



## Criminal conviction of Alain Soral for racial insults and calling into question crimes against humanity was not incompatible with Article 10 of the European Convention on Human Rights

In its decision in the case of [Bonnet v. France](#) (application no. 35364/19) the European Court of Human Rights has unanimously declared the application inadmissible as manifestly ill-founded.

The case concerned the criminal conviction of the applicant Alain Bonnet, known as Alain Soral, 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. Before the Court he had complained of a violation of his freedom of expression protected by Article 10 of the European Convention on Human Rights.

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 Court took the view that the domestic courts had provided relevant and sufficient reasons for their finding that the various elements of the offending cartoon directly targeted the Jewish Community. The cartoon and the message it conveyed could not be regarded as contributing to any debate in the public interest and fell within a category which was afforded reduced protection under Article 10 of the Convention.

As to the context, the Court noted that the French authorities had already been called upon to respond to remarks or speech calling into question or denying the existence of the Holocaust, which was a clearly established historical event.

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.

The Court lastly 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.

Even supposing that Article 10 of the Convention was applicable, the Court found that the interference with the applicant’s freedom of expression had been necessary in a democratic society and rejected the complaint as manifestly ill-founded.

The decision is final.

### Principal facts

The applicant, Alain Bonnet, known by the name of Alain Soral, is a French national who was born in 1958 and lives in Ternant.

On 3 April 2016 an article was published on the website “Égalité et Réconciliation” (“Equality and Reconciliation”), under “Cartoons of the week”, featuring a newspaper front page parodying the 30 March 2016 issue of the weekly *Charlie Hebdo*, just after the Brussels attacks of 22 March 2016, and depicting Stromae, a Belgian singer of Rwandan origin, author of the song “Papaoutai”. The page in question carried the headline “Chutzpah Hebdo” and the sub-headings “Attacks [:] Zionists at work”, “Report [:] how Mossad creates Molenbeeks”, the caption “historians all at sea” and a drawing depicting Charlie Chaplin’s face 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 lamp-shade, a shoe without laces and a wig.

In a judgment of 14 March 2017 the Paris Criminal Court, recognising the applicant as defendant in his capacity as publication director of the website, found him guilty of the offences of proffering a public racial insult and of questioning the existence of a crime against humanity. 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. 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. As to the offence of questioning the existence of a crime against humanity, namely the Holocaust, the Criminal Court took the view that this offence was made out as a result of the presence next to the cartoon of the question “Shoah where are you?” and the caption “historians all at sea” (in the upper left-hand corner).

In a judgment of 18 January 2018 the Paris Court of Appeal upheld Alain Bonnet’s 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.

In a judgment of 26 March 2019 the Court of Cassation dismissed the applicant’s appeal on points of law.

## Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 28 June 2019.

Relying on Article 10 (freedom of expression), the applicant complained of his conviction for the offences of public insult and questioning of the existence of crimes against humanity. Under Article 6 (right to a fair trial) he argued that he had not been given a fair trial and, more specifically, had not been assisted by counsel of his choosing.

The decision was given by a Chamber of seven judges, composed as follows:

Síofra O’Leary (Ireland), *President*,  
Lətif Hüseynov (Azerbaijan),  
Lado Chanturia (Georgia),  
Ivana Jelić (Montenegro),  
Arnfinn Bårdsen (Norway),  
Mattias Guyomar (France),  
Kateřina Šimáčková (the Czech Republic),

and also Martina Keller, *Deputy Section Registrar*.

## Decision of the Court

### Article 10

The Court observed that its task was to review under Article 10 of the Convention the solutions adopted by the domestic courts in the exercise of their discretion.

The applicant had argued before the domestic courts that the offending cartoon had been aimed at Second World War historians and not at the Jewish community and that the publication fell within the permitted registers of art, humour and politics. Before the Court, the applicant had not referred back to the alleged artistic, humorous or political aspect of the cartoon, but had alleged that the domestic courts had been wrong to conclude that the publication targeted the Jewish community or insinuated that the Holocaust had not been a historical event.

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. The Court was therefore of the opinion that the cartoon and the message it conveyed could not be regarded as contributing to any debate of public interest and that, even if Article 10 were to apply, the cartoon fell within a category which was afforded reduced protection under that provision of the Convention.

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. As regards the context, 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.

The Court noted that the maximum penalty for each of the two offences was a term of imprisonment of one year and a fine of EUR 45,000. In the present case, the applicant had been sentenced on appeal to pay 100 day-fines at EUR 100, making a total of EUR 10 000. He had also been ordered to pay damages to the civil parties. While the total amount of the day-fines was substantial, it was nevertheless less severe than the sentence 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. It found the complaint manifestly ill-founded and rejected it pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

### Article 6

Having regard to all the evidence in its possession, the Court did not find any appearance of a violation of Article 6 of the Convention. The complaint was manifestly ill-founded and had to be rejected.

*The decision is available only in French.*

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.