KEY THEME[1]
Articles 8, 13 and 14
Protection against hate speech

(Last updated: 28/02/2026)

Introduction

The Court attaches particular importance to pluralism, tolerance and broadmindedness. It has often emphasised that pluralism and democracy are built on genuine recognition of, and respect for, diversity. The harmonious interaction of persons and groups with varied identities is essential for achieving social cohesion (*Beizaras and Levickas v. Lithuania*, 2020, §§ 106-107, and the references cited therein). Statements that spread, incite, promote or justify violence, hatred, or intolerance against a person or group of persons ("hate speech") threaten social cohesion and constitute a risk of violence and of the violation of the rights of others. Such expression can create environments that are conducive to hate crime and fuel broad-scale conflict.

The Court's extensive case-law relating to hate crime has recently developed by extending protection to victims of hate speech under Article 8 (respect for private life), both taken alone and in conjunction with Article 14 (prohibition of discrimination) and, exceptionally under Article 13.

Principles drawn from the current case-law

In the context of Article 8:

Applicability

- Treatment which does not reach a level of severity sufficient to bring it within the ambit of Article 3 may nonetheless breach the private-life aspect of Article 8 if the effects on the applicant's physical and psychological integrity are sufficiently adverse (*R.B. v. Hungary*, 2016, § 79; *Király and Dömötör v. Hungary*, 2017, § 42; *Association ACCEPT and Others v. Romania*, 2021, § 66).
- A person's reputation forms part of his or her personal identity and psychological integrity and therefore also falls within the scope of his or her private life. In order for Article 8 to come into play, however, an attack on a person's reputation must attain a certain level of seriousness and be made in a manner causing prejudice to personal enjoyment of the right to respect for private life; (*Kaboğlu and Oran v. Turkey*, 2018, § 65; *Beizaras and Levickas v. Lithuania*, 2020, § 109; *Association ACCEPT and Others v. Romania*, 2021, § 68)
- Any negative stereotyping of a group, when it reaches a certain level, is capable of impacting on the group's sense of identity and the feelings of self-worth and self-confidence of members of the group, and, in this sense, can be seen as affecting the private life of members of the group (*Aksu v. Turkey* [GC], 2012, § 58; *R.B. v. Hungary*, 2016, § 78; *Nepomnyashchiy and Others v. Russia*, 2023, § 57). The relevant factors for

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

deciding whether that level has been reached include, but are not necessarily limited to, (a) the characteristics of the group (for instance its size, its degree of homogeneity, its particular vulnerability or history of stigmatisation, and its position *vis-à-vis* society as a whole), (b) the precise content of the negative statements regarding the group (in particular, the degree to which they could convey a negative stereotype about the group as a whole, and the specific content of that stereotype); and (c) the form and context in which the statements were made, their reach (which may depend on where and how they were made), the position and status of their author, and the extent to which they could be considered to have affected a core aspect of the group's identity and dignity. None of those factors invariably takes precedence; it is the interplay of all of them that leads to the ultimate conclusion on whether the above-mentioned "certain level" has been reached, and on whether Article 8 is thus applicable. The overall context of each case – in particular the social and political climate prevalent at the time when the statements were made – may also be an important consideration (*Budinova and Chaprazov v. Bulgaria*, 2021, § 63; *Behar and Gutman v. Bulgaria*, 2021, § 67; *Nepomnyashchiy and Others v. Russia*, 2023, § 58).

State obligations in brief

- An effective legal system should be in place and operating, as well as available to the applicant, for the protection of the rights falling within Article 8 (*Aksu v. Turkey* [GC], 2012, § 68). This is an area in which Contracting States enjoy a wide margin of appreciation in determining the steps to be taken to ensure compliance with the Convention with due regard to the needs and resources of the community and of individuals (*R.B. v. Hungary*, 2016, § 81). The Court's task in that connection is not to substitute itself for the competent domestic authorities in determining the most appropriate methods for protecting individuals from attacks on their personal integrity, but rather to review under the Convention the decisions that those authorities have taken in the exercise of their power of appreciation (*Király and Dömötör v. Hungary*, 2017, § 62).
- The above-mentioned obligation does not always require provision of criminal-law remedies; it can also be met if the legal system in place provides civil-law remedies capable of affording sufficient protection (*ibid.*, § 61).
- Criminal sanctions for hate speech, including the most serious expressions of hatred and calls to violence, can be invoked only as an *ultima ratio* measure (*Beizaras and Levickas v. Lithuania*, 2020, § 111). The Court has accepted that criminal-law measures are required with respect to direct or indirect verbal assaults and physical threats motivated by discriminatory attitudes (*R.B. v. Hungary*, 2016, §§ 80 and 83-85; *Király and Dömötör v. Hungary*, 2017, § 76; *Alković v. Montenegro*, 2017, §§ 65-66, 69 and 72). Where criminal-law mechanisms are in place, they should be implemented in a manner which is compatible with the State's obligation to provide effective protection of the rights falling within Article 8 (*R.B. v. Hungary*, 2016, §§ 85, 90 and 91; *Király and Dömötör v. Hungary*, 2017, § 72 and 80; *Alković v. Montenegro*, 2017, §§ 68, 72 and 73; *Nepomnyashchiy and Others v. Russia*, 2023, § 58; *Ilareva and Others v. Bulgaria*, 2025, §§ 145-46). Moreover, the State's obligations to act in order to protect fundamental rights apply as much online as they do offline (*Ilareva and Others v. Bulgaria*, 2025, § 140).

Balancing the right to private life and freedom of expression

- In cases where the complaint is that rights protected under Article 8 have been breached as a consequence of the exercise by others of their right to freedom of expression, due regard should be had, when applying Article 8, to the requirements of Article 10. Thus, in

such cases, the applicant's right to "respect for his/her private life" will need to be balanced against the public interest in protecting freedom of expression, bearing in mind that no hierarchical relationship exists between the rights guaranteed by the two Articles (*Aksu v. Turkey* [GC], 2012, § 63; *Budinova and Chaprazov v. Bulgaria*, 2021, § 89; *Behar and Gutman v. Bulgaria*, 2021, § 100). Likewise, the obligation to conduct a balancing exercise means that domestic courts must not invoke freedom of expression without giving due consideration to Article 8 private life concerns (*Nepomnyashchiy and Others v. Russia*, 2023, §§ 81-85).

- In its analysis of the cases of this type, the Court will have regard to the principles established in its case-law under Article 10 concerning statements alleged to have stirred violence, hatred or intolerance. In particular, it will assess whether the impugned statements were made against a tense political or social background; whether those statements, fairly construed and seen in their immediate or wider context, could be seen as a direct or indirect call to violence or as a justification for violence, hatred or intolerance; it will also assess the manner in which the impugned statements were made and their capacity – direct or indirect – to lead to harmful consequences; the Court's approach to this type of case is highly context-specific (*Király and Dömötör v. Hungary*, 2017, § 73; *Kaboğlu and Oran v. Turkey*, 2018, § 82).

In the context of Article 14:

Applicability

- The applicant has to produce *prima facie* evidence that the impugned statements had a discriminatory intent or effect (*Aksu v. Turkey* [GC], 2012, § 45; *Budinova and Chaprazov v. Bulgaria*, 2021, § 91; *Behar and Gutman v. Bulgaria*, 2021, § 102; *Nepomnyashchiy and Others v. Russia*, 2023, § 63), or that his or her belonging to a particular group played a role in the way they were treated (*Beizaras and Levickas v. Lithuania*, 2020, § 124).

State obligations in brief

- In cases where alleged bias-motivated treatment has constituted an interference with the applicant's right to private life under Article 8, that is, when a person makes credible assertions that he or she has been subjected to hatred-motivated harassment, including verbal assaults and physical threats, an additional duty might arise under that Convention provision to take all reasonable steps to unmask any bias motive and to establish whether or not hatred or prejudice may have also played a role in the events (*R.B. v. Hungary*, 2016, §§ 83-84, albeit in the context of Article 8 taken alone; *Alković v. Montenegro*, 2017, § 66; *Association ACCEPT and Others v. Romania*, 2021, §§ 123-126, in the context of Article 8 in conjunction with Article 14).
- Where risks are known, national authorities are under an obligation to provide adequate protection to a person's dignity against hatred-motivated verbal attacks by private individuals, such as, for instance, homophobic slurs at an event organised by an LGBT association (*ibid.*, §§ 105-113).
- Provision of incidental protection of a person's physical integrity, while commendable, does not of itself suffice to satisfy the authorities' obligation to deal with individuals' complaints of recurring acts of intolerance (*Paketova and Others v. Bulgaria*, 2022, § 164).
- The national authorities' failure to duly take into account a discriminatory motivation behind the hateful statements when balancing the right to private life and freedom of expression will amount to a breach of their positive obligation to respond adequately to

discrimination (*Budinova and Chaprazov v. Bulgaria*, 2021, §§ 94-95; *Behar and Gutman v. Bulgaria*, 2021, §§ 105-06).

- In situations where there is evidence of patterns of violence and intolerance against a vulnerable minority, the positive obligations require a higher standard from States to respond to alleged bias-motivated incidents (*R.B. v. Hungary,* 2016, § 84).

In the context of Article 13:

- Usually, where a violation of Article 8, taken alone or together with Article 14, has been found on account of the failure of the domestic legal system to provide the requisite protection, the Court does not consider it necessary to examine separately the complaints under Article 13 (*Alković v. Montenegro*, 2017, § 77; *Beizaras and Levickas v. Lithuania*, 2020, § 151; *Association ACCEPT and Others v. Romania*, 2021, §§ 161-162).
- In *Beizaras and Levickas v. Lithuania*, however, the Court found a separate violation of Article 13, noting the law-enforcement authorities' evident reluctance to investigate hate speech offences with homophobic overtones. It noted that such a prejudicial attitude, and a failure to acknowledge the motives of bias behind such offences, was fraught with the risk that relevant provisions of the criminal law would remain a "dead letter" and would be tantamount to official acquiescence or even connivance in hate crimes (*Beizaras and Levickas v. Lithuania*, 2020, § 155; *Király and Dömötör v. Hungary*, 2017, § 80, where the Court expressed concern, albeit in the context of its analysis under Article 8, that the authorities' failure to meaningfully investigate the applicants' complaints left them without the required protection against an openly anti-Roma demonstration, involving verbal threats and speeches advocating a policy of racial segregation, and that, on account of such attitude by the authorities, such practice might be perceived by the general public as legitimisation and/or tolerance of such events by the State).

Noteworthy examples

Cases where the applicants were targeted - directly or indirectly - by hate speech:

- *R.B. v. Hungary*, 2016 - racist verbal abuse and attempted assault on the applicant during anti-Roma rallies; not so severe as to cause her fear, anguish or feelings of inferiority for Article 3 to come into play (§ 51), but private-life aspects, in the sense of ethnic identity, within the meaning of Article 8, were affected (§ 80). The lack of a meaningful investigation aiming at unmasking racist motives (§§ 88 and 90) - violation of Article 8.
- *Király and Dömötör v. Hungary*, 2017 - threats of physical violence and racist statements, uttered during an anti-Roma demonstration against Roma inhabitants of a village where there were previously tensions between Roma and non-Roma inhabitants, affected the applicants' psychological integrity and ethnic identity, within the meaning of Article 8 (§ 43). The lack of a meaningful investigation aimed at unmasking racist motives (§§ 75-80) - violation of Article 8.
- *Alković v. Montenegro*, 2017 - a series of ethnically and/or religiously motivated verbal attacks and acts of violence, although not made in the applicant's presence or aimed at him directly, could arouse a well-founded fear that violence might actually be used (§ 69). The lack of a meaningful investigation with the result that the relevant incidents remained without legal consequences, and the applicant was not provided with the required protection of his right to psychological integrity (§ 72) - violation of Article 8 in conjunction with Article 14.

- *Kaboğlu and Oran v. Turkey*, 2018 - virulent criticism in ultra-nationalist newspaper articles levelled at the applicants, a chairman of a scientific council and a chairman of a working group of that council, in connection with a report on minority and cultural rights issued by that council reached the requisite severity threshold for the application of Article 8 (§ 72). Some of the statements in the articles amounted to hate speech and direct or indirect calls to violence (including death threats) given, in particular, the sensitive background against which they were made (§§ 85-87). The domestic courts failed to conduct an adequate balancing exercise (§§ 88-89) - violation of Article 8.
- *Beizaras and Levickas v. Lithuania*, 2020 - hateful comments, including direct calls to violence, made on the Facebook page of one of the applicants following publication of a photograph depicting a same-sex kiss between the applicants affected their psychological well-being and dignity and attained the level of seriousness required to bring Article 8 into play (§ 117). The lack of a meaningful investigation because of the same discriminatory state of mind of the relevant public authorities - violation of Article 14 in conjunction with Article 8; the lack of effective remedies - violation of Article 13.
- *Association ACCEPT and Others v. Romania*, 2021 - homophobic insults and threats directed at participants of a public screening of a movie portraying a same-sex family affected the individual applicants' psychological well-being and dignity, thus falling within the sphere of their private life (§§ 66-68). The authorities failed to offer adequate protection of the individual applicants' dignity and to effectively investigate the real nature of the homophobic abuse directed against them (§§ 104-128) - violation of Article 14 in conjunction with Article 8.
- *Paketova and Others v. Bulgaria*, 2022 - authorities' omissions resulting in ethnic Roma being driven away from their homes after anti-Roma protests and not being able to return. The recurrent anti-Roma marches in the village could have legitimately provoked the applicants' fear even if it has not been established that the protestors came close to the applicants; and the officials' repeated public display of opposition to the Roma's return represented a real obstacle to the applicants' peaceful return (§§ 162-163). The authorities' omissions (mayors, police, and prosecutor's offices) to deal with individuals' complaints of recurring acts of intolerance impeding the peaceful enjoyment of their homes (§§ 164-167) - violation of Article 8 in conjunction with Article 14.

Cases concerning stereotyping of a group:

- *Aksu v. Turkey* [GC], 2012 - although the applicant, who was of Roma origin, was not directly targeted by passages in an academic book about Roma in Turkey and by relevant definitions in two dictionaries, he could have felt offended by remarks concerning the ethnic group to which he belonged. His private life, within the meaning of Article 8, was therefore engaged (§§ 58-61). The domestic courts carefully examined the applicant's case, in the light of the relevant principles of the Court's case-law under Article 8, and carried out a proper balancing of the rights under Articles 8 and 10 (§§ 69-74 and 82-85), which provided the applicant with effective means of redress (§ 87) - no violation of Article 8.
- *Lewit v. Austria*, 2019 - the applicant, one of the last living survivors of the Mauthausen concentration camp felt aggrieved by an article in a right-wing periodical which had asserted that people freed from the camp in 1945 had engaged in robbing, plundering and killing, and had commented favourably on the discontinuance of criminal proceedings opened with respect to a nearly identical article earlier. Although the article did not personally name him, the applicant's private life was affected as long as he was a member of a (heterogeneous) social group (survivors of the Holocaust) (§§ 46-47). Because of the lack of a comprehensive examination, in particular, of the question of the applicant's

standing, the domestic courts never addressed the core of his claim (§§ 83-87) - violation of Article 8.

- *Budinova and Chaprazov v. Bulgaria* and *Behar and Gutman v. Bulgaria*, 2021 - the applicants, Bulgarian nationals of Roma (in the first case) and Jewish (in the second case) ethnic origin, unsuccessfully sued a well-known journalist and politician in civil proceedings, under anti-discrimination legislation, for a number of public anti-Roma (in the first case) or anti-Semitic (in the second case) statements that he had made. The impugned statements, systematic and characterised by extreme virulence, visibly sought to vilify the relevant ethnic groups, and were capable of having a sufficient impact on the sense of identity and feelings of self-worth and self-confidence of individual members of those groups, and thus could be considered to affect the applicants' private lives within the meaning of Article 8 (§§ 64-68 in the first case; §§ 68-73 in the second case). The domestic courts played down the impugned statements' discriminatory overtones, thus failing to carry out the requisite balancing exercise or to discharge their duty to respond adequately to discrimination in line with the criteria laid down in the Court's case-law (§§ 93-95 in the first case; §§ 104-106 in the second case) - violation of Article 8 in conjunction with Article 14.
- *Nepomnyashchiy and Others v. Russia*, 2023 - domestic courts failed to apply relevant legal framework to LGBTI applicants bringing criminal and civil cases against Russian politicians for publicly making homophobic statements, on the basis that homosexuals did not constitute a "social group" protected by law. Thus, although legal protection was available to the applicants in theory, the domestic authorities' failure to conduct a proper balancing exercise did not adequately secure the right to respect for the applicants' private lives (§§ 81-85) - violation of Article 8 in conjunction with Article 14.
- *National Youth Council of Moldova v. the Republic of Moldova*, 2024 – the applicant NGO published an advertisement poster on a billboard. The local authorities refused to authorise the advertisement as it allegedly contained cartoons that portrayed the Roma people and persons with disabilities in bad light and were "not representative of their place in society". The said poster was, in fact, a part of the applicant NGO's anti-discrimination campaign in response to the Republic of Moldova's first anti-discrimination law. The Court reiterated that the poster contained satire which is a form of "artistic expression" and that its intended message was an" exaggeration and distortion of reality" which sought to "provoke and agitate" (§ 74). When assessing the local authorities' ban on the advertisement, the Court disagreed with the authorities' decision because the impugned poster contained a "clear and intelligible anti-discrimination message" and that it did not contain hate speech or intolerance towards the Roma people (§ 79).
- *Ilareva and Others v. Bulgaria*, 2025 – the applicants complained about death threats, incitement to violence and hate speech, made on Facebook by private individuals against them in connection with their work for the protection of the rights of migrants and minorities. The authorities' response was found to be deficient, namely because the scope of the investigation was unreasonably and artificially restricted; the gravity of the impugned events was downplayed; the authorities did not specifically engage with the prejudice at the origin of the threats; and the applicants were not effectively involved in the investigation (§§ 137-46).

Further references

Other key themes:

- Discrimination through violence (Article 14)

- Hate speech (Article 10)

Council of Europe:

- Recommendation No. R (97) 20 of the Committee of Ministers to member states on "hate speech" (1997)
- Recommendation CM/Rec(2022)16 of the Committee of Ministers to member States on combating hate speech (2022)
- ECRI General Policy Recommendation No. 1 on combating racism, xenophobia, antisemitism and intolerance
- ECRI General Policy Recommendation No. 6 on Combating the dissemination of racist, xenophobic and antisemitic material via the Internet
- ECRI revised General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination
- ECRI General Policy Recommendation No. 15 on Combatting Hate Speech

European Union:

- Victims' Rights Directive (Directive 2012/29/EU)
- Racial Equality Directive (Council Directive 2000/43/EC)
- Framework Decision on Racism and Xenophobia (Council Framework Decision 2008/913/JHA)
- Guidance Note on the Practical Application of Framework Decision on Racism and Xenophobia (Council Framework Decision 2008/913/JHA)

OSCE:

- Permanent Council Decision No. 621: Tolerance and the fight against racism, xenophobia and discrimination

Other:

- "Models of governance of online hate speech" - Council of Europe publication - Alexander Brown
- Hate speech and hate crime in the EU and the evaluation of online content regulation approaches
- Unmasking bias motives in crimes: select case-law of the European Court of Human Rights, paper published by the European Union Agency for Fundamental Rights

KEY CASE-LAW REFERENCES

- *Aksu v. Turkey* [GC], nos. 4149/04 and 41029/04, ECHR 2012 (no violation of Article 8);
- *R.B. v. Hungary*, no. 64602/12, 12 April 2016 (violation of Article 8);
- *Alković v. Montenegro*, no. 66895/10, 5 December 2017 (violation of Article 8 in conjunction with Article 14);
- *Király and Dömötör v. Hungary*, no. 10851/13, 17 January 2017 (violation of Article 8);
- *Kaboğlu and Oran v. Turkey*, nos. 1759/08, 50766/10 and 50782/10, 30 October 2018 (violation of Article 8);
- *Lewit v. Austria*, no. 4782/18, 10 October 2019 (violation of Article 8);
- *Beizaras and Levickas v. Lithuania*, no. 41288/15, 14 January 2020 (violation of Article 14 in conjunction with Article 8; violation of Article 13);
- *Budinova and Chaprazov v. Bulgaria*, no. 12567/13, 16 February 2021 (violation of Article 8 in conjunction with Article 14);
- *Behar and Gutman v. Bulgaria*, no. 29335/13, 16 February 2021 (violation of Article 8 in conjunction with Article 14; no need to examine admissibility or merits under Article 13);
- *Association ACCEPT and Others v. Romania*, no. 19237/16, 1 June 2021 (violation of Article 14 in conjunction with Article 8 in respect of the individual applicants; no need to examine admissibility or merits under Article 13);
- *Paketova and Others v. Bulgaria*, nos. 17808/19 and 36972/19, 4 October 2022 (violation of Article 8 in conjunction with Article 14);
- *Nepomnyashchiy and Others v. Russia*, nos. 39954/09 and 3465/17, 30 May 2023 (violation of Article 8 in conjunction with Article 14);
- *National Youth Council of Moldova v. the Republic of Moldova*, no. 15379/13, 25 June 2024 (violation of Article 10);
- *Ilareva and Others v. Bulgaria*, no. 24729/17, 9 September 2025 (violation of Article 8 in conjunction with Article 14).