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This Factsheet does not bind the Court and is not exhaustive

Hate speech

“... tolerance and respect for the equal dignity of all human beings constitute the foundations of a democratic, pluralistic society. That being so, as a matter of principle **it may be considered necessary** in certain democratic societies **to sanction or even prevent all forms of expression which spread, incite, promote or justify hatred based on intolerance...**”

([Erbakan v. Turkey](#), judgment of 6 July 2006, § 56)

General principles

The authors of the [European Convention on Human Rights](#) sought to establish an institutional framework based on democratic values in order to **overcome extremism**.

The European Court of Human Rights has identified a number of **forms of expression which are to be considered offensive** and contrary to the Convention (including racism, xenophobia, anti-Semitism, aggressive nationalism and discrimination against minorities and immigrants)¹.

However, the Court is also careful to make a distinction in its findings between, on the one hand, **genuine and serious incitement to extremism** and, on the other hand, the **right of individuals** (including journalists and politicians) to **express their views freely** and to “offend, shock or disturb”² others.

There is **no universally accepted definition** of the expression “hate speech”. The Court’s case-law has established certain **parameters** making it possible to characterise “hate speech” in order to exclude it from the protection afforded to freedom of expression (Article 10 of the Convention) or freedom of assembly and association (Article 11).

The Court excludes hate speech from protection by means of two approaches provided for by the Convention:

(a) by applying Article 17 (prohibition of abuse of rights)³ of the Convention where the comments in question amount to hate speech and negate the fundamental values of the Convention, or

(b) by applying the limitations provided for in the second paragraph of Article 10 and Article 11 of the Convention⁴ (this approach is adopted where the speech in question, although it is hate speech, is not apt to destroy the fundamental values of the Convention).

¹ [Recommendation No. R 97 \(20\)](#) of the Committee of Ministers of the Council of Europe to Member States on “hate speech”, adopted by the Committee of Ministers on 30 October 1997, at the 607th meeting of the Minister’s Deputies.

² [Handyside v. the United Kingdom](#), 7 December 1976, § 49.

³ This provision is aimed at preventing persons from inferring from the Convention any right to engage in activities or perform acts aimed at the destruction of any of the rights and freedoms set forth in the Convention.

⁴ Restrictions deemed necessary in the interests of national security, public safety, the prevention of disorder or crime, the protection of health or morals and the protection of the rights and freedoms of others.

Racial hate speech

Vona v. Hungary

9 July 2013

The case concerned the dissolution of an association on account of the anti-Roma rallies and demonstrations organised by its movement.

No violation of Article 11 (freedom of assembly and association) of the Convention: The Court recalled that, as with political parties, the State was entitled to take preventive measures to protect democracy against associations if a sufficiently imminent prejudice to the rights of others undermined the fundamental values upon which a democratic society rested and functioned. In this case, a movement created by the applicant's association had led to demonstrations conveying a message of racial division, which, reminiscent of the Hungarian Nazi Movement (Arrow Cross), had had an intimidating effect on the Roma minority. Indeed, such paramilitary marches had gone beyond the mere expression of a disturbing or offensive idea, which is protected under the Convention, given the physical presence of a threatening group of organised activists. Therefore, the only way to effectively eliminate the threat posed by the movement had been to remove the organisational backup provided by the association.

Aksu v. Turkey

15 March 2012 (Grand Chamber)

The applicant, of Roma origin, alleged that three Government-funded publications (a book about Roma and two dictionaries) included remarks and expressions that reflected anti-Roma sentiment.

Concerning **Article 14** (prohibition of discrimination) of the Convention: The Court reiterated that discrimination within the meaning of Article 14 was to be understood as treating people in relevantly similar situations differently, without an objective or reasonable justification. However, the applicant had not managed to build a case to prove that the publications had a discriminatory intent or effect. **The applicant's case did not** therefore **concern a difference of treatment** and the Court decided to examine the case only under Article 8.

No violation of Article 8 (right to respect for private and family life): The Court held that neither the book nor the dictionaries were offensive to Roma. It found in particular that the Turkish authorities had taken all necessary steps to comply with their obligation under Article 8 to protect the applicant's effective right to respect for his private life as a member of the Roma community. It did mention, however, that it would have been preferable to label a second definition of the word "Gypsy" – "miserly" – in the dictionaries as "pejorative" or "insulting" rather than "metaphorical".

Féret v. Belgium

16 July 2009

The applicant was a Belgian member of Parliament and chairman of the political party *Front National/Nationaal Front* in Belgium. During the election campaign, several types of leaflets were distributed carrying slogans including "Stand up against the Islamification of Belgium", "Stop the sham integration policy" and "Send non-European job-seekers home". The applicant was convicted of incitement to racial discrimination. He was sentenced to community service and was disqualified from holding parliamentary office for 10 years. He alleged a violation of his right to freedom of expression.

The Court held that there had been **no violation of Article 10** (freedom of expression). In its view, the applicant's comments had clearly been liable to arouse feelings of distrust, rejection or even hatred towards foreigners, especially among less knowledgeable members of the public. His message, conveyed in an electoral context, had carried heightened resonance and clearly amounted to incitement to racial hatred. The applicant's conviction had been justified in the interests of preventing disorder and protecting the rights of others, namely members of the immigrant community.

Leroy v. France

2 October 2008

The applicant is a cartoonist. One of his drawings representing the attack on the World Trade Centre was published in a Basque weekly newspaper on 13 September 2011, with a caption which read: "We have all dreamt of it... Hamas did it". Having been sentenced to payment of a fine for "condoning terrorism", the applicant argued that his freedom of expression had been infringed.

The Court held that there had been **no violation of Article 10** (freedom of expression). It considered that, through his work, the applicant had glorified the violent destruction of American imperialism, expressed moral support for the perpetrators of the attacks of 11 September, commented approvingly on the violence perpetrated against thousands of civilians and diminished the dignity of the victims. Despite the newspaper's limited circulation, the Court observed that the drawing's publication had provoked a certain public reaction, capable of stirring up violence and of having a demonstrable impact on public order in the Basque Country.

Jersild v. Denmark

23 September 1994

The applicant, a journalist, made a documentary containing extracts from a television interview he had conducted with three members of a group of young people calling themselves "the Greenjackets", who made abusive and derogatory remarks about immigrants and ethnic groups in Denmark. The applicant was convicted of aiding and abetting the dissemination of racist remarks. He alleged a breach of his right to freedom of expression.

The Court drew a distinction between the members of the "Greenjackets", who had made openly racist remarks, and Mr Jersild, who had sought to expose, analyse and explain this particular group of youths and to deal with "specific aspects of a matter that already then was of great public concern". The documentary as a whole had not been aimed at propagating racist views and ideas, but at informing the public about a social issue. Accordingly, the Court held that there had been a **violation of Article 10** (freedom of expression).

See also: [Glimmerveen and Hagenbeek v. the Netherlands](#), decision of the European Commission of Human Rights of 11 October 1979 (concerning a political party based on the belief that the general interest of a State is best served by an ethnically homogeneous population).

Religious hate speech

Hizb Ut-Tahrir and Others v. Germany

19 June 2012 (decision on the admissibility)

The case concerned the prohibition in Germany of the activities of an Islamic association, which advocates the overthrow of non-Islamic governments and the establishment of an Islamic Caliphate.

The Court, by a majority, declared the application **inadmissible**. It held in particular that under Article 17 (prohibition of abuse of rights), it was impossible to derive from the Convention a right to engage in an activity aimed at destroying any of the rights and freedoms set forth in the Convention. The association could therefore not rely on Article 11 (freedom of assembly and association) to complain about the ban on its activities.

See also: [Kasymakhunov and Saybatalov v. Russia](#), judgment of 14 March 2013, §§ 102-114.

Pavel Ivanov v. Russia

20 February 2007 (decision on the admissibility)

The applicant wrote and published a series of articles portraying Jews as the source of evil in Russia. He accused them of plotting against the Russian people, and the tenor of his remarks was markedly anti-Semitic. He was convicted of incitement to ethnic, racial and religious hatred. The applicant complained in particular of a breach of his right to an effective remedy (Article 13 of the Convention), alleging that his conviction had been based on contradictory evidence. He criticised the Russian courts for refusing to order an expert report which could have demonstrated the truth of his assertion that the Jews did not form a nation. Relying on Article 14 (prohibition of discrimination), he also claimed to have been discriminated against on the basis of his religious beliefs.

The Court declared the application **inadmissible**. Considering that the applicant was complaining in substance of a violation of his right to freedom of expression under Article 10, it took the view that the applicant, who had sought in his publications to "incite hatred towards the Jewish people" and advocated violence against a particular ethnic group, could not claim the protection of Article 10.

Norwood v. the United Kingdom

16 November 2004 (decision on the admissibility)

The applicant displayed in his window a poster supplied by the British National Party, of which he was a member, representing the Twin Towers in flame. The picture was accompanied by the words "Islam out of Britain – Protect the British People". As a result, he was convicted of aggravated hostility towards a religious group. The applicant argued, among other things, that his right to freedom of expression had been breached.

The Court declared the application **inadmissible**. It found that such a general, vehement attack against a religious group, linking the group as a whole with a grave act of terrorism, was incompatible with the values proclaimed and guaranteed by the Convention, notably tolerance, social peace and non-discrimination, and that the applicant could not claim the protection of Article 10 (freedom of expression).

Gündüz v. Turkey

4 December 2003

The applicant was a self-proclaimed member of an Islamist sect. During a televised debate broadcast in the late evening, he spoke very critically of democracy, describing contemporary secular institutions as "impious", fiercely criticising secular and democratic principles and openly calling for the introduction of Sharia law. He was convicted of openly inciting the population to hatred and hostility on the basis of a distinction founded on membership of a religion or denomination. The applicant alleged a violation of his right to freedom of expression.

The Court noted that the applicant, who had represented the extremist ideas of his sect, with which the public was already familiar, had been taking an active part in an animated public discussion. That pluralist debate had sought to present the sect and its unorthodox views, including the notion that democratic values were incompatible with its conception of Islam. The topic had been the subject of widespread debate in the Turkish media and concerned a problem of general interest. The Court considered that the applicant's remarks could not be regarded as a call to violence or as "hate speech" based on religious intolerance. It held that there had been a **violation of Article 10** (freedom of expression).

See also: [W.P. and Others v. Poland \(application no. 42264/98\)](#), decision on the admissibility of 2 September 2004

Sexual orientation hate speech

Vejdeland and Others v. Sweden

9 February 2012

The case concerned the applicants' conviction for distributing in an upper secondary school approximately 100 leaflets considered by the courts to be offensive to homosexuals. The applicants had distributed leaflets by an organisation called National Youth, by leaving them in or on the pupils' lockers. The statements in the leaflets were, in particular, allegations that homosexuality was a "deviant sexual proclivity", had "a morally destructive effect on the substance of society" and was responsible for the development of HIV and AIDS. The applicants claimed that they had not intended to express contempt for homosexuals as a group and stated that the purpose of their activity had been to start a debate about the lack of objectivity in the education in Swedish schools.

The Court found that these statements had constituted serious and prejudicial allegations, even if they had not been a direct call to hateful acts. The Court stressed that discrimination based on sexual orientation was as serious as discrimination based on "race, origin or colour". It concluded that there had been **no violation of Article 10** (freedom of expression), as the interference with the applicants' exercise of their right to freedom of expression had reasonably been regarded by the Swedish authorities as necessary in a democratic society for the protection of the reputation and rights of others.

Negationism

Garaudy v. France

24 June 2003 (decision on the admissibility)

The applicant, the author of a book entitled *The Founding Myths of Modern Israel*, was convicted of the offences of disputing the existence of crimes against humanity, defamation in public of a group of persons – in this case, the Jewish community – and incitement to racial hatred. He argued that his right to freedom of expression had been infringed.

The application was declared **inadmissible**. The Court considered that the content of the applicant's remarks had amounted to Holocaust denial, and pointed out that "[d]enying crimes against humanity [was] one of the most serious forms of racial defamation of Jews and of incitement to hatred of them". Disputing the existence of clearly established historical events did not constitute scientific or historical research; the real purpose was to rehabilitate the National Socialist regime and accuse the victims themselves of falsifying history. As such acts were manifestly incompatible with the fundamental values which the Convention sought to promote, the Court applied Article 17 (prohibition of abuse of rights) and held that the applicant was not entitled to rely on Article 10 (freedom of expression).

Lehideux and Isorni v. France

23 September 1998

The applicants wrote a text which was published in the daily newspaper *Le Monde* and which portrayed Marshal Pétain in a favourable light, drawing a veil over his policy of collaboration with the Nazi regime. The text ended with an invitation to write to two associations dedicated to defending Marshal Pétain's memory, seeking to have his case reopened and to have the judgment of 1945 sentencing him to death and to forfeiture of his civic rights overturned, and to have him rehabilitated. Following a complaint by the National Association of Former Members of the Resistance, the two authors were convicted of publicly defending war crimes and crimes of collaboration with the enemy. They alleged a violation of their right to freedom of expression.

The Court held that there had been a **violation of Article 10** (freedom of expression). It considered that the impugned text, although it could be regarded as polemical, could not be said to be negationist since the authors had not been writing in a personal capacity but on behalf of two legally constituted associations, and had praised not so much pro-Nazi policies as a particular individual. Lastly, the Court noted that the events referred to in the text had occurred more than forty years before its publication and that “the lapse of time [made] it inappropriate to deal with such remarks, forty years on, with the same severity as ten or twenty years previously”.

See also: **Honsik v. Austria**, decision of the European Commission of Human Rights of 18 October 1995 (concerning a publication denying the committing of genocide in the gas chambers of the concentration camps under National Socialism); **Marais v. France**, decision of the Commission of 24 June 1996 (concerning an article in a periodical aimed at demonstrating the scientific implausibility of the “alleged gassings”).

Speech based on totalitarian doctrine

Islamic fundamentalism

Refah Partisi (The Welfare Party) and Others v. Turkey

13 February 2003 (Grand Chamber)

In 1998, Refah Partisi (the Welfare Party) was dissolved on the ground that it had become a “centre of activities against the principle of secularism” and that various acts and declarations by its leaders and members indicated that some of the party’s objectives, such as the introduction of Sharia law and a theocratic regime, were incompatible with the requirements of a democratic society. Several members of the party alleged a breach of their right to freedom of association.

The Court observed that Refah Partisi’s acts and speeches revealed its long-term policy of setting up a regime based on Sharia, and that it did not exclude recourse to force. In the Court’s view, the real opportunities the party had to put its plans into practice presented an immediate danger to democracy and justified its dissolution. The Court concluded that there had been **no violation of Article 11** (freedom of assembly and association).

As a rule, the Court will declare inadmissible, on grounds of incompatibility with the values of the Convention, applications which are inspired by totalitarian doctrine or which express ideas that represent a threat to the democratic order and are liable to lead to the restoration of a totalitarian regime.

(Neo-)Nazism; National Socialism: Communist Party of Germany v. the Federal Republic of Germany, application n° 250/57, decision of the European Commission on Human Rights of 20 July 1957; **B.H; M.W; H.P; G.K. v. Austria**, no. 12774/87, decision of the Commission of 12 October 1989.

(Kurdish) nationalism: Medya FM Reha Radyo ve İletişim Hizmetleri A. Ş. v. Turkey, decision on the admissibility of 14 November 2006.

Political speech

Otegi Mondragon v. Spain

15 March 2011

The applicant, the spokesperson for a left-wing Basque separatist parliamentary group, referred at a press conference to the closure of a Basque daily newspaper (on account of its suspected links with ETA) and to the alleged ill-treatment of the persons arrested during the police operation. In his statement he referred to the King of Spain as “the supreme head of the Spanish armed forces, in other words, the person in command of the torturers, who defends torture and imposes his monarchic regime on our people

through torture and violence". The applicant was sentenced to a term of imprisonment for the offence of serious insult against the King. He alleged a breach of his right to freedom of expression.

The Court considered that the impugned remarks had not been a personal attack against the King, nor did they concern his private life or his personal honour. They had related solely to the King's institutional responsibility as Head and symbol of the State apparatus and of the security forces which, according to the applicant, had tortured the newspaper's editors. The Court further noted that the applicant's political comments had contributed to a wider public debate on possible torture by the Spanish security forces in the context of anti-terrorist activities and had therefore concerned a matter of public interest. The Court held that there had been a **violation of Article 10** (freedom of expression).

Faruk Temel v. Turkey

1 February 2011

The applicant, the chairman of a legal political party, read out a statement to the press at a meeting of the party, in which he criticised the United States' intervention in Iraq and the solitary confinement of the leader of a terrorist organisation. He also criticised the disappearance of persons taken into police custody. Following his speech the applicant was convicted of disseminating propaganda, on the ground that he had publicly defended the use of violence or other terrorist methods. The applicant contended that his right to freedom of expression had been breached.

The Court found a **violation of Article 10** (freedom of expression). It noted that the applicant had been speaking as a political actor and a member of an opposition political party, presenting his party's views on topical matters of general interest. The Court took the view that his speech, taken overall, had not incited others to the use of violence, armed resistance or uprising and had not amounted to hate speech.

See also: **Erbakan v. Turkey**, judgment of 6 July 2006 (concerning a politician who openly incited the population to hatred and hostility based on religious, racial and regional distinctions).

Anti-constitutional/national hatred speech

Pending case

Beleri and Others v. Albania (no. 39468/09)

Communicated to the Albanian Government on 31 May 2010

The applicants claim to belong to the Greek-speaking minority in Albania. Following incidents during the 2003 local elections, they staged a demonstration, carrying Greek flags and chanting slogans in support of one of the candidates. The Albanian authorities brought proceedings against them for incitement to national hatred and defamation of the State and its symbols. The applicants complain of a violation of their right to freedom of expression.

Dink v. Turkey

14 September 2010

Firat (Hrank) Dink, a Turkish journalist of Armenian origin, published several articles on the identity of Turkish citizens of Armenian origin. He wrote, in particular, that Armenians were obsessed with having their status as victims of the 1915 genocide recognised, that Turkish people were indifferent to this need and that this explained the traumas suffered by Armenians. He also expressed the view that the Armenian diaspora's ties with the country should be strengthened in order to forge a healthier Armenian national identity. Mr Dink's remarks provoked a virulent reaction among extreme nationalist groups. He was found guilty of denigrating "Turkishness" (Turkish identity). Approximately a year and a half later, he was killed by nationalist extremists.

Following his death, his family complained, among other things, of a breach of his right to freedom of expression.

The Court found a **violation of Article 10** (freedom of expression). Its main finding was that the Turkish authorities had failed to protect Mr Dink's life. As to his remarks, he had been writing in his capacity as a journalist on a topic of general interest, seeking to establish historical truth. The Court noted that, in bringing charges against him, the Turkish judicial authorities had indirectly punished him for criticising the Turkish State's denial of the Armenian genocide and had thus infringed his right to freedom of expression.

Association of Citizens "Radko" & Paunkovski v. "the former Yugoslav Republic of Macedonia"

15 January 2009

A citizens' association named "Radko" after Ivan Mihajlov-Radko (leader of the Macedonian Liberation Movement for over 60 years), which had been officially registered, was subsequently dissolved by the authorities in "the former Yugoslav Republic of Macedonia". The authorities considered that the association had negated the identity of the Macedonian people through the promotion of Fascist ideas concerning the Bulgarian origins of the Macedonian people. This was held to be contrary to the constitutional order and to encourage national or religious hatred or intolerance. The association and its chairman complained of a violation of their right to freedom of association.

The Court held that there had been a **violation of Article 11** (freedom of assembly and association). It considered that the mere fact of naming the association after an individual who had been perceived negatively by the majority of the population could not in itself be considered a present and imminent threat to public order and did not justify dissolving the association. Furthermore, there had been no evidence to suggest that the association had advocated hostility or intended to make use of violent methods or methods apt to destroy the constitutional order. While acknowledging that the association's interpretation of the country's history was liable to shock many people, the Court considered that it did not amount to an attack on the rules of democracy or a public defence of violence, and that the association should not have been banned.

Sürek v. Turkey (no.1)

8 July 1999 (Grand Chamber)

The applicant was the owner of a weekly review which published two readers' letters vehemently condemning the military actions of the authorities in south-east Turkey and accusing them of brutal suppression of the Kurdish people in their struggle for independence and freedom. The applicant was convicted of "disseminating propaganda against the indivisibility of the State and provoking enmity and hatred among the people". He complained that his right to freedom of expression had been breached.

The Court held that there had been **no violation of Article 10** (freedom of expression). It noted that the impugned letters amounted to an appeal to bloody revenge and that one of them had identified persons by name, stirred up hatred for them and exposed them to the possible risk of physical violence. Although the applicant had not personally associated himself with the views contained in the letters, he had nevertheless provided their writers with an outlet for stirring up violence and hatred. The Court considered that, as the owner of the review, he had been vicariously subject to the "duties and responsibilities" which the review's editorial and journalistic staff undertook in the collection and dissemination of information to the public, and which assumed even greater importance in situations of conflict and tension.

See also:

Partidul Comunistilor (Nepeceristi) and Ungureanu v. Romania, 3 February 2005 (concerning the refusal to register a political party on the special register on the grounds that it posed a risk of re-establishment of a State based on communist doctrine);

[Stankov and the United Macedonian Organisation Ilinden v. Bulgaria](#), 2 October 2001 (concerning the prohibition of meetings of a party that was subsequently declared unconstitutional and dissolved, on the grounds that the meetings posed a possible threat to public order);

[Sidiropoulos and Others v. Greece](#), 10 July 1998 (concerning the refusal to register an association on the ground that, once it was established, it might engage in activities liable to undermine the country's territorial integrity, national security and public order).

Further reading

See, among others:

- **[Recommendation No. R 97\(20\)](#)** of the Committee of Ministers of the Council of Europe to Member States on "hate speech", 30 October 1997
- **[General Policy Recommendation No. 7](#)** of the European Commission against Racism and Intolerance (ECRI) on "national legislation to combat racism and racial discrimination", 13 December 2002
- **[Recommendation 1805 \(2007\)](#)** of the Parliamentary Assembly of the Council of Europe on "blasphemy, religious insults and hate speech against persons on grounds of their religion", 29 June 2007
- **[Study no. 406/2006](#)** of the Venice Commission, "Report on the relationship between freedom of expression and freedom of religion: the issue of regulation and prosecution of blasphemy, religious insult and incitement to religious hatred", doc. CDL-AD(2008)026, 23 October 2008
- **[Manual on hate speech](#)**, Strasbourg, Council of Europe Publishing, 2009
- **[Issue discussion paper](#)** by the Council of Europe Commissioner for Human Rights on "Ethical journalism and human rights", doc. CommDH (2011)40, 8 November 2011
- Website of the **[Conference on "Tackling hate speech"](#)** organized by the Council of Europe in Budapest in November 2012

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