

## **On Estera Siemiatycka, sołtys Edward Malinowski, and lawsuits**

### **Act 1: During the Occupation**

On November 2, 1942, in the north-western part of occupied Poland, at the time named Bezirk Białystok,<sup>1</sup> the Germans began to liquidate the ghettos they had established there earlier. Over the course of two weeks of the so-called “Aktion”, Jews from the ghettos surrounded by gendarmes and policemen were transported to several larger towns and gradually sent to extermination camps. At that time the Germans also displaced about 1500 inhabitants of the Drohiczyn ghetto, transporting them on November 5 to Siemiatycze, from where, along with those from the nearby towns of Grodzisk and Mielnik, freight wagons took them to the gas chambers of Treblinka.

By then, the Jews already knew that deportation meant death – a number of escapees from the camp had reached the towns of the Podlasie region, people were talking, no wonder then that when faced with the liquidation of the ghetto, many decided to escape. From Drohiczyn alone – according to various sources – 250,<sup>2</sup> 270<sup>3</sup> or 300<sup>4</sup> Jews escaped. Some of them had previously arranged hiding places with Poles, others escaped without a plan, facing the prospect of death. One of those who escaped was Estera Siemiatycka,<sup>5</sup> who, on the night before the ghetto was liquidated, together with her son Benjamin (a year and nine months old), her sister Fruma Lea and her daughters Masza (one year old) and Perełka (three years old), escaped to the house of Mr. Czapkowicz, their acquaintance, with whom they had had left a number of

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<sup>1</sup> Some towns were excluded from the liquidation, such as Białystok and Prużany. More detailed information about the liquidation of ghettos in Bielsk Podlaski county, where Drohiczyn was located, can be found in my text: *Powiat bielski [in:] Dalej jest noc. Losy Żydów w wybranych powiatach okupowanej Polski*, eds. Barbara Engelking, Jan Grabowski, Stowarzyszenie Centrum nad Zagładą Żydów, Warszawa 2018, p. 45–190.

<sup>2</sup> Archive of the Jewish Historical Institute (hereafter AŻIH), 301/973, Wolf Wiśnia, “Przeżycia Żydów drohicyńskich,” Białystok, September 25, 1945.

<sup>3</sup> AŻIH, 310/1257, Account by Symcha Burstein, December 21, 1945.

<sup>4</sup> AŻIH, 301/2130, Account by Gerszon Lew, January 12, 1947.

<sup>5</sup> She was born in Drohiczyn on February 18, 1917, completed seven years of schooling, in 1939 she married Izrael Drogicki, and in February 1941 she gave birth to a son, Benjamin.

their belongings for safekeeping. They did not stay with him for long. The following day, they went with the children to the forest in Koczery outside Drohiczyn. It was no secret to the locals – some woman brought a pot of milk noodles for the children, another came to sell them her *ausweis*; Estera bought it. As “Marianna Bujalska” she went out of the forest to buy something to eat. During her absence, her sister and the three children were captured<sup>6</sup> and handed over to the Germans – they were all killed.

Estera ran through the forest and reached Malinowo, seventeen kilometres away. She went to see *soltys* [village elder] Edward Malinowski (son of Stanisław), and asked him to help her leave for work in Prussia.<sup>7</sup> According to Estera, *soltys* immediately realized that she was Jewish and went to get the belongings that she had left with Czapkowicz in Drohiczyn; he would keep them for himself. In addition, he took a decent sweater she was wearing, giving her an inferior one in exchange; he also took half of the money<sup>8</sup> she had. Later, as agreed, he took her to the German gendarmerie station in nearby Dziadkowice, reporting that she was Marianna Bujalska, a Pole who had escaped from forced labor. This way, he saved Estera’s life.<sup>9</sup>

From the gendarmerie in Dziadkowice, Estera was taken to the station in Boćki, and from there to the penal camp in Bielsk Podlaski,<sup>10</sup> where she spent a month (penalty for “escaping from labor”). She did not have any belongings with her, so she decided to write to *soltys* Malinowski, asking him to send her something.

The post office delivered the letter to another Edward Malinowski in Malinowo,<sup>11</sup> with whom Estera started a correspondence and later a trade. Estera (as Marianna Bujalska) sent him parcels with yeast (needed in the countryside for making moonshine), and he sent products for sale to Kętrzyn. Estera wanted to maintain that contact because she wanted to be considered Polish. At the beginning of 1944, Estera was given a ten-day leave, and, having nowhere to go,

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<sup>6</sup> Two Polish peasants took Estera’s sister with her children and son on a cart and drove them to Drohiczyn to the gendarmerie, where the Germans shot all four of them. Estera tells about it in an extensive interview recorded in Polish for the Shoah Foundation on July 31, 1996. See University of Southern California Shoah Foundation, Visual History Archive (hereafter VHA), 18121, Maria Wiltgren.

<sup>7</sup> *Soltys*’ duties included assigning residents of a given village who would go to forced labor in the Reich, where they would work in factories or on the land, replacing the Germans sent to the front. In the fourth year of the occupation there were no more people willing to leave; for the Poles it meant being separated from their families, leaving their farms behind, and doing slave labor, but for the Jews it was a chance of survival.

<sup>8</sup> She was carrying 100 marks. See VHA, 18121, Maria Wiltgren.

<sup>9</sup> Ibid.

<sup>10</sup> In the fall of 1941 the Germans established a penal camp (Straff-Lager) in Bielsk Podlaski at 11 Zamkowa Street, in the former building of a Jewish school. The camp was also used as a detention center. It operated until July 16, 1944, and housed an average of 100-150 prisoners. In total, 1,500-2,000 prisoners passed through the camp, 3 died, and 69 were shot (Archives of the Institute of National Remembrance [further AIPN Bi], 1759, Waldemar Monkiewicz, “Obozy hitlerowskie w regionie białostockim”).

<sup>11</sup> In reality, it was even more complicated: *soltys* Malinowski told Estera that his name was Adolf (Adolf Malinowski was the previous *soltys*) and that is how she addressed the letter, which was delivered to another Adolf Malinowski in Malinowo. By coincidence, he had a son Edward (Edward Malinowski, son of Adolf and Teofila, born March 24, 1920 in Malinowo) – it was with him that Estera made contact, after some time she realized that it was not *soltys*, but another person with the same name and surname. See VHA, 18121, Maria Wiltgren.

she decided to visit her business partner – Edward Malinowski (son of Adolf) in Malinowo, whom she had not met before. At that time there was a lot of talk in the village about the recent events: the shooting of a group of Jews who were hiding in the nearby forest. *Sołtys* Edward Malinowski and the forester were said to have turned them in. In retaliation, the forester was killed by Jewish partisans operating in the nearby woods.<sup>12</sup> *Sołtys* Malinowski was robbed of many things, including Estera’s belongings. Kalman Krawiec, who was hiding in the area at that time and who was collaborating with the Jewish partisans, mentioned in his postwar report that twenty-two Jews were hiding in the forest near Malinowo, eighteen of whom were shot and four managed to escape.<sup>13</sup>

After a short stay in Malinowo, Estera Siemiatycka returned to Kętrzyn. There she survived the war and met her second husband, Teodor Wiśniewski, a Pole. They had three sons; they lived in Łomża, then in Wrocław, and then in Warsaw. She worked briefly as a kindergarten teacher.<sup>14</sup> After 1968, Estera (who used the name Maria Wiśniewska after the war) left Poland. She lived in Sweden with her two sons, while her youngest one emigrated to Australia.

## Act II: The 1949-1950 Trials

In May 1948, twelve residents of the village of Malinowo sent a letter to the prosecutor at the District Court in Białystok, in which they accused Edward Malinowski (son of Stanisław), *sołtys* during the occupation, of “collaborating with Germans and harming the villagers in various ways” [...], that “he assigned those he did not like to go to Prussia”, and “in addition to this, *sołtys* Malinowski Edward handed over to the gendarmes eighteen Jewish people hiding in the forest of the Malinowo village, whom the gendarmes shot;” in 1947, together with relatives, “they brought to the village a gang of »Jaskółka«<sup>15</sup> in the number of twelve armed people”, who beat

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<sup>12</sup> In the Drohiczyn/Siemiatycze area one of the three Jewish partisan groups active in the Bielsko district had been operating since the spring of 1943. The unit, under the command of Hersz Szabes, “protected larger groups of hiding Jews and meted out justice to local peasants [...], became active in the area and carried out actions against peasants in the villages of Lachówka, Skiwy, Narojki, Malinowo” – writes Mirosław Leszczak in: *Zagłada ludności żydowskiej w Siemiatyczach*, “Studia Podlaskie” 1989, no. 2, p. 358.

<sup>13</sup> AŻIH, 301/4086, Kalman Krawiec, “Moje przeżycia w Treblince,” testimony given in Yiddish on May 15, 1948 in Łódź. Translation: Julia Jakubowska

<sup>14</sup> In 1947, she wanted to go to a summer camps for children as a counsellor. For that reason she applied for a job at the Security Office, which organized the summer camps (Archive of the Institute of National Remembrance Branch in Wrocław, 059/699).

<sup>15</sup> After the war an anti-communist underground was active in Poland; it included soldiers who disobeyed orders to disband the Home Army, and others who took up armed fight against the new authorities, imposed by the USSR. Their operation was aimed against the representatives of the new regime (*milicja* [people’s police] officers, UB [Security Office] officers, party activists). The term “gangs” [Polish: *bandy*] was often used by the communist security apparatus against the entire independence underground, in an attempt to undermine its activities. However, there were also groups that were indeed gang-like (e.g. committed murders on civilians). Czesław Pilecki a.k.a. ‘Jaskółka’ (1923–1950), from 1943 in the Home Army (AK), after the war remained in the underground (in the units of “Roch”, “Sosna”, “Ryka”), and then formed his own group, which from autumn 1947 until June 8, 1950 operated in the south-western part of Bielsk Podlaski county. The group had 17 members and at least 85 associates among the local population, who provided information and logistical

several villagers that were conflicted with the Malinowskis, and in 1948, “»Jaskółka«’s gang took tax money from the post-war *sołtys* of Malinowo, Jan Wszyński.”<sup>16</sup>

This letter set in motion a series of testimonies, given by witnesses before the prosecutor and concerning *sołtys* Malinowski’s activities. Testifying against *sołtys* Malinowski were: Kazimierz Mielik, Kamil Kosiński, Franciszek Kosiński, Zenon Kosiński, and Edward Malinowski (son of Adolf). Kazimierz Mielik testified that “at the end of 1943 the Germans came, the gendarmes, and entered Malinowski’s house, where they stayed from eight in the morning until two or three in the afternoon. In the evening, they left the house together with Malinowski. Malinowski ordered the people from the Malinowo village to gather and go to help the Germans in the manhunt. Obeying Malinowski’s orders, the people reached the forest next to the village, about one kilometer from the village, and having reached a ditch, they stopped. In that ditch, there were simply [...] eighteen Jews, women, a child and men. Malinowski asked those Jews to come out of the shelter and when they did so, the Germans ordered them, that is the Jews, to undress, and then shot them.”<sup>17</sup> Zenon Kosiński testified on the May 5, 1949, “that when the Germans came for those Jews, they first went to Edward Malinowski, who was *sołtys*, and with him they went to the bunker where the Jews were hiding, and he called for them to come out from the bunker: you’ll be fine, and when they came out, the Germans told them to undress and shot [them].”<sup>18</sup>

Defendant Edward Malinowski (son of Stanisław) was interrogated on June 9, 1949. He was arrested the following day. He refused to plead guilty and testified that “it was the forester from the village of Czarna Wielka that showed the place where the Jews were hiding in the forest to the German gendarmes.”<sup>19</sup> On August 10, 1949, the court set the date of the trial for September 6 that year. Two days later, the following events took place in Malinowo, which were described by the wife of the defendant, Maria Malinowska, during the interrogation: “On August 12, 1949, at 9 p.m., I was sleeping in my room, when two unknown men with long rifles entered the room [...] and immediately told me and my son Tadeusz “tell us who accused my husband Edward Malinowski of collaboration with the Germans”. [...] Then I said that my husband’s accusers were: Malinowski Adolf and his son Edward, Kosiński Franciszek and his son Zenon, Kosiński

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support. According to the information collected by the local Security Office, during their activity they were accused of, among other things, 5 beatings of civilians, 61 robberies and 20 murders (10 on officers and officials of the people’s government, and 10 on civilians). He died in an UB raid on June 8, 1950 near the village of Zaręby. See: AIPN Bi, 019/11/1-2, Charakterystyka bandy terrorystyczno-rabunkowej “Jaskółki”.

<sup>16</sup> AIPN Bi, 403/18/2, Akta procesu Edwarda Malinowskiego, pp. 1-3.

<sup>17</sup> Ibid, Zeznanie Kazimierza Mielika z 4 czerwca 1948 r., p. 5-6.

<sup>18</sup> Ibid, Zeznanie Zenona Kosińskiego, p. 12.

<sup>19</sup> No one remembered his name, nor did the court manage to establish it. In this text, I am not including issue of the gold earrings of the murdered Jewish woman, discussed in the testimonies. Some witnesses claimed that village elder (*sołtys*) Malinowski took them from the murdered woman’s ears.

Kamil and Milik Kazimierz. They wrote it down on a piece of paper and without saying a word they went away in an unknown direction, because it was dark and raining.”<sup>20</sup>

The men then went to the then *sołtys* of the village, Jan Wyszynski. Wyszynski recognized one of them: „it was ‘Jaskółka’ armed with a rifle and a pistol, [...] the other individual was armed with a rifle.”<sup>21</sup> They asked *sołtys* where the Kosiński and Malinowski families lived. They went to them and beat them up, then returned to *sołtys* and, suspecting that he had reported their arrival to *milicja* (the police), they also beat him and his wife “with sticks and butts of their rifles.” After this beating they took two pairs of old boots worth about 15,000 zlotys.<sup>22</sup> Another of those beaten that evening, Edward Malinowski (son of Adolf), testified that “members of the aforementioned gangs of unknown affiliation, under the command of »Jaskółka« came to our village several times, taking clothes, bicycles, etc. from individual farmers. In addition, in August 1949 the same »Jaskółka«, together with two other members of his gang, came to my house and severely beat my father and me.”<sup>23</sup> Zenon Kosinski, in turn, testified during the interrogation that on August 12 »Jaskółka« came to them with his friend: “he started beating me with a rifle butt and then kicking me, saying that I accused the same Malinowski Edward, son of Stanislaw.”<sup>24</sup>

The information about the beatings of Malinowo inhabitants can be found also in MO [*Milicja Obywatelska*, People’s Police] reports for August 1949: “on 12 August [19]49, at 10 p.m. the gang of »Jaskółka«” consisting of four men, dressed in uniforms of Polish Army and in civilian clothes, armed with automatics, rifles and pistols, in the village of Malinowo, Grodzisk commune, beat up inhabitants of the above mentioned village, citizens Kosiński Zenon, Wyszynski Jan and Wyszynska Bronisława, as a result of which the above listed suffered grievous bodily harm.”<sup>25</sup> “Report on activity for the month of August 1949” provided further details about the beating of the inhabitants of Malinowo on August 12: “in the village of Malinowo, Grodzisk commune, members of this gang [of »Jaskółka’s«] beat up the residents of the aforementioned village that testified in a trial against the former *sołtys* [concerning] the German occupation of the aforementioned village, suspected of collaboration with the Germans, with whom »Jaskółka« maintained contact. He learnt about the witnesses’ testimonies from the family of the suspected *sołtys*, who learnt about the above from the court defender.”<sup>26</sup>

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<sup>20</sup> AIPN Bi, 237/47, Wojskowy Sąd Rejonowy w Białymstoku, Akta w sprawie karnej Marii Malinowskiej, Przesłuchanie podejrzanej, 16 sierpnia 1949 r., p. 13-14.

<sup>21</sup> Ibid, Przesłuchanie świadka Jan Wyszynskiego, 13 sierpnia 1949 r., p. 9.

<sup>22</sup> Ibid.

<sup>23</sup> AIPN Bi, 237/47, Akta w sprawie karnej Marii Malinowskiej, Przesłuchanie świadka Edwarda Malinowskiego, 3 października 1949 r., p. 33.

<sup>24</sup> Ibid, Przesłuchanie świadka Zenona Kosińskiego, 3 października 1949 r., p 33.

<sup>25</sup> AIPN Bi, 047/176/2, Sprawozdanie KPMO Bielsk Podlaski z działalności za miesiąc sierpień 1949 r. p. 2.

<sup>26</sup> Ibid, p. 15.

Moreover, another document states that on August 13, 1949. "The gang [of »Jaskółka«] in an temporary collaboration with the gang of "Miedziak,"<sup>27</sup> committed a murder of Doctor Adolf Czajkowski, a resident of Drohiczyn, who on the previous day had provided medical aid to the residents of the village of Malinowo, Grodzisk commune, beaten by the aforementioned gang."<sup>28</sup> As a result of the incident in Malinowo, the wife and son of the former *sołtys*, Edward Malinowski (son of Stanisław), were arrested. The Military Court in Białystok sentenced Tadeusz Malinowski to one year and six months' imprisonment for indicating the place of residence of the farmers who were robbed,<sup>29</sup> and Maria Malinowska to six months' imprisonment.<sup>30</sup>

Such circumstances – beating and intimidation of witnesses – preceded the main trial of *sołtys* Edward Malinowski (son of Stanisław). As scheduled, it took place on September 6, 1949, during a session of the Białystok Regional Court in an off-site session in Bielsk Podlaski. Most of the prosecution witnesses, i.e. Franciszek, Zenon, and Kamil Kosiński, did not appear at the session (for which the court fined them 10,000 zlotys each), nor did Kazimierz Mielik, who had left the village of Malinowo for an unknown destination. Moreover, the wife and son of the accused Edward Malinowski could not appear (they were in jail).

Edward Malinowski did not plead guilty to the charges against him, he testified that "one day in 1943 gendarmes from Grodzisk and Dziadkowice came to him in a number of about thirty men. They ordered him to summon forester Półtorak from Malinowo. He was away, so the forester from Czarna Wielka was summoned. When he came, the Germans ordered Malinowski to „take six men with shovels from the village and follow them." They took part in the manhunt for the hiding Jews and witnessed the shooting of the Jews by the Germans.<sup>31</sup>

One of the witnesses who appeared at the main hearing was Maria Wiśniewska (Estera Siemiatycka), who testified: "during the German occupation I was hiding as a Jew in the forest near Malinowo. Nobody wanted to take me in. So I went to *sołtys* Malinowski, and he took me in. For a good few weeks I hid in Malinowski's barn and he fed me, even though I was penniless. At night his barn was full of Jews, Malinowski gave them food. I owe Malinowski my life, because he had Aryan papers made for me, and then, upon my request, reported that I was evading forced labor. I was then arrested and sent back to Germany. I used to visit Malinowo on my leave. At the time of the murder of the Jews, I was in Germany. I only received a letter from

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<sup>27</sup> Corporal Lucjan [Stanisław?] Szymborski a.k.a. "Miedziak" died on September 29, 1949.

<sup>28</sup> AIPN, BU 0/177/24, Banda terrorystyczno-rabunkowa pseud. "Jaskółka", by Cpt. H. Smakowski, Cpt. E. Bartnicki, Białystok 1976, p. 15.

<sup>29</sup> AIPN Bi, 0/19/11, vol. 3, Kwestionariusze osobowe do charakterystyki no. 24, p. 105.

<sup>30</sup> AIPN Bi, 237/47, Akta sprawy Marii Malinowskiej, p. 69.

<sup>31</sup> AIPN Bi, 403/18/1, Akta procesu Edwarda Malinowskiego, Protokół rozprawy głównej, pp. 83-84.

Edward Malinowski, son of Adolf, in which he wrote me that a forester had delivered the Jews into German hands and that the Jewish partisans had killed him for that.”<sup>32</sup> Two other Jews, Chuna Kapłan and Lejb Prybut, testified that *sołtys* Edward Malinowski (son of Stanisław) had also helped them during the German occupation.<sup>33</sup> The hearing was adjourned and resumed over a year later, on November 6, 1950. The Kosińskis, this time brought the court by the police, gave a completely different testimony – they did not incriminate *sołtys* Malinowski. After the beating before the previous trial, they apparently had reasons to fear for their health and lives. Zenon Kosinski testified: “People said that the Germans ordered the Jews to come out of the shelter, maybe the defendant ordered them too, I don’t know because I wasn’t there,” and Franciszek Kosinski stated that he “didn’t testify at the Security Office that the defendant handed over the Jews. [...] I don’t know what mangle they’ve made in the report.”<sup>34</sup> The court acquitted Edward Malinowski (son of Stanisław), charging the State Treasury with the costs of the proceedings. Witnesses fined for not appearing at the first trial wrote a letter to the court asking for the fine to be remitted, and explained that they could not appear at the first trial because they had been beaten. The court remitted the fine.<sup>35</sup>

Commenting on the trial of *sołtys* Edward Malinowski years later, Estera Siemiatycka (then Maria Wiltgren<sup>36</sup>) said in a 1996 interview: “After the war ended, he would have been given the death penalty. [...] I saved him, even though he did a lot of harm to me.”<sup>37</sup> One may wonder why Estera testified like that during the trial of *sołtys* Malinowski. Various interpretations are possible, but I think that the most likely explanation is of psychological nature: she was grateful to him for saving her life, she wanted to repay him with good in spite of all the evil she had suffered from him.

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<sup>32</sup> Ibid, p. 81-82.

<sup>33</sup> Ibid, pp. 82-83. Neither of them mentioned *sołtys* Malinowski helping anyone in any other account. See AIPN Bi, 403/17, Proces Józefa Fleksa,, and AŻIH, 301/2111, 301/2109.

<sup>34</sup> AIPN Bi, 047/176/2, Akta procesu Edwarda Malinowskiego, pp. 133–134.

<sup>35</sup> Ibid, p. 161.

<sup>36</sup> In Sweden, she changed her name from Wiśniewska to Wiltgren.

<sup>37</sup> VHA, 18121, Maria Wiltgren.

### Act III: Trial of 2019-2021

The fate of Jews from the Bielsk county who survived the German occupation outside the county was a sidenote to my text, as I focused on those who survived the war on its territory. That is why I devoted only three sentences to Estera Siemiatycka story, since she survived the war outside of Bielsk county (doing forced labor). I wrote:

*After the loss of her family, Estera Drogicka (nee Siemiatycka), equipped with documents bought from a Byelorussian woman, decided to go to Prussia to work. Edward Malinowski, sołtys of Malinowo, helped her (robbing her in the process) and in December 1942 she went to in Rastenburg (Kętrzyn), where she worked as a domestic help for the German family named Fittkau. Not only did she meet her second husband there (a Pole who was also a laborer), she also started a trading operation, and sent Malinowski parcels with various things to sell. She visited him when she went “home” on leave. She realized that he was an accomplice in the deaths of several dozen Jews who had been hiding in the woods and had been turned over to the Germans, yet she gave false testimony in his defense at his trial after the war.<sup>38</sup>*

I based the cited fragment of the text primarily on the testimony that Estera Siemiatycka gave for the Shoah Foundation in 1996, when she already had temporal and emotional to the matters in question, in which she told in detail how she survived the war and referred to her own testimony in the trial of *sołtys* Malinowski. It was this source that I found most reliable for reconstructing the story of Estera Siemiatycka (Maria Wiśniewska, Maria Wiltgren). The book with the above paragraph was published in April 2018.

On June 17, 2019, I was sued (together with the co-editor of the book, Jan Grabowski) by the niece of the late *sołtys* Edward Malinowski, Filomena Leszczyńska, for violation of her personal rights. She demanded that we pay her 100,000 PLN and publish an apology in several newspapers. The lawsuit is supported by the Reduta Dobrego Imienia Foundation, which “not only supports Filomena Leszczyńska nominally, but also financially, i.e. by bearing the costs of the lawsuit (lawyer’s and court’s fees, administrative costs, costs of experts’ and historians’

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<sup>38</sup> *Powiat bielski [in:] Dalej jest noc* pp. 149-150; in the book I provided the following footnote: AIPN Bi, 403/18, AIPN Bi, 403/18, Akta sprawy karnej Edwarda Malinowskiego, Zeznanie Marii Wiśniewskiej: “during the German occupation I was hiding as a Jew in the forest near Malinowo. Nobody wanted to take me in. So I went to *sołtys* Malinowski, and he took me in. For a good few weeks I hid in Malinowski’s barn and he fed me [...]. At night his barn was full of Jews, Malinowski gave them food. I owe Malinowski my life, because he had Aryan papers made for me, and then, upon my request, reported that I was evading forced labor. I was then arrested and sent back to Germany. I used to visit Malinowo on my leave. At the time of the murder of the Jews, I was in Germany. I only received a letter from Edward Malinowski, son of Adolf, in which he wrote me that a forester had delivered the Jews into German hands and that the Jewish partisans had killed him for that.” Malinowski was acquitted.



opinions).”<sup>39</sup> The allegations boil down to the fact that in the book I confused the two Edward Malinowskis, attributing the trade with Estera to *sołtys* (while it was another Edward Malinowski, son of Adolf, that traded with her), and I attributed denouncing the Jews to *sołtys* Edward Malinowski, despite the fact that he was acquitted at the 1950 trial.

During the subsequent hearings, the court heard that testimony of Maciej Świrski, chairman of the Reduta Dobrego Imienia (RDI) Foundation (he spoke of Mrs. Filomena Leszczyńska's suffering caused by the alleged defamation); Estera Siemiatycka's sons – Zbigniew and Roman Wiltgren (who came specially from Australia and Sweden and confirmed that their mother thought that *sołtys* Malinowski was a bad man); Filomena Leszczyńska (who does not follow the trial and does not know Estera's testimony; she only knows that her uncle saved a Jewish woman during the occupation, sending her to work in Prussia) and the defendants. The defendants attempted to bring the case back into proportion and convince the court that the allegations were unfounded. First of all, they stressed that the author of the paragraph in question did not express her own opinion about *sołtys* Malinowski and his participation in the manhunt for Jews, but only reported what Estera Siemiatycka had said about him. The paragraph does indeed contain an error, namely, the attribution of trading with Estera to *sołtys* Malinowski, but this in no way violates the personal rights of Edward Malinowski or his niece. Such a mistake is irrelevant from the perspective of the claims asserted by the complainant in the court proceedings in question. Nor was it, as the articles in the right-wing press and RDI suggest, a deliberate distortion of *sołtys* Malinowski's biography. In the realm of research, such errors are reported at most in reviews or in subsequent publications, and if the book has another addition, an appropriate amendment is made.

The lawsuit, *de facto* brought by Reduta Dobrego Imienia against the author and the editor of the book *Dalej jest noc*, is a Strategic Lawsuit Against Public Participation (SLAPP). Lawsuits of such type aim, above all, to undermine the credibility and competence of the people sued, to burden them financially (with high penalties and legal costs), and to provoke a “chilling effect”, i.e. – in this case – to discourage other researchers from investigating and writing the truth about the extermination of Jews in Poland.

The lawsuit may turn out to be precedent-setting also for another reason: there are demands from attorneys representing Ms. Leszczyńska (and *de facto* from Reduta Dobrego Imienia) to protect “national identity and pride,” pointing to it as a new kind of protection of personal rights. It is an enormous threat to freedom of speech. Until now, it was indisputable that the violation of personal rights has an individualized character, i.e. the complainant must

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<sup>39</sup> <http://www.anti-defamation.org/aktualnosci/przed-nami-ostatnia-rozprawa-w-procesie-przeciwko-prof-janowi-grabowskiemu-i-prof-barbarze-engelking/>.

demonstrate that they were offended, for example, as a specific person and not as a member of some group affected by the statement. The concept of personal good such as “national identity and pride,” which has been forcibly advocated for several years, is a complete departure from such model and leads to the situation when anyone who feels Polish might sue anyone who expresses a critical opinion about the Polish Nation, and perhaps even the Polish State. In particular, it may concern the expression of historical assessments, thus threatening a kind of censorship and self-censorship of researchers. In the discussed case, the complainant (inspired by the Reduta Dobrego Name) goes even further, namely she links the violation of her personal rights not to the fact that she is Polish or that the Polish Nation was offended, but to the fact that her uncle was a Pole and therefore, if he is accused of some malicious deed, it is as if the pride of the whole Nation (and thus of the complainant) was hurt. If acknowledged, such reasoning, obviously illogical, poses an extraordinary threat to freedom of speech and freedom of scholarly research.

Translation: Kaja Gucio