

Latvian authorities failed to prosecute homophobic hate crime, in breach of the European Convention

In today's **Chamber judgment**¹ in the case of [Hanovs v. Latvia](#) (application no. 40861/22) the European Court of Human Rights held, unanimously, that there had been:

a violation of Articles 3 (prohibition of inhuman or degrading treatment) and 8 (right to respect for private and family life) of the European Convention on Human Rights, taken in conjunction with Article 14 (prohibition of discrimination).

The case concerned a homophobic attack against Mr Hanovs in 2020 when he had been out walking with his partner.

The Court noted that no criminal charges had ever been brought, despite the aggressor having openly acknowledged during a police interview that he had used anti-gay slurs and that he had found Mr Hanovs's and his partner's holding each other by the waist offensive.

It found that instead of providing a robust response to what had clearly been an attack with a discriminatory motive, the authorities had brought proceedings which had been the equivalent of a minor disturbance of public order, and had given the aggressor a manifestly lenient fine.

Such an approach fostered a sense of impunity for hate-motivated offences, and could result in normalising hostility towards LGBTI individuals, perpetuating a culture of intolerance and discrimination and encouraging further similar acts.

Principal facts

The applicant, Deniss Hanovs, is a Latvian national who was born in 1977 and lives in Riga.

On 8 November 2020 Mr Hanovs and his partner were out walking their dog when a man started shouting at them, using offensive language and anti-gay slurs. The man attempted to strike Mr Hanovs, who managed to find refuge in a nearby shop. Meanwhile his partner called the police.

The police located the aggressor and later identified him as JP. They initiated criminal proceedings against him on the charge of "hooliganism" and he was interviewed as a suspect. He admitted that he had felt offended by Mr Hanovs and his partner, who had been holding each other by the waist. He stated that he had confronted the couple, first verbally and then physically, in order to stop what he had considered an unacceptable public display of affection. The proceedings were terminated in May 2021 as the investigator found that no elements of a criminal offence had been made out.

Mr Hanovs appealed against this decision, arguing that JP's actions should be characterised as a hate crime under section 150 of the Criminal Law. No criminal charges were however brought, with the prosecuting authorities declining, ultimately in May 2022, to prosecute the attack as a hate-motivated offence. They considered that JP's actions had only been directed against Mr Hanovs himself, rather than sexual minorities in general, and did not incite others to hatred, which would be the requisite elements for a hate crime to be made out.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

In the meantime, in June 2021, JP had been found guilty of “petty hooliganism” in administrative-offence proceedings and given a 70-euro fine.

Another man who was with JP during the incident – and exposed himself in front of the shop where Mr Hanovs had been forced to hide – was also located, but could not subsequently be identified.

Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman or degrading treatment), Article 8 (right to respect for private and family life) and Article 14 (prohibition of discrimination) of the Convention, Mr Hanovs complained that the authorities had failed to carry out an effective investigation, and to prosecute, what had amounted to a homophobic hate crime. He argued in particular that although he had escaped physical harm, the incident had been intimidating and humiliating.

The application was lodged with the European Court of Human Rights on 17 August 2022.

Judgment was given by a Chamber of seven judges, composed as follows:

Mattias **Guyomar** (France), *President*,
Lado **Chanturia** (Georgia),
Carlo **Ranzoni** (Liechtenstein),
Mārtiņš **Mits** (Latvia),
Stéphanie **Mourou-Vikström** (Monaco),
Kateřina **Šimáčková** (the Czech Republic),
Stéphane **Pisani** (Luxembourg),

and also Martina **Keller**, *Deputy Section Registrar*.

Decision of the Court

The Court found that, even though Mr Hanovs had not suffered any physical injuries, attacks on LGBTI individuals, triggered by expressions of their affection towards one another, constituted an affront to human dignity by turning a moment of intimacy into one of fear and trauma. Beyond that, such attacks inhibited victims expressing fundamental human emotions openly and forced them towards invisibility and marginalisation. The threat of violence compromised their ability to live authentically and compelled them to conceal essential aspects of their private lives to avoid harm.

Accordingly, the Court held that the attack on the applicant and his partner had been sufficiently serious to require a response from the authorities. Indeed, the discriminatory motive behind the attack had not been in doubt. J.P. had openly acknowledged during his police interview that he had used anti-gay slurs and that he had found Mr Hanovs’ and his partner’s display of affection offensive.

It went on to note that the police and prosecutors had narrowly interpreted the criminal-law provisions designed to protect individuals from such hate-motivated offences, with the result that JP had neither been charged nor prosecuted.

Although he had been found guilty of misconduct in administrative-offence proceedings, recourse to such proceedings was not compatible with the national authorities’ commitment under the European Convention to ensure that homophobic attacks were adequately addressed and deterred. That was, firstly, because they had not addressed the hate element of the attack; and, secondly, because the fine had been manifestly lenient, both in terms of the severity of the act and in terms of the amount imposed, which had been at the lowest limit of the scale.

The authorities had thus trivialised the hate-motivated attack, treating it as equivalent to a minor disturbance of public order, for example a drunken brawl. Such an approach fostered a sense of impunity for hate-motivated offences, which posed a significant threat to the fundamental rights

protected by the Convention. Failing to address such incidents could normalise hostility towards LGBTI individuals, perpetuate a culture of intolerance and discrimination and encourage further acts of a similar nature.

The State had therefore failed in its obligation to provide adequate protection for Mr Hanovs' human dignity and private life against a discriminatory attack, in violation of Articles 3 and 8 of the Convention, read in conjunction with Article 14.

Just satisfaction (Article 41)

The Court held that Latvia was to pay the applicant 10,000 euros (EUR) in respect of non-pecuniary damage.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.