

Vimeo LLC

Attention: Legal Department

By e-mail: support@vimeo.com

Oslo, 14.09.2018

Lawyer in charge: Jon Wessel-Aas

Dear Sirs;

RE: REQUEST 3749462 - VIMEO'S REMOVAL DECISION

1. BACKGROUND AND SUMMARY

We act on behalf of our client, the Norwegian film and TV production company Piraya Film AS ("Piraya Film").

Until recently Piraya Film had a version of its documentary "The Magnitsky Act - Behind the Scenes", available as VOD at <https://vimeo.com/ondemand/themagnitskyact>.

On August 31st 2018, however, Piraya Film received notice from Vimeo that Vimeo, subsequent to complaints received from Hermitage Capital Management on behalf of Mr William (a.k.a. "Bill") Browder and from Carter-Ruck on behalf of Mrs Natalia Nikolaevna Magnitskaya, respectively, had reviewed the documentary and found it to be in violation of Vimeo's guidelines. Vimeo, therefore, requested that Piraya Film voluntarily removed the film from its Vimeo platform

On September 2nd 2018, Piraya Film promptly reacted to Vimeo's request to remove the documentary film "The Magnitsky Act - Behind the Scenes" from its VOD platform. The film is currently unpublished on Vimeo. At the same time, Piraya Film on September 5th 2018 informed Vimeo (in e-mail exchange via trustandsafety@vimeo.com) that Piraya Film would dispute Vimeo's decision and that one would elaborate in a separate letter. This is that letter of elaboration.

We will elaborate in more depth below, but the reasons for Piraya Film disputing Vimeo's decision are in sum the following:

Piraya Film disputes Vimeo's finding that the documentary "The Magnitsky Act - Behind the Scenes" violates Vimeo's guidelines and/or any relevant law.

On the contrary, this award-winning documentary represents factual, well-founded critical journalism on a topic of substantial international public interest, in which the persons mentioned are well known public figures and/or persons who themselves have sought public attention related to the topic in question. The topic in general, as well as the film itself and its contents, is already in the public domain, largely due to Mr Bill Browder's own contributions.

Mr Browder has used all of his financial and political power to make sure that his own narrative of the "Magnitsky case" (in which he and his companies play an essential role), is accepted by all as the one and only narrative. He has consistently – even while the film was only in the making and long before the production was finalised – attacked the film. However, rather than contribute – as he has been given ample opportunity to do repeatedly over the years, and still has a standing offer to do – with answers to the questions regarding discrepancies and contradictions in his narrative, he has tried to censor the publication of the film by threatening potential distributors legally.

Despite his contentions about the "illegality" of the documentary, he has never succeeded in any legal suits to that effect. His only legal suit against Piraya Film, which was filed with Stavanger City Court in Norway in 2016, failed, as the City Court decided that publication of the film was protected by press freedom. A copy of the Court's decision is attached (exhibit 1). Browder never appealed this decision.

Both Mr Browder and Mrs Magnitskaya – who at the time were already, by their own actions and choices, public figures with regard to the topic in question – voluntarily gave interviews to the film's producers. It was only after Browder experienced critical questions about his versions of the events, that he changed his attitudes – a phenomenon which is quite frequent in investigative, critical journalism. (Piraya Film and the production's director maintained a harmonious relationship with Mrs Magnitskaya, even after the interview, which she was quite content with. She also followed up after the interview by introducing the film's director to Sergei Magnitsky's widow, Nathalia Zharikova. It was only after Browder withdrew from further interviews and started attacking the production, that Mrs Magnitskaya changed her attitude and followed suit with Browder.)

In other words, this is a normal case of critical journalism, where persons – in this case highly public figures – who are subject to a critical light, try through censorship to stop the critical questions from being posed, rather than actually facing and answering the questions.

This is, of course, quite contrary to how freedom of the press works in Europe, the United States of America (USA) or in any other democratic society.

This documentary is obviously well within the protection of press freedom, as protected by the European Convention on Human Rights Article 10, the Norwegian Constitution section 100 and the First Amendment of the United States of America's Constitution. The European Union's General Data Protection Regulation (GDPR), which the complaints refer to, is clearly not relevant in this case, as GDPR Article 85 explicitly exempts processing of personal data for journalistic purposes from requirements such as, inter alia, consent, and the GDPR is, therefore, completely irrelevant in the case of Piraya Film's documentary.

2. ABOUT PIRAYA FILM AND THE DOCUMENTARY IN QUESTION

Piraya Film is one of the Nordic countries' most esteemed documentary film producers. Piraya Film's productions are frequently broadcast by both public and commercial broadcasters, as well as being made available on VOD and streaming services such as Netflix.

Piraya Film's productions have over the years, received more than 200 awards and hundreds of nominations, including Oscar, Emmy and European Film Academy Awards.

The production of the film currently in dispute in this case, has received financing from the following institutions/organizations:

The Norwegian Film Institute (Norwegian state film funding body, Oslo, Norway)
Filmkraft Rogaland (Norwegian state film funding body with regional base in Rogaland, Norway)
The Finnish Film Foundation SES (Finnish state film funding body, Helsinki, Finland)
The Nordic Film & TV Fund (Nordic film funding body, Oslo, Norway)
Fritt Ord (The Freedom of Expression Foundation, Oslo, Norway)
Norwegian Broadcasting Corporation
Stiftelsen Matriark (The Matriarch Foundation, Stavanger, Norway)
Piraya Film (Producer, Stavanger, Norway)
Torstein Grude (Producer, Stavanger, Norway)
Andrei Nekrasov (Director, Stavanger, Norway)
Hinterland AS (Equipment rental / post production company, Stavanger, Norway)
YLE (Finnish state broadcaster)
ZDF/Arte (German/French state broadcaster)

A shorter version of the film is planned for release on public broadcasters autumn/winter 2018/2019.

The version of the film released on Vimeo VOD is an extended version, too long for regular TV slots. It is, however, the same as has been shown at the following festivals and institutions:

2016 Cinemateket - The Norwegian Film Institute, Oslo, Norway

2016 The Newseum, Washington DC, USA
2016 Nordisk Panorama Film Festival, Malmö, Sweden
2016 Moscow International Film Festival, Russia
2016 Bergen International Film Festival, Norway
2016 Kapittel Film, Stavanger, Norway
2016 Helsinki International Film Festival – Love & Anarchy, Finland
2017 Eurodok, Oslo, Norway
2017 Tampere Film Festival, Finland
2017 Nordic/Docs, Fredrikstad, Norway
2017 The Norwegian Short Film Festival, Grimstad, Norway
2017 International Festival Signes de Nuit, Paris, France
2017 Volksbühne am Rosa-Luxemburg-Platz, Berlin, Germany
2018 Festival Internacional Signos de la Noche, Tucumán, Argentina
2018 International Festival Signs of the Night, Bangkok, Thailand
2018 Telepolis Salon, Munich, Germany

The film has so far received the following awards:

2016 Special Commendation – Prix Europa TV Documentary
2017 Main Award, Student Jury – Festival international Signes de Nuit, Paris

2018 Night Award, Festival Internacional Signos de la Noche – Tucumán, Argentina
2018 The Signs Award, 16th International Festival Signs of the Night, Bangkok, Thailand

The Norwegian Film Institute is in charge of festival distribution of the film.

Examples of English language coverage and reviews of the film can be found via the following URLs:

<https://consortiumnews.com/2018/07/21/guardians-of-the-magnitsky-myth-2/>

<https://consortiumnews.com/2017/07/13/how-russia-gate-met-the-magnitsky-myth/>

<https://consortiumnews.com/2017/08/02/a-blacklisted-film-and-the-new-cold-war/>

<https://www.nytimes.com/2016/06/10/world/europe/sergei-magnitsky-russia-vladimir-putin.html>

<https://www.theguardian.com/world/2016/jun/10/controversial-film-russia-lawyers-sergei-magnitsky-death-screening>

<https://www.newcoldwar.org/film-andrei-nekrasov-magnitsky-act-behind-scenes/>

3. ABOUT BILL BROWDER'S ROLE AND THE COMPLAINTS

Mr. Bill Browder is a world-known hedge fund manager turned human rights campaigner.

Having earned a fortune on making investments and doing business in early post-communist Russia, he eventually ended up being charged with committing financial crime in Russia. Claiming his innocence and alleging that the only crimes committed, were committed by Russian officials, he has since launched a crusade against Russia and their alleged murder of his company's Russian accountant/lawyer, Sergei Magnitsky.

He has had and still has very significant influence on world politics. His version of what took place in Russia, has resulted in the passing of the Magnitsky Act in the USA. This act is a matter of great controversy between the USA and Russia.

Browder has also written a book about his version of events, and he regularly speaks publicly about it in numerous high level forums. He has access to the world press and enjoys massive exposure through the world's largest news media.

The disputed documentary, based on thorough investigation, research and documentation, reveals several fundamental flaws, discrepancies, contradictions and outright falsehoods in Mr Browder's story – as well as showing that those political institutions which have acted upon his story, have based this quite uncritically on Browder's own version of the events, without questioning the facts or checking them, themselves.

Browder is a highly public figure who acts politically and is as such a person whom the press has both a right and a duty to put under scrutiny, when it comes to his actions as a public figure.

As mentioned above, Browder (and to some extent, in cooperation with Browder, Mrs Magnitskaya) has previously on several occasions tried to threaten various potential distributors with legal action, in order to pressure them to not publish Piraya Film's documentary.

The only actual legal action that he (or Mrs Magnitskaya) have actually pursued through the courts, however, failed (re: exhibit 1).

Despite the numerous screenings the film has already had internationally, Browder has never actually tried to bring Piraya Film to court since his failed suit in 2016.

As also mentioned above, he has throughout the production process, ever since he chose to abort the interview, been invited to comment on Piraya Film's findings and point to any errors in the documentation and facts upon which the film is based on. He has, by his own choice, consequently declined to do so.

It is, therefore, quite untrue that Bill Browder was deceived in order to take part in the film. In fact, he collaborated with the filmmakers for several years.

He participated in several interviews, all of which were prepared and performed in a professional manner, according to normal journalistic procedures. For Vimeo to ascertain that full collaboration was originally agreed between the parties, we can, if needed, provide copies of correspondence as well as of the filmed material. Browder repeatedly confirms his participation verbally on tape.

The collaboration only became burdensome for him when the filmmakers uncovered that his version with regard to several crucial aspects of the "Magnitsky case", were not correct. Browder was confronted with these discrepancies at the earliest stage possible, but he did not respond to these questions as one would expect of a public figure with detailed knowledge of the case. Instead, he plainly dismissed questions altogether and walked out of the interview. He then proceeded to send legal letters claiming, falsely and in contradiction with statements that Piraya Film have on tape, that he never agreed to take part in the film.

It is equally untrue that Mrs Magnitskaya was deceived in order to take part in the film. The filmmakers asked for an interview and carried it out in a normal professional way, and did so in Bill Browder's offices at Hermitage Capital, London. As described above, she was quite happy with her own participation, until Browder turned.

4. CONCLUSIVE COMMENTS

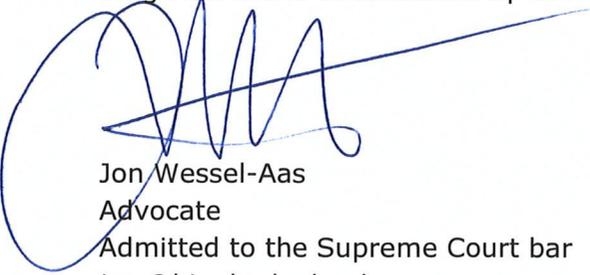
We presume that Vimeo, having received this fuller picture of the documentary in question as well as of its background, will see and appreciate that far from being a case of Piraya Film violating Vimeo's guidelines or any relevant legal standards, this is a case of financially and politically powerful persons/entities trying to stop *bona fide*, professional journalism, the contents of which are already in the public domain, from being published.

If Mr Browder or Mrs Magnitskaya actually believe that they could successfully challenge the film legally, they should have (and would of course have) done so already. As shown above, they actually tried – and failed – in 2016.

Piraya Film sincerely hopes that Vimeo's standards for censorship are higher than to let powerful public figures simply bully Vimeo into censoring professional journalistic content that no court has or would censor.

We therefore hope to receive Vimeo's conformation that the film again can be made available also on Piraya Film's Vimeo platform, without further delay.

Yours sincerely
Bing Hodneland advokatselskap DA



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