



CANADIAN
HUMAN RIGHTS
COMMISSION

COMMISSION
CANADIENNE DES
DROITS DE LA PERSONNE

Investigations Branch Direction des enquêtes

File # 20031527

Mr. Lubomyr Prytulak
The Ukrainian Archive
4165 West 11th Avenue
Vancouver, BC V6R 2L5

JUN 30 2005

PROTECTED **EXPRESSPOST SIGNATURE REQUIRED**

Dear Mr. Prytulak:


The investigation into the complaint of the Canadian Jewish Congress against you has been completed. A copy of the investigation report is enclosed for your review.

If you would like to submit comments on the report, you can do so by writing to me at the address below; fax is also acceptable. Your submission must be no more than 10 pages in length (including any attachments), and must not include documents which have been provided and reviewed during the course of the investigation, or any information related to confidential settlement discussions in the course of mediation or conciliation. Any such documents or information will not be placed before the Commission. Your submission may be disclosed to the other party.

You can provide your submission on or before **July 30, 2005**. In order to avoid delay in the handling of this matter, extensions to this period will not be granted, except in extraordinary circumstances. This may be your last opportunity to provide comments to the Commission on the merits of the complaints.

The complaint, along with the investigation report and submissions which we receive from the parties, will be submitted to the Commission at one of its upcoming meetings. After reviewing these documents, the Commission will make a decision on the disposition of the case. The Commission can accept or reject the recommendation in the report. You will be advised of the Commission's decision in writing as soon as it is rendered.

Yours sincerely,



John J. Chamberlin
Manager, Investigations

Encl.

The Complaint

The issue in this complaint is whether the Respondent communicated or caused to be communicated, by way of the Internet, material that is likely to expose a person or persons to hatred or contempt on the basis of religion and national or ethnic origin.

Background to Complaint

The complainant alleges that the respondent is repeatedly communicating messages through the internet which are likely to expose members of the Jewish community to hatred or contempt. The respondent objected under section 41(1)(e) and in October 2004 the Commission decided to deal with the complaint.

The Investigation Process

To support this complaint, the investigation must show that:

- A) - the material which forms the basis of the complaint was observed on the Internet;
- B) - the communication of the material has at least partly taken place in Canada;
- C) - the Respondent communicated or caused to be communicated the material which forms the basis of the complaint;
- D) - the material is likely to expose a person or persons to hatred or contempt based on religion and national or ethnic origin.

The Investigation

A) Was the material observed on the Internet?

1. The complainant observed the material on the Internet on the following websites:
 - www.ukar.net .
 - www.ukar.org.
2. The respondent admits that the alleged material is on the Ukrainian Archive website. Further, the respondent submitted a CD to the Commission containing the entire website inclusive of the alleged materials.

Findings: The evidence shows that the material which forms the basis of this complaint was observed on the Internet.

B) Has the communication of the material has at least partly taken place in Canada?

3. The evidence supports that the Respondent lived in Canada at all material times. The respondent is listed as the Administrative and Technical contact for the site in the whois document and the address is located in Canada.

Findings: The evidence supports that the Respondent lived in Canada at all material times.

C) Did the Respondent communicate or cause to be communicated the material which forms the basis of the complaint;

4. The evidence shows that the Respondent communicated or caused to be communicated the material which forms the basis of the complaint. An overview of the Ukrainian Archive website states, in part, that the archive "has been under construction by Lubomyr Prytulak since October 1997".

Findings: The evidence shows that the Respondent communicated or caused to be communicated the material which forms the basis of the complaint.

D) Is the material likely to expose a person or persons to hatred or contempt based on (religion, race, and colour.)

5. In determining whether or not material is likely to expose persons to hatred or contempt, the Canadian Human Rights Tribunal decision in *Nealy v. Johnson* and which was cited with approval by the Supreme Court of Canada in *Canada (Canadian Human Rights Commission) v. Taylor* states:

With "hatred", the focus is a set of emotions and feelings which involve extreme ill will towards another person or group of persons. To say that one "hates" another means in effect that one finds no redeeming qualities in the latter. It is a term, however, which does not necessarily involve the mental process of "looking down" on another or others. It is quite possible to "hate" someone who one feels is superior to one in intelligence, wealth or power. "Contempt" is by contrast a term which suggests a mental process of "looking down" upon or treating as inferior the object of one's feelings.

The following are examples of some of the alleged material observed by the complainant as well as material taken from the CD of the website provided by the respondent:

The Kosher Tax

6. The complainant states that the Kosher Tax section of the website implies that Jews have secretly imposed a tax on gentile consumers in order to raise funds to "finance anti-Ukrainian calumny". Examples from the website are as follows:

- "Kosher status misrepresentation" letter dated March 28, 2000 :

(1) Misrepresentation of kosher as non-kosher

(a) Refusing to identify most Jewish-ritual-slaughtered meat.

In my letter to you *Is Jewish ritual slaughter inhumane?* of 22Mar2001 have already noted that the non-kosher public consumes the bulk of Jewish-ritual-slaughtered meat without being aware of it, as most such meat is not identified.

(b) Removing kosher labels.

Sometimes a similar betrayal of the non-kosher consumer is achieved by a last-minute removal of kosher labels from products that had been intended for the kosher market:

"Although kosher meat usually demanded a higher price than nonkosher meat of the same quality, there were occasions when the opposite was true. At certain times of the year, especially during those festivals when the Jews consumed more poultry than beef, the kosher meat market was much weaker than the nonkosher. Dealers who had over-stocked often would remove the kosher label from the meat and sell it on the nonkosher market in order to receive a better price."

Seymour E. Freedman, *The Book of Kashruth: A Treasury of Kosher Facts & Frauds*, Bloch Publishing Company, New York, 1970, p. 31...

- I find it reasonable to hypothesize that something in the order of 9 out of 10 consumers, or perhaps even as many as 99 out of 100, are oblivious to the fact that they are purchasing products that bear esoteric kosher-certification labels.
- “Why is this matter being broached on the Ukrainian Archive? Simply because it has been documented on the Ukrainian Archive that inciting fear and hatred of Ukrainians is an integral part of Jewish culture. The question becomes germane then of whether this incitement is financed at least in part, by a hidden Jewish tax upon all Canadians...”.

Holocaust Denial

7. The complainant states that on the website the respondent states that he does not deny the Jewish Holocaust, as it is a historical fact that the Nazis killed the Jews. However, all Holocaust deniers concede that the Nazis hated the Jews and that some Jews died, though the numbers they will concede are generally reduced by a significant magnitude, and the centrality of the genocide to Nazi policy is ignored. Examples of the alleged material from the website are as follows:

- “The Ivan who never was” dated October 15, 1998:

That is, Mr. Glazar has published a book, *Trap With a Green Fence*, whose full citation is given below, detailing his experiences at Treblinka — the camp at which John Demjanjuk was accused of being “Ivan the Terrible.” I have just finished reading Mr. Glazar’s book, and can inform you that it contains no mention of: (1) “John Demjanjuk,” or “Ivan Demjanjuk,” or any similar name; (2) “Ivan the Terrible,” or any similar appellation; (3) any individual, of whatever name or nationality, who killed 900,000 Jews, or hundreds of thousands of Jews, in gas chambers, or who committed any acts resembling the prolonged and sadistic acts that have been attributed to Ivan the Terrible of Treblinka. At one point, Richard Glazar does mention the name “Ivan,” but this single mention comes not at all close to the substantiation of the Ivan the Terrible of Treblinka story that we would have expected from a Treblinka survivor:

After the order is given, “Ivan, water!” a Ukrainian guard starts the motor. Instead of water the showers spray exhaust gas. (p. 12)

However, Glazar is here using “Ivan” not as the name of a specific person, but as a generic term referring to any and all Slavic prisoners conscripted into German armed forces. Furthermore, Glazar’s single sentence is not the report of anything he actually witnessed — throughout his book, Glazar gives no indication that he ever saw the motors being started by anybody, or even saw the motors, or ever saw the fake showers. Rather, Glazar’s statement constitutes what he understood to be the case and what he guessed may have typically happened. In this statement, and in the entire book, then, Mr. Glazar betrays no hint of being aware of any individual who could have played the role attributed by Demjanjuk prosecutors to their mythical Ivan the Terrible of Treblinka.

Although Glazar’s account fails to support the notion of an Ivan the Terrible of Treblinka, it does serve to offer an example of the sort of vague and nonspecific statement that might have invited OSI personnel to begin creating the myth of an Ivan the Terrible of Treblinka which suggestible and manipulable witnesses could later flesh out.

But might it be possible that Richard Glazar was at Treblinka, and that Ivan the Terrible was as well, and that somehow their paths failed to cross? Such an interpretation seems implausible. Richard Glazar claims to have been at Treblinka for ten months. His book demonstrates a phenomenal memory for detail and for names. Although he worked in Treblinka’s Camp One, he must have known everything that was going on in Camp Two where Ivan the Terrible is reputed to have committed his crimes — Glazar’s account indicates that: the non-Jewish personnel running the two camps shared living and eating quarters; the two camps lay side by side separated by a fence easy to look through, as evidenced by Glazar having to repeatedly weave pine branches into the fence to make it a more effective screen; voices could be heard between camps; all victims executed in Camp Two first arrived at and were processed through Camp One; Glazar recounts entering Camp

Two. Thus, if Ivan the Terrible was killing 900,000 Jews in Camp Two, and practicing on them the vilest sadism while doing so, then this same Ivan the Terrible, living with other guards in Camp One, would have been notorious throughout the two camps and recognized on sight by everybody in them. Information concerning this Ivan the Terrible's sadism would have reached Richard Glazar, and thus would have been featured by Richard Glazar in his book. The conclusion invited by a reading of Richard Glazar's account of Treblinka, then, is that Richard Glazar never mentioned any Ivan the Terrible of Treblinka simply because there had never been any Ivan the Terrible of Treblinka.

Although Ivan the Terrible of Treblinka, had he existed, would have been a less significant figure in the Jewish Holocaust than Adolf Eichmann in that Ivan the Terrible worked at the bottom of the chain of command rather than at the top, for direct participation in killing and in sadistic acts, he would have far exceeded Eichmann, and in fact may have earned not only a Jewish Holocaust record, but perhaps an all-time world record for the number of individuals killed and mutilated by his own hand. Ivan the Terrible of Treblinka, had he existed, would have been among the greatest criminals of World War II, if not the very greatest. At the same time, some forty Treblinka inmates are said to have survived the war, and so would have been available, and should have been eager, to testify concerning this greatest of all war criminals. It follows that if Ivan the Terrible of Treblinka had existed, then he would necessarily have been featured not only in Glazar's writings, but also in all historical Holocaust writings. However, in the historical Holocaust books that I have at hand, I find no placing of John or Ivan Demjanjuk at Treblinka, no mention of Ivan the Terrible of Treblinka, and no mention of any individual of whatever name or nationality committing the crimes attributed by you and other Demjanjuk prosecutors to Ivan the Terrible of Treblinka. Among these books that fail to place John or Ivan Demjanjuk in Treblinka, and that seem to be unaware of any Ivan the Terrible of Treblinka, are the following:

Berenbaum, Michael. *Witness to the Holocaust*. HarperCollins, New York, 1997.

Bernstein, Victor H. *The Holocaust — Final Judgment* Bobbs-Merrill, Indianapolis and New York, 1980.

Gilbert, Martin. *Atlas of the Holocaust*. Michael Joseph, London, 1982...

- “My experience pushes me toward the conclusion that the real and tragic history of the Jewish Holocaust has been hijacked by the Holocaust fabulists who have perverted it beyond recognition.”

Promotion of antisemitic canards

8. The following are excerpts from the CD of the website www.ukar.org which was provided by the respondent:

- “Please address the issue of Jewish men trafficking Ukrainian women” letter dated June 3, 2004:

And neither did you make any reference to Israel, when in fact Israel is among the most common destinations of Ukrainian sex slaves:

“Israel is a fairly typical destination. Prostitution is not illegal here, although brothels are, and with 250,000 foreign male workers - most of whom are single or here without their wives - the demand is great. Police officials estimate that there are 25,000 paid sexual transactions everyday. Brothels are ubiquitous.” -Michael Specter, *Traffickers' New Cargo: Naive Slavic Women*, New York Times, 11-Jan-1998

The Jewish Mafiya, variously referred to by such alternative names as the Red Mafia or the Russian Mafiya, involves Slavic women in prostitution under circumstances so brutal as to be indistinguishable from those described above as involving trafficking or enslavement.

In other words, given the opportunity to speak on the subject of human trafficking, you overlooked the highly pertinent observation that among its chief manifestations is the trafficking by Jewish men of Ukrainian women. However, what your position as Canada's Justice Minister and Attorney General demands is that you dedicate the same energy to opposing thousands of Ukrainian women being held as sex slaves in Israel (which happens to

be the case) as you would dedicate to opposing thousands of Jewish women being held as sex slaves in Ukraine (which happens not to be the case).

- “Why does Parliament shun you?” letter dated October 28, 2004:

From Ludwig “Tarzan” Fainberg’s description of his experience of it in Ukraine, one gets an idea of the nature of the “odious yoke of anti-Semitism” that we saw Robert I. Friedman above saying that Jews fled:

“One day in 1972, when Ludwig was thirteen, his parents announced that they were moving the family to Israel, where they hoped to increase their already considerable wealth. Ludwig, who had never known the family to identify with Judaism in any way, was confused. “Jew” was just something stamped on their passport, he thought, signifying their ethnic group. To him, being Jewish simply meant having certain privileges. “Jews were the richest people in town,” he told me. “Jews had cars, Jews had money, Jews lived in nice apartments. We were comfortable. My mother had nice clothes and jewelry. We took a vacation once a year to Odessa, a stunning city with boardwalk and gorgeous beaches. It was filled with mobsters and entertainers. It was a city with a Jewish flavor.”

-Robert I. Friedman, *Red Maftiya: How the Russian mob has invaded America*, Berkley Books, New York, 2002, p. 123.

The following is an example from the website provided by the complainant:

- “why should it be the case that the leading slanderers of Ukrainians are all Jewish. How can it be that Jewish leaders are so prone to lying and have such palpable intellectual shortcomings, and sometimes even remarkable character defects?”

Links to antisemitic web-sites

9. The complainant states that the respondent’s website provides links to antisemitic web-sites which include such categories as Historical Revisionism and the Middle East. The respondent maintains that the listing of a web-site does not necessarily indicate agreement with its contents. The following are examples of such web-sites:

- www.ucipr.kiev.ua - Committee for Open Debate on the Holocaust
- www.ihr.org/index.html - Institute for Historical Review
- www.aaargh.vho.org - L’Association des Anciens Amateurs de Recits de Guerre et d’Holocauste
- www.revisionisthistory.org - Campaign for Radical Truth in History
- www.blacksandjews.com - Blacks and Jews
- www.iewishtribalreview.com - Jewish Tribal Review
- www.aztlan.net/holocoust.htm - La Voz De Aztlan

Findings: The evidence supports that the material in question is likely to expose a person or persons to hatred or contempt based on religion and national or ethnic origin.

Summary

10. The evidence shows that the material which forms the basis of this complaint was observed on the Internet. The evidence also shows that the Respondent, Lubomyr Prytulak, was living in Canada and was communicating or causing to be communicated material which is likely to expose persons to hatred or contempt based on the grounds of religion and national or ethnic origin.

What measures have been taken by the parties to rectify the circumstances giving rise to the complaint?

11. It does not appear that the complainant contacted the respondent through his website and request that he remove the material it complained of. The websites www.ukar.net and www.ukar.org were hosted by the Internet Service Provider (ISP) TABNet which was acquired by the ISP Verio which is located in Napa, California. Therefore, the ISP is beyond the jurisdiction of the Canadian Human Rights Commission.

What are the positions of the parties with respect to an appropriate remedy to the complaint and if the parties do take a position, what are the comments of the investigator with respect to these positions?

12. The Complainant seeks a cease and desist order as well as special compensation for being named personally by the respondent in the communicated messages. Should this case be proven at a hearing, a cease and desist order can be issued by the Tribunal under section 53(2)(a), and special compensation can be awarded under section 54(b)
13. The complainant would be entitled to a remedy under section 54(b) as he was named personally on the websites.
14. The Respondent could be ordered to pay a penalty under section 54 (c) where the Tribunal would take into consideration a) the nature, circumstances, extent and gravity of the discriminatory practice, and b) the wilfulness or intent of the person who engaged in the discriminatory practice, any prior discriminatory practices that the person has engaged in and the person's ability to pay the penalty.

To what degree is the public interest engaged by this complaint?

15. The public interest is engaged to a great degree by hate message complaints. Hate messaging has been identified as a pressing public policy concern by the Commission and by the Government of Canada. This country is a signatory to both Article 4 of the *International Convention on the Elimination of All Forms of Racial Discrimination*, which demonstrates our commitment to the eradication of discrimination, including the dissemination of ideas based on racial or religious superiority.

Section 13 addresses an issue which significantly advances the purposes of the Act. In the case of *Canada (Canadian Human Rights Commission) v. Taylor*, the Supreme Court of Canada stated that:

“Parliament’s concern that the dissemination of hate propaganda is antithetical to the general aim of the Canadian Human Rights Act is not misplaced. The serious harm caused by messages of hatred was identified by the Special Committee on Hate Propaganda in Canada, commonly known as the Cohen Committee...The Cohen Committee noted that individuals subjected to racial or religious hatred may suffer substantial psychological distress, the damaging consequences including a loss of self-esteem, feelings of anger and outrage and strong pressure to renounce cultural differences that marks them as distinct. This intensely painful reaction undoubtedly detracts from an individual’s ability to, in the words of s. 2 of the Act, “make for himself or herself the life that he or she is able and wishes to have”. As well, the Committee observed that hate propaganda can operate to convince listeners, even if subtly, that members of certain racial or religious groups are inferior. The result may be an increase in acts of discrimination, including the denial of equal opportunity in the provision of goods, services and facilities, and even incidents of violence.

...hate propaganda presents a serious threat to society..... It can thus be concluded that messages of hate propaganda undermine the dignity and self-worth of target group members and, more generally, contribute to disharmonious relations among various racial, cultural and religious groups, as a result eroding the tolerance and open-mindedness that must flourish in a multi cultural society which is committed to the idea of equality.

Recommendation

16. It is recommended, pursuant to subsection 44(3)(b) of the Canadian Human Rights Act the Commission request the appointment of a Human Rights Tribunal to inquire into the complaint because:

- the material which forms the basis of the complaint was observed on the Internet;
- the communication of the material has at least partly taken place in Canada;
- the respondent communicated or caused to be communicated the material which forms the basis of this complaint
- the material is likely to expose a person or persons to hatred or contempt based on religion and national or ethnic origin.