



Why Disrespectful Acts against Prophet Muhammad and the Quran Must be Outlawed Worldwide: An Analysis of Legislation and Case Law (Part 2)

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Abstract

This article focuses on laws regarding cartoons depicting Prophet Muhammad, as well as acts of mockery, insults, or any form of disrespect toward him or the Quran, arguing—based on legal precedent and case law—that such actions should be banned worldwide. The discussion is based on previous rulings of the courts around the world trying similar cases. It has been shown that regarding similar cases, based on the courts' own judgments, defamation, mockery, and insults against Prophet Muhammad constitute hate speech. An analysis of case law shows that some criminal codes have been unevenly applied, particularly in cases related to Prophet Muhammad, where enforcement inconsistencies are evident. Since the publication of the Danish Mohammed cartoons, a clear instance of double morality has emerged in how society applies the right to freedom of expression. For example, while cartoons depicting sensitive topics to Muslims, such as the prophet Mohammed, are commonly seen as justified exercises of this right, there is a striking contradiction in how cartoons on subjects sacred to Western secular society, notably the Holocaust, are often met with denunciation. The accompanying supplementary file provides references to relevant domestic and international laws. Also, the relevant case law has been briefly summarized in the supplementary file. Each discussion of case law has been categorized according to the three-condition test established by the European Court of Human Rights (ECHR). This classification has facilitated the examination of each of these conditions in cases involving disrespectful acts towards Prophet Muhammad, the Quran, as well as Jesus and Saint Mary.

Keywords: Prophet Muhammad Cartoons, Quran Burning, Freedom of Speech, Case-Law, ECHR

1. Why Cartoons, Mockery, and Insults Targeting Prophet Muhammad and the Quran Should Be Outlawed Globally

Since coherent and uniform court rulings ensure legal certainty and reliability, courts often consider past rulings when making decisions. This article will show that international courts have handled numerous hate speech and discrimination cases involving minorities. A list of such cases and a brief of the circumstances of the cases and the Court's assessments have been compiled in Table S3 in the accompanying supplementary file. The cases have been summarized to provide a clear understanding of the circumstances and the Court's evaluations. As the case law confirms, the court decisions are not binding only on each particular case but the court's opinions, decisions, and rulings issued in such cases bear substantial referential significance for trying similar cases. There are high

similarities between some of those cases and the case of the Prophet Muhammad cartoons. By considering how similar cases have been handled in other jurisdictions, one can draw conclusions from the judgments listed in the Table S3 in the supplementary file for dealing with Prophet Muhammad cartoons. The analysis performed in this work shows that, as discussed in Part 1 of this article and according to the case law, Prophet Muhammad cartoons are not merely simple expressions of hate speech; rather, they constitute a highly offensive and vicious form of expression that infringes upon the rights and damages the reputation of others. It has been shown that according to past judgments by the European Court of Human Rights (ECHR), insulting cartoons of Prophet Muhammad and acts of disrespect toward the Quran are not protected by free speech. Several previous judgements of ECHR can be applicable to these cases. According to case law, there are several reasons justifying why Prophet Muhammad cartoons, disrespecting him or Quran should be outlawed worldwide (refer to part 1 of this article):

1. Prophet Muhammad and Quran construct Muslims' identity
2. Disrespecting Prophet Muhammad or Quran is accompanied by their denigration and Muslims' belittling.
3. The cartoons link Prophet Muhammad and Muslims as a whole with a grave act of terrorism
4. The expression of disrespect, mockery, ridicule, sarcasm, or other means of denigrating toward Prophet Muhammad, Quran, or Muslims are abusive and insulting, causing harassment, alarm or distress in Muslims.
5. Disrespecting Prophet Muhammad by cartoons or Quran by burning incites to racial, national and religious hatred.

In fact, disrespecting the Prophet of Islam or the Quran is tantamount to disrespecting Muslims. Because it is a matter of Muslims identity. An identity which is closely tied to Muslims' sense of self. The Muslims' identity is inextricably linked with Prophet Muhammad as a role model. Their identity is associated with their Prophet who is regarded as the ideal or perfect man in their belief system. This article shows that certain criminal laws have been inconsistently enforced in comparable situations.

2. International and Domestic Laws on restriction of Freedom of Speech

I don't see the need for lengthy reasoning to explain why insults, mockery, and defamation of respected individuals are wrong. Parents, teachers and every culture teach this to their children and every child knows that. It is something that the rational mind confirms. Religions, prophets, and holy books have directed people to prevent it. Therefore, I do not see the need to rely on international or domestic laws to prove that insulting Prophet Muhammad is wrong and should be outlawed. However, this article will demonstrate this based on international and domestic laws and case precedents to conclude the reasoning with a reference-based methodology. Table S1 and Table S2 in the supplementary file shows the permissible restrictions that have been placed upon the right to freedom of expression in international and domestic laws. Almost all of the international and domestic laws, expressly stress that the exercise of the right to freedom of expression carries with it special duties and responsibilities and for this reason certain restrictions on the right are permitted which may relate either to the interests of other persons or to those of the community as a whole.

3. ECHR Three-Condition Test

The ECHR always recalls that, subject to paragraph 2 of Article 10, freedom of expression applies not only to "information" or "ideas" received with favor or regarded as harmless or indifferent, but also to those that offend, shock or worry. However, as is borne out by the wording itself of Article 10 para. 2 (art. 10-2), whoever exercises the rights and freedoms enshrined in the first paragraph of that Article (art. 10-1) undertakes "duties and responsibilities". Amongst them - in the context of religious opinions and beliefs - may legitimately be included an obligation to avoid as far as possible expressions that are gratuitously offensive to others and thus an infringement of their rights, and which therefore do not contribute to any form of public debate capable of furthering progress in human affairs. This being so, as a matter of principle it may be considered necessary in a democratic society to sanction or even prevent improper attacks on objects of religious veneration, provided always that any "formality", "condition", "restriction" or "penalty" imposed be proportionate to the legitimate aim pursued.

The ECHR has a test to examine the interference with freedom of expression, known as the three-condition test. The ECHR considers that the interference with freedom of expression violates article 10, unless it satisfies three conditions [1]. According to ECHR, to meet the requirements of Article 10 para. 2, any restriction of freedom of expression must satisfy these three conditions [2] and it should be determined [3] [4]:

1. whether it is “prescribed by law”
2. whether it pursues one or more of the “legitimate aims” set out in Article 10 § 2
3. whether it is “necessary in a democratic society” in order to achieve those aims

The Court will examine these points in turn [5]. The Court has frequently emphasized the need for a narrow interpretation of these rules and the necessity for any restrictions to be convincingly established [1]. The interferences will be permissible under Article 10 if they satisfy the requirements of paragraph 2 (art. 10-2), otherwise the interferences will entail violation of Article 10.

4. *Prophet Muhammad Cartoons, Disrespecting Him or Quran not Considered Free Speech According to Past ECHR Judgments*

In the following sections, several cases have been analyzed. Most of the cases have been adjudicated in ECHR. The analysis is based on the established three-part test of Article 10(2) for assessing restrictions on freedom of expression. It has been shown that those restrictions of freedom of expression in the case law that satisfied the aforementioned three conditions of the ECHR test to meet the requirements of Article 10 para. 2 are also applicable to the cases of disrespecting Prophet Muhammad, Quran, Islam, or Muslims such as Prophet Muhammad cartoons or Quran burning. Neglecting this by prosecutors, courts, and the jurisdiction system in many countries implies the discriminatory and biased behavior towards such cases. I have placed the conclusion of this section in Figure 1 before the discussions and reasoning in the following section.

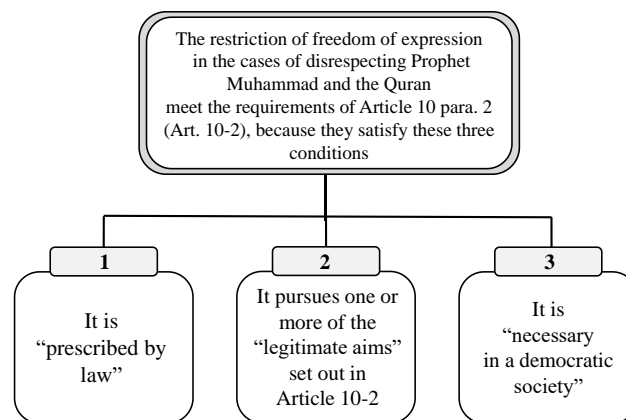


Figure 1: It has been proved that the restriction of freedom of expression in the cases of disrespecting Prophet Muhammad and Quran passes the three-condition test of ECHR.

4.1. Whether the Restriction is “Prescribed by Law”

It should be noted that disrespecting Prophet Muhammad or the Quran results in their denigration and the belittling of Muslims. In part 1 of the article, it was proved that the Prophet Muhammad cartoons or such expressions are inseparable from the denigrating and disparaging him or Quran even if the cartoonists claim that they were not willing to do that. There are similar cases that ECHR has excluded from protection under Article 10 para. 1 (art. 10-1) and held that prohibiting and limiting them pursued a legitimate aim under Article 10 para. 2 (art. 10-2), namely "the protection of the rights of others". ECHR believes that if the measures taken to block specific expressions is intended to suppress a behavior directed against objects of religious veneration that is likely to cause "justified indignation" or its purpose is to protect the right of citizens not to be insulted in their religious feelings by the public expression of views of other persons, the impugned measures have pursued a legitimate aim under Article 10 para. 2 (art. 10-2) [2]. Humiliating, disparaging, denigrating, or mocking individuals or groups as amounting to dignitary harm violates each individual's right to be treated with the respect and concern that is due to them as a full and equally valuable human being. In Table 1, based on the case law, it has been shown that the restriction on disrespectful acts against Prophet Muhammad and Quran such as Prophet cartoons or Quran burning pass the "prescribed by law" test of the ECHR. The supplementary file that comes with the article contains a summary of each case law. Table 1 demonstrates that many court decisions are relevant to cases involving Prophet Muhammad and the Quran. The conclusions in Table 1 are expressed using the same wording as found in the case law.

Table 1: The restriction on disrespectful acts against Prophet Muhammad and the Quran pass the "prescribed by law" test of ECHR. In this table, the reasoning precedes the conclusion. The conclusions are represented by the gray rows under the multiple reasoning columns. A summary of each case law is included in the supplementary file that accompanies the article.

<p>ECHR holds that [6]: The leaflets contained passages that represent a clear and deliberate incitement to discrimination, segregation, or hatred, and even violence, for reasons of race, color or national or ethnic origin [6]. The Court considered that incitement to hatred did not necessarily require the calling of a specific act of violence or another criminal act. Attacks on persons committed through insults, ridicule or defamation aimed at specific population groups or incitement to discrimination, as in this case, sufficed for the authorities to give priority to fighting hate speech when confronted by the irresponsible use of freedom of expression which undermined people's dignity, or even their safety. The interference with Mr Féret's right to freedom of expression had been provided for by law (law of 30 July 1981 on racism and xenophobia) (Daniel Féret v. Belgium [6]). Judgment of the ECHR in the case of Jersild v. Denmark [7] also tried to define the overarching principle "that tolerance and respect for the equal dignity of all human beings constitute the foundations of a democratic, pluralistic society" [8].</p>	<p>The Paris tribunal de grande instance held that [9]: Nor can he hide behind the pretext of comedy. The audience did not find the remarks particularly funny to determine whether or not the impugned remarks sought to remain within the register of the comedy show that they were bringing to a conclusion. The right to humour has certain limits, and in particular that of respect for the dignity of the human person. The Paris court of appeal upheld the decision: While he have relied on his right to freedom of expression and a kind of 'immunity' that should, in their view, be enjoyed by artistic creation with a comic aim, it should be pointed out that such rights, essential though they may be in a democratic society, are not limitless, particularly where respect for human dignity is at stake, as it was in the present case, and where theatrical acts give way to a demonstration which is no longer in the nature of a performance (M'bala M'bala v. France [9]).</p>		
<p>Conclusion 1: The disparaging, cartooning, or demonizing of Prophet Muhammad or Quran represents a clear and deliberate incitement to discrimination, segregation, or hatred, and even violence, based on race, color, religion, national origin, or ethnicity. Attacks on the main symbols of Islam (Prophet Muhammad and Quran) committed through insults, ridicule or defamation aimed at Muslims or incitement to discrimination suffices for the authorities to give priority to fighting hate speech when confronted by the irresponsible use of freedom of expression which undermined Muslims' dignity, or even their safety. The interference is thus prescribed by law. Conclusion 2: Caricaturing Prophet Muhammad or ridiculing Islamic symbols are not free speech because the right to humor and satire has certain limits, and in particular that of respect for the dignity of the human person.</p>			
<p>On the basis of articles 23 and 24 paragraph 6 of the France law of July 29, 1881 [1]: The writer and the manager of the publishing house are guilty of the offense of incitement to discrimination, hatred or violence against a person or a group of persons because of their origin or their membership or non-membership of a race, a nation, an ethnic group or a religion (G. Soulas and others v. France [1]).</p>	<p>ECHR holds that [1]: The French government maintains that the interference was prescribed by law. The ECHR finds that the competent courts relied on Articles 23 and 24 paragraph 6 of the law of 29 July 1881 on the press. The interference was therefore "in accordance with the law" (G. Soulas and others v. France [1]).</p>	<p>ECHR holds that [10]: The applicant's freedom of expression was no justification for statements that were an incitement to discrimination, hatred or violence towards a group of people [10]. The authorities' interference with Mr Le Pen's freedom of expression, in the form of a criminal conviction, had been "prescribed by law" (Le Pen v. France [10]).</p>	<p>The Human Rights Committee considered [11] that the restriction on the author's freedom of expression was indeed provided by law (Act of 13 July 1990). The French State party invoked articles 26 and 20-para. 2, of the Covenant, which stipulates that "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law" (Faurisson v. France [11]).</p>
<p>Conclusion 3: Prophet Muhammad cartoons, mocking, disparaging him or disrespecting Quran incite discrimination and hatred against Muslims. The interference is therefore "in accordance with the law". Any defamatory act against Prophet of Islam, Quran or Islamic symbols are advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and shall be prohibited by law.</p>			
<p>This all-encompassing presentation, with systematically negative elements, is intended to provoke in the readers of the book a feeling of rejection and antagonism. The comments referred to are therefore entirely constitutive of the offence, exclusive of all good faith, of incitement to hatred and violence against these communities. ECHR finds that: The interference was "in accordance with the law" (G. Soulas and others v. France [1]).</p>			
<p>Conclusion 4: Prophet Muhammad cartoons and Quran burning have systematically negative elements that are intended to provoke in the Muslims a feeling of rejection and antagonism, the interference is thus "in accordance with the law".</p>			
<p>ECHR [12]: The objectives of the association had been insulting and discriminating against members of the ethnic minority and therefore should not enjoy the protection of Article 10 (freedom of expression) of the Convention. What is more, the ideas advocated by the applicants could be seen as reviving anti-Semitic sentiments. The impugned interference with the applicants' right to freedom of expression was "prescribed by law" (W.P. and others v. Poland [12]).</p>	<p>Right-wing Danish MP Jesper Langballe has pleaded guilty to defamation after writing in a newspaper article against Islam. Langballe was handed down a fine of DKK 5,000 (USD 888) by the court in Randers. In a statement, he said that he is sorry that some felt derided by his comments. He added that he regrets the tone but not the content of his statements (Langballe v. Denmark [13]).</p>		
<p>Conclusion 5: The objectives of the Prophet Muhammad cartoons and Quran burning are insulting and discriminating against members of the ethnic minority. The ideas advocated by the cartoonists and Quran burners could be seen as reviving anti-Muslim sentiments. The interference with the right to freedom of expression is thus "prescribed by law".</p>			
<p>The ECHR [14]: The speech which is incompatible with the values proclaimed and guaranteed by the Convention would be removed from the protection of Article 10 by virtue of Article 17 of the Convention. The examples of such speech examined by the Court have included linking all Muslims with a grave act of terrorism (Pavel Ivanov v. Russia [14]).</p>			
<p>Conclusion 6: Linking Prophet Muhammad, Quran or Muslims with a grave act of terrorism is not a Free Speech. It is removed from protection of Article 10 by virtue of Article 17 of the ECHR.</p>			
<p>The ECHR notes and agrees with the assessment made by the domestic court [15]. The applicant was charged with an aggravated offence under section 5 of the United Kingdom Public Order Act 1986 of displaying, with hostility towards a racial or religious group, any writing, sign or other visible representation which is threatening, abusive or insulting, within the sight of a person likely to be caused harassment, alarm or distress by it (Mark Anthony Norwood v. United Kingdom [15]).</p>	<p>The ECHR [16] bserve that the applicants were convicted of agitation against a national or ethnic group in accordance with Chapter 16, Article 8 of the Swedish Penal Code, which at the time of the alleged crime included statements that threatened or expressed contempt for a group of people with reference to their sexual orientation. The Court hence considers that the impugned interference was sufficiently clear and foreseeable and thus "prescribed by law" within the meaning of the Convention (Vejdeland and Others v. Sweden [16]).</p>		
<p>Conclusion 7: Displaying towards a racial or religious group (Muslims), any writing, sign or other visible representation which is expressing disrespect, mockery, ridicule, sarcasm, insult or other means of denigrating (against Prophet Muhammad, Quran, Islam, and Muslims) are abusive and insulting and causes harassment, alarm or distress against a racial or religious group (Muslims). Such expressions cause contempt for Muslims with reference to their religion. The interference is thus "in accordance with the law".</p>			
<p>ECHR holds that [17]: Existence of gas chambers in concentration camps and the systematic mass exterminations therein were facts of common knowledge in regard to which evidence need not be taken. The denial of these historic facts and the discrediting of reports thereof as false propaganda constituted an offence under Section 3g and 3h of the National Socialism Prohibition Act [17]. The Commission observes that the applicant's conviction was based on sections 188, 293(1), and 283(2) of the Austria Criminal Code and was, therefore, "prescribed by law" within the meaning of Article 10 para. 2 (Art. 10-2) of the Convention (Gerd Honsik v. Austria [17]).</p>			
<p>Conclusion 8: Prophet Muhammad's moral virtues like compassion, love, modesty, honesty, justice, patience, and forgiveness are historical facts and truth. Denial of Prophet Muhammad's moral virtues which are historic facts and discrediting of reports thereof as false propaganda constitutes an offence under the law. Therefore, the interference is "prescribed by law" within the meaning of Article 10 para. 2 (Art. 10-2) of the Convention.</p>			

<p>ECHR holds [18]: The “interference” in the exercise of the right of freedom of expression, is “prescribed by law”, namely France sections 29 and 32 of the Freedom of the Press Act of 29 July 1881. Section 29 provides: It shall be defamatory to make any statement or allegation of a fact that damages the honor or reputation of the person or body of whom the fact is alleged. The Court is of the same opinion (Giniewski v. France [18]).</p>	<p>According to the case of <i>Garaudy v. France</i> [19] the French court and the ECHR found the applicant guilty of offence of publicly defaming a group of persons namely the Jewish community, and undeniably infringing the honor and reputation of the entire Jewish community (<i>Garaudy v. France</i> [19]).</p>
<p>Conclusion 9: While it is defamatory to make any statement or allegation of a fact that damages the honor or reputation of the person or body of whom the fact is alleged, it is undoubtedly defamatory to make any false statement or allegation against Prophet Muhammad, Quran, or Islam that damages the honor or reputation of Muslims. The cartoons of Prophet Muhammad or desecration of the Quran undeniably defame a group of persons namely the Muslim community, infringing upon the honor and reputation of the entire Muslim community. The “interference” in the exercise of the right of freedom of expression, is thus “prescribed by law”.</p>	
<p>ECHR holds [20]: It was not disputed that the interference with the applicant’s right to freedom of expression [and his conviction for insulting “God, the Religion (Islam), the Prophet (Muhammad) and the Holy Book (Quran)] had been prescribed by law (İ.A. v. Turkey [20]).</p>	<p>The ECHR ruled [9], that the applicant’s remarks and acts had clearly revealed a racist objective, seeking to “deliberately offend against the memory” of the Jewish people. The courts below thus took the view that the applicant was attempting to deflect Article 10 from its real purpose by using freedom of expression for ends that were at odds with the Convention’s fundamental values of justice and peace (<i>M’bala M’bala v. France</i> [9]).</p>
<p>Conclusion 10: The Prophet Muhammad cartoonists, publishers, and Quran burners clearly reveal a racist objective, seeking to deliberately offend against the identity of the Muslim people. They are attempting to deflect Article 10 from its real purpose by using freedom of expression for ends that are at odds with the Convention’s fundamental values of justice and peace. It is not disputed that vilifying and insulting God, Islam, Prophet Muhammad and the Holy Quran are not free speech and the interference with the right to freedom of expression and the conviction are prescribed by law.</p>	
<p>ECHR held that [21]: The applicant was convicted of inciting hatred and enmity and of debasing the human dignity of a person or group of people on account of their ethnicity, language, origin and religious beliefs. The domestic court held that the author made manifestly provocative statements, thus inciting his readers to feel hatred towards other ethnicities [nationalities] creating a negative image of non-Russians. He described non-Russians as ignorant, rude, or cruel. Those are conjectures that are aimed at instilling fear. The applicant had intended to use aggressive language by way of drawing images of an enemy for inciting and deepening strong destructive feelings, hate and anger within its readers. The ECHR notes that the applicant’s prosecution was based on Article 282 § 1 of the Russian Criminal Code. The Court noted that the applicant’s prosecution, based on the relevant provisions of the Russian Criminal Code concerning hate speech, had been “prescribed by law” (<i>Atamanchuk v. Russia</i> [21]).</p>	<p>The Public Prosecutor for Copenhagen charged Lars Hedegaard with racism. It declared that Hedegaard was guilty of violating Article 266b of the Danish penal code, a catch-all provision that Danish elites use to enforce politically correct speech codes. Hedegaard’s statements earned him a hate speech charge under Danish law. The Criminal code provides that “expressing and spreading racial hatred” is a criminal offense punishable with up to two years imprisonment (Article 266b). A Danish superior court found Hedegaard guilty of hate speech in accordance with Article 266b because he “ought to have known” that his statements regarding family rape in Muslim families were intended for public dissemination. He was convicted of hate speech under the Article 266b of the Danish Penal Code, and fined 5,000 kroner. The Danish Supreme Court acquitted Hedegaard, however, it also made a special point of ruling that the substance of his statements, namely the public criticism of Islam, is a violation of Article 266b (<i>Hedegaard v. Denmark</i> [22]).</p>
<p>Conclusion 11: Drawing false images of Prophet Muhammad as the main figure of Islam is an act of debasing the human dignity of a person or group of people on account of their ethnicity, language, origin and religious beliefs (Muslims in this case). It incites and deepens strong destructive feelings, hate and anger within the Muslims and is not protected under the freedom of speech. Provocative drawings about Prophet Muhammad, incites people to feel hatred towards Muslims and Islam creating a negative image of Prophet Muhammad and Muslims. The cartoons described the Prophet and Islam as ignorant, rude, and cruel. Those are conjectures that are aimed at instilling fear and discrimination. Creating aggressive images of Prophet Muhammad, intended to incite and amplify destructive feelings of hate and anger among viewers for public dissemination, constitutes a form of expressing and spreading racial hatred, which is punishable under the law. Thus, the applicant’s prosecution, based on the relevant provisions of concerning hate speech, is “prescribed by law”.</p>	
<p>ECHR held [3]: According to the Supreme Court’s judgment, Article 233(a) of the General Penal Code penalizes publicly mocking, defaming, denigrating or threatening a person or group of persons for certain characteristics, including their sexual orientation or gender identity. The restriction on the applicant’s freedom of expression thus complied with the requirement of being “prescribed by law” (<i>Lilliendahl v. Iceland</i> [3]).</p>	<p>The Danish court convicted Mr. Jersild [7] and sentenced him to pay a fine imposed on for aiding and abetting exposing defamatory remarks about immigrants in Denmark in violation of section 266(b) of the Penal Code read in conjunction with section 23 of the Penal Code. The ECHR finds that the interference was in accordance with law as it was based on the Danish Penal Code (<i>Jersild V. Denmark</i> [7]).</p>
<p>Conclusion 12: Publicly mocking, defaming, denigrating or threatening a person or group of persons for certain characteristics, including their gender identity, ethnicity or religion are not free speech. This can also be applied to both cases of Prophet Muhammad cartoons and Quran desecration. Aiding and abetting exposing defamatory remarks about Prophet Muhammad and Quran are in violation of the penal code and the interference in such cases is in accordance with law.</p>	
<p>The regional Court of Poland found Mr Hösl-Daum [23] guilty of publicly insulting the Polish nation and of inciting national hatred specified in Article 133 of the Criminal Code. To insult is to offend somebody or something by word or act. It is an act which consists of showing contempt, damaging respect or reputation. An insult amounts to an expression of contempt, humiliation and affront. The offence specified in Article 256 of the Criminal Code is committed, inter alia, by a person who publicly incites hatred on the basis of national differences. Such act consists in sowing the seeds of dislike and hostility. The Court did not accept the claim [of informing the public] as credible and held as follows. The posters contain many untruths concerning the Poles. It transpires from the expert opinion that the information with regard to the death rate among the Germans and to the deportations were deliberately presented in a chaotic manner and were presented in such a way as to give grounds for accusation mainly against the Poles. The experts clearly affirmed in their opinion that the contents of the posters are untrue and are not supported by the research of historians. The trial court further held that “The contents of the posters may obviously arouse feelings of unrest, dislike or antagonism between the Polish and German nations. In accordance with the expert opinion the inclusion in one of the posters of a photograph of a skull was solely aimed at stirring up hatred (<i>Hösl-Daum and Others v. Poland</i> [23]).</p>	
<p>Conclusion 13: Publicly insulting Prophet of Islam and Quran and incitement to hatred based on religious differences are crimes specified in the Criminal Code. Offending Muslims by word or act is insult. Cartooning the Prophet of Islam or desecrating the Quran are acts that demonstrate contempt and damage the respect or reputation of these significant symbols and of Muslims. They amount to expressions of contempt, humiliation and affront. Such acts consists in sowing the seeds of dislike and hostility. The claim of informing the public is not credible. The cartoons contain many untruths concerning the Prophet of Islam. The cartoons were deliberately presented in a chaotic manner and were presented in such a way as to give grounds for false accusation mainly against Prophet Muhammad and the Islam. The contents of the cartoons are untrue and are not supported by the research of historians. The contents of the cartoons may obviously arouse feelings of unrest, dislike or antagonism between Muslims and non-Muslims. The inclusion in one of the cartoons of a bomb is solely aimed at stirring up hatred [65].</p>	
<p>ECHR in [3] found that the applicant’s comments constitute prejudicial slander and disparagement of those against whom they are employed. This was aggravated by the applicant’s expression of disgust. His conduct thus falls under Article 233(a) of the General Penal Code. The Supreme Court found that the applicant’s comments were “serious, severely hurtful and prejudicial”, and weighing up the competing rights at play in the case, ruled that it was justified and necessary to curb the applicant’s freedom of expression in order to counteract prejudice, hatred and contempt and protect the rights of social groups which have historically been subjected to discrimination (<i>Lilliendahl v. Iceland</i></p>	<p>In [3], ECHR held that as reasoned by the Supreme Court, the applicant’s words when coupled with the clear expression of disgust, render the applicant’s comments ones which promote intolerance and detestation of homosexual persons. The Court considers it clear that the comments, fell under the [first] category of ‘hate speech’ (the gravest forms of ‘hate speech’). Article 233(a) of the General Penal Code penalizes publicly mocking, defaming, denigrating or threatening a person or group of persons for certain characteristics, including their sexual orientation or gender identity. The restriction on the applicant’s freedom of expression thus complied with the requirement of being “prescribed by law” (<i>Lilliendahl v. Iceland</i> [3]).</p>

(3).	
<p>Conclusion 14: Serious, severely hurtful and prejudicial expressions which constitute prejudicial slander and disparagement of Prophet Muhammad, Quran and Muslims should be penalized. Expressions about Prophet Muhammad, Quran, and Muslims which promote intolerance and detestation fall under the category of the gravest forms of hate speech. The Prophet Muhammad cartoons constitute prejudicial slander and disparagement of the main figure in Islam and in turn the Muslims. The act of the cartoonists or the Quran burner are aggravated by their expression of disgust. Such acts which are the clear expression of disgust, promote intolerance and detestation of Prophet of Islam, Quran, and Muslims. Such conduct thus falls under Articles of the Penal Code which penalizes publicly mocking, defaming, denigrating or threatening a person or group of persons for certain characteristics. Weighing up the competing rights at play, it should be ruled that it is justified and necessary to curb the cartoonists' and Quran burners' freedom of expression in order to counteract prejudice, hatred and contempt and protect the rights of social groups which have historically been subjected to discrimination (Muslims). The restriction on the freedom of expression thus complies with the requirement of being "prescribed by law".</p>	
<p>ECHR: Many of the descendants of the victims of the events of 1915 and the following years –especially those in the Armenian diaspora– construct that identity around the perception that their community has been the victim of genocide. The Court accepts that the interference with the applicant's statements, in which he denied that the Armenians had suffered genocide, was intended to protect that identity, and thus the dignity of present-day Armenians. The interference with the applicant's right to freedom of expression can thus be regarded as having been intended "for the protection of the rights of others". In the light of the Court's case-law, the dignity of Armenians was protected under Article 8 of the Convention. These were the rights of Armenians to respect for their and their ancestors' dignity, including their right to respect for their identity constructed around the understanding that their community has suffered genocide. In the light of the case-law in which the Court has accepted that both ethnic identity and the reputation of ancestors may engage Article 8 of the Convention under its "private life" heading, the Court agrees that these were rights protected under that Article (Perinçek v. Switzerland [5]).</p>	
<p>Conclusion 15: Prophet Muhammad and Quran construct Muslims' identity around the perception that they are respectively their perfect role model and their central religious text. The ECHR has previously held that interference with rights to freedom of expression in such cases are prescribed by law within the meaning of Article 10 § 2. The interference is intended to protect that identity and thus the dignity of present-day Muslims. The interference can thus be regarded as having been intended "for the protection of the rights of others". In the light of the Court's case-law, the dignity of Muslims is protected under Article 8 of the Convention. These are the rights of Muslims to respect for their Prophet's and holy book's dignity, including their right to respect for their identity constructed around the understanding that their identity is inextricably linked with Quran and Prophet Muhammad. In the light of the case-law in which the Court has accepted that both ethnic identity and the reputation of ancestors may engage Article 8, it can be concluded that the religious identity and reputation of central character of Islam (Prophet Muhammad) which is considered more important in Muslims' viewpoint than their ethnic identity or their ancestors should also engage Article 8 of the Convention under its "private life" heading, which means that these are rights protected under that Article.</p>	
<p>In [24], the ECHR found the applicant guilty for his offensive cartoon, published in French weekly Charlie Hebdo. It held: The case concerned the criminal conviction for the offence of proffering a public insult of a racial nature against an individual or group on account of their origin or of belonging to a given ethnicity, nation, race or religion. Regarding the offence of proffering a public racial insult, the judges considered that the misappropriation of the front page of the [9 Feb 2006] issue of the weekly magazine Charlie Hebdo had been aimed at making fun of the Jewish community, by joking about the genocide of which its people had been victims and about their suffering, through particularly outrageous and contemptuous depictions. The court sentenced him to three months' imprisonment and ordered him to pay damages to the civil parties together with the reimbursement of their costs. It also ordered the deletion of the cartoon and the offending remarks from the website, on pain of a fine of 300 euros per day of non-compliance. The Court of Appeal upheld the conviction, rejecting the applicant's arguments that the Jewish community had not been targeted and that the offending cartoon fell within the register of art, humor and politics. The ECHR agreed the domestic courts' conclusion that the various elements of 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 comment had sought to ridicule that historical event and cast doubt on its reality. The Court was therefore of the opinion that the cartoon and the message it conveyed could not be regarded as contributing to any debate of public interest and that, even if Article 10 were to apply, the cartoon fell within a category which was afforded reduced protection under that provision of the Convention (Bonnet v. France [24]).</p>	
<p>Conclusion 16: The offence of proffering a public insult of a racial nature (like mocking or insulting Prophet of Islam or Quran) against an individual (Prophet Muhammad) or group (Muslims) on account of their religion is a criminal conviction. Regarding the offence of public racial insult, it is clear that cartooning the Prophet of Islam who is considered by Muslims as the perfect man and the main character of their religion, through particularly outrageous and contemptuous depictions published in Charlie Hebdo or other magazines, is aimed at mocking the Muslim community. It is rejected that the cartoonists or publisher claim that the Muslim community had not been targeted and that the offending cartoon fell within the register of art, humor and politics. Various elements and symbols of the offending Prophet Muhammad cartoons had been aimed directly at the Muslim community. The cartoons and the message they conveyed could not be regarded as contributing to any debate of public interest. The cartoonists and the publishers should be sentenced and the cartoons and the offending remarks should be deleted from the websites.</p>	
<p>In [19], based on sections 23, 29, 1st paragraph, and 32, 2nd paragraph, of the Act of 29 July 1881, the French court found the applicant guilty of offence of publicly defaming a group of persons namely the Jewish community, and undeniably infringing the honor and reputation of the entire Jewish community. The existence of clearly established historical events, such as the Holocaust, did not constitute historical research akin to a quest for the truth. The real purpose of such a work was to rehabilitate National-Socialist regime and, as a consequence, to accuse the victims of the Holocaust of falsifying history. Disputing the existence of crimes against humanity was, therefore, one of the most severe forms of racial defamation of Jews and of incitement to hatred of them. The denial or rewriting of this type of historical fact undermined the values on which the fight against racism and anti-Semitism was based and constituted a serious threat to public order and it ran counter to the fundamental values of the Convention, namely justice and peace. The applicant had sought to deflect Article 10 of the Convention from its intended purpose by using his right to freedom of expression to fulfil ends that were contrary to the Convention. The justification of a pro-Nazi policy could not be allowed to enjoy the protection afforded under Article 10" and that there is a "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. The applicant questions the reality, extent and seriousness of these historical events that are not the subject of debate between historians, but – on the contrary – are clearly established. Such acts are incompatible with democracy and human rights because they infringe the rights of others. Their proponents indisputably have designs that fall into the category of aims prohibited by Article 17 of the Convention (Garaudy v. France [19]).</p>	
<p>Conclusion 17: Publicly defaming a group of persons namely the Muslim community by falsifying the character of Prophet Muhammad whose noble character is a clearly established historical fact, is one of the most severe forms of racial defamation of Muslims and of incitement to hatred of them, infringing the honor and reputation of the entire Muslim community. The existence of clearly established historical fact, such as the noble character and moral excellence of Prophet Muhammad, do not constitute historical research akin to a quest for the truth. The denial or rewriting of this type of historical fact undermined the values on which the fight against racism and Islamophobia was based and constituted a serious threat to public order and it ran counter to the fundamental values of the Convention, namely justice and peace. Falsifying the historical facts about Prophet Muhammad could not be allowed to enjoy the protection afforded under Article 10. The virtuous characteristics of Prophet Muhammad like compassion, honesty, generosity, courage, fairness, fidelity, self-control, integrity, and prudence are not the subject of debate between historians, but – on the contrary – are clearly established facts. Such acts are incompatible with democracy and human rights because they infringe the rights of others and their proponents indisputably have designs that fall into the category of aims prohibited by Article 17 of the Convention.</p>	
<p>The Paris court, tribunal de grande instance found M'bala M'bala guilty on a charge of proffering a public insult directed at a person or group of persons on account of their origin or of belonging, or not belonging, to a given ethnic community, nation, race or religion, specifically in this case persons of Jewish origin or faith. This judgment was upheld by the ECHR (M'bala M'bala v. France [9]).</p>	<p>In the judgment of the French court upheld by the ECHR, the courts declared that M'bala M'bala debased the emblem of the Jewish religion and by using some Jewish symbols tried to attain a paroxysm of anti-Semitism. The defendant's intention and the real target of his so-called 'quenelle' gesture was to undermine the 'foundation' of the Jewish people (M'bala M'bala v. France [9]).</p>
<p>Conclusion 18: Debasing or mocking the symbols of Islam like Prophet Muhammad or Quran, etc are insults directed at Muslims. Debasing the Prophet of Islam, Quran or other symbols of Islam undeniably undermines the foundation of the Muslim people.</p>	
<p>The ECHR considered that the applicants cannot claim, that he acted as artist with an entitlement to express himself using satire, humour and provocation. But he has degraded the portrayal of Jewish deportation victims under cover of a comedy show. The Court is of the view that this was a demonstration of hatred and anti-Semitism. It is unable to accept that the expression of an ideology which is at odds with the basic values of the Convention, as expressed in its Preamble,</p>	

namely justice and peace, can be assimilated to a form of entertainment, however satirical or provocative, which would be afforded protection by Article 10 of the Convention (M'bala M'bala v. France [9]).	
Conclusion 19: Libeling and character assassination of Prophet Muhammad under the cover of the comedy, satire, humour, provocation or cartoons contribute to the destruction of the rights and freedoms guaranteed by law and are not protected by the right to free speech. The Prophet Muhammad cartoonists degrade the portrayal of Prophet of Islam and Muslims under cover of satire or comedy. This is a demonstration of hatred and anti-Muslim prejudice. It is unable to accept that such expressions against Prophet Muhammad nad Quran which are at odds with the basic values of the Convention, namely justice and peace, can be assimilated to a form of entertainment, however satirical or provocative, which would be afforded protection by Article 10 of the Convention.	
The French court reasoning for its decision in the case of M'bala M'bala v. France [9], was that: By an actor representing a caricature of a Jewish deportee and an object ridiculing a symbol of Judaism, the defendant excessively overstepped the permissible limits of the right to humour (M'bala M'bala v. France [9]).	The French court decision [9]: The offending remarks are, in those circumstances, and as the public prosecutor and the civil party have argued quite rightly, both contemptuous and insulting vis-à-vis persons of Jewish origin or faith such that the charge of insult is made out (M'bala M'bala v. France [9]).
Conclusion 20: By cartooning the central figure of Islam the cartoonists excessively overstepped the permissible limits of the right to humour. The offending cartoons of Prophet of Islam are both contemptuous and insulting vis-à-vis persons of Muslim origin or faith such that the charge of insult should be made out. Everybody who caricatures or ridicules Prophet, holy text, or other symbols of Islam has excessively overstepped the permissible limits of the right to humour.	
French court [9]: The offending remarks do not fall within the free expression of a political view on the conflict between Israel and the Palestinians, since the target of the insult at issue was without doubt the entire people of Jewish origin or faith, who were insulted solely on account of their origin or religion, and regardless of any political positions on their part (M'bala M'bala v. France [9]).	About the statement made by M'bala M'bala against Jews, the French court of cassation held that the statement he had made did not fall within the free criticism of religion contributing to a debate of general interest, but constituted an insult, targeting a group of people on account of their origin, the prohibition of which was a necessary restriction on freedom of expression in a democratic society (M'bala M'bala v. France [9]).
Conclusion 21: Insulting caricatures of the Prophet of Islam and disrespectful acts against Quran, do not fall within the free expression of a political view or a public debate since the target of the insult is the entire people of Muslim origin or faith, who were insulted solely on account of their religion. When the drawings have disparaging contents about Prophet Muhammad they automatically are insulting and without doubt the insult targets the entire people of Muslim origin or faith, solely on account of their religion, regardless of the claims of the cartoonists or publishers about expressing political views or starting a public debate. Disrespecting Prophet Muhammad or Quran does not fall within the free criticism of religion contributing to a debate of general interest, but constituted an insult, targeting a group of people on account of their religion, the prohibition of which is a necessary restriction on freedom of expression in a democratic society.	
The French Court of Cassation adding that it was for the courts below to take note of any extrinsic circumstances which gave the remarks at issue an insulting or defamatory meaning, even if they did not have such a nature in themselves, and which were capable of revealing their true meaning, found that the Court of Appeal had legally justified its decision (M'bala M'bala v. France [9]).	
Conclusion 22: The caricatures of Prophet Muhammad have insulting or defamatory meaning not given by an extrinsic circumstance but they have such a nature in themselves. The courts believe that even if the remarks do not have the insulting or defamatory nature in themselves, if any circumstance gives them such meaning, they are not free speech and should be limited. This is applicable to the Prophet Muhammad cartoons as well with the difference being that the Prophet cartoons have insulting or defamatory nature in themselves and no other extrinsic circumstance needs to be evaluated.	
The ECHR held that: In the present case, the Court of Appeal had established the existence of an insult by noting the ridiculing of symbols of the Jewish religion and the offensive significance of the remarks made by the comedian (M'bala M'bala v. France [9]).	
Conclusion 23: Mocking and denigrating the central figure of Islam or Quran by cartoons or any other means constitute insult and are not protected by the right of freedom of speech. It can be concluded that if mocking Jewish symbols is considered insulting, then mocking symbols of Islam should also be considered insulting. Mocking the central figure of Islam, Prophet Muhammad, or the holy text of Islam, the Quran, is severely offensive to Muslims and according to case law should be prevented by law.	
According to [11], the Law of 13 July 1990 does not punish the expression of an opinion, but the denial of a historical reality universally recognized. The adoption of the provision was necessary in the State party's opinion, not only to protect the rights and the reputation of others, but also to protect public order and morals. The Human Rights Committee has considered that the restriction on the author's freedom of expression was indeed provided by law i.e. the Act of 13 July 1990 (Faurisson v. France [11]).	
Conclusion 24: Denying the noble character and moral excellence of Prophet Muhammad is a rejection of a historical reality that is universally recognized. This is not merely an expression of opinion and should be punished not only to protect the rights and the reputation of others, but also to protect public order and morals. Although the requirements of morals might vary 'from time to time and from place to place', however, insulting and mocking Prophet Muhammad, Quran, other Prophets, and saint Mary -anywhere and anytime- apparently and severely offend public morals in different parts of the world.	
The Human Rights Committee held: It was neither arbitrary nor unreasonable to consider the pamphlets displayed by the applicant as a defamatory attack against the Jewish community and against each individual member of this community. By describing the historical fact of the assassination of millions of Jews, a fact which was even admitted by the applicant himself, as a lie and Zionist swindle, the pamphlets in question not only gave a distorted picture of the relevant historical facts but also contained an attack on the reputation of all those who were described as liars or swindlers, or at least as persons profiting from or interested in such lies or swindles (Faurisson v. France [11]).	
Conclusion 25: Prophet Muhammad cartoons are defamatory attack against the central figure in Islam and each individual member of Muslim community. The cartoons of the Prophet of Islam not only gave a distorted picture of the relevant historical facts (the noble character of Prophet Muhammad, his behavior, and attitudes, facts even admitted by non-Muslims), but also contained an attack on the reputation of all Muslims who are the followers of Prophet Muhammad. It is neither arbitrary nor unreasonable to consider the cartoons of Prophet Muhammad or disrespecting Quran as a defamatory attack against the Muslim community and against each individual member of this community.	
The applicant's statements in substance accused Muhammad, and in that respect lacked a sufficient factual basis. they were disparaging towards Muhammad and therefore had not contributed to an objective public debate. Referring to the Court's case-law, the Government pointed out that critical statements regarded by believers as extremely insulting and provocative, as well as general vehement attacks on a religious or ethnic group, were incompatible with the values of tolerance, social peace and non-discrimination which underlay the ECHR and therefore were not protected by the right to freedom of expression. The ECHR notes that it was undisputed that the interference had been "prescribed by law", the applicant's conviction being based on Article 188 of the Criminal Code (E. S. v. Austria [25]).	
Conclusion 26: Accusing Prophet Muhammad without sufficient factual basis is considered disparagement. Any disparaging expression toward Prophet Muhammad do not contributed to an objective public debate and is not protected by the right to freedom of expression. Disrespectful acts against Prophet Muhammad and Quran regarded by believers as extremely insulting and provocative, as well as general vehement attacks on a religious or ethnic group, were incompatible with the values of tolerance, social peace and non-discrimination which underlay the ECHR and therefore were not protected by the right to freedom of expression. It is undisputed that the interference is "prescribed by law".	
Hateful (and insulting) statements towards people as a religious group may, depending on the circumstances, be covered by section 185 of the Penal Code. With reference to previous case law, the judgment holds that it is statements of a qualifiedly insulting nature that are covered by section 185 of the Penal Code, such as serious degradation of a group's human dignity or statements calling for or supporting integrity violations. It must be reacted against such a condemnation of members of a religious community for practicing their constitutional right to free exercise of their religion. The statement is both insulting and hateful. The Judge found it clear that it is directed against all Muslims in this country and thus affects people because of their religion. The Judge considered that there can be no doubt that the statement is deriding, and the court considered it a qualifiedly insulting statement involving a serious degradation of a group's human dignity. The comment and the context in which it is made cannot be regarded as part of a public debate within the freedom of expression. The statement contains no objective opinions related to religious faith or dogmas in Islam. On the contrary, Muslims in general are described in a condemnatory manner, and it is stated that the group as such commits criminal acts. The comment calls for removing the group from the face of the earth. Such insults and harassment enjoy limited protection under the freedom of expression provision in the Constitution when balanced against protection against discrimination. To punish such acts will also not weaken the free and open religious criticism the freedom of expression is meant to protect. The Judge's overall opinion was that the relevant statement is deriding and promotes hate and contempt towards Muslims in Norway and is covered by section 185 subsection 1 first sentence, cf. subsection 2(b) of the Penal Code (A. v.	

Norway [26]).
Conclusion 27: Deriding cartoons of or deriding acts against Prophet Muhammad or Quran have qualifiedly insulting and hateful nature. They are inextricably directed against all Muslims and thus affects people because of their religion. They describe Muslims in a condemnatory manner and cause serious degradation of a Muslim's human dignity. It must be reacted against such a condemnation of members of a religious community (Muslims) for practicing their constitutional right to free exercise of their religion (Islam). Such acts cannot be regarded as part of a public debate within the freedom of expression because they contain no objective opinions related to religious faith or dogmas in Islam. Such insults and harassments enjoy limited protection under the freedom of expression provision in the Constitution when balanced against protection against discrimination. To punish deriding acts against Prophet Muhammad or Quran will not weaken the free and open religious criticism the freedom of expression is meant to protect. Such acts are deriding and promote hate and contempt towards Muslims and are covered by the Penal Code.
The 2nd paragraph of Article 10 of the Convention provides that as the exercise of freedom of expression carries with it duties and responsibilities it may be subject to such formalities conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society for, inter alia, the protection of morals and the rights of others. On the facts, the interference (to doubting the existence of gas chambers at Struthof-Natzweiler concentration camp) was "prescribed by law", namely, by section 24 bis of the Law of 29 July 1881, introduced by the Law of 13 July 1990 (Marais v. France [27]).
Conclusion 28: Doubting the virtues of Prophet Muhammad or the sacredness of Quran is subject to restrictions or penalties as are prescribed by law and are necessary in a democratic society for, inter alia, the protection of morals and the rights of others.
The District Criminal Court sentenced Mr. Müller and others who displayed three large paintings of obscenity in an exhibition of modern art, to a fine of 300 SF for publishing obscene material (Article 204 § 1 of the Criminal Code). The Government contended that the aim of the interference complained of was to protect morals and the rights of others. The disputed pictures removed and confiscated. The Appellate Court considers that the Sexual activity is crudely and vulgarly portrayed for its own sake and not as a consequence of any idea informing the work. The court is likewise unconvinced by the appellants' contention that the paintings are symbolical. What counts is their face value, their effect on the observer, not some abstraction utterly unconnected with the visible image or which glosses over it. Furthermore, the important thing is not the artist's meaning or purported meaning but the objective effect of the image on the observer. Even someone insensible to obscenity is capable of realizing that it may disturb others. The paintings in issue show an orgy of unnatural sexual practices (sodomy, bestiality, petting), which is crudely depicted in large format; they are liable grossly to offend the sense of sexual propriety of persons of ordinary sensitivity. The artistic license relied on by the appellant cannot in any way alter that conclusion in the instant case. Expert opinion as to the artistic merit of the work in issue is therefore irrelevant at this stage. The applicants' conviction was "prescribed by law" within the meaning of Article 10 § 2 of the Convention. Also, the impugned measure (confiscation of the paintings) was consequently "prescribed by law" within the meaning of Article 10 § 2 of the Convention (Müller and others v. Switzerland [28]).
Conclusion 29: The insulting Prophet Muhammad cartoons are crudely and vulgarly portrayed for their own sake and not as a consequence of any idea informing the work. The claim that such paintings are symbolical is wrong. What counts is their face value, their effect on the observer, not some abstraction utterly unconnected with the visible image or which glosses over it. The important thing is not the artist's meaning or purported meaning but the objective effect of the image on the observer. It should be noted that even non-Muslims are capable of realizing that they may disturb others. The paintings show an orgy of unnatural offending practices (linking to terrorism, violating women's rights, showing uncivilized image, etc.), they are liable grossly to offend the Muslims of ordinary sensitivity. The artistic license relied on by the offenders cannot in any way alter that conclusion in the instant case. Expert opinion as to the artistic merit of the work in issue is therefore irrelevant. The Prophet Muhammad cartoonists and publishers and Quran burners should be sentenced. The aim of the interference is to protect morals and the rights of others. Such cartoons should be removed and confiscated. The conviction is "prescribed by law" within the meaning of Article 10 § 2 of the Convention. Also, the confiscation of such paintings is consequently "prescribed by law" within the meaning of Article 10 § 2 of the Convention.
In [2], the charge was "disparaging religious doctrines", an act prohibited by section 188 of the Penal Code. The Innsbruck Regional Court ordered the forfeiture of the film. In the reasons the Court pointed out that the conditions of section 188 of the Penal Code are objectively fulfilled by this portrayal of the divine persons God, Mary, and Jesus Christ who are the central figures in Roman Catholic religious doctrine and practice, being of the most essential importance, also for the religious understanding of the believers as well as concerning the Eucharist, which is one of the most important mysteries of the Roman Catholic religion. Not every injury of religious convictions was punishable under this provision, but only one that disturbed the religious peace by arousing public irritation. In the present case the disparagement of God, Christ, Mary and the Eucharistic ceremony was reinforced by the general character of the film as an attack on Christian religion. The court held that the public projection of the film, in which disparaged images of God, Christ, and Mary with corresponding manners of expression are presented and in which the Eucharist is ridiculed, came within the definition of the criminal offence of disparaging religious precepts as laid down in section 188 of the Penal Code. The Court of Appeal considered that artistic freedom was necessarily limited by the rights of others to freedom of religion and by the duty of the State to safeguard a society based on order and tolerance. It further held that indignation was "justified" for the purposes of section 188 of the Penal Code only if its object was such as to offend the religious feelings of an average person with normal religious sensitivity. That condition was fulfilled in the instant case and forfeiture of the film could be ordered in principle, at least in "objective proceedings". The wholesale derision of religious feeling outweighed any interest the general public might have in information or the financial interests of persons wishing to show the film. The ECHR notes that the measures were based on Section 188 of the Austrian Penal Code in conjunction with the Media Act, and that in applying those provisions the Austrian criminal courts also considered the relevance of the constitutional right to freedom of art as laid down in Article 17a of the Basic Law. The Commission is satisfied that this was in line with Austrian law. The Commission sees no reason to doubt that the measures complained of were "prescribed by law" (Otto-Preminger-Institute v. Austria [2]).
Conclusion 30: Disparaging Prophet Muhammad, Quran, Islam, or Muslims is considered an affront to religious doctrines. The conditions of the Penal Code are objectively fulfilled by this portrayal of the divine person Prophet Muhammad who is the central figure in Islamic religious doctrine and practice, being of the most essential importance, also for the religious understanding of the believers as well as concerning the holy Quran which is the most holy text of Islam. Disparagement of Prophet Muhammad or Quran by their nature are attacks on Islamic religion and they might be reinforced by type of activity such as cartooning, insulting or burning. Presenting a disparaged image of Prophet Muhammad, Quran or Islam or ridiculing them, come within the definition of the criminal offence of disparaging religious precepts as laid down in the Penal Code. The indignation is justified for the purposes the Penal Code because its object is such as to offend the religious feelings of an average person with normal religious sensitivity. That condition is fulfilled in such cases and forfeiture and seizure of such works could be ordered in principle, at least in "objective proceedings". The wholesale derision of religious feeling outweighs any interest the general public might have in information or the financial interests of persons wishing to show the cartoons (or films, etc).
The British Board of Film Classification avoids classifying works that are obscene or infringe other provisions of the criminal law. Amongst these provisions is the criminal law of blasphemy, as tested recently in the House of Lords in R. v. Lemon (1979). The definition of blasphemy cited therein is 'any contemptuous, reviling, scurrilous or ludicrous matter relating to God, Jesus Christ or the Bible. It is not blasphemous to speak or publish opinions hostile to the Christian religion if the publication is 'decent and temperate'. The question is not one of the matter expressed, but of its manner, i.e. 'the tone, style and spirit', in which it is presented. The video work becomes subject to the law of blasphemy if the manner of its presentation is bound to give rise to outrage at the unacceptable treatment of a sacred subject. It is not the case that the sexual imagery in Visions of Ecstasy lies beyond the parameters of the '18' category; it is simply that for a major proportion of the work's duration that sexual imagery is focused on the figure of the crucified Christ. If the male figure were not Christ, the problem would not arise. In consequence, we have concluded that it would not be suitable for a classification certificate to be issued to this video work. The ECHR concluded that the impugned restriction was "prescribed by law" (Wingrove v. United Kingdom [29]).
Conclusion 31: Any contemptuous, reviling, scurrilous or ludicrous matter relating to God, Prophet Muhammad or the Quran whether it is classified as blasphemy, hate speech, defamation of religion or something else, should be subject to legal regulation to protect the right of individuals and communities to practice their religion freely and without discrimination which is fundamental freedom. That is because the manner of such presentations is bound to give rise to outrage at the unacceptable treatment of a sacred subject and the interference to the right of free expression of them is prescribed by law.
Mr. Zemmour's statements against Islam and Muslims resulted in proceedings being brought against him under section 24, paragraph 7 of the Freedom of the Press Act of 29 July 1881 ("the 1881 Act"), which considers it an offence to incite discrimination, hatred or violence against a person or group on grounds of origin or of membership or nonmembership of a particular ethnicity, nation, race or religion (see also IRIS 2010-7/1). Mr Zemmour was convicted for inciting discrimination and religious hatred, and sentenced to pay a fine of EUR 3000. The ECHR notes that the Court of Cassation found the terms of this text "clear and precise enough for its interpretation, which falls within the office of the criminal judge, to be carried out without risk of arbitrariness", thus justifying its decision. Accordingly, the Commission concludes that the impugned conviction was "prescribed by law (Zemmour v. France [30]).
Conclusion 32: Statements against Islam and Muslims or insulting depictions against them under "the 1881 Act" are considered offences to incite discrimination,

hatred or violence against a person or group on grounds of origin or of membership or nonmembership of a particular ethnicity, nation, race or religion. Insulting Prophet of Islam or Quran equals insulting Muslims and incites discrimination and religious hatred. Accordingly, the conviction of the insulters are "prescribed by law.

According to Table 1, it was proved that restriction of any kind of disrespectful acts against Prophet Muhammad, Quran, and symbols of Islam is prescribed by law.

4.1.1. Domestic Laws that Restrict Denigration of Prophet Muhamad and Quran

According to the case-law, the denigration of Prophet Muhammad and Quran are not freedom of speech. Table 2 demonstrates that many countries have imposed restrictions in cases similar to those involving disrespect toward Prophet Muhammad and the Quran, and these restrictions can also be applied to cases specifically regarding them.

Table 2. The Domestic Laws that the Denigration of Prophet Muhamad and Quran should be Restricted based on them.

Country	Domestic Law	Case-Law
Poland	The Associations Act 1989	W.P. and others v. Poland [12]
UK	Sections 5 and 6 of the Public Order Act 1986 and sections 28 and 31 of 1998 act	Norwood v. United Kingdom [15]
Austria	Section 3g of the National Socialist Prohibition Act	Honsik v. Austria [17]
France	Articles 23, 24, 29, and 32 of the law of July 29, 1881 on the freedom of the press (Act of 29 July 1881) and Article 20 § 2 of the 1966 United Nations International Covenant on Civil and Political Rights	Soulas and others v. France [1], Garaudy v. France [19], Zemmour v. France [30], and Faurisson v. France [11]
Belgium	Law of 30 July 1981 on racism and xenophobia	Féret v. Belgium [31]
Switzerland	Article 261 bis § 4 of the Swiss Criminal Code and Article 204 of the Criminal Code	Perinçek v. Switzerland [5], Müller and others v. Switzerland [28]
Lithuania	Article 214-12 of the Code of Administrative Offences	Balsyte-Lideikiene v. Lithuania [32]
Russia	Article 282 § 1 of the Russian Criminal Code	Atamanchuk v. Russia [21]
Sweden	Chapter 16, Article 8 of the Penal Code	Vejdeland and Others v. Sweden [16]
Iceland	Article 71 of the Constitution and Article 233(a) of the General Penal Code	Lilliendahl v. Iceland [3]
Poland	Articles 133 and 256 of the Criminal Code	Hösl-Daum and Others v. Poland [23]
Denmark	Article 266 (b) of the Penal Code	Jersild v. Denmark [7], Hedegaard v. Denmark [22]
Austria	Article 188 of the Criminal Code: Disparagement of religious doctrines	E. S. v. Austria [25], Otto-Preminger-Institute v. Austria [2]
Norway	Section 185 of the Penal Code	A. v. Norway [26]
Germany	Article 187 of the Criminal Code: Intentional defamation	Pastörs v. Germany [33]
Turkey	Article 175 of the Criminal Code	İ.A. v. Turkey [20]
Netherland	Articles 137c and 137d of the Dutch Penal Code	Nekschot v. Netherlands [34]

4. 2. Whether the Interference Pursues a Legitimate Aim

Table 3 shows that the legitimate aims approved by ECHR are applicable to cases of Prophet cartoons or desecrating Quran. In many cases, the ECHR have stated that the exercise of the right to freedom of expression must be balanced with the right to protection of reputation of others. Based on the case law, Table 3 demonstrates that restrictions on disrespectful acts against Prophet Muhammad and the Quran, such as Prophet cartoons or Quran desecration, pass the "the interference pursues a legitimate aim" test of the ECHR.

Table 3. In this table it has been shown that the restriction of the disrespectful acts against Prophet Muhammad and Quran pass the "the interference pursues a legitimate aim" test of the ECHR. In this table, the reasoning precedes the conclusion. The conclusions are represented by the gray rows under the multiple reasoning columns.. A summary of each case law is included in the supplementary file that accompanies the article.

<p>ECHR upheld the French government decision [1] which maintains that it pursued a legitimate aim, namely the protection of the rights of persons of foreign origin and the fight against racism and convicted the offense of incitement to discrimination, hatred or violence against a person or a group of persons because of their origin or their membership or non-membership of a race, a nation, an ethnic group or a religion. The ECHR considers that the interference was intended to ensure the prevention of disorder and to protect the reputation and rights of others (G. Soulas and others v. France [1]).</p>	<p>In [3], the ECHR considers that the purpose of the Article 233(a) of the General Penal Code which penalizes publicly mocking, defaming, denigrating or threatening a person or group of persons for certain characteristics, including their sexual orientation or gender identity is to protect the right to respect for private life and the right to enjoy human rights equally to others, as well as to safeguard the rights of social groups which have historically been subjected to discrimination. The interference's purpose thus fulfils the legitimate aim of "protecting the rights of</p>	<p>In [19], the French government maintained that the interference had pursued a legitimate aim, whether it be the general aim of fighting anti-Semitism or that of punishing behavior that seriously threatened public order or damaged the reputation and honor of individuals. The ECHR found that the interference with his right to freedom of expression had at least two legitimate aims: "the prevention of disorder or crime" and "the protection of the reputation or rights of others" (Garaudy v. France [19]).</p>	<p>In [7], the ECHR held that the restriction on the freedom of speech pursued a legitimate aim covered by Article 10(2) of the Convention, namely the protection of the reputation and rights of others. As regards the reputation or rights of others the Commission recalls the actual contents of the program which included statements about immigrant workers which were highly insulting (Jersild v. Denmark [7]).</p>	<p>In [11], the Human Rights Committee justified the restrictions on the applicant's freedom of expression (who had denied the existence of gas chambers in Nazi camps), arguing that the restriction was covered by a legitimate purpose recognized by the Convention, namely "the protection of the reputation of others" (Faurisson v. France [11]).</p>
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	others' envisaged by Article 10(2) of the Convention (Lilliendahl v. Iceland [3]).		
<p>Conclusion 33: The denial of the moral excellence and the noble character of Prophet Muhammad and trying to debase him has severe negative effects on the reputation of Muslims. According to the case-law, cartoon depictions of Prophet Muhammad and offensive actions against the Quran can infringe on the religious sensitivities of individuals, potentially violating their rights to reputation and religious freedom. This can lead to heightened tensions, promoting racism and social disorder, as established in various jurisdictions where the balance between freedom of expression and protection against hate speech and discrimination is carefully examined. Such offenses of incitement to discrimination, hatred or violence against Muslims should be convicted. The interference is intended to ensure the prevention of disorder and to protect the reputation and rights of others. The Penal Code should penalize publicly mocking, defaming, or denigrating Prophet Muhammad, Quran, and Muslims to protect the right to respect for private life and the right to enjoy human rights equally to others, as well as to safeguard the rights of social groups which have historically been subjected to discrimination. The interference's purpose thus fulfils the legitimate aim of "protecting the rights of others" envisaged by Article 10(2) of the Convention. The interference pursues a legitimate aim, whether it be the general aim of fighting Islamophobia or that of punishing behavior that seriously threatens public order or damages the reputation and honor of individuals. The interference with the right to freedom of expression in such cases has at least two legitimate aims: "the prevention of disorder or crime" and "the protection of the reputation or rights of others".</p>			
<p>The ECHR considers, like the French Government, that the applicant's conviction for incitement to discrimination through statements against Islam and Muslims was intended to protect the reputation or rights of others, in this case those of persons of the Muslim faith (Zemmour v. France [30]).</p>	<p>ECHR [6]: The interference with Mr Féret's right to freedom of expression (who distributed leaflets carrying slogans including "Stand up against the Islamification of Belgium") had the legitimate aims of preventing disorder and of protecting the rights of others (Daniel Féret v. Belgium [6]).</p>	<p>ECHR [10]: Anyone who engaged in a debate on a matter of public interest could resort to a degree of exaggeration, or even provocation, provided that they respected the reputation and rights of others. The authorities' interference with Mr Le Pen's freedom of expression (on account of statements he had made about Muslims), in the form of a criminal conviction, pursued the legitimate aim of protecting the reputation or rights of others [and preventing the incitement to discrimination, hatred or violence towards a group of people] (Le Pen v. France [10]).</p>	
<p>Conclusion 34: The acts of disparaging, cartooning, or demonizing Prophet Muhammad or Quran by the cartoonists, publishers, Quran burners and insulters, represent clear and deliberate incitation of discrimination, segregation, hatred, disorder, and even violence towards a group of people, on grounds of membership of a particular religion (persons of the Muslim faith) and violate the reputation and rights of Muslims. Thus, the interference with the the inciters' freedom of expression and their conviction for incitement to discrimination against Islam and Muslims peruse the legitimate aim of preventing the incitement hatred, discrimination or violence towards a group of people, preventing disorder, and protecting the reputation or rights of others.</p>			
<p>ECHR [12]: The interference with freedom of expression had been justified under Article 10(2). The applicants essentially seek to employ Article 10 as a basis under the Convention for a right to engage in activities which are contrary to the text and spirit of the Convention and which right, if granted, would contribute to the destruction of the rights and freedoms set forth in the Convention. The Court considers that the impugned interference with the applicants' right to freedom of expression, pursued the legitimate aim of the protection of "national security" and "the rights and freedoms of others" (W.P. and others v. Poland [12]).</p>	<p>The ECHR [9]: the applicant has attempted to deflect Article 10 from its real purpose by seeking to use his right to freedom of expression for ends which are contrary to the text and spirit of the Convention and which, if admitted, would contribute to the destruction of the rights and freedoms guaranteed by the Convention (degrading the portrayal of Jewish deportation victims under cover of a comedy show). Pursuant to Article 17 of the Convention the applicant cannot enjoy the protection of Article 10 (M'bala M'bala v. France [9]).</p>	<p>In the case of offending cartoon aimed at the Jewish community [24], the ECHR found the applicant guilty for his offensive cartoon, published in French weekly Charlie Hebdo and held that the interference with the applicant's freedom of expression had been pursued the aim of protection of the rights of others (Bonnet v. France [24]).</p>	
<p>Conclusion 35: Degrading the portrayal of Prophet Muhammad, Quran, or Muslims under cover of satire, offensive cartoons, or comedy show is regarded as an abuse of rights and contributes to the destruction of the rights and the freedoms of others. The interference with the right to freedom of expression in such cases, pursues the legitimate aim of the protection of the rights and freedoms of others.</p>			
<p>The ECHR had no doubt as to the markedly anti-Semitic tenor of the applicant's views. Through this publications the applicant had sought to incite hatred towards the Jewish people. Such a general, vehement attack on one ethnic group is directed against the Convention's underlying values, notably tolerance, social peace and non-discrimination. The ECHR, found that the freedom of expression guaranteed under Article 10 of the Convention may not be invoked in a sense contrary to Article 17 (which aims to prevent the destruction of any of the rights and freedoms set forth herein) (Pavel Ivanov v. Russia [14]).</p>	<p>ECHR: The words and images on the large anti-Muslim poster religiously aggravated harassment, displayed by Mr. Norwood [23], amounted to a public expression of attack on all Muslims. Such a general, vehement attack against a religious group, linking the group as a whole with a grave act of terrorism, is incompatible with the values proclaimed and guaranteed by the Convention, notably tolerance, social peace and non-discrimination (Norwood v. United Kingdom [23]).</p>		
<p>Conclusion 36: Publicizing offender's anti-Islamic views through cartoons, writings, drawings, etc is a general, vehement attack on one ethnic group and is directed against the Convention's underlying values, notably tolerance, social peace and non-discrimination. The cartoons that link Prophet Muhammad and Muslims as a whole with a grave act of terrorism or violence religiously aggravate harassment and are incompatible with the values proclaimed and guaranteed by the Convention, notably tolerance, social peace and non-discrimination.</p>			
<p>ECHR holds that [20] it was not disputed that the interference with the applicant's right to freedom of expression (and his conviction for insulting "God, the Religion (Islam), the Prophet (Muhammad) and the Holy Book (Quran)) had pursued the legitimate aims of preventing disorder and protecting morals and the rights of others within the meaning of Article 10 § 2 (İ.A. v. Turkey [20]).</p>	<p>The aim of the interference (to showing paintings of obscenity [28]) was to protect morals and the rights of others. As the Commission pointed out, there is a natural link between protection of morals and protection of the rights of others. The court held that the confiscation of the paintings did not infringe Article 10 of the Convention. The applicants' conviction consequently had a legitimate aim under Article 10(2). Also, the confiscation of the paintings was designed to protect public morals by preventing any repetition of the offence with which the applicants were charged. It accordingly had a legitimate aim under Article 10 § 2 (Müller and others v. Switzerland [28]).</p>		
<p>Conclusion 37: Vilifying and insulting God, Islam, Prophet Muhammad and the Holy Quran violate the morals and the rights of others. The Prophet Muhammad cartoonists and publishers should be convicted and the insulting paintings should be confiscated to protect public morals by preventing any repetition of the offence with a legitimate aim under Article 10 § 2.</p>			
<p>ECHR [32]: The Lithuanian calendar 2000' contained xenophobic and offensive statements with regard to the Jewish, Polish and Russian population. By withdrawing the publication from distribution and imposing an administrative fine on the applicant, the authorities sought to prevent the spreading of ideas which might violate the rights of ethnic minorities (Balsytė-Lideikienė v. Lithuania [32]).</p>	<p>ECHR [11]: The authors, who were prosecuted for possession of pamphlets whose content incited to racial hatred and who had invoked their right to freedom of expression, could not invoke article 10 of the European Convention (the equivalent of article 19 of the Covenant), as they were claiming this right in order to exercise activities contrary to the letter and the spirit of the Convention (Faurisson v. France [11]).</p>		
<p>Conclusion 38: Insulting Prophet Muhammad and Quran contain xenophobic and offending assertions with regard to Muslim population and promote racial and ethnic hatred. The interference aims to prevent the spreading of ideas which might violate the rights of ethnic minorities such as Muslims.</p>			
<p>ECHR [21]: The applicant (whose remarks created a negative image of non-Russians) was convicted for inciting hatred and enmity and debasing the dignity of a "group of people" on account of their "ethnicity, language, origin and religion". The Court also held, inter alia, that negative stereotyping of an ethnic group was capable, when reaching a certain level, of having an impact on the group's sense of identity and on its members' feelings of self-worth and self-confidence (see Aksu v. Turkey [35], Lewit v. Austria [36]). The Court accepts that the "interference" in the present case was aimed at protecting the "rights of others", specifically the dignity of people of a non-Russian ethnicity (Atamanchuk v. Russia [21]).</p>	<p>In [35], the Court observed that discrimination on account of, inter alia, a person's ethnicity is a form of racial discrimination. Racial discrimination is a particularly invidious kind of discrimination and, in view of its perilous consequences, requires from the authorities special vigilance and a vigorous reaction (Aksu v. Turkey [35]).</p>		

<p>Conclusion 39: Cartooning or denigrating Prophet Muhammad or desecration of the Quran causes incitement of hatred and enmity and direct debasing of the dignity of Muslims on account of their religion which have great impacts on Muslims sense of identity. Negative stereotyping of an ethnic group or a group based on their religion is capable, when reaching a certain level, of having an impact on the group's sense of identity and on its members' feelings of self-worth and self-confidence. The discrimination on account of, inter alia, a person's ethnicity or religion is a form of racial discrimination which is a particularly invidious kind of discrimination and requires from the authorities special vigilance and a vigorous reaction. The interference to the right of freedom of expression in such cases thus pursues the legitimate aim at protecting the "rights of others", specifically the dignity of Muslims.</p>	
<p>ECHR [16]: The interference with distributing leaflets offensive to homosexuals, agitation against a national or ethnic group, and expressing contempt for a group of people with reference to their sexual orientation, serves a legitimate aim, namely "the protection of the reputation and rights of others", within the meaning of Article 10 § 2 of the Convention (Vejdeland and Others v. Sweden [16]).</p>	
<p>Conclusion 40: Agitation against Muslims and expressing contempt for them through cartoons of Prophet Muhammad and the desecration of the Quran exceed the limits of free speech. The restriction of the right of freedom of expression in such cases serves a legitimate aim, namely "the protection of the reputation and rights of others", within the meaning of Article 10 § 2 of the Convention.</p>	
<p>In [11], the Human Rights Committee protected certain specific groups against defamation. It noted that: Since the statements made by the author, read in their full context, were of a nature as to raise or strengthen anti-semitic feelings, the restriction served the respect of the Jewish community to live free from fear of an atmosphere of anti-semitism. The Committee therefore concludes that the restriction of the applicant's freedom of expression was permissible under article 19, paragraph 3 (a), of the Covenant (Faurisson v. France [11]).</p>	
<p>Conclusion 41: Restrictions on disparaging expressions against Prophet Muhammad and the Quran which raise or strengthen anti-Muslim feelings, serve the respect of the Muslim community to live free from fear of an atmosphere of anti-Muslimism and Islamophobia. Thus, the restriction of the freedom of expression is permissible under article 19, paragraph 3(a), of the Covenant.</p>	
<p>The Government concluded that the applicant's criminal conviction [because of her statements against Prophet Muhammad] had pursued the legitimate aim of maintaining order (protecting religious peace) and protecting the rights of others (namely their religious feelings). The Government argued that in their examination of the impugned statements the domestic courts concluded that the impugned statements had not been part of an objective discussion concerning Islam, but had rather been aimed at defaming Muhammad, and therefore had been capable of arousing justified indignation. The ECHR endorses the Government's assessment that the impugned interference pursued the aim of preventing disorder by safeguarding religious peace, as well as protecting religious feelings, which corresponds to protecting the rights of others within the meaning of Article 10 § 2 of the Convention (E. S. v. Austria [25]).</p>	
<p>Conclusion 42: The statements or other kind of expressions which aim at defaming Prophet Muhammad or the Quran that are capable of arousing justified indignation, necessitate the interference with the right to freedom of speech pursuing the aim of preventing disorder by safeguarding religious peace, as well as protecting religious feelings, which corresponds to protecting the rights of others within the meaning of Article 10 § 2 of the Convention.</p>	
<p>The interference (to doubting the existence of gas chambers at Struthof-Natzweiler concentration camp) pursued legitimate aims under the Convention, ie "the prevention of disorder or crime" and "the protection of the reputation or rights of others" (Marais v. France [27]).</p>	<p>The German court convicted Mr Pastörs for violating the memory of the dead and of the intentional defamation of the Jewish people. The ECHR stated he could not rely on his free speech rights in respect of Holocaust denial. The applicant had planned his speech in advance, deliberately choosing his words and resorting to obfuscation to get his message across, which was a qualified Holocaust denial showing disdain to its victims and running counter to established historical facts. It was in this context that Article 17 came into play as the applicant had sought to use his right to freedom of expression to promote ideas that were contrary to the text and spirit of the Convention. He had intentionally stated untruths in order to defame the Jews and the persecution that they had suffered. The conviction, had therefore been proportionate to the aim pursued and had been "necessary in a democratic society". The conviction had no appearance of a violation of Article 10. Holocaust denial is not protected by the European Convention on Human Rights (Pastörs v. Germany [33]).</p>
<p>Conclusion 43: Violating the living memory of Prophet Muhammad and intentional defamation of him, Quran, or Muslims are crimes. People cannot rely on their free speech rights in respect of Anti-Islamic and Islamophobia expressions. The Prophet Muhammad cartoons were planned in advance and the elements used in them were deliberately chosen resorting to denigration of Prophet of Islam to get their message across, which was disparaging the character of Prophet Muhammad and showing disdain to his followers and running counter to established historical facts. In this context, Article 17 comes into play to prevent using the right to freedom of expression to promote ideas that are contrary to the text and spirit of the Convention. The Prophet cartoons intentionally expressed untruths in order to defame Prophet Muhammad and Muslims. The conviction is therefore proportionate to the aim pursued and is "necessary in a democratic society". Such conviction has no appearance of a violation of Article 10. Like Holocaust denial, defamation of Muslims by means of Prophet Muhammad cartoons or Quran desecration should not be protected by the European Convention on Human Rights.</p>	
<p>The Government believes that the seizure and forfeiture of the anti-Christian film aimed at the "protection of the rights of others", including the right to freedom of religion within the meaning of Article 9 of the Convention, and the "protection of morals" and also aimed at the protection of the right to respect for one's religious feelings, and at "the prevention of disorder". ECHR held that the measures are intended to suppress behavior directed against objects of religious veneration that is likely to cause "justified indignation". Their purpose was to protect the right of citizens not to be insulted in their religious feelings by the public expression of views of other persons. The Court accepts that the impugned measures pursued a legitimate aim under Article 10 para. 2, namely "the protection of the rights of others" (Otto-Preminger-Institute v. Austria [2]).</p>	
<p>Conclusion 44: The seizure and forfeiture of the anti-Prophet Muhammad, anti-Quran, and anti-Islam films, cartoons, and other forms of presentations aim at "protection of the rights of others", including the right to freedom of religion within the meaning of Article 9 of the Convention, and the "protection of morals" and also aim at the protection of the right to respect for one's religious feelings, and at "the prevention of disorder". The potential measures that can be taken are intended to suppress behavior directed against objects of religious veneration that is likely to cause "justified indignation" and to protect the right of citizens not to be insulted in their religious feelings by the public expression of views of other persons. According to ECHR the potential measures pursue a legitimate aim under Article 10 para. 2 (art. 10-2), namely "the protection of the rights of others".</p>	
<p>The ECHR: The English law of blasphemy is intended to suppress behavior directed against objects of religious veneration that is likely to cause justified indignation amongst believing Christians. It follows that the application of this law in the present case was intended to protect the right of citizens not to be insulted in their religious feelings. The aim of the interference was to protect against the treatment of a religious subject in such a manner "as to be calculated (that is, bound, not intended) to outrage those who have an understanding of, sympathy towards and support for the Christian story and ethic, because of the contemptuous, reviling, insulting, scurrilous or ludicrous tone, style and spirit in which the subject is presented". This is an aim which undoubtedly corresponds to that of the protection of "the rights of others" within the meaning of paragraph 2 of Article 10. It is also fully consonant with the aim of the protections afforded by Article 9 to religious freedom. The refusal to grant a certificate for the distribution of the film consequently had a legitimate aim under Article 10 para. 2 (Wingrove v. The United Kingdom [29]).</p>	
<p>Conclusion 45: Behavior directed against objects of religious veneration that is likely to cause justified indignation amongst believing Muslims should be suppressed with the intention to protect the right of citizens not to be insulted in their religious feelings. The aim of the interference is to protect against the treatment of a religious subject (Prophet Muhammad, Quran, Islam) in such a manner as to be calculated (that is, bound, not intended) to outrage the Muslims who have an understanding of, sympathy towards and support for the Islamic story and ethic, because of the contemptuous, reviling, insulting, scurrilous or ludicrous tone, style and spirit in which the subject is presented. This is an aim which undoubtedly corresponds to that of the protection of "the rights of others" within the meaning of paragraph 2 of Article 10 (art. 10-2). It is also fully consonant with the aim of the protections afforded by Article 9 (art. 9) to religious freedom.</p>	

4.3. Whether the Interference is "Necessary in a Democratic Society"

The ECHR meticulously considers a range of factors when determining the necessity of interference by public authorities with the right to freedom of expression in a democratic society. Some of these factors have been summarized in the *Perinçek v. Switzerland* case [5]. The ECHR evaluates whether less intrusive means could have been employed to achieve the same goal, emphasizing the importance of minimizing restrictions on freedom of expression. Contextual considerations, including the specific circumstances of the case, the nature of the expression restricted, the context in which they were made, and the potential impact on individual rights, are also taken into account to ensure a nuanced and balanced approach to safeguarding freedom of expression within the framework of a democratic society. Lastly, the ECHR reiterates that the nature and severity of the penalties imposed are also factors to be taken into consideration when assessing the proportionality of the interference [30]. According to [30], ECHR takes into account the following factors in determining that an interference is necessary in a democratic society:

- i. Whether the remarks were made in a tense political or social context. If so, the Court generally recognizes that some form of interference with such statements may be justified.
- ii. Whether correctly interpreted and appreciated in their immediate or more general context, they can be seen as a direct or indirect call for violence or as a justification of violence, hatred or intolerance. When considering this question, the Court is particularly sensitive to categorical statements attacking or denigrating entire groups, whether ethnic, religious or otherwise.
- iii. The Court also takes into account the way in which they were formulated and the capacity – direct or indirect – to cause harm.

There are also additional considerations that the ECHR takes into account for deciding whether an interference is necessary in a democratic society that have been analyzed in this article. Table 4 presents the case law, the ECHR's previous evaluations, and the conclusions drawn from them concerning the determination of whether interference with the right to freedom of expression, especially in cases involving the Prophet Muhammad and the Quran, is considered "necessary in a democratic society."

Table 4. Analysis and conclusion of case law to determine whether the interference by public authorities with the right to freedom of expression is "necessary in a democratic society" in cases involving the Prophet Muhammad and the Quran. A summary of each case law is included in the supplementary file that accompanies the article.

In [1], the French government maintains that the interference was necessary in a democratic society, because the remarks made were aimed at a large group of people, exceeded the limit of admissible criticism, and were in no way based on proven facts. The ECHR notes that several passages in the book present a negative image of the targeted communities. The style is polemical, and the presentation of the effects of immigration turns into catastrophism. The Court reiterates that it is of the utmost importance to combat racial discrimination in all its forms and manifestations. The ECHR considers that the reasons of the French Court of Appeal (the remarks made in the book were intended to provoke in the reader a feeling of rejection and antagonism) are sufficient and relevant and the interference with the exercise by applicants' of their right to freedom of expression was "necessary in a democratic society" (<i>Soulas and others v. France</i> [1]).	
Conclusion 46: Denigrating, disparaging, and defamation of Prophet Muhammad and the Quran are automatically aimed at Muslims and exceed the limit of admissible criticism, and are in no way based on proven facts. The Prophet Muhammad cartoons or desecration of Quran present a negative image of the Muslim community. The style of the cartoons of the Prophet of Islam is polemical and they intend to provoke in the reader a feeling of rejection and antagonism. Therefore, the interference with the right to freedom of expression of the perpetrators of such acts is deemed "necessary in a democratic society."	
The ECHR has previously held that the statements that deny the existence of gas chambers in concentration camps under the National Socialist regime and mass extermination therein and discredit such claims as false propaganda by means of publications in a biased and polemical manner far from any scientific objectivity, ran counter one of the basic ideas of the Convention, as expressed in its preambular, namely justice and peace, and further reflect racial and religious discrimination. The Commission finds that the applicant is essentially seeking to use the freedom of information enshrined in Article 10 of the Convention as a basis for activities which are contrary to the text and spirit of the Convention and which, if admitted, would contribute to the destruction of the rights and freedoms set forth in the Convention. Under these circumstances the Commission concludes that the interference with the applicant's freedom of expression can be considered as "necessary in a democratic society" within the meaning of Article 10 para. 2 of the Convention (<i>Gerd Honsik v. Austria</i> [17]).	
Conclusion 47: Denial of Prophet Muhammad virtues and discrediting the Quran by means of publications in a biased and polemical manner far from any scientific objectivity run counter to justice and peace, reflect racial and religious discrimination, and contribute to the destruction of the rights and freedoms of the Muslims. Under these circumstances the interference with freedom of expression can be considered as "necessary in a democratic society" within the meaning of Article 10 para. 2 of the Convention.	
ECHR [6]: The leaflets presented the communities in question as criminally minded and keen to exploit the benefits they derived from living in Belgium, and that they also sought to make fun of the immigrants concerned, with the inevitable consequence of arousing feelings of distrust, rejection or even hatred towards foreigners. To recommend solutions to immigration related problems by advocating racial discrimination is likely to cause social tension and undermine trust in democratic institutions. In the present case there had been a compelling social need to protect the rights of the immigrant community, as the Belgian courts had done (<i>Féret v. Belgium</i> [6]).	
Conclusion 48: The act of disparaging, demonizing, and cartooning Prophet Muhammad and desecration of Quran and presenting Prophet Muhammad or Muslims as criminally minded, and seeking to make fun of the Prophet Muhammad, Quran, and Muslims, have the inevitable consequence of arousing feelings of distrust, rejection or even hatred towards Muslims. To criticize Muslims by advocating racial discrimination is likely to cause social tension and undermine trust in democratic institutions. There is thus a compelling social need to protect the rights of the Muslims.	
ECHR [10]: Mr. Le Pen's comments had certainly presented the "Muslim community" as a whole in a disturbing light likely to give rise to feelings of rejection and hostility. The Court found that the interference with the applicant's enjoyment of his right to freedom of expression had been "necessary in a democratic society" (<i>Le Pen v. France</i> [10]).	ECHR [10]: He had set the French on the one hand against a community whose religious convictions were explicitly mentioned and was presented as an already latent threat to the dignity and security of the French people. The Court found that the interference with the applicant's enjoyment of his right to freedom of expression had been "necessary in a democratic society" (<i>Le Pen v. France</i> [10]).
Conclusion 49: Depicting Prophet Muhammad by cartoons, writings, illustrations, or speech as a figure lacking civilized qualities, violating women's rights, and being associated with terrorism, certainly present the "Muslim community" as a whole in a disturbing light likely to give rise to feelings of rejection and	

<p>hostility. Making grievous false accusations to Prophet Muhammad, Quran or Muslims sets the people on the one hand against Muslims, present them as a threat to the dignity and security of the people, and incites to discrimination, hatred and violence towards Muslims because of their religion. The offenders set the majority of people on the one hand against a community (Muslims) whose wrongful religious convictions were explicitly mentioned and was presented as an already latent threat to the dignity and security of the people. The interference with the offenders' enjoyment of their right to freedom of expression is "necessary in a democratic society".</p>	
<p>The ECHR upheld the conviction of M'bala M'bala [9] for proffering a racial insult. He mocked symbols of the Jewish religion. In particular, the court has no doubt that the offending sketch in the applicant's show had a strong anti-Semitic content (M'bala M'bala v. France [9]).</p>	
<p>Conclusion 50: Without any doubt, mocking the center figure of Islam (Prophet Muhammad) or the Quran are offensive racial insults and have strong anti-Muslim contents. The interference with the offender's enjoyment of his right to freedom of expression is thus "necessary in a democratic society".</p>	
<p>ECHR [12]: The wording of the memorandum of the association is anti-Semitic and offensive. The applicants essentially seek to use Article 14 taken together with Article 11 to provide a basis under the Convention for a right to engage in activities which are contrary to the text and spirit of the Convention and which right, if granted, would contribute to the destruction of the rights and freedoms set forth in the Convention. The Court considers that the impugned decision to prohibit the formation of the association can be considered "necessary in a democratic society" (W. P. and others v. Poland [12]).</p>	
<p>Conclusion 51: By using offensive anti-Muslim wording or actions (which include any disrespectful act against Prophet of Islam and the holy Quran), the individuals or associations essentially seek to use Article 14 taken together with Article 11 to provide a basis under the Convention for a right to engage in activities which are contrary to the text and spirit of the Convention and which right, if granted, would contribute to the destruction of the rights and freedoms set forth in the Convention. Thus the decision to limit the individuals or prohibit the formation of such associations are "necessary in a democratic society".</p>	
<p>ECHR [19]: Dr. Garaudy's conviction because of publishing racially defamatory statements and inciting to racial hatred were relevant and sufficient, and the interference "necessary in a democratic society" within the meaning of Article 10 § 2 of the Convention (Garaudy v. France [19]).</p>	
<p>Conclusion 52: Expressing false images of Prophet of Islam through cartoons, articles, etc. cast doubt on clearly established historical facts about the admirable character of Prophet Muhammad. The conviction of the cartoonists and publishers because of publishing racially defamatory cartoons about Prophet Muhammad and inciting to racial hatred are relevant and sufficient, and the interference "necessary in a democratic society" within the meaning of Article 10 § 2 of the Convention.</p>	
<p>ECHR [7]: There can be no doubt that the remarks in respect of which the accused were convicted were more than insulting to members of the targeted groups (immigrants and ethnic groups in Denmark) and did not enjoy the protection of Article 10 (Jersild v. Denmark [7]).</p>	<p>The statements against Holocaust could nevertheless be seen as a form of incitement to hatred or intolerance towards the Jews. This has invariably been presumed by ECHR for the cases concerning statements in relation to the Holocaust that have come before the Court, for historical and contextual reasons (Perinçek v. Switzerland [5]).</p>
<p>Conclusion 53: Prophet Muhammad cartoons or disrespecting the Quran are forms of incitement to hatred or intolerance towards the Muslims on account of the special positions of Prophet Muhammad and the Quran in the eyes of the Muslims. For historical and contextual reasons, there can be no doubt that such activities in respect of which the accused should be convicted are more than insulting to the Muslims.</p>	
<p>ECHR [20]: The present case concerns not only comments that offend or shock, or a "provocative" opinion, but also an abusive attack on the Prophet of Islam. As to deciding whether the interference had been necessary, this involved weighing up the conflicting interests relating to the exercise of two fundamental freedoms, namely the applicant's right to impart his ideas on religion, on the one hand, and the right of others to respect for their freedom of thought, conscience and religion, on the other. Certain passages in the novel in question had attacked the Prophet Muhammad in an abusive manner. As paragraph 2 of Article 10 recognizes, the exercise of that freedom carries with it duties and responsibilities. Among them, in the context of religious beliefs, may legitimately be included a duty to avoid expressions that are gratuitously offensive to others and profane. This being so, as a matter of principle it may be considered necessary to punish improper attacks on objects of religious veneration. A State may therefore legitimately consider it necessary to take measures aimed at repressing certain forms of conduct, including the imparting of information and ideas, judged incompatible with respect for the freedom of thought, conscience and religion of others (see also, <i>OttoPreminger-Institute v. Austria</i> [2]). Notwithstanding the fact that there is a certain tolerance of criticism of religious doctrine within Turkish society, which is deeply attached to the principle of secularity, believers may legitimately feel themselves to be the object of unwarranted and offensive attacks through some of the book passages. The Court therefore considers that the measure taken in respect of the statements in issue was intended to provide protection against offensive attacks on matters regarded as sacred by Muslims. In that respect it finds that the measure may reasonably be held to have met a "pressing social need" (<i>İ.A. v. Turkey</i> [20]).</p>	
<p>Conclusion 54: Attacking Prophet Muhammad and holy Quran in abusive manners violates the right of Muslims to respect for their freedom of thought, conscience and religion. As paragraph 2 of Article 10 of ECHR recognizes, the exercise of freedom of expression carries with it duties and responsibilities. According to the case-law, among those duties and responsibilities, can legitimately be included the duty to avoid expressions that are gratuitously offensive to others and profane such as attacking the Prophet Muhammad and holy Quran. Such attacks are gratuitously offensive to Muslims and profane and violates their right to respect for their freedom of thought, conscience and religion. As a matter of principle it is considered necessary to punish improper attacks on objects of religious veneration (such as Prophet Muhammad and the holy Quran). Thus, it is necessary to punish such attacks to provide protection against offensive attacks on matters regarded as sacred by Muslims. In that respect the measure is reasonably held to have met a "pressing social need".</p>	
<p>ECHR verified that [20] the applicant's conviction had met a pressing social need in that the book in issue had contained an abusive attack on religion, in particular Islam, and had offended and insulted religious feelings. The criticism of Islam in the book had fallen short of the level of responsibility to be expected of criticism. Therefore, the measure at issue had been intended to provide protection against offensive attacks on matters regarded as sacred by Muslims and could reasonably be regarded as meeting a "pressing social need" (<i>İ.A. v. Turkey</i> [20]).</p>	
<p>Conclusion 55: Protection against abusive attacks on Islam such as those that offend or insult religious sentiments by targeting the Prophet Muhammad and the Quran, or criticisms of Islam that fall short of the level of responsibility to be expected of criticism is regarded as meeting a "pressing social need".</p>	
<p>ECHR [32]: The interference with the applicant's rights under Article 10 of the Convention had been justified by the necessity to protect the democratic values on the basis of which the society was based. In particular, by publishing 'Lithuanian calendar 2000' (Which had insulting contents to the persons of Polish, Russian and Jewish origin), the applicant had disseminated information promoting racial and ethnic hatred. The Court concluded that the interference with the applicant's freedom of expression could reasonably have been considered necessary in a democratic society. Under international law it is an obligation to prohibit any advocacy of national hatred and to take measures to protect persons who might be subject to such threats as a result of their ethnic (Balsytė-Lideikiėnė v. Lithuania [32]).</p>	<p>ECHR [19]: The Court affirms that the provisions aim to secure the peaceful coexistence of the French population. Indeed, it considers that, having regard to the content of the applicant's work, the grounds on which the domestic courts convicted him of publishing racially defamatory statements and inciting to racial hatred were relevant and sufficient, and the interference "necessary in a democratic society" within the meaning of Article 10 § 2 of the Convention (Garaudy v. France [19]).</p>
<p>Conclusion 56: Publishing insulting contents to Muslims about Prophet Muhammad and the Quran disseminates false information and racially defamatory contents promoting racial and ethnic hatred. The interference with the applicant's freedom of expression is reasonably necessary in a democratic society within the meaning of Article 10 § 2 of the Convention.</p>	
<p>ECHR [37]: Even though the impugned article did not take a specific stance on the intentional nature of the offence the accused was alleged to have committed, it nevertheless painted a highly negative picture of him, adopting an almost mocking tone. The headlines used by the applicant as well as the large close-up photograph of the accused accompanying the text, leave no room for doubt that the applicant had wanted his article to have a sensationalist tone (Bédat v. Switzerland [37]).</p>	
<p>Conclusion 57: Presenting highly negative pictures of Prophet Muhammad or the Quran through writing or painting or speech, adopting a mocking tone is not considered a protected form of freedom of expression. The cartoons of Prophet Muhammad, their content, the drawing style, and the message they conveyed leave no room for doubt that the cartoonists and publishers wanted the cartoons to have sensationalist, denigrating, and demonizing tone. Thus, according to the case-law the Prophet Muhammad cartoons are not a protected form of freedom of expression and are not protected by Article 10 of the convention.</p>	
<p>ECHR [21]: Offensive language may fall outside the protection of freedom of expression if it amounts to "wanton denigration". The language used in the article was such as to "offend, shock or disturb". A particular statement constitutes an expression which cannot claim the protection of Article 10 or which may be punished by way of criminal proceedings, for instance, under the legislation pertaining to "hate speech" as in the present case. It was questionable whether the content of the applicant's article was "capable of contributing to the public debate" on the relevant issue (compare <i>Bédat v. Switzerland</i> [37]) or that its "principal purpose" was to do so (compare <i>Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland</i> [38]). The Court also notes that the applicant's article</p>	

<p>was published in newspapers with distribution figures of 8000 and 10000 within the Sochi area, which as the trial court pointed out, albeit in a cursory manner, was situated in a “multi-ethnic region” (Atamanchuk v. Russia [21]).</p>	
<p>Conclusion 58: Offensive language against Prophet Muhammad and the Quran amounts to wanton denigration and falls outside the protection of freedom of expression. The content of the Prophet Muhammad cartoons was intended to offend, shock, or disturb. It was questionable whether the content of the Prophet cartoons was “capable of contributing to the public debate” or that its “principal purpose” was to do so. Such statements or drawings against Prophet Muhammad or the Quran constitutes an expression which cannot claim the protection of Article 10 and should be punished by way of criminal proceedings, for instance, under the legislation pertaining to “hate speech”.</p>	
<p>ECHR [9]: The reactions of members of the audience showed that the anti-Semitic and revisionist significance of the sketch was perceived by them (or at least some of them). The Court thus takes the view that in the course of the offending sketch the show took on the nature of a rally and was no longer a form of entertainment. The Court is of the view that this was a demonstration of hatred and anti-Semitism, supportive of Holocaust denial (M’bala M’bala v. France [9]).</p>	<p>ECHR [21] agrees with the national courts that the wording of the impugned statements could be reasonably assessed as stirring up base emotions or embedded prejudices in relation to the local population of non-Russian ethnicity. The sentences in the present case were imposed in the context of the legislation aimed at fighting hate speech. In the specific context of the charges against the applicant the sentences were aimed at protecting the “rights of others”, specifically the dignity of people of a non-Russian ethnicity (compare Aksu v. Turkey [35]). The Court accepts that the present case discloses exceptional circumstances justifying the sentences imposed on the applicant (Atamanchuk v. Russia [21]).</p>
<p>Conclusion 59: In the case of the Prophet Muhammad cartoons or the disrespect towards the Quran, Muslims perceive a much more serious anti-Muslim and Islamophobic significance in these offensive actions than the Jewish community perceives regarding Holocaust denial (see the 1st part of this article). According to the case-law, the insulting actions stirring up base emotions or embedded prejudices in Muslims are demonstrations of hatred and anti-Muslimism, supportive of desecration of Prophet of Islam and the holy Quran. The offending cartoons took on the nature of a rally and were no longer a form of art or satire, but rather a demonstration of hatred and anti-Muslim prejudice, supportive of Islamophobia. Such activities are not protected as free speech, and the cartoonists and publisher should be held accountable for their actions in the context of the legislation aimed at fighting hate speech and protecting the “rights of others”, specifically the dignity of Muslims.</p>	
<p>ECHR [16]: Although these statements did not directly recommend individuals to commit hateful acts, they are serious and prejudicial allegations. The Court reiterates that inciting to hatred does not necessarily entail a call for an act of violence, or other criminal acts. Attacks on persons committed by insulting, holding up to ridicule or slandering specific groups of the population can be sufficient for the authorities to favor combating racist speech in the face of freedom of expression exercised in an irresponsible manner (see Féret v. Belgium [31]). The ECHR verified the necessity of applying the relevant Article of the Penal Code on the statements that are unwarrantably offensive to others, constituting an assault on their rights in a democratic society. The interference with the applicants’ exercise of their right to freedom of expression could therefore reasonably be regarded by the national authorities as necessary in a democratic society for the protection of the reputation and rights of others (Vejdeland and Others v. Sweden [16]).</p>	
<p>Conclusion 60: Although the cartoons that demonize Prophet Muhammad or the Quran desecration do not directly recommend individuals to commit hateful acts, they are serious and prejudicial allegations. They influence public perception and increase the likelihood of hateful acts against Muslims. Attacks on Prophet Muhammad, the Quran, or the Muslims committed by insulting, holding up to ridicule or slandering are sufficient for the authorities to favor combating racist speech in the face of freedom of expression exercised in an irresponsible manner and necessitate applying the relevant Article of the Penal Code on the expressions that are unwarrantably offensive to others, constituting an assault on their rights in a democratic society. The interference with the offenders’ exercise of their right to freedom of expression could therefore reasonably be regarded as necessary in a democratic society for the protection of the reputation and rights of others.</p>	
<p>ECHR [3]: The Supreme Court held that the applicant’s comments which were made publicly, were “serious, severely hurtful and prejudicial” and that protecting certain groups from such attacks to ensure their enjoyment of their human rights equally to others was compatible with the national democratic tradition (Lilliendahl v. Iceland [3]).</p>	
<p>Conclusion 61: The act of cartooning the Prophet Muhammad, Quran desecration or similar anti-Muslim activities are serious, severely hurtful and prejudicial and protecting Muslims from such attacks to ensure their enjoyment of their human rights equally to others are compatible with the national democratic tradition.</p>	
<p>ECHR [3]: The comments had little to no relevance to criticism of the municipal council’s decision and that their prejudicial content was by no means necessary for the applicant to engage in the ongoing public discussion. It therefore found that the private life interests at play in the case outweighed the applicant’s freedom of expression in the circumstances of the case and that curbing that freedom was both justified and necessary in order to counteract the sort of prejudice, hatred and contempt against certain social groups which his comments could promote (Lilliendahl v. Iceland [3]).</p>	
<p>Conclusion 62: Prophet Muhammad cartoons or desecration of Quran have little to no relevance to criticism and that their prejudicial content is by no means necessary for the offender to engage in the ongoing public discussion. Thus curbing freedom of expression is both justified and necessary in order to counteract the sort of prejudice, hatred and contempt against Muslims which such activities could promote.</p>	
<p>ECHR [9]: The applicant cannot claim that he acted as an artist with an entitlement to express himself using satire, humor and provocation. But he has degraded the portrayal of Jewish deportation victims under cover of a comedy show. This was a demonstration of hatred and anti-Semitism, supportive of Holocaust denial. It is unable to accept that the expression of an ideology which is at odds with the basic values of the Convention, as expressed in its Preamble, namely justice and peace, can be assimilated to a form of entertainment, however satirical or provocative, which would be afforded protection by Article 10 of the Convention (M’bala M’bala v. France [9]).</p>	<p>The ECHR emphasizes that while Article 17 of the Convention has, in principle, always been applied to explicit and direct remarks not requiring any interpretation, it is convinced that the blatant display of a hateful and anti-Semitic position disguised as an artistic production is as dangerous as a fully-fledged and sharp attack. It thus does not warrant protection under Article 10 of the Convention (M’bala M’bala v. France [9]).</p>
<p>Conclusion 63: Degrading the portrayal of Prophet Muhammad or the Quran under cover of satire (such as satirical cartoons) is a demonstration of hatred and anti-Muslimism supportive of Islamophobia and is the expression of an ideology which is at odds with the basic values of the Convention, as expressed in its Preamble, namely justice and peace and cannot be assimilated to a form of entertainment, however satirical or provocative, which would be afforded protection by right of freedom of expression. Such blatant display of a hateful and anti-Islamic position disguised as artistic productions is as dangerous as a fully-fledged and sharp attack and it thus does not warrant protection under Article 10 of the Convention.</p>	
<p>The French State party [11]: The author’s conviction (for expressing his concern that the “Gayssot Act” law constituted a threat to freedom of research and freedom of expression) was fully justified because of the memory of the survivors and the descendants of the victims of Nazism and by the necessity of maintaining social cohesion and public order” (Faurisson v. France [11]).</p>	<p>The human right Commission can justify the restrictions on the applicant’s freedom of expression, arguing that the restriction was not only covered by a legitimate purpose recognized by the Convention (namely the protection of the reputation of others), but could also be considered as necessary in a democratic society. Such a society rests on the principles of tolerance and broad-mindedness which the pamphlets in question clearly failed to observe. The protection of these principles may be especially indicated vis-à-vis groups which have historically suffered from discrimination. The Committee is satisfied that the restriction of the applicant’s freedom of expression was necessary within the meaning of article 19, paragraph 3, of the Covenant (Faurisson v. France [11]).</p>
<p>Conclusion 64: The necessity of maintaining social cohesion and public order entails the necessity of applying restrictions on disrespecting the Prophet of Islam and the Quran. In a society that rests on the principles of tolerance and broad-mindedness, the reputation of Muslims should be protected. Since the insulting cartoons of Prophet Muhammad or the Quran desecration are more offensive to Muslims than the denial of gas chambers to the Jews, restrictions on mocking and denigrating Prophet of Islam or the Quran have to be imposed because of respecting the right and reputations of Muslims and the necessity of maintaining social cohesion and public order.</p>	
<p>Where the expression are in regard to objects of veneration, gratuitously offensive to others and profane and go beyond the limits of a critical denial of other people’s religious beliefs and are likely to incite religious intolerance, for example in the event of an improper or even abusive attack on an object of religious veneration, a State may legitimately consider them to be incompatible with respect for the freedom of thought, conscience and religion and take proportionate restrictive measures (see for example, Otto-Preminger-Institute v. Austria [2] and I.A. v. Turkey [20]). Expressions that seek to spread, incite or justify hatred based on intolerance, including religious intolerance, do not enjoy the protection afforded by Article 10 of the Convention. A State may therefore legitimately</p>	

consider it necessary to take measures aimed at repressing certain forms of conduct, including the imparting of information and ideas judged incompatible with respect for the freedom of thought, conscience and religion of others. The ECHR notes that the domestic courts explained extensively why they considered that the applicant's statements had been capable of arousing justified indignation, on the grounds that they had not been made in an objective manner aimed at contributing to a debate of public interest, but could only be understood as having been aimed at demonstrating that Muhammad was not a worthy subject of worship. The Court endorses this assessment. The Court endorses the Regional Court's statement that presenting objects of religious worship in a provocative way capable of hurting the feelings of the followers of that religion could be conceived as a malicious violation of the spirit of tolerance, which was one of the bases of a democratic society. The applicant was wrong to assume that improper attacks on religious groups had to be tolerated even if they were based on untrue facts. On the contrary, the Court has held that statements which are based on (manifestly) untrue facts do not enjoy the protection of Article 10. The Court does not consider the criminal sanction to be disproportionate. The domestic courts discussed the permissible limits of criticism of religious doctrines versus their disparagement, and found that the applicant's statements had been likely to arouse justified indignation in Muslims. Thus, by considering them as going beyond the permissible limits of an objective debate and classifying them as an abusive attack on the Prophet of Islam, which was capable of stirring up prejudice and putting religious peace at risk, the domestic courts came to the conclusion that the facts at issue contained elements of incitement to religious intolerance. The Court accepts that they thereby put forward relevant and sufficient reasons and finds that the interference with the applicant's rights under Article 10 did indeed correspond to a pressing social need and was proportionate to the legitimate aim pursued. Therefore, the Court considers that the domestic courts did not overstep their wide margin of appreciation in the instant case when convicting the applicant of disparaging religious doctrines. Accordingly, there has been no violation of Article 10 of the Convention (*E. S. v. Austria* [25]).

Conclusion 65: Disrespectful acts against Prophet Muhammad or the Quran which are regarded as objects of veneration are gratuitously offensive to Muslims and profane and go beyond the limits of a critical denial of other people's religious beliefs and are likely to incite religious intolerance.

Conclusion 66: The improper or even abusive attacks on the Prophet Muhammad or the Quran as objects of religious veneration spread incite and justify hatred based on intolerance (religious intolerance) and do not enjoy the protection afforded by Article 10 of the Convention. A State should therefore legitimately consider it necessary to take measures aimed at repressing certain forms of conduct, including the imparting of information and ideas judged incompatible with respect for the freedom of thought, conscience and religion of others.

Conclusion 67: Presenting objects of religious worship like Prophet Muhammad or the Quran in a provocative way capable of hurting the feelings of Muslims is a malicious violation of the spirit of tolerance, which was one of the bases of a democratic society.

Conclusion 68: The disparaging of Prophet Muhammad or desecration of Quran are based on untrue facts and do not enjoy the protection of Article 10.

Conclusion 69: Attacks against Prophet Muhammad or the Quran arise justified indignation in Muslims. Thus, by considering them as going beyond the permissible limits of an objective debate and classifying them as an abusive attack on the Prophet of Islam or the Quran, which is capable of stirring up prejudice and putting religious peace at risk, it is concluded that they contain elements of incitement to religious intolerance. Thus, the interference with the offender's rights under Article 10 corresponds to a pressing social need and is proportionate to the legitimate aim pursued.

The Commission found that the real purpose of the article was, under a guise of scientific discussion, to deny the use of gas chambers to commit genocide. It held that, if he exercised his freedom of expression this would contribute to the destruction of the rights and freedoms of the Convention. Denying the existence of the gas chambers is contrary to the fundamental values of the Convention, notably justice and peace. Such expressions are removed from the protection of Article 10 ECHR by Article 17 ECHR (prohibition of abuse of rights). In these circumstances, interferences in the right to freedom of expression are permitted as necessary in a democratic society. The commission recalls that contrary to the applicant's assertion that Article 10 para 2 of the convention does not apply to the "scientific research", assuming that this was a scientific publication, paragraph 2 of Article 10 makes no distinction as to the type of expression in question. Article 17 prevents a person from deriving from the convention a right to engage in activities aimed at the destruction of any of the rights and freedom set forth in the convention. The Court considers that the applicant attempts to deflect Article 10 from its real purpose by using his right to freedom of expression for ends which are contrary to the text and spirit of the Convention, and which if admitted would contribute to the destruction of the rights and freedoms guaranteed by the Convention. Therefore there are sufficient reason for convicting the applicant and the interference was necessary in a democratic society within the meaning of Article 10 para 2 of the convention (*Marais v. France* [27], see also *Williamson v. Germany* [39]).

Conclusion 70: Disparaging attacks against Prophet Muhammad or the Quran is contrary to the fundamental values of the Convention, notably justice and peace. Denying the moral excellence or the noble character of Prophet Muhammad or the sacredness of the Quran under a guise of scientific discussion contribute to the destruction of the rights and freedoms of the ECHR. Such expressions are removed from the protection of Article 10 ECHR by Article 17 ECHR (prohibition of abuse of rights). In these circumstances, interferences in the right to freedom of expression are permitted as necessary in a democratic society. While it is clear that these are not scientific discussion, paragraph 2 of Article 10 makes no distinction as to the type of expression in question. Article 17 prevents a person from deriving from the convention a right to engage in activities aimed at the destruction of any of the rights and freedom set forth in the convention. Linking such activities to freedom of expression is an attempt to deflect Article 10 from its real purpose by using the right to freedom of expression for ends which are contrary to the text and spirit of the Convention, and which if admitted would contribute to the destruction of the rights and freedoms guaranteed by the Convention. Therefore there are sufficient reason to conclude that the interference is necessary in a democratic society within the meaning of Article 10 para 2 of the convention.

The ECHR has consistently held that in Article 10 § 2 the adjective "necessary" implies the existence of a "pressing social need". Artists and those who promote their work are certainly not immune from the possibility of limitations as provided for in paragraph 2 of Article 10. Whoever exercises his freedom of expression undertakes, "duties and responsibilities". Under Article 10 § 2, the Swiss courts were entitled to consider it "necessary" for the protection of morals to impose a fine on the applicants for publishing obscene material. The disputed measure did not infringe Article 10 of the Convention. As for the confiscation of the paintings, a principle of law which is common to the Contracting States allows confiscation of "items whose use has been lawfully adjudged illicit and dangerous to the general interest" (see, *mutatis mutandis*, *Handyside v. The United Kingdom* [40]). In the instant case, the purpose was to protect the public from any repetition of the offence. The applicants' conviction responded to a genuine social need under Article 10 § 2 of the Convention. The same reasons which justified that measure also apply in the view of the Court to the confiscation order made at the same time. In conclusion, the disputed measure did not infringe Article 10 of the Convention (*Müller and others v. Switzerland* [28]).

Conclusion 71: To respond to a genuine social need under Article 10 § 2, it is "necessary" for the protection of morals to sentence those who draw or publish cartoons of the Prophet of Islam. The adjective "necessary" implies the existence of a "pressing social need". Artists and those who promote their work are certainly not immune from the possibility of limitations as provided for in paragraph 2 of Article 10 and the impugned measures do not infringe Article 10 of the Convention. The offensive drawings of Prophet Muhammad should be confiscated according to the principle of law which allows confiscation of "items whose use has been lawfully adjudged illicit and dangerous to the general interest" for the purpose of protecting the morals and the public from any repetition of the offence. The conviction of the cartoonists and the publishers responds to a genuine social need under Article 10 § 2 of the Convention.

The respect for the religious feelings of believers as guaranteed in Article 9 can legitimately be thought to have been violated by provocative portrayals of objects of religious veneration; and such portrayals can be regarded as malicious violation of the spirit of tolerance, which must also be a feature of democratic society. Amongst the "duties and responsibilities" that should be undertaken by whoever exercises the rights and freedoms enshrined in the first paragraph of that Article 10 - in the context of religious opinions and beliefs - may legitimately be included an obligation to avoid as far as possible expressions that are gratuitously offensive to others and thus an infringement of their rights, and which therefore do not contribute to any form of public debate capable of furthering progress in human affairs. As a matter of principle it may be considered necessary in certain democratic societies to sanction or even prevent improper attacks on objects of religious veneration, provided always that any "formality", "condition", "restriction" or "penalty" imposed be proportionate to the legitimate aim pursued. The Government defended the seizure of the film in view of its character as an attack on the Christian religion, especially Roman Catholicism. They stressed the role of religion in the everyday life of the people of Tyrol. Thus, there was a pressing social need for the preservation of religious peace and it had been necessary to protect public order against the film. The Austrian courts did not consider that its merit as a work of art or as a contribution to public debate in Austrian society outweighed those features which made it essentially offensive to the general public within their jurisdiction. In seizing the film, the Austrian authorities acted to ensure religious peace in that region and to prevent that some people should feel the object of attacks on their religious beliefs in an unwarranted and offensive manner. As for the seizure, the Court does not consider that the Austrian authorities can be regarded as having overstepped their margin of appreciation in this respect. Article 10 cannot be interpreted as prohibiting the forfeiture in the public interest of items whose use has lawfully been adjudged illicit (see *Handyside v. United Kingdom* [47]). Although the forfeiture made it permanently impossible to show the film anywhere in Austria, the Court considers that the means employed were not disproportionate to the legitimate aim pursued and that therefore the national authorities did not exceed their margin of appreciation in this respect. For these reasons, the court holds that there has been no violation of Article 10 of the Convention as

regards either the seizure or the forfeiture of the film (Otto-Preminger-Institute v. Austria [2]).
Conclusion 72: The respect for the religious feelings of Muslims is guaranteed in Article 9. This can legitimately be violated by provocative portrayals of objects of religious veneration (such as Prophet Muhammad cartoons). Such denigrating portrayals or disrespectful acts against the Quran can be regarded as malicious violation of the spirit of tolerance, which must also be a feature of democratic society. Amongst the “duties and responsibilities” of Article 10-2, in the context of religious opinions and beliefs - may legitimately be included an obligation to avoid as far as possible expressions that are gratuitously offensive to Muslims and thus an infringement of their rights, and which therefore do not contribute to any form of public debate capable of furthering progress in human affairs. It must be considered necessary in democratic societies to sanction and prevent improper attacks on objects of religious veneration (such as Prophet Muhammad and the Quran), provided always that any “formality”, “condition”, “restriction” or “penalty” imposed be proportionate to the legitimate aim pursued. The seizure and forfeiture of the films, cartoons and other forms of presentations against Prophet Muhammad, the Quran or the Islamic symbols which are attacks on the Islam religion are necessary to ensure religious peace and to prevent that some people (Muslims) should feel the object of attacks on their religious beliefs in an unwarranted and offensive manner. When the role of religion in the everyday life of the Muslims is taken into account, it can be concluded that there is a pressing social need for the preservation of religious peace and it is necessary to protect public order against such presentations. They do not merit the work of art or do not contribute to public debate to outweigh those features which made it essentially offensive to the general public. Although the forfeiture makes it permanently impossible to show the offending presentations, it is not disproportionate to the legitimate aim pursued.
As paragraph 2 of Article 10 expressly recognizes, the exercise of freedom of expression carries with it duties and responsibilities. Amongst them, in the context of religious beliefs, may legitimately be included a duty to avoid as far as possible an expression that is, in regard to objects of veneration, gratuitously offensive to others and profanatory. The Government contended that the applicant’s video work was clearly a provocative and indecent portrayal of an object of religious veneration, that its distribution would have been sufficiently public and widespread to cause offence and that it amounted to an attack on the religious beliefs of Christians which was insulting and offensive. The Court observes that the refusal to grant the video work a distribution certificate was intended to protect “the rights of others”, and more specifically to provide protection against seriously offensive attacks on matters regarded as sacred by Christians. The reasons given to justify the measures taken can be considered as both relevant and sufficient for the purposes of Article 10 para. 2. It cannot be said that the authorities overstepped their margin of appreciation. The national authorities were entitled to consider that the impugned measure was justified as being necessary in a democratic society within the meaning of paragraph 2 of Article 10. There has therefore been no violation of Article 10 of the Convention (Wingrove v. United Kingdom [29]).
Conclusion 73: The duty to avoid expressions that gratuitously offend Muslims and are profanatory towards objects of Islamic veneration is included in the duties and responsibilities outlined in paragraph 2 of Article 10 of the ECHR. The Prophet Muhammad cartoons which are indecent portrayal of an object of religious veneration, desecrating Quran or other offensive denigrating acts against Islamic symbols are clearly provocative, insulting, and offensive and their public distribution causes offence and amounts to an attack on the religious beliefs of Muslims. The interference is intended to protect “the rights of others”, and more specifically to provide protection against seriously offensive attacks on matters regarded as sacred by Muslims. The possible measures are justified as being necessary in a democratic society within the meaning of paragraph 2 of Article 10 (Art. 10-2).
The ECHR notes that, in concurring decisions, the lower courts considered that these remarks were aimed at the Muslim community as a whole, and therefore at a group of persons who were victims of discrimination designated by the criterion of religion. The national courts thus ruled that by presenting people of the Muslim faith as a threat to public security and republican values and that by postulating their necessary solidarity with the violence committed in the name of their faith, the applicant nurtured a feeling of generalized rejection towards them and was not limited to a criticism of Islam, historical and theological analysis, or the rise of religious fundamentalism in the French suburbs. The ECHR notes that the applicant’s conviction was based on the characterization of the offense of incitement to discrimination and religious hatred against a group of people on account of their belonging to the Muslim religion. The applicant’s remarks contained an appeal to discriminatory and hateful feelings towards Muslims and were indeed calling for their rejection and exclusion. His remarks, in fact contained negative and discriminatory assertions likely to stir up a rift between the French and the Muslim community as a whole (See Soulas and others v. France [9] and Le Pen v. France [12]). The use of aggressive terms expressed without nuance to denounce a “colonization” of France by “Muslims” had discriminatory aims and not for the sole purpose of sharing with the public a relative opinion to the rise of religious fundamentalism in the French suburbs. In these circumstances, and in the light of Article 17, the Court considers that the applicant’s remarks do not fall within a category of speech enjoying enhanced protection under Article 10 of the Convention, and concludes that there has been no violation of Article 10 of the Convention (Eric Zemmour v. France [30]).
Conclusion 74: Expressions against Islam, the Prophet of Islam, the Quran, or other Islamic symbols are inherently directed at the Muslim community as a whole making them at a group of persons who are victims of discrimination designated by the criterion of religion. Presenting the Prophet of Islam or the Quran as violent, and portraying the Muslim community as a threat to public security and republican values, and postulating their necessary solidarity with the violence committed in the name of their faith, nurtures a feeling of generalized rejection towards Muslims and is not limited to a criticism of Islam, historical and theological analysis, or the rise of religious fundamentalism in a country. Such expressions appeal to discriminatory and hateful feelings towards Muslims and are indeed calling for their rejection and exclusion. These expressions have discriminatory intentions and do not solely aim to share a subjective opinion with the public and do not fall within a category of speech enjoying enhanced protection under Article 10 of the Convention.

Based on Table 4 and relevant case law, it is evident that restrictions on expressions targeting Prophet Muhammad, the Quran, and symbols of Islam are “necessary in a democratic society”. To further analyze the 3rd condition in the three-part test of ECHR, the next section evaluates different parameters that have been examined in the case law for deciding whether an interference is necessary in a democratic society.

5. Diverse Factors Support that Outlawing Disrespectful Acts Against Prophet Muhammad and the Quran is “Necessary in a Democratic Society”

The principles concerning the question of whether an interference with freedom of expression is “necessary in a democratic society” are well-established in the case-law. In this section, various parameters that make the interference with cartooning, disparaging and demonizing Prophet Muhammad and the Quran “necessary in a democratic society” are discussed and analyzed and the necessity of such interferences in democratic societies is proved. There are several parameters that international courts and in particular ECHR concern in assessing whether an interference is necessary in democratic society [21][5] which are discussed below.

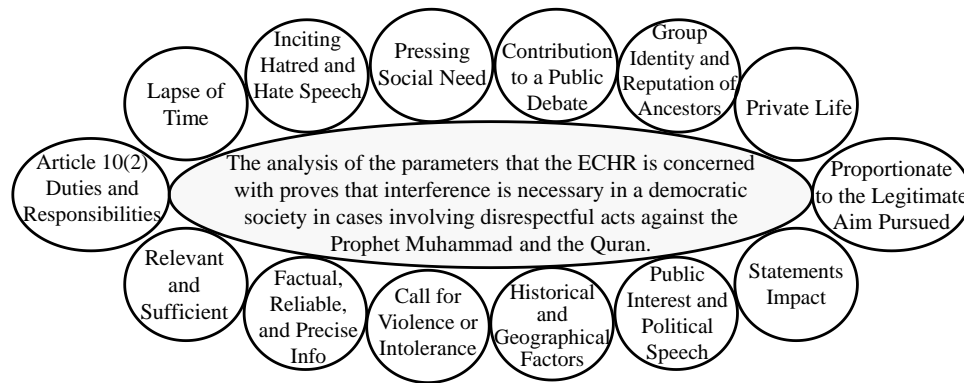


Figure 2. Analyzing the criteria addressed by the ECHR demonstrates that intervention is essential in a democratic society when dealing with disrespectful actions against Prophet Muhammad and the Quran.

5.1. Article 10 § 2

The main reason for the necessity of interference with the right of freedom of expression in a democratic society is undoubtedly the notion of “duties and responsibilities” set forth in Article 10(2). The obligation of the person possessing the right to freedom of speech to take into consideration their “duties and responsibilities” was written into the Convention not only to take account of the distinctive identity of the freedom of speech, but also to prevent the irresponsible and dangerous use of democracy [41]. In examining whether restrictions to the rights and freedoms guaranteed by the Convention can be considered “necessary in a democratic society” the Court has, however, consistently held that the Contracting States enjoy a certain but not unlimited margin of appreciation. It is, in any event, for the European Court to give a final ruling on the restriction’s compatibility with the Convention and it will do so by assessing in the circumstances of a particular case, inter alia, to justify the interference appear “relevant and sufficient”, whether the interference corresponded to a “pressing social need”, and whether it was “proportionate to the legitimate aim pursued” [1][29]. According to Table 4, based on the requirement in Article 10 § 2 of the Convention, the interference with disrespecting Prophet Muhammad and the Quran is “necessary in a democratic society”. The necessity of such interference within the meaning of Article 10 § 2 of the Convention is well-settled in the ECHR’s case-law as shown in Table 4.

5.2. Pressing Social Need

Pressing social need is a concept used by the ECHR as the basis for assessing whether or not an interference with a qualified right is necessary in a democratic society. The adjective “necessary” in Article 10 § 2 implies the existence of a pressing social need. In fact, the condition of “necessity in a democratic society” requires the Court to determine whether the impugned interference corresponded to a “pressing social need” [1] [5]. The High Contracting Parties have a margin of appreciation in assessing whether such a need exists. Table 5 displays the case law in which the ECHR has recognized a “pressing social need,” along with the reasons provided to justify it.

Table 5. The case law in which the ECHR has recognized a “pressing social need,” along with the reasons provided to justify it.

Vejdeland and Others v. Sweden [16]
In considering the approach of the domestic courts when deciding whether a “ pressing social need ” existed, and the reasons the authorities adduced to justify the interference, the ECHR observes that along with freedoms and rights to express their ideas, people also have obligations; one such obligation being, as far as possible, to avoid statements that are unwarrantably offensive to others, constituting an assault on their rights. Having balanced the relevant considerations, the Supreme Court found no reason not to apply the relevant Article of the Penal Code.
E. S. v. Austria [25]
ECHR: By considering the impugned statements as going beyond the permissible limits of an objective debate and classifying them as an abusive attack on the Prophet of Islam, which was capable of stirring up prejudice and putting religious peace at risk, the domestic courts came to the conclusion that the facts at issue contained elements of incitement to religious intolerance. The Court accepts that they thereby put forward relevant and sufficient reasons and finds that the interference with the applicant’s rights under Article 10 did indeed correspond to a pressing social need and was proportionate to the legitimate aim pursued.
Müller and others v. Switzerland [28]
The ECHR has consistently held that in Article 10 § 2 the adjective “necessary” implies the existence of a “ pressing social need ”. Artists and those who promote their work are certainly not immune from the possibility of limitations as provided for in art. 10-2. Whoever exercises his freedom of expression undertakes, in accordance with the express terms of that paragraph, “duties and responsibilities”. In the circumstances, having regard to the margin of appreciation left to them under art. 10-2, the Swiss courts were entitled to consider it “necessary” for the protection of morals to impose a fine on the applicants for publishing obscene material. As for the confiscation of the paintings, a principle of law which is common to the Contracting States allows confiscation of “items whose use has been lawfully adjudged illicit and dangerous to the general interest” (see, mutatis mutandis, <i>Handyside v. the United Kingdom</i> [40]). In the instant case, the purpose was to protect the public from any repetition of the offence. The applicants’ conviction responded to a genuine social need under art. 10-2 of the Convention. The same reasons which justified that measure also apply in the view of the Court to the confiscation order made at the same time. In conclusion, the disputed measure did not infringe Article 10 of the Convention.
Otto-Preminger-Institute v. Austria [2]
ECHR: The manner in which religious beliefs and doctrines are opposed or denied is a matter which may engage the responsibility of the State, notably its responsibility to ensure the peaceful enjoyment of the right guaranteed under Article 9 to the holders of those beliefs and doctrines. The respect for the religious

feelings of believers as guaranteed in Article 9 can legitimately be thought to have been violated by provocative portrayals of objects of religious veneration; and such portrayals can be regarded as malicious violation of the spirit of tolerance, which must also be a feature of democratic society. Consequently, at the material time at least, there was a **pressing social need** for the preservation of religious peace; it had been necessary to protect public order against the film and the Innsbruck courts had not overstepped their margin of appreciation in this regard. The Austrian courts did not consider that its merit as a work of art or as a contribution to public debate in Austrian society outweighed those features which made it essentially offensive to the general public within their jurisdiction. In seizing the film, the Austrian authorities acted to ensure religious peace in that region and to prevent that some people should feel the object of attacks on their religious beliefs in an unwarranted and offensive manner. Although the forfeiture made it permanently impossible to show the film anywhere in Austria, the Court considers that the means employed were not disproportionate to the legitimate aim pursued and that therefore the national authorities did not exceed their margin of appreciation in this respect. There has accordingly been no violation of Article 10 as regards either the seizure or the forfeiture of the film.

I.A. v. Turkey [20]

ECHR: The Government submitted that the applicant's conviction had met a **pressing social need** in that the book in issue had contained an abusive attack on religion, in particular Islam, and had offended and insulted religious feelings. They argued in that connection that the criticism of Islam in the book had fallen short of the level of responsibility to be expected of criticism. Therefore, the measure at issue had been intended to provide protection against offensive attacks on matters regarded as sacred by Muslims and could reasonably be regarded as meeting a "**pressing social need**". A State may therefore legitimately consider it necessary to take measures aimed at repressing certain forms of conduct, including the imparting of information and ideas, judged incompatible with respect for the freedom of thought, conscience and religion of others (see, *OttoPreminger-Institut v. Austria* [2]). Notwithstanding the fact that there is a certain tolerance of criticism of religious doctrine within Turkish society, which is deeply attached to the principle of secularity, believers may legitimately feel themselves to be the object of unwarranted and offensive attacks through some of the book passages. The Court therefore considers that the measure taken in respect of the statements in issue was intended to provide protection against offensive attacks on matters regarded as sacred by Muslims. In that respect it finds that the measure may reasonably be held to have met a "**pressing social need**".

The reasons presented to justify the pressing social needs outlined in Table 5 can also be applied to instances of disrespect toward Prophet Muhammad and the Quran. Any kind of expression beyond the permissible limits of an objective debate being classified as an abusive attack on the Prophet of Islam, the Quran, and the Muslims, containing elements of incitement to religious intolerance capable of stirring up prejudice and putting religious peace at risk, meets a pressing social need. In such cases, the interference with the offenders' rights under Article 10 indeed corresponds to a pressing social need with the legitimate aim to avoid any kind of expression that is unwarrantably offensive to Muslims, constituting an assault on their rights. The respect for the religious feelings of Muslims as guaranteed in Article 9 can legitimately be thought to have been violated by provocative portrayals of objects of religious veneration (Prophet Muhammad cartoons) and activities such as desecration of Quran or the uncivilized act of Quran burning that can be regarded as malicious violation of the spirit of tolerance, which must also be a feature of democratic society. Consequently, there is a pressing social need for the preservation of religious peace. A principle of law which is common to the Contracting States allows confiscation of "items whose use has been lawfully adjudged illicit and dangerous to the general interest" (see, *mutatis mutandis*, *Handyside v. The United Kingdom* [40]) with the purpose of protecting the public from any repetition of the offence, ensuring religious peace in that region and preventing that Muslims should feel the object of attacks on their religious beliefs in an unwarranted and offensive manner. The conviction of the offenders responds to a genuine social need under Article 10 § 2 of the Convention. The Prophet Muhammad cartoons, desecrating Quran, and mocking or insulting Islamic symbols meet a pressing social need because they contain an abusive attack on religion (Islam) and offend and insult religious feelings. The measures intend to provide protection against offensive attacks on matters regarded as sacred by Muslims and could reasonably be regarded as meeting a "pressing social need". A State should therefore legitimately consider it necessary to take measures aimed at repressing certain forms of conduct, including the imparting of information and ideas, judged incompatible with respect for the freedom of thought, conscience and religion of others.

5.3. Public Interest and Political Speech

As regards the level of protection, there is little scope under Article 10 § 2 of the Convention for restrictions on freedom of expression in two fields, namely political speech and matters of public interest. They enjoy privileged position in the case-law of ECHR [37]. Accordingly, a high level of protection of freedom of expression, with the authorities thus having a particularly narrow margin of appreciation, will normally be accorded where the remarks concern a matter of public interest. However, even if the case is a matter of public interest, it should be capable of contributing to the public debate to benefit from little scope under Article 10 § 2 of the Convention for restrictions on freedom of expression. In *Bédat v. Switzerland* [39], the ECHR accepted that the subject of the article, was a matter of public interest and triggered a great deal of emotion among the population. However, the question arising here is whether the content of the article and in particular the information which was covered were capable of contributing to the public debate on this issue. ECHR affirmed the judgment of the Federal Court that held that the content of the article had not provided any insights relevant to the public debate.

As for the case of the Prophet Muhammad cartoons or disrespecting him and the Quran, neither the cartoons nor the content of them nor similar publications do not provide any insights relevant to the public debate. Articles or cartoons aimed at mocking and slandering of others, however well-known that person might be, cannot be deemed to contribute to a debate of public interest (similar to *Oys v. Finland* [38]).

5.4. Contribution to a Public Debate

Imparting information of public interest and contributing to the public debate, are supported by the right to freedom of expression. However, the ECHR considers that even if starting of a debate is an acceptable purpose, regards must be paid to the wording and the way of expression. Attacks on persons committed by insulting, holding up to ridicule or slandering specific groups of the population fall outside the protection of freedom of expression. In *Vejdeland and Others v. Sweden* [16], the Court notes that the applicants distributed the leaflets with the aim of starting a debate about the lack of objectivity of education in Swedish schools. The ECHR agrees with the Supreme Court that even if this is an acceptable purpose, regard must be paid to the wording of the leaflets. The Court observes that, according to the leaflets, homosexuality was “a deviant sexual proclivity” that had “a morally destructive effect on the substance of society” and it was one of the main reasons why HIV and AIDS had gained a foothold and that the “homosexual lobby” tried to play down paedophilia. In the Court’s opinion, although these statements did not directly recommend individuals to commit hateful acts, they are serious and prejudicial allegations.

As for the case of mocking and denigrating Prophet Muhammad and the Quran by cartoons or statements, there are hidden agenda to degrade, insult or incite hatred against Prophet of Islam, the Quran or a class of persons on account of their religion (Muslims) behind the apparent aim. In such assessments, the accused’s conducts must be considered intentional and account should not be taken of the motives which the person in question claims were behind their expression. Because a defamatory cartoon or a similar expression is not made negligently or by accident (see *Lilliendahl v. Iceland* [3]).

The cartoonists tried to abuse a legitimate purpose, namely starting a debate on a matter of public concern, however, the content of the impugned cartoons is characterized as being “unnecessarily offensive.” The interference is justified by acknowledging that the freedoms and rights went hand in hand with obligations; one of which was to avoid, as far as possible, statements that are unwarrantably offensive to others, constituting an assault on their rights (see *Vejdeland and Others v. Sweden* [16]). It is not persuasive that publication of cartoons of Prophet Muhammad in the manner and to the extent done contributed to such a debate or indeed that its principal purpose was to do so. Such publishing activities could not therefore be viewed as data journalism aimed at drawing conclusions from such cartoons and drawing attention to issues of public interest for public debate. Such publishing does not contribute to public debate and the cartoonists and publishers cannot in substance claim that it is done solely for a journalistic purpose within the meaning of domestic and EU law (see *Oys v. Finland* [38]).

In the case of *Bonnet v. France* [24], which is very similar to the case of the Prophet Muhammad cartoons, the ECHR was of the opinion that the cartoon published in French weekly *Charlie Hebdo* which was considered to be offensive to Jewish community and the message it conveyed could not be regarded as contributing to any debate of public interest. ECHR held that the cartoon fell within a category which was afforded reduced protection under that provision of the Convention and that the interference with the applicant’s freedom of expression had been necessary in a democratic society.

The same applies for Prophet Muhammad cartoons. The Prophet Muhammad cartoons, cannot be construed as historical debate constituting a value judgment, however represented defamatory confusions, attributing false images to Prophet Muhammad and Islam that cause injury and damage to the character of Prophet Muhammad and Muslims. Disrespecting Prophet Muhammad or the Quran are not expressions of opinions but laying charges against the Muslim community. The cartoons of the Prophet of Islam and the message they conveyed could not be regarded as contributing to any debate of public interest and thus according to French court’s and ECHR’s judgments in the case of *Bonnet v. France* [24], the interference with the applicant’s freedom of expression is necessary in a democratic society.

5.4. Factual, Reliable, and Precise Information

The ECHR reiterates that the safeguard afforded by Article 10 to journalists in relation to reporting on issues of general interest is subject to the proviso that they are acting in good faith and on an accurate factual basis and provide “reliable and precise” information in accordance with the ethics of journalism (*Bédat v. Switzerland* [37]). The Prophet Muhammad cartoons and the desecration of the Quran which are considered as showing false images of Islamic symbols not only are not being done in good faith and on an accurate factual basis but provide false and distorted information which are not in accordance with the ethics of journalism. The same conclusion applies to the content and the form of the publication of the Prophet Muhammad cartoons, as well as to the message conveyed and its accuracy.

5.5. Group Identity, Private Life, and the Reputation of Ancestors

The general principles applicable to cases in which the right to freedom of expression under Article 10 of the Convention has to be balanced against the right to respect for private life under Article 8 of the Convention have been summarized in *Perinçek v. Switzerland* [5]. In the light of the case-law (*Perinçek v. Switzerland* [5]) it can be concluded that both religious identity and the reputation of Muslims may engage Article 8 of the Convention under its “private life” heading and that these were rights protected under that Article. The right to freedom of expression is being balanced with the right to respect for private life. The relevant criteria in the balancing exercise include the following elements [4]:

1. Contribution to a debate of general interest,
2. How well known the person concerned is, the subject of the report, the prior conduct of the person concerned, the method of obtaining the information and its veracity, the content, form and consequences of the publication, and the severity of the sanction imposed.

In the case of disparaging Prophet Muhammad and the Quran it was proved that it does not contribute to a debate of general interest. Defamation and denigration of the most respected character for Muslims, the central figure of Islam, the perfect man, and the Muslims’ role model by false accusations in an insulting manner engage Article 8 of the Convention under its “private life” heading and that these were rights protected under that Article. The ECHR also holds that the negative stereotyping of an ethnic group is capable, when reaching a certain level, of having an impact on the group’s sense of identity and on its members’ feelings of self-worth and self-confidence (*Atamanchuk v. Russia* [21]). It could thus affect their “private life” within the meaning of Article 8 § 1 of the Convention. In *Aksu v. Turkey* [35], the ECHR found that proceedings in which a person of Roma origin who had felt offended by passages in a book and dictionary entries about Roma in Turkey had sought redress had engaged that Article. In *Putistin v. Ukraine* [42], the Court accepted that the reputation of an ancestor could in some circumstances affect a person’s “private life” and identity, and thus come within the scope of Article 8 § 1 of the Convention [5]. In *Jelševar and Others v. Slovenia* [43], the Court likewise accepted that an attack on the reputation of an ancestor coming in the form of a work of literary fiction could affect a person’s rights under Article 8 § 1 of the Convention [5]. In *Dzhugashvili v. Russia* [44], the Court proceeded from the premise that two newspaper articles dealing with the historical role of the applicant’s grandfather, Stalin, had affected his own rights under Article 8 § 1 of the Convention [5].

It is crucial to recognize that Prophet Muhammad serves as the quintessential symbol of Islam and embodies the very essence of Muslims’ identity. His significance transcends mere representation, shaping the beliefs, values, and practices of Muslims worldwide. Prophet Muhammad’s teachings and example are revered as foundational pillars of Islamic faith, guiding and inspiring generations of believers to uphold compassion, justice, and unity. Defaming Prophet Muhammad or the Quran are direct defaming a group of persons on the ground of membership of a religion, in this case Muslims. Disparaging, mocking, or denigrating Prophet Muhammad or the Quran are direct disparaging of Islam as a whole and all Muslims. Prophet Muhammad cartoons or desecration of Quran clearly undermines the honor and character of Muslims. Note that the Prophet Muhammad is the Muslims’ identity. The case-laws like *Giniewski v. France* [18] where the ECHR held that by condemning a papal encyclical and the Pope’s position, a journalist had not sought to criticize Christianity as a whole, do not apply here. Also the Prophet Muhammad case is different from *Klein v. Slovakia* [45], where the Court held that very strongly worded statements made by a journalist with respect to a Roman Catholic Archbishop in Slovakia could not be seen as disparaging the adherents of the Catholic Church in that country. The Prophet Muhammad cartoonists, publishers, and Quran burners clearly reveal a racist objective, seeking to deliberately offend against the identity of the Muslim people. Denigrating Prophet Muhammad or the Quran are direct debasing of the dignity of Muslims on account of their religion which have great impacts on Muslims sense of identity. It thus affects Muslims “private life” within the meaning of Article 8 § 1 of the Convention (similar to *Atamanchuk v. Russia* [21], *Aksu v. Turkey* [35], and *Perinçek v. Switzerland* [5]).

5.6. Call for Violence, Justification of Violence, Hatred, or Intolerance

The ECHR has been particularly sensitive towards sweeping statements attacking or casting in a negative light entire ethnic, religious or other groups [21]. *Seurot v. France* [46], *Soulas and Others v. France* [1], and *Le Pen v. France* [10], all of which concerned generalized negative statements about non-European and in particular Muslim immigrants in France. *Norwood v. the United Kingdom* [15], concerned statements linking all Muslims in the United Kingdom with the terrorist acts. *W.P. and Others v. Poland* [12] and *Ivanov v. Russia* [14], both of them concerned vehement anti-Semitic statements. *Féret v. Belgium* [31], concerned statements portraying non-European immigrant communities in Belgium as criminally minded. In several cases, ECHR has considered the application of

Article 10 of the Convention concerning statements, verbal or non-verbal, alleged to stir up or justify violence, hatred or intolerance.

In assessing whether the interference with the exercise of the right to freedom of expression of the authors, or sometimes publishers, of such statements was “necessary in a democratic society” in the light of the general principles formulated in its case-law, the ECHR has had regard to several factors. One of them has been whether the statements were made against a tense political or social background; the presence of such a background has generally led the Court to accept that some form of interference with such statements was justified. Examples include problems relating to the integration of non-European and especially Muslim immigrants in France (see *Soulas and Others v. France* [1], and *Le Pen v. France* [10]). Another factor has been whether the statements, fairly construed and seen in their immediate or wider context, could be seen as a direct or indirect call for violence or as a justification of violence, hatred or intolerance (see *Féret v. Belgium* [31] and *Soulas and others v. France* [1]). The Court has also paid attention to the manner in which the statements were made, and their capacity – direct or indirect – to lead to harmful consequences. Examples include *Karataş v. Turkey* [47], where the fact that the statements had been made through poetry rather than in the mass media led to the conclusion that the interference could not be justified by the special security context otherwise existing in the case; *Féret v. Belgium* [31], where the statements had been made on electoral leaflets, which had enhanced the effect of the discriminatory and hateful message that they were conveying; *Gündüz v. Turkey* [48], where the statements had been made in the course of a deliberately pluralistic televised debate, which had reduced their negative effect. In all of the above cases, it was the interplay between the various factors rather than any one of them taken in isolation that determined the outcome of the case. The Court’s approach to that type of case can thus be described as highly context-specific.

Disparaging attacks against Prophet Muhammad and the Quran through cartoons or burning are kinds of expressions which are made against tense political or social backgrounds. They attack or cast entire ethnic, religious, or other groups (Muslims) in a negative light. Such exercises, verbal or non-verbal, alleged to stir up or justify violence, hatred or intolerance and gave tense political or social consequences which is generally led the Courts to accept that the interference with such statements is necessary. The denigrating attacks on the Prophet Muhammad and the Quran could be seen as a direct or indirect call for violence or as a justification of violence, hatred or intolerance toward Muslims. The harmful consequences of disparaging Prophet Muhammad and the Quran are so severe that do not depend much on the manner in which the statements are made, and their direct or indirect capacity. They convey severe insulting, discriminatory and hateful messages against Muslims which necessitates the interference according to Article 2 of the ECHR (similar to *Soulas and Others v. France* [1], and *Le Pen v. France* [10], and *Féret v. Belgium* [31]).

5.7. Inciting Hatred and Hate Speech

By virtue of Article 17 of the Convention, “hate speech”, in the proper meaning of the term, is not protected by Article 10. Although there is no agreed definition of hate speech in international law, the Committee of Ministers of the Council of Europe was very clear in its Recommendation No. R (97) 20: the term “hate speech” is to be “understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance...” [16]. The ECHR considers that inciting hatred against a specific group of people does not necessarily require an explicit call for an act of violence, or other criminal acts. Attacks on persons committed by insulting, holding up to ridicule or slandering specific groups of the population can be sufficient for the authorities to favor combating xenophobic or otherwise discriminatory speech in the face of freedom of expression exercised in an irresponsible manner [21], (see *Féret v. Belgium* [31]; *Atamanchuk v. Russia* [21]; *Vejdeland and Others v. Sweden* [16]; *Dmitriyevskiy v. Russia* [49]; *Ibragim Ibragimov and Others v. Russia* [50]).

In *Vejdeland and Others v. Sweden* [16], in the Court’s opinion, although the applicant’s statements did not directly recommend individuals to commit hateful acts, they are serious and prejudicial allegations, so that they fall outside the protection of freedom of expression. As a matter of principle it may be considered necessary in certain democratic societies to sanction or even prevent all forms of expression which spread, incite, promote or justify hatred based on intolerance (including religious intolerance), provided that any “formalities”, “conditions”, “restrictions” or “penalties” imposed are proportionate to the legitimate aim pursued (with regard to hate speech and the glorification of violence) (*Féret v. Belgium* [31]).

Statistics on hate crimes show that hate propaganda always inflicts harm, be it immediate or potential. It is not necessary to wait until hate speech becomes a real and imminent danger for democratic society [16]. Islamophobic speech falls into what can be considered as a category of “hate speech”, which is not protected by Article 10. As a matter of fact, such cases (Prophet Muhammad cartoons, Quran desecration or insulting them)

should not be viewed merely as a balancing exercise between the freedom of speech and the targeted group's (Muslims') right to protect their reputation. Hate speech is destructive for democratic society as a whole, since "prejudicial messages will gain some credence, with the attendant result of discrimination, and perhaps even violence, against minority groups", and therefore it should not be protected [16]. Curbing that freedom are both justified and necessary in order to counteract the sort of prejudice, hatred and contempt against certain social groups which such hate speech could promote [3].

Prophet Muhammad cartoons, Quran desecration or any other attempt for denigration, disparaging, or insulting them fall within the first category of the Court's case-law on 'hate speech' which is comprised of the gravest forms of 'hate speech' and the ECHR has considered to fall under Article 17 and thus excluded entirely from the protection of Article 10 [3] (see, *inter alia*, *Féret v. Belgium* [31]; *Vejdeland and Others v. Sweden* [16]; and *Delfi AS v. Estonia* [51]). That is because disparaging the Prophet of Islam or desecration of the Quran inherently go beyond the boundaries of acceptable criticism and reach the level of gratuitous insult or hate speech. Such conducts do not fall within the second category which is comprised of 'less grave' forms of 'hate speech'. Even if considered within the second category, the ECHR has not only put speech which explicitly calls for violence or other criminal acts within the context of permitted restrictions on freedom of expression, but has also held the attacks on persons committed by insulting, holding up to ridicule or slandering specific groups of the population can be sufficient for allowing the authorities to favor combating prejudicial speech. In cases concerning speech which does not call for violence or other criminal acts, but which the Court has nevertheless considered to constitute 'hate speech', that conclusion has been based on an assessment of the content of the expression and the manner of its delivery [3] (see *Vejdeland and Others v. Sweden* [16], and *Féret v. Belgium* [31]).

In the case of *Garaudy v. France* [19], the French court held that the impugned comments do not have to contain an incitement to hatred, violence or discrimination. It is sufficient, for the offence to be made out, for the passages to be such as to arouse those sentiments. Thus, according to the ECHR, cartooning, disrespecting, disparaging or insulting Prophet Muhammad and the Quran which produce tangible negative consequences, make Muslims shocked, hurt their feelings, and incite to hatred and discrimination against Muslims, are definitely out of protection of freedom of speech. Examining the nature of the Prophet Muhammad cartoons shows that they were made "on the grounds" of "race, ethnic origin or religion". Under the ECHR's case-law the expression that promotes or justifies violence, hatred, xenophobia or another form of intolerance cannot normally claim protection [5].

The international community should be fully aware of the acute sensitivities attached by the Muslim community to the Prophet Muhammad and the Quran. If so, any prosecutor or court who takes into account the overall thrust of Prophet Muhammad cartoons, denigrating him or disrespecting the Quran perceives them as a form of incitement to hatred or intolerance. No other evidence but the act itself is needed to prove that such acts have in themselves provoked hatred towards the Muslims, or that they attempted to incite hatred against Muslims anywhere. They should know that such acts have such inherent results regardless of their aim. If they cannot open a debate based on respect, historical facts and in a respectful way why they insist to talk about topics they are not knowledgeable about? As for the Prophet Muhammad cartoons there is no need for the cartoonists or publishers to attach a text to express explicit contempt, denigration, disparaging or hatred for Prophet Muhammad or the Quran, they are self-explanatory. The cartoons contents slander Prophet Muhammad, use abusive images, and stereotype him and Islam. These are the factors that have been already assessed by ECHR in case law (see *Perinçek v. Switzerland* [5]) and has led to the conclusion that the imposed restrictions are "necessary in a democratic society". The ECHR have arrived at the same conclusion in *Soulas and others v. France* [1], *Balsyte-Lideikiene v. Lithuania* [32], *Féret v. Belgium* [31], and *Le Pen v. France* [10].

Attacks on the Prophet of Islam or the Quran through insults, ridicule, or slander are inseparable from attacks on Muslims. They are directly inciting to hatred. Quran desecration (like Quran burning) also incites to hatred, reflects racial and religious discrimination (much more than that of the case of *Honsik v. Austria* [17] and also implicitly entails a call for an act of violence against Muslims' religion. It is an incitement to discrimination, hatred, and violence against Muslims (much more than that of the case of *Soulas and others v. France* [1]. In this regard, as the case-law stands, the ECHR stresses that discrimination based on religion and ethnic origin is as serious as discrimination (like the discrimination based on race, origin or color) and is not protected by freedom of speech (see, *inter alia*, *Honsik v. Austria* [17], *Norwood v. United Kingdom* [15], *Soulas and others v. France* [1], *Ivanov v. Russia* [14], *Féret v. Belgium* [31], *Le Pen v. France* [10], *Atamanchuk v. Russia* [21], *Vejdeland and Others v. Sweden* [16]).

5.8. Denial of the Holocaust

The ECHR, frequently referring to the historical experience of the States concerned, described the denial of the Holocaust as attacks on the Jewish community and intrinsically linked to Nazi ideology, which was antidemocratic and inimical to human rights. It regarded them as inciting to racial hatred, anti-Semitism and xenophobia, and was on that basis satisfied that the criminal convictions in respect of them had been “necessary in a democratic society” [5]. In some of those cases the Commission had relied on Article 17 as an aid in the interpretation of Article 10 § 2 of the Convention, and used it to reinforce its conclusion on the necessity of the interference. In *Garaudy v. France* [19], it found that by questioning the reality, extent and seriousness of the Holocaust, which was not the subject of debate between historians but on the contrary clearly established, Mr. Garaudy had sought to rehabilitate the Nazi regime and accuse the victims of falsifying history. Such acts were incompatible with democracy and human rights, and amounted to the use of the right to freedom of expression for ends contrary to the text and spirit of the Convention. In *Witzsch v. Germany* [52], the Court agreed with the German courts that Mr. Witzsch’s statements showed his disdain towards the victims of the Holocaust.

The same applies for the conducts against Prophet Muhammad and the Quran because they incite to racial hatred, anti-Muslimism, Islamophobia, and the criminal convictions in respect of them is “necessary in a democratic society”. By questioning the noble moral characteristics of Prophet Muhammad or the authenticity of the Quran, which are not the subject of debate between historians but on the contrary clearly established, the offenders seek to distort the history and disparage Prophet Muhammad and the Quran. Such acts are attacks on the Muslim community and are intrinsically anti-Muslim, antidemocratic, and inimical to human rights. They are incompatible with democracy and human rights, and amounted to the use of the right to freedom of expression for ends contrary to the text and spirit of the Convention.

In another case [5] the ECHR considers that, for the Court, the justification for making Holocaust 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 invariably be seen as connoting an antidemocratic ideology and anti-Semitism. Holocaust denial is thus doubly dangerous, especially in States which have experienced the Nazi horrors, and which may be regarded as having a special moral responsibility to distance themselves from the mass atrocities that they have perpetrated or abetted by, among other things, outlawing their denial [5].

Based on the case law, and according to the ECHR, for the Court, the justification for making disrespectful acts against Prophet Muhammad and the Quran a criminal offence lies both in that the noble character of the Prophet of Islam and the authenticity of the Quran as the words of God, are well-established historical facts and in view of the historical context, since they are connected to the Muslims lives, identity and dignity, in the States concerned, disrespectful acts against them, even if dressed up as impartial historical research, must invariably be seen as connoting an antidemocratic ideology and anti-Muslimism or Islamophobia.

I believe that, following the guidance of Prophet Muhammad, his successor Ali ibn Abi Talib, and other Islamic scholars, impartial historical research should be encouraged to gain a deeper understanding of the character of Prophet Muhammad, the Quran, and Islam. Similarly, if impartial research on the Holocaust were permitted, it could contribute to a better understanding of history, the Nazi killings, the suffering of the Jewish people, and possibly even some misconceptions.

5.9. Historical Debates

In determining whether the interference with the exercise of the right to freedom of expression of the authors, or sometimes publishers, of statements touching upon historical issues was “necessary in a democratic society”, The Court took into consideration several factors:

One of them was the manner in which the impugned statements were phrased and the way in which they could be construed. For example in the case of *Radio France and Others v. France* [53], the statements, which contained serious defamatory allegations were marked by their categorical tone. The ECHR considers that the reasons given by the Court of Appeal for its ruling that Mr. Junot’s honor and dignity had been damaged and its judgment against the applicants were “relevant and sufficient” and in view of the margin of appreciation left to Contracting States by Article 10 of the Convention, a criminal measure as a response to defamation cannot, as such, be considered disproportionate to the aim pursued.

Just like the case of *Radio France and Others v. France* [53], the case of Prophet Muhammad cartoons or desecration of the Quran contain serious defamatory allegations and a criminal measure as a response to defamation cannot, as such, be considered disproportionate to the aim pursued.

Another factor has been the specific interest or right affected by the statements. For instance, in *Stankov and the United Macedonian Organization Ilinden v. Bulgaria* [54], this had been the national symbols of Bulgarians. In *Radio France and Others v. France* [53] and *Chauvy and Others v. France* [55], this had been the reputations of living persons, which had been affected by serious accusations of wrongdoing contained in the statements. Similarly, in case of the denigrating attacks against the Prophet of Islam and the Quran such as cartoons of Prophet Muhammad or Quran burning, the specific interest or right affected by such disrespectful acts is the Muslims' identity. Also, the reputations of living persons (Muslims) who consider the noble character of Prophet Muhammad as their role model and the holy Quran as the central text of their religion Islam are affected by distorted facts and serious false accusations of wrongdoing contained in such exercises.

In *Monnat v. Switzerland* [56], ECHR held that the statements had not been directed against the reputation or personality rights of the persons complaining of them or against the Swiss people, but against the leaders of the country during the Second World War. This cannot be generalized to the case of Prophet Muhammad or the Quran since the identity and dignity of Muslims are closely tied to the Prophet Muhammad and the Quran. They are not separable from Muslims. In Muslims view the Prophet Muhammad and the Quran are live symbols of Islam that Muslims' lives should be planned based on their instructions (see part 1 of this Article).

Another factor is the "the statements' impact" which is discussed in section entitled "The extent to which the rights of others are affected". The other factor is "the lapse of time" which is discussed in an independent section.

5.10. The Historical Factors

In reviewing whether there exists a pressing social need for interference with rights under the Convention, the Court has always been sensitive to the historical context of the High Contracting Party concerned. For instance, in *Vogt v. Germany* [57], it took into account Germany's bitter historical experiences and its consequent desire to avoid a repetition of those experiences. The respective State's historical experience has been a weighty factor in the assessment of the existence of a pressing social need in many other cases as well.

According to the case of *Perinçek v. Switzerland* [5], the misrepresentation of Prophet Muhammad and the Quran are both denial of a clearly established historical fact and are doubly dangerous in view of the historical context. The reason is that during the history all Muslims have lived with an alive Prophet Muhammad and tried to resemble to his superior moralities. From this point of view, insulting Prophet Muhammad and the Quran are doubly dangerous. Contrary to Holocaust denial, Muslims scholars do not ban impartial historical researches about Prophet Muhammad and the Quran. However, showing false images of Prophet Muhammad and the Quran without historical references, even if dressed up as historical research, must invariably be seen as connoting an antidemocratic ideology and anti-Muslimism. The states and courts thus have a special moral responsibility to protect the reputation, rights, dignity, and identity of Muslims by, among other things, outlawing insulting cartoons, denigration of Prophet Muhammad, demonizing the Prophet or the Quran, Quran desecration or Quran burning.

5.11. The Geographical Factors

In today world and specifically in today word of information no message can be regarded as purely local. The Internet has removed all the geographical barriers and borders. The social media has removed the distance between the people of different countries, races and languages. It is also laudable, and consonant with the spirit of universal protection of human rights, for every country and state to seek to vindicate the rights of victims of violations of human rights and uphold human dignity under all circumstances and regardless of the place where they took place.

In cases of demonizing and denigrating Islamic symbols such as denigration of the Prophet Muhammad and the Quran by cartoons or other means, the interference with incitement of hatred is "necessary in a democratic society" to protect the rights and reputation of Muslims as majority or minority group inside the borders or to protect their human rights all over the world. The criminal conviction of such conducts in any country or state can protect that minority's rights and make them feel safer all over the world. Similar cases about anti-Semitism have been assessed by ECHR regardless of the place where they took place (*Ivanov v. Russia* [14], *W.P. and others v. Poland* [12], and *Garaudy v. France* [19]). This means that ECHR sees a rational connection between the measures taken by the authorities and the aim of protecting the right of reputation of others such as ethnic groups wherever they are.

The impacts of the statements or any kind of expression against Prophet Muhammad and the Quran wherever they are made, at today's age of internet and social media, are not necessarily confined or limited to a specific geographical border. Particular significance should be attached to the fact that the statements, consisting of stereotyped formulas vilifying a group of the population (Muslims), simply reach the entire population of that group (Féret v. Belgium [31]).

5.12. Lapse of Time

It has to be noted that the cases involving the Prophet Muhammad and the Quran are completely different from a historical debate. In *Lehideux and Isorni v. France* [58], the ECHR stated that, while controversial remarks concerning historical events or characters were always likely to reopen the controversy, a lapse of time of some forty years made it inappropriate to deal with them with the same severity as ten or twenty years previously. The Court has taken that line of reasoning in some other cases as well (see *Vajnai v. Hungary* [59] and *Smolorz v. Poland* [60]).

The specific connection of Muslims to Prophet Muhammad is distinct, ongoing, and relevant, remaining significant regardless of the passage of time. Muslims live with him, love him, and hold him in deep reverence. Some Muslims believe (based on Quran) that Prophet Muhammad is appointed as a witness of the people in all times. They also believe that if you talk to Prophet Muhammad, he will hear you. So, the Prophet Muhammad should be considered a live character. This cannot be disregarded because it is one of the most important circumstances of the case. The Law and the courts should warrant an enhanced degree of regulation of statements relating to Prophet Muhammad and the Quran. Such regulation cannot recede with the passage of time because unlike other cases, the connection of Muslims to their Prophet and holy book never recede with lapse of time.

5.13. Statements Impact (the Extent to Which the Rights of Others are Affected)

Having accepted that the "rights of others" sought to be protected by the interference with the offender's right to freedom of expression are rights that enjoy protection under Article 8 of the Convention (*Perinçek v. Switzerland* [5]), for the purposes of the balancing exercise, the ECHR measures the extent to which the applicant's statements affected those rights. In the case law, a related factor has been the statements' impact. In *Radio France and Others v. France* [53], the ECHR noted that the offending statements, which had contained serious defamatory allegations against a living person, had been broadcast on national radio sixty-two times which could be received throughout French territory. The Court considered that the measures taken against the applicants were not disproportionate to the legitimate aim pursued and the interference was regarded as "necessary in a democratic society".

As for the case of Prophet Muhammad cartoons, denigrating and disparaging him or the Quran, the law/court/prosecutor should be aware of the immense importance that the Muslim community attaches to anything related to Prophet Muhammad and the Quran and of that Muslims's acute sensitivity to any statement/expression/activity bearing on them. Any insulting, demonizing, mocking, or defamatory act in this case is so wounding to the dignity of the Muslims. Even if the mockers, cartoonists, or insulters claim that their aim in publishing material against Prophet Muhammad and the Quran is something different, the sting of those actions is intrinsically directed at Muslims, targeting their dignity and identity. This, coupled with the aliveness of Prophet Muhammad and Quran in Muslims point of view, leads to the conclusion that such exercises have the significantly upsetting effect sought to be attributed to them. Muslims live with Prophet Muhammad, love him, hold him and the Quran in deep reverence, and consider them as an alive Prophet and an alive book, they carry a special sensitivity for Muslims and touch on their identity. Thus Mocking, insulting, or disparaging them is particularly virulent and is disseminated in a form that is impossible to ignore, resulting in significant damage to the dignity of Muslims. Most of the cases in which the Commission and the Court have accepted the breach of Article 10 of the Convention are those relating to Holocaust denial (*Perinçek v. Switzerland* [5]). As for the Prophet Muhammad and the Quran, it should be understood that their mocking, cartooning, demonizing, and disparaging are much more upsetting for Muslims and results in more significant damage for the dignity of Muslims than the Holocaust denial for the Jews.

5.14. Denial by others and Criticism,

As the ECHR pointed out in its previous judgments [61], freedom of thought, conscience and religion, which is safeguarded under Article 9 of the Convention, is one of the foundations of a "democratic society" within the meaning of the Convention. It is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life. Those who choose to exercise the freedom to manifest their religion, irrespective of whether they do so as members of a religious majority or a minority, cannot reasonably

expect to be exempt from all criticism. They must tolerate and accept the denial by others of their religious beliefs and even the propagation by others of doctrines hostile to their faith. However, the manner in which religious beliefs and doctrines are opposed or denied is a matter which may engage the responsibility of the State, notably its responsibility to ensure the peaceful enjoyment of the right guaranteed under Article 9 to the holders of those beliefs and doctrines. Indeed, in extreme cases the effect of particular methods of opposing or denying religious beliefs can be such as to inhibit those who hold such beliefs from exercising their freedom to hold and express them. If the respect for the religious feelings of believers as guaranteed in Article 9 is violated by provocative portrayals of objects of religious veneration; such portrayals can be regarded as malicious violation of the spirit of tolerance, which must also be a feature of democratic society. Thus the Convention is to be read as a whole and therefore the interpretation and application of Article 10 in such cases must be in harmony with the logic of the Convention [61][2]. The relation of the disrespect against the Prophet of Islam or the Quran to criticism was analyzed in Part 1 of this article. Thus, it is evident that such disrespect is not merely a form of critique; it often embodies deeper biases that target the dignity and identity of Muslims as a whole.

6. ECHR three-condition language applicable to cases involving Prophet Muhammad and the Quran

Table 6 summarizes the ECHR's analysis of the three-condition test as applied in relevant case law. Each column of the table corresponds to one of the conditions of the ECHR's three-condition test. While the table itself focuses on a broader range of cases, it highlights legal principles that can be directly applicable to matters involving the denigration, disparagement, and defamation of Prophet Muhammad, as well as the desecration of the Quran. This analysis underscores how the established three-condition test serves as a guiding framework for evaluating the lawful regulation of actions related to cartooning, insulting, mocking, and disrespecting Prophet Muhammad, along with the desecration of the Quran. Consequently, the insights drawn from this case law provide a critical basis for understanding the legal parameters surrounding these specific religious issues.

Table 6. Court orders (results of the ECHR three-condition test) applicable to cartoons, insults, mockery, and disparagement of Prophet Muhammad, as well as disrespect and discrediting of the Quran, and Quran burning. Each column of the table corresponds to one of the conditions of the ECHR's three-condition test.

Whether the interference is "prescribed by law"	Whether the interference pursues a legitimate aim	Whether the interference is "necessary in a democratic society"
Incitement of discrimination and hatred against Muslims (G. Soulas and others v. France [1])	To protect of the rights of persons of foreign origin and the fight against racism (G. Soulas and others v. France [1]).	By making the complaint, whose wording is anti-Semitic and offensive, the applicants essentially seek to use Article 14 taken together with Article 11 to provide a basis under the Convention for a right to engage in activities which are contrary to the text and spirit of the Convention and which right, if granted, would contribute to the destruction of the rights and freedoms set forth in the Convention (W.P. and others v. Poland [12]).
Systematic negative elements, intended to provoke in the Muslims a feeling of rejection and antagonism (G. Soulas and others v. France [1])	To ensure the prevention of disorder and to protect the reputation and rights of others (G. Soulas and others v. France [1], Le Pen v. France [10], Vejdeland and Others v. Sweden [16], Nachtmann v. Austria [63], Marais v. France [27], Pastörs v. Germany [62], Williamson v. Germany [39])	That statements of the kind the applicant made ran counter one of the basic ideas of the Convention, as expressed in its preambular, namely justice and peace, and further reflect racial and religious discrimination (Honsik v. Austria [17]).
Clear and deliberate incitation of discrimination, segregation or hatred, and even violence, for reasons of race, color or national or ethnic origin (Féret v. Belgium [31])	The interference with the right to freedom of expression of deliberate incitation of discrimination, segregation or hatred, and even violence, for reasons of race, color or national or ethnic origin had the legitimate aims of preventing disorder and of protecting the rights of others (Féret v. Belgium [31]).	The applicant is essentially seeking to use the freedom of information enshrined in Article 10 as a basis for activities which are contrary to the text and spirit of the Convention and which, if admitted, would contribute to the destruction of the rights and freedoms set forth in the Convention (Honsik v. Austria [17]).
The objectives of the association had been insulting and discriminating against members of the ethnic minority (W.P. and others v. Poland [12])	The applicants seek to employ Article 11 as a basis under the Convention for a right to engage in activities which are contrary to the text and spirit of the Convention and which right, if granted, would contribute to the destruction of the rights and freedoms set forth in the Convention. The impugned interference with the applicants' right to freedom of association, pursued the legitimate aim of the protection of "national security" and	The Government maintains that the remarks made were aimed at a large group of people, exceeded the limit of admissible criticism, and were in no way based on proven facts. The ECHR notes that several passages in the book present a negative image of the targeted communities. The style is sometimes polemical. It is of the utmost importance to combat racial discrimination in all its forms and manifestations. The remarks made in the book were intended to provoke in the reader a feeling of rejection and antagonism (Soulas and others v. France [1]).
He had sought to incite hatred towards the Jewish people. Such a general, vehement attack on one ethnic group is directed against the Convention's underlying values, notably tolerance, social peace and non-discrimination (Ivanov v. Russia [14])		It may be necessary in certain democratic societies to sanction or even prevent all forms of expression which spread, incite, promote or justify hatred based on intolerance including religious intolerance. The leaflets presented the communities in question as criminally minded. They also sought to make fun of the immigrants concerned, with the inevitable risk of arousing, particularly among less knowledgeable members of the public, feelings of distrust, rejection or even hatred towards foreigners (Féret v. Belgium [31]).
Such a general, vehement attack against a religious group, linking the group as a whole with a grave act of terrorism, is incompatible with the values proclaimed and guaranteed by the Convention, notably tolerance, social peace		

<p>and non-discrimination (Norwood v. United Kingdom [15])</p>	<p>“the rights and freedoms of others.” (W.P. and others v. Poland [12])</p>	<p>The comments had certainly presented the “Muslim community” as a whole in a disturbing light likely to give rise to feelings of rejection and hostility (Le Pen v. France [10]).</p>
<p>The denial of these historic facts and the discrediting of reports thereof as false propaganda constituted an offence (Honsik v. Austria [17])</p>	<p>The government pursued a legitimate aim of protection of the rights of persons of foreign origin and the fight against racism. The interference was intended to ensure the prevention of disorder and to protect the reputation and rights of others (Soulas and others v. France [1]).</p>	<p>By publishing ‘Lithuanian calendar 2000’, the applicant had disseminated information promoting racial and ethnic hatred. Under international law Lithuania had an obligation to prohibit any advocacy of national hatred and to take measures to protect persons who might be subject to such threats as a result of their ethnic identity. The applicant had expressed aggressive nationalism and ethnocentrism and made statements inciting hatred against the Poles and the Jews which were capable of giving the Lithuanian authorities cause for serious concern (Balsyte-Lideikiene v. Lithuania [32]).</p>
<p>Incitement to discrimination, hatred or violence against a person or a group of persons because of their origin or their membership or non-membership of a race, a nation, an ethnic group or a religion (Soulas and others v. France [1], Zemmour v. France [30])</p>	<p>Anyone who engaged in a debate on a matter of public interest could resort to a degree of exaggeration, or even provocation, provided that they respected the reputation and rights of others (the legitimate aim of protecting the reputation or rights of others) (Le Pen v. France [10]).</p>	<p>Offensive language may fall outside the protection of freedom of expression if it amounts to “wanton denigration”. The language used in the article, was such as to “offend, shock or disturb”. It is questionable whether the content of the article was “capable of contributing to the public debate” on the relevant issue or that its “principal purpose” was to do so. The sentences in the present case were imposed in the context of the legislation aimed at fighting hate speech and were aimed at protecting the “rights of others”, specifically the dignity of people of a non-Russian ethnicity (Atamanchuk v. Russia [35]).</p>
<p>Attacks on persons committed through insults, ridicule or defamation aimed at specific population groups or incitement to discrimination, as in this case, sufficed for the authorities to give priority to fighting hate speech when confronted by the irresponsible use of freedom of expression which undermined people’s dignity, or even their safety (Féret v. Belgium [31])</p>	<p>The applicant’s views were a threat to the identity of the Armenian community. A distinction needs to be drawn between the dignity of the deceased and surviving victims and the dignity, including the identity, of present-day Armenians as their descendants. Many of the descendants, especially those in the Armenian diaspora– construct that identity around the perception that their community has been the victim of genocide (Perinçek v. Switzerland [5]).</p>	<p>Inciting to hatred does not necessarily entail a call for an act of violence, or other criminal acts. Attacks on persons committed by insulting, holding up to ridicule or slandering specific groups of the population can be sufficient for the authorities to favour combating racist speech in the face of freedom of expression exercised in an irresponsible manner (Vejdeland and Others v. Sweden [16])</p>
<p>Incitement to discrimination, hatred and violence towards a group of people because of their origin or their membership or non-membership of a specific ethnic group, nation, race or religion (Le Pen v. France [10])</p>	<p>The interference with the applicant’s statements, in which he denied that the Armenians had suffered genocide, was intended to protect that identity, and thus the dignity of present-day Armenians (Perinçek v. Switzerland [5]).</p>	<p>The applicant’s comments, were “serious, severely hurtful and prejudicial” and that protecting certain groups from such attacks to ensure their enjoyment of their human rights equally to others was compatible with the national democratic tradition. As for deciding whether a “pressing social need” existed, the Court observes that the Supreme Court stressed that along with right for freedom of expression, people also have obligations to avoid statements that are unwarrantably offensive to others, constituting an assault on their rights. The statements in the leaflets had been unnecessarily offensive. Curbing the applicant’s freedom of expression was both justified and necessary in order to counteract the sort of prejudice, hatred and contempt against certain social groups which his comments could promote (Lilliendahl v. Iceland [3]).</p>
<p>The applicant had intended to use aggressive language by way of drawing an image of an enemy for inciting hatred and enmity and of debasing the human dignity of a person or group of people on account of their ethnicity, language, origin and religious beliefs (Atamanchuk v. Russia [35])</p>	<p>By withdrawing the publication from distribution and imposing an administrative fine on the applicant, the authorities sought to prevent the spreading of ideas which might violate the rights of ethnic minorities living in Lithuania (Balsyte-Lideikiene v. Lithuania [32]).</p>	<p>The interference with the applicant’s freedom of expression (publishing an offending cartoon aiming at the Jewish community) had been necessary in a democratic society (Bonnet v. France [24]).</p>
<p>Agitation against a national or ethnic group by statements that threatened or expressed contempt for a group of people (Vejdeland and Others v. Sweden [16])</p>	<p>The discrimination on account of, inter alia, a person’s ethnicity is a form of racial discrimination. Negative stereotyping of an ethnic group was capable, when reaching a certain level, of having an impact on the group’s sense of identity and on its members’ feelings of self-worth and self-confidence. The interference was aimed at protecting the “rights of others”, specifically the dignity of people of a non-Russian ethnicity (Atamanchuk v. Russia [35]).</p>	<p>Destruction of the rights and freedoms guaranteed by the Convention. The Court affirms that the provisions aim to secure the peaceful coexistence of the French population. The grounds on which the domestic courts convicted him of publishing racially defamatory statements and inciting to racial hatred were relevant and sufficient, and the interference “necessary in a democratic society” within the meaning of Article 10 § 2 of the Convention (Garaudy v. France [19]).</p>
<p>Publicly mocking, defaming, denigrating or threatening a person or group of persons for certain characteristics. Account should not be taken of the motives which the applicant claims were behind their expression and his conduct must be considered intentional. Curbing the applicant’s freedom of expression was both justified and necessary in order to counteract the sort of prejudice, hatred and contempt against certain social groups which such hate speech could promote (Lilliendahl v. Iceland [3])</p>	<p>To protect the right to respect for private life and the right to enjoy human rights equally to others, as well as to safeguard the rights of social groups which have historically been subjected to discrimination (Lilliendahl v. Iceland [3]).</p>	<p>Insulting statements did not fall within the free criticism of religion contributing to a debate of general interest, but constituted an insult, targeting a group of people on account of their origin, the prohibition of which was a necessary restriction on freedom of expression in a democratic society (M’bala M’bala v. France [9]).</p>
	<p>By convicting him for the offences</p>	<p>The author’s conviction was fully justified by the necessity of maintaining social cohesion and public order. The Commission further justified the restrictions on the applicant’s freedom of expression, as necessary in a democratic society. Such a society rests on the principles of tolerance and broad-mindedness which the pamphlets in question clearly failed to observe ((Faurisson v.</p>

<p>The court found him guilty of the offences of proffering a public racial insult and of questioning the existence of a crime against humanity by drawing and publishing an offending cartoon aimed directly at the Jewish community. The offending cartoon did not fall within the register of art, humour and politics (Bonnet v. France [24])</p>	<p>of proffering a public racial insult because of the offending cartoon against Jewish community and sentencing him and deleting the cartoon from the websites, the court weighed in the balance between the applicant's right to freedom of expression, on the one hand, and the protection of the rights of others, on the other (Bonnet v. France [24]).</p>	<p>France [11]).</p>
<p>The existence of clearly established historical events, such as the Holocaust, did not constitute historical research akin to a quest for the truth. The denial or rewriting of this type of historical fact undermined the values on which the fight against racism and anti-Semitism was based and constituted a serious threat to public order. there is a "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. Such acts are incompatible with democracy and human rights because they infringe the rights of others (Garaudy v. France [19])</p>	<p>The interference with his right to freedom of expression had at least two legitimate aims: "the prevention of disorder or crime" and "the protection of the reputation or rights of others" (Garaudy v. France [19]).</p>	<p>The domestic courts discussed the permissible limits of criticism of religious doctrines versus their disparagement, and found that the applicant's statements (disparaging Prophet of Islam) had been likely to arouse justified indignation in Muslims. They were not phrased in a neutral manner aimed at making an objective contribution to a public debate but amounted to a generalization without a factual basis. By considering the statements as going beyond the permissible limits of an objective debate and classifying them as an abusive attack on the Prophet of Islam, which was capable of stirring up prejudice and putting religious peace at risk, the domestic courts concluded that the facts at issue contained elements of incitement to religious intolerance. The applicant's statements could only be understood as having been aimed at demonstrating that Muhammad was not a worthy subject of worship. She must have been aware that her statements were partly based on untrue facts and liable to arouse (justified) indignation in others. The ECHR accepts that the domestic courts put forward relevant and sufficient reasons and finds that the interference with the applicant's rights under Article 10 did correspond to a pressing social need and was proportionate to the legitimate aim pursued. It considers that the domestic courts did not overstep their – wide – margin of appreciation when convicting the applicant of disparaging religious doctrines. Accordingly, there has been no violation of Article 10 of the Convention (E. S. v. Austria [25]).</p>
<p>Mocking symbols of the Jewish religion and the blatant display of a hateful and anti-Semitic position disguised as an artistic production cannot enjoy the protection of Article 10 (M'bala M'bala v. France [9])</p>	<p>The contents of the program included statements about immigrant workers which were highly insulting. The restriction pursued a legitimate aim covered by Article 10(2) of the Convention, namely the protection of the reputation and rights of others (Jersild V. Denmark [7]).</p>	<p>The applicant holds a leading position within groups which aim at undermining public order or the autonomy or independence of the Austrian Republic through its members' activities inspired by National Socialist ideas (Schimanek v. Austria [64]).</p>
<p>Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law (Faurisson v. France [11])</p>	<p>The restriction served the respect of the Jewish community to live free from fear of an atmosphere of anti-semitism. The restrictions on the applicant's freedom of expression, was covered by a legitimate purpose namely the protection of the reputation of others (Faurisson v. France [11]).</p>	<p>Contrary to the applicant's assertion that Article 10 para 2 of the convention does not apply to the "scientific research", assuming that this was a scientific publication, paragraph 2 of Article 10 makes no distinction as to the type of expression in question. Article 17 prevents a person from deriving from the convention a right to engage in activities aimed at the destruction of any of the rights and freedom set forth in the convention (Marais v. France [27]).</p>
<p>The statements in substance accused Muhammad, and in that respect lacked a sufficient factual basis; they were disparaging towards Muhammad and therefore had not contributed to an objective public debate. The critical statements regarded by believers as extremely insulting and provocative, as well as general vehement attacks on a religious or ethnic group, were incompatible with the values of tolerance, social peace and non-discrimination which underlay the Convention and therefore were not protected by the right to freedom of expression (E. S. v. Austria [25])</p>	<p>The applicant's criminal conviction had pursued the legitimate aim of maintaining order (protecting religious peace) and protecting the rights of others (namely their religious feelings). The impugned statements had not been part of an objective discussion concerning Islam, but had rather been aimed at defaming Muhammad, and therefore had been capable of arousing justified indignation. The impugned interference pursued the aim of preventing disorder by safeguarding religious peace, as well as protecting religious feelings, which corresponds to protecting the rights of others within the meaning of Article 10 § 2 of the Convention (E. S. v. Austria [25]).</p>	<p>Denial and downplaying of the genocide perpetrated against the Jews had disparaged the dignity of the Jewish victims and had been capable of severely disturbing the public peace in Germany (Williamson v. Germany [39]).</p>
<p>For protection of morals and the rights of people on the ground of their origin or their membership or non-membership of a specific ethnic group, nation, race or religion against inciting to</p>	<p>The interference aimed to protect morals and the rights of others and did not infringe Article 10 of the Convention. The confiscation of the paintings was designed to protect public morals by preventing any repetition of the offence with which the applicants were charged. The applicants' conviction and the confiscation had a legitimate aim under Article 10 § 2 (Müller and others v. Switzerland [28]).</p>	<p>The applicant intentionally stated untruths in order to defame the Jews and the persecution that they had suffered during the Second World War. The Court considers that the applicant's impugned statements affected the dignity of the Jews to the point that they justified a criminal-law response (Pastörs v. Germany [62]).</p>
	<p>The seizure and forfeiture of the film aimed at the "protection of the rights of others", including the right to freedom of religion within the</p>	<p>As for the confiscation of the paintings, a principle of law which is common to the Contracting States allows confiscation of "items whose use has been lawfully adjudged illicit and dangerous to the general interest". The purpose was to protect the public from any repetition of the offence. The applicants' conviction responded to a genuine social need under Article 10 § 2 of the Convention (Müller and others v. Switzerland [28]).</p>
		<p>The respect for the religious feelings of believers as guaranteed in Article 9 is violated by provocative portrayals of objects of religious veneration; which can be regarded as malicious violation of the spirit of tolerance, which is a feature of democratic society. Amongst them - in the context of religious opinions and beliefs - may legitimately be included an obligation to avoid as far as possible expressions that are gratuitously offensive to others and thus an infringement of their rights, and which do not contribute to public debate. It may be considered necessary in certain democratic societies to sanction or even prevent improper attacks on objects of religious veneration, provided always that any "formality", "condition", "restriction" or "penalty" imposed be proportionate to the legitimate aim pursued. There was a pressing social need for the preservation of</p>

discrimination, hatred or violence (Marais v. France [27])	meaning of Article 9 and also aimed at the protection of the right to respect for one’s religious feelings, and at "the prevention of disorder". The measures were based on section 188 of the Austrian Penal Code, which is intended to suppress behavior directed against objects of religious veneration that is likely to cause "justified indignation". Their purpose was to protect the right of citizens not to be insulted in their religious feelings by the public expression of views of other persons. The impugned measures pursued a legitimate aim under Article 10 para. 2, namely "the protection of the rights of others" (Otto-Preminger-Institute v. Austria [2]).	religious peace; it had been necessary to protect public order against the film. The film was seized to ensure religious peace and to prevent that some people should feel the object of attacks on their religious beliefs in an unwarranted and offensive manner. The court held that there has been no violation of Article 10 of the Convention as regards either the seizure or the forfeiture of the film (Otto-Preminger-Institute v. Austria [2]).
Intentionally and knowingly asserting or disseminating an untruth related to another person (intentionally stating untruths in order to defame the Jews and the persecution that they had suffered, an event which formed an inherent part of their personal dignity) that may defame him or negatively affect public opinion about him or endanger his creditworthiness (Pastörs v. Germany [62])		Certain passages in the novel in question had attacked the Prophet Muhammad in an abusive manner. The book in issue had contained an abusive attack on Islam and had offended and insulted religious feelings. The criticism of Islam in the book had fallen short of the level of responsibility to be expected of criticism. As Article 10-2 recognizes, the exercise of freedom of expression carries with it duties and responsibilities. Among them, in the context of religious beliefs, may legitimately be included a duty to avoid expressions that are gratuitously offensive to others and profane. This being so, as a matter of principle it may be considered necessary to punish improper attacks on objects of religious veneration. The present case concerns not only comments that offend or shock, or a “provocative” opinion, but also an abusive attack on the Prophet of Islam. The Court therefore considers that the measure taken in respect of the statements in issue was intended to provide protection against offensive attacks on matters regarded as sacred by Muslims. In that respect it finds that the measure may reasonably be held to have met a “pressing social need” (Ī.A. v. Turkey [20]).
Downplaying of the genocide perpetrated against the Jews and disparaging the dignity of the Jewish victims (Williamson v. Germany [39])	The applicant’s right to freedom of expression had pursued the legitimate aims of preventing disorder and protecting morals and the rights of others within the meaning of Article 10 § 2 (Ī.A. v. Turkey [20]).	The video work was clearly a provocative and indecent portrayal of an object of religious veneration, that its distribution would have been sufficiently public and widespread to cause offence and that it amounted to an attack on the religious beliefs of Christians which was insulting and offensive. The Court observes that the refusal to grant the video a distribution certificate was intended to protect "the rights of others", and more specifically to provide protection against seriously offensive attacks on matters regarded as sacred by Christians (Wingrove v. United Kingdom [29]).
The Court ordered the forfeiture of the film (a specific sanction provided for by the Media Act) in which disparaged images of God, Christ, and Mary are presented and the Eucharist is ridiculed, came within the definition of the criminal offence of disparaging religious precepts. If a work of art impinges on the freedom of religious worship guaranteed by Article 14 of the Basic Law, that may constitute an abuse of the freedom of artistic expression and therefore be contrary to the law (Otto-Preminger-Institute v. Austria [2])	The aim of the interference was to protect against the treatment of a religious subject in such a manner "as to be calculated (that is, bound, not intended) to outrage those who have an understanding of, sympathy towards and support for the Christian story and ethic, because of the contemptuous, reviling, insulting, scurrilous or ludicrous tone, style and spirit in which the subject is presented". This aim undoubtedly corresponds to that of the protection of "the rights of others" within the meaning of paragraph 2 of Article 10 (Wingrove v. United Kingdom [29]).	The remarks were aimed at the Muslim community as a whole, and therefore at a group of persons who were victims of discrimination designated by the criterion of religion. By presenting people of the Muslim faith as a threat to public security and republican values and that by postulating their necessary solidarity with the violence committed in the name of their faith, the applicant nurtured a feeling of generalized rejection towards them and was not limited to a criticism of Islam or the rise of religious fundamentalism in the French suburbs (Zemmour v. France [30]).
The impugned measure (confiscation of the paintings of obscenity) was "prescribed by law" within the meaning of Article 10 § 2 of the Convention (Müller and others v. Switzerland [28]).	The applicant’s conviction for incitement to discrimination was intended to protect the reputation or rights of others, in this case those of persons of the Muslim faith (Zemmour v. France [30]).	

7. Legal Measures in Case Law Applicable Against Disrespect towards Prophet Muhammad and the Quran

Table 7 displays the legal measures that have been applied in various case law contexts, most of which pertain to hate speech, defamation, insulting expressions, and disparagement.

Table 7. The legal measures applied in various case law contexts, primarily related to hate speech, defamation, insulting expressions, and disparagement.

Case-Law	Imposed Sentences
Displaying anti-Muslim poster (Norwood v. United Kingdom [15])	GBP 300
Authoring and publishing articles against Jews (Ivanov v. Russia [14])	A fine of 10,000 Russian roubles (approximately 300 euros).
The objectives of the association had been insulting and discriminating against members of the ethnic minority (W.P. and others v. Poland [12])	W.P. and others were prohibited from the formation of the National and Patriotic Association of Polish Victims of Bolshevism and Zionism.
Denying the existence of gas chambers and mass extermination and discrediting such claims as false propaganda (Honsik v. Austria [17])	Imprisonment of one year six months and ten days.
Inciting hatred and violence against Muslim communities Soulas and others v. France [1]	Fine of 50,000 French francs (FRF), i.e. the equivalent of 7,622.45 euros (EUR).
Attacks committed through insults, ridicule or defamation aimed at Muslims or incitement to discrimination (Féret v. Belgium [31])	The court sentenced Mr Féret to 250 hours of community service related to the integration of immigrants, together with a 10-month suspended prison sentence. It declared him ineligible for ten years.

Incitement to discrimination, hatred and violence towards Muslims (Le Pen v. France [10])	10,000 Euros
His motives appeared to be racist and nationalistic and that his statements did not contribute to the historical debate (Perinçek v. Switzerland [5]).	90 day-fines of 100 Swiss francs each, suspended for two years, a fine of 3,000 Swiss francs, which could be replaced by 30 days' imprisonment, and 1,000 Swiss francs in compensation to the Switzerland-Armenia Association for non-pecuniary damage.
Publishing a calendar which insulted the persons of Polish, Russian and Jewish origin (Balsyte-Lideikiene v. Lithuania [32]).	A penalty of administrative warning was imposed upon her and 1036 copies of the edition and the means to produce it were confiscated.
Defamation by writing in a newspaper article against Islam (Langballe v. Denmark [13]).	A fine of DKK 5,000 (USD 888)
Using aggressive language by way of drawing an image of an enemy for inciting hatred and enmity and of debasing the human dignity of a person or group of people on account of their ethnicity, language, origin and religious beliefs (Atamanchuk v. Russia [21]).	He was fined 200,000 Russian roubles (about 5086 euros (EUR) at the time). He was also prohibited from exercising any journalistic or publishing activities for two years.
Agitation against a national or ethnic group by using statements that are unwarrantably offensive to them thus constituting an assault on their rights (Vejdeland and Others v. Sweden [16]).	The first three applicants were given suspended sentences combined with fines ranging from SEK 1,800 (approximately 200 euros (EUR)) to SEK 19,000 (approximately EUR 2,000) and the fourth applicant was sentenced to probation.
Publicly mocking, defaming, denigrating or threatening a person or group of persons for certain characteristics (Lilliedahl v. Iceland [3])	100,000 Icelandic krónur (approximately 800 euros at the time)
Drawing a parody of the front page of the weekly Charlie Hebdo, with various elements of the offending cartoon, aimed directly at the Jewish community (Bonnet v. France [24]).	100 day-fines at EUR 100, totalling EUR 10,000. Also, deletion of the cartoon and the offending remarks from the website, on pain of a fine of 300 euros per day of non-compliance.
Denial of the existence of the crimes against humanity (Holocaust) committed against the Jewish community, publicly defaming a group of persons (the Jewish community), damaging the honour and reputation of that community, publicly defaming a group of persons on the ground of their membership or nonmembership of a particular ethnic group or race, namely the Jewish community (Garaudy v. France [19]).	1. A suspended term of six months' imprisonment and a fine of 50,000 French francs (FRF). Mr Guillaume was given a suspended term of six months' imprisonment and fined FRF 30,000 for aiding and abetting the denial of a crime against humanity by publishing the book. 2. A fine of FRF 30,000 and a compensation of FRF 10,000. 3. A fine of FRF 50,000, a compensation of FRF 10,000, and a suspended term of six months' imprisonment. 4. A fine of FRF 20,000, compensations of FRF 10,000, FRF 5,000, and FRF 1, a suspended term of three years' imprisonment, and ordering the payment of FRF 20,000 to LICRA. 5. A suspended term of three months' imprisonment and a fine of FRF 20,000. The five suspended prison sentences were ordered to run concurrently. The fines (totalling FRF 170,000) were cumulative, however, as were the amounts payable to the civil-party associations (totalling FRF 220,021).
Publishing defamatory remarks (consisted of series of inarticulate, defamatory remarks and insults) about immigrants in Denmark (Jersild v. Denmark [7]).	The producer and the program controller were sentenced to pay day-fines totalling 1,000 and 2,000 Danish kroner, respectively, or alternatively to five days' imprisonment.
Proffering a public insult directed at persons of Jewish origin or faith with the intention to undermine the foundation of the Jewish people (M'bala M'bala v. France [9]).	A fine of 10,000 euros (EUR) and the publication, at the applicant's expense and not exceeding EUR 3,000, of a notice in the daily newspapers.
Describing the historical fact of the assassination of millions of Jews as a lie and Zionist swindle (Faurisson v. France [11]).	Fines and costs amounting to FF 326,832.
Disparaging, degrading, and defaming Muhammad, the Prophet of Islam (E. S. v. Austria [25]).	A fine of EUR 480, which would result in sixty days' imprisonment in the event of default.
Public insults based on origin, religion, race or ethnicity (Galliano v. France [65] [66]).	A fine of €6,000 (£5,200)
Inciting racial hatred against Muslims by remarks made in her book and attacking the Islamic rituals (Bardot v. France [67], [68])	A fine of €5000 (\$6000) and a fine of 15,000 euros (23,000 dollars)
Hateful statements towards people as a religious group and serious degradation of a group's human dignity (A. v. Norway [26]).	A fine of NOK 12000 alternatively to accept 8 days of imprisonment
Suggesting that the number of the victims of the mass killings of Jews was highly exaggerated and technically impossible (Nachtmann v. Austria [63]).	A fine of AS 192,000 and the sentence to nine months' imprisonment on probation
Denying the systematic killing by use of toxic gas under the National Socialist regime (Schimanek v. Austria [64]).	Eight years' imprisonment
Doubting the existence of gas chambers at Struthof-Natzweiler concentration camp (Marais v. France [27]).	A fine of 10000 French Francs and paying damages to the associations which had joined the proceeding
Denial and downplaying of the genocide perpetrated against the Jews and disparaging the dignity of the Jewish victims (Williamson v. Germany [39]).	A fine of 1800 euros (EUR)
Defaming the persecution of the Jews in Germany, an event which formed an inherent part of their personal dignity (Pastörs v. Germany [62]).	Eight months' imprisonment, suspended on probation
Disparaging the dignity of the Jewish victims (Williamson v. Germany [39]).	A 90 day-fines of EUR 20 each
Publishing obscene material (Müller and others v. Switzerland [28]).	A fine of 300 Swiss francs (SF) and removal and confiscation of the disputed pictures
Disparagement of God, Christ, Mary and the Eucharistic ceremony as an attack on Christian religion in a film (Otto-Preminger-Institute v. Austria [2]).	Seizure and forfeiture of the film
Insulting God, the Religion, the Prophet and the Holy Book of Islam (I.A. v. Turkey [20]).	A total fine of 3,291,000 Turkish liras
Statements against Islam and Muslims (Zemmour v. France [30]).	A fine of EUR 3000
Drawing cartoons deemed offensive to Muslims (Nekschot v. Netherlands [34]).	30 hour detention and removing the online cartoons
Publishing a cartoon which suggested the Holocaust was made up or exaggerated by Jews (Arab European League's (AEL) v. Netherlands [69]).	A fine of 2,500 euros (\$3,200) and a 2-year probation period
Causing religiously aggravated intentional harassment by leaving offensive religious images in a public place (Taylor v. United Kingdom [70]).	A five-year Anti-social Behaviour Order (Asbo), six-month prison (suspended for two years), 100 hours of unpaid work, and paying £250 costs

8. Religious Discrimination

8.1. A Discrimination that is Evident to All

There is a concerning trend in many societies where discriminatory treatment of Islam is allowed while hate speech against other groups is criminalized. This double standard raises questions about the fairness and consistency of laws and regulations pertaining to freedom of speech and protection against discrimination. Such differential treatment not only perpetuates negative stereotypes and prejudices against Islam but also undermines efforts to promote equality and respect for all religious beliefs. It is essential for legal frameworks to be applied consistently and impartially to combat all forms of hate speech and discrimination, regardless of the targeted group or belief system.

In the case of *Houellebecq v. France* [71], the Islam and the Quran were explicitly insulted in Mr. Houellebecq's book. His book, as quoted by the prosecution to show that his hatred of Islam was a deep conviction. However, he was acquitted by a Paris court of charges of inciting racial hatred. In its ruling, the Paris court acknowledged that "Mr. Houellebecq's remark about Islam is 'without a doubt characterized by neither a particularly noble outlook nor by the subtlety of its phrasing but it is not a punishable offense. This remark does not contain any intent to abuse verbally, show contempt for or insult the followers of the religion in question'. The head of the Mosque of Lyon, Kamel Kabtane, said that the result had been expected: "Justice has sided with the ones who want to humiliate Islam. I am not surprised given the way the trial was going. Islam now can be insulted freely. The permission to insult Islam has now been given."

In April 2003, during another issue of the *Jyllands-Posten* (the same newspaper that had published the Prophet cartoons), a collection of unsolicited Jesus cartoons, submitted by Christopher Zieler, was declined for publication due to concerns that readers might disapprove of the cartoons, potentially leading to a strong public reaction [72]. In another analogous case, shortly after the protests erupted over the Danish Prophet Muhammad cartoons, the *Guardian* reported that *Jyllands-Posten* had refused to publish drawings mocking Jesus Christ for fear of provoking "an outcry" among Danish Christians [73]. If the intention of the Danish newspaper *Jyllands-Posten* was not to cause offence, there clearly was a purpose of trying to achieve some kind of victory over Muslims, to bring Muslims into line.

In 2023, in Stockholm, Sweden, far-right demonstrators burned a Quran and chanted anti-Muslim slogans in front of Turkey's embassy. Sweden's granted a permit to the right-wing group to hold the demonstration which took place under heavy police protection [74]. The Quran burning was led by Rasmus Paludan, who led the Danish far-right political party *Hard Line*. He also has Swedish citizenship and staged the event, gave an hour-long speech against Islam and immigration before setting fire to a copy of the Quran. Swedish authorities say the protest was legal under the country's free speech laws [75]. While the *Jersild v. Denmark* [7] demonstrates that Denmark is willing to use its statutes to prosecute and convict hate speech, in March 2023, members of a far-right group in Denmark burned a copy of the Quran under the protection of the state. The group broadcasted the burning on a Facebook Live broadcast. They also displayed Islamophobic banners [76]. In Jan 2023, the anti-Islam activist Rasmus Paludan burned copies of the Muslim holy book near a Copenhagen mosque and outside the Turkish embassy in Denmark. Paludan, who had police protection, was then driven away in a police car [77].

ECHR believes that the negations or revisions of the clearly established historical facts such as the Holocaust are removed from the protection of Article 10 by Article 17 (*Lehideux And Isorni v. France* [58]). This stands in contradiction to the ECHR's conclusion in the case of *Perinçek v. Switzerland* [5], where the court ruled that the denial of the Armenian genocide is different from Holocaust denial and determined that it was not necessary, in a democratic society, to subject the applicant to a criminal penalty in order to protect the rights of the Armenian community at stake in that case. In this regard, *Dieudonné M'Bala M'Bala* argued that he had sought to show that in France any allusion to the Holocaust which ran counter to the requisite respect for the latter was regarded as an aggression, whilst the questioning of other genocides was tolerated [9].

Investigating the case-law shows that courts and lawmakers selectively protect the dignity of certain communities and minority groups more than others. Most of the courts worldwide address anti-Semitism as a unique form of hatred. Most of the jurisdictions have outlawed Holocaust denial and consider it hate speech. The case-law shows that, anything that has slightest relation to anti-Semitism or Holocaust denial or as a rule whether made at public rallies or in media such as books, newspapers, or radio or television programs are severely prosecuted and then convicted by the courts because they deny an unwritten social/cultural norm in the Jewish community and in the West—honoring the memory of the Holocaust—that lately has even become a legal norm inscribed in some Western countries' legislation.

To Muslims, a key irony is the hypocrisy of free-speech doctrines that restrict Holocaust deniers (e.g., the imprisonment of holocaust deniers) while allowing anti-Islamic expressions. The suggestion that Muslims are not the subject of racism because they are a religious group is nonsense when one considers that the victimization of another religious group, the Jews, is paradigmatic of many peoples' understanding of racism [78]. What Muslims rightly notice is that Western society protects certain vulnerabilities and sensibilities but not theirs, and that incitement by Muslims is more likely to be punished than incitement against Muslims. Most Muslims simply want European societies to take some of their concerns and sensibilities into account in the same way that those of others have been taken into account, institutionalized, and normalized. In this way, certain things are not openly discussed in public, and the law plays a role in maintaining this. The international community needs to extend the same sympathies and protections to Muslims that it already practices in relation to other minorities [78].

The failure to differentiate between the founder of Islam and those who commit atrocities in his name, especially compared to the willingness of Western cartoonists to make such distinctions regarding Christian and Jewish fundamentalists, has fueled significant outrage in the Muslim world over Western depictions of Prophet Muhammad. While some mistakenly perceive this as Muslims seeking special treatment or exemption from freedom of speech, the reality, is that Muslims are advocating for equal treatment. Their frustration stems from the desire to be regarded with the same standards as Western citizens, rather than being judged by a different set of criteria [79].

8.2. Origins of Discrimination

For over a millennium, Europe and subsequently America inherited and perpetuated a distorted image of Prophet Muhammad and Islam. This false perception has deeply influenced both cultures, passed down across generations as historical truth. Only in the last century have Western scholars started to embrace a more objective understanding of the historical Prophet Muhammad. This change comes after almost a millennium of what seems like intentional misinformation that shaped public opinion in Europe. When Christian public figures engage in controversial actions, there is no depiction of Jesus behaving similarly in the media. Likewise, when instances of misconduct occur within the Church, depictions of Jesus engaging in such behavior are not publicized. However, when a small fraction of the Muslim population (and whether they can truly be called Muslims!) promotes violence, some Western cartoonists readily associate these views with Prophet Muhammad himself, despite strong denouncements from the majority of Muslims and credible Islamic institutions. This tendency to align the actions of a few with the entire group implies a natural inclination or inclination for an individual or a society to adopt the viewpoint or perspective of the sources they are exposed to. This tendency becomes more pronounced or stronger as the society continues to have prolonged or continuous interaction with these sources. In essence, the more one is exposed to a particular viewpoint or frame of reference, the more likely they are to adopt and internalize it as their own perspective. The Western media's biased treatment, despite being discriminatory, is not recognized as a double standard by themselves. This acceptance is rooted in the historical prevalence of misinformation and misinterpretations of Prophet Muhammad and Islam in European culture more than a millennium. Although Western media depictions of Jesus, Moses, or God tend to separate clearly the actions or attitudes of extremist and fundamentalist Christians or Jews from the personality of the founder of their respective faiths, there is a readiness, and sometimes even eagerness, in the media to attribute the characteristics and actions of Muslim fundamentalists to Prophet Muhammad himself [79].

9. Recommendations to Muslim Organizations

The investigation of case law in this article revealed that Muslims are not afforded the same legal support as other individuals living in modern countries. So, Muslim organizations should strive to advocate for equal legal protections and support as other individuals in those countries. Muslim organizations are recommended to pursue the same strategies that Jewish organizations used to combat and eradicate anti-Semitism in society, working towards outlawing it in the public domain and within the jurisdiction system. They should investigate the process through which most jurisdictions have outlawed Holocaust denial and classified it as hate speech. Muslim Organizations should similarly work toward outlawing anti-Muslimism or Islamophobia in the public domain and within the legal systems. Jewish groups have been among the leaders in pushing for provisions against incitement to racial hatred against Jews. Now, such anti-incitement laws are common across Europe [80]. Muslims should emulate similar approach of Jewish organizations, who successfully lobbied societies and legal systems to outlaw acts of discrimination against them by propagating the propaganda of portraying themselves as victims of anti-Semitism. Muslims organizations should notice that there are unaccountable pressure groups and lobbies that prevent any expression or speech against Jews, such as preventing Jyllands-Posten from publishing Holocaust cartoons and sending their cartoon editor on a forced indefinite leave. They do it by pressures exerted on authorities, editors, journalists and mass media. However, instead of that, I recommend Muslim organizations to have representatives in

newspapers, mass media, etc. or send their representatives to them and call them for debate and show them valid historical references about Prophet Muhammad, his sayings, and his behavior. If the journalists, artists, etc. know the true Prophet Muhammad, not only they themselves never let themselves to mock or insult such a character but also they might use their art in favor of him. The same applies to the holy Quran, other holy books, Jesus, other prophets, and saint Marry. The domestic and international courts, should frequently restrict the acts of hate speech, insult, disparagement, and denigration targeting Prophet of Islam and Quran. This restriction should be according to a legislation offered by the Muslim organizations, so that a jurisprudence would be developed to be applicable to any kind of Anti-Muslimism and Islamophobia activity. It is needed to adopt such legislative measures firstly at the domestic level. Islamic organizations should recognize that the courts interpret the phrase 'within their jurisdiction' in Article 1 to mean that a state's jurisdictional competence is primarily territorial, just as demonstrated in the case of *Ben El Mahi v. Denmark* [81], where the court dismissed the application as unfounded.

10. A Letter to Law Makers, Prosecutors, and Domestic and International Courts

Dear Judges, Jurisdictions, Prosecutors, Courts

I hope you have read this study (both parts) and you are satisfied not to let mocking of Prophet Muhammad, Quran, Muslims, and Islamic symbols. You definitely know better than me that the discourteous minorities that like to insult, mock, spread false information, and make confrontation and lessen the friendship between the humans should not be supported by law. Please do not be afraid of those who convict you of restricting the freedom of speech. Free speech and discussions about Prophet Muhammad should be conducted in a respectful manner, by experts who rely on original sources and evidence, rather than by those who are uneducated and rely solely on biased media or untrustworthy social networks.

The Courts should not be intimidated from minority insult and mock defenders. It should be noted that the vociferous minority who will criticize the courts for banning the Prophet Muhammad mockery and cartoons claim that they are supporters of freedom of speech while we proved in this article that the mockery and insulting cartoons are not supported by freedom of expression and they are cases of defaming and hate speech. Pressure groups will increasingly target the critics of the cartoons with the outcome of trivialization of the insult, disparagement, hate speech and false information in the society, the important unethical behaviors that we teach our children not to engage in.

The courts and the lawmakers are recommended to solve the contradictory legal problems discussed in this work. There are clear discriminatory or arbitrary application of legislation or sanctions to silence journalists and other media actors in so called anti-Semitism cases, while in some countries anti-Muslim activities such as cartooning, mocking, and disparaging Prophet of Islam or the Quran (even Quran burning) are not sanctioned in the name of freedom of expression. The publications that inevitably and directly insult and offend the Muslims and distort the truth and the historical facts about Prophet of Islam and harm the reputation of Prophet Muhammad and all Muslims are considered free speech in the same countries who try to protect the reputation of certain religious groups. Such an approach would invariably create an unscientific outcome, which distorts, rather than furthers, the marketplace of ideas.

Conclusion

It seems that in the 21st century the freedom of speech still has to be defined more accurately. Some minorities try to put the insulting, mocking, defamation and other similar unethical acts included in the right to freedom of speech or expression. Some other believe that everyone should have the right to express their support from terrorist groups or acts freely because it's their right to freedom of speech! Some governments think that mocking Prophet Muhammad, Moses, Jesus, Saint Mary and others is a right of everyone. A social environment filled with anti-Muhammad cartoons, anti-Muslim banners, and the burning of Qurans conveys an implicit message to those targeted by such hatred: your safety is at risk, and leaving your home may expose you to humiliation and discrimination. The threat of the hate speech also poses to the lives, dignity, and reputations of minority members. This work demonstrated that Prophet Muhammad cartoons do not deserve to be considered as art, and according to legal precedent, disrespectful expressions against Prophet Muhammad, Quran, Muslims, Jesus, and Saint Mary should be prohibited worldwide.

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