

No violation of Article 10 of the Convention in Mr Zemmour's conviction for inciting discrimination and religious hatred against the French Muslim community

In today's Chamber judgment¹ in the case of [Zemmour v. France](#) (application no. 63539/19) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 10 (freedom of expression) of the European Convention on Human Rights.

The case concerned the applicant's conviction and sentencing for the offence of inciting discrimination and religious hatred against the French Muslim community for statements made on a television show in 2016. He alleged a violation of his right to freedom of expression.

The Court dismissed the Government's preliminary objection under Article 17 of the Convention (prohibition of abuse of rights) but relied on that provision as an aid to interpreting Article 10 for the purposes of assessing whether the interference complained of had been necessary.

Like the domestic courts, the Court pointed out that the applicant's statements had contained derogatory and discriminatory claims of a kind that might exacerbate a rift between French people and the Muslim community as a whole. It took the view that the statements in issue had not belonged to a category of speech enjoying enhanced protection under Article 10 of the Convention and concluded that the French authorities had therefore had a wide margin of appreciation to impose restrictions.

The Court noted that the statements had been made on live, prime-time television and observed that the applicant, who was a journalist and pundit, had not been exempt, although he had been speaking as an author at the time, from the "duties and responsibilities" of a journalist. The Court was of the opinion that his remarks had not been confined to criticism of Islam but had, in view of the context of terrorist violence in which they had occurred, been made with discriminatory intent such as to call on viewers to reject and exclude the Muslim community. The Court concluded that the grounds on which the domestic courts had convicted the applicant and sentenced him to a fine, the amount of which was not excessive, had been sufficient and relevant.

In conclusion the Court held that the interference with the applicant's right to freedom of expression had been necessary in a democratic society to protect the rights of others which had been at stake in the case, and therefore there had been no violation of Article 10 of the Convention.

Principal facts

The applicant, *Éric Zemmour*, is a French national who was born in 1958 and lives in Paris. A well-known political journalist and pundit, he published several books on politics before launching his own political career in 2021.

On 16 September 2016 Mr Zemmour appeared as a guest on the television chat show *C à vous*, which aired live at 7 p.m. on the channel France 5, to promote his book *Un quinquennat pour rien*

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

(“a wasted presidency”), the introduction to which was headed *La France au défi de l’Islam* (“France and the challenge of Islam”). He made statements in response to which the association “Coordination des appels pour une paix juste au Proche-Orient” (Coalition for Just Peace in the Near East – CAPJPO) caused proceedings to be issued against him in the Paris Criminal Court under section 24, paragraph 7 of the Freedom of the Press Act of 29 July 1881 (“the 1881 Act”), which made it an offence to incite discrimination, hatred or violence against a person or group on grounds of origin or of membership or non-membership of a particular ethnicity, nation, race or religion.

The case against him concerned five statements in particular:

(1) “No” in answer to the question “whether there are Muslims in France who live in peace, who don’t take the Koran literally and are fully integrated”.

(2) “Those who wage jihad are seen by all Muslims, whether they say so or not, as good Muslims – they’re warriors, soldiers of Islam”.

(3) [Journalist:] “Terrorism is apocalyptic” – [Applicant:] “No, it’s not terrorism, it’s jihadism. So it’s Islam” – [Journalist:] “The way you equate jihadism and Islam” – [Applicant] : “It’s the same to me”.

(4) “For 30 years we’ve been experiencing an invasion, a colonisation, which is bringing about a conflagration.” “In countless neighbourhoods, on the outskirts of French cities, where many young women are veiled – that’s also Islam, that’s also jihad, that’s also the fight to Islamise a territory which is not, which is in the ordinary course a non-Islamised land, a land of infidels. It’s the same thing, it’s territorial occupation”.

(5) “I think they [Muslims living in France] need to be given a choice between Islam and France”. Followed by: “So, if they’re French, they have to – and this is hard because Islam doesn’t lend itself to this – they have to let go of what their religion is”.

On 22 June 2017 the Criminal Court found that the five statements in question fell within the definition of the offence under section 24 of the 1881 Act and sentenced the applicant to pay a fine of 5,000 euros (EUR) for inciting discrimination, hatred or violence against a group on grounds of their origin or membership of a religion.

By a judgment of 3 May 2018 the Paris Court of Appeal reversed the judgment in part. It held that only statements (4) and (5) could be characterised as “inciting discrimination and religious hatred” and reduced the fine to EUR 3,000.

The applicant challenged that judgment in the Court of Cassation, claiming a violation of Article 10 of the Convention and arguing that his statements had been on a matter of public interest which lay within the scope of his freedom of expression.

The Court of Cassation dismissed his challenge by a judgment of 17 September 2019.

Complaints, procedure and composition of the Court

The applicant complained that his conviction and sentence for the offence of inciting discrimination and religious hatred had been contrary to Article 10 of the Convention (freedom of expression).

The application was lodged with the European Court of Human Rights on 5 December 2019.

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

Georges Ravarani (Luxembourg), *President*,

Mārtiņš Mits (Latvia),

Stéphanie Mourou-Vikström (Monaco),

Lado Chanturia (Georgia),

Mattias Guyomar (France),

Kateřina Šimáčková (the Czech Republic),

Mykola Gnatovskyy (Ukraine),

and also Martina Keller, Deputy Section Registrar.

Decision of the Court

Article 10

The Court noted that the applicant had been convicted and sentenced on the basis that the offence of inciting discrimination and religious hatred against a group on grounds of their membership of the Muslim faith had been made out. It reiterated that its task was to ascertain whether the decisions reached by national courts in the exercise of their margin of appreciation were compatible with Article 10 of the Convention. In so doing it had to satisfy itself that those authorities had relied on an acceptable assessment of the relevant facts. The Court referred to its Grand Chamber judgment in the case of [Perinçek v. Switzerland](#).

The Court observed that the applicant had made the statements in issue while appearing as a guest on a prime-time television show in his role as a journalist and polemicist. It accepted that because of the applicant's public profile and who he was, and because of the nature of the issues discussed during the interview, concerning the place of Islam in French society, particularly against a backdrop of terrorist violence, his statements – which had been statements of potential interest to the public that might attract its attention or cause it significant concern – had been made in the context of a debate on a matter of public interest.

Be that as it may, the applicant's statements were subject to the limits laid down in Article 10 § 2. Accordingly, a determination had to be made as to whether the domestic courts had duly reasoned their assessment that the statements in issue were to be regarded as "hate speech" and, if so, whether the penalty imposed on the applicant could be characterised as proportionate to the legitimate aim pursued, regard being had to the various factors which came into play to constitute hate speech. In particular, consideration had to be given to the context in which the events of the case had taken place.

First, as to the nature of the statements in issue, the Court observed that the applicant had portrayed Muslims living in France as "colonisers" and "invaders" fighting to "Islamise" France and had claimed that the situation required them to make "a choice between Islam and France". It noted that the Criminal Court, the Court of Appeal and the Court of Cassation had been in agreement that the statements had been directed at the Muslim community as a whole, in other words at a group that had been discriminated against on grounds of religion. The national courts had thus found that by portraying Muslims as a threat to public security and the values of the Republic, and by positing that they necessarily supported the violence perpetrated in the name of their faith, the applicant had been fostering a generalised rejection of Muslims and had not merely been criticising Islam or the rise of religious fundamentalism in France's peri-urban neighbourhoods. Looking at the virulent language used to describe them, and at the ultimatum issued to them to choose between their religion or a life in France, the courts had concluded that the statements had indeed called for their rejection and exclusion.

The Court was of the view that the statements had contained derogatory and discriminatory claims of a kind that might exacerbate a rift between French people and the Muslim community as a whole. The aggressive, sweeping language of the assertion that France was being "colonised" by "Muslims" had been deployed with discriminatory intent and not for the sole purpose of sharing with the public an opinion about the rise of religious fundamentalism in France's peri-urban neighbourhoods.

That being so, and in the light of Article 17, the Court decided that the statements in issue had not belonged to a category of speech enjoying enhanced protection under Article 10 of the Convention and concluded that the French authorities had therefore had a wide margin of appreciation to impose restrictions.

The Court reiterated that it was vitally important to combat racial discrimination in all its forms and manifestations.

Second, the Court noted that the statements in issue had been made on live, prime-time television and had therefore been capable of reaching a wide audience. The Court referred in this connection to the immediate and powerful effect of the broadcast media, an impact reinforced by the continuing function of radio and television as familiar sources of entertainment in the intimacy of the home. The applicant himself was a journalist and a pundit known for his polemical outbursts, and although he had been speaking as an author on the show, he had not been exempt from the “duties and responsibilities” of a journalist. He had thus been fully capable of measuring his words and assessing their consequences, despite the interviewers’ point-blank questioning.

Third, the Court noted that his remarks had not been confined to criticism of Islam but had, in view of their overall context, been made with a discriminatory intent, such as to call on viewers to reject and exclude the Muslim community as a whole, which was thus harmful to social cohesion.

The Court was of the view that the grounds of conviction and sentence given by the domestic courts, although they had not expressly relied on Article 10 of the Convention, had amounted to sufficient and relevant justification for the interference complained of.

Having regard to the margin of appreciation afforded to the respondent State and the applicant’s conviction and sentence to pay a EUR 3,000 fine, the amount of which was not excessive, the Court was satisfied that the interference complained of had been proportionate to the aim pursued.

In conclusion the Court held that the interference with the applicant’s right to freedom of expression had been necessary, in a democratic society, to protect the rights of others which had been at stake in the case. There had therefore been no violation of Article 10 of the Convention.

The judgment is available only in French.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court’s press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHR_CEDH](https://twitter.com/ECHR_CEDH).

Press contacts

echrpress@echr.coe.int | tel.: +33 3 90 21 42 08

We would encourage journalists to send their enquiries via email.

Denis Lambert (tel.: + 33 3 90 21 41 09)

Tracey Turner-Tretz (tel.: + 33 3 88 41 35 30)

Inci Ertekin (tel.: + 33 3 90 21 55 30)

Neil Connolly (tel.: + 33 3 90 21 48 05)

Jane Swift (tel.: + 33 3 88 41 29 04)

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.