

Warsaw, 18 January, 2008

STATEMENT OF THE HELSINKI COMMITTEE IN POLAND

The Regional Prosecutor's Office in Cracow has undertaken verifying proceedings in connection with the publication of the book by Jan Tomasz Gross entitled "Fear". The aim of activities conducted by the prosecutor's office is to examine whether the book's author committed the crime of unjustly accusing the Polish Nation of participation, organization and responsibility for Communist or Nazi crimes, as referred to in Article 132a of the Penal Code. This deed is subject to punishment of up to three years imprisonment. The regulation penalizing "slander against the Polish Nation" was introduced in the Polish legal system under Article 37 of the so called lustration law of 18 October 2006.

We would do not intend to remain indifferent towards the prosecuting organs' use of regulations that arouse serious doubts as to their conformity with the Constitution and fundamental international standards protecting freedom of speech. The more so because the Commissioner for Civil Rights Protection lodged an appeal against the discussed regulation to the Constitutional Tribunal (file signature K 5/07) and it is currently awaiting consideration.

In our assessment, Article 132a of the Penal Code has no *raison d'etre* in the legislation of a democratic state, which should pay foremost attention to ensuring unfettered development of public debate on important issues – a debate, where there is also room for opinions that are controversial and arouse resistance from part of the public opinion.

We have on numerous occasions opted for limiting penal law forms of interference in freedom of speech. We appeal to state authorities for restraint in taking actions that today could find formal justification in Article 132a. Until the case is considered by the Constitutional Tribunal, organs of the public prosecution should discontinue proceedings held based on the regulation called into question.

Signed by the members of the Helsinki Committee in Poland:

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