

1. The ECHR has explained that “expression on matters of public interest is in principle entitled to strong protection under Article 10 of the Convention, whereas expression that promotes or justifies violence, hatred, xenophobia or another form of intolerance cannot normally claim protection.” As a result, “while an expression of opinion might touch upon a matter of public concern—such as the relations between ethnic groups in a country—it can at the same time promote or justify hatred and intolerance towards some of those groups, and thus be entitled to no or very limited protection under Article 10 of the Convention.” “Sweeping statements attacking or casting in a negative light entire ethnic, religious or other groups deserve no or very limited protection under Article 10 of the Convention, read in the light of Article 17”. (*Budinova and Chaprazov v. Bulgaria*, no. 12567/13, §§ 90, 93-94, 16 February 2021; see also *Nepomnyaschiy and Others v. Russia*, nos. 39954/09 and 3465/17, §74, 30 May 2023).
2. The following judgments illustrate how the ECHR has applied these principles in cases involving sweeping statements and negative stereotyping of religious groups and ethnic minorities:
 - a. ***E.S. v. Austria***, no. 38450/12, §§ 44-45 and 55, 25 October 2018, [a case brought under Article 10 of the Convention and which concerned **anti-Islamic** statements by a lecturer]. The ECHR did not need to apply the first part of the test since the case was brought by the lecturer, who had been convicted at trial. Applying the second part of the test, the ECHR ruled that the State (including domestic courts) “have the positive obligation under Article 9 of the Convention of ensuring the peaceful co-existence of all religions and those belonging to a religious group by ensuring mutual tolerance ... 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 freedom of thought, conscience and religion of others.” As a result, “it is not compatible with Article 10 of the Convention to package incriminating statements in the wrapping of an otherwise acceptable expression of opinion”; it “was wrong to assume that improper attacks on religious groups had to be tolerated if they were based on untrue facts.” “[S]tatements based on (manifestly) untrue facts do not enjoy the protection of Article 10”.
 - b. ***Budinova and Chaprazov v. Bulgaria***, no. 12567/13, §§ 64-65, 68, and 93, 16 February 2021, [a case brought under Articles 8 and 14 of the Convention concerning **anti-Roma statements** by a politician alleging Roma engaged in “violence and criminality”]. The ECHR concluded that the two-part test was met. First, it concluded Roma are a vulnerable minority and the politician’s statements “were capable of having a sufficient impact on the sense of identity of Roma in Bulgaria and on the feelings of self-worth and self-confidence of individual Roma”. Second, the politician’s statements “went beyond being a legitimate part of a public debate about ethnic relations and crime in Bulgaria ... [and] amounted to extreme negative stereotyping meant to vilify Roma in that country and stir up prejudice and hatred towards them.” Such statements “deserve no or very limited protection under Article 10 of the Convention, read in the light of Article 17.” The ECHR also condemned the approach taken by the domestic courts which “acknowledged the vehemence of the statements, [but] downplayed their capacity to stigmatise Roma in Bulgaria as a group and arouse hatred and prejudice against them.”

- c. ***Behar and Gutman v. Bulgaria***, no. 29335/13, §§ 68-73, and 104, 16 February 2021 [a case brought under Articles 8 and 14 of the Convention and concerning anti-Semitic statements by a politician]. The ECHR concluded that the two-part test was met. First, it concluded that Jews in Europe “can be seen as a vulnerable minority” and that the politician’s statements were “capable of having a sufficient impact on the sense of identity of Jews in Bulgaria and on the feelings of self-worth and self-confidence of individual Jewish people”. Second, the politician’s statements “were meant to vilify Jews and stir up hatred towards them ... [the statements] rehearsed timeworn antisemitic and Holocaust-denial narratives”. The ECHR also condemned the approach taken by the domestic courts which “acknowledged the vehemence of the statements, [but] downplayed their capacity to stigmatise Jews as a group and arouse hatred and prejudice against them.”
- d. ***Zemmour v. France***, no. 63539/19, §§ 60, 61 and 63, 20 December 2022 [a case brought under Article 10 concerning anti-Islamic statements by a journalist alleging that Muslims living in France were “colonizers” and “invaders” and that they had to make “a choice between Islam and France”]. The ECHR did not need to apply the first part of the test because the case was brought by the journalist, who had been convicted at trial. The ECHR ruled that the journalist’s remarks “were aimed at the Muslim community as a whole, and therefore at a group of people who were victims of discrimination based on religion.” Applying the second part of the test, the ECHR ruled that the journalist’s remarks were not protected under Article 10 of the Convention read in the light of Article 17 because they “contained negative and discriminatory statements likely to cause a rift between the French and the Muslim community as a whole [...] and that such negative stereotyping of a social group affects [...] that group’s sense of identity and its members’ feelings of self-esteem and self-confidence.” The ECHR also concluded that the journalist’s “comments were not limited to a criticism of Islam but, given the general context in which they were made and the manner in which they were broadcast, contained a discriminatory intent, such as to incite listeners to reject and exclude the Muslim community as a whole and thereby damage social cohesion.”
- e. ***Centre of Societies for Krishna Consciousness in Russia and Frolov v. Russia***, no. 37477/11, §§ 30, 42-43, November 23, 2021 [a case brought under Article 9 of the Convention and which concerned anti-religious minority statements in a publication of an anti-sect group which accused these religious minorities (including Jehovah’s Witnesses) of being a “totalitarian cult”, “destructive to Russian society”, and engaging in “psychological manipulation” and “zombification” of youth]. The ECHR applied a similar two-part test. First, the ECHR ruled that both the religious legal entity and the individual applicant had the right to bring the claim, although neither had been expressly named in the anti-sect brochure. The ECHR reasoned: “even where applicants have not been personally targeted by hostile speech, they may be considered “victims” in the sense of being affected by remarks and expressions disparaging the religious movement or ethnic group to which they belonged”. Second, the ECHR concluded that there had been a violation of Article 9 of the Convention, as follows: “Far from attempting to present a nuanced and balanced view of a variety of existing religions, the publication painted a starkly negative picture of new religious movements,

including the Krisha movement. Emotionally charged and derogatory terms—“totalitarian cult”, “destructive [movement]”, “zombification”—were used for describing its teachings.” (See to similar effect, *Christian Religious Organization of Jehovah’s Witnesses in the NKR v. Armenia*, no. 41817/10, §§ 9, 16, 72, 74, 22 March 2022)

- f. ***Tonchev and Others v. Bulgaria***, no. 56862/15, §§ 53, 61-63, 13 December 2022 [a case brought under Article 9 of the Convention and which concerned **anti-religious minority** statements in an “circular letter and information note” by municipal authorities which accused these religious minorities of being “dangerous religious sects” which “contravene Bulgarian legislation” and alleged that their religious activities “expose their participants to ‘psychological disorders’”] The ECHR applied a similar two-part test. First, the ECHR ruled the individual applicants had standing to bring the claim, although they were not named in the circular letter and information note. The ECHR reasoned: “in view of their position as pastors and representatives of their respective religious communities, the Court considers that they can claim to have been personally affected by the measures at issue. Second, the ECHR concluded that (1) “denigrating language and unsubstantiated accusations in relation to a religious movement”, (2) statements that “contain negative and unqualified judgments, in particular those consisting in presenting the evangelical churches as ‘dangerous sects’ which ‘contravene Bulgarian legislation’”, and (3) which “unduly denounce as reflecting a usual practice of these churches certain proven cases of abusive proselytism”, all constitute a violation of Article 9 of the Convention.
3. Jehovah's Witnesses are undoubtedly a religious minority that is “more vulnerable to victimisation”. (*Beizaras and Levickas v. Lithuania*, no. 41288/15, § 108, 14 January 2020; and *Begheluri v. Georgia*, no. 28490/02, §§ 171-179, 7 October 2014). They have faced historic persecution, in Europe and worldwide. As confirmed by the U.S. Commission on International Religious Freedom,¹ Jehovah's Witnesses currently face persecution globally and are widely considered one of the world's most persecuted religions ([Issue Update: The Global Persecution of Jehovah's Witnesses \(uscirf.gov\)](#)). The International Religious Freedom or Belief Alliance (which currently includes 24 countries of the Council of Europe) has expressed “grave concern” about “the increased repression” and “violence and discrimination” by State officials that Jehovah's Witnesses are suffering “in a number of countries” ([International Religious Freedom or Belief Alliance Statement on Jehovah's Witnesses - United States Department of State](#)). They are also suffering a dramatic increase in hate crimes. In 2023 alone, they were victims of mass murder and bombings: on 9 March 2023, six congregants and an unborn child were murdered and eight injured in a mass shooting in one of their places of worship in Hamburg, Germany; on 9 April 2023 a bomb seriously damaged their place of worship in San Salvo, Italy; on 20 August 2023, bombs exploded under the vehicles of congregants in Vienna, Austria; and on 29 October 2023, eight

¹ The United States Commission on International Religious Freedom (USCIRF) is a U.S. federal agency created by the International Religious Freedom Act. Its Commissioners are appointed by the President and the leadership of the Senate and House of Representatives. Its principal responsibilities are to review the facts and circumstances of violations of religious freedom internationally and to make policy recommendations to the President, the Secretary of State, and Congress.

Jehovah's Witnesses were killed and more than 50 injured in multiple explosions at a large religious assembly in Kerala, India. The Centre for Studies on Freedom of Religion, Belief and Conscience concludes that "hate speech" against Jehovah's Witnesses and other "stigmatize[d]" religious minorities is "rampant and almost unstoppable" ([Still violence against Jehovah's Witnesses: Bombing in front of a Kingdom Hall — CENTRO STUDI SULLA LIBERTA' DI RELIGIONE CREDO E COSCIENZA \(LIREC\)](#)).

In the case of sweeping statements "attack" or "cast in a negative light" Jehovah's Witnesses as a religious group, accusing them of systematically committing serious crimes. Applying the case law of the ECHR such statements "deserve no or very limited protection under Article 10 of the Convention read in the light of Article 17."

4. It is important to avoid to fall in the trap to "downplay" the capacity of the sweeping statements to stigmatize and arouse hatred and prejudice against Jehovah's Witnesses and thus committed the very same error as condemned by the ECHR in *Budinova and Chaprazov v. Bulgaria*, no. 12567/13, §§ 90, 93-94, 16 February 2021:

"93 Although the courts acknowledged the vehemence of the statements, they downplayed their capacity to stigmatise Roma in Bulgaria as a group and arouse hatred and prejudice against them, and apparently saw them as no more than part of a legitimate debate on matters of public concern (see paragraphs 13 and 15 above). That, however, ignored the point that while an expression of opinion might touch upon a matter of public concern – such as the relations between ethnic groups in a country – it can at the same time promote or justify hatred and intolerance towards some of those groups, and thus be entitled to no or very limited protection under Article 10 of the Convention."

5. The sweeping statements are also manifestly false, in a similar case the ECHR condemned in in ***E.S. v. Austria***, no. 38450/12, §55, 25 October 2018:

"... 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. Moreover, the applicant was wrong to assume that improper attacks on religious groups had to be tolerated even if they were based on untrue facts (see paragraph 35 above). On the contrary, the Court has held that statements which are based on (manifestly) untrue facts do not enjoy the protection of Article 10".

6. Even if the opposing party had produced several proven cases of unlawful behaviour, **which it did not**, this still would not justify sweeping statements. As the ECHR ruled in *Tonchev and Others v. Bulgaria*, no. 56862/15, §62, 13 December 2022 it is a violation of Article 9 of the Convention (and, by analogy Article 8 of the Convention) to "unduly denounce as reflecting a usual practice [of a religious minority] certain proven cases [of unlawful behavior]."