



STATEMENT

Observing the social consequences of lustration proceedings, as well as the discussion regarding the amendments to the Lustration Law, the Helsinki Foundation would like to remind that back in the early nineties it already called for lustration to be based on principles of the Rule of Law.

Today we would particularly like to emphasize that it is necessary to apply the exact same treatment to the unclassified officers and collaborators with the secret services (SB) and other security agencies of the Polish People's Republic (PRL).

In accordance with the Lustration Law, only the Lustration Court, which makes its verdicts based on the Code of Penal Procedure, has the authority to make rulings on any alleged collaboration with the security agencies of the PRL.

Therefore, the following principles are binding, and must remain in force, for the lustration procedure:

- 1 A precise definition of the term "collaboration with the secret services (SB)"
- 2 Entrusting courts with the final ruling on the case
- 3 Respect for the principle of presumption of innocence
- 4 Satisfaction in cases of groundless accusations

The reality of recent years has shown that there is an urgent need to provide access to the Lustration Court for anyone who has a legal interest in this, in particular those individuals who have been singled out by the Institute of National Remembrance (IPN) or by other people based on documents made available by the IPN. In connection with this, it is undoubtedly necessary to establish a few more lustration courts at courts of appeal other than the one in Warsaw.

Thus, we are even more concerned by the current suggestions that the Lustration Court should be abolished and to transfer the burden of proof onto individuals who challenge allegations of their having collaborated with the security agencies of the PRL in court. They would have to prove that the documents significant to the outcome of the lustration procedure do not state the truth or do not concern them.

The proposal to entrust IPN with the authority to establish alleged collaboration with the security services (SB) is for reasons of principle inadmissible under Rule of Law; only courts are allowed to rule on this. At the same time, we believe that the principles adopted for the lustration procedure should apply equally to all individuals subject to it.

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