

HATE SPEECH

Lecture for:

ERA (Academy of European Law),
Slovak Bar Association, 25.06.2021

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 This training session is funded under the 'Rights, Equality and Citizenship Programme 2014-2020' of the European Commission.

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HATE SPEECH

public written, verbal, graphic, audio or audiovisual expression which incites, expands, promotes, justifies hatred of individuals or groups of persons on the basis of their sex, nationality, language, religion, race, ethnicity, skin color, origin, sexual orientation, physical disability or other similar characteristic

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DIRECTIVE (EU) 2018/1808 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 14 NOVEMBER 2018 AMENDING DIRECTIVE 2010/13 / EU ON THE COORDINATION OF CERTAIN PROVISIONS LAID DOWN BY LAW, REGULATION OR ADMINISTRATIVE ACTION IN MEMBER STATES CONCERNING THE PROVISION OF AUDIOVISUAL MEDIA SERVICES (AUDIOVISUAL MEDIA SERVICES DIRECTIVE) IN VIEW OF CHANGING MARKET REALITIES

- The EU Directive of November 2018, adopted by the governments of the Member States of the European Union, updates and strengthens the rules on platforms, in particular for video sharing, with a view to increasing child protection by limiting hate speech and introducing European content quotas.

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CODE OF CONDUCT ON ILLEGAL ONLINE HATE SPEECH

31.05.2016

The Commission, together with Facebook, Twitter, Youtube and Microsoft (IT companies), has adopted a Code of Conduct in an effort to respond to the spread of racist and xenophobic hate speech in the online environment

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COUNCIL FRAMEWORK DECISION 2008/913/JHA OF 28
NOVEMBER 2008 ON COMBATING CERTAIN FORMS AND
EXPRESSIONS OF RACISM AND XENOPHOBIA BY MEANS
OF CRIMINAL LAW

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ARTICLE 10 Freedom of expression

- 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or film companies.

- 2. The exercise of these freedoms, as it involves both obligations and responsibilities, may be subject to such formalities, conditions, restrictions or sanctions as are provided for by law and necessary in a democratic society in the interests of national security, territorial integrity or public security to prevent unrest or crime, health or morals, the protection of the reputation or rights of others, the prevention of the leakage of confidential information or the preservation of the authority and impartiality of the judiciary.

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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.

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The ECtHR's two approaches to the application of Articles 10 para. 2 and 17 of the Convention

- The following scheme applies to Hate speech and freedom of speech:
 - 1. Article 17 (quite exceptionally, as no clear criteria are defined), i.e. only in cases of abuse of rights and complete negation of the fundamental values of the Convention
 - 2. Article 10 (2) (permissible restrictions on freedom of expression) - although the expression in question is hateful, it does not attack the principles and values protected by the Convention

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BUDINOVA AND CHAPRAZOV V. BULGARIA

BEHAR AND GUTTMAN V. BULGARIA

decision of 16.2.2021
(No. 29335/13, 12567/13)

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PAVEL IVANOV V. RUSSIA

decision on admissibility of 20.02.2007,
no. 35222/04

The applicant could not enjoy protection under Article 10 of the Convention - right to freedom of expression, under Article 17 of the Convention - prohibition of abuse of rights, complaint rejected *rationae materiae*

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KLEIN V. SLOVAK REPUBLIC

decision of 8 November 2005
no. 72208/01

11



M´Bala M´Bala v. France,

no. 25239/13,
decision on admissibility of 20 October 2015

12



Leroy v. France,
no. 36109/03,
decision of 2 October 2008

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"PERLOCUTIONARY ACT" REFERS TO THE EFFECTS ASSOCIATED WITH LANGUAGE ACTION, BECAUSE "WHEN WE SAY SOMETHING, IT OFTEN AND USUALLY HAS CERTAIN EFFECTS ON THE FEELINGS, THOUGHTS, ACTIONS OF ONE OR MORE LISTENERS, SPEAKERS OR OTHERS, WHILE THE UTTERANCE ATTEMPTS TO AND USUALLY ALSO WANTS TO BE CARRIED OUT ACCORDING TO PLAN, WITH THE INTENTION AND AIM OF PRODUCING THESE EFFECTS

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Glimmerveen and Hagenbeek v. Netherlands

decision on admissibility of 11 October 1979
no. 88348/78 and 8406/78348/78

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Féret v. Belgium,

Judgment of 16 July 2009
no. 15615/07,

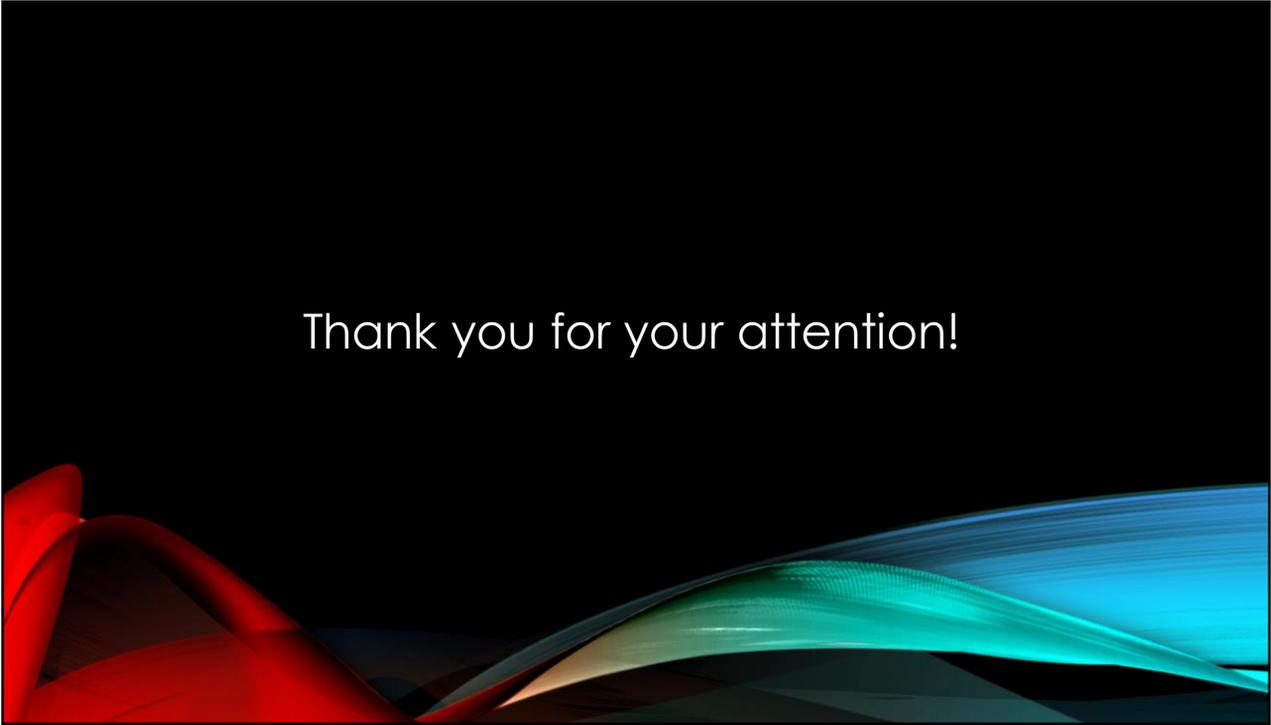
16



LE PEN V. FRANCE,

decision on inadmissibility of the complaint of 7 April 2010
no. 18788/09

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Thank you for your attention!

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