



Court rejects complaint by four Russian journalists about their expulsion from Lithuania

The case of [Zarubin and Others v. Lithuania](#) (applications nos. 69111/17, 69112/17, 69113/17 and 69114/17) concerned Lithuania's expulsion and ban on re-entry of four Russian journalists working for Russian state-owned broadcaster Rossiya-24 after their actions at a conference in Vilnius.

In its decision in the case the European Court of Human Rights has today by a majority declared the applications inadmissible. The decision is final.

The Court was prepared to accept that the measures against the applicants had constituted an interference with their right to freedom of expression under Article 10.

However, it held that the authorities had demonstrated that the measures had been necessary in the interests of national security and proportionate. In particular, the applicants' behaviour at the conference – characterised by the authorities as aggressive and provocative – had not been in accordance with the tenets of responsible journalism.

Principal facts

The applicants, Pavel Zarubin, Alexander Makarov, Andrey Melnikov, and Alexey Kazakov, are Russian nationals who were born in 1981, 1988, 1966, and 1978 respectively and live in Moscow.

The applicants are all employed by Russian state-owned broadcaster Rossiya-24. They are respectively a reporter, sound operator, cameraman and a chief editor.

In March 2016 they were sent to Lithuania to cover the Vilnius Russia Forum, an event co-organised by the Lithuanian Ministry of Foreign Affairs, which dealt with various issues on Russia and included Russian opposition activists. Their employer had assigned the applicants the task of covering the events at the Forum and to interview people taking part in it. They did not have accreditation but gained access to the Forum's venues. Lithuanian media subsequently reported that they had caused incidents and disruption.

The Migration Department issued decisions to expel the applicants and to ban their re-entry for one year. The decisions cited information from the Lithuanian State Security Department that the men, representatives of television channel Rossiya-24, could represent a threat to national security. It also referred to their "attacks" during the Forum, as reported by local media and recorded by the police.

The applicants left Lithuania but appealed against the expulsion decisions. They argued that they had been going about their journalistic work peacefully, seeking to interview and film Forum participants, but that they had been attacked by some of the organisers and conference attendees. In particular, they had been prevented from interviewing well-known activist Garry Kasparov.

The applicants' appeals were rejected by both the Vilnius Regional Administrative Court and, in March 2017, the Supreme Administrative Court.

The Supreme Administrative Court found in particular that the crew had arrived without accreditation and had gained access to the Forum venue by deception, which had caused a conflict with the security guards. In the incident with Mr Kasparov, the applicants had used mobile telephones rather than professional equipment, showing that their intention had not been to gather information but to carry out provocative actions.

Furthermore, international reports had shown a strong link between the Russian Government and Russian State media. The court therefore considered that publicly available information, together with classified information from the State Security Department to which the courts had been given full access, gave sufficient grounds to believe that the applicants posed a threat to national security.

Lastly, the courts at both levels of jurisdiction emphasised that the applicants' expulsion had not been ordered because of the dissemination of any ideas but because of their provocative actions. They also held that the measures had not prevented the applicants from receiving or imparting any information, and that, in any event, freedom of expression was not an unlimited right and could be restricted to protect other important interests.

Complaints, procedure and composition of the Court

The applications were lodged with the European Court of Human Rights on 18 September 2017.

The applicants raised complaints about the expulsion and attendant administrative and court proceedings under Article 6 § 1 (right to a fair trial), Article 10 (freedom of expression), Article 4 of Protocol No. 4 (prohibition of collective expulsion of aliens), Article 13 (right to an effective remedy), Article 14 (prohibition of discrimination), and Article 18 (limitation on use of restrictions on rights).

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

Robert Spano (Iceland), *President*,
Ganna Yudkivska (Ukraine),
Valeriu Grițco (the Republic of Moldova),
Egidijus Kūris (Lithuania),
Ivana Jelić (Montenegro),
Arnfinn Bårdsen (Norway),
Darian Pavli (Albania),

and also Stanley Naismith, *Section Registrar*.

Decision of the Court

Article 6 § 1

The Court declared the complaint made under this provision as inadmissible as it had previously determined that decisions regarding the entry, stay or deportation of aliens did not concern the determination of an applicant's civil rights or a criminal charge.

Article 10

The applicants argued that they had been expelled from Lithuania and banned from re-entering owing to their work as journalists. They stated that they had acted respectfully at the Forum and had not overstepped the limits of acceptable journalistic activity.

The Court expressed doubts as to whether Article 10 was applicable to the applicants' case: the authorities had ordered their expulsion owing to aggressive and provocative actions rather than any opinions, statements or publications. However, it made no final decision on that issue as it anyway found the complaint to be inadmissible.

It observed that the measures taken against the applicants had been based on their being a threat to national security owing to their behaviour at the Forum. In particular, the domestic authorities had established that the applicants had been given an assignment by their employer to gather information about prominent Russian political opposition activists participating in the Forum; they had not obtained or attempted to obtain accreditation, but had gained access to the event by

deception and had provoked confrontations with security guards and participants. Despite being warned by the police, they had on the following day attempted to film the participants on a mobile telephone, and there was information that they had likely planned to cause another confrontation on the last day of the Forum.

The Court reiterated that domestic authorities were entitled to define their own national interests but when examining cases of interference with the right to freedom of expression the Court took account of the fairness of the proceedings involved.

It noted that evidence in the applicants' case had included classified information from the security services, however, the domestic courts had had full access to that information, which furthermore had not been decisive as it had been corroborated by publicly available material. The Court was satisfied that the courts had not relied to a decisive extent on classified information and that the applicants had been able to challenge the factual grounds for the decisions against them.

There was nothing in the case file to suggest that the courts had erred in their assessment or had applied the law in an arbitrary fashion, thus the Court saw no grounds to disagree with their conclusion that the expulsion and entry ban had been necessary in the interests of national security.

The authorities had also acted in a proportionate way: the applicants had not been prohibited from making statements or disseminating statements about the Forum, rather they had been expelled and banned from re-entry owing to aggressive and provocative actions. The courts had also addressed the question of proportionality and had weighed up the interests at stake.

Lastly, the Court reiterated that the protection which Article 10 gave to journalists was subject to the proviso that they acted in good faith in order to provide accurate and reliable information in accordance with the tenets of responsible journalism. That was not confined to content, but also concerned a journalist's conduct. In this case, the Court was unable to accept that the applicants' conduct had been compatible with the concept of responsible journalism.

The Court concluded that the domestic authorities had demonstrated that the measures against the applicants had been necessary in the interests of national security and had been proportionate to the legitimate aim pursued. The complaint was therefore manifestly ill-founded and had to be rejected as inadmissible.

[Article 4 of Protocol No. 4](#)

The Court noted that under its case-law the meaning of this provision of the Convention was to be understood as any measure compelling aliens as a group to leave a country, except where such a measure was taken on the basis of a reasonable and objective examination of each individual's case.

It found that although the orders against the applicants had essentially used the same wording, that did not mean that their individual situations had not been examined. Indeed, the applicants had arrived as a group, had acted together with a common purpose and their actions had been coordinated.

The applicants had also been given the possibility to submit arguments against the decisions, which had been addressed by the authorities in sufficient detail. The Court found no reason to disagree with the domestic findings. This case could therefore not be compared with those which had concerned expulsions of large groups of aliens without any kind of examination of each applicant's individual situation. This complaint was also manifestly ill-founded and inadmissible.

[Other Articles](#)

The Court could not find any appearance of a violation in the applicants' complaints under Article 13, Article 14 or Article 18 and rejected them as manifestly ill-founded.

The decision is available only in English.

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