

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Guide on Article 17 of the European Convention on Human Rights

Prohibition of abuse of rights

Updated on 31 August 2026

Prepared by the Registry. It does not bind the Court.



Publishers or organisations wishing to translate and/or reproduce all or part of this Guide in the form of a printed or electronic publication are invited to complete the contact form: request to reproduce or republish a translation for information on the authorisation procedure.

If you wish to know which translations of the Case-Law Guides are currently under way, please see the list of pending translations.

This Guide was originally drafted in English. It is updated regularly and, most recently, on 31 August 2026. It may be subject to editorial revision.

The Case-Law Guides are available for downloading at https://ks.echr.coe.int. For publication updates please follow the Court's X account at https://x.com/ECHR_CEDH.

© Council of Europe/European Court of Human Rights, 2026

Table of contents

Note to readers 5

I. Introduction 6

II. General principles 7

A. Addressees of Article 17 7

1. States 7
2. Groups and individuals 8

B. Abuse of rights 8

1. The notion of abuse of rights 8
2. Abuse of rights and abuse of the right of individual application (Article 35 § 3 (a)) 9
3. Fundamental values of the Convention 9
4. Aims prohibited by Article 17 10
5. Importance of context 11
6. Impact of impugned conduct 12

C. Different uses of Article 17 13

1. Direct application 13
2. Accessory nature and effect of Article 17 13
3. Scope of application 14
4. Rights not covered by Article 17 15
5. Rights covered by Article 17 16
6. When to apply Article 17 16
7. Aid in interpretation of substantive provisions of the Convention 18

III. Case-law examples 20

A. Promotion and justification of terrorism and war crimes 20

1. Article 17 applied 20
2. Article 17 not applied 20
3. Article 17 used as aid in interpretation 21
4. No reliance on Article 17 21

B. Incitement to violence 22

1. Article 17 applied 22
2. Article 17 not applied 22
3. Article 17 used as aid in interpretation 24
4. No reliance on Article 17 25

C. Alleged threat to territorial integrity and constitutional order 25

1. Article 17 applied 25
2. Article 17 not applied 26
3. Article 17 used as aid in interpretation 27

D. Promotion of totalitarian ideologies 28

1. Communism 28
a. Article 17 applied 28
b. Article 17 not applied 28
c. Article 17 used as aid in interpretation 29
2. Nazi ideology 29
a. Article 17 applied 29
b. Article 17 not applied 29

c. Article 17 used as aid in interpretation 30
d. No reliance on Article 17 31
3. Sharia 31
a. Article 17 applied 31
b. Article 17 used as aid in interpretation 31
c. No reliance on Article 17 31
E. Incitement to hatred 32
1. Xenophobia and racial discrimination 32
a. Article 17 applied 32
b. Article 17 not applied 33
c. Article 17 used as aid in interpretation 33
2. Hatred on ethnic grounds 33
a. Hatred towards Roma 33
i. Article 17 not applied 33
ii. Article 17 used as aid in interpretation 34
b. Anti-Semitism 34
i. Article 17 applied 34
ii. Article 17 used as aid in interpretation 35
iii. No reliance on Article 17 35
c. Other types of ethnic hatred 35
i. Article 17 not applied 35
ii. Article 17 used as aid in interpretation 36
iii. No reliance on Article 17 36
3. Homophobia 36
a. Article 17 applied 36
b. Article 17 not applied 36
c. Article 17 used as aid in interpretation 36
d. No reliance on Article 17 37
4. Religious hatred 37
a. Hatred towards non-Muslims 37
b. Islamophobia 38
i. Article 17 applied 38
ii. Article 17 not applied 38
iii. Article 17 used as aid in interpretation 39
iv. No reliance on Article 17 39
c. Other types of religious hatred 39
F. Negation of the Holocaust and related issues 39
1. Article 17 applied 40
2. Article 17 not applied 41
3. Article 17 used as aid in interpretation 41
4. No reliance on Article 17 42
G. Historic debates 43
1. Article 17 not applied 43
2. Article 17 used as aid in interpretation 44
List of cited cases 44

Note to readers

This Guide is part of the series of Case-Law Guides published by the European Court of Human Rights (hereafter "the Court", "the European Court" or "the Strasbourg Court") to inform legal practitioners about the fundamental judgments and decisions delivered by the Strasbourg Court. This particular Guide analyses and sums up the case-law on Article 17 of the European Convention on Human Rights (hereafter "the Convention" or "the European Convention"). Readers will find herein the key principles in this area and the relevant precedents.

The case-law cited has been selected among the leading, major, and/or recent judgments and decisions.*

The Court's judgments and decisions serve not only to decide those cases brought before the Court but, more generally, to elucidate, safeguard and develop the rules instituted by the Convention, thereby contributing to the observance by the States of the engagements undertaken by them as Contracting Parties (*Ireland v. the United Kingdom*, 18 January 1978, § 154, Series A no. 25, and, more recently, *Jeronovičs v. Latvia* [GC], no. 44898/10, § 109, 5 July 2016).

The mission of the system set up by the Convention is thus to determine, in the general interest, issues of public policy, thereby raising the standards of protection of human rights and extending human rights jurisprudence throughout the community of the Convention States (*Konstantin Markin v. Russia* [GC], 30078/06, § 89, ECHR 2012). Indeed, the Court has emphasised the Convention's role as a "constitutional instrument of European public order" in the field of human rights (*Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi v. Ireland* [GC], no. 45036/98, § 156, ECHR 2005-VI, and more recently, *N.D. and N.T. v. Spain* [GC], § 110).

Protocol No. 15 to the Convention recently inserted the principle of subsidiarity into the Preamble to the Convention. This principle "imposes a shared responsibility between the States Parties and the Court" as regards human rights protection, and the national authorities and courts must interpret and apply domestic law in a manner that gives full effect to the rights and freedoms defined in the Convention and the Protocols thereto (*Grzęda v. Poland* [GC], § 324).

This Guide contains references to keywords for each cited Article of the Convention and its Additional Protocols. The legal issues dealt with in each case are summarised in a List of keywords, chosen from a thesaurus of terms taken (in most cases) directly from the text of the Convention and its Protocols.

The HUDOC database of the Court's case-law enables searches to be made by keyword. Searching with these keywords enables a group of documents with similar legal content to be found (the Court's reasoning and conclusions in each case are summarised through the keywords). Keywords for individual cases can be found by clicking on the Case Details tag in HUDOC. For further information about the HUDOC database and the keywords, please see the HUDOC user manual.

---

* The case-law cited may be in either or both of the official languages (English or French) of the Court and the European Commission of Human Rights Unless otherwise indicated, all references are to a judgment on the merits delivered by a Chamber of the Court. The abbreviation "(dec.)" indicates that the citation is of a decision of the Court and "[GC]" that the case was heard by the Grand Chamber. Chamber judgments that were not final when this update was finalised are marked with an asterisk (*).

Article 17 of the Convention – Prohibition of abuse of rights

"Nothing in [the] Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention."

HUDOC keywords

Prohibition of abuse of rights (17) – Destruction of rights and freedoms (17) – Excessive limitation on rights and freedoms (17)

I. Introduction

1. Article 17 prohibits the destruction of and excessive limitation on the rights and freedoms set forth in the Convention. It applies to States, groups and individuals.

2. The text of Article 17 is derived from Article 30 of the Universal Declaration of Human Rights (1948). Equivalent provisions to Article 17 are also found in the International Covenant on Civil and Political Rights (1966), the American Convention on Human Rights (1969) and the Charter of Fundamental Rights of the European Union (2000).

3. This fundamental provision of the Convention is designed to safeguard the rights listed therein by protecting the free operation of democratic institutions (*German Communist Party (KPD) v. Germany*, Commission decision, 1957).

4. Article 17 was included in the Convention as it could not be ruled out that a person or a group of persons would attempt to rely on the rights enshrined in the Convention to derive the right to conduct activities intended to destroy those very same rights (*Perinçek v. Switzerland* [GC], 2015, § 113; *Ždanoka v. Latvia* [GC], 2006, § 99 with reference to the preparatory work on the Convention). In particular, it is not at all improbable that totalitarian movements, organised in the form of political parties, might do away with democracy, after prospering under the democratic regime, there being examples of this in modern European history (*Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], 2003, § 99).

5. In view of the very clear link between the Convention and democracy, no one must be authorised to rely on the Convention's provisions in order to weaken or destroy the ideals and values of a democratic society (*Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], 2003, § 99). The general purpose of Article 17 is therefore to prevent totalitarian or extremist groups from exploiting in their own interests the principles enunciated by the Convention (*W.P. and Others v. Poland* (dec.), 2004; *Paksas v. Lithuania* [GC], 2011, § 87, *Ayoub and Others v. France*, 2020, § 92).

6. Article 17 is linked to the concept of "democracy capable of defending itself" (*Vogt v. Germany*, 1995, §§ 51 and 59; *Ždanoka v. Latvia* [GC], 2006, § 100; *Erdel v. Germany* (dec.), 2007; *Perinçek v. Switzerland* [GC], 2015, § 242; *Ayoub and Others v. France*, 2020, § 138).

7. Some compromise between the requirements of defending democratic society and individual rights is inherent in the Convention system. In order to guarantee the stability and effectiveness of a democratic system, the State may be required to take specific measures to protect itself while carefully evaluating their scope and consequences (*Ždanoka v. Latvia* [GC], 2006, §§ 99-100; *Petropavlovskis v. Latvia*, 2015, §§ 71-72).

8. In prohibiting the "abuse of rights" Article 17 is geared to providing democracies with the means of combating acts and activities which destroy or unduly restrict fundamental rights and freedoms,

whether those acts or activities are carried out by a "State", a "group" or an "individual" (*Bîrsan v. Romania* (dec.), 2016, § 68).

9. Article 17 also reflects the concern to protect the Convection mechanism (*Zambrano v. France* (dec.), 2021, § 37).

II. General principles

A. Addressees of Article 17

1. States

10. In so far as Article 17 refers to States, the word "State" necessarily refers to States Parties to the Convention (*Bîrsan v. Romania* (dec.), 2016, § 71).

11. Article 17 has two effects. Firstly, it prevents States Parties from using any of the provisions of the Convention in order to destroy the rights and freedoms safeguarded therein. Secondly, it prevents the States Parties from relying on a Convention provision in order to limit the rights and freedoms which that provision safeguards to a greater extent than is provided for in the Convention (*Bîrsan v. Romania* (dec.), 2016, § 71).

12. Article 17 has been relied on in alleging that a State has acted in a manner aimed at the destruction of any of these rights and freedoms or at limiting them to a greater extent than is provided for in the Convention (*Mozer v. the Republic of Moldova and Russia* [GC], 2016, § 222). So far, no State has ever been condemned on this ground.

13. In some cases, referring to its findings under the substantive provisions of the Convention, the Court did not consider it necessary also to examine the case under Article 17 (*Engel and Others v. the Netherlands*, 1976, § 104; *Sporrong and Lönnroth v. Sweden*, 1982, § 76; *Ulusoy and Others v. Turkey*, 2007, § 59). Indeed, for an issue to arise under Article 17 proper, the relevant complaint should go beyond allegations of breaches of other provisions of the Convention and its Protocols (*Maggio and Others v. Italy* (dec.), 2010).

14. In other cases, the Court rejected such complaints for lack of evidence that the respondent State had set out deliberately to destroy any of the rights relied on by the applicant, or to limit any of these rights to a greater extent than is provided for in the Convention (*Bîrsan v. Romania* (dec.), 2016, § 71; *Seurot v. France* (dec.), 2004; *Preda and Dardari v. Italy* (dec.), 1999; see also *X., Y. and Z. v. the United Kingdom*, Commission decision, 1982; *Contrada v. Italy*, Commission decision, 1997).

15. A complaint alleging a breach of Article 17 on account of the verification by the domestic authorities of the Convention compliance of the contested measures falls outside the scope of that Article (*Mărgărit and Others v. Romania* (dec.) [Committee], 2019, § 47; *AEI Investment Industry S.R.L. and Others v. Romania* (dec.) [Committee], 2020, § 51).

16. In *Mozer v. the Republic of Moldova and Russia* [GC], 2016, the applicant complained of a breach of Article 17 by both respondent States on account of their tolerance towards the unlawful regime installed in the self-proclaimed "Moldavian Republic of Transdniestria", which did not recognise any rights set forth in the Convention. The Court considered that the complaint fell outside the scope of Article 17 (§ 223).

17. In *Ashingdane v. the United Kingdom*, 1985, the applicant, a mental patient, had to endure the stricter regime at a special psychiatric hospital for nineteen months longer than his mental health required, because of his belated transfer to a regular psychiatric hospital. As the place and conditions of his detention at the special hospital with the stricter regime did not cease to be those capable of accompanying "the lawful detention of a person of unsound mind", the Court was unable to find that,

contrary to Article 17, the applicant's right to liberty and security of person was limited to a greater extent than that provided for under Article 5 § 1 (e) (§ 47).

2. Groups and individuals

18. In so far as it refers to groups and individuals, the purpose of Article 17 is to make it impossible for them to derive from the Convention a right to engage in any activity or perform any act aimed at destroying any of the rights and freedoms set forth in the Convention (*Lawless v. Ireland (no. 3)*, 1961, § 7 of "the Law" part; *Orban and Others v. France*, 2009, § 33; *Paksas v. Lithuania* [GC], 2011, § 87; *Roj TV A/S v. Denmark* (dec.), 2018, § 30; *Šimunić v. Croatia* (dec.), 2019, § 37; *Ayoub and Others v. France*, 2020, § 92; *Lenis v. Greece* (dec.), 2023, § 38).

19. The remaining part of the present Guide will deal with Article 17 as applied to groups and individuals.

B. Abuse of rights

1. The notion of abuse of rights

20. The concept of "abuse" features in Article 17 and in Article 35 § 3 (a) (abuse of the right of individual application). It refers to its ordinary meaning according to general legal theory – namely, the harmful exercise of a right by its holder in a manner that is manifestly inconsistent with or contrary to the purpose for which such right is granted/designed (*Miroļubovs and Others v. Latvia*, 2009, §§ 62 and 65; *S.A.S. v. France* [GC], 2014, § 66).

21. In order to establish whether a particular conduct amounts to an abuse of rights, the Court scrutinises the aims which an applicant pursues when relying on the Convention and their compatibility with this instrument (*Kilin v. Russia*, 2021, § 72).

22. Article 17 is relevant where an applicant seeks to deflect a Convention provision from its real purpose by taking advantage of the right it guarantees in order to justify, promote or perform acts that:

- are contrary to the text and spirit of the Convention (*M'Bala M'Bala v. France* (dec.), 2015; *Garaudy v. France* (dec.), 2003; *Kasymakhunov and Saybatalov v. Russia*, 2013; *W.P. and Others v. Poland* (dec.), 2004; *Witzsch v. Germany (no. 2)* (dec.), 2005; *Pastörs v. Germany*, 2019, § 46);
- are incompatible with democracy and/or other fundamental values of the Convention (*Perinçek v. Switzerland* [GC], 2015, § 114; *Pavel Ivanov v. Russia* (dec.), 2007; *Norwood v. the United Kingdom* (dec.), 2004; *Roj TV A/S v. Denmark* (dec.), 2018, § 48; *Romanov v. Ukraine* [Committee], 2020, § 164; *Ayoub and Others v. France*, 2020, § 138; *Lenis v. Greece* (dec.), 2023, § 57);
- infringe the rights and freedoms recognised therein (*Lawless v. Ireland (no. 3)*, 1961, § 7 of "the Law" part; *Varela Geis v. Spain*, 2013, § 40; *Molnar v. Romania* (dec.), 2012).

23. Such acts, if allowed, would contribute to the destruction of the rights and freedoms set forth in the Convention (*Garaudy v. France* (dec.), 2003; *Kasymakhunov and Saybatalov v. Russia*, 2013).

24. Even where a clear pattern misuse of power by the respondent State, in breach of Article 18 of the Convention, is established, this does not dispense the Court from examining whether an applicant's particular conduct amounts to an abuse of rights within the meaning of Article 17 (*Yuksekdag Senoglu and Others v. Türkiye*, 2022, §§ 487-488 and 638-640).

2. Abuse of rights and abuse of the right of individual application (Article 35 § 3 (a))

25. Where an applicant seeks to vindicate his or her Convention rights in a way that blatantly violates the rights and values protected by the Convention, such conduct may qualify as an abuse of the right of individual application within the meaning of Article 35 § 3 (a) (*Koch v. Poland* (dec.), 2017, § 32; see also the Practical Guide on Admissibility Criteria, under "Abuse of the right of application").

26. In *Koch v. Poland* (dec.), 2017, the applicant used force to remove hair samples from both his former wife and his daughter in an attempt to prove that he was not the father of the latter. In the Convention proceedings, he complained under Articles 6 and 8 that he had not been able to bring proceedings before the domestic courts to disavow his paternity. Having regard to Article 17, the Court found, in the exceptional circumstances of that case, that by relying on Article 8 before the Court on the basis of evidence obtained in violation of other people's Convention rights, the applicant had abused his right of individual petition (§§ 31-34).

27. In *Zambrano v. France* (dec.), 2021, the Court dealt with a purely activist petition lodged by an individual who has caused a massive influx of identical applications through an internet campaign to protest against the Covid-19 health pass. It was found to amount to an abuse of the right of individual application within the meaning of Article 35 § 3 (a): the objective pursued by the applicant, expressed in unambiguous terms, was not to win his case, but deliberately to seek to undermine the Convention system and to "paralyse" the functioning of the Court. His approach, in attempting artificially to create mass litigation, was manifestly contrary to the purpose of the right of individual application and, more generally, to the spirit of the Convention and the objectives pursed by it. Driven by a concern to maintain its ability to fulfil its mission under Article 19 in relation to other applications, the Court drew upon Article 17, noting that its provisions were also intended to protect the Convection mechanism (§§ 36-38).

3. Fundamental values of the Convention

28. When assessing an applicant's conduct and aims in the light of Article 17, the Court takes into account the values proclaimed and guaranteed by the Convention, particularly as expressed in its Preamble (*Delfi AS v. Estonia* [GC], 2015, § 136; *Garaudy v. France* (dec.), 2003; *M'Bala M'Bala v. France* (dec.), 2015), as well as the fundamental ideals and values underlying the Convention and a democratic society (*Lehideux and Isorni v. France*, 1998, § 53; *Paksas v. Lithuania* [GC], 2011, § 87; *Romanov v. Ukraine* [Committee], 2020, § 164), such as:

- Justice and peace (*M'Bala M'Bala v. France* (dec.), 2015; *Garaudy v. France* (dec.), 2003; *D.I. v. Germany*, Commission decision, 1996; *Marais v. France*, Commission decision, 1996; *Karatas and Sari v. France*, Commission decision, 1998; *Ayoub and Others v. France*, 2020, § 103);
- effective political democracy and free elections (*Romanov v. Ukraine* [Committee], 2020, § 164; *Ždanoka v. Latvia* [GC], 2006, §§ 98-99; *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], 2003, § 99; *Kühnen v. Germany*, Commission decision, 1988);
- peaceful settlement of international conflicts and sanctity of human life (*Hizb ut-Tahrir and Others v. Germany* (dec.), 2012, § 74; *Kasymakhunov and Saybatalov v. Russia*, 2013, § 106);
- tolerance, social peace and non-discrimination (*Pavel Ivanov v. Russia* (dec.), 2007; *Norwood v. the United Kingdom* (dec.), 2004; *Belkacem v. Belgium* (dec.), 2017; *Ayoub and Others v. France*, 2020, § 103);
- gender equality (*Kasymakhunov and Saybatalov v. Russia*, 2013, § 110);
- coexistence of members of society free from racial segregation (*Vona v. Hungary*, 2013, § 57).

4. Aims prohibited by Article 17

29. Article 17 prevents applicants from relying on the Convention in order to perform, promote and/or justify acts amounting to or characterised by:

- hatred (*Perinçek v. Switzerland* [GC], 2015, §§ 115 and 230; *Molnar v. Romania* (dec.), 2012; *Belkacem v. Belgium* (dec.), 2017; *Lilliendahl v. Iceland* (dec.), 2020, § 39; *Lenis v. Greece* (dec.), 2023, § 56);
- violence (*Hizb ut-Tahrir and Others v. Germany* (dec.), 2012, § 73; *Kasymakhunov and Saybatalov v. Russia*, 2013, § 106; *Kaptan v. Switzerland* (dec.), 2001; *Belkacem v. Belgium* (dec.), 2017; *Romanov v. Ukraine* [Committee], 2020, §§ 163-166; *Lenis v. Greece* (dec.), 2023, § 56);
- xenophobia and racial discrimination (*Jersild v. Denmark*, 1994, § 35; *Glimmerveen and Hagenbeek v. the Netherlands*, Commission decision, 1979; *Féret v. Belgium*, 2009; *Ayoub and Others v. France*, 2020, § 134);
- anti-Semitism (*Pavel Ivanov v. Russia* (dec.), 2007; *W.P. and Others v. Poland* (dec.), 2004);
- islamophobia (*Norwood v. the United Kingdom* (dec.), 2004; *Seurot v. France* (dec.), 2004; *Soulas and Others v. France*, 2008; *Zemmour v. France*, 2022);
- terrorism and war crimes (*Orban and Others v. France*, 2009, § 35; *Leroy v. France*, 2008, § 27; *Roj TV A/S v. Denmark* (dec.), 2018, §§ 46-47);
- negation and revision of clearly established historical facts, such as the Holocaust (*Lehideux and Isorni v. France*, 1998, § 47; *M'Bala M'Bala v. France* (dec.), 2015; *Garaudy v. France* (dec.), 2003; *Witzsch v. Germany (no. 2)* (dec.), 2005);
- contempt for victims of the Holocaust, of a war and/or of a totalitarian regime (*Witzsch v. Germany (no. 2)* (dec.), 2005; *Fatullayev v. Azerbaijan*, 2010, § 81; *Vajnai v. Hungary*, 2008, § 25; *Fáber v. Hungary*, 2012, § 58; *Pastörs v. Germany* [Committee], 2019, § 39);
- totalitarian ideology and other political ideas incompatible with democracy (*Lehideux and Isorni v. France*, 1998, § 53; *Vona v. Hungary*, 2013, § 36; *Vajnai v. Hungary*, 2008, § 25; *Kasymakhunov and Saybatalov v. Russia*, 2013, §§ 108-113; *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], 2003, § 132; *Schimanek v. Austria* (dec.), 2000; *Kühnen v. Germany*, Commission decision, 1988; *German Communist Party (KPD) v. Germany*, Commission decision, 1957).

30. Where an applicant pursues one or more of the above aims, Article 17 is relevant. The Court may, however, choose to deal with such matters without reliance on Article 17 (*Zana v. Turkey*, 1997; *Sürek v. Turkey (no. 1)* [GC], 1999; *Balsytė-Lideikienė v. Lithuania*, 2008; *Vejdeland and Others v. Sweden*, 2012; *Smajić v. Bosnia and Herzegovina* (dec.), 2018; see also the Case-Law Guides on Article 11 and on Article 10 of the Convention).

31. Where an applicant pursues aims of a different nature, though possibly reprehensible, Article 17 is not relevant.

32. In *Paksas v. Lithuania* [GC], 2011, the applicant, a former President of Lithuania, was barred from standing in the presidential and parliamentary elections as a result of his removal from office following impeachment proceedings. While in office as President, he had, unlawfully and for his own personal ends, granted Lithuanian citizenship to a Russian businessman, disclosed a State secret to the latter and exploited his own status to exert undue influence on a private company for the benefit of close acquaintances. In the Government's submission, the applicant's real aim was to use the Convention machinery to gain political revenge and to be re-elected President. The Court, however, found that allegation immaterial: there was no indication that the applicant was pursuing an aim of the same nature as the aims prohibited by Article 17 (§ 89). It found a breach of Article 3 of Protocol No. 1, being

unconvinced of the importance of the applicant's disqualification for the preservation of the democratic order in Lithuania (§ 107).

33. In *Palusinski v. Poland* (dec.), 2006, the applicant was convicted on account of the book he wrote in which he incited readers to use narcotics by describing them as beneficial to mental and physical health. Even though the views expressed by the applicant were against the domestic anti-drug policy, the Court was not convinced by the Government's argument that his application should be regarded as an abuse of rights within the meaning of Article 17. The applicant could therefore rely on Article 10. The Court eventually rejected his application as manifestly ill-founded, finding that his conviction was proportionate to the legitimate aim of the protection of health and morals.

34. In *Rubins v. Latvia*, 2015, the applicant, a university professor, was dismissed in the context of a dispute over the abolition of his department, after he had informed the rector of his intention to disclose to the public the issues of plagiarism and mismanagement of State funds should the latter fail to settle the dispute on the terms proposed by the applicant. The Government claimed that the applicant's email to his employer contained blackmail and undisguised threats and could therefore not be covered by the protection of Article 10. The Government invited the Court to apply Article 17, arguing that the approach followed in Holocaust denial and related cases should not be interpreted in too restrictive a manner. The Court did not accede to this proposal, being unable to conclude from the text of the impugned email that it contained anything aimed at weakening or destroying the ideals and values of a democratic society (§§ 41 and 48). The Court eventually found a violation of Article 10.

35. In *Katamadze v. Georgia* (dec.), 2006, the applicant, a journalist, was convicted for having published inaccurate information and offensive comments about other journalists. For the Government, the applicant, whose only aim was to insult the persons concerned and to destroy their rights, abused her freedom of expression. The Court found that the Government's arguments fell within the province of paragraph 2 of Article 10 and did not consider it necessary to examine them also under Article 17. As the applicant was unable to show that her statements did not constitute a gratuitous personal attack, her application was declared manifestly ill-founded.

36. The Court has followed the same approach, refusing to apply Article 17, in the context of calumnious denunciations to the authorities (*Wojczuk v. Poland*, 2021, § 44) and a criminal complaint containing false accusations (*Tepljakov v. Estonia* (dec.), 2021, § 30).

5. Importance of context

37. In order to establish whether the applicant pursues any of the aims prohibited by Article 17, the Court examines the "main content", "general tone" or "general tenor" of his or her acts taken as a whole (*M'Bala M'Bala v. France* (dec.), 2015, § 41; *Garaudy v. France* (dec.), 2003; *Seurot v. France* (dec.), 2004; *Lenis v. Greece* (dec.), 2023, § 47) and their "immediate and wider context" (*Perinçek v. Switzerland* [GC], 2015, § 239; regarding particularly the immediate context, see *Yuksekdag Senoglu and Others v. Türkiye*, 2022). The relevant context is first and foremost that of the country in which the impugned acts have taken place (*Zhablyanov v. Bulgaria*, 2023, § 78; *Lenis v. Greece* (dec.), 2023, § 51).

38. In this respect, the Court may also have regard to whether the domestic courts have examined the case from the standpoint of the specific prohibited aim which, as claimed by the Government, the applicant pursues (*Mammadov v. Azerbaijan* [Committee], 2020, § 41)

39. It is only by a careful examination of the context that one can draw a meaningful distinction between conduct or language which, though shocking and offensive, is protected by the Convention and that which forfeits its right to tolerance in a democratic society (*Vajnai v. Hungary*, 2008, § 53; *Fáber v. Hungary*, 2012, § 36). Location and timing of the impugned conduct play an important role in this respect (*ibid.*, § 55).

40. The Court also has regard to the character of the group targeted by the impugned conduct or speech, notably whether the targeted group requires enhanced protection on account of its low acceptance in the particular national context and/or the marginalisation and victimisation to which such a group has historically been, and continues to be, subjected (for example, gender and sexual minorities) (*Lenis v. Greece* (dec.), 2023, § 51).

41. The Court also takes into consideration the question of whether the impugned acts relate directly to an issue of high importance in modern European society (for example, the protection of people's dignity and human value irrespective of sexual orientation)(*Lenis v. Greece* (dec.), 2023, § 55).

6. Impact of impugned conduct

42. The Court can take into account the impact of the applicant's conduct, when deciding whether it amounts to an abuse of Convention rights.

43. For instance, in *Open Door and Dublin Well Woman v. Ireland*, 1992, when arguing for the necessity of an injunction restraining counselling agencies from providing pregnant women with information on abortion facilities abroad, the respondent Government relied on Article 17 to submit that Article 10 should not be interpreted in such a manner as to limit, destroy or derogate from the right to life of the unborn child. In other words, Article 17 precluded the applicants from exercising their freedom to impart information in a way that infringed the right to life of the unborn. The Court observed that the injunction had not prevented Irish women from having abortions abroad and that the information it had sought to restrain was available from other sources. Accordingly, it was not the interpretation of Article 10 but the position in Ireland as regards the implementation of the domestic law that had made possible the continuance of the current level of abortions obtained abroad (§§ 76 and 78-79). Moreover, the counsellors of the applicant agencies had neither advocated nor encouraged abortion, and there could be little doubt that following such counselling there had been women who had decided against a termination of pregnancy. Accordingly, the link between the provision of information and the destruction of unborn life had not been as definite as contended (§ 75). The Court thus implicitly ruled out that the applicants' counselling activities had been aimed at destroying the right to life of the unborn or had had any serious impact on the level of abortions obtained abroad at the material time. It decided not to apply Article 17 and found a violation of Article 10, having regard to the over broad and disproportionate character of the impugned injunction (§§ 74 and 80).

44. In *Roj TV A/S v. Denmark* (dec.), 2018, the Court had regard, *inter alia*, to the fact that the applicant company had disseminated views supporting terrorist activity to a wide audience through television broadcasting and, by reason of Article 17, declared its application incompatible *ratione materiae* with the provisions of the Convention. Similarly, in *Lenis v. Greece* (dec.), 2023, the Court analysed the potential of the impugned hate speech to lead to harmful consequences, noting the fact that it had been disseminated to a wide audience on the Internet and also reproduced by several media outlets (§§ 50 and 55).

45. A relevant consideration in this respect is also the applicant's power to influence. In *Lenis v. Greece* (dec.), 2023, when applying directly Article 17, the Court took into account the applicant's ability to influence many people, in view of his position as a senior official of the Orthodox Church to which the majority of the Greek population belongs (§§ 49 and 50).

46. At the same time, an allegedly insignificant impact of the impugned conduct does not rule out the relevance of Article 17.

47. For example, in *Witzsch v. Germany (no. 2)* (dec.), 2005, the Court considered irrelevant the fact that the applicant had denied Hitler's and the National Socialists' responsibility for the Holocaust in a private letter and not before a larger audience. For the Court, by virtue of Article 17, the applicant

could not rely on Article 10 regarding those statements and his application was declared incompatible *ratione materiae* with the provisions of the Convention.

48. In *R.L. v. Switzerland* (dec.), 2003, the police seized two CDs and three musical records, which had been sent to the applicant by post, on the grounds that they propagated racism, supported use of force and could serve to radicalise extremist groups. The applicant maintained that the goods ordered were only meant for his personal use, and did not serve any commercial purpose. The Court relied on Article 17 in substance: in so far as such materials were directed against the Convention's underlying values, the interference in issue was "necessary in a democratic society". The applicant's complaint under Article 10 was thus rejected as manifestly ill-founded.

49. In *Norwood v. the United Kingdom* (dec.), 2004, the Court disregarded the applicant's argument that the poster, which was found to constitute a public expression of attack on all Muslims in the United Kingdom, had been displayed in a rural area not greatly afflicted by racial or religious tension, and there was thus no evidence that a single Muslim had seen it. Article 17 was applied directly and the application was rejected as being incompatible *ratione materiae* with the provisions of the Convention.

50. In *Romanov v. Ukraine* [Committee], 2020, the Court did not give any weight to the applicant's submission that the 1,500 copies of the printed material calling for an armed revolt against the constitutional order, which he and his co-defendants had distributed, had been incapable of harming the State, let alone bringing about such an outcome. His complaint under Article 10 was rejected (incompatible *ratione materiae*) as a result of the direct application of Article 17 (§§ 152 and 160).

C. Different uses of Article 17

51. So far, the Court has resorted to Article 17 when dealing with issues under Articles 9, 10, 11, 13, 14, 35 § 3 (a) of the Convention and Articles 1 and 3 of Protocol No. 1. Depending on the nature of a case, the Court can apply Article 17 directly or use it as an aid in interpretation.

1. Direct application

52. Where an applicant is essentially seeking to use a substantive Convention provision as a basis for a right to perform any act or to engage in any activity aimed at destroying any of the rights and freedoms set forth in the Convention, the Court applies Article 17 and rejects his or her complaint as being incompatible *ratione materiae* with the provisions of the Convention, pursuant to Article 35 §§ 3 and 4 (*Pavel Ivanov v. Russia* (dec.), 2007; *Belkacem v. Belgium* (dec.), 2017, § 37; *Kasymakhunov and Saybatalov v. Russia*, 2013; *Lenis v. Greece* (dec.), 2023, § 58).

53. The Court can apply Article 17 of its own motion and declare an application inadmissible *de plano* (*Pavel Ivanov v. Russia* (dec.), 2007; *Norwood v. the United Kingdom* (dec.), 2004; *Belkacem v. Belgium* (dec.), 2017; *Witzsch v. Germany (no. 2)* (dec.), 2005; *Roj TV A/S v. Denmark* (dec.), 2018). Where an application was communicated to the respondent Government, the latter's failure to raise an objection on the basis of Article 17 does not preclude the Court from examining the question of its direct application (*Romanov v. Ukraine* [Committee], 2020, § 161).

2. Accessory nature and effect of Article 17

54. Article 17 can only be applied in conjunction with the substantive provisions of the Convention (*Mozer v. the Republic of Moldova and Russia* [GC], 2016, § 222).

55. Article 17 is negative in scope (*Lawless v. Ireland (no. 3)*, 1961, § 7 of "the Law" part). Its effect is to negate the exercise of the Convention right that the applicant seeks to vindicate in the proceedings before the Court (*Perinçek v. Switzerland* [GC], 2015, § 114; *Lilliendahl v. Iceland* (dec.), 2020, § 25).

56. Article 17 operates to exclude or remove Convention protection (*Bingöl v. Turkey*, 2010, § 32). By virtue of Article 17, an act or activity aimed at destroying any of the rights and freedoms set forth in the Convention is removed from the protection of the relevant substantive provision of the Convention, which is therefore inapplicable.

3. Scope of application

57. Article 17 does not deprive persons who seek to destroy the rights and freedoms set forth in the Convention of the general protection of the rights and freedoms guaranteed therein. It merely precludes such persons from deriving from the Convention a right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth therein (*Lawless v. Ireland*, Commission's report, 1959, § 141).

58. In a sense, Article 17 is of a limited scope: it applies to persons who threaten the democratic system of the member States only to an extent strictly proportionate to the seriousness and duration of such threat (*De Becker v. Belgium*, Commission's report, 1960, § 279).

59. In particular, Article 17 cannot be used to deprive an individual of his rights and freedoms permanently merely because at some given moment he displayed totalitarian convictions and acted accordingly (*De Becker v. Belgium*, Commission's report, 1960, § 279).

60. In *De Becker v. Belgium*, Commission's report, 1960, the applicant, a journalist, was unable to exercise his profession as a result of his conviction for collaborating with the German authorities in Belgium during the Second World War. Even though his past conduct could be considered as falling within the scope of Article 17, there was no proof that, in 1960, at the time of the examination of his case by the Commission, he had intended to recover his freedom of expression with a view to abusing it, for instance, by praising the Nazi regime. The Commission thus refused to apply Article 17 and examined the merits of the applicant's complaint under Article 10.

61. The Court was prepared to follow the same approach in *Ždanoka v. Latvia* [GC], 2006. In that case, the applicant, a leading member of the Communist Party, was disqualified from elective office on account of her activities in that party, which had continued even after the party had attempted to bring about a *coup d'état* in 1991. When examining the applicant's complaints under Articles 10 and 11, a Chamber of the Court refused to apply Article 17, as the impugned measure had been based on the applicant's previous political involvement, while her current public activities did not reveal a failure to comply with the fundamental values of the Convention (§ 109 of the *Chamber judgment*). The Grand Chamber, to which the case had been referred, did not deal with the question of application of Article 17 in this context, as it decided not to examine the case from the point of view of Articles 10 and 11 (§ 141 of the *Grand Chamber judgment*). However, it referred to Article 17 when finding no violation of Article 3 of Protocol No. 1. (The judgment of the Grand Chamber is examined in more detail below, in Part III, under "Communism".)

62. As a general rule, the Court is cautious not to rule beyond the scope of the case. Consistently, when deciding on the application of Article 17, it will disregard any display of prohibited aims which, though related to or even simultaneous with the facts of the case, does not, strictly speaking, fall within its scope. The case of *Ifandiev v. Bulgaria* [Committee], 2019, provides an illustration of this principle: the applicant incurred civil liability for having made, in his book *The Shadow of Zion*, two untrue statements of fact, namely that a trade-union leader was a Freemason and a communist connected with the former secret services. The Government argued that the book in question preached antisemitism and that the applicant's statements, which were subject of his application to the Court, had to be seen within the overall context of his writings. The Court, however, disagreed with this argument. Noting that the Government's Article 17 allegations did not concern "the impugned statements", that is, the ones which resulted in the applicant's civil liability, the Court refused to apply Article 17 and found a breach of Article 10, as the quantum of damages awarded to the trade-union leader was manifestly disproportionate (§§ 22-25).

63. For similar reasons, in *Mukhin v. Russia*, 2021, the Court had doubts that the objection under Article 17 had been raised properly. This case concerned the conviction of a newspaper editor for publishing a text by a third party, which called for the "destruction" of the current political regime. Relying on Article 17, the Government argued that, apart from impinging upon public order, the impugned text and other materials had been aimed at insulting the multi-ethnic people of Russia and inciting ethnic discord. The Court observed, however, that the racist and antisemitic rant, which that text indeed contained, had not formed the basis for justifying the applicant's criminal conviction. Generally, the Government's submissions did not mention any factual or legal matters specifically pertaining to his criminal prosecution. In any event, the objection was dismissed as it was not immediately clear that the applicant's editorial choices had sought to employ his right to freedom of expression for ends clearly contrary to the values of the Convention (§§ 83-84 and 129). Eventually, his conviction was found to lack sufficient justification and thus to be in breach of Article 10 of the Convention.

4. Rights not covered by Article 17

64. To achieve the general purpose of Article 17 (see "

Introduction" above), it is not necessary to take away every one of the rights and freedoms guaranteed in the Convention from persons found to be engaged in activities aimed at the destruction of any of those rights and freedoms (*Lawless v. Ireland (no. 3)*, 1961, § 6 of "the Law" part; *Roj TV A/S v. Denmark* (dec.), 2018, § 30; *Šimunić v. Croatia* (dec.), 2019, § 37; *Ayoub and Others v. France*, 2020, § 93; *Lenis v. Greece* (dec.), 2023, § 38).

65. Such persons are entitled to avail themselves of the Convention provisions which, if invoked, would not facilitate the attempt to derive therefrom a right to engage in activities aimed at the destruction of "any of the rights and freedoms set forth in the Convention". These provisions concern duties of the public authorities towards all individuals. Such duties are not affected by Article 17 (*Lawless v. Ireland*, Commission's report, 1959, § 141).

66. In particular, Article 17, which is negative in scope, cannot be construed *a contrario* as depriving a person of the fundamental individual rights guaranteed by Articles 5, 6 and 7 of the Convention (*Lawless v. Ireland (no. 3)*, 1961, § 7 of "the Law" part; *Varela Geis v. Spain*, 2013, § 40; *Hizb ut-Tahrir and Others v. Germany* (dec.), 2012, § 85; *Marini v. Albania*, 2007, § 90; *Ould Dah v. France* (dec.), 2009).

67. In *Lawless v. Ireland (no. 3)*, 1961, at the time of his arrest, the applicant was personally engaged in the activities of the Irish Republican Army which carried out acts of violence to put an end to British sovereignty in Northern Ireland. He was detained for several months, without charge or trial, under the Offences against the State Act. Neither the Commission nor the Court endorsed the Government's submissions to the effect that no State, group or person engaged in activities falling within the terms of Article 17 could rely on any of the provisions of the Convention. The Convention bodies took instead the view that Article 17 did not preclude the applicant from claiming the protection of Articles 5 and 6. Article 17 was inapplicable as the applicant had not relied on the Convention in order to justify or perform acts contrary to the rights and freedoms recognised therein but to complain of having been deprived of the guarantees granted by Articles 5 and 6 (§§ 5-7 of "the Law" part).

68. In *Varela Geis v. Spain*, 2013, the applicant, a bookshop owner, was convicted of the offence of "justifying genocide", as most of the publications on sale in his shop glorified National Socialism, denied the Holocaust and contained incitements to discrimination and hatred against the Jewish community. The Government requested the Court to declare the application inadmissible, arguing that the message conveyed by all the material seized from the applicant was contrary to the spirit and letter of the Convention. The Court observed that the applicant had not relied on the Convention to justify or perform acts infringing the rights and freedoms set forth therein, but had complained that

he had been denied the safeguards afforded by Article 6. Accordingly, Article 17 of the Convention was not applicable (§§ 29 and 40).

69. In *Marini v. Albania*, 2007, the Court likewise dismissed the Government's objection that the applicant was precluded by Article 17 from relying on the provisions of Article 6 in so far as he had requested the Court to find the domestic courts' decisions unconstitutional (§§ 87-91).

70. In *Ould Dah v. France* (dec.), 2009, the applicant, a Mauritanian army officer, was convicted by a French court for acts of torture committed in Mauritania and covered by a Mauritanian amnesty law. He complained that the French court had applied French rather than Mauritanian law, in a manner incompatible with Article 7. Even though the applicant had committed acts contrary to Article 3, the Court found that he could not be prevented from relying on Article 7 by virtue of Article 17.

5. Rights covered by Article 17

71. Article 17 covers essentially those rights which, if invoked, would facilitate the attempt to derive therefrom a right to engage in activities aimed at the destruction of "any of the rights and freedoms set forth in the Convention" (*Lawless v. Ireland (no. 3)*, 1961, § 6 of "the Law" part; *Preda and Dardari v. Italy* (dec.), 1999; *Ayoub and Others v. France*, 2020, § 93).

72. The Convention bodies have thus far applied Article 17 in conjunction with the following substantive provisions:

- Article 9 (*Hizb ut-Tahrir and Others v. Germany* (dec.), 2012; *Kasymakhunov and Saybatalov v. Russia*, 2013; *German Communist Party (KPD) v. Germany*, Commission decision, 1957; *Vasilyev and Others v. Russia* [Committee], 2020);
- Article 10 (*Pavel Ivanov v. Russia* (dec.), 2007; *Belkacem v. Belgium* (dec.), 2017; *M'Bala M'Bala v. France* (dec.), 2015; *Hizb ut-Tahrir and Others v. Germany* (dec.), 2012; *Kasymakhunov and Saybatalov v. Russia*, 2013; *German Communist Party (KPD) v. Germany*, Commission decision, 1957; *Norwood v. the United Kingdom* (dec.), 2004; *Garaudy v. France* (dec.), 2003; *Glimmerveen and Hagenbeek v. the Netherlands*, Commission decision, 1979; *Witzsch v. Germany (no. 2)* (dec.), 2005; *Roj TV A/S v. Denmark* (dec.), 2018; *Romanov v. Ukraine* [Committee], 2020; *Vasilyev and Others v. Russia* [Committee], 2020; *Lenis v. Greece* (dec.), 2023).
- Article 11 (*Hizb ut-Tahrir and Others v. Germany* (dec.), 2012; *Kasymakhunov and Saybatalov v. Russia*, 2013; *W.P. and Others v. Poland* (dec.), 2004; *Ayoub and Others v. France*, 2020, § 139; *German Communist Party (KPD) v. Germany*, Commission decision, 1957; *Vasilyev and Others v. Russia* [Committee], 2020);
- Article 13 in conjunction with Article 14 (*Hizb ut-Tahrir and Others v. Germany* (dec.), 2012);
- Article 14 in conjunction with Articles 9, 10 and/or 11 (*Kasymakhunov and Saybatalov v. Russia*, 2013; *Norwood v. the United Kingdom* (dec.), 2004; *Pavel Ivanov v. Russia* (dec.), 2007; *W.P. and Others v. Poland* (dec.), 2004; *Vasilyev and Others v. Russia* [Committee], 2020);
- Article 3 of Protocol No. 1 (*Glimmerveen and Hagenbeek v. the Netherlands*, Commission decision, 1979).

73. The applicants' complaints under the cited provisions were rejected as incompatible *ratione materiae* with the provisions of the Convention.

6. When to apply Article 17

74. Article 17 is only applicable on an exceptional basis and in extreme cases (*Paksas v. Lithuania* [GC], 2011, § 87 *in fine*; *Perinçek v. Switzerland* [GC], 2015, § 114; *Roj TV A/S v. Denmark* (dec.), 2018, § 46; *Šimunić v. Croatia* (dec.), 2019, § 38; *Pastörs v. Germany*, 2019, § 37; *Z.B. v. France*, 2021, § 24;

Zemmour v. France, 2022, § 26; *Zhablyanov v. Bulgaria*, 2023, § 78; *Lenis v. Greece* (dec.), 2023, § 52; *Kavala v. Türkiye (n° 2)* [GC], 2026, § 139). The threshold for its applicability is therefore high (*Lilliendahl v. Iceland* (dec.), 2020, § 26).

75. Article 17 should only be resorted to if it is *immediately clear* that the applicant attempted to rely on the Convention to engage in an activity or perform acts that are clearly contrary to the values of the Convention and aimed at the destruction of the rights and freedoms laid down in it (*Perinçek v. Switzerland* [GC], 2015, §§ 114-115; *Roj TV A/S v. Denmark* (dec.), 2018, § 31; *Šimunić v. Croatia* (dec.), 2019, § 38; *Pastörs v. Germany*, 2019, § 37; *Lilliendahl v. Iceland* (dec.), 2020, §§ 25-26; *Z.B. v. France*, 2021, § 26; *Zemmour v. France*, 2022, § 26; *Zhablyanov v. Bulgaria*, 2023, § 78; *Lenis v. Greece* (dec.), 2023, §§ 52-53). In other words, it should be applied if prima facie the applicant's conduct reveals an act aimed at the destruction of the rights and freedoms set forth in the Convention or an intention to engage in such an act (*Vona v. Hungary*, 2013, § 38).

76. The legal qualification given to the applicant's conduct by the domestic courts can be a relevant factor to consider in this respect (*Ayoub and Others v. France*, 2020, § 103).

77. The applicant's intention, or the purpose pursued by him/her, is a particularly relevant consideration for determining whether Article 17 is applicable. The Court takes into account the domestic courts' assessment of this point (*Kilin v. Russia*, 2021, § 72; *Pastörs v. Germany*, 2019, § 46; *Lenis v. Greece* (dec.), 2023, §§ 43 and 46-47) or the lack thereof (*Mukhin v. Russia*, 2021, §§ 156 and 183). In this connection, the Court examines whether the domestic courts based their findings on an acceptable assessment of the relevant facts (*Lenis v. Greece* (dec.), 2023, § 44).

78. The Court is, however, not bound by the domestic courts' finding establishing the applicant's criminal intent, even where such assessment is considered to be compliant with the relevant substantive provision of the Convention. In other words, such a finding will not automatically entail the application of Article 17 by the Court (*Z.B. v. France*, 2021, §§ 26, 57 and 65; *Kilin v. Russia*, 2021, §§ 49, 81 and 90; *Zemmour v. France*, 2022, § 28).

79. An applicant's prior conduct may be a relevant consideration when ascertaining his/her intentions, though it is not in and of itself sufficient to warrant a conclusion in this respect (*Ekrem Can and Others v. Turkey*, 2022, § 83).

80. In order to justify the application of Article 17, the display of prohibited aims should take its gravest forms (*Lilliendahl v. Iceland* (dec.), 2020, §§ 34 and 39; *Lenis v. Greece* (dec.), 2023, § 56; *Nepomnyashchiy and Others v. Russia*, 2023, § 74). It should be sufficiently serious (*Soulas and Others v. France*, 2008, § 48) and unequivocal (*Leroy v. France*, 2008, § 27; *Ayoub and Others v. France*, 2020, § 134).

81. However, as shown in the context of freedom of expression, Article 17 does not only apply to explicit and direct remarks that do not require any interpretation. A blatant display of aims prohibited by Article 17 under the guise of an artistic production of a satirical or provocative nature was found to be as dangerous as a full-fledged and immediate attack and therefore did not deserve protection under the Convention (*M'Bala M'Bala v. France* (dec.), 2015, § 40).

82. At the same time, the shocking and controversial character of the impugned act or statement is not sufficient *per se* to reach the threshold for the applicability of Article 17 (*Zemmour v. France*, 2022, § 28). The Court verifies whether the impugned statements go beyond the expression of opinion, even in offending, hostile, or aggressive terms (*Lenis v. Greece* (dec.), 2023, § 47).

83. The cases where Article 17 was applied directly can be characterised by the following features:

- a general and vehement attack on a particular group (*Pavel Ivanov v. Russia* (dec.), 2007; *Belkacem v. Belgium* (dec.), 2017, § 33), for instance, denying the entire group their human nature, coupled with incitement to violence (*Lenis v. Greece* (dec.), 2023, §§ 47 and 54) or

linking the group as a whole with a particular grave criminal act (*Norwood v. the United Kingdom* (dec.), 2004);

- radical and far-reaching character of the prohibited aims and measures proposed in pursuit thereof (*Hizb ut-Tahrir and Others v. Germany* (dec.), 2012, § 73; *Kasymakhunov and Saybatalov v. Russia*, 2013, §§ 106-112; *Glimmerveen and Hagenbeek v. the Netherlands*, Commission decision, 1979; *Pavel Ivanov v. Russia* (dec.), 2007; *German Communist Party (KPD) v. Germany*, Commission decision, 1957; *Romanov v. Ukraine* [Committee], 2020, § 163; *Ayoub and Others v. France*, 2020, §§ 131 and 133);
- repetitive and/or systematic displays of prohibited aims (*Belkacem v. Belgium* (dec.), 2017, § 33; *Pavel Ivanov v. Russia* (dec.), 2007; *M'Bala M'Bala v. France* (dec.), 2015, § 37; *Garaudy v. France* (dec.), 2003; *Roj TV A/S v. Denmark* (dec.), 2018, § 45; see also the analysis in *Z.B. v. France*, 2021, § 26).

84. The Court has shown itself to be reluctant to apply Article 17 directly where a restriction of the applicant's rights is of a considerable gravity (*Vona v. Hungary*, 2013, § 36) or where the applicant's acts or statements call for an elevated level of protection under the Convention and any interference with the relevant right would therefore warrant the closest scrutiny on the part of the Court (for instance, regarding statements made by an elected representative in Parliament, see *Pastörs v. Germany*, 2019, § 39).

85. Where the decisive point under Article 17 – whether the applicant attempted to rely on the Convention to engage in an activity or perform acts directed against the values of the Convention and aimed at the destruction of the rights and freedoms laid down in it – is not immediately clear and overlaps with the question whether the interference with the applicant's rights was "necessary in a democratic society", the question whether Article 17 is to be applied is joined to the merits of the applicant's complaint under the relevant substantive provision of the Convention (*Perinçek v. Switzerland* [GC], 2015, § 115; *Rodina and Borisova v. Latvia*, 2025, § 77). In such cases, the Court rules on the application of Article 17 in the light of all the circumstances of the case, after considering the question of compliance with the substantive provision in issue. So far, the Court has decided either not to apply Article 17, after examining the merits of the applicant's complaint (*Lehideux and Isorni v. France*, 1998, §§ 38 and 58; *United Communist Party of Turkey and Others v. Turkey*, 1998, §§ 32 and 60; *Socialist Party and Others v. Turkey*, 1998, §§ 29 and 53; *Soulas and Others v. France*, 2008, §§ 23 and 48; *Féret v. Belgium*, 2009, §§ 52 and 82; *Ibragim Ibragimov and Others v. Russia*, 2018, § 63; *Perinçek v. Switzerland* [GC], 2015, § 282; *Stern Taulats and Roura Capellera v. Spain*, 2018, § 42; *Rodina and Borisova v. Latvia*, 2025, § 123), or not to rule on the question of its application (*Atamanchuk v. Russia*, 2020, § 74; *Kilin v. Russia*, 2021, § 96).

7. Aid in interpretation of substantive provisions of the Convention

86. The Court relies on Article 17 as an aid in the interpretation of the substantive provisions of the Convention (*Z.B. v. France*, 2021, § 27; *Ayoub and Others v. France*, 2020, § 101; *Zemmour v. France*, 2022, §§ 28 and 61; *Zhablyanov v. Bulgaria*, 2023, § 122).

87. Regarding its particular function, Article 17 is often used to reinforce a conclusion about the necessity of the interference with the applicants' rights. The fact that an applicant seeks to use a Convention right with an aim contrary to the text and spirit of the Convention weighs heavily in the assessment of the necessity of the interference complained of (*Williamson v. Germany* (dec.), 2019, § 26; *Pastörs v. Germany*, 2019, § 36). The Court may also rely on Article 17, when determining the scope of the margin of appreciation afforded to the respondent State, as well as the question of whether the applicant's conduct or speech deserved an enhanced protection under the relevant substantive provision (*Zemmour v. France*, 2022, § 61).

88. When considering the question of compliance with the substantive provisions referred to by the applicants, the Court assesses the requirements of these provisions in the light of Article 17 (*Perinçek v. Switzerland* [GC], 2015, § 209; *Lehideux and Isorni v. France*, 1998, § 38).

89. This is the case when the question of its application is joined to the merits of the complaint under the relevant substantive provision (*Lehideux and Isorni v. France*, 1998, §§ 38 and 58; *United Communist Party of Turkey and Others v. Turkey*, 1998, §§ 32 and 60; *Socialist Party and Others v. Turkey*, 1998, §§ 29 and 53; *Soulas and Others v. France*, 2008, §§ 23 and 48; *Féret v. Belgium*, 2009, §§ 52 and 82; *Ibragim Ibragimov and Others v. Russia*, 2018, § 63; *Stern Taulats and Roura Capellera v. Spain*, 2018, § 23; *Perinçek v. Switzerland* [GC], 2015, § 116).

90. The Court may also resort to Article 17 at the merits stage of its examination, even after finding that the case at hand does not warrant the application of this provision (*Z.B. v. France*, 2021, § 27; *Zemmour v. France*, 2022, §§ 28 and 61; *Zhablyanov v. Bulgaria*, 2023, § 122).

91. However, the Convention bodies have also relied on Article 17 even without explicitly ruling on the question whether it should be applied in the circumstances of a given case (*Ždanoka v. Latvia* [GC], 2006, § 99; *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], 2003, § 96; *Witzsch v. Germany* (dec.), 1999; *Fáber v. Hungary*, 2012, § 58; *Chauvy and Others v. France*, 2004, § 69; *Schimanek v. Austria* (dec.), 2000; *Molnar v. Romania* (dec.), 2012, § 23; *Atamanchuk v. Russia*, 2020; *Pastörs v. Germany*, 2019; *Tagiyev and Huseynov v. Azerbaijan*, 2019; see also the Commission's decisions in *D.I. v. Germany*, 1996; *Nachtmann v. Austria*, 1998; *Rebhandl v. Austria*, 1996; *Nationaldemokratische Partei Deutschlands Bezirksverband München-Oberbayern v. Germany*, 1995; *Honsik v. Austria*, 1995; *Walendy v. Germany*, 1995; *F.P. v. Germany*, 1993; *Remer v. Germany*, 1995; *Kühnen v. Germany*, 1988; *Marais v. France*, 1996; *Purcell and Others v. Ireland*, 1991; *Karatas and Sari v. France*, 1998; and *H, W., P. and K. v. Austria*, 1989).

92. In some cases, the Court even relied on Article 17 in substance, without citing it explicitly (*Jersild v. Denmark*, 1994, § 35; *R.L. v. Switzerland* (dec.), 2003). It implicitly drew inspiration from Article 17 when finding that acts, which were aimed at the destruction of democracy, incited violence or sought to spread, incite or justify hatred based on intolerance, did not enjoy the protection afforded by the relevant substantive provisions of the Convention, such as Articles 10 and 11 (*Delfi AS v. Estonia* [GC], 2015, § 140; *E.S. v. Austria*, 2018, § 43; *Stomakhin v. Russia*, 2018, §§ 120-122; *Kaptan v. Switzerland* (dec.), 2001; *Herri Batasuna and Batasuna v. Spain*, 2009, § 87; *Gündüz v. Turkey* (dec.), 2003; *Kudrevičius and Others v. Lithuania* [GC], 2015, § 92; *Yazar and Others v. Turkey*, 2002; see also the Case-Law Guides on Article 11 and on Article 10 of the Convention).

93. The Court can also rely on Article 17 when examining the question of whether the domestic authorities discharged their positive obligation under Article 8, taken alone or in conjunction with Article 14, to afford redress to individual members of a social group in respect of public statements alleged to have negatively stereotyped that group. In this connection, Article 17 comes into play when the Court considers the following issues: in the first place, whether the authorities assessed the tenor of the impugned statements in an adequate manner, notably their capacity to stigmatise the affected group and arouse hatred and prejudice against its members; and secondly, whether they struck a proper balance between the aggrieved party's right to respect for his or her "private life" and the right of the author of the statements to freedom of expression (*Budinova and Chaprazov v. Bulgaria*, 2021, §§ 93-94; *Behar and Gutman v. Bulgaria,* 2021, §§ 104-105; see also *Nepomnyashchiy and Others v. Russia*, 2023, §§ 74 and 84-85).

94. Article 17 has also been used by the Court as an aid in the interpretation of the notions or the scope of rights contained in other provisions of the Convention or its Protocols:

- Article 5 § 1 (*Ireland v. the United Kingdom*, 1978, § 194);
- Article 6 § 1 (*Golder v. the United Kingdom*, 1975, § 38; *Campbell and Fell v. the United Kingdom*, 1982, § 90);

- Article 2 of Protocol No. 1 (*Campbell and Cosans v. the United Kingdom*, 1984, § 36).

III. Case-law examples

A. Promotion and justification of terrorism and war crimes

1. Article 17 applied

95. In *Roj TV A/S v. Denmark* (dec.), 2018, the applicant company operating a television channel was convicted of having promoted the terror operation of the PKK (Workers' Party of Kurdistan) through its programmes. It was fined and deprived of its licence to broadcast. For the Court, the applicant company´s complaint did not, by virtue of Article 17, attract the protection afforded by Article 10, given the impact and the nature of the impugned programmes, which had been disseminated to a wide audience and included incitement to violence and support for terrorist activity and thus related directly to the prevention of terrorism, an issue which was paramount in modern European society. In particular, the one-sided coverage with repetitive incitement to participate in fights and actions and to join the guerrilla group, as well as the portrayal of deceased guerrilla members as heroes amounted to propaganda for the PKK, a terrorist organisation, and could not be considered only a declaration of sympathy. In addition, at the material time, the applicant company had been financed to a significant extent by the PKK (§§ 46-47). The application was rejected as incompatible *ratione materiae* with the provisions of the Convention. (For previous cases concerning the expression of support for the PKK, see below under "Incitement to violence": *Zana v. Turkey*, 1997, §§ 52-62; *Sürek v. Turkey (no. 1)* [GC], 1999, §§ 58-65.)

2. Article 17 not applied

96. In *Leroy v. France*, 2008, the applicant, a cartoonist, was convicted of complicity in condoning terrorism on account of the publication of a drawing representing the attack on the twin towers of the World Trade Center, with a caption: "We have all dreamt of it... Hamas did it". In the Court's view, the applicant, through his choice of language, had demonstrated approval of the violence and solidarity with the perpetrators of the attacks, and thus had undermined the dignity of the victims (§§ 42-43). Nevertheless, the Court refused to apply Article 17 on the following grounds. Firstly, the underlying message the applicant sought to convey – support for and glorification of the violent destruction of American imperialism – was not the negation of fundamental rights and could not be equated with racist, anti-Semitic or Islamophobic remarks that struck directly against the values underpinning the Convention. Secondly, the drawing and accompanying caption did not justify terrorist acts so unequivocally as to forfeit the protection of Article 10 (§ 27). The Court eventually found no breach of this provision, taking into account the timing of the publication (only two days after the attack), its impact in a politically sensitive region, and the need for the authorities to be alert to the risk of heightened violence (§ 45).

97. In *Z.B. v. France*, 2021, the applicant was convicted of the offence of glorifying crimes of wilful killing on account of slogans with terrorism connotations, "I am a bomb" and "Jihad, born on 11 September", displayed on a T-shirt that he had given his three-year-old nephew, referring to the child's forename and date of birth. The applicant relied on the polysemic nature of the word "bomb", which could refer, in colloquial French, to the physical characteristics of an attractive person. In response to the applicant's claim of humorous intent, the domestic court took the view that the child's forename and date of birth and the word "bomb" had been used "as a pretext for the promotion, unequivocally and through the deliberate association of terms referring to mass violence, of wilful killing"; the impugned slogans, therefore, reflected a deliberate intention on the applicant's part. For the Court, notwithstanding the domestic courts' characterisation, the slogans themselves did not suffice to show, in an immediately evident manner, that the applicant had been seeking by this means to destroy any Convention rights and freedoms and thus could not constitute an abuse of rights for

the purposes of Article 17 of the Convention. The Court distinguished the instant case from other cases where the display of prohibited aims had been of a systematic and repeated nature. The Court further reiterated that an "offence against the memory of the victims of the 11 September attacks" did not preclude the examination of the impugned remarks in the light of the right to freedom of expression (§§ 26-27). At the same time, the Court found no violation of Article 10, endorsing the domestic courts' assessment of the applicant's guilt. The applicant had no links with any terrorist group and did not espouse a terrorist ideology. While the Court could not speculate on the exact nature of his intentions, he had not denied that he had specifically asked his nephew to wear the T-shirt in question at school or that he had intended to share its message. However, he could not have been unaware of the particular connotation of such slogans on the premises of a nursery school, shortly after attacks that had claimed the lives of children in another French school and in the context of a proven terrorist threat (§§ 62-63).

98. The case of *Orban and Others v. France*, 2009, concerned the publication of a book by a former special services officer who had been directly involved in practices such as torture and summary execution in the course of his duties during the war in Algeria in 1955-1957. The publishers and the author were found guilty of publicly defending war crimes or aiding and abetting that offence. The Court refused to apply Article 17, being unable to find that the book had been unequivocally seeking to justify war crimes such as torture or summary executions. The fact that the author had not taken a critical stance with regard to those horrifying practices and that, instead of expressing regret, had claimed to have been acting in accordance with the mission entrusted to him by the French authorities, formed an integral part of his witness account. Having regard to the singular importance of the public debate in question, the lapse of time since the war and the severity of the penalty imposed on the applicants, the Court found a violation of Article 10 (§§ 35-36 and 49-54).

3. Article 17 used as aid in interpretation

99. In *Herri Batasuna and Batasuna v. Spain*, 2009, the applicant parties were declared illegal; they were dissolved for lending political support to the terrorist organisation ETA and for acting in line with its strategy. Implicitly relying on Article 17, the Court was unable to consider that the impugned conduct was covered by the Convention's protection, since the methods used were neither lawful, nor compatible with fundamental democratic principles (§ 87). In view of the situation that had existed in Spain for many years with regard to terrorist attacks and since the applicant parties' political plans entailed a considerable threat to Spanish democracy, the sanction imposed on them was proportionate to the legitimate aim pursued and thus compliant with Article 11 (§§ 89 and 93).

100. In *Purcell and Others v. Ireland*, Commission decision, 1991, the applicants, journalists and producers of radio or television programmes, were prohibited from broadcasting interviews, or reports of interviews, with representatives of the Irish Republican Army (IRA), an illegal terrorist organisation, and of the other organisations related to it. The purpose of the restriction was to prevent the latter from sending coded messages and promoting their illegal activities and violence. Referring to Article 17, the Commission considered the impugned restriction to be justified under Article 10 § 2 and declared the application inadmissible.

101. In *Karatas and Sari v. France*, Commission decision, 1998, the applicant was convicted on terrorism charges in France. Referring to Article 17, the Commission rejected his complaints under Articles 9, 10 and 11 as manifestly ill-founded, since by being involved in international terrorism, which ran counter to the Convention's fundamental values, namely justice and peace, the applicant had sought to deflect those provisions from their real purpose.

4. No reliance on Article 17

102. The case of *Stomakhin v. Russia*, 2018, concerned the prison sentence and three-year ban on practising journalism imposed on the applicant for promoting extremism in the context of the Chechen

conflict. In the Court's view, some of the impugned statements, published shortly after terrorist attacks, glorified terrorism, praising the warlords as "heroes" and calling for bloodshed and violent overthrowing by force of the political regime and constitutional order of Russia. Also, by portraying the federal armed and security forces as absolute, brutal and dehumanised evil, the texts in question stirred up deep-seated and irrational hatred towards them and, with due regard to the sensitive context of the counterterrorist operation, exposed them to a possible risk of physical violence (§§ 99-101). The Court did not refer to Article 17 in this context and eventually found a breach of Article 10, taking into account the severity of the penalty and a low potential impact of the statements concerned, printed in a self-published newsletter which the applicant had distributed in person or through his acquaintances at public events (§§ 129-131).

B. Incitement to violence

1. Article 17 applied

103. In the following cases, by virtue of Article 17, the Court rejected the applicants' complaints under Articles 9, 10, 11, 13 or 14 of the Convention as incompatible *ratione materiae* with the provisions of the Convention. The complaint under Article 1 of Protocol No. 1 concerning the confiscation of the applicant association's assets was rejected as manifestly ill-founded on the same grounds.

104. The case of *Hizb ut-Tahrir and Others v. Germany* (dec.), 2012, concerned the ban on activities of an Islamist association for advocating the use of violence in order to destroy the State of Israel, banish or kill its inhabitants and overthrow the governments of Islamic States. In the Court's view, the applicant association employed the Convention rights for ends that were clearly contrary to the values of the Convention, notably the commitment to the peaceful settlement of international conflicts and to the sanctity of human life.

105. The Court confirmed these findings in the case of *Kasymakhunov and Saybatalov v. Russia*, 2013, concerning the applicants' conviction for spreading the ideology of Hizb ut-Tahrir, banned as a terrorist organisation in Russia, and recruiting its new members. Since Hizb ut-Tahrir glorified warfare and aspired to impose Islamic rule and a regime based on Sharia worldwide, the dissemination of its political ideas by the applicants clearly fell within the scope of Article 17 (§§ 107-114; see also *Vasilyev and Others v. Russia* [Committee], 2020).

106. In *Belkacem v. Belgium* (dec.), 2017, the applicant was sentenced to a fine and a prison term on account of a series of videos on the YouTube platform, in which he called on viewers to overpower non-Muslims, teach them a lesson and fight them. In the Court's view, such a general, vehement and markedly hateful attack was incompatible with the values of tolerance, social peace and non-discrimination. Moreover, the applicant's remarks advocating jihad and defending Sharia while calling for violence to establish it could be regarded as "hate speech" (§§ 33-36).

107. In *Romanov v. Ukraine* [Committee], 2020, the applicant was given a prison term for disseminating propaganda materials calling for an armed revolt with the aim of bringing communist revolutionaries to power. In the Court's opinion, those messages constituted a threat to public order and to democracy. The applicant was therefore denied protection under the Convention in respect of this activity.

108. In *Lenis v. Greece* (dec.), 2023, the Court held that the applicant, a senior official of the Greek Orthodox Church, could not rely on Article 10, by reason of Article 17, when challenging his conviction on account of dehumanising homophobic statements coupled with multiple incitements to violence.

2. Article 17 not applied

109. In *Stern Taulats and Roura Capellera v. Spain*, 2018, the applicants were convicted of setting fire to a large photograph, turned upside down, of the royal couple. They were to serve a prison term in

the event of non-payment of the fine. The Court refused to apply Article 17. Seen against the background of an anti-monarchist and separatist demonstration, the applicants' act should be interpreted as the symbolic expression of radical dissatisfaction or a protest, a political critique, rather than hate speech. Furthermore, no incitement to violence could be established on the basis of the features, the context or the consequences of the act, which had not led to violent or public disorder. The criminal penalty imposed on the applicants had amounted to a disproportionate interference with their freedom of expression, which led the Court to find a violation of Article 10 (§§ 38-42).

110. In *Bingöl v. Turkey*, 2010, the applicant, a politician, was sentenced to a prison term for criticising the Turkish State over the Kurdish question. For the Court, the nature of the offending remarks did not call for the application of Article 17 (§ 32). Whilst certain passages had a hostile connotation, they did not advocate the use of violence or seek to arouse deep or irrational hatred against those who were presented as responsible for the situation in issue. Even taking into account the difficulties related to the fight against terrorism, the applicant had received a disproportionately harsh punishment, in breach of Article 10 (§ 39).

111. In *Ekrem Can and Others v. Turkey*, 2022, prison were sentences imposed on the applicants for involvement in a non-violent protest inside a courthouse staged to draw public attention to the Kurdish problem. The Court dismissed the Government's preliminary objection under Article 17. In the first place, while some of the slogans chanted by the applicants called for the release of the leader of the PKK, a terrorist organisation, they did not constitute an incitement to violence. Secondly, the impugned protest negatively impacted on the orderly provision of an essential public service (judicial) and disturbed public order for a period of an hour and may have caused fear and discomfort in those who were in the vicinity. However, the applicants had no weapons or any other dangerous material and reassured that they would not harm anybody. Therefore, in the absence of any violent intention or violent conduct on the part of the applicants and despite the disturbance caused, their actions were not such as to warrant the conclusion that they relied on the Convention to engage in activity or in acts aimed at the destruction of any of the rights and freedoms set forth in it. Finally, the Court found a breach of Article 11 as their lengthy prison sentences were disproportionate to the legitimate aims pursued (§§ 73-74 and 83-85).

112. In *Yuksekdag Senoglu and Others v. Türkiye,* 2022, one of the applicants, an opposition MP, was stripped of parliamentary immunity and placed in pre-trial detention on account of her political speeches concerning the Kurdish problem and on charges of propagandising for the PKK. The Government referred to Article 17, particularly in connection with the following statement addressed to the guards: "You will all disappear. We know very well how to turn the Kalashnikovs that you point at us". The Court, however, dismissed the objection, relying on the immediate context of the impugned statement: the applicant's emotional reaction to the aggressive treatment she had sustained from the guards (§ 487).

113. In *Kavala v. Türkiye (n° 2)* [GC], 2026, the applicant, a businessman and human rights defender, was convicted in criminal proceedings and was being kept in continued detention without a prospect of release in connection with his involvement in the events related to demonstrations triggered by an urban development project (including the construction of a shopping centre on the site of a park), the protest movement escalating and leading to violent clashes. The Government argued that the applicant had been prosecuted, not for the exercise of his rights under Articles 10 and 11 of the Convention, but for his central role in organising, directing and financing the said events, which had resulted in violence, and therefore his acts were excluded from the protection of the Convention and fell within the scope of Article 17 (§ 137). The Court dismissed that objection as it found that the applicant rightly relied on the Convention provisions to challenge measures taken against him, which were based not only on facts that could not be reasonably classified as criminal offences but also on factors that were largely related to the exercise of rights safeguarded by the Convention (§ 139).

3. Article 17 used as aid in interpretation

114. The case of *Ayoub and Others v. France*, 2020, concerned the administrative dissolution of three extreme right-wing entities following the death of a young man, a member of the anti-fascist movement, in a fight with skinheads. One of the associations, whose members were involved in the incident, was dissolved on the ground that it constituted a private militia. There was insufficient evidence to establish incitement to "discrimination, hatred or violence". The Court therefore did not find it necessary to rule on the question of the application of Article 17: the legal characterisation of the facts by the domestic courts did not disclose *prima facie* any conduct aimed at destroying the rights and freedoms set forth in the Convention. At the same time, the Court considered that the authorities had had reason to fear that a group of this nature, staging uniformed rallies and military-style parades and recruiting its members on the basis of their ability to use physical force in the event of "clashes", would promote a climate of violence and intimidation. Moreover, its president had advocated political violence. The dissolution had therefore been necessary in order to prevent public-order disturbances as effectively as possible so as not to infringe Article 11 of the Convention.

115. In *Kilin v. Russia*, 2021, the applicant was convicted for public calls to violence against non-Russian ethnicities on account of video and audio files that he had shared *via* an online social-network account. The video file was an excerpt of a well-known "mockumentary" film (namely, mocking propaganda techniques with a racist agenda). However, the excerpt could be reasonably perceived as stirring up ethnic discord, as it was presented in isolation from the overall context of the film and without any commentary, and the same could also be said for the audio file. The domestic courts established the applicant's criminal intent in the absence of any statement uncovering his attitude towards the impugned material. The courts relied on the fact that the uploading of the video had been followed by the uploading of the audio with similar content; witness statements and a wiretapped telephone conversation between the applicant and another person suggesting that he had some interest in nationalist ideas. The Court was convinced by this assessment and found no violation of Article 10 of the Convention. The Court relied on Article 17 case-law, eventually deciding not to rule on the question of its application (§§ 49, 90, 95-96).

116. In the decision in *Gündüz v. Turkey*, 2003, the applicant, a leader of a radical Islamic sect, was convicted of public incitement to commit a crime on account of an interview reported in the press. While criticising "moderate Islamic intellectuals" as people "with no strength left", "like a hollow statue", the applicant added: "All that is needed now is for one brave man among the Muslims to plant a dagger in their soft underbelly and run them through twice with a bayonet to show just how empty they are." Even though such comments could have been construed as metaphor, they might also be held to amount to hate speech or to glorification of or incitement to violence. Particularly, one of the persons concerned, a well-known writer, had been identified by name and therefore indisputably exposed to a significant risk of physical violence. Implicitly relying on Article 17, the Court did not consider the severe penalty imposed in the instant case as disproportionate, given that the applicant's conduct was incompatible with the notion of tolerance and the fundamental values of justice and peace and negated the founding principles of a pluralist democracy. His complaint under Article 10 was dismissed as manifestly ill-founded.

117. In *Kaptan v. Switzerland* (dec.), 2001, the domestic authorities confiscated and destroyed eighty-eight kilos of PKK propaganda material addressed to the applicant. The materials, definitely intended for sale or distribution, aimed at radicalising Kurdish emigrants and, generally, at winning over as many persons as possible for the armed struggle against the Turkish authorities. The Court relied on Article 17 in substance, noting that this kind of speech was not covered by Article 10. His complaint under this provision was rejected as manifestly ill-founded.

118. In *Ete v. Türkiye*, 2022, the applicant was convicted of propaganda in favour of a terrorist organisation (PKK) on account of cutting and handing out slices of cake at a demonstration held in celebration of the birthday of the leader of the PKK. Bearing in mind the Government's arguments

under Article 17, the Court observed that the impugned acts viewed as a whole could not be seen as incorporating a call to violence, armed resistance or insurrection or as constituting hate speech. The Court found a breach of Article 10 (§§ 22 and 29).

119. In *Ashirov and International Memorial v. Russia*, 2023, the first applicant, an imam and the chairman of a Muslim association, prepared a specialist report in the context of ongoing criminal proceedings against Hizb ut-Tahrir members. He stated, *inter alia*, that Hizb ut-Tahrir's literature contained no extremist views or calls for violence, hatred or intolerance. The second applicant, an NGO, published his report on its website. The report was removed after both applicants had received warnings from a prosecutor. In the Court's view, while the dissemination of Hizb ut-Tahrir's ideology clearly fell within the scope of Article 17 (see under "Incitement to violence", Section 1 "Article 17 applied"), the impugned report could not be considered a vehicle for its dissemination. Further, while the report criticised the domestic decisions regarding Hizb ut-Tahrir, this was not tantamount to glorifying or promoting its ideology and justifying the means it employed: indeed, the report was not laudatory of Hizb ut-Tahrir. Nor did it contain any calls for, or a justification of, violence, terrorism, hatred or intolerance. The report therefore could not be regarded as "hate speech" (compare *Gündüz v. Turkey*, 2003, see below under "Sharia"). The Court concluded that the warnings at issue had been in breach of Article 10 (§§ 11-12).

4. No reliance on Article 17

120. In previous cases, while accepting that the PKK is a terrorist organisation, the Court has examined statements concerning it under Article 10 only, without explicit or implicit reliance on Article 17.

121. In *Zana v. Turkey*, 1997, the Court found no breach of Article 10 for imposing a penalty on the applicant for having expressed his support for the "PKK national liberation movement", while going on to say that he was not "in favour of massacres" and that "anyone can make mistakes, and the PKK kill women and children by mistake." Those contradictory and ambiguous statements, made by the former mayor of the most important city in south-east Turkey and published in a major newspaper at the time of the PKK attacks in that region, had to be regarded as likely to exacerbate an already explosive situation (§§ 58-60).

122. In *Sürek v. Turkey (no. 1)* [GC], 1999, the applicant was convicted on account of the publication by his review of readers' letters vehemently condemning the military actions of the authorities in south-east Turkey. In the view of the Court, the impugned letters, appealing to bloody revenge, had to be seen as capable of inciting further violence by instilling a deep-seated and irrational hatred against those depicted as responsible for the alleged atrocities, especially against the persons identified by name. The Court found no violation of Article 10 (§§ 62-65).

C. Alleged threat to territorial integrity and constitutional order

1. Article 17 applied

123. In *Romanov v. Ukraine* [Committee], 2020, the applicant was sentenced to one-year imprisonment for distributing material calling for a violent takeover of State power by communist revolutionaries. In particular, those materials openly called for an armed civil conflict within the country aimed at establishing the domination of the proletariat over the other social classes. Some Articles also called for a gradual division of the Ukrainian territory. In the Court's opinion, those messages constituted a threat to public order and to democracy and ran counter to the fundamental ideals and values underpinning the Convention and a democratic society, including justice, free elections and peace. By virtue of Article 17, the applicant's complaint under Article 10 was rejected as incompatible *ratione materiae* with the provisions of the Convention.

2. Article 17 not applied

124. In the following three cases (*United Communist Party of Turkey and Others v. Turkey*, 1998; *Socialist Party and Others v. Turkey*, 1998; and *Freedom and Democracy Party (ÖZDEP) v. Turkey* [GC], 1999), the applicant parties were dissolved, mainly on the ground that, by distinguishing the Kurdish and the Turkish nations, they promoted separatism. Their leaders were banned from holding similar office in any other political party. In the Constitutional Court's opinion, the aims of the applicant parties were similar to those of terrorist organisations, in so far as they advocated the establishment of a Kurdish-Turkish federation and supported the right of the Kurdish people to wage a "war of independence".

125. For the Court, there was no call for Article 17 to come into play (*United Communist Party of Turkey and Others v. Turkey*, 1998, § 60; *Socialist Party and Others v. Turkey*, 1998, § 53; *Freedom and Democracy Party (ÖZDEP) v. Turkey* [GC], 1999,§ 47). An association, including a political party, was not excluded from the protection afforded by the Convention simply because its activities were regarded by the national authorities as undermining the constitutional structures of the State (*United Communist Party of Turkey and Others v. Turkey*, 1998, § 27; *Socialist Party and Others v. Turkey*, 1998, § 29). It was of the essence of democracy to allow diverse political projects to be proposed and debated, even those that called into question the way a State was currently organised, provided that they did not seek to harm democracy itself (*Socialist Party and Others v. Turkey*, 1998, §§ 46-47; *Freedom and Democracy Party (ÖZDEP) v. Turkey* [GC], 1999, §§ 40-41).

126. While the applicant parties had invited people of Kurdish origin to assert certain political claims together, no call to use violence, rebel or otherwise reject democratic principles had been made (*Socialist Party and Others v. Turkey*, 1998, §§ 46-47; *Freedom and Democracy Party (ÖZDEP) v. Turkey* [GC], 1999, §§ 40-41). Moreover, it was not shown that the applicant parties had encouraged separatism or how they could be responsible for the problems caused by terrorism in Turkey. In sum, such a radical measure as dissolution was disproportionate to the legitimate aim pursued and thus in breach of Article 11.

127. In *Sidiropoulos and Others v. Greece*, 1998, the applicants were denied registration of their association under the name of "Home of Macedonian Civilisation". The Court did not consider that Article 17 could apply (§§ 28-29). The aims of the association, which were exclusively to preserve and develop the traditions and folk culture of the Florina region, were perfectly legitimate. Even though the applicants had called for the full respect of the Macedonian minority's rights, it was not established that they had harboured separatist intentions or advocated the use of violence or of undemocratic means (§ 43). The refusal to register the applicants' association, which had been based on a mere suspicion as to its true intentions, had been in breach of Article 11 (§§ 45-47).

128. In *Association of Citizens "Radko" and Paunkovski v. the former Yugoslav Republic of Macedonia*, 2009, the applicant association was dissolved shortly after being formed on the ground that its true objectives were the revival of Ivan Mihajlov-Radko's ideology, according to which Macedonian ethnicity had never existed on the territory, but belonged to the Bulgarians from Macedonia. The Court saw no need to bring Article 17 into play as there was no evidence to show that the association had advocated hostility or opted for a policy that represented a genuine and imminent threat to public order, Macedonian society or the State. Even though the Government had maintained that Ivan Mihajlov-Radko (leader of the Macedonian Liberation Movement from 1925 to 1990) and his followers had used terrorist methods, the Constitutional Court had not characterised the applicant association as "terrorist" or concluded that it or its members would use illegal or anti-democratic means to pursue their aims. Nor had it explained why it considered the negation of Macedonian ethnicity to be tantamount to violence or to the violent destruction of the constitutional order (§§ 72-77). The association's dissolution was found to be in breach of Article 11.

129. In *Mukhin v. Russia*, 2021, a newspaper editor was convicted, under anti-extremism legislation, for incitement to activities aimed at the forcible change of the foundations of the constitutional regime

and at the undermining of national security. The criminal conduct imputed to him mainly consisted of publishing a text by a third party, which called for the "destruction" of the current political regime. The Government's objection under Article 17 was dismissed as it was not immediately clear that the applicant's editorial choices had sought to deflect Article 10 from its real purpose. The domestic courts had failed to elucidate his motivation for disseminating the impugned text and his attitude to its content (§ 84, §§ 134-136). The Court was not satisfied that sufficient reasons had been provided for the applicant's conviction and found a violation of Article 10 of the Convention.

130. In *Mukhin v. Russia*, 2021, the Court also refused to apply Article 17 when examining the complaint concerning the termination of the applicant's newspaper's media-outlet status and the ban on its distribution. That decision had as its basis the official anti-extremism cautions, which had been issued on account of the publication of a manifesto of the campaign for organising a referendum with a view to introducing personal liability of certain elected officials, including the President and members of the Federal Council of the Russian Federation. However, before the issuance of the cautions, the impugned manifesto had been published on numerous occasions over many years, without giving rise to any concerns relating to the interests of national security and the prevention of disorder or crime. While the Government suggested that the newspaper had been used as the mouthpiece for an organisation, pursuing ends contrary to the values of the Convention, no relevant factual or legal elements transpired from the domestic courts' reasoning. The Court eventually found a breach of Article 10, pinpointing the insufficient scope of the judicial assessment of such a drastic measure (§§ 156, §§ 180-185).

131. In *Rodina and Borisova v. Latvia*, 2025, the two applicants, an association and a private individual, sought to organise a march and demonstration in support of a certain ethnic group living in Latvia. The authorities refused to authorise those events referring to security and safety concerns: they noted, in particular, that the events in question were aimed at causing intolerance, tension and conflict in society by expressing the superiority of one nation over another and by expressing support for unrecognised separatist entities and armed groups in another State. The Government's objection under Article 17 was joined to the merits and dismissed as not reaching the high threshold necessary to justify the applicability of that Convention provision (§§ 77 and 123). At the same time, the Court found that the interference with the applicants' rights under Article 11 met a "pressing social need" and "was proportionate to the aims pursed", so that it was "necessary in a democratic society" (§ 122).

3. Article 17 used as aid in interpretation

132. The case of *Teslenko and Others v. Russia*, 2022, concerns administrative convictions and fines imposed on some of the applicants for calling on the electorate to abstain from voting in a forthcoming presidential election. The Court relied on Article 17, when finding a breach of Article 10 in this respect. On the one hand, it was uncontroversial that establishing and maintaining the foundations of an effective and meaningful democracy were better served by the active participation of voters in electoral processes, specifically the voting process. On the other hand, as there was no legal obligation to vote, the applicants did not call on voters to engage in unlawful activities. Nor did they incite hatred, intolerance or discrimination and did not call for violence or other criminal acts to be committed. Importantly, it was not shown that they had exerted undue influence over eligible voters in the absence of any proven elements of coercion or impediment. In the Court's view, they did not attempt "to rely on the Convention to engage in an activity or perform acts aimed at the destruction of the rights and freedoms laid down in it", within the meaning of its case-law relating to Article 17. In sum, it was not convincingly established that the applicants' exercise of their right to freedom of expression had been such as to undermine the foundations of an effective and meaningful democracy (§§ 134-144).

D. Promotion of totalitarian ideologies

1. Communism

a. Article 17 applied

133. In *German Communist Party (KPD) v. Germany*, Commission decision, 1957, the applicant party was dissolved as anti-constitutional and its assets were confiscated. The Commission observed that, even though the party aimed at seizing power solely through constitutional means, its objective was to establish a social-communist system by means of a proletarian revolution and the dictatorship of the proletariat. However, as recourse to a dictatorship was incompatible with the Convention, by reason of Article 17, the applicant party could not benefit from the protection of Articles 9, 10 and 11. Its application was rejected as incompatible *ratione materiae* with the provisions of the Convention.

134. The case of *Romanov v. Ukraine* [Committee], 2020, concerned criminal conviction for dissemination of the communist propaganda of a violent overthrow of the existing political regime. For the Court, open calls for an armed revolt justified the direct application of Article 17.

b. Article 17 not applied

135. In *United Communist Party of Turkey and Others v. Turkey*, 1998, one of the grounds of the applicant party's dissolution was the fact it contained in its name the word "communist" prohibited by the Law on the regulation of political parties. However, as long as the applicant party satisfied the requirements of democracy and in the absence of any evidence to show that, in choosing to call itself "communist", it had opted for a policy that represented a real threat to Turkish society or the Turkish State, its choice of name could not justify a measure as drastic as dissolution. There was thus no need to bring Article 17 into play, and a violation of Article 11 was found.

136. In *Partidul Comunistilor (Nepeceristi) and Ungureanu v. Romania*, 2005, a political group named Party of Communists who were not members of the Romanian Communist Party ("the PCN") was denied registration as a political party. The Court saw no reason to apply Article 17 (§ 59). The PCN's constitutive acts stressed the importance of upholding the principles of democracy and did not contain any call for the use of violence or an uprising. In fact, they criticised both the abuses committed before 1989 by the former Communist Party, from which it distanced itself – not least through its own name – and the policy pursued since 1989 described as antisocial and anti-working-class (§§ 54-55). Romania's experience of totalitarian communism could not justify by itself the need for the impugned interference, especially as communist parties adhering to Marxist ideology existed in a number of European countries (§ 57). Such a drastic and disproportionate measure as denial of registration of a political party had been in breach of Article 11.

137. In *Vajnai v. Hungary*, 2008, the applicant was convicted for wearing a five-pointed red star on his jacket at an authorised demonstration. For the Court, the application did not constitute an abuse of rights for the purposes of Article 17. First, it had not been shown that the applicant had expressed contempt for the victims of a totalitarian regime, belonged to a group with totalitarian ambitions or had been involved in racist propaganda (§§ 24-25). Second, even though mass violations of human rights, which had been committed under communism, discredited its symbolic value, the red star also still symbolised the international workers' movement, struggling for a fairer society, as well as certain lawful political parties active in different member States (§ 52). Third, the Government had not shown that wearing the red star exclusively amounted to dangerous totalitarian propaganda, especially when seen in the light of the fact that the applicant had done so at a lawfully organised, peaceful demonstration in his capacity as the vice-president of a registered left-wing political party, with no known intention of participating in Hungarian political life in defiance of the rule of law. The Court eventually found a breach of Article 10, having regard to the indiscriminate nature and very broad scope of the ban on the use of totalitarian symbols, particularly in light of the absence of any real and

present danger of the restoration of the communist regime or disorder triggered by the public display of the red star. Furthermore, the potential propagation of the totalitarian ideology, obnoxious as it might be, could not be the sole reason to limit it by way of a criminal sanction (§§ 54-58; see also *Fratanoló v. Hungary*, 2011).

138. The case of *Zhablyanov v. Bulgaria*, 2023, concerns the applicant's removal from his position as Deputy Speaker of Parliament in response to his statements disparaging the victims of the communist regime and justifying an extraordinary criminal "tribunal" which had operated as part of the repressive regime in the early years after the Second World War. While Article 17 was not applied directly, it guided the Court in its assessment of the necessity of the interference. Finding no violation of Article 10, the Court particularly relied on the context, notably a special moral responsibility of the States which have experienced communist repressions and atrocities to distance themselves therefrom.

c. Article 17 used as aid in interpretation

139. In *Ždanoka v. Latvia* [GC], 2006, the applicant was disqualified from standing for election to the national parliament by virtue of a legislative restriction imposed on persons who actively participated in the activities of the Communist Party of Latvia after it had attempted a violent overthrow of the newly-established democratic regime in 1991. The Court found no violation of Article 3 of Protocol No. 1, as the impugned measure could be considered acceptable in view of the context which had led to its adoption. Moreover, it had not been applied to the applicant in an arbitrary or disproportionate way. In this connection, the Court referred to Article 17 to conclude that Article 3 of Protocol No. 1 did not exclude restrictions designed to protect the integrity of the democratic process by preventing from participation in the work of a legislature those individuals who had, for example, seriously abused a public position or whose conduct threatened to undermine the rule of law or democratic foundations (§§ 110 and 122). The Latvian authorities had been entitled, within their margin of appreciation, to presume that the applicant had held opinions incompatible with the need to ensure the integrity of the democratic process, since she had not made any statement distancing herself from the Communist Party of Latvia during the *coup d'état*, or indeed at any time thereafter (§§ 123-124 and 130).

2. Nazi ideology

a. Article 17 applied

140. In *Ayoub and Others v. France*, 2020, the Court examined, *inter alia*, the dissolution of a paramilitary-type far-right association, which expressed support for persons who had collaborated with Nazi Germany, promoted the ideology of the Vichy regime, especially its racial laws, and organised paramilitary training camps for the purposes of indoctrinating young militants. In the Court's opinion, by threatening the democratic process and inciting to racially motivated hatred and discrimination, including through violence, the applicant association could not lay claim to the protection of Article 11 of the Convention. By virtue of Article 17, its complaint was rejected as incompatible with the provisions of the Convention.

b. Article 17 not applied

141. In *De Becker v. Belgium*, Commission's report, 1960, as a result of his conviction for collaborating with the German authorities during the Second World War in his capacity as a newspaper editor, the applicant was prevented, *inter alia*, from exercising his profession as a journalist and writer. While the applicant's past conduct could be considered as falling within the scope of Article 17, there was no proof that, in 1960, at the time of the examination of his case by the Commission, he had intended to recover his freedom of expression with a view to abusing it, for instance, by praising the Nazi regime.

The Commission therefore refused to apply Article 17 and found that the impugned restrictions, which had been imposed inflexibly for life, were not justifiable under Article 10 (§ 279).

142. In *Lehideux and Isorni v. France*, 1998, the Court did not apply Article 17 when dealing with a publication aimed at securing retrial and rehabilitation of Marshal Pétain, the Head of State of Vichy France in 1940-1944, who had been sentenced to death for collaboration with Nazi Germany. The justification of a pro-Nazi policy was not in issue, as the applicants had explicitly stated their disapproval of Nazi atrocities (§ 53). This was also one of the grounds for finding their criminal conviction in breach of Article 10.

c. Article 17 used as aid in interpretation

143. The Convention bodies have dealt with a number of cases concerning attempts to revive National Socialism, anti-Semitism and racism through publications, paramilitary exercises with the use of Nazi uniforms and slogans, demonstrations celebrating Hitler's birthday or other public events involving the glorification of the dictators of the Third Reich and its army (see the Commission's decisions in *Kühnen v. Germany*, 1988; *X. v. Austria*, 1963; *H, W., P. and K. v. Austria*, 1989; *Ochensberger v. Austria*, 1994; and the Court's decision in *Schimanek v. Austria*, 2000). The Commission and, subsequently, the Court held that National Socialism was a totalitarian doctrine incompatible with democracy and human rights. They referred to Article 17 to find that the applicants' criminal convictions were "necessary in a democratic society". Their complaints under Articles 9, 10 or 14 were rejected as manifestly ill-founded.

144. In *Fáber v. Hungary*, 2012, the applicant was taken into custody and fined for displaying a so-called Árpád-striped flag in protest against an ongoing anti-racist demonstration. The flag is recognised by law as one of the historical banners of Hungary and, at the same time, it is often used by extreme right-wing movements as a symbol reminiscent of the Hungarian Nazi movement (Arrow Cross). While the applicant had held the flag at the site of the massive extermination of Jews during the Arrow Cross regime, its mere display, though it might have been considered as offensive, shocking or even "fascist" by some demonstrators, was neither intimidating, nor capable of inciting violence by instilling deep-seated and irrational hatred against identifiable persons (§ 56). The Court did not exclude that the display of a contextually ambiguous symbol at the specific site of mass murders might in certain circumstances express identification with the perpetrators of those crimes, and that the need to protect the rights to honour of the murdered and the piety rights of their relatives might necessitate an interference with the right to freedom of expression. Similar considerations applied if the otherwise protected expression, because of its timing and place, amounted to the glorification of war crimes, crimes against humanity, or genocide. Moreover, where the applicant expressed contempt for the victims of a totalitarian regime as such, this might amount – in application of Article 17 – to an abuse of Convention rights. However, relying on its Article 17 case-law, the Court identified no such abusive element in the instant case (§ 58). The restriction complained of had not met a pressing social need, in breach of Article 10.

145. In *Šimunić v. Croatia* (dec.), 2019, the applicant, a football player, was convicted for shouting, at a football match, "For Home" several times. Each time the spectators replied "Ready". While the original meaning of the impugned message was literary and poetic, it had also been used as an official greeting of the Ustashe movement, which had originated from fascism, and of totalitarian regime of the Independent State of Croatia. The Court found it important to refer to Article 17, even though the applicant's complaint under Article 10 was in any event manifestly ill-founded (§§ 37-39). The applicant, being a famous football player and a role-model for many football fans, should have been aware of the possible negative impact of provocative chanting on spectators' behaviour, and should have abstained from such conduct (§§ 44-48).

d. No reliance on Article 17

146. The Court did not deem it necessary to refer to Article 17 in the context of the gratuitous use of the Nazi symbols as an "eye-catching device".

147. In *Nix v. Germany* (dec.), 2018, the applicant was convicted on account of displaying, in a blog post, a picture of Heinrich Himmler in SS uniform with the badge of the Nazi party and wearing a swastika armband. The impugned post concerned allegedly discriminatory and racist treatment of his daughter by the employment office. While the applicant had not intended to spread totalitarian propaganda, to incite to violence or to utter hate speech, he had failed to explain how the interaction of the employment office with his daughter could be compared to what had happened during the Nazi regime. Moreover, he had not rejected Nazi ideology in a clear and obvious manner, which would have exempted him from criminal liability (§§ 51 and 53-54). Considering the ban on the use of the Nazi symbols in the light of the historical experience of Germany, which was a weighty factor, the Court rejected the applicant's complaint under Article 10 as manifestly ill-founded.

3. Sharia

148. A regime based on Islamic law (Sharia) clearly diverges from Convention values and is incompatible with the fundamental principles of democracy, since pluralism in the political sphere and the constant evolution of public freedoms have no place in it (*Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], 2003, § 123). A plurality of legal systems, referred to in the context of such a regime, cannot not be considered compatible with the Convention system, as it would introduce a distinction between individuals based on religion (*ibid.*, §§ 119 and 123; *Kasymakhunov and Saybatalov v. Russia*, 2013, §§ 110-111).

a. Article 17 applied

149. In *Kasymakhunov and Saybatalov v. Russia*, 2013, the Court dealt with the applicants' conviction on account of their membership of a terrorist organisation, Hizb ut-Tahrir, which aspired to impose worldwide, if necessary with recourse to violence, an Islamic rule and a regime based on Sharia. Their complaints under Articles 9, 10, 11 and 14 were rejected as incompatible *ratione materiae* with the provisions of the Convention (§§ 107-114; see also Vasilyev and Others v. Russia [Committee], 2020).

b. Article 17 used as aid in interpretation

150. In *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], 2003, the Court found that the dissolution of the largest political party in Turkey and the temporary forfeiture of certain political rights imposed on its leaders had not constituted a violation of Article 11. Relying on its Article 17 case-law, the Court stressed, firstly, that a political party whose leaders incited violence or put forward a policy which failed to respect democracy or which was aimed at the destruction of democracy and the flouting of the rights and freedoms recognised in a democracy could not lay claim to the Convention's protection against penalties imposed on those grounds (§ 98). Secondly, the Court endorsed a power of preventive intervention on the State's part in case of a sufficiently established and imminent danger for democracy (§§ 102-103). Refah's policy of setting up a regime based on Sharia within the framework of a plurality of legal systems was incompatible with the concept of "a democratic society" and Refah did not exclude recourse to force in order to implement it (§ 132). Importantly, in view of its election results, Refah had had the real potential to seize political power without being restricted by the compromises inherent in a coalition, which made the danger to democracy more tangible and more immediate (§ 108).

c. No reliance on Article 17

151. The Court did not find it necessary to refer to Article 17 where an applicant campaigned for Sharia without making any calls for violence.

152. In the judgment in *Gündüz v. Turkey*, 2003, a prison sentence and a fine were imposed on the applicant, a leader of a radical Islamic sect, for his statements made during a television broadcast and classified as "hate speech". In the Court's view, seen in their context, his comments, describing democracy as "impious", and secularism as "hypocritical", could not be construed as a call to violence or as hate speech based on religious intolerance. Nor could the simple fact of defending Sharia, without calling for violence to bring about its introduction, be interpreted as "hate speech". Furthermore, regarding the applicant's potential to seize political power, the situation in the instant case was not comparable to that in issue in *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], 2003 (see above). The Court thus did not deem it necessary to have recourse to Article 17 and found a violation of Article 10, having regard to a very particular context, namely, the fact that the aim of the programme in question had been to present the sect of which the applicant was the leader and that his extremist views had been expressed in the course of a lively pluralistic debate and had been counterbalanced by the intervention of the other participants in the programme.

E. Incitement to hatred

153. The Court has been particularly sensitive towards sweeping statements attacking or casting in a negative light entire ethnic, religious or other groups (*Perinçek v. Switzerland* [GC], 2015, § 206).

1. Xenophobia and racial discrimination

a. Article 17 applied

154. In *Glimmerveen and Hagenbeek v. the Netherlands*, Commission decision, 1979, the applicants, leaders of a political party, which was prohibited on the grounds of public order and good morals, were prevented from standing for the municipal elections. The first applicant was also convicted for having possessed, with a view to distribution, leaflets found to be inciting to racial discrimination. The Commission observed that the policy advocated by the applicants was inspired by the overall aim to remove all non-white people from the Netherlands' territory, in complete disregard of their nationality, time of residence, family ties etc. By reason of Article 17, the applicants' complaints under Article 10 of the Convention and Article 3 of Protocol No. 1 were rejected as incompatible with the provisions of the Convention.

155. In *Ayoub and Others v. France*, 2020, the Court examined the dissolution of three extreme right-wing entities. In respect of the two of them, it held that they had abused their right to freedom of association in a manner incompatible with the values of tolerance, social peace and non-discrimination. Their aims unequivocally contained elements of incitement to hatred and racial discrimination and their activities were incompatible with the foundations of democracy. Regarding the first association, the Court took into account the following elements: xenophobic calls for a national revolution aimed at getting rid of "non-whites", "parasites" who were destroying the sovereignty of France; dissemination of the idea that "political Judaism" was seeking to destroy the identity of France; participation of the individuals convicted for their negationist views in the events organised by the association; support for persons who had collaborated with Nazi Germany, promotion of the ideology of the Vichy regime, whose racial legislation they proposed to implement once in power; organisation of paramilitary training camps with a view to indoctrinating young activists. As to the second association, the Court observed that its political programme contained aims that were based on hatred and discrimination towards Muslim immigrants and homosexuals and promoted antisemitism. The Court concluded that the dissolution of these two associations had been ordered in support of a "democracy capable of defending itself", against a backdrop of persistent and heightened racism and intolerance in France and in Europe. By virtue of Article 17, their complaints under Article 11 were rejected as incompatible *ratione materiae* with the provisions of the Convention.

b. Article 17 not applied

156. In *Féret v. Belgium*, 2009, the applicant, chairman of an extreme right-wing party, was convicted on account of the distribution, in an electoral campaign, of leaflets presenting non-European immigrant communities as criminally-minded and keen to exploit the benefits they derived from living in Belgium, and seeking to make fun of them. The leaflets carried slogans including "Stand up against the Islamification of Belgium", "Stop the sham integration policy" and "Send non-European job-seekers home". In the Court's view, the contents of the impugned leaflets did not justify the application of Article 17. However, the interference with the applicant's freedom of expression did not entail a breach of Article 10. Fostering the exclusion of foreigners was a fundamental attack on their rights. Political speech that stirred hatred based on religious, ethnic or cultural prejudices was a threat to social peace and political stability in democratic States, especially in the electoral context, where the impact of racist or xenophobic comments grew more harmful. Insults, ridicule or defamation aimed at specific population groups or incitation to discrimination, as in the instant case, sufficed for the authorities to give priority to fighting hate speech.

c. Article 17 used as aid in interpretation

157. In *Jersild v. Denmark*, 1994, the applicant, a journalist, made a documentary containing extracts from an interview with a group of young people who had stated, in particular, that "niggers" and "foreign workers" were "animals" and drug dealers. The applicant and the youths were convicted on this account. While those remarks did not enjoy the protection of Article 10, the impugned documentary, taken as a whole, could not objectively have appeared to have as its purpose the propagation of racist views and ideas. Even though it did not explicitly recall the immorality, dangers and unlawfulness of the promotion of racial hatred, both the TV presenter's introduction and the applicant's conduct during the interviews clearly dissociated him from the persons interviewed (§§ 33-35). The applicant's conviction had therefore not been justified under Article 10.

158. In *R.L. v. Switzerland* (dec.), 2003, the Court implicitly relied on Article 17 to reject as manifestly ill-founded the applicant's complaint under Article 10 about the seizure of two CDs and three musical records containing racist propaganda. In so far as those materials were directed against the Convention's underlying values, the interference was "necessary in a democratic society".

159. In *Atamanchuk v. Russia*, 2020, the Court dealt with the applicant's statements that non-Russian ethnic groups residing in Russia would "slaughter, rape, rob and enslave, in line with their barbaric ideas" and "participate[d] in the destruction of the country". The Court found no violation of Article 10 in respect of the applicant's criminal conviction and two-year ban on journalistic and publishing activities imposed on him on this account. Article 17 case-law informed the Court's analysis, even though it eventually decided not to rule on the question of the application of this provision (see also *Kilin v. Russia*, 2021, above , under "Incitement to violence").

2. Hatred on ethnic grounds

a. Hatred towards Roma

i. Article 17 not applied

160. In *Vona v. Hungary*, 2013, an association chaired by the applicant was dissolved following a series of rallies and demonstrations it had held throughout Hungary, including in villages with large Roma populations. During these events, the association activists marched in a military-like formation, wearing military-style uniforms and giving salutes and commands. The paramilitary formation was reminiscent of the Hungarian Nazi movement (Arrow Cross), the backbone of the regime responsible for the mass extermination of Roma in Hungary. The Court was reluctant to apply Article 17 in the instant case, concerning quite a serious restriction on the applicant's right to freedom of association.

The association's activities did not prima facie reveal any intention to justify or propagate a totalitarian ideology and the applicant had neither expressed contempt for the victims of a totalitarian regime nor belonged to a group with totalitarian ambitions (§§ 34-39). The Court eventually found no violation of Article 11. In view of Hungary's historical experience in the wake of Arrow Cross power, the authorities could not be required to await further developments before intervening when confronted with large-scale, coordinated intimidation which, though not accompanied by violence, could be regarded as the first steps in the implementation of a policy of racial segregation, such policy being incompatible with the fundamental values of democracy (§§ 66-69).

ii. Article 17 used as aid in interpretation

161. In *Molnar v. Romania* (dec.), 2012, the applicant was convicted of distributing posters which contained the following messages: "Prevent Romania from becoming a country of the Roma" or "Romania needs children, not homosexuals". In the Court's opinion, such messages sought to arouse hatred towards the Roma minority and the homosexual minority, constituted a serious threat to public order and ran counter to the fundamental values underpinning the Convention and a democratic society. Such acts were incompatible with democracy and human rights and thus, in accordance with Article 17, were not protected by Article 10 (§ 23). In any event, the applicant's conviction was "necessary in a democratic society" and the application was rejected as manifestly ill-founded.

162. In *Budinova and Chaprazov v. Bulgaria,* 2021, the applicants – Bulgarian nationals of Roma ethnic origin – unsuccessfully sought a court order against a well-known politician compelling him to apologise publicly for a number of anti-Roma statements made and to refrain from making such statements in the future. The impugned statements, systematic and extremely virulent, reached a wide audience and visibly sought to portray Roma in Bulgaria as immoral social parasites exceptionally prone to crime and depravity, responsible for "Gypsy terror and banditry" and "gigantic genocide of the Bulgarian nation". Relying, *inter alia*, on its Article 17 case-law, the Court concluded that the domestic courts had failed to carry out the requisite balancing exercise properly: they had ascribed considerable weight to the politician's freedom of expression, while downplaying the capacity of his statements to stigmatise and vilify Roma and arouse hatred and prejudice against them. The Court therefore found a violation of Article 8 taken in conjunction with Article 14 on account of the authorities' failure to comply with their positive obligation to respond adequately to discrimination on account of the applicants' ethnic origin and to secure respect for their "private life", which had been affected by the extreme negative stereotyping in issue (*Budinova and Chaprazov v. Bulgaria*, 2021, §§ 93-94).

b. Anti-Semitism

163. Cases concerning anti-Semitism are also discussed above, under "Nazi ideology", and below, under "Negation of the Holocaust and related issues".

i. Article 17 applied

164. In the following cases, by application of Article 17, the complaints under Articles 10, 11 and 14 were rejected as incompatible *ratione materiae* with the provisions of the Convention.

165. In *Pavel Ivanov v. Russia* (dec.), 2007, an owner and editor of a newspaper was convicted of authoring and publishing a series of Articles portraying the Jews as the source of evil in Russia, calling for their exclusion from social life. He accused an entire ethnic group of plotting a conspiracy against the Russian people, ascribed fascist ideology to the Jewish leadership and denied the Jews the right to national dignity. The Court had no doubt as to the markedly anti-Semitic tenor of the applicant's views. Such a general, vehement attack on one ethnic group was directed against the Convention's underlying values, notably tolerance, social peace and non-discrimination.

166. In *W.P. and Others v. Poland* (dec.), 2004, the applicants were prevented from forming an association. The evidence justified the need to bring Article 17 into play, given that the memorandum of association alleging the persecution of Poles by the Jewish minority and the existence of inequality between them could be seen as reviving anti-Semitism. Moreover, the tenor of the applicants' submissions to the Court was also anti-Semitic.

167. In *Ayoub and Others v. France*, 2020, when examining the dissolution of extreme right-wing entities, the Court held that two of them could not claim the protection of Article 11 on account of, *inter alia*, the promotion of antisemitism and anti-democratic character of their activities. By application of Article 17, their complaints were declared inadmissible.

ii. Article 17 used as aid in interpretation

168. In *Behar and Gutman v. Bulgaria*, 2021, the applicants – Bulgarian nationals of Jewish ethnic origin – instituted unsuccessful proceedings against a well-known politician, claiming that the anti-Semitic statements he had made in his books infringed their dignity and incited to discrimination. For the Court, the impugned statements had virulently rehearsed timeworn anti-Semitic narratives, accusing the Jews of genocide against and enslavement of Christians as well as denying the Holocaust and casting it as a story contrived for financial extortion. The Court recalled its case-law to the effect that anti-Semitic discourse was entitled to no, or to very limited, protection under Article 10, read in the light of Article 17. Against this background, the domestic courts could not be said to have properly weighed the relative importance of the competing rights in the circumstances: notably, they had ascribed considerable weight to the politician's freedom of expression, while downplaying the capacity of his statements to stigmatise Jews as a group and arouse hatred and prejudice against them. By refusing to grant redress to the applicants in respect of the extreme negative stereotyping affecting them, the domestic courts had failed to comply with their positive obligation under Article 8, read in conjunction with Article 14, to respond adequately to discrimination on account of the applicants' ethnic origin and to secure respect for their "private life" (*Behar and Gutman v. Bulgaria*, 2021, §§ 104-105).

iii. No reliance on Article 17

169. In *Balsytė-Lideikienė v. Lithuania*, 2008, the applicant, a publisher, was issued with an administrative warning on account of a publication which contained statements promoting territorial claims, expressing aggressive nationalism and referring to the Jews and Poles as the perpetrators of war crimes and genocide against the Lithuanians. The unsold copies of the publication were confiscated. The Court found no breach of Article 10, as the impugned statements inciting hatred against the Poles and the Jews were capable of giving the authorities cause for serious concern, especially given the sensitive nature of the questions of national minorities and territorial integrity after the re-establishment of Lithuanian independence in 1990 (§§ 78-79). The Court did not raise of its own motion the question of application of Article 17.

c. Other types of ethnic hatred

i. Article 17 not applied

170. In *Association of Citizens "Radko" and Paunkovski v. the former Yugoslav Republic of Macedonia*, 2009, the applicant association was dissolved for negating the ethnic identity of the Macedonian people. The Court saw no need to apply Article 17 and found a violation of Article 11 since there was no concrete evidence to show that the association had opted for a policy that represented a genuine and imminent threat to public order, Macedonian society or the State.

171. In *Perinçek v. Switzerland* [GC], 2015, the Court saw no reason to apply Article 17 in respect of the statements disputing the qualification of the mass deportations and massacres suffered by the

Armenians in the Ottoman Empire as genocide. Those statements, when read as a whole and in their context, could not be seen as a call for violence, hatred or intolerance. In particular, the applicant, a Turkish politician, had neither expressed contempt for the victims, nor used abusive terms in respect of the Armenians. And the context did not require a racist and antidemocratic agenda to be automatically presumed (§§ 233-239). His criminal conviction in Switzerland was found to be in breach of Article 10.

ii. Article 17 used as aid in interpretation

172. In *Stomakhin v. Russia*, 2018, the Court analysed, *inter alia*, the applicant's statements representing various abuses as typical and characteristic of all Russians and Orthodox believers. In this respect, implicitly relying on Article 17, the Court observed that such broad attacks on ethnic and religious groups were in contradiction with the Convention's underlying values, notably tolerance, social peace and non-discrimination (§§ 120-122). The applicant's conviction was found to be disproportionate, in breach of Article 10.

iii. No reliance on Article 17

173. In *Balsytė-Lideikienė v. Lithuania*, 2008, an administrative penalty, which had been imposed on a publisher mainly for statements accusing the Jews and Poles of war crimes and genocide against the Lithuanians, was not found to be in breach of Article 10. The Court did not rely on Article 17.

3. Homophobia

a. Article 17 applied

174. In *Ayoub and Others v. France*, 2020, one of the applicant associations displayed violent hatred and discrimination towards, *inter alia*, homosexuals. Having regard to the anti-democratic nature of its activities, the Court applied Article 17 and rejected the applicant association's complaint regarding its dissolution as incompatible *ratione materiae* with the provisions of the Convention.

175. In *Lenis v. Greece* (dec.), 2023, the Court held that the online statements of a senior official of the Greek Orthodox Church, which denied LGBTI people their human nature and called for violence, amounted to the gravest from of hate speech. Taking into account the applicant's power to influence many people and the risk of harmful consequences, the Court, by virtue of Article 17, rejected the applicant's complaint under Article 10 regarding his conviction for such speech.

b. Article 17 not applied

176. The case of *Lilliendahl v. Iceland* (dec.), 2020, concerned the applicant's conviction and fine for highly prejudicial homophobic comments he had made online in the context of the debate sparked by the local authorities' decision to strengthen education on LGBT matters in schools. In particular, he had described homosexual persons as "sexual deviants" and expressed disgust. Even though the impugned statements amounted to "hate speech", in the Court's view, they did not reach the high threshold for the applicability of Article 17. However, the Court endorsed the balancing exercise performed by the domestic courts and dismissed the applicant's complaint under Article 10 as manifestly ill-founded.

c. Article 17 used as aid in interpretation

177. In *Molnar v. Romania* (dec.), 2012, the Court dealt with the applicant's conviction on account of the distribution of posters containing messages directed, *inter alia*, against the homosexual minority (for instance, "Romania needs children, not homosexuals"). For the Court, by reason of Article 17, the applicant could not rely on Article 10 as his conduct was incompatible with democracy and human

rights. The case was dismissed as manifestly ill-founded, as the applicant's conviction, in any event, did not infringe Article 10.

d. No reliance on Article 17

178. In *Vejdeland and Others v. Sweden*, 2012, the Court examined the applicant's conviction on account of leaving homophobic leaflets in pupils' lockers at an upper secondary school. The leaflets stated that homosexuality was a "deviant sexual proclivity", had "a morally destructive effect" on society and was responsible for the development of HIV and AIDS. They further alleged that the "homosexual lobby" had tried to play down paedophilia. For the Court, although the impugned statements did not directly recommend committing hateful acts, they were serious and prejudicial allegations (§§ 54-55). The Court did not raise the question of application of Article 17 of its own motion. However, no breach of Article 10 was found, having regard to an impressionable and sensitive age of pupils and the lack of possibility for them to decline or to accept such leaflets (§ 56).

4. Religious hatred

a. Hatred towards non-Muslims

i. Article 17 applied

179. In *Belkacem v. Belgium* (dec.), 2017, the applicant complained about his criminal conviction on account of the videos on the YouTube platform in which he called to overpower non-Muslims, teach them a lesson and fight them. In the Court's view, such a general and vehement attack stirring up hatred and violence towards all non-Muslims was incompatible with the values of tolerance, social peace and non-discrimination. By virtue of Article 17, the applicant's Article 10 complaint was rejected as incompatible *ratione materiae* with the provisions of the Convention.

ii. Article 17 not applied

180. In *Ibragim Ibragimov and Others v. Russia*, 2018, the applicants published or commissioned the publication of the books from the Risale-I Nur Collection, an exegesis on the Qur'an written by well-known Turkish Muslim scholar Said Nursi in the first half of the 20th century. The books were declared to be extremist literature, resulting in a ban on their publication and distribution. The domestic court had noted that one of the books treated non-Muslims as inferior to Muslims in so far as it described Muslims as "the faithful" and "the just", and everyone else as "the dissolute", "the philosophers", "the idle talkers" and "little men". The book also proclaimed that not to be a Muslim was an "infinitely big crime". The Court rejected the Government's preliminary objection under Article 17 and found a violation of Article 10, as the impugned statements had not been shown to be capable of inciting violence, hatred or intolerance. Said Nursi's texts belonged to moderate mainstream Islam, advocated tolerant relationships and cooperation between religions, and opposed any use of violence. There was no evidence that the books, translated into 50 languages, had caused interreligious tensions or led to any harmful consequences, let alone violence, in Russia or elsewhere. They did not insult, hold up to ridicule or slander non-Muslims. Nor did they amount to improper proselytism or seek to impose on everyone their religious symbols or conception of a society founded on religious precepts (§§ 116-123).

181. In *Mammadov v. Azerbaijan* [Committee], 2020, the books from the above *Risale-I Nur* Collection were seized during a police raid on a religious meeting which was taking place at the applicant's home. The authorities refused to return the books to the applicant on the ground that they were contrary to the tradition of religious tolerance and their distribution was therefore undesirable. The Government relied on Article 17, claiming that the books were contrary to the democratic values and called for the destruction of the State. The Court refused to apply this provision, noting, moreover, that the domestic courts had not examined the content of the books in relation to this particular assertion. The

applicant not being involved in the distribution of religious literature, the interference with his rights had not been lawful, in violation of Article 9 and Article 1 of Protocol No. 1 to the Convention.

b. Islamophobia

i. Article 17 applied

182. In *Norwood v. the United Kingdom* (dec.), 2004, the applicant was convicted on account of a poster he had displayed in the window of his flat, containing a photograph of the Twin Towers in flame, the words "Islam out of Britain – Protect the British People" and a symbol of a crescent and star in a prohibition sign. Such a general and vehement attack on 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. By virtue of Article 17, that act did not enjoy the protection of Articles 10 or 14. The Court disregarded the applicant's argument that the poster had been displayed in a rural area not greatly afflicted by racial or religious tension, and there was thus no evidence that a single Muslim had seen the poster. The application was rejected as being incompatible *ratione materiae* with the provisions of the Convention.

183. In *Ayoub and Others v. France*, 2020, the Court dealt with the dissolution of extreme right-wing associations. Two of them were found to pursue the aims based on hatred and discrimination towards, *inter alia*, Muslim immigrants. In view of the antidemocratic character of their activities and by reason of Article 17, their complaints under Article 11 were rejected as incompatible with the provisions of the Convention.

ii. Article 17 not applied

184. In *Soulas and Others v. France*, 2008, the applicants, a writer and publishers, were convicted on account of the publication of a book defending the idea of a war of ethnic re-conquest against Muslims who were, purportedly, overtaking Europe. The Muslim immigrants were presented as criminally minded, abusing welfare benefits, perpetrating ritual rapes of European women and, generally, animated by Francophobia and anti-European racism. The disputed passages in the book were not sufficiently serious to justify the application of Article 17 (§ 48). The Court, however, found no violation of Article 10, taking into account the wide margin of appreciation, which was to be granted to the authorities facing the problem of social integration of immigrants and the tensions resulting in violent clashes between the police and some radical elements of the immigrant population (§§ 36-37).

185. In *Zemmour v. France*, 2022, the applicant, a well-known political journalist, was convicted on account of his statements against the French Muslim community. In particular, he portrayed them as "colonisers" and "invaders" fighting to "Islamise" France and claimed that the situation required them to make "a choice between Islam and France". The Court was of the view that the aggressive, sweeping language of that assertion had been deployed with discriminatory intent such as to call on viewers to reject and exclude the Muslim community as a whole. The Court noted the potential wide reach of the impugned statements made on live, prime-time television and their overall context (terrorist violence). Despite the established intent to incite discrimination and religious hatred, as well as the shocking and controversial character of the applicant's remarks, they did not make it immediately clear that the applicant had aimed at the destruction of the rights and freedoms laid down in the Convention. While the Court decided not to apply Article 17 directly, it relied on this provision when examining the merits of the applicant's complaint under Article 10. The Court ruled that the impugned statements did not belong to a category of speech enjoying enhanced protection under Article 10 and that the French authorities had therefore a wide margin of appreciation to impose restrictions. The Court found that the applicant's conviction had not breached Article 10 (*Zemmour v. France*, 2022, §§ 28, 61-63).

iii. Article 17 used as aid in interpretation

186. In *Seurot v. France* (dec.), 2004, the applicant, a school teacher, was dismissed following his conviction for the publication of an Article in the school's internal newspaper, which was distributed to all the pupils and their parents. The Article referred to "unassimilable Muslim hordes", which had turned up, "building mosques everywhere" and imposing headscarves. The Court questioned whether such remarks should not be removed from the protection of Article 10 by virtue of Article 17. The applicant's complaint was in any event manifestly ill-founded. The indisputably racist content of the Article was incompatible with the duties and responsibilities incumbent on teachers, who symbolised authority in the eyes of their pupils and were supposed to be actors in the education for democratic citizenship, essential for fighting against racism and xenophobia.

187. In *Tagiyev and Huseynov v. Azerbaijan*, 2019, the applicants were given prison terms for inciting religious hatred on account of an Article criticising Islam and containing, *inter alia*, the following remarks: "Morality in Islam is a juggling act. ... In comparison with Jesus Christ ... the Prophet Muhammad is simply a frightful creature." The Court saw nothing in the impugned statements calling for the application of Article 17 and found that the applicants' conviction was in breach of Article 10.

iv. No reliance on Article 17

188. In *Le Pen v. France* (dec.), 2010, the applicant, the former president of the French "National Front" party, was convicted on account of the statements presenting the rapid growth of the "Muslim community" as an already existing threat to the dignity and security of the French people. In the Court's opinion, the impugned comments were likely to give rise to feelings of rejection and hostility, especially seen against the background of the tense process of the integration of immigrants in France. The Court, however, did not find it necessary to raise the question of application of Article 17 of its own motion and rejected the case as manifestly ill-founded.

c. Other types of religious hatred

189. In the following cases, the Court examined the question of the application of Article 17 in the context of the Russian the Anti-Extremism legislation.

190. The case of *Church of Scientology Moscow and Others v. Russia* [Committee], 2021 concerned the ban on Scientology literature. The Court refused to apply Article 17, absent evidence that the impugned texts insulted, held up to ridicule or slandered persons outside the Scientology community; or that they used abusive terms in respect of them or of matters regarded as sacred by them. The Court further concluded to a violation of Article 10 read in the light of Article 9, finding the domestic courts' analysis of the said literature deficient in a number of respects (§§ 59-61).

191. In the same vein, the Court found that Article 17 had no application in the case of *Taganrog LRO and Others v. Russia*, 2022, which concerned the forced dissolution of local religious organisations of the Jehovah's Witnesses and the ban on their publications. The Court eventually found multiple violations of Articles 9, 10 and 11 (§§ 141, 156-157, 193, 200-201 and 235).

192. The Court also found no grounds to apply Article 17 in the case of *Sinitsyn and Alekhin v. Russia*, 2023, which concerned the ban on the publications of the Falun Gong (Falun Dafa), a Chinese spiritual movement. In view of the shortcomings of the domestic courts' assessment, the Court concluded to a breach of Article 10 read in the light of Article 9 (§§ 6 and 11-12).

F. Negation of the Holocaust and related issues

193. Negation of the Holocaust has invariably been presumed by the Court and the Commission to incite to hatred or intolerance. In particular, the justification for making its denial a criminal offence lies not so much in that it is a clearly established historical fact but in that, in view of the historical context in the States concerned, its denial, even if dressed up as impartial historical research, must be

seen as connoting an antidemocratic ideology and anti-Semitism (*Perinçek v. Switzerland* [GC], 2015, §§ 234 and 243).

194. In a case concerning Holocaust denial, whether the Court applies Article 17 directly, declaring a complaint incompatible *ratione materiae*, or instead finds Article 10 applicable, invoking Article 17 at a later stage when it examines the necessity of the alleged interference, is a decision taken on a case-by-case basis and will depend on all the circumstances of each individual case (*Pastörs v. Germany*, 2019, § 37).

1. Article 17 applied

195. In *Garaudy v. France* (dec.), 2003, the applicant incurred criminal liability on account of his book in which he denied the existence of the gas chambers; described the systematic and massive extermination of Jews as a "sham" and the Holocaust as a "myth"; called their depiction the "Shoah business" or "mystifications for political ends"; and disputed the number of the Jewish victims and the cause of their deaths. Moreover, he trivialised those crimes by comparing them to acts for which he blamed the allies and called into question the legitimacy and undermined the actions of the Nuremberg Tribunal. For the Court, the main content and general tenor of the applicant's book, and thus its aim, were markedly revisionist and therefore ran counter to the fundamental values of the Convention, namely justice and peace. Denying the reality of crimes against humanity, such as the Holocaust, was aimed at rehabilitating the National-Socialist regime and accusing the victims themselves of falsifying history. Such denial therefore constituted one of the most serious forms of racial defamation of Jews and of incitement to hatred of them. By virtue of Article 17, the applicant's complaint under Article 10 was declared incompatible *ratione materiae* with the provisions of the Convention. In so far as the applicant's conviction also concerned his criticism of the State of Israel and the Jewish community, this part of the complaint was manifestly ill-founded: he had not limited himself to such criticism, but in fact pursued a proven racist aim.

196. In *Witzsch v. Germany (no. 2)* (dec.), 2005, the applicant was convicted for his statements, addressed to a well-known historian in a private letter. He had denied neither the Holocaust as such nor the existence of gas chambers. However, he had denied an equally significant and established circumstance of the Holocaust considering it false propaganda that Hitler and the National Socialist Party (NSDAP) had planned, initiated and organised the mass killing of Jews. For the Court, such statements showed the applicant's disdain towards the victims of the Holocaust. The fact that they had been made in a private letter and not before a large audience was found irrelevant. By application of Article 17, the complaint under Article 10 was dismissed as being incompatible *ratione materiae* with the provisions of the Convention.

197. In *M'Bala M'Bala v. France* (dec.), 2015, the applicant, a comedian engaged in political activities, was convicted on account of his show, during which he invited the audience to applaud "heartily" his guest, an academic, well-known for his negationist opinions. The applicant then called an actor wearing what was described as a "garment of light" – a pair of striped pyjamas reminiscent of the clothing worn by Jewish deportees, with a stitched-on yellow star bearing the word "Jew" – to award the academic a "prize for unfrequentability and insolence". The prize took the form of a three-branched candlestick (the seven-branch candlestick being an emblem of the Jewish religion), with an apple crowning each branch. In the key position given to the guest's appearance and the degrading portrayal of Jewish deportation victims faced with a man who had denied their extermination, the Court saw a demonstration of hatred and anti-Semitism and support for Holocaust denial. Moreover, the applicant had not distanced himself from the views of his guest, who, by describing as "affirmationists" those who had described him as a negationist, had put "well-established historical facts" on the same plane as a position which was at odds with the basic values of the Convention, namely justice and peace. The guest's invitation to give a different spelling to the word "affirmationists" had manifestly sought, through a play on words, to incite the audience to consider the proponents of the historical truth as being driven by "Zionist" ("*sionistes*") motives,

that being a common way of thinking among negationists. Furthermore, the description of the concentration-camp clothing as a "garment of light" had, at the very least, shown the applicant's contempt for Holocaust victims (§§ 36-38). The blatant display of a hateful and anti-Semitic position disguised as an artistic production could not be assimilated to a form of entertainment, however satirical or provocative, which would be afforded protection by Article 10. It was as dangerous as a fully-fledged and sharp attack and therefore attracted application of Article 17 (§§ 39-40). The application was rejected as incompatible *ratione materiae* with the provisions of the Convention.

2. Article 17 not applied

198. In *Lehideux and Isorni v. France*, 1998, the Court found no grounds to apply Article 17 in respect of a publication giving a positive account of Marshal Pétain, the Head of State of Vichy France in 1940-1944, while omitting, *inter alia*, to mention his responsibility for the deportation to the death camps of thousands of Jews. Without downplaying the gravity of any attempt to draw a veil over these facts, the Court considered that such omission had to be assessed in the light of a number of other circumstances of the case (§ 54). The applicants' criminal conviction was eventually found to be in violation of Article 10.

3. Article 17 used as aid in interpretation

199. The Commission dealt with a number of cases under Article 10 concerning denial of the Holocaust. In those cases it was faced with statements, almost invariably emanating from persons professing Nazi-like views or linked with Nazi-inspired movements, that cast doubt on the reality of the persecution and extermination of millions of Jews under the Nazi regime; claimed that the Holocaust was a lie, contrived as a means of political extortion; denied the existence of the concentration camps or justified it; or claimed either that the gas chambers in those camps had never existed or that the number of persons killed in them was highly exaggerated and technically impossible. The Commission, frequently referring to the historical experience of the States concerned, described such statements as attacks on the Jewish community, which ran counter to justice and peace and further reflected racial and religious discrimination. It used Article 17 to reinforce its conclusion that the interferences complained of (criminal convictions, seizure of publications, dismissal from military service, obligation imposed on a political party to prevent the impugned statements at a conference) had been "necessary in a democratic society". The applications were rejected as manifestly ill-founded (see the Commission's decisions in *H, W., P. and K. v. Austria*, 1989; *F.P. v. Germany*, 1993; *Ochensberger v. Austria*, 1994; *Walendy v. Germany*, 1995; *Remer v. Germany*, 1995; *Honsik v. Austria*, 1995; *Nationaldemokratische Partei Deutschlands Bezirksverband München-Oberbayern v. Germany*, 1995; *Rebhandl v. Austria*, 1996; *Marais v. France*, 1996; *D.I. v. Germany*, 1996; and *Nachtmann v. Austria*, 1998).

200. The Court followed the same approach in *Witzsch v. Germany* (dec.), 1999, relying on Article 17 to declare manifestly ill-founded the applicant's complaint in respect of his conviction for the denial of the existence of gas chambers and the mass killing therein.

201. In *Gollnisch v. France* (dec.), 2011, the applicant, a right-wing politician and a university professor, was suspended from teaching and research duties within the university for five years, for having expressed, at a press conference, the view that the gas chambers in concentration camps and the number of dead therein were matters for historians to discuss freely. After recalling its Article 17 case-law, the Court rejected the applicant's complaint under Article 10 as manifestly ill-founded. The applicant could not have been unaware that his statements were capable of casting doubt as to the extent of the extermination of the Jews during the Second World War, especially in the context of a debate raging at the university due to negationist and racist views defended by some of its teaching staff. His possible contribution to the negationist discourse and the resulting disorder within the university had been incompatible with his duties and responsibilities as a teacher.

202. In *Williamson v. Germany* (dec.), 2019, the applicant, a Catholic bishop, was convicted for his interview statements denying the existence of gas chambers and the killing of Jews therein and downplaying the number of Jews who had perished in Nazi concentration camps. The interview was given in Germany to a Swedish television channel. Despite being aware that his statements were subject to criminal liability in Germany and could attract particular interest there, the applicant did not reach any specific agreement with the Swedish television as to any prohibition or restriction on the use of the interview recording and it could indeed be viewed in Germany via satellite television or the Internet. Referring to Article 17, the Court rejected the application as manifestly ill-founded. In its view, the fact that the applicant had sought to use his right to freedom of expression with the aim of promoting ideas contrary to the text and spirit of the Convention weighed heavily in the assessment of the necessity of the interference under Article 10 (§§ 26-27).

203. In *Pastörs v. Germany*, 2019, the applicant, then a member of a *Land* Parliament, was convicted for his statements that "the so-called Holocaust is being used for political and commercial purposes" and that since the end of the World War II, the Germans had been exposed to a "barrage of criticism and propagandistic lies" and "Auschwitz projections". As large parts of his speech had not raised an issue under criminal law, the domestic courts found that he had inserted the qualified Holocaust denial into his speech, like "poison into a glass of water, hoping that it would not be detected immediately". While the disdain the applicant had shown to the victims of the Holocaust spoke in favour of the direct application of Article 17, the Court preferred to examine the merits of the applicant's complaint under Article 10, as interferences with the right to freedom of expression called for the closest scrutiny when they concerned statements made by elected representatives in Parliament. The Court attached fundamental importance to the fact that the applicant had planned his speech in advance, deliberately resorting to obfuscation to get his message across. Article 17 had thus an important role to play, as the applicant had sought to use his right to freedom of expression with the aim of promoting ideas contrary to the text and spirit of the Convention and that weighed heavily in the assessment of the necessity of the interference. The applicant's complaint under Article 10 was eventually rejected as manifestly ill-founded.

204. In *Bonnet v. France* (dec.), 2022, the Court examined the applicant's conviction following the publication, on the Internet, of a drawing accompanied by the caption "historians all at sea" and representing the face of Charlie Chaplin in front of a Star of David asking the question "Shoah where are you?", the answer being given in a number of speech bubbles, "here", "over here" and "here too", placed next to drawings depicting soap, a lampshade, a shoe without laces and a wig. While the Court referred to Article 17, it found that the applicant's complaint under Article 10 was, in any event, manifestly ill-founded. In the Court's view, the domestic courts had provided relevant and sufficient reasons for their conclusion that the offending cartoon had been aimed directly at the Jewish community. The use of symbols which undeniably referred to the extermination of Jews and the question "Shoah, where are you?" had sought to ridicule that historical event and cast doubt on its reality. Thus, even if Article 10 were to apply, the cartoon fell within a category which was afforded reduced protection under this provision.

4. No reliance on Article 17

205. In the early cases concerning Holocaust denial, the Commission did not refer to Article 17 (*X. v. Germany*, Commission decision, 1982; *T. v. Belgium*, Commission decision, 1983).

206. The Court did not have recourse to Article 17 in cases where a reference to the Holocaust, which did not involve its denial, had been made.

207. In *Hoffer and Annen v. Germany*, 2011, the applicants, anti-abortion activists, were convicted of defamation on account of their pamphlets targeting a doctor and containing the statement "then: Holocaust, today: Babycaust". By putting the lawful activity performed by the doctor on the same level as mass homicide committed during the Holocaust, the applicants had seriously infringed his

personality rights. The Court saw no need to refer to Article 17 and found no breach of Article 10, having regard to the specific context of the German past.

208. In *PETA Deutschland v. Germany*, 2012, the Court dealt with a civil injunction preventing an animal rights association from publishing posters which featured photos of concentration camp inmates alongside pictures of animals kept in mass stocks, under the headings "final humiliation" and "if animals are concerned, everybody becomes a Nazi". While the intended poster campaign did not pursue the aim to debase the depicted concentration camp inmates, they had been put on the same level as animals and their suffering had thus been banalised and exploited in the interests of animal protection. The Court did not refer to Article 17 and held that the impugned injunction did not violate Article 10.

G. Historic debates

1. Article 17 not applied

209. In *Lehideux and Isorni v. France*, 1998, the applicants were convicted for having published an unqualified eulogy of Marshal Pétain, the Head of State of Vichy France in 1940-1944, while omitting to mention his collaboration with Nazi Germany, for which he had been sentenced to death in 1945. In the Court's view, it was not appropriate to apply Article 17 (§ 58). Regarding the applicants' argument about Pétain's double game supposedly beneficial to the French, that point did not belong to the category of clearly established historical facts – such as the Holocaust – whose negation or revision would be removed from the protection of Article 10 by Article 17 (§ 47). Furthermore, they had explicitly stated their disapproval of "Nazi atrocities and persecutions" (§ 53). Regarding their omission about Pétain's responsibility for deportation to the death camps of thousands of Jews in France, the gravity of those facts increased the gravity of any attempt to draw a veil over them. However, having regard to the lapse of forty years since those events and the legitimacy of the applicants' purpose, namely securing Pétain's retrial, their conviction had been disproportionate, in breach of Article 10 (§§ 53-56).

210. In *Fatullayev v. Azerbaijan*, 2010, the applicant, a journalist, was sentenced to a prison term on account of his statements concerning the Khojaly massacre, which had taken place during the war in Nagorno-Karabakh. While according to the commonly accepted version – hundreds of Azerbaijani civilians had been killed by Armenian armed forces with the reported assistance of the Russian army – , the applicant argued that some Azerbaijani fighters might have killed some of the victims and mutilated their corpses and that they might have also borne responsibility for failure to prevent large-scale bloodshed by not allowing the refugees to use an escape corridor. The Court did not apply Article 17, as the instant case did not concern the negation or revision of clearly established historical facts such as the Holocaust (§ 81). The applicant had not attempted to deny the fact of the mass killings, to exonerate those who were commonly accepted to be the culprits, to mitigate their respective responsibility or to otherwise approve of their actions. Nor had he sought to humiliate or debase the Khojaly victims, doubting the gravity of the suffering inflicted on them (§§ 81 and 98). The Court eventually found a violation of Article 10, as it had not been convincingly shown that the impugned statements were defamatory in respect of the specific individuals acting as private prosecutors in the applicant's case. Moreover, the imposition of a prison sentence for a press offence would be compatible with journalists' freedom of expression only in exceptional circumstances, as, for example, in cases of hate speech or incitement to violence (§ 103).

211. The case of *Perinçek v. Switzerland* [GC], 2015, concerned the criminal conviction of a Turkish politician for publicly expressing the view, in Switzerland, that the mass deportations and massacres suffered by the Armenians in the Ottoman Empire in the early 20th century had not amounted to genocide and that the allegation of the Armenian genocide was an "international lie" invented by "the imperialists". Finding a breach of Article 10, the Court saw no grounds to apply Article 17. First, the applicant's statements, read as a whole and taken in their immediate and wider context, could not be

seen as a form of incitement to hatred, violence or intolerance towards the Armenians. He had not expressed contempt or hatred for the victims, called the Armenians liars, used abusive terms with respect to them, or attempted to stereotype them (§ 246). Nor had he relativised the gravity of those tragic events or presented them as right (§ 240). Secondly, notwithstanding the immense importance attached by the Armenian community to the characterisation of those events as genocide, the Court could not accept that the applicant's statements, which had been directed towards the "imperialists", were so wounding to the dignity of the victims and their descendants as to require criminal law measures in Switzerland, especially given their rather limited impact and the lapse of 90 years since those events (§§ 250, 252 and 254). Thirdly, unlike in the cases relating to Holocaust denial, there was no direct link between Switzerland and the impugned massacres, and the context did not require a racist and anti-democratic agenda to be automatically presumed. Nor was there a basis to infer such an agenda or to expect serious friction between Turks and Armenians in Switzerland on this account (§§ 234 and 243-244).

2. Article 17 used as aid in interpretation

212. In *Chauvy and Others v. France*, 2004, the applicants were convicted of public defamation on account of having written and published a book which, as a whole, tended to suggest, by way of innuendo, that certain important members of the Resistance movement in France during the Second World War had betrayed their leader and had thereby been responsible for his arrest, suffering and death. The Court saw no need to bring Article 17 into play, as the issue in question did not belong to the category of clearly established historical facts, such as the Holocaust. However, the interference complained of was compliant with Article 10, since the author had failed to respect the fundamental rules of historical method in the book and had made particularly grave insinuations (§§ 77-80).

List of cited cases

The case-law cited in this Guide refers to judgments or decisions delivered by the Court and to decisions or reports of the European Commission of Human Rights ("the Commission").

Unless otherwise indicated, all references are to a judgment on the merits delivered by a Chamber of the Court. The abbreviation "(dec.)" indicates that the citation is of a decision of the Court and "[GC]" that the case was heard by the Grand Chamber.

Chamber judgments that are not final within the meaning of Article 44 of the Convention are marked with an asterisk ("*") in the list below. Article 44 § 2 of the Convention provides: "The judgment of a Chamber shall become final (a) when the parties declare that they will not request that the case be referred to the Grand Chamber; or (b) three months after the date of the judgment, if reference of the case to the Grand Chamber has not been requested; or (c) when the panel of the Grand Chamber rejects the request to refer under Article 43". In cases where a request for referral is accepted by the Grand Chamber panel, the Chamber judgment does not become final and thus has no legal effect; it is the subsequent Grand Chamber judgment that becomes final.

The hyperlinks to the cases cited in the electronic version of the Guide are directed to the HUDOC database (http://hudoc.echr.coe.int) which provides access to the case-law of the Court (Grand Chamber, Chamber and Committee judgments and decisions, communicated cases, advisory opinions and legal summaries from the Case-Law Information Note), and of the Commission (decisions and reports) and to the resolutions of the Committee of Ministers.

The Court delivers its judgments and decisions in English and/or French, its two official languages. HUDOC also contains translations of many important cases into more than thirty non-official languages, and links to around one hundred online case-law collections produced by third parties. All

the language versions available for cited cases are accessible via the 'Language versions' tab in the HUDOC database, a tab which can be found after you click on the case hyperlink.

—A—

AEI Investment Industry S.R.L. and Others v. Romania (dec.) [Committee], nos. 17910/15 and 6 others, 11 February 2020
Ashingdane v. the United Kingdom, 28 May 1985, Series A no. 93
Ashirov and International Memorial v. Russia [Committee], no. 25246/07, 17 January 2023
Association of Citizens "Radko" and Paunkovski v. the former Yugoslav Republic of Macedonia, no. 74651/01, ECHR 2009
Atamanchuk v. Russia, no. 4493/11, 11 February 2020
Ayoub and Others v. France, nos. 77400/14 and 2 others, 8 October 2020

—B—

Balsytė-Lideikienė v. Lithuania, no. 72596/01, 4 November 2008
Behar and Gutman v. Bulgaria, no. 29335/13, 16 February 2021
Belkacem v. Belgium (dec.), no. 34367/14, 27 June 2017
Bingöl v. Turkey, no. 36141/04, 22 June 2010
Bîrsan v. Romania (dec.), no. 79917/13, 2 February 2016
Bonnet v. France (dec.), no. 35364/19, 24 February 2022
Budinova and Chaprazov v. Bulgaria, no. 12567/13, 16 February 2021

—C—

Campbell and Cosans v. the United Kingdom, 25 February 1982, Series A no. 48
Campbell and Fell v. the United Kingdom, 28 June 1984, Series A no. 80
Chauvy and Others v. France, no. 64915/01, ECHR 2004-VI
Church of Scientology Moscow and Others v. Russia [Committee], no. 37508/12 and 2 others, 14 December 2021
Contrada v. Italy, no. 27143/95, Commission decision of 14 January 1997, Decisions and Reports (DR) 88-B

—D—

D.I. v. Germany, no. 26551/95, Commission decision of 26 June 1996
De Becker v. Belgium, no. 214/56, Commission's report of 8 January 1960, Series B no. 2
Delfi AS v. Estonia [GC], no. 64569/09, ECHR 2015

—E—

E.S. v. Austria, no. 38450/12, 25 October 2018
Ekrem Can and Others v. Turkey, no. 10613/10, 8 March 2022
Engel and Others v. the Netherlands, 8 June 1976, Series A no. 22
Erdel v. Germany (dec.), no. 30067/04, 13 February 2007
Ete v. Türkiye, no. 28154/20, 6 September 2022

—F—

F.P. v. Germany, no. 19459/92, Commission decision of 29 March 1993
Fáber v. Hungary, no. 40721/08, 24 July 2012
Fatullayev v. Azerbaijan, no. 40984/07, 22 April 2010

Féret v. Belgium, no. 15615/07, 16 July 2009
Fratanoló v. Hungary, no. 29459/10, 3 November 2011
Freedom and Democracy Party (ÖZDEP) v. Turkey [GC], no. 23885/94, ECHR 1999-VIII

—G—

Garaudy v. France (dec.), no. 65831/01, ECHR 2003-IX
German Communist Party (KPD) v. Germany, no. 250/57, Commission decision of 20 July 1957
Glimmerveen and Hagenbeek v. the Netherlands, nos. 8348/78 et 8406/78, Commission decision of 11 October 1979, DR 18
Golder v. the United Kingdom, 21 February 1975, Series A no. 18
Gollnisch v. France (dec.), no. 48135/08, 7 June 2011
Gündüz v. Turkey (dec.), no. 59745/00, ECHR 2003-XI
Gündüz v. Turkey, no. 35071/97, ECHR 2003-XI

—H—

H., W., P. and K. v. Austria, no. 12774/87, Commission decision of 12 October 1989, DR 62
Herri Batasuna and Batasuna v. Spain, nos. 25803/04 and 25817/04, ECHR 2009
Hizb ut-Tahrir and Others v. Germany (dec.), no. 31098/08, 12 June 2012
Hoffer and Annen v. Germany, nos. 397/07 and 2322/07, 13 January 2011
Honsik v. Austria, no. 25062/94, Commission decision of 18 October 1995, DR 83-A

—I—

Ibragim Ibragimov and Others v. Russia, nos. 1413/08 and 28621/11, 28 August 2018
Ifandiev v. Bulgaria [Committee], no. 14904/11, 18 April 2019
Ireland v. the United Kingdom, 18 January 1978, Series A no. 25

—J—

Jersild v. Denmark, 23 September 1994, Series A no. 298

—K—

Kaptan v. Switzerland (dec.), no. 55641/00, 12 April 2001
Karatas and Sari v. France, no. 38396/97, Commission decision of 21 October 1998
Kasymakhunov and Saybatalov v. Russia, nos. 26261/05 and 26377/06, 14 March 2013
Katamadze v. Georgia (dec.), no. 69857/01, 14 February 2006
Kavala v. Türkiye (n° 2) [GC], no. 2170/24, 25 August 2026
Kilin v. Russia, no. 10271/12, 11 May 2021
Koch v. Poland (dec.), no. 15005/11, 7 March 2017
Kudrevičius and Others v. Lithuania [GC], no. 37553/05, ECHR 2015
Kühnen v. Germany, no. 12194/86, Commission decision of 12 May 1988, DR 56

—L—

Lawless v. Ireland, no. 332/57, Commission's report of 19 December 1959, Series B no. 1
Lawless v. Ireland (no. 3), 1 July 1961, Series A no. 3
Le Pen v. France (dec.), no. 18788/09, 20 April 2010
Lehideux and Isorni v. France, 23 September 1998, *Reports of Judgments and Decisions* 1998-VII
Lenis v. Greece (dec.), no. 47833/20, 27 June 2023
Leroy v. France, no. 36109/03, 2 October 2008
Lilliendahl v. Iceland (dec.), no. 29297/18, 12 May 2020

—M—

M'Bala M'Bala v. France (dec.), no. 25239/13, ECHR 2015
Maggio and Others v. Italy (dec.), no. 46286/09 and others, 8 June 2010
Mammadov v. Azerbaijan [Committee], no.7308/12, 3 December 2020
Marais v. France, no. 31159/96, Commission decision of 24 June 1996, DR 86-B
Mărgărit and Others v. Romania (dec.) [Committee], nos. 17500/15 and 3 others, 1 October 2019
Marini v. Albania, no. 3738/02, 18 December 2007
Miroļubovs and Others v. Latvia, no. 798/05, 15 September 2009
Molnar v. Romania (dec.), no. 16637/06, 23 October 2012
Mozer v. the Republic of Moldova and Russia [GC], no. 11138/10, 23 February 2016
Mukhin v. Russia, no. 3642/10, 14 December 2021

—N—

Nachtmann v. Austria, nos. 36773/97 and 36773/97, Commission decision of 9 September 1998
Nationaldemokratische Partei Deutschlands Bezirksverband München-Oberbayern v. Germany, no. 25992/94, Commission decision of 29 November 1995, DR 84-A
Nepomnyashchiy and Others v. Russia, nos. 39954/09 and 3465/17, 30 May 2023
Nix v. Germany (dec.), no. 35285/16, 13 March 2018
Norwood v. the United Kingdom (dec.), no. 23131/03, ECHR 2004-XI

—O—

Ochensberger v. Austria, no. 21318/93, Commission decision of 2 September 1994
Open Door and Dublin Well Woman v. Ireland, 29 October 1992, Series A no. 246-A
Orban and Others v. France, no. 20985/05, 15 January 2009
Ould Dah v. France (dec.), no. 13113/03, ECHR 2009

—P—

Paksas v. Lithuania [GC], no. 34932/04, ECHR 2011
Palusinski v. Poland (dec.), no. 62414/00, ECHR 2006-XIV
Partidul Comunistilor (Nepeceristi) and Ungureanu v. Romania, no. 46626/99, ECHR 2005-I
Pastörs v. Germany, no. 55225/14, 3 October 2019
Pavel Ivanov v. Russia (dec.), no. 35222/04, 20 February 2007
Perinçek v. Switzerland [GC], no. 27510/08, ECHR 2015
PETA Deutschland v. Germany, no. 43481/09, 8 November 2012
Petropavlovskis v. Latvia, no. 44230/06, ECHR 2015
Preda and Dardari v. Italy (dec.), nos. 28160/95 and 28382/95, ECHR 1999-II
Purcell and Others v. Ireland, no. 15404/89, Commission decision of 16 April 1991, DR 70

—R—

R.L. v. Switzerland (dec.), no. 43874/98, 25 November 2003
Rebhandl v. Austria, no. 24398/94, Commission decision of 16 January 1996
Refah Partisi (the Welfare Party) and Others v. Turkey [GC], nos. 41340/98 and 3 others, ECHR 2003-II
Remer v. Germany, no. 25096/94, Commission decision of 6 September 1995, DR 82-A
Rodina and Borisova v. Latvia, nos. 2623/16 and 2299/16, 10 July 2025
Roj TV A/S v. Denmark (dec.), no. 24683/14, 17 April 2018
Romanov v. Ukraine [Committee], no. 63782/11, 16 July 2020
Rubins v. Latvia, no. 79040/12, 13 January 2015

—S—

S.A.S. v. France [GC], no. 43835/11, ECHR 2014
Schimanek v. Austria (dec.), no. 32307/96, 1 February 2000
Seurot v. France (dec.), no. 57383/00, 18 May 2004
Sidiropoulos and Others v. Greece, 10 July 1998, *Reports of Judgments and Decisions* 1998-IV
Šimunić v. Croatia (dec.), no. 20373/17, 22 January 2019
Sinitsyn and Alekhin v. Russia [Committee], no. 39879/12, 31 January 2023
Smajić v. Bosnia and Herzegovina (dec.), no. 48657/16, 16 January 2018
Socialist Party and Others v. Turkey, 25 May 1998, *Reports of Judgments and Decisions* 1998-III
Soulas and Others v. France, no. 15948/03, 10 July 2008
Sporrong and Lönnroth v. Sweden, 23 September 1982, Series A no. 52
Stern Taulats and Roura Capellera v. Spain, nos. 51168/15 and 51186/15, 13 March 2018
Stomakhin v. Russia, no. 52273/07, 9 May 2018
Sürek v. Turkey (no. 1) [GC], no. 26682/95, ECHR 1999-IV

—T—

T. v. Belgium, no. 9777/82, Commission decision of 14 July 1983, DR 34
Taganrog LRO and Others v. Russia, nos. 32401/10 and others, 7 June 2022
Tagiyev and Huseynov v. Azerbaijan, no. 13274/08, 5 December 2019
Tepljakov v. Estonia [Committee] (dec.), no. 47456/18, 6 July 2021
Teslenko and Others v. Russia, nos. 49588/12 and 3 others, 5 April 2022

—U—

Ulusoy and Others v. Turkey, no. 34797/03, 3 May 2007
United Communist Party of Turkey and Others v. Turkey, 30 January 1998, *Reports of Judgments and Decisions* 1998-I

—V—

Vajnai v. Hungary, no. 33629/06, ECHR 2008
Varela Geis v. Spain, no. 61005/09, 5 March 2013
Vasilyev and Others v. Russia [Committee], no.38891/08, 22 September 2020
Vejdeland and Others v. Sweden, no. 1813/07, 9 February 2012
Vogt v. Germany, 26 September 1995, Series A no. 323
Vona v. Hungary, no. 35943/10, ECHR 2013

—W—

W.P. and Others v. Poland (dec.), no. 42264/98, ECHR 2004-VII
Walendy v. Germany, no. 21128/93, Commission decision of 11 January 1995, DR 80-A
Williamson v. Germany (dec.), no. 64496/17, 8 January 2019
Witzsch v. Germany (dec.), no. 41448/98, 20 April 1999
Witzsch v. Germany (no. 2) (dec.), no. 7485/03, 13 December 2005
Wojczuk v. Poland, no. 52969/13, 9 December 2021

—X—

X. v. Austria, no. 1747/62, Commission decision of 13 December 1963
X. v. Germany, no. 9235/81, Commission decision of 16 July 1982, DR 29
X., Y. and Z. v. the United Kingdom, no. 9285/81, Commission decision of 6 July 1982, DR 29

—Y—

Yazar and Others v. Turkey, nos. 22723/93 and 2 others, ECHR 2002-II
Yuksekdag Senoglu and Others v. Türkiye, nos. 14332/17 and others, 8 November 2022

—Z—

Z.B. v. France, no. 46883/15, 2 September 2021
Zambrano v. France (dec.), no. 41994/21, 7 October 2021
Zana v. Turkey, 25 November 1997, *Reports of Judgments and Decisions* 1997-VII
Zemmour v. France, no. 63539/19, 20 December 2022
Ždanoka v. Latvia [GC], no. 58278/00, ECHR 2006-IV
Zhablyanov v. Bulgaria, no. 36658/18, 27 June 2023