**Summary and outcome**

The Third Section of the European Court of Human Rights held unanimously that there had been no violation of the freedom of expression under Article 10 of the European Convention on Human Rights of the applicant (a publisher). The applicant, whose company published the "Lithuanian calendar" received an administrative fine for the version of the calendar published for the year 2000. National courts considered statements made in the calendar to be insulting to persons of Polish, Russian and Jewish origin and held that statements found therein expressed nationalism and ethnocentrism. The ECtHR's reasoning for finding no violation of Article 10 were that it considered the calendar's statements to be 'capable of giving the Lithuanian authorities cause for serious concern.' [para.80] Further, it referred to the fact that the Vilnius City Second District Court appointed experts to provide evidence of the potential impact of the statements. The ECtHR agreed with the findings of the experts that the statements could be 'attributed to the "ideology of extreme nationalism" which promoted national hatred, xenophobia and territorial claims.' [para.80]

**Facts**

The applicant, Danutė Balsytė-Lideikienė was the owner of the company "Metskaitliai" which had been publishing the "Lithuanian Calendar" since 1995. The calendar contained passages written by the applicant and others on historic events. It was sold in bookshops. In 2000, a member of the Lithuanian parliament made a public statement about the calendar of that year, namely that it was insulting to persons of Polish, Russian and Jewish heritage and that it contained nationalist and ethnocentric speech.  This statement was based on annotations made in the calendar such as “the Lithuanian nation will only survive by being a nationalist nation – no other way exists!”, "the soviet occupying power, with the help of … many Jews… carried out the genocide and colonization of the Lithuanian nation,” “through the blood of our ancestors to the worldwide community of the Jews,” “… executions against the Lithuanians and the Lithuanian nation, carrying out pro-Jewish politics.”

The national authorities confiscated the calendar and prohibited its further distribution. The applicant received an administrative penalty.

 **Decision overview**

The Third Section of the European Court of Human Rights unanimously held that there had been no violation of Article 10 of the European Convention on Human Rights.

The main issue before the court was ascertaining whether the administrative fine imposed on the applicant for the Lithuanian calendar of 2000 amounted to a violation of Article 10.

The applicant argued that her freedom of expression had been violated since the Lithuanian calendar was distributed for the last 6 years in Lithuania 'attracting no great attention from the public or from State institutions.' She also argued that the 2000 version had caused 'no significant interest or exaggerated reactions, up until the State authorities' intervention.' She stated that the authorities could have implemented less restrictive means (instead of a fine) such as 'giving her the opportunity to make certain rectifications or announcements.' The applicant also referred to her lack of intent and the 'minor danger which the publication represented.' (para.68)

The government referred to the fact that Article 10 carries with it special duties and responsibilities and 'cannot be interpreted as allowing the promotion or dissemination of the ideas of ethnic hatred, hostility and the superiority of one nation vis-à--vis other ethnic groups.' It stressed the 'sensitivity of the questions related to national minorities and territorial integrity' and argued that the calendar was 'clearly promoting the extreme ideology of nationalism.' The authorities interfered with the applicant's freedom of expression in order to 'prevent the spreading of ideas which might violate the rights of ethnic minorities living in Lithuania as well as endanger Lithuania's relations with its neighbouring countries.' (para.69).

The ECtHR, relying on well-established case-law such as [Jersild v. Denmark](https://globalfreedomofexpression.columbia.edu/laws/ecthr-jersild-v-denmark-no-1589089-1994/), [Piermont v. France,](https://globalfreedomofexpression.columbia.edu/laws/ecthr-piermont-v-france-series-a-no-314-1995/) [Lehideux and Isorni v. France](https://globalfreedomofexpression.columbia.edu/laws/ecthr-lehideux-and-isorni-v-france-1998-55-1997-839-1045/) and [Nilsen and Johnsen v. Norway](https://globalfreedomofexpression.columbia.edu/laws/ecthr-nilsen-v-norway-no-2311893-1999/), reiterated that restrictions to Article 10 must 'be construed strictly, and the need for any restrictions must be established convincingly.' [para.75]

Citing [Jersild v Denmark](https://globalfreedomofexpression.columbia.edu/laws/ecthr-jersild-v-denmark-no-1589089-1994/) and [Steel and Morris v the United Kingdom](https://globalfreedomofexpression.columbia.edu/laws/ecthr-steel-v-united-kingdom-no-6841601-2005/), the Court discussed the issue of whether the interference was necessary in a democratic society, underlining that Article 10 extends to speech that may 'shock, offend or disturb. Such as the demands of pluralism, tolerance and broadmindedness without which there is no democratic society.' [para.74] It noted that the word 'necessary' (in a democratic society) as set out in Article 10(2) 'implies the existence of a pressing social need.' In this ambit, the Court highlighted that States Parties have a 'certain margin of appreciation in assessing whether such a need exists, but it goes hand in hand with a European supervision.' (para.76) When considering the 'pressing social need,' the ECtHR took into account the context in which the 2000 calendar was published and particularly the Government's reference to the questions of 'territorial integrity and national minorities' remaining sensitive following the country's re-independence. It noted that the calendar contained statements inciting hatred against Poles and Jews and that these statements 'were capable of giving the Lithuanian authorities cause of serious concern.'  (para.79) The ECtHR also underlined that the Second District Court appointed experts 'who provided conclusions as to the gravity of the applicant's statements and the danger they posed to society.' The ECtHR agreed with the experts that a 'biased and one-sided portrayal of relations among nations hindered the consolidation of civil society and promoted national hatred.'  It also took into account the national experts’ conclusions that the applicant’s statements could be attributed to the ‘ideology of extreme nationalism,’ which promoted national hatred, xenophobia and territorial claims (para.80). Further, it recognized the negative reaction that the calendar received from some foreign embassies in Lithuania (para.80) and also referred to the country's obligation under Article 20(2) of the International Covenant on Civil and Political Rights [para.78].

While the ECtHR recognized the importance of freedom of expression, the Court relied and agreed on the findings of the national courts, giving them a wide margin of appreciation. As such, it found no violation of Article 10 on the grounds that the applicant's punishment was proportionate to the legitimate aim pursued and that the domestic courts' reasonings justified such interference. The imposition of a fine and, subsequently, the restriction of Article 10 was therefore considered 'necessary in a democratic society' for the protection of the reputation or rights of others [para.85].

 **Decision direction**

This case neither expands nor contracts the freedom of expression. Although not cited in the case, it follows previous case law such as [Soulas and Others v France](https://globalfreedomofexpression.columbia.edu/laws/ecthr-soulas-and-others-v-france-no-15948-03-2008/), decided in October of the same year, that speech which is deemed to incite hatred against ethnic/religious groups is not protected by Article 10.  This approach was also followed in relevant cases to come such as [Féret v. Belgium.](https://globalfreedomofexpression.columbia.edu/cases/feret-v-belgium/)

In terms of context, the court placed emphasis on the negative reactions which the publication received from diplomatic representations of Poland, Russia and Belarus.