

[to:] **Vilnius District Office of Prosecutor**

Plaintiff:

Grant Arthur Gochin

date of birth: November 2, 1963

address: 10900 Winnetka Ave., Chatsworth, CA 91311 USA

Plaintiff's representative:

Rokas Rudzinskas, attorney

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Suspected of the commission of a criminal act:

State enterprise Center for the Study of the Genocide and Resistance of Residents of Lithuania

address: Didžioji street no. 17/1, Vilnius, Lithuania

Suspected of the commission of a criminal act:

Teresė Birutė Burauskaitė, director, State enterprise Center for the Study of the Genocide and Resistance of Residents of Lithuania

STATEMENT

ON INITIATING A PRE-TRIAL INVESTIGATION UNDER ARTICLE 170² OF THE CRIMINAL CODE

NOVEMBER 15, 2019, VILNIUS

I. BASIS OF COMPLAINT

The Center for the Study of the Genocide and Resistance of Residents of Lithuania (hereinafter Center) is a state enterprise, created by law, whose basic tasks are the restoration of historical truth and justice, the study of the genocide of Lithuanian residents by the occupational regimes from 1939 to 1990 and initiation of legal judgment on the effects of occupation (article 4 of the Law).

In carrying out these tasks the Center forms national policy through the research areas defined by this law (article 5.1), publishes academic, informational and analytic material (article 5.4), initiates a complete legal judgment of the effects of genocide and occupation and the recognition as criminal of organizations and agencies which have carried out genocide and persecution of residents of Lithuania (article 5.17).

Since February of 2018, the Center has repeatedly, in different sources, publicly published claims connected with Juozas Ambrazevičius-Brazaitis, the acting prime minister in the Lithuanian Provisional Government of 1941.

The Center indicated that: "the activities of Provisional Government prime minister Juozas Ambrazevičius-Brazaitis was exhaustively investigated in 1974 in the U.S. Congress and the Immigration and Naturalization Service of the U.S., and Ambrazevičius-Brazaitis was completely exonerated," indicating he had "been rehabilitated by the U.S. Department of Justice."

The Center made these claims:

a) to the Plaintiff and the parliamentary ombudsman in reply to the Plaintiff's query regarding redacting [the Center's] historical finding (Center letter No. 55R-21 to the parliamentary ombudsman and the Plaintiff dated February 26, 2018)

b) to the people of Lithuania in the posting on the institution's internet site of an open letter regarding the Plaintiff's call for changing their historical finding (July 18, 2017, <http://genocid.lt/centras/lt/2969/a/>)

c) to the people, in the publication of an article called "The Genocide Research Center Will Not Cave in to Vulgar Pressure," (March 8, 2019, at the delfi.lt news site <https://www.delfi.lt/news/ringas/politics/lggrtc-genocido-tyrimo-centras-nepasiduos-vulgariam-spaudimui.d?id=80566671>)

These statements regarding Juozas Ambrazevičius-Brazaitis's exoneration and rehabilitation by U.S. political and law enforcement institutions are untrue. As shown by available information and documents, the actions of this person were investigated by the U.S. Immigration and Naturalizations Service, but the case was dropped after his death in 1974. No decision was made regarding this person's being made a suspect or exoneration, the investigation was halted because of his death.

The fact Juozas Ambrazevičius-Brazaitis wasn't wholly exonerated nor rehabilitated by U.S. institutions was confirmed in a letter from U.S. member of Congress Brad Sherman to the Lithuanian prime minister dated September 25, 2019 (appended).

Regarding a determination of law, here (appended) are conclusions from four U.S. attorneys which say the Immigration and Naturalization Service is an executive organ which doesn't perform any special investigations. Any investigations/decisions made by the service are confirmed by an immigration judge. This investigation was dropped as a matter of procedure, due to death, and the case was not deliberated in court, so the phrase "completely exonerated" is being used inappropriately and erroneously.

Juozas Ambrazevičius-Brazaitis headed the Lithuanian Provisional Government from June 23 to August 5, 1941, i.e., from the time of the Soviet withdrawal to time when the Nazi regime took over. At that time the real prime minister and head of the Lithuanian Activist Front, Kazys Škirpa, was being held under home arrest by the Nazis in Berlin.

During the rule of the government of Juozas Ambrazevičius-Brazaitis and Kazys Škirpa, a militarized police battalion, the TDA, was established, with over 800 troops. Rytas Narvydas who worked as an historian for the Center published in 2001 the resolution for **establishing the TDA battalion. The decision was signed by Juozas Ambrazevičius.** During the tenure of this government the Seventh Fort in Kaunas was established as a mass murder center where between June 28 and July 6 the **TDA actively participated in the murder** of 5,000 Jews.

Lithuania's International Commission to Assess the Crimes of the Nazi and Soviet Occupational Regimes established by Lithuanian president Valdas Adamkus (hereinafter Commission) (www.komisija.lt) reiterated in 2005 the mass murder and persecution of Lithuanian Jews in the summer and fall of 1941. This is an established fact.

The Commission determined the Provisional Government approved of the isolation of Lithuanian Jews, seized their property and failed to condemn publicly the mass murder of Lithuanian citizens of Jewish ethnicity. The Commission named the TDA battalion as the

institution responsible because of their participation in the mass murders of Jews. The Provisional Government financed the TDA. The Commission also determined the Provisional Government adopted the "Regulations on the Status of Jews" (appended) and this was the most flagrant official expression of anti-Semitism by the government. Historians admit during the rule of the LAF government [Provisional Government] in the summer of 1941 by far the majority of Lithuanian citizens of Jewish origin were murdered in the towns and villages of Lithuania.

Although Juozas Ambrazevičius-Brazaitis's role in the Holocaust has never been judged in court or by another law enforcement institution and while no court verdict has been rendered on this person's alleged criminal actions, the findings of the international group of historians at the Commission provide a clear assessment of the actions of Juozas Ambrazevičius-Brazaitis. Their conclusion shows the government led by Juozas Ambrazevičius-Brazaitis contributed to crimes against humanity and war crimes against Lithuanian citizens of Jewish origin. ¹

It should be noted that three U.S. congressmen sent a letter expressing open disapproval regarding the 2012 reburial of the remains of Juozas Ambrazevičius-Brazaitis to the Lithuanian prime minister at that time, and 40 Lithuanian scholars, historians and public figures also sent an open letter of protest to the Lithuanian government.

The letter from the U.S. congressmen said the U.S. Congress was concerned by the Lithuanian government's decision to reinter the remains of Juozas Ambrazevičius-Brazaitis and that they wanted to share the anger and pain which the relatives of Holocaust victims felt. In light of the anti-Semitic calls by the LAF and the rapid murder of Jews during the tenure of the Provisional Government, the letter said, the Lithuanian decision for the reburial was "an absolute outrage" and undermined efforts to counter anti-Semitism and to recognize the crimes of the Nazis and their collaborators.

The facts detailed above, the known documents and the facts established by historians and institutions provide the basis for saying the Center's public statements that Juozas Ambrazevičius-Brazaitis was completely exonerated by the U.S. Congress and Department of Justice are of a defensive nature. The Center, exploiting the authority of the U.S. Congress, is publicly standing up for and exalting the person, thus diminishing Juozas Ambrazevičius-Brazaitis's criminal acts against citizens of Lithuania. The intentional spreading of false information contradicts the Center's job defined by law and likewise corresponds with the crime defined in article 170² of the criminal code.

II. SUSPICIONS REGARDING THE COMMISSION OF A CRIMINAL ACT

Article 170² of the criminal code: Public approval of international crimes, crimes by the U.S.S.R. or Nazi Germany against the Republic of Lithuania or her residents, their denial or their gross belittlement

1. Whosoever publicly approves of crimes of genocide, other crimes against humanity under acts of law of the Republic of Lithuania, or crimes of genocide, crimes against humanity or war

¹ Explanatory note to the draft amendment to articles 170² and 284(1) of the Lithuanian criminal code.
<https://www.komisija.lt/tyrimai/iii-naciu-okupacija-holokaustas-ir-kiti-naciu-nusikaltimai-1941-1944-m/2-zydu-persekiojimas/2-2-organizuotas-lietuvos-zydu-naikinimas/2-2-1-zydu-naikinimas-1941-m-vasara-ir-rudeni/>
<https://www.komisija.lt/wp-content/uploads/2016/06/A.-Bubnio-mokslinis-darbas-%E2%80%9E...-Lietuvos-policijos-batalionai...-lietuvi%C5%B3-k..pdf>

crimes recognized in verdicts by courts of the Republic of Lithuania or by the international courts, denies them or grossly belittles them, if this is done in a threatening, offensive or rude manner, or if this causes disruption of the peace, and also whosoever publicly approves of the aggression committed by the U.S.S.R. or Nazi Germany against the Republic of Lithuania, or the crimes of genocide, crimes against humanity or war crimes committed by the U.S.S.R. or Nazi Germany in the territory of the Republic of Lithuania or against residents of the Republic of Lithuania, ... or denies or grossly belittles them, if this is done in a threatening, offensive or rude manner, or if this causes disruption of the peace, is to receive the punishment of fine, or limitations on freedom, or arrest, or imprisonment for up to two years.

Under article 170² of the criminal code, criminal accountability is applied not just regarding the denial or gross belittlement of the crimes mentioned in the disposition, but for denying, belittling or approving all facts of aggression by the U.S.S.R. or Nazi Germany against the Republic of Lithuania (finding by the Lithuanian Supreme Court in case no. 2K-7-102/2013).

II.I. Subject of the crime

The legislative branch has indicated the subject protected by article 170² of the criminal code is the rights and principles protected by the international community (banning of aggression, human rights and freedoms, stopping genocide, crimes against humanity and war crimes), and defending the dignity and honor of those fighting occupation, victims of the crimes of genocide, crimes against humanity and war crimes, and other parties afflicted by these, as well as preserving public order.

A plenary session of the International Holocaust Remembrance Alliance held in Toronto on October 10, 2013, approved a definition of Holocaust denial. **Holocaust denial is considered information or propaganda which denies the historical reality of the extermination of the Jews carried out by the Nazis and their collaborators during World War II.** Holocaust denial is first of all connected with intentional efforts to justify or diminish the effect of the Holocaust or essential parts of it, including collaborators with and proponents of Nazi Germany.

The Center in the documents and publications it makes, presenting knowingly false information, is offensive and insults the honor and dignity of Holocaust victims and their family members, and also promotes a positive view of war crimes, encouraging expressions of ultra-nationalism.

II.II. Assessment of episodes of criminal action

Article 170² of the criminal code says the criminal act may be expressed by the following alternative actions: I) (A) approval, (B) denial or (C) gross belittlement of the crimes of i) genocide or ii) other crimes against humanity or iii) war crimes as defined in acts of law by the Republic of Lithuania or the European Union, or recognized as such in findings by international courts.

Denial or belittlement can be expressed differently. Deciding whether a specific text or statement is a criminal act is a matter for the court considering the case, and not the function of experts or other people. (Lithuanian Supreme Court, finding in criminal case no. 2K-7-102-2013, January 22, 2013)

"The denial of crimes against humanity cannot be based on any historical documents, or, if it is based on such, these historical documents must also be falsifications of history. Altering the historical judgment of these crimes without basis in studies and facts is not considered freedom

of speech, these actions are to be prosecuted in a criminal manner. Along with denial of crimes against humanity, approval of the Holocaust in Lithuania, the Soviet genocide, the mass murder of Lithuanian inhabitants, deportations and other repressions, or their denial or belittlement ... are likewise proscribed."²

Sources which fail to agree with or cast doubt upon established facts do not need to be investigated. In a case of this kind, the only essential element is whether the alternative assessment of events differing from the universally recognized assessment can be found to be threatening, rude or offensive, or aggression disturbing to the public order, or the public denial or gross belittlement of grave or very grave crimes. (Lithuanian Supreme Court, finding in criminal case no. 2K-7-102-2013, January 22, 2013)

The Center's criminal arguments cited in open published sources:

a) Reply to the Plaintiff and the parliamentary ombudsman on the Plaintiff's query regarding redaction of [the Center's] historical finding (February 26, 2018, Center letter no. 55R-21 to the parliamentary ombudsman and Plaintiff)

"In writing the finding on Kazys Škirpa, the Center paid heed to circumstantial facts which were not included in that finding on possible similar criminal acts defined in the Convention and the Statute, the **actions** of the suspect, the head of the Lithuanian Provisional Government Juozas Ambrazevičius-Brazaitis, (who took over the post when Kazys Škirpa was arrested) **was comprehensively investigated by the U.S. Congress** and U.S. Immigration and Naturalization Service in 1974, and Juozas Ambrazevičius-Brazaitis **was completely exonerated.**"

b) Open letter on the institution's internet page in response to the Plaintiff's appeal for changing the historical finding (July 18, 2018, <http://genocid.lt/centras/lt/2969/a/>)

"G. A. G. Gochin's [sic] 'study' of Jonas Noreika, **failing to provide any significant evidence, and possibly in violation of the constitution of the Republic of Lithuania and the criminal code of the Republic of Lithuania, accuses many people: Provisional Government prime minister Juozas Ambrazevičius-Brazaitis, whose actions were thoroughly investigated at the request of the U.S. Congress in 1975 and who was rehabilitated by the U.S. Department of Justice,** political prisoner Viktoras Ašmenskas, and others."

c) Delfi.lt article "Genocide Research Center Will Not Cave in to Vulgar Pressure," (March 8, 2019, at the delfi.lt news site <https://www.delfi.lt/news/ringas/politics/lggrtc-genocido-tyrimo-centras-nepasiduos-vulgariam-spaudimui.d?id=80566671>)

"Prime minister of the Provisional Government Juozas Ambrazevičius-Brazaitis's actions were thoroughly investigated at the request of the U.S. Congress in 1974 and **he was rehabilitated by the U.S. Department of Justice.**"

"Therefore the Center again emphasizes publicly: the actions of head of the Lithuanian Provisional Government Juozas Brazaitis-Ambrazevičius and this government's interior minister Jonas Šlepetys were investigated regarding all these crimes at the request of the U.S. Congress

² Explanatory note in draft amendment of articles 170² and 284(1) of the criminal code of the Republic of Lithuania

in 1974 and after a comprehensive investigation **they were rehabilitated (removed from the list of suspects)**, because no evidence of criminal activity was discovered in the actions."

"Without regard to the historical documents and the Center's repeated arguments, his enemies stubbornly continue to claim what they want: that the investigation of the actions of Juozas Ambrazevičius-Brazaitis was allegedly dropped because of his death, so that **he allegedly is not rehabilitated** and the **Center is allegedly intentionally lying.**"

"This is the allegation that the Center **is allegedly falsifying history for selfish or political reasons (in the vocabulary of G. A. Gochin and A. Vinokuras)** in claiming the actions of Provisional Government prime minister Juozas Ambrazevičius-Brazaitis were exhaustively investigated at the request of the U.S. Congress in 1974 and that **he was rehabilitated by the U.S. Department of Justice.**"

Assessing the Center's statements under criteria established in jurisprudence by the Lithuanian Supreme Court, it's clear the Center's statements do not correspond with reality. This is confirmed by the letter from the U.S. Congress dated September 25, 2019, which clearly demonstrates these statements are not true. The U.S. Congress's negative view of the Juozas Ambrazevičius-Brazaitis government's collaboration with the Nazis is confirmed by the letter from the U.S. Congress in 2012 to the Lithuanian prime minister. The independent historians of the Commission have confirmed the fact of the Juozas Ambrazevičius-Brazaitis government's collaboration with the Nazis and the direct influence of his decisions in the Holocaust back in 2005.

Juozas Ambrazevičius-Brazaitis's contribution to and culpability in the Holocaust is an officially accepted fact. In line with the jurisprudence of the Lithuanian Supreme Court, these facts are not to be reviewed or reconsidered, whereas the Center's brusque statements regarding this person's rehabilitation and total exoneration in the U.S.A. is a diminishment and belittling of these recognized facts, knowingly based on false information.

The Center, indicating on its webpage that the Plaintiff in his study "accuses many people: Provisional Government prime minister Juozas Ambrazevičius-Brazaitis" and thereby "possibly violating the constitution of the Republic of Lithuania and the criminal code of the Republic of Lithuania," strengthens the impression of its mendacious claim, and thus both denies alleged culpability in the Holocaust, and grossly belittles the facts stated in the Commission's finding of 2005.³ The statement is expressed in an aggressive and offensive manner.

In its publication on the delfi.lt website, the Center's mendacious statement is made using grotesque language, indicating that "without regard to the historical documents and the Center's repeated arguments, his enemies stubbornly continue to claim what they want: that ... he allegedly was not rehabilitated and the Center is allegedly intentionally lying;" "the Center again emphasizes publicly: ... after a comprehensive investigation they were rehabilitated (removed from the list of suspects)." In using rough and rude language, the Center is increasing the impression made by its mendacious statement, thus denying Juozas Ambrazevičius-Brazaitis's

³ <https://www.komisija.lt/tyrimai/iii-naciu-okupacija-holokaustas-ir-kiti-naciu-nusikaltimai-1941-1944-m/2-zydu-persikiojimas/2-2-organizuotas-lietuvos-zydu-naikinimas/2-2-1-zydu-naikinimas-1941-m-vasara-ir-rudeni/>

<https://www.komisija.lt/wp-content/uploads/2016/06/A.-Bubnio-mokslinis-darbas-%E2%80%9E...-Lietuvos-policijos-batalionai...-lietuvi%C5%B3-k..pdf>

collaboration in the Holocaust and grossly belittling the facts stated in the Commission's findings of 2005.

The statements were made in a rude and offensive manner, belittling the Plaintiff and those of similar mind, e.g., the journalist Arkadijus Vinokuras, emphasizing the Center's authority and the reliability of its "true" information on the rehabilitation of Juozas Ambrazevičius-Brazaitis.

The document upon which the Center bases its claim on his rehabilitation is a 1975 letter from U.S. congressman Joshua Eilberg sent to the American Lithuanian Community (appended) which says the investigation of Juozas Ambrazevičius-Brazaitis at the U.S. Migration Service was terminated and he was removed from the list of those suspected of Nazi collaboration. It's important to note this document does not mention exoneration or rehabilitation.

II.III. The perpetrator of the crime and the subjective aspect

The subject of the crime may be either a real person or corporate entity. In the case under consideration the perpetrator is the state institution the Center for the Study of the Genocide and Resistance of Residents of Lithuania or its director, Teresė Birutė Burauskaitė, since episodes of the criminal act were committed in texts signed by her, and in publications authored by the Center. Because speeches belittling the role and influence of Juozas Ambrazevičius-Brazaitis in the Holocaust were made by the head of this institution conducting historical research in this field, that implies her knowledge and cognizance, and so the disinformation on the total exoneration of the head of the Lithuanian Provisional Government must be considered intentional acts by the Center's director.

Cloaking the issue in disinformation, she categorically denies the criminal role Juozas Ambrazevičius-Brazaitis played during World War II, and therefore denies this person's contribution to the Holocaust, thus grossly belittling the facts stated in the Commission's findings of 2005.

In light of the foregoing, we ask that a pre-trial investigation be conducted regarding the commission of the crime defined in article 170² of the criminal code (public approval of international crimes, crimes by the U.S.S.R. or Nazi Germany against the Republic of Lithuania or her inhabitants, their denial or their gross belittlement) **by Teresė Birutė Burauskaitė and/or the Center for the Study of the Genocide and Resistance of Residents of Lithuania.**

Please contact the Plaintiff's attorney, Rokas Rudzinskas, email rokas@rlaw.lt or by telephone at 861488303, regarding all process issues. Please send correspondence intended for the Plaintiff to the address: Office of attorneys Rudzinskas and partners, A. Mickevičiaus street no. 14-2, Vilnius, Lithuania, or by email.

APPENDICES:

1. Center reply to parliamentary ombudsman, February 26, 2018;
2. Center reply of July 19, 2018, on Center website www.genocid.lt;
3. Center article on delfi.lt website "Center Will Not Cave in to Vulgar Pressure;"
4. Immigration service letter re: Brazaitis, 1975;
5. "Regulations on the Status of Jews," Lithuanian Central State Archive, f1075-a2-b5-154A;
6. Congressman Brad Sherman's letter to Lithuanian prime minister, September 25, 2019;
7. U.S. Congress letter to Lithuanian prime minister, September 25, 2012;
8. Open letter regarding ceremonial reburial of Juozas Ambrazevičius-Brazaitis, bernardinai.lt;

9. Attorneys' findings on U.S. law (4 conclusions);
10. Contract for legal representation.

Respectfully,
[signed]
Rokas Rudzinskas, attorney