

Beizaras and Levickas v. Lithuania

[Case Law](#), [Safety](#), [Bias-motivated Speech](#), [European Court of Human Rights](#), [Lithuania](#), [Strategic Litigation](#)

Online hate speech

(Application no. 41288/15), 24 October 2017

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- The case concerns hateful comments on Facebook relating to a **picture depicting a same-sex kiss** between the two applicants. The applicants complained that the discontinuation of the criminal investigation by the Lithuanian authorities constitutes a violation of Article 14 ECtHR (non-discrimination), taken in conjunction with Article 8 (right to private life).
- ILGA-Europe together with the AIRE Centre, the ICJ and the HRMI submitted the following:
 - The ECtHR uses two approaches when dealing with cases concerning incitement to hatred. The approach of exclusion from the Convention is provided for by Article 17 (prohibition of abuse of rights), where the comments in question amount to hate speech and negate the fundamental values of the Convention. The approach of restriction stems from the fact that freedom of expression is not absolute and can be limited pursuant to Article 10 (2). In its jurisprudence on extreme forms of expression, this Court has employed a case-by-case approach.
 - Failure to investigate, prosecute and punish hate speech amounts to a breach of the positive obligations under the Convention.
 - In many European countries, the term “hatred” generally includes **hatred on the grounds of sex and sexual orientation**. Homophobic or transphobic motivation is often considered an aggravating circumstance or a factor triggering stronger penalties for other, common criminal offences.
 - According to various surveys, LGBT people are perceived as one of the **most vulnerable social groups in Lithuania**. A failure to acknowledge a biased nature of the anti-LGBT crimes, including hate speech, and/or to investigate reported incidence was recognized as one of the pressing issues during the second cycle of Lithuania’s Universal Periodic Review before the United Nations Human Rights Council.