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

SECOND SECTION

DECISION

Application no. 9195/23
Lukas SVIRPLYS and Raimedas LATVYS
against Lithuania

The European Court of Human Rights (Second Section), sitting on 2 December 2025 as a Chamber composed of:

Arnfinn Bårdsen*, President*,
Jovan Ilievski,
Péter Paczolay,
Oddný Mjöll Arnardóttir,
Gediminas Sagatys,
Stéphane Pisani,
Juha Lavapuro*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to the above application lodged on 15 February 2023,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having regard to the comments submitted by the AIRE Centre (Advice on Individual Rights in Europe), ILGA-Europe (the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association) and the Lithuanian Gay League (LGL), acting jointly,

Having deliberated, decides as follows:

INTRODUCTION

1. The case concerns an investigation into a homophobic verbal assault and physical threats against the applicants.

THE FACTS

2. The applicants, Mr Lukas Svirplys ("the first applicant") and Mr Raimedas Latvys ("the second applicant"), are Lithuanian nationals who were born in 1998 and 1999, respectively, and live in Vilnius. They were

represented before the Court by Mr D. Murauskas, a lawyer practising in Vilnius.

3. The Lithuanian Government ("the Government") were represented by their Agent, Mr R. Dzikovič, and their Co-agent, Ms N. Bruskina.

A. The first applicant's complaint to the police and the initial measures carried out by the authorities

4. On 10 June 2022 the first applicant lodged a complaint with the police, in which he submitted that on 9 June 2022, at around 1.30 p.m., when he and his boyfriend – the second applicant – had been on their way home, a man whom they did not know had started following them. When the applicants had approached their apartment building, the man had begun filming them with his mobile phone. The applicants had tried to enter the building, but because they had been stressed and scared, they had not managed to type the correct entry code on their first try. The man had told them to face the camera, called them "faggots" (*pydarai*) and used other slurs, and accused them of acting contrary to Lithuanian law. After the applicants had entered the building, the man had not allowed them to close the door for some time and threatened that if he saw them again, "it would not end well". Eventually they had managed to close the door of the building and the man had left. The first applicant enclosed a video-recording of the man walking away, which he had made through the window of the apartment building. The day after the incident the applicants had seen the same man park his car close to their building – the first applicant provided the registration number of the vehicle. He submitted that the incident had caused both applicants emotional distress and feelings of humiliation and insecurity; he wished to lodge a civil claim in the amount of 2,000 euros (EUR) in respect of non-pecuniary damage.

5. On 22 June 2022 the police questioned the first applicant as a witness. He confirmed the circumstances described in his complaint (see paragraph 4 above), described the alleged perpetrator and provided a photograph of the individual's car. He also said that, the day after the incident, the applicants had seen the alleged perpetrator sitting with other people near their building.

6. On the basis of the information provided by the first applicant, the police identified the alleged perpetrator as L.R. and contacted him by phone. L.R. said that on the day in question he had seen the applicants holding hands, which he had considered as attention-seeking and disrespectful to society. He had pretended to film them and asked them whether it was appropriate to flaunt their relationship in public, in view of the fact that same-sex civil unions were not allowed under Lithuanian law. He also said that he "had nothing against homosexual persons" but that everyone had to behave in public in a way that did not disturb or disrespect others. He had not intended to frighten or insult the applicants but only to explain to them that in public they had to act in accordance with Lithuanian law.

7. On 29 June 2022 the police decided not to open a pre-trial investigation under Article 145 of the Criminal Code, on the grounds that the threat allegedly expressed by L.R. could not be seen as realistic and that there had not been any actual danger to the applicants' life or limb.

8. On 1 July 2022, before any appeals against the above-mentioned decision were lodged, the Vilnius prosecutor annulled it. The prosecutor observed that, while the police had examined the first applicant's complaint from the angle of Article 145 of the Criminal Code, the events described in that complaint might also constitute criminal offences under Article 167 of the Criminal Code (unlawful collection of information about the private life of another person – see paragraph 54 below) or Article 169 of the Criminal Code (discrimination on the grounds of nationality, race, sex, origin, religion or other grounds – see paragraph 55 below). The prosecutor ordered the police, *inter alia*, to question both applicants as witnesses and to issue a new decision on whether to open a pre-trial investigation under Article 145, 167 or 169 of the Criminal Code.

9. On 8 July 2022 the police questioned the second applicant as a witness. He provided essentially the same account of the events as that given by the first applicant (see paragraphs 4 and 5 above). He also said that L.R. had told them that he would break their legs if he ever saw them holding hands again.

10. On 8 July 2022 the police decided not to open a pre-trial investigation. The decision repeated the reasons presented in the previous decision why a pre-trial investigation under Article 145 of the Criminal Code could not be opened (see paragraph 7 above). It further stated that there was no indication that the criminal offence under Article 167 of the Criminal Code could have been committed because L.R. had not actually filmed the applicants on his phone but had only pretended to do so (see paragraph 6 above). Nor was there any indication that the criminal offence under Article 169 of the Criminal Code could have been committed because L.R. had not carried out any discriminatory actions and had said that he "had nothing against homosexual persons" (see paragraph 6 above).

11. On 25 July 2022 the first applicant lodged an appeal against the above-mentioned decision, in which he argued that the police had essentially relied on the statements given by L.R., despite the alleged perpetrator having an obvious interest in avoiding criminal liability. The first applicant contended that L.R.'s actions had been clearly indicative of discrimination against the applicants on the grounds of their sexual orientation, which was prohibited under Article 169 of the Criminal Code. He also submitted that L.R.'s actions could amount to incitement of hatred on the grounds of sexual orientation under Article 170 of the Criminal Code (see paragraph 56 below) or to disturbance of public order under Article 284 of the Criminal Code (see paragraph 57 below), and the fact that he had expressed bias against the applicants on the grounds of their sexual orientation should be considered an aggravating circumstance (see paragraph 58 below).

12. On 1 August 2022 the prosecutor allowed the appeal lodged by the first applicant and instructed the police to issue a new and duly reasoned decision on whether to open a pre-trial investigation.

B. Decisions taken in 2022 not to open a pre-trial investigation

1. Decision of the police of 10 August 2022

13. On 10 August 2022 the police issued a new decision not to open a pre-trial investigation. Firstly, the decision stressed that, in order for the criminal offence under Article 145 of the Criminal Code to be committed, there had to be sufficient grounds to believe that the threat might be acted upon. Secondly, for the criminal offences provided in Articles 169 and 170 of the Criminal Code to be committed, an offensive or denigrating public statement alone was not sufficient unless it included a direct or indirect incitement to hatred or discrimination, or encouragement to use physical violence, which could pose a real threat to the values protected by those provisions.

14. In the light of the foregoing, the police concluded that L.R.'s actions had not been so dangerous as to warrant criminal liability. His statements had not been aimed at having the applicants killed or seriously injured. Moreover, he had not actually filmed them on his mobile phone but had only pretended to do so (see paragraph 6 above). While the opinion which he had expressed met the definition of discrimination, it lacked the level of dangerousness necessary to attract criminal liability: L.R. had asserted that he "had nothing against homosexual persons" (see paragraph 6 above) and he had made his statements in a private conversation with the applicants. Accordingly, there were no objective and factual elements showing that the criminal offences under Article 145 § 1, Article 167 § 1, Article 169 § 1 or Article 170 of the Criminal Code (see paragraphs 52-56 below) had been committed.

2. Decision of the prosecutor of 31 August 2022

15. On 18 August 2022 the first applicant lodged an appeal against the decision of the police. He contended that L.R.'s actions had been dangerous and that his threats had been real, as proved by the fact that, following the incident, the first applicant had been diagnosed with post-traumatic stress disorder – for which he provided relevant medical documents. He further submitted that, according to the Court's case-law, incitement of hatred did not necessarily need to include incitement to commit violence or other criminal activity (he relied on *Féret v. Belgium*, no. 15615/07, §§ 72-73, 16 July 2009). Moreover, he referred to recommendations issued by the Prosecutor General's Office on investigating hate crime and hate speech, according to which, when assessing whether the perpetrator's actions had been motivated by bias or prejudice, one of the relevant factors was the

absence of any other motives for his or her actions. The first applicant submitted that all the relevant circumstances of the case could not be established without opening a pre-trial investigation.

16. On 31 August 2022 the prosecutor of the Vilnius district dismissed the appeal lodged by the first applicant. The prosecutor held that although L.R. had used words which had a negative and denigrating connotation and were of a threatening nature, they had not been such as to attract criminal liability under Article 145 § 1 of the Criminal Code. In particular, L.R. had not used any physical violence against the applicants, his actions had not been particularly aggressive or intense, and the incident had not lasted long. The prosecutor was of the view that, if L.R. had really sought to threaten the applicants, he would have taken more aggressive physical action. Thus, his intent to threaten them could not be established.

17. Furthermore, the prosecutor endorsed the finding of the police that it had not been established that L.R. had actually filmed the applicants on his mobile phone, thus, the criminal offence under Article 167 § 1 had not been committed either (see paragraph 14 above).

18. Turning to alleged offences under Articles 169 and 170 of the Criminal Code, the prosecutor acknowledged that L.R.'s statements had undoubtedly attested to his immature views and that he had expressed them in an unethical and offensive manner which had overstepped the acceptable limits of freedom of expression. However, they had not been so dangerous as to warrant criminal liability under those provisions.

19. Accordingly, the prosecutor concluded that all the necessary procedural measures had been taken and all the relevant circumstances had been established. If the first applicant had sustained damage to his health because of L.R.'s actions (see paragraph 15 above), he could seek compensation for that damage in civil proceedings.

3. Decision of the pre-trial judge of 19 September 2022

20. On 8 September 2022 the first applicant lodged an appeal against the prosecutor's decision, in which he essentially repeated the arguments that he had raised in his previous appeals (see paragraphs 11 and 15 above).

21. On 19 September 2022 the pre-trial judge of the Vilnius District Court dismissed the appeal lodged by the first applicant. The pre-trial judge agreed with the police and the prosecutor that, in the circumstances of the case, there were no grounds to find that L.R. had made specific and realistic threats to kill or seriously injure the applicants, so as to require criminal liability under Article 145 § 1 of the Criminal Code. He had not carried out any violent actions or had any items on him which could have been used to injure the applicants and the incident had been a one-time occurrence. Thus, there had not been sufficient grounds for the applicants to believe that the threat might be acted upon.

22. Furthermore, the pre-trial judge acknowledged that L.R.'s behaviour and words had been inappropriate and unethical and had expressed his negative views towards sexual minorities. However, for the reasons provided in the previous decisions (see paragraphs 13 and 16 above), there were no grounds to find that L.R. had sought to foster a negative attitude towards homosexuals or to incite discrimination or urge violence against them. Although his words had been of a negative and denigrating nature and directed against homosexuals, they could not have caused any real harm to the equality and dignity of homosexual people as a group or incite others to use violence against that group. The pre-trial judge emphasised that criminal liability was a measure of last resort which should only be used if the aims pursued could not be attained by more lenient measures.

4. Decision of the Vilnius Regional Court of 19 October 2022

23. On 27 September 2022 the first applicant lodged an appeal against the decision of the pre-trial judge, in which he repeated the arguments that he had raised in his previous appeals (see paragraphs 11, 15 and 20 above).

24. On 19 October 2022 the Vilnius Regional Court dismissed the appeal lodged by the first applicant. It held that, when assessing whether there had been a threat to kill or seriously injure someone within the meaning of Article 145 § 1 of the Criminal Code, the way in which the victim had understood the perpetrator's words was important but not decisive and that there had to be objective factors capable of showing that the threat had been real. In the case at hand, L.R. had expressed his disapproval and hostility towards the applicants in an inappropriate and offensive manner, but it had been his spontaneous reaction to the situation and not a real threat of death or serious injury. The fact that the applicants and L.R. were neighbours and had later run into each other (see paragraphs 4 and 5 above) did not confirm that the threat had been real because L.R. had not threatened them during any further encounters.

25. The court further held that the criminal offence of discrimination under Article 169 of the Criminal Code (see paragraph 55 below) could only be committed by a civil servant or a person equivalent to a civil servant, or a private person carrying out certain functions. However, L.R. was a private person who did not carry out any such functions. Moreover, his behaviour – slurs and denigrating words which he had uttered personally to the applicants, and his harassment of them – when assessed in the light of the principles of reasonableness, proportionality and justice, were not sufficiently dangerous to attract criminal liability.

26. With regard to Article 170 of the Criminal Code (see paragraph 56 below), the court held that, in order to constitute a criminal offence under that provision, the public statements in question had to be directed at a certain audience and seek to incite that audience to have a negative attitude towards or to discriminate or use violence against a group of people or a person

belonging to that group. However, L.R.'s words had only been directed at the applicants, during a private conversation, and the applicants had not alleged that anyone else might have heard them. Accordingly, it could not be found that L.R. had sought to incite discrimination or violence against homosexual people.

27. Lastly, the court addressed the argument raised in the appeal that L.R.'s actions might have constituted the criminal offence of disturbance of public order under Article 284 of the Criminal Code (see paragraphs 11 and 23 above). It held that, in order for that criminal offence to be committed, the perpetrator's actions had to actually disturb public order or peace, for example, by humiliating, shocking or scaring others. However, since no third party had participated in the interaction between the applicants and L.R., neither public order nor peace had been disturbed.

C. Reopening of the criminal proceedings in 2024

28. On 15 February 2023 the applicants lodged the present application with the Court. On 7 February 2024 the Court gave notice of the application to the Lithuanian Government.

29. On 19 April 2024 the chief prosecutor of the Vilnius region annulled the decision issued by the police on 10 August 2022 (see paragraphs 13 and 14 above) and the decision issued by the prosecutor on 31 August 2022 (see paragraphs 16-19 above) and instructed the police to carry out a further clarification of the circumstances described in the first applicant's complaint (see paragraph 4 above). The chief prosecutor noted that in the previous proceedings the authorities and courts had examined whether the circumstances described by the first applicant might have constituted criminal offences under Article 145 § 1, Article 167 § 1, Article 169 § 1 and Article 170 of the Criminal Code, and the chief prosecutor was not questioning their findings in that regard. However, the first applicant had also asked them to examine whether L.R. might have committed the criminal offence provided in Article 284 of the Criminal Code (see paragraph 11 above), but the police and the prosecutor had not addressed that matter. Furthermore, when adopting the decision of 10 August 2022, the police had relied on L.R.'s explanation which he had given to an investigating officer by phone (see paragraph 6 above), but L.R. had not been questioned in accordance with the procedure established in the Code of Criminal Procedure, which constituted a grave procedural error.

30. On 7 and 9 May 2024 the police questioned the applicants as witnesses. They provided essentially the same account as in their previous complaints and statements (see paragraphs 4, 5 and 9 above). In addition, they submitted that L.R. had been standing close to them and they had seen on the screen of his phone that he had been filming them, that he had appeared aggressive and yelled at them and that they had been scared that he might act

upon his threats. They also said that after the incident they had no longer felt safe living in that building and had started looking for an apartment elsewhere.

31. On 9 May 2024 the police questioned L.R. as a witness. He gave essentially the same statements as before (see paragraph 6 above) but denied having used any swearwords or slurs or having threatened the applicants in any way. He also said that he had pretended to film them on his mobile phone in order to "discipline" (*sudrausminti*) them and to preclude any indecent gestures or words that they might use against him.

32. On 13 May 2024 the police decided not to open a pre-trial investigation under Article 284 of the Criminal Code, finding that neither public order nor peace had been disturbed because nobody else had seen the incident between the applicants and L.R.

33. On 23 May 2024 the first applicant lodged an appeal against the decision of the police. On 30 May 2024 the prosecutor granted that appeal, annulled the police's decision and decided to open a pre-trial investigation under Article 284 § 1 of the Criminal Code.

D. Pre-trial investigation

34. On 7 June 2024 L.R. was officially notified that he was suspected of having committed a criminal offence under Article 284 § 1 of the Criminal Code and questioned as a suspect. He stated that on the day of the incident, he had seen the applicants holding hands. They had attracted his attention because they had been dressed "horribly" and "in a particularly provocative manner" – they had been wearing brightly coloured women's clothing, such as tights and skirts. While walking, they had kissed. At that time, there had been a lot of discussion about the possibility of legalising same-sex civil unions in Lithuania, but they had not been legalised. L.R., "being a dutiful citizen of the Republic of Lithuania", had therefore sought to remind the applicants of that fact. He had shouted at them "wait", after which they had started walking faster. L.R. had approached them and had asked them why they were holding hands when that was against Lithuanian law. They had not replied. He had then asked them whether it was appropriate to publicly flaunt their relationship when same-sex civil unions had not been legalised in Lithuania, but they still had not replied. L.R. denied using any slurs or offensive words, threatening the applicants or hindering them from entering their apartment building, and said that he had spoken to them in a calm tone. He also said that he "had nothing against people with homosexual views" and that he "knew some great homosexuals", but he believed that in public everybody had to behave in such a manner as not to disturb others. After that day, L.R. had run into the first applicant a few times but had ignored him.

35. In June and July 2024 the police examined the video-recording of L.R. provided by the first applicant (see paragraph 4 above), visited the location

of the incident and took photographs, and spoke to the residents of nearby buildings and employees of nearby businesses, but were unable to identify anyone who had any information about the incident. The police also examined L.R.'s posts on social media in order to determine whether he had posted any homophobic content, but did not find any relevant information. They also sought to examine the mobile phone which L.R. had used during the incident but he informed the police that that phone had been lost.

36. On 30 July 2024 the prosecutor who was supervising the pre-trial investigation decided to discontinue the investigation under Article 284 of the Criminal Code and instead open an investigation under Article 148 § 1 of the Criminal Code (restriction of another person's freedom of action – see paragraph 53 below).

37. On the same day, the applicants were granted victim status in the pre-trial investigation under Article 148 § 1 of the Criminal Code.

38. On 31 July 2024 L.R. was officially notified that he was suspected of having committed a criminal offence under Article 148 § 1 of the Convention and questioned as a suspect. He confirmed his earlier statements (see paragraph 34 above) and denied having used any psychological coercion against the applicants or having otherwise limited their freedom of action.

39. On 1 September 2024 the applicants each lodged a separate civil claim in the criminal proceedings. The first applicant claimed EUR 510 in respect of pecuniary damage, corresponding to the cost of the psychological help which he had sought after the incident, and EUR 2,500 in respect of non-pecuniary damage. The second applicant claimed EUR 1,500 in respect of non-pecuniary damage. They both submitted that after the incident they had been diagnosed with post-traumatic stress disorder and that it had had an effect on their social lives – they had become afraid of strangers and no longer felt safe in public or when being alone; they both worked in the field of fashion but because of the fear and anxiety they had refused certain projects and avoided mass public events. The first applicant also submitted that the stress caused by the incident had led to him developing digestion problems; moreover, he had tried to spend less time in Vilnius in order to avoid running into L.R. and from September to December 2022 he had gone to live in Spain.

40. On 6 September 2024 the prosecutor drew up an indictment against L.R. whereby he was charged with the criminal offence under Article 148 § 1 of the Criminal Code (see paragraph 53 below). The indictment stated that L.R., being motivated by the fact that same-sex civil unions had not been legalised in Lithuania and by his beliefs that people of the same sex should not hold hands or kiss in public, that men should not wear women's clothing and that same-sex relationships should not be publicly displayed, had demanded that the applicants refrain from lawful actions and otherwise act in accordance with his demands – namely, that they stop holding hands in public. He had done so by using psychological coercion against the applicants: following them, humiliating them, calling them "faggots",

hindering them from entering their apartment building, telling them to look at his phone camera and threatening them with physical force if he ever saw them holding hands again. On the same day the applicants were informed that the case had been forwarded to the Vilnius District Court for examination on the merits.

E. Proceedings before the Vilnius District Court

41. The Vilnius District Court held hearings on 5 November and 17 December 2024, 9 and 22 January and 18 March 2025.

42. At the hearing of 5 November 2024 the applicants' lawyer submitted a request to the court asking it to change the legal characterisation of L.R.'s actions from Article 148 § 1 of the Criminal Code to either discrimination under Article 169 of the Criminal Code (see paragraph 55 below) or disturbance of public order under Article 284 of the Criminal Code, with prejudice on the grounds of sexual orientation as an aggravating circumstance (see paragraphs 57 and 58 below). The court decided to rule on that request at a later stage.

43. On 15 April 2025 the Vilnius District Court issued its decision. It decided to change the legal characterisation of L.R.'s actions from restriction of another person's freedom of action under Article 148 § 1 of the Criminal Code to discrimination under Article 169 of the Criminal Code (see paragraph 55 below). In that connection, the court held as follows:

> "... [L.R.'s] actions were not directed against just any individuals or a heterosexual couple, but against a same-sex couple – [the applicants] – who, according to the accused, should not hold hands or kiss in public, should not wear women's clothing because they are men and should not publicly flaunt a same-sex relationship, because he considers that a public display by homosexuals of their relationship is morally unacceptable and because a law on civil unions has not been enacted in Lithuania. At the court hearings and during the pre-trial investigation, the two victims consistently submitted that [L.R.] had noticed them specifically because of their sexual orientation-because they were holding hands in public.
>
> The court has no reason to doubt that, at the time of the events in issue, [the applicants] were in a relationship, saw themselves as a family and lived together in a single household. It emphasises that ... [members of] the LGBTQ+ community have the right, in public, to hold hands, wear the clothes that they want to wear, kiss, etc., without fearing potential negative consequences. The mere fact that some of [the applicants'] behaviour in public was unacceptable to [L.R.] did not give him the right, and even less so a duty, as [L.R.] argued, to approach them and to infringe on their rights, freedoms and equality, on the grounds of their sexual orientation.
>
> It must be noted that the criminal offence under Article 169 of the Criminal Code belongs to the category of hate crimes. Hate crimes constitute discrimination – unequal treatment of persons, restricting their rights or providing [some with] certain privileges on the grounds of their personal characteristics, that is to say, infringement of equality of all persons. A hate crime can be distinguished [from other crimes] on the basis of the following elements: (i) the victim – the perpetrator chooses the victim because of his or her real or perceived belonging to a certain social group (for example, the LGBTQ+

community); and (ii) prejudice or bias motive – the perpetrator's prejudice against individuals belonging to a certain group.

The court observes that on 26 July 2023 the Prosecutor General of the Republic of Lithuania issued order no. I-164 on the approval of the recommendations for investigating hate crime and hate speech ... Paragraph 21.2 of that order provides that, in the context of hate crimes, a bias motive should not only be understood as the feeling of bias, in view of the following: [paragraph] 21.2.1. [states that] the perpetrator may commit the criminal offence because of other feelings (for example, anger, jealousy or peer pressure); [paragraph] 21.2.2. [states that] the perpetrator may have no negative feelings towards a specific individual but be prejudiced against the group of people to which the victim belongs; [paragraph] 21.2.3. [states that] the perpetrator may be prejudiced against anyone who does not belong to the group with which the perpetrator identifies; and [paragraph] 21.2.4. [states that] the victim may be just a symbol of a certain idea (for example, immigration) to which the perpetrator is hostile.

The Supreme Court has held that discrimination on the grounds of age, sex, sexual orientation, disability, race, colour, nationality, language, origin, ethnicity, social status, belief, convictions or views may be manifested by various actions which seek to discriminate against a group of people or an individual, that is, to impede their participation in a certain activity equally with others, or to restrict their rights and freedoms. The rights and freedoms which are sought to be restricted [on the above-mentioned grounds] must be guaranteed by law, and in some cases they must be guaranteed only to a certain group of people. Discriminatory actions are not allowed in political, economic, social, cultural, professional and other activities. Nor are they allowed in the public space.

The criminal offence under Article 169 of the Criminal Code is considered to be committed the moment when the unlawful actions are carried out. It should also be noted that discrimination ... may be manifested by various actions: insults; ... creating a frightening or humiliating environment; ... etc.

In the present case, it has been established that [the applicants] attracted [L.R.'s] attention only because they belong to the LGBTQ+ community and that, when committing the criminal offence in issue, the accused was prejudiced not against [the applicants] personally but against homosexuals ... Although throughout the criminal proceedings [L.R.] asserted that he was not prejudiced against the LGBTQ+ community as such or against homosexuals, and publicly available information examined by the authorities did not confirm it either, the court finds that ... [L.R.'s] actions and the slurs and threats which he uttered disprove those assertions."

44. The Vilnius District Court observed that, according to the Court's case-law, discrimination based on sexual orientation is as serious as discrimination based on "race, origin or colour" (it relied on *Vejdeland and Others v. Sweden*, no. 1813/07, 9 February 2012).

45. The court found no reason to question the applicants' account of the relevant events and held that L.R.'s actions had contained the necessary objective elements of the criminal offence of discrimination. It held, in the relevant part, as follows:

"... [T]he court is of the view that [L.R.] is trying to minimise the dangerousness of his actions and that the statements which he gave throughout the proceedings must be considered as his defensive position.

Although the court has found some small discrepancies in [the applicants'] testimony as well, it considers that they presented a consistent account of the essential facts and that their overall account is corroborated by other evidence. The court also takes note of the fact that [the applicants] were [L.R.'s] victims [and that] during the events in question they had been scared and had been in a weaker position; moreover, a rather substantial amount of time has passed since the incident, thus, at the time of the court proceedings they could have been objectively unable to remember all the circumstances in detail.

...

The court has no grounds to question [the applicants'] testimony, as it was given under oath, they were warned about liability for giving false testimony, and they stated that they were not related to the accused and had not known or seen him before the events in issue. Furthermore, it has not been established that they might have any reason to slander or harm the accused; accordingly, the court considers their testimony to be decisive, albeit not the only, evidence supporting [L.R.'s] guilt.

...

The court critically assesses the accused's assertion that he had simply approached [the applicants], since [L.R.] himself acknowledged that they had started walking faster [after he had called out to them] – in the court's view, there is no reason to doubt that [L.R.] followed them to the door of their apartment building. That was confirmed by [both applicants] ...

The court does not doubt that [L.R.] used slurs against [the applicants] ... [including calling them 'faggots'] ... The court considers that those words had a negative and discriminatory meaning [and that their use] debased [the applicants'] dignity.

Furthermore, the court does not doubt that [L.R.] was filming [the applicants] because [the second applicant] confirmed that he had seen the amount of time of filming [running on the screen of L.R.'s phone] and the accused had asked them to face the camera several times ... The court considers that by filming the victims, the accused sought to humiliate them, even if it has not been established that the video-recording was publicly disseminated ...

[Both applicants] consistently submitted that [L.R.] had threatened them with physical violence, namely that if he ever saw them holding hands again, he would break their legs and arms, and it would not end well for them. [L.R.] denied having threatened them, although he told the court that he had approached [the applicants] in order to discipline them; that when [the applicants] had not replied to his question, he had asked the same question again in a raised voice; and that when walking away from them he may have said something but it had not been a threat; however, later he submitted that he had not disciplined the victims but had only asked them a question which they had ignored. These contradictory statements lead the court to conclude that the accused threatened [the applicants] in the manner alleged by them throughout the proceedings.

[L.R.] also denied having held the door of the [applicants'] apartment building open, although he did acknowledge that they had not managed to type the correct entry code on their first try ... Having examined [the applicants'] testimony, the court finds that the accusation against [L.R.] that he held the door of the apartment building open has been proved.

In view of the fact that the criminal offence under Article 169 of the Criminal Code is considered to be committed at the moment when the unlawful actions are carried out, and the discrimination against [the applicants] by [L.R.] on the grounds of their sexual

> orientation was committed actively – by following homosexuals who he did not know, debasing the dignity of a same-sex couple, holding the door of the apartment building open, filming them and threatening them with physical violence if they held hands in public again – the court concludes that the objective elements of the criminal offence under Article 169 of the Criminal Code have been established."

46. Furthermore, the Vilnius District Court was satisfied that L.R. had acted with a direct intent, as required under Article 169 of the Criminal Code, because such an intent had been evident from his actions that had been motivated by the applicants' sexual orientation. The court was also satisfied that L.R.'s actions – following the applicants, using slurs against them, filming them and threatening them with physical violence – had been sufficiently dangerous to attract criminal liability, especially in view of the fact that the incident had taken place near their home and that those actions had been intense. Accordingly, the court found L.R. guilty of the criminal offence of discrimination.

47. When determining the sentence, the court noted that there were no circumstances mitigating or aggravating L.R.'s responsibility. In that connection, it observed that the aggravating circumstance provided in Article 60 § 1 (12) of the Criminal Code (see paragraph 58 below) could not be imputed in cases where prejudice or bias against a certain group of people or an individual belonging to that group was one of the elements of the criminal offence in question. The court further observed that L.R. had no valid convictions (his two previous criminal convictions had already expired); he had received several administrative penalties, mostly for breaching road traffic regulations, and had paid the fines; and he had a young child, a place of residence, a lawful source of income and financial obligations. Accordingly, the court considered that the aims of the punishment would be achieved by imposing a fine of EUR 2,600 – slightly above the minimum provided in Article 169 of the Criminal Code.

48. The court then addressed the first applicant's civil claim in respect of pecuniary damage (see paragraph 39 above). It observed that he had been diagnosed with post-traumatic stress disorder and that between 2022 and 2024 he had attended psychological counselling and had provided the relevant receipts. The court saw no reason to question the causal link between the criminal offence committed by L.R. and the first applicant's diagnosis and the related expenses. It therefore granted his claim under that head in full and awarded him EUR 510, to be paid by L.R.

49. As to the applicants' claims in respect of non-pecuniary damage (see paragraph 39 above), the court held as follows:

> "It has been established that [L.R.] discriminated against [the applicants] on the grounds of their sexual orientation in a public place, close to their home. The victims were followed, filmed, insulted with slurs and threatened. The court considers that [the applicants] undoubtedly experienced negative emotions: stress, anxiety, humiliation, and feelings of fear and abasement. Moreover, the court has no reason to doubt that after the criminal offence committed by [L.R.], [the applicants] could have been scared

to participate in mass public events. It has been established that [both applicants] continued to suffer from the consequences [of the criminal offence] – they were both diagnosed with post-traumatic stress disorder and prescribed psychological counselling, while [the first applicant] was also prescribed medication. The court takes note of the fact that [the first applicant] attended psychological counselling and sought help in multiple establishments, whereas [the second applicant] consulted a psychologist once.

...

The fact that at the time of the commission of the criminal offence the perpetrator lived close to [the applicants'] home and that the offence was committed near their home, could have created additional fear, anxiety and stress for them, [in view of the possibility that they might] run into [L.R.] every time they left their home. Moreover, both victims work in the fields of fashion, art and creation, thus, the negative experience which they suffered solely because of their sexual orientation, appearance or behaviour must have undoubtedly had an impact on their professional activity – the court does not doubt that, after the incident, it became more difficult for [the applicants] to use their creativity and engage in their favourite activities and that they became scared to participate in public events and afraid of strangers, and had to restrict themselves as a result.

[The first applicant] ... submitted that after the criminal offence he had experienced some physical disorders for which he had sought medical help. The court observes that the conclusions by medical specialists available in the case file do not show that the digestion problems which he suffered were caused by stress or negative feelings [relating to the criminal offence]. Moreover, before the court [the first applicant] confirmed that he had gone to Spain to study, even though in the civil claim he had submitted that he had left because of the stress following the incident, thus the court finds that [L.R.'s] actions were not the only reason why [the first applicant] left Lithuania.

...

Before the court, [L.R.] disputed [the applicants'] civil claims and submitted that ... [their active presence on social media] did not suggest that they had been depressed or otherwise vulnerable ... He had also seen [both applicants] on social media wearing jumpers with the word 'faggot' written on them ...

... In the court's view, [the applicants' activity on social media] does not in any way refute the fact that, as a result of [L.R.'s] actions, they experienced stress, negative emotions and fear. On the contrary, as submitted by [the applicants], it was precisely on social media that they were able to be more open after the incident. A lot of attention was given to [the second applicant's] creation – jumpers with the word 'faggot' written in rainbow colours. [The second applicant] explained to the court in detail the circumstances in which the jumpers had been created and his idea behind them ... From publicly available information ... it is apparent that he has also created and publicly presented various other provocative and original creations. This leads the court to conclude that ... the jumper with the word 'faggot' is a continuation of his creative activity.

...

When determining the awards to be made in respect of non-pecuniary damage, the court also takes into account the fact that the criminal offence was committed in June 2022 and the pre-trial investigations against [L.R.] were discontinued several times, which could have caused [the applicants] feelings of injustice and disappointment. However, the court notes that at present [the applicants] actively participate in various

projects and TV programmes, post about their daily life on social media, continue to engage in their favourite activities, maintain contact with others and are not isolated from society. It should also be noted that [the first applicant] acknowledged that psychotherapy was helping him and [the second applicant] admitted that in his claim in respect of non-pecuniary damage he might have also included a loss of income.

In the light of the foregoing and having regard to the criteria of fairness, justice and reasonableness and the courts' practice in similar cases, the court holds that [the applicants'] claims in respect of non-pecuniary damage should be granted in part."

The court awarded EUR 2,000 to the first applicant and EUR 1,000 to the second applicant, payable by L.R.

50. Appeals against the decision of the Vilnius District Court could be lodged within 20 days. No appeals were lodged, either by the defendant, the prosecutor or the applicants, and the decision became final.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

A. Domestic legal framework and practice

1. Constitution

51. The relevant provisions of the Constitution read:

Article 21

"The human person shall be inviolable.

Human dignity shall be protected by law.

It shall be prohibited to torture or injure a human being, degrade his dignity, subject him to cruel treatment, or to establish such punishments.

..."

Article 22

"Private life shall be inviolable.

...

Information concerning the private life of a person may be collected only upon a justified court decision and only according to the law.

The law and courts shall protect everyone from arbitrary or unlawful interference with his private and family life, as well as from encroachment upon his honour and dignity."

Article 29

"All persons shall be equal before the law, courts, and other state institutions and officials.

Human rights may not be restricted; no one may be granted any privileges on the grounds of sex, race, nationality, language, origin, social status, belief, convictions, or views."

2. Criminal Code

52. Article 145 § 1 of the Criminal Code provides that anyone who threatens to kill or seriously injure another person, where there are sufficient grounds to believe that the threat could be executed, will be punished by community service, a fine, restriction of liberty, detention or imprisonment of up to two years.

53. At the material time, Article 148 § 1 provided that anyone who demanded that another person carry out any unlawful actions or refrain from carrying out lawful actions, or otherwise act according to the perpetrator's demands, by using psychological coercion against the victim or his or her close relatives, would be punished by a fine, restriction of liberty, detention or imprisonment of up to three years.

54. Article 167 § 1 provides that anyone who unlawfully collects information about the private life of another person will be punished by community service, a fine, restriction of liberty, detention or imprisonment of up to three years.

55. Article 169 provides that anyone who carries out actions seeking to hinder a group of people or a person belonging to that group from participating in political, economic, cultural, professional or other activities equally with others, or to restrict the rights and freedoms of a group of people or a person belonging to that group, on the grounds of age, sex, sexual orientation, disability, race, colour, nationality, language, origin, ethnicity, social status, belief, religion, convictions or views, will be punished by community service, a fine, restriction of liberty, detention or imprisonment of up to three years.

56. At the material time, Article 170 § 2 provided that anyone who publicly ridiculed, expressed contempt for, urged hatred or incited discrimination against a group of people or a person belonging to that group, on the grounds of age, sex, sexual orientation, disability, race, colour, nationality, language, origin, ethnicity, social status, belief, religion, convictions or views, would be punished by a fine, restriction of liberty, detention or imprisonment of up to two years. Furthermore, Article 170 § 3 provided, *inter alia*, that anyone who publicly incited physical violence against a group of people or a person belonging to that group on the above-mentioned grounds would be punished by a fine, restriction of liberty, detention or imprisonment of up to three years.

57. Article 284 provides that anyone who, by impudent behaviour, threats, abusive ridicule or vandalism, shows disrespect to other people or to the surroundings and disturbs public peace or public order will be punished by community service, a fine, restriction of liberty, detention or imprisonment of up to two years.

58. Article 60 § 1 provides a list of circumstances which aggravate criminal responsibility. Under Article 60 § 1 (12) one such circumstance is that the criminal offence is committed with the purpose of expressing hatred

against a group of people or a person belonging to that group, on the grounds of, *inter alia*, sex or sexual orientation.

3. Recommendations issued by the Prosecutor General

59. On 26 July 2023, by order no. I-164, the Prosecutor General approved the Methodological recommendations for investigating hate crime and hate speech (hereinafter "the Recommendations"), which replaced previous similar recommendations that had been issued on 30 March 2020 (for a summary of the previous recommendations, see *Valaitis v. Lithuania*, no. 39375/19, § 42, 17 January 2023). As relevant to the present case, the Recommendations state that hate crime and hate speech breach the fundamental principles of a democratic society – equality of persons, dignity and individuality (paragraph 1), and that they must be addressed as swiftly and as efficiently as possible (paragraph 4). They provide a definition of a hate crime and explain how a bias motive may manifest in the perpetrator's actions (paragraphs 21 and 22). They also provide a list of bias indicators, such as the perpetrator's behaviour before, during and after the criminal offence; the circumstances of its commission, such as the date or the place; the victims' or witnesses' perception of the offence; or the absence of any other motives (paragraph 33). The Recommendations further state that information received by a pre-trial investigation authority or the prosecutor's office about an alleged hate crime cannot be left without a procedural evaluation (paragraph 36); where a bias motive is identified, it must be indicated in the notification of suspicion, in the charges and in the legal characterisation of the criminal offence (paragraphs 44 and 45). The Recommendations also instruct investigating officials to avoid putting questions to victims which they could understand as, *inter alia*, accusing them of being the reason why the criminal offence was committed, reproaching them for being at a certain place at a certain time, or downplaying the dangerousness of the perpetrator's actions (paragraph 89).

4. The Supreme Court's case-law

60. In a ruling of 1 March 2024 in criminal case no. 2K-58-489/2024, the Supreme Court examined a case in which the accused had posted a comment containing the words "faggots" (*pydarai)* and "you should all be exterminated" (*naikint jumis*) on the victim's Facebook page. The first-instance court and the appellate court had convicted him of publicly expressing contempt for the victim on the grounds of that person's sexual orientation, under Article 170 § 2 of the Criminal Code (see paragraph 56 above). However, the courts had acquitted the accused of incitement to physical violence under Article 170 § 3 of the Criminal Code (see paragraph 56 above), finding that the comment in issue had not been aimed at persuading others to take any specific actions against a group of people.

The Supreme Court endorsed the decisions of the lower courts. In particular, it noted that, according to the Court's case-law, comments posted on Facebook had to be considered as dangerous as those which were posted on online news websites. Furthermore, the posting of even a single hateful comment on a person's Facebook page was sufficient to be taken seriously (*Beizaras and Levickas v. Lithuania*, no. 41288/15, § 127, 14 January 2020). In the case at hand, that approach had been followed by convicting the accused for publicly expressing contempt for the victim (and at the same time, a certain group of people) on the grounds of his sexual orientation, under Article 170 § 2 of the Criminal Code. By contrast, in order for the criminal offence under Article 170 § 3 to be committed, it had to be established that the accused had incited physical violence against a group of people on the grounds of their sexual orientation and that he had done so with direct intent; however, such circumstances had not been established in that particular case.

B. Relevant international material

1. Committee of Ministers

61. The relevant documents of the Committee of Ministers prepared in connection with the execution of the Court's judgment in *Beizaras and Levickas* (cited above) are presented in *Valaitis* (cited above, §§ 61-62).

2. European Commission against Racism and Intolerance (ECRI)

62. In its sixth report on Lithuania, adopted on 2 July 2024 and published on 23 October 2024, ECRI made the following relevant observations (footnotes omitted):

> "**II. HATE SPEECH AND HATE-MOTIVATED VIOLENCE**
>
> **A. Hate speech**
>
> ...
>
> 37. Anti-LGBTI hate speech is increasingly common, in particular, but not only, in the context of public LGBTI community events and during discussions about legislative changes concerning LGBTI-related topics ...
>
> 38. Threats against LGBTI persons, including community activists, have also occurred repeatedly in recent years. Representatives of LGBTI groups met by ECRI during the visit to Lithuania indicated that still many victims of homo-/transphobic hate speech do not report cases, even when they may amount to criminal behaviour (e.g. threats), for fear of outing themselves in a generally not very LGBTI-friendly societal atmosphere and given a lack of trust in the police and anxiety about being ridiculed. Psycho-social assistance to victims is also lacking. However, ECRI also noticed that some progress has been made in this regard, for example by including LGBTI issues into hate crime training activities for law enforcement officials (see section II.B below).
>
> 39. ECRI was informed that prosecuting criminalised forms of hate speech has in the past been difficult as courts required proof of a 'systemic' nature, usually excluding one-off statements. This practice has changed and interlocutors met during the visit

mentioned that following the 2020 [European Court of Human Rights (ECtHR)] judgment in the case of *Beizaras and Levickas v. Lithuania*, responsiveness to incidents of criminalised hate speech has improved. ECRI also notes that in 2022, amendments were made to the Criminal Code's Article 170, which prohibits incitement to hatred or discrimination based on various enumerated grounds, including race, nationality, language, descent, and religion, and is the main legal provision covering hate crimes ...

40. The authorities have also taken other measures, for example by increasingly including criminal hate speech into the various training activities on hate crime mentioned in section II.B below, which ECRI encourages them to continue.

...

B. Hate-motivated violence

...

46. According to the data reported to the [Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR)], in 2022 there were seven acts of violence against persons with a bias motivation, and 13 acts of vandalism/desecration of graves. In 2021, the majority of reported hate crime incidents concerned acts against LGBTI persons (23 out of 31), and one incident of an attack against an LGBTI person was reported by civil society. Anti-LGBTI incidents made up also half of officially reported cases in 2020, to which in addition civil society reported two attacks against LGBTI persons and one attack against property. Discrepancies between officially reported data and civil society inputs can also be, in spite of the improvements mentioned in section II.A of the present report, the result of insufficient action taken by the police. For example, ECRI learned about an incident in August 2022 during which two men holding hands were attacked with allegedly clear homophobic motivation, but the police allegedly refused to investigate the attack. ECRI strongly encourages the authorities to ensure that such incidents are always effectively investigated, and any potential bias motivation is taken into account.

...

Measures taken by the authorities

48. Lithuania began implementing ODIHR's Training Against Hate Crime for Law Enforcement (TAHCLE) programme in 2015 and continues to train police officers using ODIHR's training curriculum. In 2018, Lithuania co-organised a workshop on hate crime recording and data collection with ODIHR and the EU Fundamental Rights Agency, using ODIHR's Information Against Hate Crimes Toolkit (INFAHCT). It resulted in a set of recommendations for relevant state authorities. Subsequently, in February 2020, the Ministry of Interior set up a working group to promote an effective response to hate crimes and hate speech (see also ECRI's previous recommendation on establishing such a working group). The working group consists of representatives of different authorities and civil society organisations. Its activities include proposing measures to strengthen action against hate crime, monitoring the implementation of international obligations, considering relevant legislation, and preparing annual reports on the hate crime situation in Lithuania.

49. In 2020, the Office of the Prosecutor General (OPG) issued the methodological guidance on hate crime as a follow-up to the ECtHR judgment in the case *Beizaras and Levickas v. Lithuania*. As a result, more than 280 hate crime cases were reopened. In June 2021, the OPG and ODIHR co-organised an awareness-raising workshop for 36 prosecutors and representatives from the OPG, the Ministry of Interior and civil

society. One result was a request from the OPG for ODIHR to review the OPG methodological guidance on hate crime, which was subsequently updated in 2023.

50. In 2022, 140 police officers participated in five training sessions on 'Strengthening of Intercultural Competences in the Fight Against Hate Crimes', organised by the Lithuanian NGO Human Rights Monitoring Institute. During the training, attention was paid to learning about different communities (Roma, Jewish, Muslims, immigrants) linking this knowledge to the recognition and investigation of hate crimes. In the same year, 31 judges participated in a training on 'Hate crimes: legal and psychological aspects', which included *inter alia* recognising and distinguishing hate speech and hate crime, and the jurisprudence of the ECtHR and national courts.

51. ECRI commends the authorities for these activities, and in particular the involvement of civil society in hate crime related trainings. ECRI has nevertheless not received any information about whether an evaluation of the various measures taken, including training activities, has been carried out in order to assess, improve and upscale these measures.

52. ECRI recommends that the authorities carry out an evaluation of the different measures taken to combat hate crime, including training activities, with the aim of improving and possibly expanding these activities."

3. Surveys by the EU Fundamental Rights Agency and the Eurobarometer

63. On 14 May 2024 the EU Fundamental Rights Agency published a report entitled "LGBTIQ equality at a crossroads – progress and challenges". It presented the results of a survey which had been carried out between June and August 2023 and included 100,577 respondents identifying as LGBTIQ, from the EU member States and three candidate countries: Albania, North Macedonia and Serbia. A total of 46% of Lithuanian respondents said that they had been discriminated against because of being LGBTIQ in at least one area of life in the year before the survey (the EU average was 36%); 13% had experienced a physical and/or sexual attack for being LGBTI in the 12 months before the survey (the EU average was 14%); 58% had experienced hate-motivated harassment in the 12 months before the survey (the EU average was 54%); and 16% agreed that their national government "definitely" or "probably" combated prejudice and intolerance against LGBTIQ people effectively (the EU average was 26%).

64. In December 2023 the European Commission published the results of the Eurobarometer survey "Discrimination in the European Union". There were 26,399 respondents from the EU, including 1,005 respondents from Lithuania, who took part in the survey which was conducted in April and May 2023. A total of 45% of Lithuanian respondents said that they would feel uncomfortable having a gay, lesbian or bisexual person in the highest elected political position in their country (the EU average was 16%); 30% would feel uncomfortable working with a gay, lesbian or bisexual person (the EU average was 12%); 59% would feel uncomfortable if their child was in a romantic relationship with a person of the same sex (the EU average was

24%); and 41% disagreed with the statement that school lessons and material should include information about sexual orientations (the EU average was 26%).

65. The results of similar surveys dating from 2019 have been summarised in *Macatė v. Lithuania* ([GC], no. 61435/19, §§ 115-16, 23 January 2023), and those dating from 2012 and 2015 – in *Beizaras and Levickas* (cited above, §§ 63-64).

COMPLAINT

66. In their application form, lodged on 15 February 2023, the applicants complained under Article 8 of the Convention, read in conjunction with Article 14, and under Article 13 of the Convention that they had been verbally assaulted because of their sexual orientation and that the authorities had refused to open a pre-trial investigation. In their subsequent observations, submitted after the Lithuanian authorities had reopened the proceedings and convicted the perpetrator (see paragraphs 29, 33, 36 and 43-50 above), the applicants contended that they could still claim to be "victims" of the aforementioned violations of their rights within the meaning of Article 34 of the Convention.

THE LAW

67. The applicants complained that the domestic authorities had failed to discharge their positive obligations under Article 8 of the Convention, read in conjunction with Article 14, by failing to conduct an effective investigation into the homophobic verbal assault and physical threats against them. The relevant articles read as follows:

Article 8

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Article 14

"The enjoyment of the rights and freedoms set forth in [the] 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."

The applicants also complained that they had been deprived of an effective remedy, contrary to Article 13 of the Convention, which reads as follows:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

68. In view of the developments at the domestic level that took place after notice of the present application was given to the respondent Government (see paragraphs 29-50 above), the Court must examine whether the application should be struck out of its list of cases on the grounds provided in Article 37 § 1 (b) of the Convention. That provision reads as follows:

> "1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that
>
> ...
>
> (b) the matter has been resolved; ...
>
> ...
>
> However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires."

A. The parties' submissions

1. The applicants

(a) The application form of 15 February 2023

69. The applicants submitted that the verbal assault against them had been clearly motivated by the perpetrator's prejudice against the LGBTI community. It had had long-lasting consequences for them – they continued to suffer from fear, anxiety and distress and had needed to seek psychological help. However, the domestic authorities had refused to open a pre-trial investigation, finding that a single incident could not be considered sufficiently dangerous to attract criminal liability. The applicants submitted that the authorities' failure to effectively investigate the insults and threats against them had further aggravated their negative emotional experience. They pointed out that they had not been granted victim status (in the proceedings which had taken place in 2022) and that the second applicant had only been questioned once as a witness and not included in those proceedings any further. They contended that the lack of an effective investigation had been the result of the authorities' discriminatory attitude.

70. Although after the Court's judgment in *Beizaras and Levickas* (cited above) the number of pre-trial investigations concerning incitement to hatred had slightly increased in Lithuania, the applicants contended that an effective and adequate response to complaints about such incitement was not ensured in every case. Despite the existing algorithms for investigating hate crimes and an approved list of bias indicators, law-enforcement officers lacked the

necessary competence to recognise bias or prejudice and often failed to properly characterise criminal offences under the law, which is what had happened in their case.

(b) The applicants' observations of 22 October 2024

71. The applicants submitted that the dangerousness of the assault had been apparent from the beginning – its factual circumstances had been clear; the perpetrator's hostility towards people whom he perceived to be homosexual had been established; the applicants had been attacked near their home and threatened with violence; and the impact which the assault had had on them had been further heightened by the general hostility towards the LGBTI community in Lithuania. However, it had taken the domestic authorities more than two years to open a pre-trial investigation. Even then, the assault had not been characterised as a hate crime but the perpetrator had been charged with restricting their freedom of action under Article 148 § 1 of the Criminal Code, which had not reflected the hate motive in his actions (see paragraph 53 above). Nor had the hate motive been imputed as an aggravating circumstance (see paragraph 58 above). The applicants submitted that their case illustrated the systemic trend noted by the third-party interveners, namely that the hate motive was rarely recognised as a qualifying characteristic or aggravating circumstance, even though the domestic legislation allowed for it (see paragraph 88 below).

72. The applicants referred to the Court's findings in *Identoba and Others v. Georgia* (no. 73235/12, § 77, 12 May 2015) and submitted that if prejudice-motivated crimes were treated on an equal footing with ordinary crimes without such overtones, the resultant indifference would be tantamount to official acquiescence to or even connivance with hate crimes. In their view, the assault against them had met the elements of the criminal offence of discrimination under Article 169 of the Criminal Code (see paragraph 55 above).

73. The applicants contended that the only reason why the authorities had decided to reopen their case had been the fact that the Court had communicated their application to the Government on 7 February 2024. They enclosed a copy of an e-mail sent by the Vilnius prosecutor to the relevant police authorities on 6 March 2024, in which the prosecutor noted that the Court had communicated the applicants' case to the Government and asked the police whether, after it had refused to open a pre-trial investigation against L.R., he had been subjected to other types of criminal liability and whether his alleged hostility against persons on the grounds of their sexual orientation had been taken into account.

74. The applicants also submitted that the domestic authorities had not been sufficiently active. With his complaint to the police submitted on 10 June 2022 (see paragraph 4 above), the first applicant had enclosed a video-recording where it could be seen that one other person had been present

near the apartment building at the time of the assault. However, the police had inspected the video-recording only two years later (see paragraph 35 above). Similarly, the police had only inspected the location of the incident in July 2024 (see paragraph 35 above), which suggested that no prior inspection had taken place, and also made it unlikely that any evidence might be found after such a long time.

75. The applicants contended that the domestic authorities had demonstrated a prejudicial attitude by disregarding the clear hate motive behind the perpetrator's actions and by viewing his words merely as "insulting" or "immoral" but not as warranting criminal liability. They emphasised that the assault against them had occurred more than two years after the adoption of the Court's judgment in *Beizaras and Levickas* (cited above) and that the authorities must have been aware of their obligation to investigate alleged hate crimes in line with the Court's findings in that case.

(c) The applicants' observations of 20 June 2025

76. The applicants submitted that they could still claim to be "victims" within the meaning of Article 34 of the Convention, even after L.R. had been convicted of the criminal offence of discrimination (see paragraphs 43-50 above), on the basis of violations of their rights under Article 8 of the Convention read in conjunction with Article 14. In particular, the Vilnius District Court had not acknowledged, either explicitly or in substance, the violation of their Convention rights. It had examined the case solely from the perspective of the domestic law and its decision did not contain any assessment of the potential violations of the Convention or of the previous refusals by the authorities to open a pre-trial investigation. Moreover, the court's reasoning underlying the partial award of the applicants' claims in respect of non-pecuniary damage (see paragraph 49 above) did not include any reference to a violation of the Convention, nor did it address the harm which they had suffered as a result of the previous refusals to open an investigation.

77. The applicants further contended that the termination of the case would worsen the situation for the LGBTI community in Lithuania. A pre-trial investigation in their case had been opened only after the Court had communicated the case to the Lithuanian Government, which indicated a selective approach by the investigating authorities in addressing hate crimes in Lithuania. Were the Court to find that the successful outcome of the domestic proceedings was sufficient to deprive the applicants of their status as "victims" within the meaning of Article 34 of the Convention, that would imply that the law-enforcement authorities would effectively address hate crimes only when the same individuals lodged an application with the Court and when their case was communicated. That would put an undue burden on victims of hate-motivated violence.

78. Lastly, the applicants submitted that the present case concerned not just hate speech but a physical intrusion into their private life, in a location which should have been safe – their home environment. As a result of the incident and the concerns to their safety, in March 2023 they had moved to a different apartment. They referred to the submissions made by the third-party interveners, according to which Lithuanian authorities systematically failed to investigate hate crimes, even in cases where there were clear indications that those acts had been motivated by anti-LGBTI bias (see paragraphs 87-91 below). Accordingly, the applicants emphasised the ongoing and pressing need to address and accommodate the specific vulnerabilities and needs of the LGBTI community in Lithuania.

2. The Government

(a) The Government's observations of 9 September and 29 November 2024

79. The Government acknowledged that the verbal assault against the applicants was serious enough to fall within the ambit of Article 8 of the Convention, and that Article 14 of the Convention was therefore applicable. However, they contended that the domestic authorities had discharged their positive obligations under Article 8 of the Convention, read in conjunction with Article 14, and that the applicants had had an effective remedy, as required under Article 13 of the Convention.

80. The Government submitted that, after the first applicant had lodged a complaint with the police on 10 June 2022, the authorities had conducted a thorough enquiry into the circumstances of the incident. The Government disputed the applicants' argument that some of the investigative measures had been taken belatedly (see paragraph 74 above). They contended that, at the time when the first applicant had lodged his complaint with the police (at 11.54 p.m. on 10 June 2022), the location of the incident – which had taken place at 1.30 p.m. on 9 June 2022 – had already changed. Moreover, the video-recording submitted by the first applicant (see paragraph 4 above) had not shown the incident itself. Thus, examining the location and the video-recording had not been of fundamental importance for the investigation and there were no grounds to find that any essential information had been lost.

81. The Government further submitted that all the authorities involved had thoroughly examined the language allegedly used by L.R. and acknowledged that it had been discriminatory, of a threatening nature and expressing a negative attitude towards homosexual people, thereby admitting that such language could warrant criminal liability. However, in the case at hand, such liability could not be applied because other elements of the relevant criminal offences had been absent (see paragraphs 13, 14, 16-19, 21, 22 and 24-27 above).

82. On 19 April 2024 the chief prosecutor, having reviewed the file, decided to reopen the case (see paragraph 29 above). The Government submitted that the exercise of such oversight and the annulment of previous decisions by superior prosecutors of their own initiative was not exceptional; in May and June 2024, the chief prosecutor of the Vilnius region had annulled five decisions taken in 2021-22 to refuse to open pre-trial investigations into alleged instances of hate speech against members the LGBTI community, which had led to the opening of pre-trial investigations under Article 170 of the Criminal Code (see paragraph 56 above). In the applicants' case, the chief prosecutor's decision had led to the opening of a pre-trial investigation, first under Article 284 of the Criminal Code (see paragraph 33 above) and later under Article 148 § 1 of the Criminal Code (see paragraph 36 above), and to multiple new investigative measures being carried out (see paragraphs 29-31, 34 and 35 above). The Government emphasised that multiple procedural documents, including the indictment issued against L.R. (see paragraph 40 above), had explicitly stated that the motive behind his alleged verbal attack had been the applicants' sexual orientation. Furthermore, the applicants had been granted victim status in the proceedings and had been able to fully exercise their procedural rights (see paragraphs 37 and 39 above).

83. The Government contended that, from the very beginning of their enquiries, the domestic authorities had aimed to unmask the homophobic motive behind the alleged verbal assault against the applicants, but it had been the lack of the elements of the criminal offences under Articles 145, 169 and 170 of the Criminal Code – not any prejudicial attitude by the Lithuanian authorities – that had led to the refusal to open an investigation under those Articles. However, the perpetrator's actions had eventually been characterised under a different legal provision and the authorities had taken additional steps to unmask the homophobic motive and assess it seriously. In that connection, the Government referred to the Court's judgment in *Valaitis* (cited above), where the Court had found that the general measures taken by the Lithuanian authorities following *Beizaras and Levickas* (cited above) demonstrated that the authorities' discriminatory attitude, which had been identified in the latter judgment, was no longer apparent.

84. Accordingly, the Government submitted that the domestic authorities had carried out an effective, albeit delayed, investigation into the verbal assault against the applicants.

85. The Government invited the Court to treat the third-party submissions (see paragraphs 87-91 below) with caution. They contended that those submissions did not reflect the reality in many aspects and that they concerned issues which were outside the scope of the present case – namely, Article 170 of the Criminal Code. In any event, the Government disputed the argument raised by the third parties that the Lithuanian courts required hate speech to be systematic in order to be prosecuted (see paragraph 89 below). Such a requirement was not explicitly provided either in the text of

Article 170 or in the case-law. Whereas the systematic nature of the speech in issue was one of the circumstances that had been assessed by the courts when determining its dangerousness, criminal liability could be established without that element. In that connection, the Government pointed to a ruling by the Supreme Court of 1 March 2024 to the effect that posting even a single hateful comment on a person's Facebook page was sufficient to attract criminal liability under Article 170 § 2 of the Criminal Code (see paragraph 60 above). Moreover, the requirement to show that there had been a "real danger to the protected values" (see paragraph 89 below) was linked to the assessment of the dangerousness of the alleged criminal offence and it was not an obstacle to criminal liability under Article 170 of the Criminal Code, as shown by the courts' practice.

(b) The Government's observations of 20 June 2025

86. The Government submitted that, following the decision of the Vilnius District Court of 15 April 2025 (see paragraphs 43-50 above), the applicants could no longer claim to be "victims", within the meaning of Article 34 of the Convention, of a violation of their rights under Article 8 of the Convention read in conjunction with Article 14. In that decision, the domestic court had found L.R. guilty of the criminal offence of discrimination and awarded the applicants compensation in respect of pecuniary and non-pecuniary damage. The homophobic motive behind the verbal assault had been unmasked and its seriousness had been adequately assessed by both the pre-trial investigation authorities and the court. The domestic legal framework and its application in practice had therefore afforded the applicants adequate protection against the verbal assault motivated by homophobic prejudice.

B. Third-party submissions by the AIRE Centre, ILGA-Europe and LGL, acting jointly

87. The interveners submitted that, while the Lithuanian Criminal Code largely aligned with international standards and provided a comprehensive framework for addressing hate speech and hate crime, the application of that legal framework by Lithuanian authorities had proven ineffective in practice in affording adequate protection against anti-LGBTI hate speech and hate crime, in a context of hostility towards the LGBTI community in the country.

88. One of the shortcomings in the domestic authorities' practice was in relation to the legal characterisation of hate crimes: hate motive was rarely recognised as a qualifying characteristic or an aggravating circumstance, even though the existing legal framework allowed for it. Research suggested that a formal approach to hate crime incidents was prevalent and that law-enforcement authorities rarely took a proactive role in the investigation, even where it was evident that the victim belonged to a particular social group and might have been subjected to a hate-motivated crime.

89. Furthermore, Lithuanian courts had established several criteria for assessing hate speech under Article 170 of the Criminal Code. One of them was "a real danger to the protected values", which was problematic because, under Article 170, hate speech was a formal criminal offence and it was not necessary for consequences to arise in order for acts of hate speech to constitute a criminal offence. Moreover, the courts had not laid out clear rules for assessing when the threshold of "real danger" was attained. In addition, the courts had established the criterion of "systematic nature", according to which, incidents of hate speech could be prosecuted only if they had occurred repetitively. That criterion had already been criticised by the Court in *Beizaras and Levickas* (cited above, § 126).

90. The interveners referred to several cases which had come to their attention and/or had been reported in the media between 2022 and 2024 where individuals had complained to the authorities about threats or attacks on the basis of sexual orientation (a same-sex couple being repeatedly harassed by their neighbours; pro-LGBTI activists receiving messages containing homophobic slurs or threats of violence; and an anti-LGBTI activist publicly burning the rainbow flag near the *Seimas* or during the Lithuanian Pride event), but the authorities had failed to take prompt and effective action to investigate them and to protect the victims. The *Seimas* Ombudspersons' Office in its 2022 report on the human rights situation in Lithuania had criticised the insufficiency of the measures taken by the authorities in some of those cases, including the case of the present applicants.

91. Accordingly, the interveners contended that the available information contradicted the Court's findings in *Valaitis* (cited above, § 115) – namely, there was a lack of a "comprehensive approach" by the domestic authorities when tackling hate crimes with a homophobic bias.

C. The Court's assessment

1. Relevant general principles under Articles 8 and 14 of the Convention

92. The general principles concerning the State's positive obligations under Articles 8 and 14 of the Convention in cases concerning verbal assaults or physical threats directed against sexual minorities have been summarised in *Beizaras and Levickas* (cited above, §§ 106-16, and the cases cited therein).

93. The Court emphasises that discrimination based on sexual orientation is as serious as discrimination based on "race, origin or colour" (see, among other authorities, *Vejdeland and Others v. Sweden*, no. 1813/07, § 55, 9 February 2012, and *Lilliendahl v. Iceland* (dec.), no. 29297/18, § 45, 12 May 2020). It has held on several occasions that gender and sexual minorities require special protection from hateful and discriminatory speech because of the marginalisation and victimisation to which they have historically been, and continue to be, subjected (see *Nepomnyashchiy and Others v. Russia*, nos. 39954/09 and 3465/17, § 59, 30 May 2023, and

Yevstifeyev and Others v. Russia, nos. 226/18 and 2 others, § 53, 3 December 2024).

94. The Court also reiterates that inciting hatred does not necessarily entail a call for an act of violence or other criminal acts. Attacks on persons committed by insulting, holding up to ridicule or slandering specific groups of the population can be sufficient for the authorities to favour combating racist or homophobic speech in the face of freedom of expression exercised in an irresponsible manner (see, *mutatis mutandis*, *Vejdeland and Others*, § 55, and *Beizaras and Levickas*, § 125, both cited above).

2. Whether the matter giving rise to the applicants' complaint has been resolved

95. Under Article 37 § 1 (b) of the Convention, the Court may "at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that ... the matter has been resolved ..." To be able to conclude that this provision applies to the instant case, the Court must answer two questions in turn: firstly, it must ask whether the circumstances complained of by the applicant still obtain and, secondly, whether the effects of a possible violation of the Convention on account of those circumstances have also been redressed (see *Konstantin Markin v. Russia* [GC], no. 30078/06, § 87, ECHR 2012 (extracts)).

96. In the present case, the applicants complained that the domestic authorities had failed to conduct an effective investigation into the homophobic verbal assault and physical threats against them. In particular, in their application lodged with the Court on 15 February 2023, they complained about the authorities' refusal to open a pre-trial investigation (see paragraph 69 above).

97. The Court sees no reason to disagree with the applicants that the homophobic motivation behind the assault was evident from the start: although L.R. denied having used homophobic slurs or insulting language against the applicants, he acknowledged that he had approached them because they had been two men holding hands in public, which he considered to be "attention-seeking" and "disrespectful to society", and that his goal had been to tell them to cease doing so (see paragraph 6 above; see also the applicants' submissions in paragraph 71 above). Indeed, the domestic authorities acknowledged that L.R.'s conduct had "met the definition of discrimination" (see paragraph 14 above) and that he had expressed his "negative views towards sexual minorities" (see paragraph 22 above; see also the Government's submissions in paragraphs 79 and 81 above).

98. However, the Lithuanian authorities initially refused to open a pre-trial investigation because they considered that L.R.'s actions had been insufficiently dangerous to warrant criminal liability:

(i) L.R.'s threat to use physical violence against the applicants had not been sufficiently realistic to require criminal liability under Article 145 § 1

of the Criminal Code (see paragraph 52 above) because he had not used any physical violence against them (see paragraphs 16 and 21 above); he had not had on him any items which could be used for injuring them (see paragraph 21 above); his actions had not been "particularly aggressive or intense" and the incident had not lasted long (see paragraph 16 above); and it had been a one-time occurrence (see paragraphs 21 and 24 above).

(ii) L.R.'s words did not constitute the criminal offences provided in Articles 169 and 170 of the Criminal Code (see paragraphs 55 and 56 above) because he had said them in a private conversation with the applicants and nobody else appeared to have heard them (see paragraphs 14, 25 and 26 above); and while his words had been "unethical", "offensive", "inappropriate" and of a "negative and denigrating nature", they had not been sufficiently dangerous (see paragraphs 18, 22 and 25 above). The Vilnius Regional Court also held that the criminal offence of discrimination could only be committed by a civil servant or a person equivalent to a civil servant, or a private person carrying out certain functions, but L.R. was a private person who did not carry out any such functions (see paragraph 25 above).

99. In this connection, the Court emphasises that attacks on LGBTI individuals motivated by displays of affection not only constitute an affront to human dignity but also profoundly affect their private lives under Article 8 of the Convention. Such acts instil fear and insecurity, compelling the victims to conceal essential aspects of their private lives to avoid harm and thereby force them towards invisibility and marginalisation. Consequently, such attacks may restrict their freedom to enjoy the right to respect for private life as freely as different-sex couples, thereby imposing a differential standard on their expression of identity and relationships (see *Hanovs v. Latvia*, no. 40861/22, § 43, 18 July 2024). Furthermore, there is a positive obligation on the authorities under Articles 8 and 14 of the Convention to respond to incidents of harassment motivated by racism or homophobia, including those which involved no physical violence, but rather direct verbal assault or physical threats (see *Beizaras and Levickas*, § 111, and *Yevstifeyev and Others*, § 67, both cited above; see also the general principles summarised in paragraphs 92-94 above).

100. That being said, what the Court must now ascertain is whether the situation complained of by the applicants still obtains after the reopening of the domestic proceedings and the adoption of the Vilnius District Court's decision of 15 April 2025.

101. After the Court gave notice of the present application to the respondent Government on 7 February 2024, the domestic proceedings were reopened on 9 April 2024. A pre-trial investigation was eventually initiated on 30 May 2024 (see paragraphs 29 and 33 above).

102. In that investigation, L.R. was suspected firstly of disturbance of public order (see paragraph 33 above) and later of restriction of another person's freedom of action (see paragraph 36 above). As pointed out by the

applicants, while various procedural documents, including the eventual indictment, indicated that L.R.'s actions had been motivated by, *inter alia*, his beliefs that persons of the same sex should not hold hands or kiss in public and that same-sex relationships should not be publicly displayed (see paragraph 40 above), the hate motive was not an element of the criminal offence with which he was charged, nor was it imputed as an aggravating circumstance (see the applicants' observations in paragraph 71 above). While it is not for the Court to determine what was the appropriate legal characterisation of the perpetrator's actions under domestic law, it emphasises that the failure by domestic authorities to address the hate motive where it is present does not provide a robust response to hate-motivated offences and fosters a sense of impunity, instead of affirming a clear and uncompromising stance against them (see, *mutatis mutandis*, *Sabalić v. Croatia*, no. 50231/13, §§ 108 and 111, 14 January 2021, and *Hanovs*, cited above, § 52).

103. At the same time, the Court notes that the Vilnius District Court in its decision of 15 April 2025, which was not appealed against and became final (see paragraph 50 above), decided that the legal characterisation of the charges against L.R. had to be changed from restriction of another person's freedom of action under Article 148 § 1 of the Criminal Code to discrimination under Article 169 thereof (see paragraph 55 above). The domestic court acknowledged that the applicants had attracted L.R.'s attention only because they were homosexual and that L.R. had been prejudiced not against them personally but against homosexuals in general; his prejudice was demonstrated by the language which he had used in his interaction with the applicants (see paragraph 43 above). In this connection, the Court observes that the applicants themselves submitted that Article 169 of the Criminal Code was the appropriate legal characterisation of the assault against them, reflecting its homophobic motive (see the applicants' submissions before the domestic court in paragraph 42 above and their submissions before the Court in paragraph 72 above).

104. The Vilnius District Court explicitly referred to the Court's case-law to the effect that discrimination based on sexual orientation is as serious as discrimination based on "race, origin or colour" (see paragraph 44 above). It acknowledged that the applicants were in a relationship and saw themselves as a family, that they had the right to show affection in public without fear and that L.R.'s actions had infringed on their rights, freedoms and equality on the grounds of their sexual orientation (see paragraph 43 above). The court further held that L.R.'s actions had been sufficiently dangerous to attract criminal liability, in view of their intensity and the fact that the incident had taken place near the applicants' home, and that his direct intent to discriminate against them had been evident from his actions which had been motivated by the applicants' sexual orientation (see paragraph 46 above).

105. The Court further notes that, when assessing the weight to be given to the applicants' testimony, the Vilnius District Court took into account the fact that during the assault the applicants had been scared and in a weaker position than the perpetrator, as well as the substantial time that had passed between the incident and the court proceedings, affecting their ability to remember all the circumstances in detail (see paragraph 45 above). The domestic court also found that, contrary to the perpetrator's assertions, the fact that after the assault the applicants had been active on social media and expressed themselves through fashion did not negate the fear and distress which they had suffered (see paragraph 49 above). While it is not for the Court to comment on the veracity of individual statements or other evidence in a given case, it is satisfied that in the present case the domestic court treated the applicants – victims of a verbal assault and physical threats motivated by homophobia – with the appropriate level of sensitivity and that its reasoning was not indicative of any discriminatory attitudes or stereotypes.

106. Accordingly, the Court finds that the Vilnius District Court unmasked the homophobic motive behind the verbal assault and physical threats against the applicants and treated the hate-motivated criminal offence against them with the requisite seriousness. The applicants did not question the legal characterisation of the perpetrator's actions or the adequacy of the punishment given to the perpetrator (see paragraph 47 above), thus, the Court is not called upon to address these matters.

107. The Court is mindful of the fact that the Vilnius District Court's decision was adopted more than two years and ten months after the assault. There is no indication that, after the decision of 19 October 2022 not to open a pre-trial investigation (see paragraphs 24-27 above), the domestic authorities took any further action relating to the applicants' case until the Court gave notice of the application to the Government and the prosecutor started looking into the possibility of reopening the proceedings. The first relevant action brought to the Court's attention appeared to have been taken on 6 March 2024 (see paragraph 73 above), more than one year and four months after the last decision regarding their case. The Court also takes note of the applicants' argument that certain investigative measures were only conducted in 2024, by which time no relevant information could be obtained (see paragraph 74 above). However, it considers that the delay, albeit considerable, did not make the domestic proceedings ineffective, in the absence of other factors (see, *mutatis mutandis*, *R.R. and R.D. v. Slovakia*, no. 20649/18, § 178, 1 September 2020), as it did not preclude the domestic authorities from establishing the relevant circumstances of the case (see the Government's submissions in paragraph 80 above), unmasking the homophobic motive behind the assault and identifying and punishing the perpetrator (see paragraphs 103-106 above; compare *Valaitis*, cited above, §§ 110 and 115).

108. In the light of the foregoing, the Court is satisfied that, following the adoption of the Vilnius District Court's decision of 15 April 2025, the circumstances complained of by the applicants no longer obtain.

109. The Court must next ascertain whether the effects of a possible violation of the Convention on account of those circumstances have also been redressed (see paragraph 95 above).

110. In this connection, the applicants submitted that the Vilnius District Court had not explicitly established violations of their Convention rights and had only examined the case from the perspective of the domestic law (see paragraph 76 above). However, the Court reiterates that, according to its established case-law under Article 37 § 1 (b) of the Convention, it is not a requirement that the Government acknowledge a violation of the Convention. What is important for the Court's assessment is whether the measures taken by the national authorities were adequate and sufficient to remedy the applicants' complaint (see, *mutatis mutandis*, *H.P. v. Denmark* (dec.), no. 55607/09, § 78, 13 December 2016, and the case-law cited therein).

111. The Court notes that the domestic court granted in full the first applicant's claim in respect of pecuniary damage, relating to the costs of psychological help which he had sought following the incident (see paragraph 48 above). The applicants also claimed compensation in respect of non-pecuniary damage – the first applicant claimed EUR 2,500 and the second applicant claimed EUR 1,500 under that head (see paragraph 39 above). Those claims were granted in part – the first applicant was awarded EUR 2,000 and the second applicant EUR 1,000 (see paragraph 49 above). When making those awards, the Vilnius District Court took into account, among other relevant circumstances, the fact that the pre-trial investigation against L.R. had been discontinued several times, which could have caused the applicants feelings of injustice and disappointment (see the domestic court's reasoning in paragraph 49 above and the applicants' submissions in paragraph 76 above). Furthermore, the domestic court explained why the applicants' claims under that head were being granted only in part (see paragraph 49 above). The Court considers that the amounts awarded to the applicants could not be considered derisory, and moreover, the applicants did not appeal against the domestic court's decision in the part concerning the monetary awards (or in any other part – see paragraph 50 above).

112. Moreover, the applicants did not suggest that any other action may have been required from the domestic authorities or courts in order to redress the effects of the possible violation of their Convention rights. Accordingly, the Court is satisfied that the effects of such a violation have been redressed.

113. Having regard to the above considerations, the Court concludes that both conditions for the application of Article 37 § 1 (b) of the Convention (see paragraph 95 above) have been met in the present case. The matter giving rise to this complaint can therefore now be considered to be "resolved" within the meaning of Article 37 § 1 (b).

3. Whether respect for human rights requires the Court to continue the examination of the case

114. Before taking a decision to strike out a particular case, the Court must verify whether respect for human rights as defined in the Convention requires it to continue the examination of the case. The Court reiterates in this regard that its judgments serve not only to decide those cases brought before it but, more generally, to elucidate, safeguard and develop the rules instituted by the Convention, thereby contributing to the observance by the States of the engagements undertaken by them as Contracting Parties. Although the primary purpose of the Convention system is to provide individual relief, its mission is also to determine issues on public-policy grounds in the common interest, thereby raising the general standards of protection of human rights and extending human rights jurisprudence throughout the community of the Convention States (see *Konstantin Markin*, cited above, § 89, and the cases cited therein).

115. In the present case, the Court observes that the obligation incumbent on national authorities to investigate in an effective manner physical and verbal attacks against individuals motivated by their sexual orientation is already well established in its case-law (see paragraphs 92-94 above).

116. As concerns Lithuania specifically, the Court reiterates its judgment in the case of *Beizaras and Levickas* (cited above), where it found that, in the domestic proceedings which had taken place in 2014 and 2015, the Lithuanian authorities had failed to investigate in an effective manner the hateful online comments, including undisguised calls for violence directed against the applicants and the homosexual community in general, and that that failure had resulted from the discriminatory attitude held by the authorities (ibid., §§ 121, 128-29 and 155-56). Following the adoption of that judgment, various general measures were taken in Lithuania in order to address the issues identified by the Court (see a description of those measures in *Valaitis*, cited above, §§ 42-58). In *Valaitis* (cited above), the Court was satisfied that the Lithuanian authorities had taken wide-ranging and multifaceted measures to increase the capacity of the criminal justice system to adequately respond to hate speech and hate crimes and that the authorities' discriminatory attitude was no longer apparent (ibid., §§ 107 and 115). The general measures taken by the Lithuanian authorities to address the issues identified by the Court in *Beizaras and Levickas* remain under the supervision of the Committee of Ministers, which is examining that case under the standard procedure (the relevant documents of the Committee of Ministers have been cited in *Valaitis*, cited above, §§ 61-62).

117. ECRI in its most recent report on Lithuania also commended the authorities for the various steps taken to promote an effective response to hate crimes and hate speech. At the same time, it recommended that the authorities carry out an evaluation of the different measures taken to combat hate crime,

with the aim of improving and possibly expanding those activities (see paragraph 62 above).

118. The Court takes note of the examples provided by the third-party interveners, on which the Government did not comment, of the instances when allegations of threats, which on their face appeared to be motivated by homophobic bias, allegedly did not receive an adequate response from the authorities (see paragraph 90 above). It is likewise conscious of the fact that in recent years there continued to be instances where the police refused to open a pre-trial investigation into alleged homophobic hate crime or hate speech and an investigation was opened only several years later, after a review by the prosecutor (see paragraph 82 above), which is what happened in the applicants' case as well (see paragraph 29 above). The Court emphasises that the opening of an effective investigation must not be *de facto* dependent on an extraordinary review taking place years after the events in issue, and even less so on the victims lodging an application with the Court (see the applicants' submissions to that effect in paragraph 77 above).

119. Nor does the Court disregard the data showing that prejudice against individuals belonging to sexual minorities remains prevalent in Lithuania, often higher than the EU average (see paragraphs 63 and 64 above). Protecting the LGBTI community in Lithuania from harassment and discrimination therefore remains a pressing matter that requires robust and comprehensive action on the part of the authorities.

120. That being said, the Court reiterates that the circumstances complained of by the applicants – the lack of an effective investigation into a homophobic verbal assault and physical threats against them – no longer obtain (see paragraphs 103-108 above). The circumstances in paragraphs 118 and 119 above notwithstanding, the Court considers that it would not be justified for it to continue the examination of this individual case, where the authorities eventually conducted an effective investigation into the verbal assault and physical threats against the applicants, unmasked the perpetrator's homophobic motive, thoroughly assessed the dangerousness of his actions, punished the perpetrator and granted redress to the applicants (see the Court's findings in paragraphs 103-106 above).

121. Against this background, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which would require the continued examination of the case. The Court also does not consider that further examination of the present application would contribute to elucidating, safeguarding and developing the standards of protection under the Convention (see, *mutatis mutandis*, *H.P. v. Denmark*, § 85, and contrast *Konstantin Markin*, § 90, both cited above).

122. Accordingly, it is appropriate to strike the application out of the Court's list of cases under Article 37 § 1 (b) of the Convention.

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases.

Done in English and notified in writing on 8 January 2026.

Dorothee von Arnim Deputy Registrar	Arnfinn Bårdsen President