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**Similar Court Cases**

There are similar (and in some cases virtually identical) cases, which have a lot in common with *Leszczyńska v. Engelking and Grabowski*.

1. **All of the examples concern historical research, including biographies of deceased people.**
2. **All of them refer to events during WWII**
3. **Many of them were brought by descendants of individuals described by a historian (in violation of the descendants' right to keep a good memory of their loved ones)**
4. **Several of them were adjudicated in recent years (2016-2021)**

| Country of defendant   | Parties to the proceedings:<br>Plaintiff/ Defendant   | Description of the case   | Link to the judgment or a description of the judgment   |
|--|---|---|---|
| <b>Cases brought against historians or an institution by relatives of a late loved one</b> |   |   |   |
| <b><u>Czech Republic</u></b>   | <p><b>DEFENDANT:</b><br/>Czech historian Anna Hájková, PhD</p> <p><i>(Allegation of a lesbian relationship between a Holocaust survivor and a Nazi German guard)</i></p> <p><b>PLAINTIFF:</b><br/><b>The daughter of a late person described by a historian</b></p> | The historian was sued by the daughter of a deceased Holocaust survivor. The latter was presented by Dr. Hankova as being in a lesbian relationship with a Nazi German guard. At the moment of publication, the survivor had been dead for 10 years. As in <i>Leszczyńska's</i> case, the German court held in favour of the plaintiff (the survivor's daughter). Dr. Hájková was fined by the German court for defaming the prisoner. Moreover, after analysing the circumstances and evidence, a Warwick University panel noted that the historian lacked sufficient evidence for the allegation. | More information about this case: <a href="https://www.theguardian.com/education/2020/oct/08/survivors-daughter-sues-historian-claim-lesbian-liaison-nazi-guard">https://www.theguardian.com/education/2020/oct/08/survivors-daughter-sues-historian-claim-lesbian-liaison-nazi-guard</a> . and <a href="https://www.dailymail.co.uk/news/article-9223443/Historian-wrongly-claimed-Holocaust-survivor-lesbian-affair-Nazi-misconduct-probe-rules.html">https://www.dailymail.co.uk/news/article-9223443/Historian-wrongly-claimed-Holocaust-survivor-lesbian-affair-Nazi-misconduct-probe-rules.html</a> |
| <b>Poland</b>  | <p><b>DEFENDANTS:</b><br/>The editor and the author of a biography of Władysław Szpilman</p> <p><i>(Allegation of collaboration with the Nazis)</i></p> <p><b>PLAINTIFFS:</b><br/><b>The widow and son</b></p>  | The author Agata Tuszyńska and her publisher issued a book describing the testimony of the Polish-Jewish singer Wiera Gran who alleged that Szpilman had collaborated with the Nazis during WWII. The widow and the son of the deceased pianist sued the editor and author for violating their personal right to keep a good memory of their deceased loved one. The court held in favour of the plaintiffs.  | More information about this case: <a href="https://www.theguardian.com/film/2016/aug/01/family-of-man-who-inspired-the-pianist-film-win-defamation-appeal">https://www.theguardian.com/film/2016/aug/01/family-of-man-who-inspired-the-pianist-film-win-defamation-appeal</a>   |

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|                | <b>of the deceased<br/>Władysław<br/>Szpilman</b>  |  |   |
| <b>Austria</b> | <p><b>DEFENDANT:</b> The author of a defamatory statement</p> <p><i>(Allegation that inmates at Mauthausen were criminals)</i></p> <p><b>PLAINTIFFS:</b><br/><b>Holocaust survivors, including the daughter of a late survivor.</b></p>  | <p>A Holocaust survivor, along with a group of other survivors and the daughter of a late survivor reacted to two statements that Jews liberated from Mauthausen (the German concentration camp) were murderers and criminals. In fact the prisoners of the German concentration camps were victims of the National Socialist regime, imprisoned because of their origins, beliefs or religion. The Austrian courts dismissed the application and claims for compensation because the plaintiffs were not personally identified in the impugned article. However, the ECtHR held that the Austrian courts had failed to comply with their positive obligation to protect the plaintiffs' reputation and personal integrity against untrue, defamatory statements concerning historical facts. It recognized the right of those who took part in the historical events (the survivors, or even the descendants of survivors) to lodge a legal complaint against the person who published and disseminated false accusations concerning the WWII period.</p> | <p>Judgement and more information:<br/>CASE OF LEWIT v. AUSTRIA (<i>Application no. 4782/18</i>),<br/><a href="https://laweuro.com/?p=9766">https://laweuro.com/?p=9766</a></p>   |
| <b>Germany</b> | <p><b>DEFENDANT:</b><br/>German historian Winfried Suess</p> <p><i>(Statements in reference to the Hohenzollern family in the context of the Nazi German era)</i></p> <p><b>PLAINTIFF:</b><br/><b>Prince of Prussia, representative of the late members of the Hohenzollern family</b></p> | <p><b>The historian</b> was sued by Georg Friedrich Ferdinand, Prince of Prussia, for a statement referring to the Hohenzollern family during a historians' debate in 2019. The prince of Prussia won the litigation.</p>  | <p>More information about this case:<br/><a href="https://www.reuters.com/article/us-germany-royals/germanys-ex-royal-family-win-legal-case-against-historian-idUSKBN2AI2RI">https://www.reuters.com/article/us-germany-royals/germanys-ex-royal-family-win-legal-case-against-historian-idUSKBN2AI2RI</a></p> <p><a href="https://www.berlin.de/gerichte/presse/press-emitteilungen-der-ordentlichen-gerichtsbarkeit/2021/">The German court's website with the information:</a><br/><a href="https://www.berlin.de/gerichte/presse/press-emitteilungen-der-ordentlichen-gerichtsbarkeit/2021/">https://www.berlin.de/gerichte/presse/press-emitteilungen-der-ordentlichen-gerichtsbarkeit/2021/</a></p> |

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| <b>Italy</b>   | <p><b>DEFENDANTS:</b><br/>Robert Katz<br/>Carlo Ponti<br/>George P. Cosmatos</p> <p><i>(Allegation concerning the role of Pius XII during WWII)</i></p> <p><b>PLAINTIFF:</b><br/>Niece of the late Pope Pius XII</p>   | The author of the book <i>Death in Rome</i> (on which the film <i>Massacre in Rome</i> was based), Robert Katz, along with producer Carlo Ponti and filmmaker George P. Cosmatos, were charged with "defaming the memory" of the late Pius XII. The legal proceedings were initiated by the niece of the deceased pope.   | <a href="https://www.telegraph.co.uk/news/obituaries/religion-obituaries/8144130/Robert-Katz.html">https://www.telegraph.co.uk/news/obituaries/religion-obituaries/8144130/Robert-Katz.html</a>  |
| <b>Cases brought by a person defamed by a public statement referring to historical facts</b> |  |   |  |
| <b>France</b>  | <p><b>DEFENDANTS:</b></p> <ol style="list-style-type: none"> <li>G rard Chauvy</li> <li>Francis Es-menard</li> <li>Editions Albin Michel</li> </ol> <p><i>(Allegation of Nazi German collaboration)</i></p> <p><b>PLAINTIFFS:</b><br/>Mr. and Ms. Aubrac</p> | In the book <i>Aubrac, Lyon 1943</i> published in 1997 the author reconstructed the chronology of events involving the Resistance movements in Lyons in 1943 and the arrest of Jean Moulin, General de Gaulle's representative in France and the leader of the internal Resistance. The author paid attention to the participation of R. Aubrac in the arrest, pointing out that the former Nazi German Klaus Barbie had accused R. Aubrac and his wife of collaboration with Nazi Germany. The Aubracs filed a lawsuit and the French courts (in each instance) held in their favour. The court sentenced the defendants to a fine (of 100,000 and 60,000 FRF) damages of FRF 200,000 each to the Aubracs, and ordered the publication of a statement in five daily newspapers and for each copy of the book to carry a warning in like terms. | <p>Chauvy and others v. France, application number: 64915/01, <a href="http://hudoc.echr.coe.int/eng?i=001-61861">http://hudoc.echr.coe.int/eng?i=001-61861</a></p> <p>The ECtHR confirmed the judgements of the French courts and dismissed the defendants' application. According to the ECtHR, there was no violation of freedom of expression (academic expression).</p> |
| <b>France</b>  | <p><b>DEFENDANT:</b><br/><b>Radio France</b></p> <p><i>(Allegation of cooperation with the Nazi Germans during WWII)</i></p> <p><b>PLAINTIFF:</b><br/><b>Michel Junot</b></p>  | The magazine <i>Le Point</i> published an article entitled " <i>Vichy: Around the Papon Case</i> " which included information about Mr. Michel Junot and presented his role in 1942 and 1943. The Radio disseminated the following information: " <i>According to the weekly magazine Le Point, a former deputy mayor of Paris supervised the deportation of a thousand French and foreign Jews in 1942.</i> "<br>Mr. Junot admitted to having organised the departure of a transport of deportees  | <p>The judgement: <a href="http://hudoc.echr.coe.int/eng?i=001-61686">http://hudoc.echr.coe.int/eng?i=001-61686</a></p> <p>The European Court of Human Rights confirmed the judgement of the French court, pointing out that both the statement broadcast</p>  |

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|                |  | to Drancy, but he hadn't supervised the transports attributed to him. The French courts found the defendants guilty and fined them FRF 20,000 each and ordered them jointly to pay FRF 50,000 in damages. The court ordered an apology to be broadcast on Radio France every two hours for twenty-four hours, including an announcement about the conviction of the second and third applicant.   | every two hours for 24 hours and the damages & fines were moderate.   |
| United Kingdom | <p><b>DEFENDANT:</b><br/>Historian Nikolai Tolstoy Miloslavsky</p> <p><i>(Allegation of having betrayed Cossacks at the end of WWII)</i></p> <p><b>PLAINTIFF:</b><br/>Lord Aldington</p> | <p>In March 1987, the historian wrote a pamphlet entitled "War Crimes and the Wardenship of Winchester College" in which he accused Lord Aldington of war crimes committed during WWII. The pamphlet was widely circulated.</p> <p>The historian accused Lord Aldington of having the blood of 70,000 human beings (including women, children, and infants) on his hands.</p> <p>Lord Aldington instituted proceedings for libel. The jury (the common-law legal system in England) ruled in his favour, ordering the sum of 1.5 mln pounds to be paid in damages and issuing an injunction restraining the historian from publishing the words contained in the impugned pamphlet regarding Lord Aldington's connection with the handover of the Cossacks in 1945 to Soviet or Yugoslav forces in the context of his alleged responsibility for the subsequent treatment of those people by the communists.</p> <p>The defendant was unable to pay the court fee of the appeal (£124,900, to be paid within fourteen days) and the court rejected the appeal.</p> <p>Miloslavski's brought a complaint before the ECtHR, alleging a violation of Article 10 (freedom of expression and disseminating the historical facts) and art. 6 of the ECnHR. The ECtHR upheld the injunction, but held the violation of art. 10 with regard to the amount of the damages.</p> | <p>CASE OF TOLSTOY MILOSLAV-SKY v. THE UNITED KINGDOM, (<i>Application no. 18139/91</i>)<br/><a href="https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%22001-57947%22%5D%7D">https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%22001-57947%22%5D%7D</a></p> <p>The ECtHR found that the injunction had not violated art. 10 EcnHR, however they were of the view that the amount of damages awarded – £1.5 million – was disproportionate to the legitimate aim of protecting Lord Aldington's reputation or rights.</p> |