

European Court of Human Rights: *Side by Side International Film Festival and Others v. Russia*

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The European Court of Human Rights (ECtHR) found a violation by the Russian state of the right to freedom of expression and information as protected by Article 10 of the European Convention on Human Rights (ECHR). The case concerns repeated disruptions of film screenings being held within the framework of an international Lesbian, Gay, Bisexual and Transgender (LGBT) film festival. The ECtHR found that the Russian authorities and, in particular, the police did not take any relevant action to investigate successive telephone bomb threats, nor did they try to stop the people that were disrupting the film screenings by means of false security alarms. It also found that the state's failure to react to the disruption of the opening ceremony of the festival in 2018 violated Article 10 ECHR.

The applicant company is the organiser of an annual international LGBT film festival in Russia. The second applicant is the managing director of the applicant company. The third applicant allegedly attended the festival in Moscow in 2016. The ECtHR only dealt however with the complaint by the organising company, because the second and the third applicants had no standing to lodge a complaint under the ECHR. It was the applicant company alone, as a legal entity, which was a party in the domestic proceedings and was affected by the authorities' decisions. Because the facts giving rise to the alleged violations of the ECHR occurred prior to 16 September 2022, the date on which the Russian Federation ceased to be a party to the ECHR, the ECtHR had jurisdiction to examine the application by Side by Side International Film Festival. The central issue in this case is whether the Russian authorities had failed to comply with the state's positive obligation to protect the organiser of the film festival and its audience in the exercise of their rights set out in Article 10 ECHR.

The ECtHR first referred to the key importance of freedom of expression as one of the preconditions for a functioning democracy. It also reiterated that the genuine and effective exercise of the right to freedom of expression and information does not depend merely on the state's duty not to interfere, but may require positive measures of protection. However, this obligation must not be interpreted in such a way as to impose an impossible or disproportionate burden on the authorities.

With regard to the specific circumstances of the present case the ECtHR observed that during each festival organised by the applicant company between 2016 and 2019 bomb threats were reported on days of the film screenings. The police received repeated telephone calls informing them of planned explosions at the festival venues. Each time, the police had to conduct bomb searches which meant suspending or disrupting the festival activities. Against that background, the ECtHR considered that such a significant campaign of telephone reports could only have been aimed at preventing the festival from taking place and thus amounted to an intrusion into the freedom of expression of its organiser and participants. Therefore, the state authorities were required to take the necessary steps, including practical measures, to protect it. However, the authorities were unwilling to recognise that the series of calls concerning bomb threats was aimed at dissuading people from participating in the festival events. The police persisted in treating the telephone calls as separate and unrelated incidents without making the slightest attempt at a comprehensive analysis of the situation as a whole in order to curtail or put an end to the harassment. Nor did the authorities do anything to develop and implement measures that would dissuade the perpetrators from continuing in their effort.

The ECtHR found that the years-long failure on the part of the police to take comprehensive action in response to the applicant company's complaints could only inspire the perpetrators to undertake further similar acts and convince them of their impunity. It also found that the state's failure to react to the disruption of the opening ceremony of the festival in 2018 was not justified. Therefore, the ECtHR concluded that the Russian authorities had failed to discharge their obligations under Article 10 ECHR, while they were under the obligation to secure the safe and uninterrupted conduct of the international LGBT film festival organised by the applicant company. This brought the ECtHR to the conclusion that there had been a violation of Article 10 ECHR.

Having regard to this conclusion reached under Article 10 ECHR, the ECtHR considered that it was not necessary to examine separately the admissibility or merits of the complaint under Article 14 ECHR taken in conjunction with Article 10 ECHR. As a consequence, the applicant company's complaint that its right to freedom of expression and information was not secured without discrimination, was not dealt with by the ECtHR.

Case of Side by Side International Film Festival and Others v. Russia

<https://hudoc.echr.coe.int/?i=001-238519>

