

Expert's opinion concerning excerpts of the press article "Szmonces na dachu" / "Shmonces on the Roof" (Polityka, Issue 45/24777 of November 6th, 2004), which are evidence in the matter for protection of personal interests between Mr. Daniel Strehlau and Mr. Mirosław Chojecki.

Subject matter and the aim of the expert's opinion

This opinion was ordered by the law firm "Pociej, Dubois i Wspólnicy. Kancelaria Adwokacka" (registered office at ul. Świętokrzyska 18, 00-052 Warszawa).

The subject matter of the opinion are excerpts from the press article "Szmonces na dachu" indicated by the client, which article was published in the Polityka weekly magazine, issue 45 (2477) of November 6th, 2004, and include quotations of Mr. Chojecki's statements pertaining to the person and professional activity of Mr. Daniel Strehlau.

I hereby represent that I have no professional, social or any other relations with either Mr. Daniel Strehlau or Mr. Mirosław Chojecki.

The aim of the opinion is to answer the questions posed by the client, namely:

if in his statements made for the Polityka weekly magazine Mr. Mirosław Chojecki violated personal interests of Mr. Daniel Strehlau in the form of his good name, honor and dignity.

Reply to the client's question

In order to offer a clear and in-depth answer to the question posed, it does not suffice to analyze the disputed excerpt of the article described hereinabove, but a general characterization of the entire article needs to be drawn up. For according to the knowledge concerning the comprehension and reception of media communications, the manner of understanding any excerpt, and consequently the entire communication, depends on the manner of defining the main matter and subject of the communication, since such a definition of the subject determines the macrostructural frame of interpretation, which in turn determines the perspective of the reception and orients (i.e. channels) the manner of understanding the content and the meaning of every statement included in the communication.

The text by Dorota Szwarzman, which includes the disputed statements by Mr. Mirosław Chojecki, consists of five separate parts, the first and the last of which outline the broad scope of the text's subject, while the middle parts determine the three problematic issues which are fundamental for the construction of the article. The scope of the text's subject is the reference to the growing polarization of Poles' attitudes to Jews and Jewish culture, which on the one hand consists in the escalation of anti-Semitism, on the other hand in the increasing anti-anti-Semitism and the fascination with the Jewish

culture. This fascination results in the fact that “over the last years we have had a real crop of events connected with the Jewish culture”, particularly various festivals (the first issue). According to the Author, this is a natural reaction to the overly easy forgetfulness when it comes to the Jewish nation, the majority of which perished during the war, and the survivors were forced to leave Poland after March 1968. This crop of Jewish culture festivals, or even the “fashion for Judaica”, restores the memory of the Jewish culture and satisfies the curiosity of the younger generations, but simultaneously it results in the fact that the Jewish culture has become a catchy subject and “it is not hard to make money on it.” As a result, various Jewish culture events and festivals compete against each other (the second issue). The Author demonstrates this competition mainly on the example of two similar film festivals organized in Warsaw at the interval of a few months by Daniel Strehlau and Mirosław Chojecki (the statements of the latter, in Mr. Daniel Strehlau’s view, violate his personal interests, and will be the subject matter of further analysis). In the situation of the abundance and competition of various festivals, however, a certain “problem with the Jewish culture” arises, namely such “that it is too easy for it to come down to a few stereotypes. Unfortunately, the subject matter attracts kitsch like no other...”, and many enthusiastic artists create next pseudo-Judaica (the third issue). In the final part of the article, the Author returns to the subject of anti-Semitism, developing the thesis that “the Polish anti-Semitism is directly linked to the structure of the national identity: Polish anti-Semites perceive their own image as an opposition to the image of a Jew.”

Thus much about the entire article. Its characterization is necessary in order to assess the disputed excerpts of Mr. Mirosław Chojecki’s statements, as their literal meaning is not full and unambiguous (a typical feature of the language of journalism, using briefness and simplification) and becomes completely understandable only in the context of the article, that is as a result of its being embedded in the text in a particular way and put together with other pieces of information and statements.

The article’s Author quotes Mirosław Chojecki twice. The first quotation ends a short account of events which led to the creation of two similar film festivals in Warsaw. According to this account, ever since 2000 Mirosław Chojecki had endeavored that the Ministry of Culture create or help him create (this is not clear) a Jewish film festival in Warsaw, but only in 2003 was he given approval (which is to say: financial means). That is when, as Chojecki represents: *Someone recommended Daniel Strehlau for co-operation, who allegedly had great connections. I met him and told him about my idea. Sometime later I found out that he was organizing his own festival.*

The meaning of the quoted excerpt appears to be clear, although it is based on a guess, which arises from a rather simple thought scheme (of the type: temporal consequence = causal relation). For Mirosław Chojecki does not unambiguously declare that Daniel Strehlau organized his own festival on the basis of Chojecki’s idea, but as Mirosław Chojecki found out about Strehlau organizing his own festival some time after presenting his idea to him, the cause-and-effect relation appears clear: Daniel Strehlau organized his festival on the basis of the idea which had been presented to him by Mirosław Chojecki. Since the process of guessing has already been initiated by the thought scheme included in the quoted statement, any reader can easily guess the rest: most probably Daniel Strehlau used not just the concept as such, but also particular organization ideas which he had learned about from Chojecki, as the latter had worked on the concept of the festival for four years, thus he had had numerous reflections, and when offering co-operation he must have presented something more than the mere concept. The clear conclusion is natural and irrefutable: Strehlau plagiarized Chojecki’s entire concept and on its basis began to secretly organize his own festival. Putting it brutally: Strehlau is a

thief of others' ideas (that is to say: good and valuable ones, for no one steals bad and worthless ideas).

The second excerpt of Mirosław Chojecki's statement quoted in the article pertains to the differences between the two festivals, that is the festival organized by Daniel Strehlau and the festival organized by Mirosław Chojecki. Literally speaking, none of the statements included in this excerpt refer directly to the person of Daniel Strehlau, and thus none of them can violate his personal interests. However, the introduction made by the Author and the first sentence of Chojecki's statement which is quoted emphasize and enhance the sense arising from the previous quotation. They read as follows: "Chojecki reassures: *Our festivals are half a year apart, people go to both, so there is no problem.*" Firstly — the Author does not explain whom Chojecki reassures and why. Does he reassure the Author, or Strehlau, or the readers, or perhaps all of them together? We do not know that, but this is not as essential as the fact that he reassures. For since he reassures, it means that there is a reason for uneasiness, and perhaps even agitation and outrage. What kind of reason, one could ask rhetorically. Only this that someone (Daniel Strehlau) plagiarized his concept and on its basis organized a competing festival, as no other answer can be given to a question posed in such a manner (in the light of the earlier information and the first quotation of Chojecki's statement). This line of thought finds confirmation in the first sentence of Chojecki's statement, where he declares: "so there is no problem". Again the rhetorical question arises: what kind of a problem and why is there none? Well, there is no financial problem, since people go to both festivals. But if people came to the first festival only, the one organized by Strehlau, and did not come to the second one, organized by Chojecki, then there would be a problem — the problem of stealing someone's idea, and together with it the entire festival, including the spectators and the income. Thus there is no problem when it comes to the results, but not when it comes to the reasons, because Strehlau's plagiarizing Chojecki's concept could have put the latter one (as well as the Ministry of Culture, which supports him) at risk of making notable and serious financial losses. And here the fun and games are over, and the characterization of Strehlau's person becomes unambiguously negative: it is not only a person who plagiarized someone's ideas, it is also a dishonest entrepreneur, who deliberately and secretly acts to the detriment of a person who trusted him and suggested co-operation. The outraged reader may easily guess the rest: this is the ultimate fraudster. Mirosław Chojecki does not declare that, but his statements contain distinct premises and even the encouragement to drawing such a conclusion.

If such an interpretation of Mirosław Chojecki's statements is an overinterpretation, then the next excerpt from the article, this time including no one's words but the Author's, is its final confirmation and sealing. Ms. Szwarcman writes: "On the leaflet advertising the second edition of his festival (November 18th – 21st), Strehlau writes cockily: 'Our festival is our original idea, registered in the Patent Office (...) Owing to the fact that we do not imitate anyone, as well as thanks to our generation, we are aware of the uniqueness of our enterprise (...)' Chojecki does not worry and is planning his festival for April." It needs to be clearly said: in both quoted sentences there is nothing cocky (cockiness entails unrestrained willfulness, troublemaker's arrogance, a mild variant of wickedness). The first sentence announces the fact of having registered the copyright on the festival, and the second one is a typical example of auto-promotion of the said festival. Both belong to the canon of fundamental marketing practices. Thus, if it is possible to assess them in such a strongly pejorative way, nearly discrediting their author, then only because it is thought to be certain and obvious that in this way their author, that is Strehlau, intends to legalize and authorize the fact of having plagiarized someone else's concept, as

well as the organization of another edition of the festival which copies someone else's idea. The sentence closing this part of the article reminds of the fact that it pertains to Chojecki's concept and deliberate action to his detriment. Thus if the reader finds the application of the phrase "writes cockily" to Daniel Strehlau justified, it is because the reader accepts that he is a swindler. This statement definitively seals what appears from both of Mirosław Chojecki's statements quoted in the article — Daniel Strehlau is the ultimate fraudster.

Here ends the part of Dorota Szwarzman's article pertaining to the conflict and competition between Mirosław Chojecki and Daniel Strehlau. However, since this is an important and memorable part of the article, it can only be read in the context of other issues, discussed by the author further on in the text, as well as in the context of the general scope of the text's subject matter. Thus, in the next part of her article, the Author discusses the authenticity and the value of many Jewish culture events and festivals. Here the argument is based on the opposition: Judaica, that is the authentic products of the Jewish culture and tradition, versus pseudo-Judaica, that is stereotypical, kitschy and gaudy fakes of the said culture, designed to make easy profit. If one looks at the conflict between Chojecki and Strehlau from this perspective, one must admit that in this context Chojecki stands on the side of the authentic Jewish culture, since he is supported by the Ministry of Culture, which guarantees certain quality, while Strehlau stands rather on the side of the Jewish pseudo-culture, since he works mainly for profit. Thus opposite to an idealist believing in values we see a con man and a profiteer.

Finally, if one perceives the conflict and competition between the two gentlemen from the perspective of the general scope of the text's subject matter, which the Author returns to in the last part of the article, namely to the Polish anti-Semitism and its direct relation to our national identity (the Author writes: "Polish anti-Semites perceive their own image as an opposition to the image of a Jew"), then the characterizations of the two gentlemen reflect the stereotypical opposition underlying this anti-Semitism perfectly. Chojecki is "the good Pole", since he acts in the name of ideas and values, also in the name of the authentic Jewish culture, whereby he is open toward strangers (he presents his concepts and offers co-operation), and when he is wronged by them, he does not make fuss and does not worry, but keeps doing his own thing. Strehlau, on the other hand, is precisely "the bad Jew", since he acts for profit, plagiarizes someone else's ideas and secretly organizes festivals which are harmful to the interests of Polish originators and organizers; on top of that he is cocky. The force and simplicity of such an opposition is so compelling that it becomes perfectly unimportant if any of the gentlemen is Jewish, and if so, then which one, or perhaps if they are both Jewish, or neither of them is. For the opposition pertains not to persons but to attitudes, and it operates based on the strength of the deeply rooted anti-Semitic prejudice and associations, simultaneously pulling into their whirl anyone who finds himself in their vicinity — both the central figures of the article and the readers, even the narrator. Anyone who harbors some anti-Semitic resentment — and as the Author of the article emphasizes, there are numerous such people in Poland, thus also a good deal among Polityka's readership — must initiate these prejudices and associations and base his idea of the person of Daniel Strehlau on them. Of course it is possible to assume that the readers who represent the attitude of anti-anti-Semitism or even Philo-Semitism will reject such a reception of the article and will perceive Daniel Strehlau's characterization in a completely different manner, regarding him as the personification of "the good Jew" — an enterprising, resourceful man, acting fast, independently and on a large scale, a person who by himself organized a big international festival in a short time, while a Pole required several years and state support, and still was much slower. The point is that such an interpretation of Daniel

Strehlau's characterization is not probable, and not because the anti-anti-Semitic attitudes are too weak to become initiated, but because the text contains no hint which could lend credence to such a reception of Daniel Strehlau's characterization. The text, and in particular the quotations of Mirosław Chojecki's statements do, however, contain strong premises which justify the perception of Daniel Strehlau's characterization in the categories of a "bad man" scheme, on which at the end of the article falls the shadow of the "bad Jew" stereotype. This perception of Daniel Strehlau's characterization, that is as a "bad man", is essentially rather moderate and seems most probable in the case of the majority of the readers, since it is rational and based on the simple scheme: no one knows exactly what happened between those two gentlemen, but clearly it was about money and clearly this Strehlau man is not telling the whole truth here, so he must be a dubious character. This perception as such is not anti-Semitic, but it presents Mr. Daniel Strehlau in a bad light and may provoke far-reaching associations, stirred up by the following parts of the article.

On the basis of the above analysis of both of Mr. Mirosław Chojecki's statements quoted in the article "Szmonces na dachu" I can give the following reply to the client's question: in his statements made for the Polityka weekly magazine Mr. Mirosław Chojecki violated the personal interests of Mr. Daniel Strehlau in the form of his good name, honor and dignity. In the first statement quoted, Mr. Chojecki violated Mr. Strehlau's personal interests directly in his unambiguous suggestion that Mr. Strehlau had plagiarized his idea for a film festival and on its basis secretly organized a festival competing against Mr. Chojecki's festival, but also imitating it — thus he is a dishonest person and acts dishonorably. In his second statement Mr. Chojecki does not refer to Mr. Strehlau directly, therefore he does not violate his personal interests. However, through the comparison and the manner of description of the festivals, he emphasizes the relation between them as indicated before, and so confirms Mr. Strehlau's role in the development of this relation. Indirectly then, this statement confirms the accusation against Mr. Strehlau of his having plagiarized Mr. Chojecki's concept and ideas, which accusation was clearly included in the first statement. Another indirect confirmation of this meaning of Mr. Chojecki's words pertaining to Mr. Strehlau are the excerpts of the leaflet advertising the second edition of Mr. Strehlau's festival quoted by the Author, as well as their assessment. They prove undoubtedly that this is precisely how the Author, who talked to Mirosław Chojecki, understood his statement (Strehlau had plagiarized his concept and secretly organized a competing festival), and deemed it true, if she assesses the sentences where Strehlau claims the authorship of the idea and the uniqueness of the entire enterprise as cocky (which indicates disapproval of misconduct). As indicated in the analysis, any further consequences of such a perception of the accusation contained in Mr. Chojecki's statements and directed against Mr. Strehlau, consisting in the initiation of a chain of associations having a negative effect on the perception of his image, do not incriminate Mr. Chojecki directly. They merely demonstrate that, in the various contexts outlined by the Author of the article, this statement paves the way for such associations, which means that it is either deliberately deeply critical or particularly unfortunate. Yet if we are dealing with deliberate criticism arising from Mr. Mirosław Chojecki's negative experience, which he can prove, or if we are dealing with a particularly unfortunate statement, fully unjustified and to be blamed on its author — this can by no means be established in a text analysis.