a social movement called “Euromaidan” and had to leave Crimea after its annexation by Russia. Therefore, it had to be considered that the defendant’s allegation of Russian links of the plaintiffs had no factual grounds.

Articles published in April 2019 in “The Sunday Times” regarding the activities of the plaintiffs cannot be considered as credible material indicating the involvement of the Open Dialogue Foundation and the other plaintiffs in money laundering or the plaintiffs’ links with Russian secret services. The plaintiffs argued that the allegations made in these articles were based on the report of the investigative committee of the Moldovan parliament into the Open Dialogue Foundation (this fact also results directly from the content of the article), at a time when the Foundation was engaged in defending human rights in Moldova against undemocratic actions of the state authorities, and this report was considered unreliable after the change of government in Moldova. In these circumstances, it is difficult to consider the above materials as a reliable source of information, which may be the basis for the above extremely serious allegations made by the defendant against the plaintiffs, especially when one takes into account the fact that the defendant spoke on the television programmes as a

representative of state authorities, i.e. the Secretary of State in the Chancellery of the Prime Minister of Poland, and then as the Secretary of State in the Ministry of Interior and Administration, and not as a publicist.

The described behaviour of the defendant is not justified by the reference to someone else's statements, in particular those contained in press publications, which could not be considered as reliable and trustworthy sources of information in relation to the allegations raised by the defendant against the plaintiffs. Reference to someone else's statements made in press publications and other hearsay cannot constitute a sufficient exoneration cause. It could be otherwise only if it was a matter of citing objectively proven sources in the statements. Any kind of whistleblowing publication based on a subjective assessment of phenomena, observations and perceptions cannot be classified as such publications. A statement based on them, the content of which intrinsically violates the personal rights of certain persons, and the authenticity of which has not been proven, exhausts the signs of an unlawful act. Such a repeated statement does not have the characteristics of acting within the legal order, it is not an expression of the exercise of a subjective right, it is not justified by the principle of coexistence or the protection of the social interest. Nor is it enough to have a subjective conviction of its truth. This ultimately leads to the conclusion that, in countering the allegation of unlawfulness in the sphere of personal rights, it is not enough to refer to a specific publication or statement by another person. Citing someone else's statement is not free from the obligation to exercise diligence in seeking to verify the truth of the allegations contained in such a statement. The functioning of the principle of illegality means that a person violating one's personal rights must even take into account the inability to prove that he or she has taken permitted actions, e.g. in the area of knowledge protected by state secrecy. The resulting risk of not being able to prove the truth of the allegations is a burden on the infringer (*see the Supreme Court decision of 28.05.1999, I CKN 16/98, OSNC 2000/2/25*).

The defendant's statements regarding Bartosz Kramek's manifesto of July 21, 2017, in which the defendant indicated that in the manifesto (also published on the Foundation's website) Poles were called to carry out a coup and bloodshed, or to lead to a Maidan in Poland, were also untrue. In the manifesto, Bartosz Kramek called for social protests (including actions based on the idea of civil disobedience) in connection with the changes in the structure of the judiciary introduced by the ruling majority at that time, which were assessed by a large part of society as likely to undermine the independence of the judiciary and became the cause of numerous social protests. While the defendant, as a citizen and representative of the state authorities responsible for security, undoubtedly had the right to critically assess the actions postulated by the plaintiff (in the form of strikes by various social groups, abstention from paying taxes, large-scale demonstrations and protests), in the light of the content of the manifesto, it could not be alleged that the manifesto called for an illegal coup in the state, leading to a Maidan in Poland or leading to a bloodshed (or that the plaintiff allowed the option of a bloodshed). In the manifesto, Bartosz Kramek clearly stated that: "*Nobody wants Maidan or bloodshed in Poland*", "*the red line must be very clear for us: it's aggression, violence, and blood*", "*we must maintain the peaceful nature of the protests at all costs*". In the context of the content of the entire manifesto and the cited firm statements, emphasising the peaceful nature of the postulated protest actions and the need to avoid violence, the defendant's previously indicated allegations against the plaintiffs in relation to the publication of the manifesto were untrue, devoid of factual grounds.

As a result, the defendant's statements regarding the plaintiffs described above were unlawful, as they provided false information or assessments that were not factually justified, and at the same time violated the good name (honour, reputation) of the plaintiffs, due to the significant gravity of the allegations formulated by the defendant. It should be emphasised once again that the defendant spoke on the above-mentioned television programmes as a representative of state authorities (responsible for state security), and therefore, by definition, he was treated by society (viewers of television programmes) much more seriously than any other average citizen or even a publicist, because the authority of the state stood behind him. In such a situation, the defendant should have weighed his words all the more, avoiding making statements, making accusations and formulating assessments that were based on unreliable or unproven sources and did not correspond to the actual state of affairs, as it was in the analysed cases.

Attention should also be paid to the context in which this false information about the plaintiffs was provided by the defendant. This took place after Bartosz Kramek published a manifesto (also posted on the Foundation's Facebook account) calling for social protests in defence of the rule of law and against the changes in the judiciary planned by the political authority, assessed by a large part of society as undermining the principle of independence of the judiciary from other authorities. The defendant was a politician associated with the political party ruling in Poland, a member of the executive and legislative bodies, and by making the above-mentioned statements, he was part of similar information disseminated in relation to the plaintiffs by the media favourable to the then state power. This allows the thesis to be made that, in formulating the above-mentioned unfounded allegations against the plaintiffs, the defendant did not aim to "defend a socially justified interest" in the form of the right to information, but aimed to discredit the plaintiffs in connection with their critical statements on political power, accusing the ruling majority of violating the principles of the rule of law.

The defendant was not right that his contested statements relating to the plaintiffs were only assessments (opinions) of the public activities of the plaintiffs. As previously indicated, most of the defendant's statements about the plaintiffs were statements of fact, not just a critical assessment of the specific conduct of the plaintiffs. It should be emphasised that it is one thing to criticise a person for performing a specific function, which is admissible, unless it contains offensive or indecent formulations, and another thing to make unfounded allegations that a person has engaged in conduct or committed acts prohibited by law or otherwise discreditable in the eyes of the public, which do not fall within the scope of acceptable criticism if not based on facts.

As a result, it had to be concluded that the defendant's unfounded accusation that the plaintiffs had obtained funds for their activities from arms manufacturing companies in Crimea, accusation of "money laundering" or the use of "laundered money", accusation of links with Russian services in the interests of which they carried out hybrid activities, violated the personal rights of the plaintiffs in the form of name (honour, goodwill, reputation) and was unlawful. Therefore, all the conditions under Article 24 of the Civil Code and Article 448 of the Civil Code necessary to recognise the defendant's liability in relation to the plaintiffs, provided for in these provisions, have been met. The aforementioned provisions, in order to remove the effects of violation of personal rights, grant the injured party the right to demand that

such action be discontinued, to make a statement of appropriate content and in appropriate form and to pay monetary compensation or an appropriate sum of money for the indicated social purpose.

In the light of the above facts, the Court considered it justified to request the plaintiffs to require the defendant to publish statements in order to remove the effects of the violation of the personal rights of the plaintiffs. Such statements should be published on the websites of those TV stations in which the defendant made statements containing incriminated content, i.e. [www.tvp.info.pl](http://www.tvp.info.pl), [www.wpolsce.pl](http://www.wpolsce.pl) and [www.telewizjarepublika.pl](http://www.telewizjarepublika.pl). In this way, there is the greatest chance that the defendant's statements will reach the circle of those recipients who have heard the defendant's previous statements regarding the plaintiffs. However, the statements requested by the plaintiffs required some modifications. As previously indicated, the defendant's statements did not contain offensive language towards the plaintiffs, and the defendant did not distribute film materials (such materials were published by programme broadcasters), but only information about the plaintiffs. Therefore, the content of the statement cannot include an apology for the dissemination of offensive information and for the dissemination of film materials. Based on evidence collected in the case, it could be stated that as a result of the defendant's statement, the Open Dialogue Foundation was exposed to financial losses, some donors began to distance themselves, but it did not result in the fact that Lyudmyla Kozlovska and Bartosz Kramek were exposed to such losses. On the other hand, the Open Dialogue Foundation could not be exposed to moral losses, because, as a legal person, it could not experience negative psychological feelings, and such feelings could appear in two other plaintiffs. Therefore, it was necessary to modify the requested statements by indicating in their content that the defendant's statements exposed Lyudmyla Kozlovska and Bartosz Kramek to moral losses, and exposed the Open Dialogue Foundation to financial losses. In the opinion of the Court, it is sufficient to publish statements on Internet portals for 7 days, and not for 60 days (and after 60 days in the form of a regular post, without being pinned), as requested by the plaintiffs, to achieve the goal of removing the effects of the violation of the personal rights of the plaintiffs. In the current reality of the plethora of information and their constant updating (older information being replaced by new), there is no need for the defendant to maintain the content of the statements on Internet portals for as long as the plaintiffs demanded, since the defendant's statements violating the personal rights of the plaintiffs were made once in television programmes, which are now only archival in nature, therefore it is doubtful that they can still be the subject of a wide public interest. Therefore, the further claims of the plaintiffs regarding the content, form and time of publication of the statements, as described above, did not merit consideration.

Referring to the request for payment of monetary compensation, it should be stated that the amount awarded as compensation for the violation of personal rights is to perform a compensatory function, therefore it must correspond with the type and degree of violation of personal rights and with the guilt of the perpetrator of the violation of personal rights. In the circumstances of the present case, the Court stated that the intensity of the violation of the personal rights of the plaintiffs and the degree of guilt of the defendant, and consequently the extent of the harm on to the plaintiffs, had to be assessed as significant. False information violating the personal rights of the plaintiffs concerned matters of very high gravity, and the allegations made against the plaintiffs by the defendant were serious (links to Russian special services, use of criminal money or taking part in the transformation of proceeds derived from criminal activity into funds with an apparently legal source, calling for bloodshed) and,

moreover, were disseminated to an unlimited circle of people – in television programmes, including those broadcast on public television with considerable reach. In this situation, the Court considered that the sums of money requested from the defendant by the plaintiffs in the amount of PLN 10,000 were not excessive, but kept in reasonable size in relation to the harm suffered by the plaintiffs. These sums will perform their compensatory function, giving the plaintiffs adequate satisfaction in connection with the violation of their personal rights. Amounts of compensation are subject to a court order against the defendant for the plaintiffs pursuant to Article 23 of the Civil Code in conjunction with Article 24 § 1 of the Civil Code in conjunction with Article 448 of the Civil Code, as well as in the case of the Foundation in conjunction with Article 43 of the Civil Code.

The plaintiffs are also entitled to statutory interest for the delay in their payment by the defendant, pursuant to the provisions of Article 481 § 1 and 2 of the Civil Code. Before the commencement of the present court proceedings, the plaintiffs did not call on the defendant to pay the amounts claimed. Thus, the defendant found out about these claims (specified in terms of the amount) at the time of delivery to him of a copy of the claim, which should be treated as a request for payment, which took place on June 4, 2020. The court's decision awarding damages is declaratory and not constitutive. The obligation to pay compensation is of the nature of an indefinite obligation. It can be transformed into a time-bound obligation as a result of the creditor's (injured party's) request to perform the benefit (*see: decision of the Supreme Court of 22.02.2007, I CSK 433/06, LEX No. 274209*). The court is of the opinion that the appropriate time for the defendant to pay compensation was a period of three weeks, counted from the service on the defendant of a copy of the claim, set for the defendant to submit a response to the claim. Therefore, the defendant was in default in payment of compensation on June 26, 2020, which justified the award of interest from that date. The demand for the award of interest for the earlier period was unfounded.

Bearing all this in mind, the Court, on the basis of the above-mentioned provisions in point I of the operative part of the judgement obliged the defendant to publish statements with the content and form indicated therein, in points II – IV of the operative part of the judgement ordered the defendant to pay the plaintiffs the sums of money as compensation together with statutory interest for delay, and in point V of the operative part of the judgement, dismissed the remainder of the action.

In ruling on the costs of proceedings in [points VI](#) - VIII of the operative part of the judgement, the Court, pursuant to Article 100, sentence 2 of the Code of Civil Procedure, charged the defendant with the obligation to reimburse the plaintiffs for the full costs of the trial, taking into account the fact that the plaintiffs' claims were dismissed only in a small part. The costs incurred by the plaintiffs necessary for the purposeful pursuit of rights in the present case in the awarded amounts of PLN 2,557 each consist of court fees paid on the statement of claim in the amount of PLN 1,100 each, stamp duty for the power of attorney to represent in court proceedings in the amount of PLN 17, as well as the remuneration of the plaintiffs' legal representative in the amount of PLN 4,320, including non-pecuniary claims at the rate of PLN 720 and property claims at the rate of PLN 3.600, determined on the basis of § 8 section 1 point 2 and § 2 point 5 of the Regulation of the Minister of Justice of October 22, 2015 on fees for advocacy activities (consolidated text: Journal of Laws of 2015, item 1.800), which, when divided among the three plaintiffs, gives the amount of the attorney's remuneration of PLN 1,440 to each of the plaintiffs.