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Supplementary Material

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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This Supplementary Material provides references to relevant domestic and international laws, along with a summary of key case law. The article that this supplementary material accompanies focuses on domestic and international laws, as well as legal precedents and case law, to argue that any form of disrespect toward Prophet Muhammad, the Quran, Jesus, or Saint Mary is not protected as free speech. The supplementary material reinforces this argument by providing references to relevant legislation and summarizing key court rulings. As demonstrated by the case law listed in this supplementary material, courts have consistently ruled that such acts of disrespect do not fall under the protection of free speech. The legislative frameworks cited further emphasize that freedom of expression carries special duties and responsibilities, allowing for restrictions when speech infringes on the rights of others or disrupts social harmony. By categorizing each case according to the three-condition test established by the European Court of Human Rights (ECHR), this material offers a structured analysis of how these conditions apply to cases involving acts of disrespect toward Prophet Muhammad, the Quran, as well as Jesus and Saint Mary.

This Supplementary Material includes three tables: Table S1 and Table S2 outline the permissible restrictions imposed on the right to freedom of expression under international and domestic laws. These laws emphasize that freedom of expression carries special duties and responsibilities, allowing for certain restrictions in the interest of individuals or the community as a whole. Table S3 presents a list of relevant court cases, summarizing the circumstances, legal arguments, and the Court’s assessments that demonstrate why such acts are not legally considered free speech. These summaries provide insight into how courts have ruled in similar cases, highlighting the referential significance of judicial opinions, decisions, and rulings beyond individual cases.

This supplementary material, in conjunction with the article, provides a comprehensive reference-based analysis supporting the argument that disrespectful acts against Prophet Muhammad, the Quran, as well as Jesus and Saint Mary are not shielded by free speech protections.

Table S1. Boundaries of Freedom of Expression in International Legal Frameworks applicable to the case of disrespectful expressions against Prophet Muhammad, Quran, Islam, and Muslims.

Article 12 of UDHR[1] [1]
No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

[1] Universal Declaration of Human Rights

Articles 19 and 20 of ICCPR[2] [2]
Article 19:
The exercise of the rights provided for in paragraph 3 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order, or of public health or morals.
Article 20:
Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.
Article 4 of CERD[3] [3]
Article 4(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another color or ethnic origin.
Article 10 and 17 of ECHR[4] [4]
Article 10: Freedom of expression
The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary[5].
Article 17: Prohibition of abuse of rights
Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.
Article 10 of the Human Rights Act [5]
Although you have freedom of expression, you also have a duty to behave responsibly and to respect other people's rights. Public authorities may restrict this right if they can show that their action is lawful, necessary and proportionate in order to: ▪ protect national security, territorial integrity (the borders of the state) or public safety ▪ prevent disorder or crime ▪ protect health or morals ▪ protect the rights and reputations of other people ▪ prevent the disclosure of information received in confidence ▪ maintain the authority and impartiality of judges An authority may be allowed to restrict your freedom of expression if, for example, you express views that encourage racial or religious hatred.
ECHR Factsheet [6]
According to the European Court of Human Rights whoever exercises his freedom of expression 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 which do not contribute to any form of public debate.
Critical public statements about religious groups should not amount to incitement to religious hatred and should not constitute incitement to disturb the public peace or to discriminate against adherents of a particular religion.
Article 1, 2, and 5 of the Council of the European Union [7]
Article 1:
Each Member State shall take the measures necessary to ensure that the following intentional conduct is punishable: (a) publicly inciting to violence or hatred directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin;

[2] International Covenant on Civil and Political Rights
[3] International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
[4] European Convention on Human Rights
[5] 2nd Paragraph of Article 10 of ECHR

(b) the commission of an act referred to in point (a) by public dissemination or distribution of tracts, pictures or other material;
Article 2:
Each Member State shall take the measures necessary to ensure that aiding and abetting in the commission of the conduct referred to in Article 1 is punishable.
Article 5:
Each Member State shall take the necessary measures to ensure that a legal person can be held liable for the conduct referred to in Articles 1 and 2, committed for its benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person.
International Human Rights Law (United Nations) [8]
Direct and public incitement to "genocide" and "advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence" are strictly prohibited under International Law, as they are considered the "severest forms of hate speech".
First Amendment [9]
The First Amendment permits restrictions upon the content of speech falling within a few limited categories, including obscenity, child pornography, defamation, fraud, incitement, fighting words, true threats, and speech integral to criminal conduct.
Article 13 of ACHR[6] [10][11]
The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure: a. respect for the rights or reputations of others; or b. the protection of national security, public order, or public health or morals. Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law.
Principle 10 of IACHR[7] [12]
The protection of a person's reputation should only be guaranteed through civil sanctions in those cases in which the person offended is a public official, a public person or a private person who has voluntarily become involved in matters of public interest. In addition, in these cases, it must be proven that in disseminating the news, the social communicator had the specific intent to inflict harm, was fully aware that false news was disseminated, or acted with gross negligence in efforts to determine the truth or falsity of such news.
Article 20 § 2 of the 1966 United Nations International Covenant on Civil and Political Rights [13]
Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Table S2. Domestic Laws on Freedom of Expression: Limitations and Restrictions applicable to the cases of disrespectful expressions against Prophet Muhammad, Quran, Islam, and Muslims.

Norway: Penal Code [14]
Section 185, Hate speech:
A penalty of a fine or imprisonment for a term not exceeding three years shall be applied to any person who with intent or gross negligence publicly makes a discriminatory or hateful statement. «Statement» includes the use of symbols. Any person who in the presence of others, with intent or gross negligence, makes such a statement to a person affected by it, see the second paragraph, is liable to a penalty of a fine or imprisonment for a term not exceeding one year. «Discriminatory or hateful statement» means threatening or insulting a person or promoting hate of, persecution of or contempt for another person based on his or her a. skin colour or national or ethnic origin, b. religion or life stance, c. homosexual orientation, or d. reduced functional capacity.

[6] American Convention on Human Rights
[7] Inter-American Commission on Human Rights

France: 1972 French Law Against Hate Speech, Freedom of the Press Act of 29 July 1881
1972 French Law Against Hate Speech (Law no. 72–546 of July 1, 1972 [15]):
The law forbids abuse, defamation, or provocation to discrimination, hatred, or violence against a person or group because of "their origin or their belonging or non-belonging to an ethnic group, a nation, a race, or a determined religion."
Freedom of the Press Act of 29 July 1881 [16]:
Section 23: Where a crime or major offence is committed, anyone who, by uttering speeches, shouts or threats in a public place or meeting, or by means of a written or printed matter, drawing, engraving, painting, emblem, image, or any other written, spoken or pictorial item sold or distributed, offered for sale or exhibited in a public place or meeting, or by means of a placard or poster on public display, has directly and successfully incited another or others to commit the said crime or major offence shall be punished as an accomplice thereto. Section 24: Anyone who, by one of the means set forth in section 23, incites another to discrimination, hatred or violence against a person or group of people on the ground of their origin or their membership or non-membership of a specific ethnic group, nation, race or religion shall incur a term of imprisonment of one year and a fine of FRF 300,000 or one of those penalties only. Section 29: It shall be defamatory to make any statement or allegation of a fact that damages the honour or reputation of the person or body of whom the fact is alleged. The direct publication or reproduction of such a statement or allegation shall be an offence, even if expressed in tentative terms or if made about a person or body not expressly named but identifiable by the terms of the impugned speeches, shouts, threats, written or printed matter, placards or posters. It shall be an insult to use any abusive or contemptuous language or invective not containing an allegation of fact. Section 32: Defamation of an individual by one of the means set forth in section 23 shall be punishable by a fine of FRF 80,000. Defamation by the same means of a person or group of people on the ground of their origin or their membership or non-membership of a specific ethnic group, nation, race or religion shall be punishable by a term of imprisonment of one year and a fine of FRF 300,000 or one of those penalties only.
UK: Public Order Act 1986 and the Crime and Disorder Act 1998 as amended by the Anti-terrorism, Crime and Security Act 2001 [17].
Section 5(1)(b) of the Public Order Act 1986
A person is guilty of an offence if he; ... (b) displays any writing, sign or other visible representation which is threatening, abusive or insulting, within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby.
Section 6(4) of the Public Order Act 1986
A person is guilty of an offence under section 5 only if he intends... the writing, sign or other visible representation to be threatening, abusive or insulting, or is aware that it may be threatening, abusive or insulting ...
Sections 28(1)(b) and 31(1)(c) of the 1998 Act
An offence under section 5 of the 1986 Act is "racially or religiously aggravated" if it is "motivated (wholly or partly) by hostility towards members of a racial or religious group based on their membership of that group.
Denmark: The Criminal Code Order No. 909 of September 27, 2005, as amended by Act Nos. 1389 and 1400 of December 21, 2005 [18]
Provision § 266 b:
(1) Any person "who, publicly or with the intention of wider dissemination, makes a statement or imparts other information by which a group of people are threatened, insulted or degraded on account of their race, color, national or ethnic origin, religion, or sexual inclination shall be liable to a fine or to imprisonment for any term not exceeding two years.
Provision § 140:
Any person who, in public, ridicules or insults the dogmas or worship of any lawfully existing religious community in this country shall be liable to a fine or to imprisonment for any term not exceeding four months.
Provision § 110 e:
Any person who openly insults any foreign nation, foreign state, its flag or any other recognized symbol of nationality or the flag of the United Nations or the Council of Europe shall be liable to a fine or to imprisonment for any term not exceeding two years.
Swiss: Criminal Code [19]

Article 261: Attack on the freedom of faith and the freedom to worship
Any person who publicly and maliciously insults or mocks the religious convictions of others, and in particularly their belief in God, or maliciously desecrates objects of religious veneration, any person who maliciously prevents, disrupts or publicly mocks an act of worship, the conduct of which is guaranteed by the Constitution, or any person who maliciously desecrates a place or object that is intended for a religious ceremony or an act of worship the conduct of which is guaranteed by the Constitution, is liable to a monetary penalty not exceeding 180 daily penalty units.
Art. 261 bis 278:
Any person who publicly incites hatred or discrimination against a person or a group of persons on the grounds of their race, ethnic origin or religion, any person who publicly disseminates ideologies that have as their object the systematic denigration or defamation of the members of a race, ethnic group or religion, any person who with the same objective organizes, encourages or participates in propaganda campaigns, any person who publicly denigrates or discriminates against another or a group of persons on the grounds of their race, ethnic origin or religion in a manner that violates human dignity, whether verbally, in writing or pictorially, by using gestures, through acts of aggression or by other means, or any person who on any of these grounds denies, trivialises or seeks justification for genocide or other crimes against humanity, any person who refuses to provide a service to another on the grounds of that person's race, ethnic origin or religion when that service is intended to be provided to the general public, is liable to a custodial sentence not exceeding three years or to a monetary penalty.
Austria Criminal Code [20]
Article 188 – Disparagement of religious doctrines (religious insult):
Whoever, in circumstances where his behavior is likely to arouse justified indignation, disparages or insults a person who, or an object which, is an object of veneration of a church or religious community established within the country, or a dogma, a lawful custom or a lawful institution of such a church or religious community, shall be liable to a prison sentence of up to six months or a fine of up to 360 daily rates.
Article 283 – Incitement to hatred:
Section 283(1): Whoever, in a manner capable of endangering public order ... publicly incites to commit a hostile act against a church or religious community established within the country or against a group defined by its belonging to such a church or religious community, a race, a nation, a tribe or a State, shall be liable to up to two years' imprisonment.
Section 283(2):
Similarly, whoever publicly incites against a group defined in paragraph 1 or tries to insult or disparage it in a manner violating human dignity shall equally be held liable.
Section 115(1):
Section 115(1) of the Criminal Code provides for imprisonment for a term of up to three months of a fine of up to 180 daily rates for publicly insulting or mocking someone.
Australia: The National Classification Code [21]
Section 6 of the Classification (Publications, Films and Computer Games) Act 1995: Classification decisions are to give effect, as far as possible, to the following principles: d) the need to take account of community concerns about: (ii) the portrayal of persons in a demeaning manner Item 1: Publications that describe, depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified. These have been categorized as Refused Classification (RC) which is a classification category referring to films, computer games and publications that cannot be sold, hired, advertised or legally imported in Australia. RC-classified material contains content that is very high in impact and falls outside generally-accepted community standards.
Poland Criminal Code [22]
Article 256:
Anyone who publicly promotes a fascist or other totalitarian system of state or incites hatred based on national, ethnic, racial or religious differences or for reason of lack of any religious denomination shall be subject to a fine, restriction of liberty or deprivation of liberty for up to two years.
Article 257:
Whoever publicly insults a group within the population or a particular person because of his national, ethnic, race

or religious affiliation or because of his lack of any religious denomination or for these reasons breaches the personal inviolability of another individual shall be subject to the penalty of deprivation of liberty for up to 3 years.
Sweden: Article 8 of Chapter 16 of the Penal Code [23]
A person who, in a disseminated statement or communication, threatens or expresses contempt for a national, ethnic or other such group of persons with allusion to race, colour, national or ethnic origin, religious beliefs or sexual orientation, should be convicted of agitation against a national or ethnic group. The offence carries a penalty of up to two years' imprisonment. If the offence is considered minor the penalty is a fine, and if it is considered to be aggravated the penalty is imprisonment for no less than six months and no more than four years.
Iceland: Article 233 (a) of the General Penal Code No. 19/1940 [24]
Anyone who publicly mocks, defames, denigrates or threatens a person or group of persons by comments or expressions of another nature, for example by means of pictures or symbols, for their nationality, color, race, religion, sexual orientation or gender identity, or disseminates such materials, shall be fined or imprisoned for up to 2 years.
Netherland: Articles 137c and 137d of the Dutch Penal Code [25]
Section 137c:
1. Any person who in public, either verbally or in writing or through images, intentionally makes an insulting statement about a group of persons because of their race, religion or beliefs, their heteroor homosexual orientation or their physical, mental or intellectual disability, shall be liable to a term of imprisonment not exceeding one year or a fine of the third category.
Section 137d:
1. Any person who publicly, either verbally or in writing or through images, incites hatred of or discrimination against persons or violence against their person or property because of their race, religion or beliefs, their sex, their hetero- or homosexual orientation or their physical, mental or intellectual disability, shall be liable to a term of imprisonment not exceeding one year or a fine of the third category.
Germany: Article 187 of the Criminal Code [26]
Whosoever intentionally and knowingly asserts or disseminates an untruth related to another person that may defame him or negatively affect public opinion about him or endanger his creditworthiness shall be liable to [a term of] imprisonment not exceeding two years or a fine and, if the offence was committed publicly, in a meeting or through the dissemination of written materials ..., to [a term of] imprisonment not exceeding five years or a fine.

Table S3. Court Orders on Restrictions of Free Speech in Case Law Applicable to Disrespectful Expressions Against Prophet Muhammad, the Holy Quran, Islam, and Muslims: Each Case Subsectioned According to the ECHR Three-Condition Test.

Mark Anthony Norwood v. United Kingdom [17]
He displayed a large anti-Muslim poster that religiously aggravated harassment. He was convicted of aggravated hostility towards a religious group.
England Oswestry Magistrates' Court (2002):
The applicant was charged with an aggravated offence under section 5 of the 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. He was convicted of the offence by Oswestry Magistrates' Court, and fined GBP 300.
High Court (2003):
The Court dismissed his appeal. Lord Justice Auld held that the poster was "a public expression of attack on all Muslims in this country".
European Court of Human Rights (2004):
The Court agreed with the assessment made by the domestic courts, namely that the words and images on the poster amounted to a public expression of attack on all Muslims in the United Kingdom. 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. The court held that the applicant's display of the poster in his window constituted an act within the meaning of Article 17, which did not, therefore, enjoy the protection of Articles 10 or 14.
Pavel Petrovich Ivanov v. Russia [27]

As the owner and editor of a newspaper, he was convicted of public incitement to ethnic, racial and religious hatred through the use of mass-media. He authored and published a series of articles portraying the Jews as the source of evil in Russia, calling for their exclusion from social life. He alleged the existence of a causal link between social, economic and political discomfort and the activities of Jews, and portrayed the malignancy of the Jewish ethnic group. He accused an entire ethnic group of plotting a conspiracy against the Russian people and ascribed Fascist ideology to the Jewish leadership.
Russia Novgorod Town Court (2004):
The Court found the applicant guilty of inciting to racial, national and religious hatred and prohibited him from engaging in journalism, publishing and disseminating in the mass media for a period of three years. It struck down the prohibition on journalistic activity because that particular form of penalty had been introduced into the Criminal Code after the imputed events, and instead sentenced the applicant to a fine of 10,000 Russian roubles (approximately 300 euros).
European Court of Human Rights (2007):
The Court held that 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 statements denying the Holocaust, justifying a pro-Nazi policy, alleging the prosecution of Poles by the Jewish minority and the existence of inequality between them, or linking all Muslims with a grave act of terrorism. The court had no doubt as to the markedly anti-Semitic tenor of the applicant's views and agreed with the assessment made by the domestic courts that through his publications 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. Consequently, by reason of Article 17 (prohibition of abuse of rights) of the Convention, the applicant could not benefit from the protection afforded by Article 10 (freedom of expression) of the Convention.
W.P. and others v. Poland [28]
They had decided to form an ordinary association called the National and Patriotic Association of Polish Victims of Bolshevism and Zionism. The memorandum of the association, included objectives such as: 6. Taking action aimed at equality between ethnic Poles and citizens of Jewish origin by striving to abolish the privileges of ethnic Jews and by striving to end the persecution of ethnic Poles. 12. Taking action aimed at improving the living conditions of Polish victims of Bolshevism/Bolsheviks and Zionism/Zionists. 15. Claiming veteran benefits for Polish victims of Bolshevism/Bolsheviks and Zionism/Zionists.
Poland Kalisz Regional Court (1998):
The Court prohibited the formation of the association. The court considered that the memorandum of association did not comply with the law. Point 8 of the memorandum amounted to defamation of judges and prosecutors. The remaining objectives were either unlawful or unrealistic. The Associations Act 1989 reads: The [exercise of the] right of association may be subject only to such limitations as are prescribed by law and are necessary for ensuring the interests of national security or public order and for the protection of health and morals or for the protection of the rights and freedoms of others.
European Court of Human Rights (2004):
A. Whether the interference is "prescribed by law":
The Government submitted that the decision to prohibit the formation of the association resulted from the applicants' failure to comply with domestic law. In particular, they had introduced in point 6 of the memorandum of association a notion of inequality between ethnic Poles and citizens of Jewish origin. 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 11 (freedom of assembly and association) of the Convention. What is more, the ideas advocated by the applicants could be seen as reviving anti-Semitic sentiments. The Court considers that the impugned interference with the applicants' right to freedom of association, which was based on Chapter 6 of the Associations Act, was "prescribed by law".
B. Whether the interference pursued a legitimate aim:
The interference with their freedom of association had therefore been justified under Article 11 § 2. As the applicants were trying to use the freedom of association contrary to the text and spirit of the Convention, their application should be regarded as an abuse of rights within the meaning of Article 17 of the Convention and declared inadmissible. The applicants essentially 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 Court considers that the impugned interference with the applicants' right to freedom of association, pursued the legitimate aim of the

protection of “national security” and “the rights and freedoms of others.”
C. Whether the interference was “necessary in a democratic society”:
As to whether the measure was necessary in a democratic society, the Court reiterates that this implies the existence of a “pressing social need”. Certain provisions of the memorandum of association were held to be contrary to the law. The Court again notes that by making the above 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. Taking into consideration the grounds on which the domestic courts based their decision, and in view of the association’s objectives defined in its memorandum, the Court considers that the impugned decision to prohibit the formation of the association can be considered “necessary in a democratic society.”
Gerd Honsik v. Austria [29]
The applicant was under preliminary investigation for suspicion of articles written, published and distributed in his periodical "Halt" constituted National Socialist activities within the meaning of Section 3g of the National Socialist Prohibition Act. He denied the existence of gas chambers in concentration camps under the National Socialist regime and mass extermination therein and discredited such claims as false propaganda.
Vienna Court of Assizes (1992):
Court of Assizes convicted the applicant of the offence under Section 3g para. 1 of the National Socialist Prohibition Act. It sentenced the applicant to imprisonment of one year six months and ten days.
Supreme Court (1994):
The Supreme Court, confirmed the findings of the Regional Court. It found that the Court of Assizes had acted correctly when it refused to take the evidence proposed by the applicant. It referred to its previous case-law according to which the 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. Furthermore it had constantly held that 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. Moreover the evidence requested by the applicant related to the mere modalities of the mass extermination not of relevance for the charge and could not question the historical truth of the basic facts.
European Court of Human Rights (1995):
A. Whether the interference is “prescribed by law”:
The applicant cannot claim to be victim of an alleged violation of this provision. The Commission observes that the applicant's conviction was based on Section 3g of the National Socialism Prohibition Act and was, therefore, "prescribed by law" within the meaning of Article 10 para. 2 (Art. 10-2) of the Convention.
B. Whether the interference was “necessary in a democratic society”:
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. 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 (Art. 10-2) of the Convention. The Commission upheld that the Court of Assizes dismissed the applicant's requests for the taking of further evidence, finding that the requested evidence was irrelevant to the proceedings. The Court of Assizes stated that the detailed expert opinion had confirmed the previous case-law of the Supreme Court, namely that the existence of gas chambers in concentration camps under the National Socialist regime and their use for mass extermination were facts of common knowledge. In regard to such facts evidence need not be taken.
G. Soulas and others v. France [30]
The proceedings resulted in their conviction for inciting hatred and violence against Muslim communities from northern and central Africa for publication of a book entitled "The colonization of Europe”, with the subtitle “Truthful remarks about immigration and Islam”.
Paris tribunal de grande (2000):
The court found the writer and the manager of the publishing house 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, on the basis in particular of articles 23 and 24 paragraph 6 of the law of July 29, 1881. They were each ordered to pay a fine of 50,000 French

francs (FRF), i.e. the equivalent of 7,622.45 euros (EUR).
Paris Court of Appeal (2002):
The court declared the applicants guilty for all the passages of the book, as author and accomplice the offense of incitement to hatred and violence against a specific group of people. It sentenced them to a fine of EUR 7,500 each. This all-encompassing presentation, repeated throughout the extracts 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.
European Court of Human Rights (2008):
A. Whether the interference is "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".
B. Whether the interference pursued a legitimate aim:
The Government maintains that it pursued a legitimate aim, namely the protection of the rights of persons of foreign origin and the fight against racism. The ECHR considers that the interference was intended to ensure the prevention of disorder and to protect the reputation and rights of others.
C. Whether the interference was "necessary in a democratic society":
The 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 sometimes 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. This approach is enshrined in several international instruments other than the Convention, for example the United Nations International Covenant on Civil and Political Rights (Article 20-2), or General Recommendation No. 15-42 of the Committee for the elimination of racial discrimination, according to which "the prohibition of the dissemination of any idea based on racial superiority or hatred is compatible with the right to freedom of opinion and expression (...)". Finally, Article 4 of the United Nations International Convention on the Elimination of All Forms of Racial Discrimination obliges States parties to criminalize all acts of racism, in particular the dissemination of ideas based on superiority or racial hatred and racist propaganda activities, and to ban racist organizations. The Court considers that the reasons of the 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. In view of the foregoing, the reasons advanced in support of the applicants' conviction are such as to convince the Court that the interference with the exercise by them of their right to freedom of expression was "necessary in a democratic society". The Court held that there had been no violation of Article 10 (freedom of expression) of the Convention.
Mr Daniel Féret v. Belgium [31] [32]
He was a Belgian member of Parliament and chairman of the political party Front National/National Front in Belgium. During the election campaign, several types of leaflets were distributed carrying slogans including "Stand up against the Islamification of Belgium", and etc.
Brussels Court of Appeal (2006):
The leaflets contained passages that represented a clear and deliberate incitation of discrimination, segregation or hatred, and even violence, for reasons of race, color or national or ethnic origin. 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.
European Court of Human Rights (2009):
A. Whether the interference is "prescribed by law":
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). 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.
B. Whether the interference pursued a legitimate aim:
The interference with Mr Féret's right to freedom of expression had the legitimate aims of preventing disorder and of protecting the rights of others.

C. Whether the interference was "necessary in a democratic society":
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) [32]. The Court observed that 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 risk of arousing, particularly among less knowledgeable members of the public, feelings of distrust, rejection or even hatred towards foreigners. The Court reiterated that it was crucial for politicians, when expressing themselves in public, to avoid comments that might foster intolerance. To recommend solutions to immigration related problems by advocating racial discrimination was 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.
D. Whether the measures are "proportionate to the legitimate aim pursued":
With regard to the penalty imposed on Mr Féret, the Court noted that the authorities had preferred a 10-year period of ineligibility rather than a penal option, in accordance with the Court's principle of restraint in criminal proceedings. The Court thus found that there had been no violation of Article 10.
Mr Jean-Marie Le Pen v. France [33]
In 2005 he was fined 10,000 euros for "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", on account of statements he had made about Muslims in France in an interview with Le Monde daily newspaper. He asserted, among other things, that "the day there are no longer 5 million but 25 million Muslims in France, they will be in charge".
France Paris Court (2008):
The Court of Appeal considered that Mr Le Pen's comments to the newspaper suggested that the security of the French people, whose reactions allegedly went further than his own offending statements, depended on them rejecting the Muslim community. It held that 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.
European Court of Human Rights (2010):
A. Whether the interference is "prescribed by law":
The authorities' interference with Mr Le Pen's freedom of expression, in the form of a criminal conviction, had been prescribed by law.
B. Whether the interference pursued a legitimate aim:
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, in the form of a criminal conviction, pursued the legitimate aim of protecting the reputation or rights of others.
C. Whether the interference was "necessary in a democratic society":
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. He had set the French on the one hand against a community whose religious convictions were explicitly mentioned and whose rapid growth was presented as an already latent threat to the dignity and security of the French people. The reasons given by the domestic courts for convicting the applicant had thus been relevant and sufficient. Nor had the penalty imposed been disproportionate. 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".
Doğu Perinçek v. Switzerland [34]
Mr. Perinçek participated in three public events in Switzerland, in the course of which he expressed the view that the mass deportations and massacres suffered by the Armenians living in the Ottoman Empire from 1915 onwards had not amounted to genocide.
Lausanne District Police Court (2007)
The court found him guilty of the offence under Article 261 bis § 4 of the Swiss Criminal Code, holding in particular that his motives appeared to be racist and nationalistic and that his statements did not contribute to the historical debate. The court ordered him to pay 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.

European Court of Human Rights (2015):
A. Whether the interference is "prescribed by law":
It was not disputed that the interference with the applicant's right to freedom of expression had a legal basis in Swiss law – Article 261 bis § 4 of the Criminal Code. The Grand Chamber of the Court agreed with the Chamber that the interference with Mr Perinçek's right to freedom of expression had been prescribed by law within the meaning of Article 10 § 2.
B. Whether the interference pursued a legitimate aim:
The Swiss Government submitted that the interference with the applicant's right to freedom of expression had sought to protect the rights of others: the victims of the events of 1915 and the following years and their descendants. The applicant's views were a threat to the identity of the Armenian community. With regard to this legitimate aim, a distinction needs to be drawn between, on the one hand, the dignity of the deceased and surviving victims of the events of 1915 and the following years and, on the other, the dignity, including the identity, of present-day Armenians as their descendants. As noted by the Swiss Federal Court in point 5.2 of its judgment, 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. In view of that, 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". The Chamber accepted that the interference with the applicant's right to freedom of expression had been intended to protect the "rights of others", namely the honor of the relatives of the victims of the atrocities perpetrated by the Ottoman Empire against the Armenian people from 1915 onwards.
C. Whether the interference was "necessary in a democratic society":
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. However, the Court concluded that this case is different from the Holocaust denial and it had not been 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 this case.
Balsyte-Lideikiene v. Lithuania [35]
She owned a publishing company, which issued calendars describing various historic dates from her and other authors' perspectives. She was convicted because of the texts published in the 'Lithuanian calendar 2000' insulted the persons of Polish, Russian and Jewish origin.
Lithuania Domestic Courts (2001):
The domestic courts concluded that the "Lithuanian calendar 2000" promoted ethnic hatred. They concluded that the calendar contained xenophobic and offensive statements with regard to the Jewish, Polish and Russian population, and promoted territorial claims and national superiority vis-à-vis other ethnic groups. The court found that the applicant had breached Article 214-12 of the Code of Administrative Offences in producing and distributing the calendar. The court imposed upon her a penalty of administrative warning, while 1,036 copies of the edition and the means to produce it were confiscated.
European Court of Human Rights (2008):
The Government stated that 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 Lithuanian society was based. In particular, by publishing 'Lithuanian calendar 2000', the applicant had disseminated information promoting racial and ethnic hatred. 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 as well as endanger Lithuania's relations with its neighboring countries. 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 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 [36].
Vladimir Atamanchuk v. Russia [37]

He published an article in a local newspaper in 2008 and expressed his views on the notion of the "people", and made remarks about non-Russian groups' ethnic characteristics. He stated in particular that these groups were prone to crime, would "slaughter, rape, rob and enslave, in line with their barbaric ideas" and "participated in the destruction of the country".
Russia domestic court (2010):
He 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 court held that the author made manifestly provocative statements when assessing the situation of the Russian people, thus inciting his readers of Russian origin to feel hatred towards other ethnicities [nationalities] creating a negative image of non-Russians. He described non-Russians as ignorant, rude, cruel or inhuman ... Those are conjectures that are aimed at instilling fear. 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.
European Court of Human Rights (2020):
A. Whether the interference is "prescribed by law":
The applicant had intended to use aggressive language by way of drawing an image of an enemy for inciting and deepening strong destructive feelings, hate and anger within its readers. The Court notes that the applicant's prosecution was based on Article 282 § 1 of the Russian Criminal Code. The Court noted that Mr Atamanchuk's prosecution, based on the relevant provisions of the Russian Criminal Code concerning hate speech, had been "prescribed by law".
B. Whether the interference pursued a legitimate aim:
The applicant 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". In Aksu v. Turkey [38], 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. 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 [38], Lewit v. Austria [39]). The "interference" in the present case was aimed at protecting the "rights of others", specifically the dignity of people of a non-Russian ethnicity.
C. Whether the interference was "necessary in a democratic society":
Offensive language may fall outside the protection of freedom of expression if it amounts to "wanton denigration". As regards the language used in the article, the Court considers that it 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. The Court accepts, that the reasons adduced by the domestic courts for convicting the applicant were relevant in the pursuance of a legitimate aim. It is questionable whether the content of the article was "capable of contributing to the public debate" on the relevant issue (compare Bédat v. Switzerland [40]) or that its "principal purpose" was to do so (compare Oy v. Finland [41]). The Court also notes that the applicant's article was published in newspapers with distribution figures of 8,000 and 10,000 within the Sochi area, which was situated in a "multi-ethnic region". 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. Thus, even though it was not considered that the article contained any explicit call for acts of violence or other criminal acts, it was within the national authorities' margin of appreciation to react in some manner. The sentences in the present case were imposed in the context of the legislation aimed at fighting hate speech. The sentences were aimed at protecting the "rights of others", specifically the dignity of people of a non-Russian ethnicity residing in the Krasnodar Region in Russia (compare Aksu v. Turkey [38]). The Court accepts that the present case discloses exceptional circumstances justifying the sentences imposed on the applicant.
D. Whether the measures are "proportionate to the legitimate aim pursued":
Lastly, the Court found that their reaction had not been disproportionate in the circumstances of the case. Importantly, the sentences had been imposed in the context of legislation aimed at fighting hate speech. The Court concludes that there has been no violation of Article 10 of the Convention.
Vejdeland and Others v. Sweden [42]
The applicants were convicted for distributing in an upper secondary school by an organization called National Youth about 100 leaflets considered by the courts to be offensive to homosexuals. The statements were, in particular, allegations that homosexuality was a "deviant sexual proclivity", had "a morally destructive effect on the substance of society" and was responsible for the development of HIV and AIDS. They claimed that they had

not intended to express contempt for homosexuals as a group and stated that the purpose of their activity had been to start a debate about the lack of objectivity in the education in Swedish schools.
Sweden Supreme Court (2006):
The Court convicted the applicants of agitation against a national or ethnic group. The purpose of the leaflets was to initiate a debate between pupils and teachers on a question of public interest, namely the objectivity of the education in Swedish schools, and to supply the pupils with arguments. However, these were formulated in a way that was offensive and disparaging for homosexuals as a group and in violation of the duty under Article 10 to avoid as far as possible statements that are unwarrantably offensive to others thus constituting an assault on their rights, and without contributing to any form of public debate which could help to further mutual understanding. The purpose of the relevant sections in the leaflets could have been achieved without statements that were offensive to homosexuals as a group. The court concluded that Chapter 16, Article 8 of the Penal Code, interpreted in conformity with the Convention, permits a judgment of conviction. The first three applicants were given suspended sentences combined with fines ranging from approximately 200 to 2,000 euros and the fourth applicant was sentenced to probation.
European Court of Human Rights (2012):
A. Whether the interference is "prescribed by law":
The Court observes 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.
B. Whether the interference pursued a legitimate aim:
The Court further considers that the interference served a legitimate aim, namely "the protection of the reputation and rights of others", within the meaning of Article 10 § 2 of the Convention.
C. Whether the interference was "necessary in a democratic society":
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 Court agrees with the Supreme Court that even if this is an acceptable purpose, regard must be paid to the wording of the leaflets. In the Court's opinion, although these statements did not directly recommend individuals to commit hateful acts, they are serious and prejudicial allegations. 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 (see Féret v. Belgium [31]). Discrimination based on sexual orientation is as serious as discrimination based on "race, origin or color" (see, inter alia, Smith and Grady [43]). 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 Court observes the following. The Supreme Court acknowledged the applicants' right to express their ideas while at the same time stressing that along with freedoms and rights 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. The Supreme Court thereafter found that the statements in the leaflets had been unnecessarily offensive. It also emphasized that the applicants had left the leaflets in or on the pupils' lockers, thereby imposing them on the pupils. Having balanced the relevant considerations, the Supreme Court found no reason not to apply the relevant Article of the Penal Code. The Court concluded that the interference with the applicants' exercise of their right to freedom of expression had reasonably been regarded as necessary in a democratic society for the protection of the reputation and rights of others and that there had been no violation of Article 10.
D. Whether the measures are "proportionate to the legitimate aim pursued":
As for the nature and severity of the penalties imposed, the Court notes that the applicants were not sentenced to imprisonment, although the crime of which they were convicted carries a penalty of up to two years' imprisonment. The Court does not find the penalties excessive in the circumstances and thus the conviction of the applicants and the sentences imposed on them were not disproportionate to the legitimate aim pursued and that the reasons given by the Supreme Court in justification of those measures were relevant and sufficient.
Carl Jóhann Lilliendahl v. Iceland [24]
He wrote comments in response to an online article, expressing his disgust and using derogatory words for homosexuality, namely kynvilla (sexual deviation) and kynvillingar (sexual deviants).
Iceland Supreme Court (2017):

He was indicted in 2016 under 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. In 2017, the Supreme Court convicted him, fining him 100,000 Icelandic krónur (approximately 800 euros at the time). The Court found that the applicant's comments were serious, severely hurtful and prejudicial and constituted prejudicial slander and disparagement of those against whom they are employed none of which was necessary for him to express his opposition to such education. This was aggravated by the applicant's expression of disgust at such conduct and orientation. In that assessment, account should not be taken of the motives which the person in question claims were behind their expression. Thus, the applicant's conduct must be considered intentional. The Supreme Court thus found that the private life interests protected by Article 71 of the Constitution and Article 233(a) of the General Penal Code 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 such hate speech could promote.
European Court of Human Rights (2020):
A. Whether the interference is "prescribed by law":
The Court sees no reason to disagree with the Supreme Court's assessment that the applicant's comments were "serious, severely hurtful and prejudicial". As reasoned by the Supreme Court, the use of the terms kynvilla (sexual deviation) and kynvillingar (sexual deviants) to describe homosexual persons, especially 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 in issue, viewed on their face and in substance, fell under the second category of 'hate speech'. As discussed in the Supreme Court's judgment, according to Article 233(a) of the General Penal Code, the restriction on the applicant's freedom of expression complied with the requirement of being "prescribed by law".
B. Whether the interference pursued a legitimate aim:
The purpose of Article 233(a) 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 others' envisaged by Article 10 § 2 of the Convention.
C. Whether the interference was "necessary in a democratic society":
The Supreme Court held 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. It also reasoned that 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. 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 Court observes the following. The Supreme Court stressed that along with their right to express their ideas, people also have obligations to avoid statements that are unwarrantably offensive to others, constituting an assault on their rights. The Supreme Court found that the statements had been unnecessarily offensive and emphasised that the applicants had left the leaflets in or on the pupils' lockers, thereby imposing them on the pupils. Having balanced the relevant considerations, the Supreme Court found no reason not to apply the relevant Article of the Penal Code.
D. Whether the measures are "proportionate to the legitimate aim pursued":
The Court finds that the Supreme Court gave relevant and sufficient reasons for the applicant's conviction and that the applicant was not sentenced to imprisonment, although the crime of which he was convicted carries a penalty of up to two years' imprisonment. Instead, a fine of approximately EUR 800 was imposed on him. The Court does not find this penalty excessive in the circumstances.
Alain Bonnet v. France [44]
This conviction followed the publication, on the website "Equality and Reconciliation", of a page headed "Chutzpah Hebdo", a parody of the front page of the weekly Charlie Hebdo, containing the caption "historians all at sea" and a drawing representing the face of Charlie Chaplin in front of a Star of David asking the question "Shoah where are you?", the answer being given in a number of speech bubbles, "here", "over here" and "here too", placed next to drawings depicting soap, a lampshade, a shoe without laces and a wig. The case concerned the criminal conviction of Alain Bonnet, by the French courts 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, and for the offence of questioning the existence of crimes against humanity.
Paris Criminal Court (2017):
Regarding the offence of proffering a public racial insult, the judges considered that the misappropriation of the front page of the 30 March 2016 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 found him guilty of the offences of proffering a public racial insult and of questioning the existence of a crime against humanity, namely the Holocaust. 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.
Paris Court of Appeal (2018):
The Court upheld the conviction, rejecting his arguments that the Jewish community had not been targeted and that the offending cartoon fell within the register of art, humour and politics. However, that court reduced the sentence, replacing the term of imprisonment by 100 day-fines at EUR 100, totalling EUR 10,000.
European Court of Human Rights (2022):
A. Whether the interference is "prescribed by law":
The Court found that the domestic courts had provided relevant and sufficient reasons for their 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 during the Second World War and the question "Shoah, where are you?" had sought to ridicule that historical event and cast doubt on its reality. Therefore 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.
B. Whether the interference pursued a legitimate aim:
The Court reiterated that it attached particular importance to the medium used and the context in which the impugned remarks were disseminated, and therefore to their potential impact in terms of public policy and social cohesion. It noted that, even though the Criminal Court had ordered the removal of the cartoon from the website, it was still accessible online via search engines. The harmful impact of the message it conveyed therefore remained considerable. The Holocaust was a clearly established historical event and the French authorities had already been called upon to respond to statements or speech amounting to Holocaust denial and related historical revisionism. As to the underlying factors, namely the nature, medium and context of the offending cartoon, the domestic courts had examined the case in detail and had weighed in the balance the various interests at stake: the applicant's right to freedom of expression, on the one hand, and the protection of the rights of others, on the other, on the basis of sufficient and relevant reasons.
C. Whether the interference was "necessary in a democratic society":
The Court noted that while a prison sentence could have been handed down, the applicant had been sentenced on appeal to pay 10,000 euros, and that while this was a significant amount it was less than that imposed at first instance. The Court concluded that, even supposing that Article 10 of the Convention was applicable, the interference with the applicant's freedom of expression had been necessary in a democratic society.
Roger Garaudy v. France [45]
He was charged with publishing racially defamatory statements and inciting to racial or religious hatred or violence, damaging the honour and reputation of Jewish community, publicly defaming a group of persons, namely the Jewish community, denying crimes against humanity, and publicly defaming a group of persons on the ground of their membership or nonmembership of a particular ethnic group or race and inciting to discrimination, hatred or violence against a group of persons on the ground of their origin or their membership or non-membership of a particular ethnic group or race. The complaint was lodged not only against the Mr Garaudy, but also against Mr Pierre Guillaume, the editorial director of La vieille taupe, for publishing the book.
Paris tribunal de grande instanc and Paris Court of Appeal:
In five orders made by the investigating judge of the Paris tribunal de grande instance on 7 March 1997, the applicant was committed to stand trial before that court for five offences. Five separate sets of proceedings were thus referred to the trial courts. The complaints concerned various parts from Garaudy's books. The courts examined the cases at each stage and gave different decisions. 1. Paris Court of Appeal (1998) sentenced the Mr Garaudy to a suspended term of six months' imprisonment and a fine of 50,000 French francs (FRF) for denying a crime against humanity (Holocaust) in two chapters of his book. Mr Pierre 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. Paris tribunal de grande instance (1998) found Mr Garaudy guilty of denial of the existence of the crimes against humanity committed against the Jewish community in twelve passages of his book and sentenced him to a fine of FRF 30,000. It awarded the civil parties one franc in damages and compensation of FRF 10,000. 3. Paris tribunal de grande instance (1998) found Mr Garaudy guilty of the offence of denying crimes against humanity in twenty passages of his book and sentenced him to a fine of FRF 50,000. It awarded the civil parties one franc in damages and FRF 10,000 in compensation. The Paris Court of Appeal upheld the aforementioned judgment and added a suspended term of six months' imprisonment. 4. Paris tribunal de grande instance (1998) found the Mr Garaudy guilty of the offence of publicly defaming a group of persons (the Jewish community) and damaging the honour and reputation of that community, concerning several passages of his book and sentenced him to a fine of FRF 20,000. It awarded the civil parties one franc in damages and compensation in the amounts of FRF 10,000, FRF 5,000 and FRF 1. The Paris Court of Appeal (1998) upheld the aforementioned judgment, adding a suspended term of three years' imprisonment and ordering the payment of FRF 20,000 to LICRA. 5. The Paris Court of Appeal (1998) upheld Mr Garaudy's conviction for 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, concerning four passages of his book, and sentenced him to 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).
Increase of sentence on appeal:
In its five judgments the Paris Court of Appeal decided to impose a heavier sentence on the applicant than the one imposed by the tribunal de grande instance on the ground that the sentence should be determined "on the basis of the seriousness of the offence and the status of the offender". The court found that the offences with which the applicant had been charged were particularly serious in that they amounted "in reality to deconstructing the values on which the fight against racism and particularly anti-Semitism are based", and that "the author twisted his comments in such a way as to discredit the Jewish community as a whole, arouse hostility towards it by associating himself with revisionist theories ... and undermine not only the values of the community in question but the universal values of our civilisation".
European Court of Human Rights (2003):
A. Whether the interference is "prescribed by law":
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 the 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 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. The Court found that, since the applicant's book, taken as a whole, displayed a marked tendency to revisionism, 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 Court held that he could not rely on Article 10 and declared his complaint incompatible with 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. Far from confining himself to political or ideological criticism of Zionism and the State of Israel's actions, or even undertaking an objective study of revisionist theories and merely calling for "a public and academic debate" on the historical event of the gas chambers, as he alleges, the applicant does actually subscribe to those theories and systematically denies the crimes against humanity perpetrated by the Nazis against the Jewish community. Such acts are incompatible with democracy and human rights because they infringe the rights of others.
B. Whether the interference pursued a legitimate aim:
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".

C. Whether the interference was "necessary in a democratic society":
The court considers that the applicant attempts to deflect Article 10 of the Convention 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. Such ends, if admitted, would contribute to the 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. 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.
Jens Olaf Jersild V. Denmark [46]
He produced a documentary on group of young people called the Greenjackets. During the interview, which was conducted by him, the three Greenjackets made abusive and derogatory remarks about immigrants and ethnic groups in Denmark. He was charged with aiding and abetting the three youths, as was also the head of the news section of Danmarks Radio, in violation of section 266 (b) of the Penal Code read in conjunction with section 23 of the Penal Code.
City Court of Copenhagen (1987):
The court convicted the Greenjackets and Jersild for publishing defamatory remarks and racist statements and for aiding and abetting a xenophobic group. The applicant was convicted of aiding and abetting the dissemination defamatory remarks (consisted of series of inarticulate, defamatory remarks and insults) about immigrants in Denmark contrary to section 266 (b) in conjunction with section 23 of the Penal Code, as was Mr Jensen, in his capacity as programme controller; they were sentenced to pay day-fines (dagsbøder) totalling 1,000 and 2,000 Danish kroner, respectively, or alternatively to five days' imprisonment.
European Court of Human Rights (1994):
A. Whether the interference is "prescribed by law":
The Commission finds that the interference was in accordance with law as it was based on section 266(b) in conjunction with section 23, subsection 1, of the Danish Penal Code.
B. Whether the interference pursued a legitimate aim:
The restriction 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 contents of the program which included statements about immigrant workers which were highly insulting.
C. Whether the interference was "necessary in a democratic society":
The remarks were more than insulting to members of the targeted groups and did not enjoy the protection of Article 10, however, as they were not made by the applicant himself, the commission finds that the applicant's conduct during the interviews clearly dissociated him from the persons interviewed. The reasons adduced in support of the applicant's conviction and sentence were not sufficient to establish convincingly that the interference thereby occasioned with the enjoyment of his right to freedom of expression was "necessary in a democratic society". Accordingly the measures gave rise to a breach of Article 10 of the Convention and thus the court acquitted him from the charges.
Lars Hedegaard v. Denmark [47]
The basis for Hedegaard's prosecution was an interview in 2009 in which he made controversial statements about Islam.
Public Prosecutor for Copenhagen (2009):
The Public Prosecutor for Copenhagen charged International Free Press Society (IFPS) president Lars Hedegaard with racism. The IFPS describes itself as an organization "exclusively devoted to defending the right of free expression". The Danish public prosecutor's office 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).
Danish superior court (2011):
The court found Hedegaard's comments regarding family rape in Muslim families to be insulting and found Hedegaard guilty of hate speech in accordance with Article 266b. He was convicted of hate speech under the Article 266b of the Danish Penal Code, and fined 5,000 kroner.
Danish Supreme court (2012):

The Danish Supreme Court decided that the prosecution had failed to prove that Hedegaard was aware that his statements would be published. Although Hedegaard was thus acquitted, the court 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.
Jesper Langballe v. Denmark [48]
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 after the case was issued by a public prosecutor from Jultland. 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.
Dieudonné M'bala M'bala v. France [49]
He was a comedian charged with the expression of negationist and anti-Semitic views during a show. He invited Robert Faurisson, an academic who has received a number of convictions in France for his negationist and revisionist opinions, mainly his denial of the existence of gas chambers in concentration camps, to join him on stage to receive a “prize for unfrequentability and insolence”.
Paris court, tribunal de grande instance (2009):
The court found Mr 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. He 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. The double choice of, a seven-branch candlestick which is an emblem of the Jewish religion debased by being reduced to three branches, with apples substituted for candles and a costume resembling the clothing worn by Jewish deportees in Nazi concentration camps described as a ‘garment of light’, meaningfully reflected, for the audience present at the public rally, the ambition expressly stated in the impugned remarks, as made just before the sketch, to attain a paroxysm of antiSemitism. The defendant’s intention was thus to undermine the ‘foundation’ of the Jewish people, the real target of his so-called ‘glissage de quenelle’. The offending remarks are both contemptuous and insulting vis-à-vis persons of Jewish origin or faith. Nor can Mr. M’Bala M’Bala hide behind the pretext of comedy. According to the video-recording, 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. By inviting an individual known for his negationist ideas to be awarded by an actor representing a caricature of a Jewish deportee and by using an object ridiculing a symbol of Judaism, the defendant excessively overstepped the permissible limits of the right to humour. 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. The court found the applicant guilty as charged and sentenced him to a fine of 10,000 euros (EUR), awarding a token euro in damages to each of the eight civil parties. As an additional penalty the Court also ordered the publication, at the applicant’s expense and not exceeding EUR 3,000, of a notice in the daily newspapers Le Monde and Le Parisien-Aujourd’hui en France.
Paris Court of Appeal (2011):
The Paris Court of Appeal upheld the judgment as to the applicant’s guilt and the sanctions imposed on him. Ridiculing a symbol of the Jewish religion was a form of expression that was both insulting and contemptuous vis-à-vis all persons of Jewish origin or faith, such that the charge of insult is made out. Freedom of expression, essential though it may be in a democratic society, is 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.
European Court of Human Rights (2013):
The Government submitted that the applicant’s remarks and acts had clearly revealed a racist objective, seeking, as the Paris Court of Appeal had noted, to “deliberately offend against the memory” of the Jewish people. They 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. The Court of Appeal had established the existence of an insult by noting the offensive significance of the remarks made by the comedian. The Government added that he had already been convicted for a racial insult: the plenary Court of Cassation had found, in a judgment of 16 February 2007, that a 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. The Government took the view that Article 10 had not been violated in the present case; the

interference was "prescribed by law", served a "legitimate purpose" and was "necessary in a democratic society". The ECHR has thus found that any "remark directed against the Convention's underlying values" is removed from the protection of Article 10 by Article 17. The Court notes that the domestic courts convicted the applicant for proffering a racial insult. They found that he had 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. The planned quotation from a passage of Louis Ferdinand Céline's work, would not, in the context of the mise en scène, have had the effect of toning down the insulting nature of the sketch for persons of Jewish faith or origin. The Court further notes that the description of the concentration camp clothing worn by J.S. as a "garment of light" at the very least showed the applicant's contempt for Holocaust victims, thus adding to the offensive dimension of the sketch as a whole. It thus takes the view that neither the contextual elements nor the remarks actually made on stage were such as to indicate any intention on the part of the comedian to denigrate the views of his guest or to denounce anti-Semitism. The Court would also observe that 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 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. The Court is of the view that 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. The Court 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. The Court finds that 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. Accordingly, the Court finds that pursuant to Article 17 of the Convention the applicant cannot enjoy the protection of Article 10.
Robert Faurisson v. France [50]
Mr. Faurisson convicted for expressing his concern that the "Gayssot Act" law constituted a threat to freedom of research and freedom of expression. The author reiterated his previous personal conviction that there were no homicidal gas chambers for the extermination of Jews in Nazi concentration camps.
Tribunal de Grande Instance de Paris (1991):
The court convicted Messrs. Faurisson and Boizeau (the editor of the magazine Le Choc du Mois) of having committed the crime of contesting crimes against humanity and imposed on them fines and costs amounting to FF 326,832. Faurisson was dismissed from his academic post.
Court of Appeal of Paris (1992):
The court upheld the conviction and fined Messrs. Faurisson and Boizeau a total of FF 374,045.50. The Court of Appeal did, inter alia, examine the facts in the light of articles 6 and 10 of the ECHR and Fundamental Freedoms and concluded that the court of first instance had evaluated them correctly.
Human Rights Committee[8] (1996):
A. Whether the interference is "prescribed by law":
The State party concludes that the author's "activities", within the meaning of article 5 of the Covenant, clearly contain elements of racial discrimination, which is prohibited under the Covenant and other international human rights instruments. The State party invokes article 26 and in particular article 20, paragraph 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". It also concludes that under the guise of historical research, Mr. Faurisson seeks to accuse the Jewish people of having falsified and distorted the facts of the Second World War and thereby having created the myth of the extermination of the Jews. The State party notes that the right to freedom of expression laid down in article 19 of the Covenant is not without limits (cf. art. 19, para. 3), and that French legislation regulating the exercise of this right is perfectly consonant with the principles laid down in article 19. The limitations on Mr. Faurisson's right to freedom of expression flow from the Law of 13 July 1990. The State party emphasizes that the text of the Law of 13 July 1990 reveals that the offence of which the author was convicted is defined in precise terms and is based on objective criteria, so as to avoid the creation of a category

[8] The Human Rights Committee is the body of independent experts that monitors implementation of the International Covenant on Civil and Political Rights by its States parties.

of offences linked merely to expression of opinions. 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. Case No. 9235/81 (X. v. Federal Republic of Germany [51]), declared inadmissible 16 July 1982 which concerned the prohibition, by judicial decision, of display and sale of brochures arguing that the assassination of millions of Jews during the Second World War was a Zionist fabrication, the Commission held that "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 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 liers or swindlers, or at least as persons profiting from or interested in such lies or swindles. The Human Rights Committee has considered that the restriction on the author's freedom of expression was provided by law i.e. the Act of 13 July 1990.
B. Whether the interference pursued a legitimate aim:
As it did in its General Comment 10 that the rights for the protection of which restrictions on the freedom of expression are permitted by article 19, paragraph 3, may relate to the interests of other persons or to those of the community as a whole. Since the statements made by the author, 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 author's freedom of expression was permissible under article 19, paragraph 3(a), of the Covenant. The European Commission observed that article 17 of the European Convention concerned essentially those rights which would enable those invoking them to exercise activities which effectively aim at the destruction of the rights recognized by the Convention. It held that 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. The Committee concludes that the Tribunal de Grande Instance de Paris convicted Mr. Faurisson for having violated the rights and reputation of others. For these reasons the Committee is satisfied that the Gayssot Act, as read, interpreted and applied to the author's case by the French courts, is in compliance with the provisions of the Covenant. The Commission justified the restrictions on the applicant's freedom of expression, arguing that the restriction was covered by a legitimate purpose recognized by the Convention, namely the protection of the reputation of others.
C. Whether the interference was "necessary in a democratic society":
The State party notes that the author's conviction was fully justified, not only by the necessity of securing respect for the judgment of the International Military Tribunal at Nuremberg, and through it the memory of the survivors and the descendants of the victims of Nazism, but also 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. The Committee noted the State party's argument contending that the introduction of the Gayssot Act was intended to serve the struggle against racism and anti-semitism. It also noted the statement of the then Minister of Justice, which characterized the denial of the existence of the Holocaust as the principal vehicle for anti-semitism. The Committee is satisfied that the restriction of Mr. Faurisson's freedom of expression was necessary within the meaning of article 19, paragraph 3, of the Covenant. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts as found by the Committee do not reveal a violation by France of article 19, paragraph 3, of the Covenant.
Mrs Elisabeth Sabaditsch-Wolff (E. S.) v. Austria [52]
She was convicted for disparaging religious doctrines and for her defamatory remarks relating to the Prophet Muhammad's marriage to Aisha, which is usually misrepresented as being to an underage girl.[9] She was ordered to pay pay the costs of the proceedings and a fine of EUR 480, which would result in sixty days' imprisonment in the event of default.
Vienna Regional Criminal Court (2011):
The courts convicted her for disparaging religious doctrines pursuant to Article 188 of the Criminal Code. The Austrian Courts found her guilty of publicly disparaging an object of veneration of a domestic church or religious

[9] It is important to note that historical records estimate Aisha's age at marriage to be 19, 22, or 24 [74][75]. However, these records are often deliberately overlooked and dismissed by those who refuse to acknowledge the truth and seek to blame and defame Prophet Muhammad. This indicates that Aisha had already reached the age of nineteen, marking her entry into puberty. The marriage continued until the Prophet's demise.

society – namely Muhammad, the Prophet of Islam – in a manner capable of arousing justified indignation. The Regional Court further stated that anyone who wished to exercise their rights under Article 10 of the Convention was subject to duties and responsibilities, such as refraining from making statements which hurt others without reason and therefore did not contribute to a debate of public interest. The applicant's statements were not statements of fact, but derogatory value judgments which exceeded the permissible limits. It held that the applicant had not intended to approach the topic in an objective manner, but had directly aimed to degrade Muhammad. The manner in which religious views were attacked could engage the State's responsibility in order to guarantee the peaceful exercise of the rights under Article 9. 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 court concluded that the interference with the applicant's freedom of expression in the form of a criminal conviction had been justified as it had been based in law and had been necessary in a democratic society, namely in order to protect religious peace.
Vienna Court of Appeal (2011):
The Court of Appeal dismissed the applicant's appeal, confirming in essence the legal and factual findings of the lower court. As regards the alleged violation of Article 10 of the Convention, the Court of Appeal, referring to the Court's case-law (İ.A. v. Turkey [53]), found that it had to examine whether the comments at issue were merely provocative or had been intended as an abusive attack on the Prophet of Islam. It concluded that the latter was the case as Muslims would find the applicant's statements wrong and offensive. Her statements showed her intention to unnecessarily disparage and deride Muslims. The permissible limits of criticism were exceeded where criticism ended and insults or mockery of a religious belief or person of worship began. The interference with the applicant's freedoms under Article 10 of the Convention had therefore been justified.
Supreme Court (2013):
Supreme Court dismissed the request for a renewal of the proceedings. As regards the alleged violation of Article 10, it found that the applicant's conviction under Article 188 of the Criminal Code constituted an interference with the right to freedom of expression, which had however been justified under Article 10 § 2 of the Convention. Referring to the Court's case-law (Otto-Preminger-Institut v. Austria [54]; Wingrove v. the United Kingdom [55]), it held that the aim of the interference had been to protect religious peace and the religious feelings of others and was therefore legitimate. The Court had stated many times that in the context of religion member States had a duty to suppress certain forms of conduct or expression that were gratuitously offensive to others and profane. In cases where the impugned statements not only offended or shocked, or expressed a "provocative" opinion, but had also been considered an abusive attack on a religious group – for example an abusive attack on the Prophet of Islam, as in the applicant's case – a criminal conviction might be necessary to protect the freedom of religion of others. She had not aimed to contribute to a serious debate about Islam or the phenomenon of child marriage, but merely to defame Muhammad by accusing him of a specific preference, in order to show that he was not a worthy subject of worship. The court found that the applicant had not contributed to a debate of general interest because she had made her allegation primarily in order to defame Muhammad. In the present case the criminal conviction constituted a measure necessary in a democratic society within the meaning of Article 10 of the Convention. Moreover, the measure taken by the Criminal Court had also been proportionate.
European Court of Human Rights (2012):
A. Whether the interference is "prescribed by law":
The Government submitted that the primary purpose Article 188 of the Criminal Code was to protect religious peace, which was an important element of general peace within a State. Religious peace was to be understood as the peaceful co-existence of the various churches and religious communities with each other, as well as with those who did not belong to a church or religious 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 Convention 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.
B. Whether the interference pursued a legitimate aim:
The Government concluded that 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 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.
C. Whether the interference was "necessary in a democratic society":
As paragraph 2 of Article 10 recognizes, the exercise of the freedom of expression carries with it duties and responsibilities. Amongst them, in the context of religious beliefs, is the general requirement to ensure the peaceful enjoyment of the rights guaranteed under Article 9 to the holders of such beliefs including a duty to avoid as far as possible an expression that is, in regard to objects of veneration, gratuitously offensive to others and profane. Where such expressions 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 [54] and İ.A. v. Turkey [53]). 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 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 issue before the Court therefore involves weighing up the conflicting interests of the exercise of two fundamental freedoms, namely the right of the applicant to impart to the public her views on religious doctrine on the one hand, and the right of others to respect for their freedom of thought, conscience and religion on the other. Even where a statement amounts to a value judgment, the proportionality of an interference may depend on whether there exists a sufficient factual basis for the impugned statement, since even a value judgment without any factual basis to support it may be excessive. The difference lies in the degree of factual proof which has to be established. The Court notes 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 the applicant must have been aware that her statements were partly based on untrue facts and liable to arouse (justified) indignation in others. The Convention States are required, in accordance with their positive obligations under Article 9 of the Convention, to ensure the peaceful co-existence of religious and nonreligious groups and individuals under their jurisdiction by ensuring an atmosphere of mutual tolerance. 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 Court notes that the domestic courts qualified the impugned statements as value judgments, based on a detailed analysis of the wording of the statements made. They found that the applicant had subjectively labelled Muhammad with some sexual preferences and had failed to neutrally inform her audience of the historical background, which consequently had not allowed for a serious debate on that issue. The Court therefore agrees with the domestic courts that the impugned statements can be classified as value judgments not having a sufficient factual basis. Even if they were to be classified as factual statements, as the applicant insisted, she failed to adduce any evidence to that end, both during the domestic proceedings and before the Court. As to the applicant's argument that a few individual statements had to be tolerated during a lively discussion, the Court considers that it is not compatible with Article 10 of the Convention to package incriminating statements in the wrapping of an otherwise acceptable expression of opinion and deduce that this renders statements exceeding the permissible limits of freedom of expression passable. The applicant was wrong to assume that improper attacks on religious groups had to be tolerated even if they were based on untrue facts. The Court has held that statements which are based on (manifestly) untrue facts do not enjoy the protection of Article 10. Under the circumstances, the Court does not consider the criminal sanction to be disproportionate. In conclusion the Court finds that in the instant case the domestic courts comprehensively assessed the wider context of the applicant's statements, and carefully balanced her right to freedom of expression with the rights of others to have their religious feelings protected and to have religious peace preserved in Austrian society. They 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. In addition, the Court considers that the impugned statements were not phrased in a neutral manner aimed at making an objective contribution to a public debate concerning child marriages but amounted to a generalization without a factual basis. 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.
John Galliano v. France [56] [57]
Mr. Galliano was given a suspended fine for racist and anti-Semitic rants at people in a Paris bar.
Paris court (2011):
He was found guilty of "public insults" based on origin, religion, race or ethnicity by the Paris criminal Court. He has been given a suspended fine of €6,000 (£5,200) by a Paris court for racist and anti-Semitic rants at people in a Paris bar. He was sacked from his post as creative director of the French fashion house Dior.
Brigitte Bardot v. France [15]
French former film star Brigitte Bardot, faced the charge of “inciting racial hatred” over her controversial remarks about Islam and its followers. Bardot had been convicted four times for inciting racial hatred against Muslims. She was first fined in 1997 for her comments published in Le Figaro newspaper that had presented Muslims in France as a menace [15]. In 1998 she was convicted for making a statement about the growing number of mosques in France. In a book she wrote in 1999, she again criticized Muslim sheep slaughter and was fined 30,000 francs £3,000. In a 2001 article, she lamented: "...my country, France, my homeland, my land is again invaded by an overpopulation of foreigners, especially Muslims." In her 2003 book, she laments the “Islamisation of France” and the “underground and dangerous infiltration of Islam”. In 2006, she wrote to France's then interior minister, arguing Muslims should stun animals before slaughtering them during the Eid al-Adha holiday.
Paris Court (2004):
A Paris court sentenced Bardot, for remarks made in her book against Muslims. Bardot presents Muslims as barbaric and cruel invaders, responsible for terrorist acts and eager to dominate the French to the extent of wanting to exterminate them. The court sentenced Bardot for inciting racial hatred against Muslims and she was fined €5000 ($6000).
Paris Court (2008):
She outraged anti-racist groups by saying: I've had enough of being led by the nose by this whole population which is destroying us, (and) destroying our country by imposing their ways. The court ruled that the comments in question clearly referred to the Muslim community and constituted a legal offence. Bardot was fined 15,000 euros (23,000 dollars) for inciting hatred against Muslims by attacking the ritual slaughter of animals in Islamic culture [58]. The fifth time she was fined for inciting racial hatred against Muslims since 1997.
A. v. Norway [59]
He had been convicted for several insulting comments, posted on a Facebook group called ‘Fatherland First’, against dark-skinned people, Muslims, and Islam.
Norway Nedre Telemark District Court (2018):
A. was ordered to pay a fine of NOK 12000, alternatively to accept 8 days of imprisonment. The District Court found that all the quoted statements as hate speech were covered by section 185 of the Penal Code.
Agder Court of Appeal (2019):
A. is convicted of violation of section 185 subsection 1 first sentence, cf. subsection 2 of the Penal Code, and sentenced to pay a fine of NOK 12000, alternatively to serve 18 days in prison. Hateful statements towards people as a religious group may, depending on the circumstances, be covered by section 185 of the Penal Code. This includes insulting statements. 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. It is directly linked to a post about possession of sexual assault materials, asking when charges will be made against this religious group. 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. Furthermore, 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. The Judge therefore agreed with the Court of Appeal that the statement is covered by section 185 subsection 1 first sentence, cf. subsection 2 (b) of the Penal Code.
Herwig Nachtmann v. Austria [60]
He published an article suggesting that the number of the victims of the mass killings, in particular of Jews, by poisonous gas and cremation was highly exaggerated and technically impossible.
Austria Graz Regional Criminal Court (1995):
The court convicted the applicant of National Socialist activities within the meaning of Section 3h of the National Socialism Prohibition Act, fined him 240,000 Austrian Schillings (AS) and sentenced him to ten months' imprisonment on probation.
Supreme Court (1996):
The Supreme Court confirmed the findings of the Graz Regional Criminal Court but reduced the fine to AS 192,000 and the sentence to nine months' imprisonment on probation.
European Court of Human Rights (1997):
A. Whether the interference is "prescribed by law":
The Commission is satisfied that the Graz Regional Criminal Court's application of Section 3 h of the National Socialist Prohibition Act to the applicant's case did not go beyond what could be reasonably foreseen in the circumstances. Accordingly, the Commission concludes that the impugned conviction was "prescribed by law.
B. Whether the interference pursued a legitimate aim:
The interference also pursued a legitimate aim under the Convention, i.e. "the prevention of disorder and crime" and the "protection of the reputation of others".
C. Whether the interference was "necessary in a democratic society":
The prohibition against activities involving the expression of National Socialist ideas is lawful, can be justified as being necessary in a democratic society in the interests of national security and territorial integrity as well as for the prevention of crime. It is therefore covered by Article 10 para. 2 of the Convention.
Hans Jörg Schimanek v. Austria [61]
He was accused of denying the systematic killing by use of toxic gas under the National Socialist regime and that he had organized the distribution of pamphlets with similar contents.
Vienna Assize Court and the Supreme Court (1995):
The Assize court convicted the applicant under Section 3a (2) of the Prohibition Act and sentenced him to fifteen years' imprisonment. The Supreme Court confirmed the conviction while reducing the sentence to eight years' imprisonment.
European Court of Human Rights (2000):
A. Whether the interference is "prescribed by law":
According to Article 7 of the Convention, the Court finds that section 3a (2) of the Prohibition Act formed a sufficiently precise legal basis for the interference at issue, which was therefore "prescribed by law".
B. Whether the interference pursued a legitimate aim:
As to both, the legitimate aim and the necessity of the interference, the Court refers to previous case-law, in which it was held that "the prohibition against activities involving the expression of national socialist ideas is lawful in Austria and, in view of the historical past forming the immediate background of the Convention itself, can be justified as being necessary in a democratic society in the interests of national security and territorial integrity as well as for the prevention of crime. It is therefore covered by Article 10 para. 2 of the Convention".
C. Whether the interference was "necessary in a democratic society":
The applicant was found guilty of having held 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. National Socialism is a totalitarian doctrine incompatible with democracy and human rights and its adherents undoubtedly pursue aims of the kind referred to in Article 17 of the Convention. The Court concludes that it derives from Article 17 that the applicant's conviction was necessary in a democratic society within the meaning of the second paragraph of Article 10.
Pierre Marais v. France [62]
The applicant had written an article doubting the existence of gas chambers at Struthof-Natzweiler concentration camp.
Paris Criminal Court (1993):

The court sentenced him to a fine of 10000 French Francs and ordered him to pay damages to the associations which had joined the proceeding. The court decided that the sectin 24 bis of the 1881 law subjects the exercise of the freedom of expression and opinion to restrictions which are necessary in a democratic society for the protection of the reputation or rights of others and for public safety within the meaning of Article 10 paragraph 2 of the convention statements which deny the existence of crimes against humanity insult the memory of the Nazis' victims and are liable to provoke disorder by spreading ideas which seek to restore Nazi racial doctorine and discriminatory policy.
European Court of Human Rights (1996):
A. Whether the interference is "prescribed by law":
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 was "prescribed by law", namely, by section 24 bis of the Law of 29 July 1881, introduced by the Law of 13 July 1990.
B. Whether the interference pursued a legitimate aim:
The interference also pursued legitimate aims under the Convention, ie "the prevention of disorder or crime" and "the protection of the reputation or rights of others".
C. Whether the interference was "necessary in a democratic society":
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. Therefor 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.
Richard Williamson v. Germany [63]
In 2008, Mr Williamson in an interview stated that he believed there were no gas chambers during the Nazi regime. In January 2009 SVT-1 broadcasted the interview in a Swedish television program.
Regensburg District Court (2009):
The court found him guilty of incitement to hatred. The Court considered that the applicant's 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 and sentenced him to 90 day-fines of EUR 20 each.
European Court of Human Rights (2019):
A. Whether the interference is "prescribed by law":
The court came to the conclusion that he had sought to use his right to freedom of expression with the aim of promoting ideas contrary to the text and the spirit of the Convention. t is satisfied that the applicant's conviction was prescribed by law.
B. Whether the interference pursued a legitimate aim:
It pursued the legitimate aim of preventing a disturbance of the public peace in Germany and thus the prevention of disorder and crime.
C. Whether the interference was "necessary in a democratic society":
There exists a pressing social need for interference with rights under the Convention. The interference was therefore proportionate to the legitimate aim pursued and was "necessary in a democratic society".
Udo Pastörs v. Germany [26]
In 2010, the day after Holocaust Remembrance Day, Mr Pastörs, then a member of the Land Parliament of Mecklenburg-Western Pomerania, made a speech stating that "the so-called Holocaust is being used for political

and commercial purposes". He also referred to a "barrage of criticism and propagandistic lies" and "Auschwitz projections". He was sentenced to eight months' imprisonment, suspended on probation.
District Court (2012):
The court convicted him for violating the memory of the dead and of the intentional defamation of the Jewish people. The Court held that Mr Pastörs had intentionally stated untruths in order to defame the Jews and the persecution that they had suffered. The Court found that the applicant's qualified Auschwitz denial constituted defamation under Article 187 of the Criminal Code. The systematic mass murder of the Jews, committed in the concentration camps during the Second World War, was an established historical fact. The applicant's assertions were capable of defaming the persecution of the Jews in Germany, an event which formed an inherent part of their personal dignity. He could not rely on his right to freedom of expression in respect of his denial of the Holocaust. In making his defamatory statements, the applicant had also denigrated the memory of those murdered in Auschwitz during the Nazi dictatorship because of their Jewish origins. He was thus also guilty of violating those peoples' memory under Article 189 of the Criminal Code.
European Court of Human Rights (2020):
A. Whether the interference is "prescribed by law":
The Court finds that his criminal conviction for the statement at issue amounted to an interference with his right to freedom of expression. Such interference will infringe the Convention if it does not meet the requirements of Article 10 § 2 of the Convention. The Court is satisfied that the interference was prescribed by law (namely Articles 187 and 189 of the Criminal Code).
B. Whether the interference pursued a legitimate aim:
The Court is satisfied that the interference pursued the legitimate aim of protecting the reputation and rights of others.
C. Whether the interference was "necessary in a democratic society":
The Court placed emphasis on the fact that 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. The applicant sought to use his right to freedom of expression with the aim of promoting ideas contrary to the text and spirit of the Convention. The exercise of freedom of expression, even in Parliament, carries with it "duties and responsibilities" referred to in Article 10 § 2 of the Convention. 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. The domestic authorities adduced relevant and sufficient reasons and did not overstep their margin of appreciation. The interference was therefore proportionate to the legitimate aim pursued and was thus "necessary in a democratic society".
Josef Felix Müller and others v. Switzerland [64]
Mr. Müller and others displayed an exhibition of modern act, where three large paintings of obscenity were shown. The principal public prosecutor reported to the investigating judge that the paintings in question appeared to come within the provisions of Article 204 of the Criminal Code, which prohibited obscene publications and required that they be destroyed.
Sarine District Criminal Court (1982):
The Court sentenced each of them to a fine of 300 Swiss francs (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 (1982):
Sexual activity is the main, not to say sole, ingredient of all three paintings. 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. 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 someone insensible to obscenity is capable of realizing that it may disturb others.
Federal Court (1983):
The applicants appealed that as to the "publication" of obscene items, which was prohibited under Article 204 of the Criminal Code, this was a relative concept. It should be possible to show in an exhibition pictures which, if they were displayed in the market-place, would fall foul of Article 204; people interested in the arts ought to have

an opportunity to acquaint themselves with all the trends in contemporary art. Visitors to an exhibition of contemporary art like "Fri-Art 81" should expect to be faced with modern works that might be incomprehensible. If they did not like the paintings in issue, they were free to look away from them and pass them by; there was no need for the protection of the criminal law. It was not for the court to undertake indirect censorship of the arts. On a strict construction of Article 204 - that is, one which, having regard to the fundamental right to freedom of artistic expression, left it to art-lovers to decide for themselves what they wanted to see -, the applicants should be acquitted. The Criminal Cassation Division of the Federal Court dismissed the appeal for the following reasons: 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 appellants maintained that the publication element of the offences was lacking. They are wrong. The obscene paintings were on display in an exhibition open to the public which had been advertised on posters and in the press. There was no condition of admission to 'Fri-Art 81', such as an age-limit. The paintings in dispute were thus made accessible to an indeterminate number of people, which is the criterion of publicity for the purposes of Article 204 CC ..."
European Court of Human Rights (1988):
A. Whether the interference is "prescribed by law":
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.
B. Whether the interference pursued a legitimate aim:
The Government contended that the aim of the interference 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. After emphasizing the correlation between necessity and social needs, the Court deduced that the interference in the artistic creativity of the applicants was necessary and hence proportionate. The court also held that the confiscation of the paintings did not infringe Article 10 of the Convention [64]. 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.
C. Whether the interference was "necessary in a democratic society":
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 Article 10-2. Whoever exercises his freedom of expression undertakes "duties and responsibilities". 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, Handyside v. The United Kingdom [65]). 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.
Otto-Preminger-Institute v. Austria [54]
The Otto-Preminger Institute (OPI), showed a film called "Council in Heaven". The satirical film presented a demeaning portrayal the God of the Jewish, and the Christian religions. The film targeted Christian creed in a caricatural mode.
Public Prosecutor and Innsbruck Regional Court (1985):
At the request of the Innsbruck diocese of the Roman Catholic Church, the public prosecutor instituted criminal proceedings against OPI's manager, Mr Dietmar Zingl. The charge was "disparaging religious doctrines", an act prohibited by section 188 of the Penal Code. The film was seized and forfeited. In the reasons the Court pointed out that God the Father, Christ and Mary were the central persons of veneration in the Catholic Church and that also the Eucharistic ceremony was protected by Section 188. 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 the Father, Christ, Mary and the Eucharistic ceremony was reinforced by the general character of the film as an attack on Christian religion. It was done in a scope and manner likely to disturb the feelings of average people, in particular the majority of believing Christians. This was not counterbalanced by the fact that a small minority of persons might be able to interpret the film in a positive way,

having regard to the logical context of the disparaging remarks which could be seen as criticism of historic facts and of religious practices. The freedom of art under Article 17a of the Basic Law on the General Rights of Citizens could not be invoked as this freedom was limited by other fundamental rights such as the right to religious freedom and by the necessity of a social order based on tolerance and respect for legally protected values. While Section 188 of the Penal Code did not in itself restrict the freedom of art, there was in the present case such an intensive interference with religious feelings by the provocative anti-Christian attitude of the film that it outweighed the freedom of art.
Court of Appeal (1985):
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.
Innsbruck Regional Court (1986):
The Court ordered the forfeiture of the film. It held that the public projection scheduled for 13 May 1985 of the film Das Liebeskonzil, 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 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, the more so in view of the general character of the film as an attack on Christian religions. Artistic freedom cannot be unlimited. The limitations on artistic freedom are to be found, firstly, in other basic rights and freedoms guaranteed by the Constitution (such as the freedom of religion and conscience), secondly, in the need for an ordered form of human coexistence based on tolerance, and finally in flagrant and extreme violations of other interests protected by law, the specific circumstances having to be weighed up against each other in each case, taking due account of all relevant considerations. The fact that the conditions of section 188 of the Penal Code are fulfilled does not automatically mean that the limit of the artistic freedom guaranteed by Article 17a of the Basic Law has been reached. However, in view of the above considerations and the particular gravity in the instant case - which concerned a film primarily intended to be provocative and aimed at the Church - of the multiple and sustained violation of legally protected interests, the basic right of artistic freedom will in the instant case have to come second.
Supreme Court (1988):
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 (judgment of 19 December 1985, Medien und Recht (Media and Law) 1986, no. 2, p. 15). A media offence is defined as "an act entailing liability to a judicial penalty, committed through the content of a publication medium, consisting in a communication or performance aimed at a relatively large number of persons" (section 1 para. 12 of the Media Act). A specific sanction provided for by the Media Act is forfeiture of the publication concerned (section 33). Forfeiture may be ordered in addition to any normal sanction under the Penal Code (section 33 para. 1).
European Court of Human Rights (1994):
A. Whether the interference is “prescribed by law”:
The ECHR notes that the measures complained of 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".
B. Whether the interference pursued a legitimate aim:
The Government claim that 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 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". The obvious purpose of Section 188 of the Austrian Penal Code which was applied in the present case is to preserve religious peace. Thus the measures complained of served the protection of the rights of others and the prevention of disorder within the meaning of Article 10 para. 2 (Art. 10-2). It is therefore not necessary to consider

whether they also aimed at the protection of morals. The Commission is consequently satisfied that the Austrian legislation, as applied in the present case, pursued legitimate aims covered by this provision. 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". It follows that 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. Considering also the terms in which the decisions of the Austrian courts were phrased, the Court accepts that the impugned measures pursued a legitimate aim under Article 10 para. 2 (art. 10-2), namely "the protection of the rights of others".
C. Whether the interference was "necessary in a democratic society":
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. In the Kokkinakis v. Greece [66] judgment, the Court held, in the context of Article 9, that a State may legitimately consider it necessary to take measures aimed at repressing certain forms of conduct, including the imparting of information and ideas, judged incompatible with the respect for the freedom of thought, conscience and religion of others. 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. Article 10 para. 2 emohasizes that whoever exercises the rights and freedoms enshrined in the first paragraph of that Article 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 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 maintained that the placing of the original play in the setting of its author's trial in 1895 actually served to reinforce the anti-religious nature of the film, which ended with a violent and abusive denunciation of what was presented as Catholic morality. Furthermore, they stressed the role of religion in the everyday life of the people of Tyrol. The proportion of Roman Catholic believers among the Austrian population as a whole was already considerable - 78% - but among Tyroleans it was as high as 87%. 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. The Court cannot disregard the fact that the Roman Catholic religion is the religion of the overwhelming majority of Tyroleans. 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. No violation of Article 10 can therefore be found as far as the seizure is concerned. 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 [65]). 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 [54][67].
İ.A. v. Turkey [53]
İ.A., the owner and managing director of a publishing company, published 2000 copies of a book which conveyed critical views about Islam religion. The Istanbul public prosecutor charged the applicant under the third and fourth paragraphs of Article 175 of the Criminal Code with insulting "God, the Religion, the Prophet and the Holy Book" through the publication of the book.
Turkey Court of First Instance (1996):

The Court of First Instance decided based on the third and fourth paragraphs of Article 175 of the Criminal Code that provides: "It shall be an offence punishable by six months to one year's imprisonment and a fine of 5,000 to 25,000 Turkish liras to blaspheme against God, one of the religions, one of the prophets, one of the sects or one of the holy books ... or to vilify or insult another on account of his religious beliefs or fulfilment of religious duties ... The penalty for the offence set out in the third paragraph of this Article shall be doubled where it has been committed by means of a publication." The Court of First Instance convicted the applicant for insulting "God, the Religion (Islam), the Prophet (Muhammad) and the Holy Book (Quran)" through the publication and sentenced him to two years' imprisonment and a fine. It commuted the prison sentence to a fine, so that the applicant was ultimately ordered to pay a total fine of 3,291,000 Turkish liras.
European Court of Human Rights (2005):
A. Whether the interference is "prescribed by law":
It was not disputed that the interference with the applicant's right to freedom of expression had been prescribed by law.
B. Whether the interference pursued a legitimate aim:
It was not disputed that the interference with 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.
C. Whether the interference was "necessary in a democratic society":
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. 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". 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, OttoPreminger-Institut v. Austria [54]). 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. 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 Court concludes that the authorities cannot be said to have overstepped their margin of appreciation in that respect and that the reasons given by the domestic courts to justify taking such a measure against the applicant were relevant and sufficient.
D. Whether the measures are "proportionate to the legitimate aim pursued":
As to the proportionality of the impugned measure, the Court considers that the fine imposed was proportionate to the aims pursued. For these reasons, the Court holds that there has been no violation of Article 10 of the Convention.
Nigel Wingrove v. United Kingdom [55]
Mr. Wingrove wrote the script for, and directed the making of, a video work whose content was the indecent depiction of Jesus Christ and St. Teresa that would outrage the feelings of Christians.
British Board of Film Classification (1989):
The board continues to seek to avoid 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. To summarize, 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.
European Court of Human Rights (1996):
A. Whether the interference was "prescribed by law":
The Court concluded that the impugned restriction was "prescribed by law".
B. Whether the interference pursued a legitimate aim:
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. 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 aim 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 video consequently had a legitimate aim under Article 10 para. 2.
C. Whether the interference was "necessary in a democratic society"
As paragraph 2 of Article 10 expressly recognizes, the exercise of that freedom 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 (see Otto-Preminger-Institute v. Austria [54]). 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 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.
Michel Houellebecq v. France [68]
Houellebecq had said that Islam is "the most stupid religion" and that the "badly written" Koran made him fall to the ground in despair. His books, particularly his most recent, Platform, were quoted by the prosecution to show that his hatred of Islam was a deep conviction. 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 was "without a doubt characterized by neither a particularly noble outlook nor by the subtlety of its phrasing." But the court said it was 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," it said. The head of the Mosque of Lyon, Kamel Kabtane, also 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."
Éric Zemmour v. France [69]
French Domestic Courts (2019)
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). He was convicted for inciting discrimination and religious hatred, and sentenced to pay a fine of EUR 3000.
European Court of Human Rights (2022)
A. Whether the interference was "prescribed by law":

The terms of this text are "clear and precise enough for its interpretation, which falls within the office of the criminal judge, to be carried out without risk of arbitrariness". Accordingly, the Commission concludes that the impugned conviction was "prescribed by law.
B. Whether the interference pursued a legitimate aim:
The Court considers, like the Government, that 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 (see in this sense, Le Pen v. France [33]).
C. Whether the interference was "necessary in a democratic society"
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 presented Muslims living in France as “colonizers” and “invaders” struggling to “Islamize” French territory and asserted that this situation implied that they made "a choice between Islam and France". It notes that, in concurring decisions, the Criminal Court, the Court of Appeal and the Court of Cassation 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 or the rise of religious fundamentalism in the French suburbs. In order to ascertain whether the applicant's remarks contained an appeal to discriminatory and hateful feelings towards this group, they took into account the virulent qualifiers applied to the people who made it up and the injunction which they were made to choose between their religion or the life in France to deduce that the remarks were indeed calling for their rejection and exclusion. The Court considers, as noted by the domestic courts, and contrary to what the applicant contended before it by asserting that he confined himself to expressing his critical opinion on the Islamist phenomenon in the French suburbs, that his remarks, presented as the result of a “historical and theological analysis”, 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 [30] and Le Pen v. France [33]). As they have argued, 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.
Gregorius Nekschot v. Netherlands [70]
He was arrested in Amsterdam in 2008 for drawing cartoons deemed offensive to Muslims. Nekschot was released after 30 hours of interrogation by Dutch law enforcement officials. Nekschot was charged for eight cartoons that "attribute negative qualities to certain groups of people," and, as such, are insulting and constitute the crimes of discrimination and hate according to articles 137c and 137d of the Dutch Penal Code. Several of Nekschot’s cartoons on his website target Islam and also criticize other religions including Christianity. The case against Nekschot was dismissed in 2010. The prosecution service said he would not be facing charges because he had spent a day and night in detention and the cartoons in question were no longer online.
Arab European League’s (AEL) v. Netherlands [71]
Arab European League (AEL) was fined 2,500 euros ($3,200) in 2010, for publishing a cartoon which suggested the Holocaust was made up or exaggerated by Jews. The Dutch leg of the AEL re-published the cartoon on its website last year, saying it wanted to point out double standards in society. It was reacting to a decision by Dutch prosecutors not to put far-right lawmaker Geert Wilders on trial for distributing controversial Danish cartoons of the Prophet Muhammad. In April 2010, a court acquitted the AEL of insulting Jews by publishing the cartoon, which depicts the Nazi Holocaust as a figment of Jewish imagination. But appeals judges agreed with prosecutors that the cartoon was more offensive than could be justified by the debate. The court in the western city of Arnhem overruled the acquittal, saying the cartoon, published on the website of the AEL in 2006, was “unnecessarily hurtful.” “The court points out that the European Court of Human Rights, which considers freedom of speech of paramount importance and defends it thoroughly, makes an exception for the denial or trivialization of the Holocaust,” the court said. “The suggestion that it may have been contrived or exaggerated by victims is extraordinarily offensive for the victims and their surviving relatives, in this case the Jews.” The court also imposed a 2-year probation period on the AEL.
Harry Taylor v. United Kingdom [72]
In 2010, Mr. Taylor, a militant atheist, was found guilty of leaving grossly offensive religious images in a prayer

room at Liverpool's John Lennon airport. He was convicted of leaving obscene material depicting figures from Christianity and Islam, often in sexual poses, in the multi-faith room with the intention of causing harassment and alarm. But he insisted people would only be offended if their faith was "weak" and that the images were meant as satire. Jurors found him guilty of causing religiously aggravated intentional harassment, alarm or distress. He was also given a five-year Anti-social Behaviour Order (Asbo) at Liverpool Crown Court. Taylor's Asbo bans him from carrying religiously offensive material in a public place. The prosecutor told that some of his cartoons went far beyond exercising freedom of expression and the Court jurors were acting as the "conscience of our society". The six-month prison sentence was suspended for two years. Taylor was also ordered to undertake 100 hours of unpaid work and pay £250 costs [73].

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