European Court of Human Rights: Public interest in non-removal of online videos showing verbal aggression of a homophobic nature

IRIS 2025-7:1/5

Tarlach McGonagle
Institute for Information Law (IViR), University of Amsterdam

The European Court of Human Rights' judgment in the case of *Străisteanu v. the Republic of Moldova* adds to the growing body of case-law that underlines the importance of freedom of expression in the context of debate on matters of public interest. The case concerned the online posting and non-removal of videos showing verbal aggression of a homophobic nature. The Fifth Section of the Court delivered its judgment on 5 June 2025.

On several occasions over the course of a few days in May 2017, T.P., a lawyer and university Professor, verbally abused the applicant, also a lawyer, whose clients included an NGO involved in organising the Pride Festival in Chișinău. The verbal abuse included insults and threats, apparently motivated by the applicant's defence of persons belonging to the LGBTQ+ community and her presumed sexual orientation. The applicant filmed the verbal abuse. The applicant's office and T.P.'s apartment were located next to each other and they opened onto a communal courtyard. In the same period, oil was poured across the courtyard to the door of the applicant's office and on the wall of the office. The applicant filmed this too. The applicant posted these videos on her Facebook account to document the homophobic abuse to which she was being subjected. The videos were covered by various media and they generated considerable attention at the time (around 60,000 views), although the interest in the videos abated as time went on. The applicant filed a complaint with the police and contacted the President of the Union of Lawyers about T.P.'s behaviour.

The Ethics and Disciplinary Committee of the Union of Lawyers initiated proceedings against T.P., which it subsequently terminated due to procedural shortcomings. T.P., for his part, registered a complaint against the applicant at the National Centre for Personal Data Protection ('the Centre'), arising from the publication of his image and voice on Facebook without his consent. The Centre found in T.P.'s favour and ordered the applicant to remove the impugned videos. The applicant appealed the decision before the administrative courts, but her appeals were successively rejected. The courts considered the case to be a (private) dispute among neighbours and not a relevant topic of public interest. Meanwhile, the Centre had also charged the applicant with minor offences arising from the online posting of the impugned videos. The Chișinău Court discontinued

© European Audiovisual Observatory (Council of Europe) 2026

that misdemeanour procedure, holding that the facts did not constitute an offence. The court moreover held that the Centre had failed to balance the competing rights involved, namely T.P.'s right to privacy and the applicant's right to freedom of expression. The Chișinău Court proceeded to conduct the balancing exercise and gave due weight to the public interest in the videos – depictions of homophobic aggression just before the Pride Parade was due to be held in Chișinău.

Having exhausted all domestic remedies, the applicant lodged an application with the European Court of Human Rights in respect of the ruling that she had to remove the videos from her Facebook page. The Strasbourg Court noted approvingly, albeit *obiter*, that the Chișinău Court had engaged in a proper balancing of the competing rights involved in the case and had given appropriate weight to the public interest. Although that decision was not part of the present application, the Court nevertheless dwelt on the reasoning employed by the domestic court. It noted the following conclusions: "the videos revealed homophobic acts committed on the eve of the Pride march, against a personality known for their activities in defence of sexual minorities; the case provoked a strong reaction in society; the videos contributed to a debate of general interest and were a means of raising public awareness of the problem of intolerance towards LGBTQ+ minorities and the dangers of homophobic remarks and actions; there was a European consensus on the need to combat homophobic acts and remarks; the applicant had therefore acted within the limits of her right guaranteed by Article 10 of the Convention in order to protect the rights of the LGBTQ+ community".

The Court found that the national administrative courts had failed to conduct a proper balancing of the interests and rights involved, using the Court's established criteria; and that they had not examined the necessity of the interference with the applicant's right to freedom of expression. Furthermore, it found that the national administrative courts had not taken into account the tone of T.P.'s words (which were "violent, licentious and homophobic") or the context in which they were uttered. In light of these reasons and the conclusions of the Chișinău court in the other proceedings, the Court considered that T.P.'s remarks "amounted to homophobic acts and that they conveyed a categorical message of intolerance and hatred towards an entire group, namely sexual minorities".

For the above reasons, the Court held that the national administrative courts' finding that the conflict between the applicant and T.P. lacked any public interest did not have a solid basis. Media interest in the videos and public reaction to them both attested to the public interest in the subject matter. By posting the videos on her Facebook page, the applicant – as a well-known activist for the LGBTQ+ community - was playing a public watchdog role for the purpose of Article 10. The order to remove the videos therefore led to a unanimous ruling by the Court that the applicant's right to freedom of expression had been violated.

© European Audiovisual Observatory (Council of Europe) 2026

Străisteanu v. the Republic of Moldova, no. 9989/20, 5 June 2025. ECLI:CE:ECHR:2025:0605JUD000998920

https://hudoc.echr.coe.int/fre?i=001-243369

Străisteanu v. the Republic of Moldova, no. 9989/20, 5 June 2025. ECLI:CE:ECHR:2025:0605JUD000998920

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026