



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF SIDE BY SIDE INTERNATIONAL FILM FESTIVAL AND OTHERS v. RUSSIA

(Applications nos. 32678/18 and 2 others – see appended list)

JUDGMENT

Art 10 • Positive obligations • Freedom of expression • Authorities' years-long failure to secure safe and uninterrupted conduct of annual international LGBT film festival organised by the applicant company • Failure to take comprehensive action and to implement dissuasive measures concerning repeated telephone bomb threats and other false security alarms on film screening days • Resulting sense of impunity

Prepared by the Registry. Does not bind the Court.

STRASBOURG

17 December 2024

FINAL

17/03/2025

*This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.*

In the case of Side by Side International Film Festival and Others v. Russia,

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Ioannis Ktistakis, *President*,

Peeter Roosma,

Lətif Hüseynov,

Darian Pavli,

Andreas Zünd,

Úna Ní Raifeartaigh,

Mateja Đurović, *judges*,

and Olga Chernishova, *Deputy Section Registrar*,

Having regard to:

the applications (nos. 32678/18, 17172/20 and 30564/21) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by Side by Side International Film Festival OOO (“the applicant company”), a legal entity incorporated in the Russian Federation, and two Russian nationals, Ms Gulnara Sultanova and Mr Andrey Petrov (“the second and third applicants”), on the various dates indicated in the appended table;

the decision to give notice to the Russian Government (“the Government”) of the complaints under Articles 8, 10, 11, 13 and 14 of the Convention and to declare inadmissible the remainder of the applications;

the observations submitted by the applicants;

the decision of the President of the Section to appoint one of the elected judges of the Court to sit as an *ad hoc* judge, applying by analogy Rule 29 § 2 of the Rules of Court (see *Kutayev v. Russia*, no. 17912/15, §§ 5-8, 24 January 2023);

Having deliberated in private on 26 November 2024,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. 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 FACTS

2. 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 details pertaining to each application appear in Appendix I below.

3. The Government were initially represented by Mr M. Galperin and Mr A. Fedorov, former Representatives of the Russian Federation to the European Court of Human Rights, and later by their successor in that office, Mr M. Vinogradov.

4. During the period between 2016 and 2020 the applicant company held the LGBT film festivals on an annual basis. On numerous occasions, the festival activities were either delayed or interrupted by telephone bomb threats or other false security alarms. In 2020, the screening of the films was not allowed in view of the organisers' failure to comply with sanitary protection measures introduced during the COVID-19 pandemic. The applicant company's complaints to the authorities were to no avail. The details of the case are summarised in Appendix II below.

THE LAW

I. JOINDER OF THE APPLICATIONS

5. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. JURISDICTION AND CORRESPONDENCE WITH THE RESPONDENT GOVERNMENT

6. The Court observes that the facts giving rise to the alleged violations of the Convention occurred prior to 16 September 2022, the date on which the Russian Federation ceased to be a Party to the Convention. The Court therefore decides that it has jurisdiction to examine the present application (see *Fedotova and Others v. Russia* [GC], nos. 40792/10 and 2 others, §§ 68-73, 17 January 2023, and *Pivkina and Others v. Russia* (dec.), nos. 2134/23 and 6 others, § 46, 6 June 2023).

7. In view of the Court's continuing jurisdiction under Article 58 of the Convention, Articles 38, 41 and 46, in particular, as well as the corresponding provisions of the Rules of Court, continue to be applicable after 16 September 2022. The respondent Government's abstention from further participation in the proceedings does not release them from the duty to cooperate with the Court and does not prevent the Court from continuing with the examination of applications where it retains jurisdiction (see *Ukraine and the Netherlands v. Russia* ((dec.) [GC], nos. 8019/16 and 2 others, §§ 435-39, 30 November 2022, and *Svetova and Others v. Russia*, no. 54714/17, §§ 29-31, 24 January 2023). The Court may draw such inferences as it deems appropriate from a party's failure or refusal to participate effectively in the proceedings (Rule 44C of the Rules of Court).

III. ALLEGED VIOLATION OF ARTICLES 10 AND 14 OF THE CONVENTION

8. The applicants complained under Articles 8, 10, 11, 13 and 14 of the Convention that the State had failed to comply with its positive obligation to protect the organisers of the festival and its audience in the exercise of their rights set out in the Convention. They further alleged that the authorities' decision to suspend the festival in November 2020, under measures introduced to combat COVID-19, had been unjustified and disproportionate to the aim pursued.

9. Being the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 114, 20 March 2018), the Court finds it appropriate to examine the complaints under Articles 10 and 14 of the Convention, which read, in so far as relevant, as follows:

Article 10

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. ...

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

Article 14

“The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

A. Alleged violation of Article 10

1. *Admissibility*

10. As to the complaints lodged by the second and third applicants, the Court discerns nothing in their submissions to show that they were directly or indirectly affected by the acts and omissions complained of. 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. As the managing director of the applicant company, the second applicant's role was limited to being its representative. Nor did the proceedings concern in any way the second applicant as a private individual, whose rights would have been

affected separately from those of the organising company (see *Obukhova v. Russia* (dec.), no. 34736/03, 1 December 2005, and *Kumok v. Ukraine* (dec.), no. 39146/02, 6 May 2008 and, by contrast, *Margulev v. Russia*, no. 15449/09, § 36, 8 October 2019, and *Khural and Zeynalov v. Azerbaijan* (no. 2), no. 383/12, §§ 28-33, 19 January 2023). As to the third applicant, who was not a party to the domestic proceedings either, the Court takes into account that the latter did not submit any evidence showing that he had, in fact, attended the festival activities organised by the applicant company in 2016 or that he had been otherwise involved or affected by the violations alleged.

11. Having regard to the foregoing, the Court concludes that the application, in so far as it was lodged by the second and third applicants, is incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

12. As to the complaints introduced by the applicant company, the Court notes that they are neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. They must therefore be declared admissible.

2. Merits

(a) Alleged failure by the State to comply with its positive obligations

13. The Court reiterates the key importance of freedom of expression as one of the preconditions for a functioning democracy. Genuine, “effective” exercise of this freedom does not depend merely on the State’s duty not to interfere, but may require positive measures of protection (see *Appleby and Others v. the United Kingdom*, no. 44306/98, §§ 39, ECHR 2003-VI; *Özgür Gündem v. Turkey*, no. 23144/93, §§ 43, ECHR 2000-III; *Fuentes Bobo v. Spain*, no. 39293/98, § 38, 29 February 2000; *Dink v. Turkey*, nos. 2668/07 and 4 others, § 106, 14 September 2010; and *Gaši and Others v. Serbia*, no. 24738/19, § 77, 6 September 2022).

14. In determining whether or not a positive obligation exists, regard must be had to the fair balance that has to be struck between the general interest of the community and the interests of the individual, the search for such a fair balance being inherent in the whole of the Convention. The scope of this obligation will inevitably vary, having regard to the diversity of situations obtaining in Contracting States and the choices which must be made in terms of priorities and resources. However, this obligation must not be interpreted in such a way as to impose an impossible or disproportionate burden on the authorities (see, for example, *Appleby and Others*, § 40, *Özgür Gündem*, § 43, and *Gaši and Others*, § 77, all cited above).

15. Moreover, the boundaries between the State’s positive and negative obligations under the Convention do not lend themselves to precise

definition. The applicable principles are nonetheless similar. Whether the case is analysed in terms of a positive duty on the State or in terms of interference by a public authority which needs to be justified, the criteria to be applied do not differ in substance. In both contexts regard must be had to the fair balance to be struck between the competing interests at stake (see *Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland (no. 2)* [GC], no. 32772/02, § 82, ECHR 2009, with further references).

16. Turning to the circumstances of the present case, the Court observes 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 (see paragraph 4 above and the description of the relevant facts in Appendix II below). Against that background, the Court considers 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, and that the state authorities were required to take the necessary steps, including practical measures, to protect it.

17. As to the authorities' immediate response to each particular incident, the Court has no reason to doubt the necessity of the decisions to evacuate the premises and to stop the film screenings during the bomb searches. The Court is satisfied that the police's actions were adequate. The Court can also accept that it is not always possible for the police, within the framework of the follow-up inquiries and/or investigations, and despite the efforts made, to identify or to track down the persons who make such telephone calls or to establish whether warnings such as the ones concerning the festival were false or not. However, having regard to the findings of the domestic courts and the prosecutor's office and reiterating that an obligation to investigate "is not an obligation of result, but of means", the Court notes that on numerous occasions the inquiries conducted by the police were found to have been incomplete by the courts or the prosecutor, who ordered that they be reopened (see paragraphs (1) - (13) and (15) - (19) in Appendix II below). Despite the prosecutor's orders, the police failed to take further action to remedy the deficiencies that had been identified or to obtain meaningful results. Likewise, practically no effort was made to assess the credibility of the warning telephone calls.

18. It should also be pointed out that the intensity of the telephone calls concerning bomb threats, which persisted over the years and made it practically impossible to hold the festival, is of serious concern to the Court. The authorities were obviously aware that the festival and its audience had been repeatedly subjected to a series of attempts to disrupt their activities. In the Court's view, the applicant company's fears that the festival had been

targeted deliberately were not without foundation. 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 to 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 Court will not speculate as to whether the series of calls concerning bomb threats was tolerated by the authorities. However, it cannot but conclude 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.

19. Similarly, the Court considers that the State's failure to react to the disruption by M. of the opening ceremony of the festival in 2018 has not been justified (see paragraphs (14) - (15) in Appendix II below).

20. Regard being had to the above, the Court concludes that the State has failed to discharge its obligations under Article 10 of the Convention by securing the safe and uninterrupted conduct of the international LGBT film festival organised by the applicant company.

21. There has accordingly been a violation of Article 10 of the Convention.

(b) Suspension of the festival in November 2020 under measures against COVID-19

22. In view of the above findings, the Court considers that there is no need to deal separately with the remaining complaints concerning the suspension of the festival in November 2020 under measures introduced to combat the COVID-19 pandemic (compare *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

B. Alleged violation of Article 14 of the Convention taken in conjunction with Article 10

23. Having regard to the conclusions reached under Article 10 of the Convention, the Court considers that in the circumstances of the present case it is not necessary to examine separately the admissibility or merits of the complaint under Article 14 of the Convention taken in conjunction with Article 10 (*ibid.*).

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

25. The applicant company claimed 7,500 euros in respect of non-pecuniary damage.

26. The Court awards the applicant company the amount claimed in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

27. The applicant company did not claim costs and expenses. Accordingly, there is no call to make an award under this head.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Holds* that the Government’s failure to participate in the proceedings presents no obstacles for the examination of the case and that it has jurisdiction to deal with the applications;
3. *Declares* the complaint under Article 10 of the Convention raised by the applicant company admissible and the complaints raised by the second and third applicants inadmissible;
4. *Holds* that there has been a violation of Article 10 of the Convention in respect of the State’s failure to comply with its positive obligation;
5. *Holds* that there is no need to examine separately the remaining complaints under Article 10 and under Article 14 of the Convention taken in conjunction with Article 10;
6. *Holds*
 - (a) that the respondent State is to pay the applicant company, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 7,500 (seven thousand five hundred euros), plus any tax that may be chargeable, in

- respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
- (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 17 December 2024, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Olga Chernishova
Deputy Registrar

Ioannis Ktistakis
President

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APPENDIX I
List of cases

No.	Application no.	Case name	Lodged on	Applicant Year of incorporation/birth Place of residence/registration	Represented by
1.	32678/18	Side by Side International Film Festival and Others v. Russia	29/06/2018	Side by Side International Film Festival (OOO Mezhdunarodniy Kinofestival Bok o Bok) 2007 St Petersburg Gulnara Yuryevna SULTANOVA 1975 St Petersburg Andrey Aleksandrovich PETROV 1984 Omsk	Anton Igorevich RYZHOV
2.	17172/20	Side by Side International Film Festival v. Russia	24/03/2020	Side by Side International Film Festival 2007 St Petersburg	Galina Aleksandrovna IBRYANOVA
3.	30564/21	Side by Side International Film Festival v. Russia	24/05/2021	Side by Side International Film Festival 2007 St Petersburg	Dmitriy Gennadyevich BARTENEV and Galina Aleksandrovna IBRYANOVA

APPENDIX II
Facts in respect of each application

No.	Application no.	Date of introduction	Relevant facts	Ensuing pre-investigation inquiry/investigation
1.	32678/18	29/06/2018	In 2016 the festival was held in Moscow from 21 to 24 April. On 22, 23 and 24 April 2016 the screening of several films was interrupted at three locations after the police received telephone calls about bombs planted on the premises. Each time the police inspected the premises, found no bomb, and the screening was resumed. The applicant company asked the police to investigate the false bomb threats. The inquiries ended in a refusal to open criminal investigations. The investigators had been unable either to identify the alleged perpetrators or establish their whereabouts.	(A) Inquiry in response to the incident of 22 April 2016 (1) According to the inquiry conducted by the authorities in connection with the bomb threat, on 22 April 2016 the police received a telephone call from an unidentified person who had claimed to have overheard a conversation in a shopping centre between three men who had been planning an explosion in the cinema. (2) On 1 May 2016 Police Officer P. refused to open investigation in respect of the unidentified person who had made the telephone call, “in the absence of an event of a crime”. The telephone number that had been used to call the police was out of network coverage. The police officer concluded that the caller had made an honest mistake and had not intended to misinform the police. On 15 May 2017 the prosecutor’s office overruled that decision and ordered that the inquiry be reopened. (3) As part of the additional inquiry, P. established that the number used in communication with the police on 22 April 2016 was out of service. Her requests addressed to a special police division in order to establish the identity of the user of the phone number went unanswered. On 23 June 2017 P. again refused to open a criminal investigation in the absence of an event of a crime. On 29 January 2018 the prosecutor’s office overruled the said decision and ordered that the inquiry be reopened. (4) On 30 January 2018 the applicant company challenged the decision of 23 June 2017 not to open a criminal investigation; the District Court granted the applicant company’s complaint and found that P.’s decision had been unlawful. In particular, the court noted that the police had failed to comply with the prosecutor’s instructions, that nothing had been done during the inquiry and that the applicant company had not been kept informed of the progress of the inquiry. (5) It appears that the inquiry was subsequently resumed on several occasions. On 6 May 2019 the applicant company was informed that the case file had been lost. (6) The applicant company’s subsequent attempts to obtain information from the police about the inquiry were to no avail.

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No.	Application no.	Date of introduction	Relevant facts	Ensuing pre-investigation inquiry/investigation
				(B) Inquiry in response to the incident of 23 April 2016 (7) According to the police inquiry, on 23 April 2016 Ya. informed the police that he had overheard a conversation in a shopping centre about the planting of a bomb at the cinema. The police inspected the cinema and questioned the second applicant and the owner of the cinema. On 30 May 2016 Police Officer S. refused to open a criminal investigation in respect of Ya. in the absence of the event of a crime. He considered that Ya. had made an honest mistake and had not intended to misinform the police. On 1 March 2017 the prosecutor's office overturned that decision and ordered that the inquiry be reopened. (8) On 3 March 2017 the prosecutor informed the Dorogomilovskiy District Court of Moscow that the decision of 30 May 2016 had been overruled, leading the court to discontinue the consideration of a complaint that the applicant company had lodged against the same decision. (9) On 19 July 2017 Police Officer R. refused to open a criminal investigation, noting that it was impossible to establish Ya.'s whereabouts or to question him. On 1 September 2017 the prosecutor's office overruled that decision and ordered that the inquiry be reopened. (10) It appears that the inquiry was subsequently resumed on several occasions. The latest relevant decision was taken by the prosecutor's office on 22 April 2019. (C) Inquiry in response to the incident of 24 April 2016 (11) According to the police inquiry, on 24 April 2016 P.P. informed the police that he had overheard a conversation between two men who had been planning to plant a bomb at the cinema. On 5 August 2016 Police Officer K. refused to open a criminal investigation. The police were unable to get in touch with P.P. or to establish his whereabouts. The applicant company was informed thereof on 8 December 2016. On 24 July 2017 the prosecutor's office overturned the police's decision and ordered that the inquiry be reopened. (12) On 23 May 2017 Police Officer K. again refused to open a criminal investigation, reiterating the reasoning of the decision of 5 August 2016. On

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No.	Application no.	Date of introduction	Relevant facts	Ensuing pre-investigation inquiry/investigation
				12 October 2017 the prosecutor's office overruled that decision and ordered that the inquiry be reopened. (13) It appears that the prosecutor's office subsequently reopened the inquiry owing to the police's failure to complete it. The latest relevant decision was taken by the prosecutor's office on 29 May 2019.
2.	17172/20	15/07/2022	In 2018 the festival was held in St Petersburg from 24 October to 1 November. On 24 October 2018 a State Duma deputy, M., arrived at the venue where the festival opening ceremony was being held. He called the police alleging that the audience inside the building had been taken hostage by an armed group. The police arrived to check the information received from M. The opening ceremony was interrupted and planned film screening did not take place. The applicant company lodged several complaints about M.'s actions.	(14) A pre-investigation inquiry was opened, but on 15 February 2019 the Investigative Committee refused to open a criminal investigation in the absence of an event of a crime and for lack of <i>corpus delicti</i>. On 28 October 2019 the prosecutor's office overruled that decision and ordered that the inquiry be reopened. (15) In December 2021 the applicant company complained of police inaction to the Smolninskiy District Court of St Petersburg. On 16 March 2022 the court partially granted the complaint and asked the police to take action in respect of M. It appears that nothing was done by the police in that connection.
		24/03/2020	On 29 October 2018 the screening of a film was interrupted after the police received a telephone call about a bomb planted on the premises. The police inspected the premises, finding no bomb. The audience was not allowed back into the cinema and the screening was not resumed. The applicant company asked the police to investigate the false bomb threat and the allegedly unlawful disruption of the festival.	(16) A pre-investigation inquiry was opened, but on 7 July 2018 the police refused to open a criminal investigation (the applicant company did not submit a copy of the relevant decision). On 19 July 2019 the prosecutor's office found that the inquiry had been incomplete, overruled the said decision and ordered that the inquiry be reopened. The police were ordered to conduct investigative activities in order to identify and question possible witnesses, to determine the damage resulting from the police actions and to collect other evidence. (17) On 22 October 2019 the police opened a criminal investigation in respect of an unidentified perpetrator in relation to the false bomb threat. On 22 December 2019 the investigation was suspended. The applicant company challenged that decision, but to no avail. On 15 January 2021 the prosecutor's office overruled the decision to suspend the investigation and ordered that it be reopened. On 30 September 2021 the investigation was suspended once more. The applicant company again challenged that decision, again to no avail. On 3 December 2021 the prosecutor's office upheld the decision to suspend the investigation.
		17/05/2022	In 2019 the festival was held in St Petersburg from 14 to 21 November. On 18 November 2019 the film screening was delayed after the police received a telephone call about a bomb planted in the cinema. The police inspected the premises but found no bomb, and the screening was resumed.	(18) On 7 May 2020 the investigative committee opened a criminal investigation in relation to the offence of making a false terrorist threat. The applicant company was refused the status of a victim of the crime. (19) On 4 October 2021 the Petrogradskiy District Court of St Petersburg dismissed the applicant company's complaint against the failure to grant it

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No.	Application no.	Date of introduction	Relevant facts	Ensuing pre-investigation inquiry/investigation
				victim status, noting that the court was not competent to influence the investigator's decision. On 17 November 2021 the St Petersburg City Court upheld that decision on appeal.
3.	30564/21	24/05/2021	In 2020 the festival was scheduled to be held in St Petersburg from 12 to 19 November. On 12 November 2020 the police and representatives of a regulatory agency conducted an inspection of the premises and prohibited the festival from going ahead on the ground that the organisers had failed to comply with sanitary protection measures introduced during the COVID-19 pandemic. In particular, it was noted that social distancing was not being respected at the entrance or in the auditorium, that no checks as to the use of masks had been carried out, that the temperatures of audience members had not been taken upon arrival, etc. The authorities prepared a report with a proposal to prohibit the festival from being held and submitted it to the relevant court.	(20) On 19 November 2020 the Oktyabrskiy District Court of St Petersburg found the applicant company administratively liable for the failure to comply with COVID-19 restrictions and ordered a suspension of its activities for 15 days. The applicant company appealed against that decision, but on 8 December 2020 the St Petersburg City Court upheld the judgment of 19 November 2020.