KEY THEME[1]
Article 2 of Protocol No. 1
Admission criteria and entrance examinations

(Last updated: 31/08/2026)

Introduction

The refusal by a State to guarantee access to a school may constitute a violation of the right to education (*Campbell and Cosans v. the United Kingdom*, 1982).

The Court, however, recognises the proportionality of certain restrictions on the right of access to education. The right to education can be subject to implicitly accepted restrictions because "by its very nature [it] calls for regulation by the State". The regulation of educational institutions may vary in time and in place, *inter alia,* according to the needs and resources of the community and the distinctive features of different levels of education. Consequently, the Contracting States enjoy a certain margin of appreciation in this sphere, although the final decision as to the observance of the Convention's requirements rests with the Court (*Tarantino and Others v. Italy*, 2013, § 44; *Kılıç v. Turkey* (dec.), 2019, § 24).

Principles drawn from the current case-law

The guarantees of Article 2 of Protocol No. 1 apply to existing institutions of higher education (*Leyla Şahin v. Turkey* [GC], 2005, §§ 134-142; *Kılıç v. Turkey* (dec.), 2019, § 23).

Admission criteria (access to university):

- Article 2 of Protocol No. 1 permits limiting admission to universities to those who duly applied for entrance and passed the examination (*Lukach v. Russia* (dec.), 1999; *Tarantino and Others v. Italy*, 2013, § 46).
- When regulating access to universities or colleges of higher education, the member States enjoy a wide margin of appreciation concerning the qualities required of candidates in order to select those who are liable to succeed in their higher-level studies. The selection system used must not impair the very essence of the right to education if it is not to infringe Article 2 of Protocol No. 1 (*Altınay v. Turkey*, 2013, § 41; *Kılıç v. Turkey* (dec.), 2019, § 29); nor must it assess candidates under conditions incompatible with equality and fairness if it is not to violate the rights protected under Article 14 taken in conjunction with Article 2 of Protocol No. 1 (*Altınay v. Turkey*, 2013, § 41).
- The Court has taken into account the fact that in all European countries the trend was towards widening access to university by extending the admission criteria to channels other than the traditional high-school diploma, and in particular by accepting "high-level vocational qualifications ... as appropriate preparation for higher education" (*Altınay v. Turkey*, 2013, § 43).
- Any legal basis for a broad discretion to annul the exam results of candidates on the ground of their inability to explain their success might create such legal uncertainty as to

[1] Prepared by the Registry. It does not bind the Court.

be incompatible with the rule of law, one of the basic principles of a democratic society enshrined in the Convention, or injure the very substance of the right to education (*Mürsel Eren v. Turkey*, 2006, § 46). Candidates for admission satisfying conditions for the admission to a university laid down by legislation have a right to be admitted to that university (*ibid.*, § 48).

Entrance examination with numerus clausus*:*

- Assessing candidates through relevant tests in order to identify the most meritorious students is a proportionate measure designed to ensure a minimum and adequate education level in the universities (*Tarantino and Others v. Italy*, 2013, § 49). The Court is not competent to decide on the content or appropriateness of the tests involved (*ibid.,* § 49).
- With regard to the *numerus clausus*, resource considerations are clearly relevant and undoubtedly acceptable. This implies a right of access to education only in as far as it is available and within the relevant limits, often dependent on the assets necessary to run such institutions, including, *inter alia*, human, material and financial resources with the relevant considerations, such as the quality of such resources, particularly when the universities are State run (*Tarantino and Others v. Italy*, 2013, § 51). With regard to the application of the *numerus clausus* to private universities, the State is justified in being rigorous in its regulation of the sector – especially in the fields of study where a minimum and adequate education level is of utmost importance – in order to ensure that access to private institutions is not available purely on the basis of the financial means of candidates, irrespective of their qualifications and suitability for the profession (*ibid*, § 52).
- A State is entitled to take into account the society's need for a particular profession as a basis for applying the *numerus clausus.* Since the training of certain specific categories of professionals constitutes a huge investment, it is reasonable for the State to aspire to the assimilation of each successful candidate into the labour market (*Tarantino and Others v. Italy*, 2013, § 56).

Noteworthy examples

Admission criteria (access to university):

- *X. v. Austria*, Commission decision, 1973, concerning the fixing a maximum duration for university studies (Article 14 in conjunction with Article 2 of Protocol No. 1: inadmissible – manifestly ill-founded);
- *X. v. the United Kingdom*, Commission decision, 1980, concerning the limiting access to academic studies to student candidates who had attained the academic level required to most benefit from the courses offered (Article 2 of Protocol No. 1: inadmissible – manifestly ill-founded);
- *Mürsel Eren v. Turkey*, 2006, concerning the annulment of a candidate's successful result in a university entrance examination, in view of his poor results in previous years. The decision to annul his results, which was upheld by the courts, lacked a legal and rational basis, resulting in arbitrariness (§§ 40-52, violation of Article 2 of Protocol No. 1);
- *Altınay v. Turkey*, 2013, (1) concerning the application of different coefficients to the marks of graduates from vocational training schools and graduates from ordinary high schools. (§§ 36-50, no violation of Article 14 in conjunction with Article 2 of Protocol No. 1); and (2) concerning the introduction, several years after the applicant had chosen to attend a vocational training school, of new conditions of access to university with no transitional measures (§§ 51-61, violation of Article 14 in conjunction with Article 2 of Protocol No. 1);

- *Kılıç v. Turkey* (dec.), 2019, concerning the university admission system attaching greater weight to a student's previous field of study (§§ 26-34, Article 2 of Protocol No. 1: inadmissible – manifestly ill-founded).

Entrance examination with numerus clausus*:*

- *Tarantino and Others v. Italy*, 2013, concerning the entrance examination with *numerus clausus* for university studies in medicine and dentistry in both public and private sectors (§§ 47-59, no violation of Article 2 of Protocol No. 1).

Recap of general principles

- For a recapitulation of general principles under Article 2 of Protocol No. 1, see *Tarantino and Others v. Italy*, 2013 (§§ 43-46).

Further references

Case-law guides:

- Guide on Article 2 of Protocol No. 1 – Right to education

Other key themes:

- Discrimination in access to education

KEY CASE-LAW REFERENCES

Leading cases:

- *Campbell and Cosans v. the United Kingdom*, nos. 7511/76 and 7743/76, 25 February 1982, Series A no. 48 (violation of Article 2 of Protocol No. 1);
- *Tarantino and Others v. Italy*, nos. 25851/09 and 2 others, ECHR 2013 (no violation of Article 2 of Protocol No. 1).

Other cases under Article 2 of Protocol No. 1:

- *X. v. Austria*, no. 5492/72, Commission decision of 16 July 1973 (Article 14 in conjunction with Article 2 of Protocol No. 1: inadmissible – manifestly ill-founded);
- *X. v. the United Kingdom*, no. 8844/80, Commission decision of 9 December 1980, Decisions and Reports 23 (Article 14 in conjunction with Article 2 of Protocol No. 1: inadmissible – manifestly ill-founded);
- *Lukach v. Russia* (dec.), no. 48041/99, 16 November 1999 (Article 2 of Protocol No. 1: inadmissible – manifestly ill-founded);
- *Leyla Şahin v. Turkey* [GC], no. 44774/98, ECHR 2005-XI (no violation of Article 2 of Protocol No. 1);
- *Mürsel Eren v. Turkey*, no. 60856/00, ECHR 2006-II (violation of Article 2 of Protocol No. 1);
- *Altınay v. Turkey*, no. 37222/04, 9 July 2013 (no violation of Article 14 in conjunction with Article 2 of Protocol No. 1 as regards the complaint of discrimination relating to the applicant's access to higher education owing to the weighting introduced to the detriment of students from vocational high schools as compared with students from ordinary high schools; violation of Article 14 in conjunction with Article 2 of Protocol No. 1 as regards the complaint concerning the unforeseeable nature of the changes to the rules on access to university several years after the applicant had chosen his future educational pathway, in the absence of any transitional measures applicable to his case);
- *Kılıç v. Turkey* (dec.), no. 29601/05, 5 March 2019 (Article 2 of Protocol No. 1: inadmissible – manifestly ill-founded).