



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

RESEARCH DIVISION
DIVISION DE LA RECHERCHE

*Cultural rights in the case-law of the
European Court of Human Rights*

Publishers or organisations wishing to translate and/or reproduce all or part of this report in print or online are asked to contact publishing@echr.coe.int for details of our terms of use.

© Council of Europe / European Court of Human Rights, January 2011

The report was prepared by the Research Division in English and is not binding on the Court. It can be downloaded from the following website: www.echr.coe.int (Case-Law / Case-Law Analysis / Research Reports).

SUMMARY

This report provides a selection of the Court’s main jurisprudence in the context of cultural rights. Although neither the Convention nor the Court explicitly recognise the “*right to culture*” or the right to take part in cultural life, unlike other international treaties, the Court’s case-law provides interesting examples of how some rights falling under the notion of “*cultural rights*” in a broad sense can be protected under core civil rights, such as the right to respect for private and family life (Article 8 of the Convention), the right to freedom of expression (Article 10) and the right to education (Article 2 of Protocol No. 1).

TABLE OF CONTENTS

INTRODUCTION.....	4
I. Right to Artistic Expression.....	5
II. Access to Culture.....	7
III. Right to Cultural Identity.....	9
IV. Linguistic Rights.....	13
V. Right to Education.....	16
VI. Right to the Protection of Cultural and Natural Heritage.....	19
VII. Right to Seek Historical Truth.....	21
VIII. Right to Academic Freedom.....	22
ANNEX: List of Judgments and Decisions.....	24

INTRODUCTION

1. This report illustrates the approach of the European Court of Human Rights (hereafter the Court) in selected areas linked to the question of cultural rights. The selection was made taking into account the most recent case-law in this field. Although the European Convention does not explicitly protect cultural rights as such (unlike other international human rights treaties such as the International Covenant on Economic, Social and Cultural Rights), the Court, through a dynamic interpretation of the different Articles of the Convention, has gradually recognised substantive rights which may fall under the notion of “*cultural rights*” in a broad sense. The provisions mostly invoked in relation to cultural rights are Article 8 (right to respect for private and family life), Article 9 (freedom of thought, conscience and religion) and Article 10 (freedom of expression) of the Convention, as well as Article 2 of Protocol No. 1 (right to education). Another factor which may explain the growing importance of cultural rights in the Court’s case-law is the number of cases brought by persons or entities belonging to national minorities, including cultural, linguistic or ethnic minorities. This is particularly true concerning the right to maintain a minority identity and to lead one’s private and family life in accordance with the traditions and culture of that identity. Although the Court does not always rule in favour of cultural rights and cultural minorities, the key principles it has established in its case-law provide a basis for future litigation and development.

2. The following developments describe different areas of the Court’s case-law dealing with cultural rights, covering issues such as artistic expression, access to culture, cultural identity, linguistic rights, education, cultural and natural heritage, historical truth and academic freedom. These areas are interconnected and it is sometimes difficult to separate one from the other, especially as regards the rights inferred from freedom of expression. Since this report does not aim to be exhaustive, it will refer to the most important and recent case-law in the selected areas. Reference should also be made to our report “*Aspects of Intercultural Dialogue in the European Court of Human Rights’ case-law*” of 2007 (the Court’s contribution to the preparation of the *White Paper on Intercultural Dialogue*¹) and our more recent report on the Court’s case-law on freedom of religion, prepared in January 2011 for the Parliamentary Assembly of the Council of Europe.²

-
1. Available from the website of the Council of Europe:
www.coe.int/t/dg4/intercultural/Publication_WhitePaper_ID_en.asp.
 2. Available in French from the website of the European Court of Human Rights:
www.echr.coe.int (Case-Law / Case-Law Analysis / Research Reports).

I. RIGHT TO ARTISTIC EXPRESSION

3. The Court has underlined the importance of artistic expression in the context of the right to freedom of expression (Article 10 of the Convention). Generally, it has applied a high level of protection when it has dealt with artistic works such as novels, poems, paintings, etc. On the one hand, artistic works afford the opportunity to take part in the exchange of cultural, political and social information and ideas of all kinds, which is essential for a democratic society. On the other hand, when assessing the character of some of the expressions contained in the artistic work which might justify the interference of the State, the Court has taken into account the limited impact of the form of artistic expression at stake (especially novels or poems, compared to films), which generally appeals to a relatively narrow public compared to, for example, the mass media.

4. In the case of *Müller and Others v. Switzerland* (24 May 1988, Series A no. 133) the Court already had occasion to point out that Article 10 covered freedom of artistic expression – notably within freedom to receive and impart ideas – adding that it afforded the opportunity to take part in the exchange of cultural, political and social information and ideas (§ 27) and it concluded that this imposed on the State a particular obligation not to encroach on the freedom of expression of creative artists (§ 33). However, having regard to the fact that the paintings in question depicted in a crude manner sexual relations and that they were displayed in an exhibition which was unrestrictedly open to the public at large, the Court concluded that the applicants’ conviction did not infringe Article 10. Similarly, in the case of *Otto-Preminger-Institut v. Austria* (20 September 1994, Series A no. 295-A), the Court held that the seizure and forfeiture of a film containing a provocative portrayal of God, the Virgin Mary and Jesus Christ, with the result that the planned showings in a cinema could not take place, was justified in order to protect the right of citizens not to be insulted in their religious feelings.³ The Court accepted the reasoning of the Austrian courts, which did not consider that the merits of the film as a work of art or as a contribution to public debate outweighed those features which made it essentially offensive to the general public.

5. In the area of literary creation the Court applied Article 10 of the Convention to poetry in its *Karataş v. Turkey* case ([GC], no. 23168/94, ECHR 1999-IV): “*The work in issue contained poems which, through the frequent use of pathos and metaphors, called for self-sacrifice for ‘Kurdistan’ and included some particularly aggressive passages directed at the Turkish authorities. Taken literally, the poems might be construed as*

3. See also *İ.A. v. Turkey* (no. 42571/98, ECHR 2005-VIII), where the Court concluded that the conviction of the managing director of a publishing house which published a novel was intended to provide protection against offensive attacks on matters regarded as sacred by Muslims.

inciting readers to hatred, revolt and the use of violence. In deciding whether they in fact did so, it must nevertheless be borne in mind that the medium used by the applicant was poetry, a form of artistic expression that appeals to only a minority of readers” (§ 49). Moreover, in the context of Article 10, the Court added: *“Those who create, perform, distribute or exhibit works of art contribute to the exchange of ideas and opinions which is essential for a democratic society. Hence the obligation on the State not to encroach unduly on their freedom of expression”* (ibid.). Lastly, it declared as follows: *“As to the tone of the poems in the present case – which the Court should not be taken to approve – it must be remembered that Article 10 protects not only the substance of the ideas and information expressed but also the form in which they are conveyed”* (ibid.).

6. The case of *Alınak v. Turkey* (no. 40287/98, 29 March 2005) concerned a novel about the torture of villagers that was based on real events. The Court observed as follows: *“... the book contains passages in which graphic details are given of fictional ill-treatment and atrocities committed against villagers, which no doubt creates in the mind of the reader a powerful hostility towards the injustice to which the villagers were subjected in the tale. Taken literally, certain passages might be construed as inciting readers to hatred, revolt and the use of violence. In deciding whether they in fact did so, it must nevertheless be borne in mind that the medium used by the applicant was a novel, a form of artistic expression that appeals to a relatively narrow public compared to, for example, the mass media”* (§ 41). The Court pointed out that *“the impugned book [was] a novel classified as fiction, albeit purportedly based on real events”*. It further observed as follows: *“... even though some of the passages from the book seem very hostile in tone, the Court considers that their artistic nature and limited impact reduced them to an expression of deep distress in the face of tragic events, rather than a call to violence”* (§ 45).

7. In its 25 January 2007 judgment in *Vereinigung Bildender Künstler v. Austria* (no. 68354/01, 25 January 2007) concerning an injunction against the exhibition of a painting considered to be indecent (a painting which had been produced for the occasion by the Austrian painter Otto Mühl, showing a collage of various public figures, such as Mother Teresa and the former head of the Austrian Freedom Party (FPÖ) Mr Jörg Haider, in sexual positions), the Court based its findings on the same principles as those that govern its case-law on artistic creation, observing that *“artists and those who promote their work are certainly not immune from the possibility of limitations as provided for in paragraph 2 of Article 10”* (§ 26). However, the following assessment was given in paragraph 33 of that judgment: *“The Court finds that such portrayal amounted to a caricature of the persons concerned using satirical elements. It notes that satire is a form of artistic expression and social commentary and, by its inherent features of exaggeration and distortion of reality, naturally aims to provoke and*

agitate. Accordingly, any interference with an artist's right to such expression must be examined with particular care".

8. In its Grand Chamber judgment *Lindon, Otchakovsky-Laurens and July v. France* ([GC], nos. 21279/02 and 36448/02, ECHR 2007-IV), the Court had to examine whether the conviction of the author and publisher of a novel (introducing real characters and facts) for defamation of an extreme-right wing party and its president (Mr. Le Pen) amounted to a violation of Article 10. Referring to its case-law on artistic creation (§ 47), it stated that "*novelists – like other creators - and those who promote their work are certainly not immune from the possibility of limitations as provided for in paragraph 2 of Article 10. Whoever exercises his freedom of expression undertakes, in accordance with the express terms of that paragraph, 'duties and responsibilities'*" (§ 51). Therefore, the conviction for defamation in the present case could not be criticised from the standpoint of Article 10 in view of the virulent content of the offending passages and the fact that they specifically named the "*Front National*" and its chairman. The Court considered that the French courts had made a reasonable assessment of the facts in finding that to liken an individual to the "*chief of a gang of killers*", to assert that a murder, even one committed by a fictional character, had been "*advocated*" by him, and to describe him as a "*vampire who thrive[d] on the bitterness of his electorate, but sometimes also on their blood*", "*overstep[ped] the permissible limits in such matters*". Although in principle there is no need to make a distinction between allegations of fact and value judgments when dealing with extracts from a novel, the Court noted that nevertheless this distinction became fully pertinent when the impugned work, as in the present case, was not one of pure fiction but introduced real characters or facts (§ 55).

II. ACCESS TO CULTURE

9. In the recent judgment *Akdaş v. Turkey* (no. 41056/04, 16 February 2010), the Court developed its case-law on reconciling freedom of artistic expression and the protection of morals. The case concerned the sentencing of a publisher to a heavy fine for the publication in Turkish of an erotic novel by Guillaume Apollinaire (dating from 1907) and seizure of all the copies of the book. The Court considered that the view taken by the States of the requirements of morality "*frequently requires [them] to take into consideration the existence, within a single State, of various cultural, religious, civil or philosophical communities*". It enshrined the concept of a "*European literary heritage*" and set out in this regard various criteria: the author's international reputation; the date of the first publication; a large number of countries and languages in which publication had taken place;

publication in book form and on the Internet; and publication in a prestigious collection in the author's home country (*La Pléiade*, in France). What is interesting from the point of view of the right of access to culture is that the Court concluded that the public of a given language, in this case Turkish, could not be prevented from having access to a work that is part of such a heritage (§ 30).

10. The Court has also had occasion to rule on the right of migrants to maintain their cultural links with their countries of origin. In the case of *Khurshid Mustafa and Tarzibachi v. Sweden* (no. 23883/06, 16 December 2008), which concerned the evictions of tenants on account of their refusal to remove a satellite dish that enabled them to receive television programmes in Arabic and Farsi from their country of origin (Iraq), the Court developed its case-law on freedom to receive information under Article 10. It emphasised the importance of such freedom for an immigrant family with three children, who may wish to maintain contact with the culture and language of their country of origin. The Court also pointed out that the freedom to receive information does not extend only to reports of events of public concern, but covers in principle also cultural expressions as well as pure entertainment (§ 44).

11. The Court has recently (September 2010) communicated a case against Lithuania raising a new issue which has not yet been addressed by its case-law: access to internet for prisoners (*Jankovskis v. Lithuania*, no. 21575/08). The applicant requested information from the Ministry of Education about the possibility of enrolling at university. He was subsequently informed that all relevant information was posted on an internet website. Then the applicant addressed the prison authorities with a request for internet access, but the prison authorities informed the applicant that the rules in force did not extend to access to the internet for prisoners. The Court will have to examine whether the refusal of internet access amounted to an interference with the applicant's right to receive and impart information or ideas, in terms of Article 10 of the Convention. In any event, any restriction affecting civil rights of prisoners must be open to challenge in judicial proceedings in conformity with Article 6 of the Convention, on account of the nature of the restrictions and of their possible repercussions (see *Enea v. Italy* [GC], no. 74912/01, § 106, 17 September 2009). This may apply to refusals to grant temporary release to a convicted prisoner wishing to take courses to gain qualifications needed to become an accountant (see *Boulois v. Luxembourg*, no. 37575/04, § 64, 14 December 2010, case referred to the Grand Chamber).

III. RIGHT TO CULTURAL IDENTITY

12. In the case of *Chapman v. the United Kingdom* ([GC], no. 27238/95, ECHR 2001-I), the Court had to examine the question of the lifestyle of gypsy families and the specific difficulties they have to park their caravans. In its judgment, the Grand Chamber recognised that Article 8 of the Convention, which guarantees the right to respect for private and family life and home, protects the right to maintain a minority identity and to lead one's private and family life in accordance with that tradition. The Court stated (§ 73):

The Court considers that the applicant's occupation of her caravan is an integral part of her ethnic identity as a Gypsy, reflecting the long tradition of that minority of following a travelling lifestyle. This is the case even though, under the pressure of development and diverse policies or by their own choice, many Gypsies no longer live a wholly nomadic existence and increasingly settle for long periods in one place in order to facilitate, for example, the education of their children. Measures affecting the applicant's stationing of her caravan therefore have an impact going beyond the right to respect for her home. They also affect her ability to maintain her identity as a Gypsy and to lead her private and family life in accordance with that tradition.

13. The Court observed that “*there may be said to be an emerging international consensus amongst the Contracting States of the Council of Europe recognising the special needs of minorities and an obligation to protect their security, identity and lifestyle..., not only for the purpose of safeguarding the interests of the minorities themselves but to preserve a cultural diversity of value to the whole community*” (§ 93). The Court recognised that Article 8 entails positive obligations for the State to facilitate the Gypsy way of life, particularly by considering their needs and their different lifestyle both in the relevant regulatory planning framework and in reaching decisions in particular cases. According to the Court (§ 96): “*... although the fact of belonging to a minority with a traditional lifestyle different from that of the majority does not confer an immunity from general laws intended to safeguard the assets of the community as a whole, such as the environment, it may have an incidence on the manner in which such laws are to be implemented*”.

14. The Court has applied these principles in a case dealing with the effects of Roma marriage for the purposes of survivor's pension (*Muñoz Díaz v. Spain*, no. 49151/07, 8 December 2009). The Court found that the refusal to pay survivor's pension to a member of the Roma community after the death of a Rom to whom she had been married according to the specific rites of their community for nineteen years amounted to a violation of Article 14 of the Convention (prohibition of discrimination) in conjunction with Article 1 of Protocol No. 1 (protection of property). The Court took into consideration the fact that the applicant belonged to a community within which the validity of the marriage, according to its own rites and

traditions, had never been disputed or regarded as being contrary to public order by the Government. It stated in this regard: “*The Court takes the view that the force of the collective beliefs of a community that is well-defined culturally cannot be ignored*” (§ 59). The question of the well-defined cultural identity of Roma in Spain seems to have been an important factor: “*For the Court, it is necessary to emphasise the importance of the beliefs that the applicant derives from belonging to the Roma community – a community which has its own values that are well established and deeply rooted in Spanish society.*” (§ 56)

15. Apart from the right to maintain a cultural or ethnic minority identity and to lead one’s life in accordance with that identity or tradition, with the positive obligations which it entails for the State, Article 8 of the Convention may also apply to the right to freely choose his or her own cultural or ethnic identity, and have that choice respected, where such right is based on objective grounds. For instance, in the case of *Ciubotaru v. Moldova* (no. 27138/04, 27 April 2010), the Court examined the refusal by the Moldovan authorities to record the ethnic identity (“*Romanian*”) declared by the applicant, when dealing with his application to replace his Soviet identity card with a Moldovan identity card, on the ground that his parents were not recorded as “*ethnic Romanians*” on their birth and marriage certificates. The Court held that “*an individual’s ethnic identity constitutes an essential aspect of his or her private life*” under Article 8 and concluded that the Moldovan legislation and practice created insurmountable barriers for someone wishing to record an ethnic identity different from that recorded in respect of his or her parents by the Soviet authorities. Although the Court accepted that the authorities could refuse a claim to be officially recorded as belonging to a particular ethnicity where such a claim was based on purely subjective and unsubstantiated grounds, the legal practice in Moldova made impossible for the applicant to adduce any objective evidence in support of his claim, such as verifiable links with the Romanian ethnic group (language, name, empathy and others, § 58). Some of these objective grounds which may characterise ethnicity or ethnic identity are shared language, religious faith or cultural and traditional origins and backgrounds (see the concept of ethnicity in the Grand Chamber judgment *Sejdić and Finci v. Bosnia and Herzegovina* [GC], nos. 27996/06 and 34836/06, § 43, 22 December 2009).

16. The Court has also been called upon to deal with cases concerning the right to religious identity. For instance, in the recent case of *Sinan Işık v. Turkey* (no. 21924/05, 2 February 2010), the applicant complained of the denial of his request to have “*Islam*” on his identity card replaced by the name of his faith, “*Alevi*”. The Court found a violation of Article 9 (freedom of religion), not on account of the refusal to indicate the “*Alevi*” faith on the applicant’s identity card but on the very fact that his identity card contained an indication of religion, regardless of whether it was obligatory or optional,

which obliged the individual to disclose, against his or her will, information concerning an aspect of his or her religion or most personal convictions. Far from recognising the right to have the “*Alevi*” religious identity recorded on the identity card, the Court indicated that the deletion of the “*religion*” box on identity cards could be an appropriate form of reparation of the violation found (§ 60).

17. Freedom of thought, conscience and religion, guaranteed by Article 9 of the Convention, is indeed an important right for minorities to maintain and preserve their identity, insofar as it protects manifestation of belief or religion with others both in the private and public spheres, in worship, teaching, practice and observance. Worship with others may be the most obvious form of collective manifestation. Access to places of worship and restrictions placed upon adherents’ ability to take part in services or observances will give rise to Article 9 issues (see *Cyprus v. Turkey* [GC], no. 25781/94, §§ 241-247, ECHR 2001-IV: restrictions on freedom of movement of Greek Cypriots living in northern Cyprus). The failure to grant a religious community access to meat from animals slaughtered in accordance with religious prescriptions may involve an interference with the right to manifest one’s religion in observance, within the meaning of Article 9 (*Cha’are Shalom Ve Tsedek v. France* [GC], no. 27417/95, ECHR 2000-VII: ritual slaughter to provide Jews with meat from animals slaughtered in accordance with religious prescriptions). The wearing of religious symbols is also protected by the right to manifest one’s religion, although the Court has often recognised that State interferences in the form of prohibitions or restrictions are justified in order to defend the principles of secularism and gender equality (see concerning the ban on wearing the Islamic headscarf at universities and schools *Leyla Şahin v. Turkey* [GC], no. 44774/98, § 116, ECHR 2005-XI, and *Dogru v. France*, no. 27058/05, § 72, 4 December 2008, where the Court found no violation of Article 9; see *a contrario Ahmet Arslan and Others v. Turkey*, no. 41135/98, 23 February 2010): the Court considered that the criminal conviction of members of a religious group for wearing a turban, black tunic and a stick in public places outside a mosque amounted to a violation of Article 9).

18. Freedom of association, guaranteed by Article 11 of the Convention, protects the right of persons belonging to minorities to form associations in order to promote their culture and their minority consciousness. In the case of *Sidiropoulos and Others v. Greece* (10 July 1998, *Reports of Judgments and Decisions* 1998-IV), the Court dealt with the scope of protection enjoyed by associations whose aim was to promote the culture of a minority. The applicants claimed to be of “*Macedonian*” ethnic origin and to have a “*Macedonian national consciousness*”. They decided to form a non-profit association, called “*Home of Macedonian Civilisation*”. The association’s registration was refused by the national courts. The Court found a violation of Article 11. It noted that the aims of the association were

exclusively to preserve and develop the traditions and folk culture of the Florina region. Such aims appeared to the Court to be perfectly clear and legitimate: “*the inhabitants of a region in a country are entitled to form associations in order to promote the region’s special characteristics, for historical as well as economic reasons*” (§ 44). The Court held that even supposing that the founders of an association like the one in the case asserted a minority consciousness, the “*Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (Section IV)*” of 29 June 1990 and the “*Charter of Paris for a New Europe*” of 21 November 1990 – which Greece had signed – allowed them to form associations to protect their cultural and spiritual heritage (§ 44).⁴ In the case of *Gorzelik and Others v. Poland* [GC] (no. 44158/98, § 92, 17 February 2004), the Court underlined the importance of freedom of association for persons belonging to national and ethnic minorities:

92. While in the context of Article 11 the Court has often referred to the essential role played by political parties in ensuring pluralism and democracy, associations formed for other purposes, including those protecting cultural or spiritual heritage, pursuing various socio-economic aims, proclaiming or teaching religion, seeking an ethnic identity or asserting a minority consciousness, are also important to the proper functioning of democracy. For pluralism is also built on the genuine recognition of, and respect for, diversity and the dynamics of cultural traditions, ethnic and cultural identities, religious beliefs, artistic, literary and socio-economic ideas and concepts. The harmonious interaction of persons and groups with varied identities is essential for achieving social cohesion. It is only natural that, where a civil society functions in a healthy manner, the participation of citizens in the democratic process is to a large extent achieved through belonging to associations in which they may integrate with each other and pursue common objectives collectively.

In developing these principles, the Court has stated that the right to express one’s views through freedom of association and the notion of personal autonomy underlie the right of everyone to express, in a lawful context, their beliefs about their ethnic identity (see *Tourkiki Enosi Xanthis and Others v. Greece*, no. 26698/05, § 56, 27 March 2008).

19. Finally, freedom of assembly, as enshrined in Article 11 of the Convention, also protects the right of persons belonging to minorities to hold peaceful meetings, for instance in commemoration of certain historical events to which they attach a particular significance (see *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, nos. 29221/95 and 29225/95, ECHR 2001-IX).

4. See also *Tourkiki Enosi Xanthis and Others v. Greece* (no. 26698/05, § 51, 27 March 2008), where the Court stated that even supposing that the real aim of the applicant association had been to promote the culture of a minority in Greece (Muslim minority of Thrace), this could not be said to constitute a threat to the territorial integrity of the country or public order. It added that the existence of minorities and different cultures in a country is a historical fact that a democratic society has to tolerate and even protect and support according to the principles of international law (§ 51).

IV. LINGUISTIC RIGHTS

20. According to the UN Committee on Economic, Social and Cultural Rights, the right of everyone to take part in cultural life, enshrined in Article 15 § 1 (a) of the International Covenant on Economic, Social and Cultural Rights, includes the right to express oneself in the language of one's choice.⁵ This may be particularly important for persons belonging to minorities, who have the right to preserve, promote and develop their own culture, including their language.

21. The Court has also dealt with linguistic rights, especially those of persons belonging to linguistic minorities and foreign citizens, under different rights guaranteed by the Convention. For instance, the spelling of surnames and forenames according to minority languages falls within the ambit of Article 8, which guarantees the right to respect for private and family life. Nevertheless, the Court has had a rather restrictive approach in this field, granting a wide margin of appreciation to the Contracting States in view of the existence of a multitude of factors of an historical, linguistic, religious and cultural nature in each country and the absence of a European common denominator (see *Mentzen v. Latvia* (dec.), no. 71074/01, ECHR 2004-XII; *Bulgakov v. Ukraine*, no. 59894/00, §§ 43-44, 11 September 2007; *Baylac-Ferrer and Suarez v. France* (dec.), no. 27977/04, 25 September 2008). It has recalled that linguistic freedom as such is not one of the rights and freedoms governed by the Convention, and that with the exception of the specific rights stated in Articles 5 § 2 (the right to be informed promptly, in a language which one understands, of the reasons for his or her arrest) and 6 § 3 (a) and (e) (the right to be informed promptly, in a language which one understands, of the nature and cause of the accusation against him or her and the right to have the assistance of an interpreter if he or she cannot understand or speak the language used in court), the Convention *per se* does not guarantee the right to use a particular language in communications with public authorities or the right to receive information in a language of one's choice. The Contracting States are in principle at liberty to impose and regulate the use of their official language or languages in identity papers and other official documents, for the purposes of linguistic unity. However, in *Güzel Erdagöz v. Turkey* (no. 37483/02, 21 October 2008), the Court found a violation of Article 8 on the ground that the Turkish courts had refused the applicant's request for rectification of the spelling of her forename according to its Kurdish pronunciation (she claimed to be called "Gözel", not "Güzel"), while noting

5. General Comment no. 21, November 2009.

the wide variety of linguistic origins of Turkish forenames. But the violation was mostly based on the fact that Turkish law did not indicate clearly enough the extent and manner in which the authorities use their discretion when it comes to imposing restrictions on and rectifying forenames. Conversely, in its more recent judgment *Kemal Taşkın and Others v. Turkey* (nos. 30206/04 and others, 2 February 2010), the Court found no violation of Article 8, since the refusal to have the applicants' Turkish first names changed to Kurdish names was based on the fact that the names they had chosen contained characters which did not exist in the Turkish official alphabet.

22. Article 8 of the Convention may also apply to the right of prisoners to freedom of correspondence in their own language. In the case of *Mehmet Nuri Özen and Others v. Turkey* (nos. 15672/08 and others, 11 January 2011), the Court has recently found a violation of Article 8 on the ground that there was no legal basis for the refusal to dispatch prisoners' letters written in Kurdish. With this judgment, the Court adds to its previous and rather restrictive case-law on the issue. For instance, in *Senger v. Germany* ((dec.), no. 32524/05, 3 February 2009), the Court had taken the view that the authorities' decision to stop letters in Russian from being sent to an inmate constituted an interference which was necessary for the prevention of disorder and crime, taking into account the fact that both the applicant and the authors of the letters had dual German and Russian nationality and that there were no compelling reasons for them to write in Russian (see in the same sense *Baybaşın v. the Netherlands* (dec.), no. 13600/02, 6 October 2005), which concerned the wish of a prisoner to use "Kurmançî" in written and oral communication with close relatives in preference to Turkish).

23. Linguistic rights may also be protected under the right to freedom of expression guaranteed by Article 10. For instance, in *Ulusoy and Others v. Turkey* (no. 34797/03, 3 May 2007), the Court found that the ban on a Kurdish production of a play in municipal buildings was in breach of freedom of expression.

24. As regards linguistic rights in the context of education, Article 2 of Protocol No. 1 (right to education) does not specify the language in which education must be conducted in order that the right to education should be respected (*Case "relating to certain aspects of the laws on the use of languages in education in Belgium"* (merits), 23 July 1968, § 3, Series A no. 6). Furthermore, the right of parents to ensure such education in conformity with their own religious and philosophical convictions, as guaranteed by the second sentence of Article 2 of Protocol No. 1, does not cover either linguistic preferences (*Case "relating to certain aspects of the laws on the use of languages in education in Belgium"*, cited above, § 6). The Court therefore excluded the right to obtain education in the language of one's choice (§ 11):

11. In the present case the Court notes that Article 14, even when read in conjunction with Article 2 of the Protocol (Art. 14+P1-2), does not have the effect of guaranteeing to a child or to his parent the right to obtain instruction in a language of his choice. The object of these two Articles (Art. 14+P1-2), read in conjunction, is more limited: it is to ensure that the right to education shall be secured by each Contracting Party to everyone within its jurisdiction without discrimination on the ground, for instance, of language. This is the natural and ordinary meaning of Article 14 read in conjunction with Article 2 (Art. 14+P1-2). Furthermore, to interpret the two provisions as conferring on everyone within the jurisdiction of a State a right to obtain education in the language of his own choice would lead to absurd results, for it would be open to anyone to claim any language of instruction in any of the territories of the Contracting Parties.

25. However, more recently, the Court found a violation of Article 2 of Protocol No. 1 in the inter-state case *Cyprus v. Turkey* (cited above), in respect of Greek Cypriots living in northern Cyprus in so far as no Greek-language secondary-school facilities were available to them, after having completed their primary schooling in Greek language (§§ 273-280). In *İrfan Temel and Others v. Turkey* (no. 36458/02, 3 March 2009), the Court found a violation of Article 2 of Protocol No. 1 on account of the suspension of eighteen students from university for two terms as a disciplinary measure for having requested the introduction of optional Kurdish language classes in the university. The Court will be called upon to rule on the restrictions on Moldovan-language schools using the Latin script in Transnistria, in the case of *Catan and Others v. Moldova and Russia* (nos. 43770/04 and others), in which a hearing was held on 9 June 2009.

26. Linguistic rights in a political or institutional context have also been vindicated before the Court. For instance, in *Podkolzina v. Latvia* (no. 46726/99, ECHR 2002-II), the Court dealt with the striking of a candidate – member of the Russian-speaking minority – from a list for parliamentary elections, due to insufficient knowledge of the official language. The Court found a violation of Article 3 of Protocol No. 1 (right to free elections) on the ground that the procedure followed for striking the applicant from the list was incompatible with the Convention's procedural requirements of fairness and legal certainty. However, as regards the legitimate aim of the measure, the Court observed that the obligation in domestic law for candidates of the national Parliament to have an adequate command of the official language pursued a legitimate aim, given the margin of appreciation enjoyed by States in this area. Every State has a legitimate interest in ensuring that its institutional system functions properly and the Court was not required to reach an opinion on the choice of the working language of a national parliament. This choice was dictated by historical and political considerations unique to each State and in principle formed part of that State's exclusive area of competence (§ 34). The Court has recently applied this jurisprudence with regard to the use of regional languages in regional parliamentary assemblies. In its decision *Birk-Levy*

v. France ((dec.), no. 39426/06, 21 September 2010), concerning the quashing by the *Conseil d'Etat* of a resolution passed by the Assembly of French Polynesia allowing the use of a language other than French (namely Tahitian) in the Assembly, the Court stated:

(...) Même si la loi organique reconnaît la langue tahitienne comme « *élément fondamental de l'identité culturelle* », la Cour considère, eu égard au principe de respect des particularités nationales des Etats quant à leur propre système institutionnel (*Podkolzina*, précité), que la revendication de la requérante du droit de pouvoir de se servir de la langue tahitienne au sein de l'Assemblée de la Polynésie française sort du cadre de la Convention et en particulier de l'article 10. Partant, l'examen du grief échappe à sa compétence *ratione materiae*, et doit être rejeté conformément à l'article 35 §§ 3 et 4 de la Convention.

27. In *Demirbaş and Others v. Turkey* ((dec.), nos. 1093/08 and others, 9 November 2010), the Court declared inadmissible the applications lodged in a personal capacity by municipal councillors complaining about the dissolution of the council for using non-official languages (among others, Kurdish) in its activities and services. The Court did not examine the merits of the complaint since it considered that the applications were incompatible *ratione personae*, on the ground that neither local authorities nor any other government bodies may lodge applications with the Court through the individuals who make them up or represent them.⁶

28. The Court has recently communicated a case to the Turkish Government which raises an interesting issue from the standpoint of linguistic rights of candidates to parliamentary elections (*Aydin and Others v. Turkey*, nos. 49197/06 and others, communicated on 9 March 2010). The applicants were convicted for addressing the crowd in Kurdish during an electoral campaign. The Court has communicated the case under Articles 10 (freedom of expression) and 14 (prohibition of discrimination) of the Convention.

V. RIGHT TO EDUCATION

29. The concepts of education and teaching were defined by the Court in the case of *Campbell and Cosans v. the United Kingdom* (25 February 1982, § 33, Series A no. 48) as follows: “*the education of children is the whole process whereby, in any society, adults endeavour to transmit their beliefs, culture and other values to the young, whereas teaching or instruction*

6. According to the Court's case-law on Article 34 of the Convention, governmental bodies, regional governments or municipalities do not have *locus standi* to lodge an application with the Court. Article 34 circumscribes this right to persons, non-governmental organisations and groups of individuals.

refers in particular to the transmission of knowledge and to intellectual development”.

30. The general content of Article 2 of Protocol No. 1 was specified in connection with one of the first cases which the Court had to determine: the one known as the *Belgian Linguistic Case (Case “relating to certain aspects of the laws on the use of languages in education in Belgium”* (merits), cited):

3. (...) The negative formulation indicates, as is confirmed by the "preparatory work" (especially Docs. CM/WP VI (51) 7, page 4, and AS/JA (3) 13, page 4), that the Contracting Parties do not recognise such a right to education as would require them to establish at their own expense, or to subsidise, education of any particular type or at any particular level. However, it cannot be concluded from this that the State has no positive obligation to ensure respect for such a right as is protected by Article 2 of the Protocol (P1-2). As a "right" does exist, it is secured, by virtue of Article 1 (Art. 1) of the Convention, to everyone within the jurisdiction of a Contracting State.

... There neither was, nor is now, therefore, any question of requiring each State to establish such a system, but merely of guaranteeing to persons subject to the jurisdiction of the Contracting Parties the right, in principle, to avail themselves of the means of instruction existing at a given time.

The Convention lays down no specific obligations concerning the extent of these means and the manner of their organisation or subsidisation. ...

5. The right to education guaranteed by the first sentence of Article 2 of the Protocol (P1-2) by its very nature calls for regulation by the State, regulation which may vary in time and place according to the needs and resources of the community and of individuals. It goes without saying that such regulation must never injure the substance of the right to education nor conflict with other rights enshrined in the Convention.

31. This approach was confirmed in the *Kjeldsen, Busk Madsen and Pedersen v. Denmark* judgment of 7 December 1976 (Series A no. 23), concerning sex education lessons organised in the Danish state schools and, according to the applicants, offensive to the religious sentiments of some parents (§ 53):

It follows in the first place from the preceding paragraph that the setting and planning of the curriculum fall in principle within the competence of the Contracting States. This mainly involves questions of expediency on which it is not for the Court to rule and whose solution may legitimately vary according to the country and the era. In particular, the second sentence of Article 2 of the Protocol does not prevent States from imparting through teaching or education information or knowledge of a directly or indirectly religious or philosophical kind. It does not even permit parents to object to the integration of such teaching or education in the school curriculum, for otherwise all institutionalised teaching would run the risk of proving impracticable. In fact, it seems very difficult for many subjects taught at school not to have, to a greater or lesser extent, some philosophical complexion or implications. The same is true of religious affinities if one remembers the existence of religions forming a very broad

dogmatic and moral entity which has or may have answers to every question of a philosophical, cosmological or moral nature.

32. The question of whether Article 2 of Protocol No. 1 applies to higher and university education was raised in the case of *Leyla Şahin v. Turkey*, cited, where the Court concluded as follows (§§ 136-137):

136. (...) While the first sentence of Article 2 essentially establishes access to primary and secondary education, there is no watertight division separating higher education from other forms of education. In a number of recently adopted instruments, the Council of Europe has stressed the key role and importance of higher education in the promotion of human rights and fundamental freedoms and the strengthening of democracy (see, *inter alia*, Recommendation No. R (98) 3 and Recommendation 1353 (1998) – cited in paragraphs 68 and 69 above). As the Convention on the Recognition of Qualifications concerning Higher Education in the European Region (see paragraph 67 above) states, higher education “is instrumental in the pursuit and advancement of knowledge” and “constitutes an exceptionally rich cultural and scientific asset for both individuals and society”.

137. Consequently, it would be hard to imagine that institutions of higher education existing at a given time do not come within the scope of the first sentence of Article 2 of Protocol No 1. Although that Article does not impose a duty on the Contracting States to set up institutions of higher education, any State doing so will be under an obligation to afford an effective right of access to them. (...) ⁷

33. The second sentence of Article 2 of Protocol No. 1 enjoins the State to respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions. The Court has been confronted with a wide range of situations concerning this aspect of Article 2 of Protocol No. 1. For instance: sex education (*Kjeldsen, Busk Madsen and Pedersen*, cited) or compulsory ethics classes (*Appel-Irrgang v. Germany* (dec.), no. 45216/07, 6 October 2009) that offended some parents’ religious sentiments. In other cases, there was the question of religious teaching based on a Sunni interpretation of Islam clashing with religious convictions of parents of Alevi faith (*Hasan and Eylem Zengin v. Turkey*, no. 1448/04, 9 October 2007) or of religious teaching on Christianity clashing with philosophical convictions of non-Christian parents (*Folgerø and Others v. Norway* [GC], no. 15472/02, ECHR 2007-III). The test applied by the Court in all these cases is the following: the State, in fulfilling the functions assumed by it in regard to education and teaching, must ensure that information or knowledge included in the curriculum is conveyed in an objective, critical and pluralistic manner. If this is not the case, the State authorities are under an obligation to grant children full exemption from the lessons in accordance with the parents’

7. In that connection, the Court has also held that the right of access to higher education is a civil right within the meaning of Article 6 of the Convention (right to a fair trial): *Emine Araç v. Turkey*, no. 9907/02, 23 September 2008.

religious or philosophical convictions (see *Folgerø*, see below, § 102). However, Article 2 of Protocol No. 1 does not compel the State to provide ethics classes in case of exemption (see *Grzelak v. Poland*, no. 7710/02, § 105, 15 June 2010).

34. Finally, it should be stressed that the second sentence of Article 2 of Protocol No. 1 does not prevent the State from establishing compulsory schooling, be it in State schools or through private tuition of a satisfactory standard (see *Konrad and Others v. Germany* (dec.), no. 35504/03, 11 September 2006, where the Court rejected as manifestly ill-founded an application brought by parents wishing to educate their children at home).

VI. RIGHT TO THE PROTECTION OF CULTURAL AND NATURAL HERITAGE

35. Although the Court has never recognised the right to the protection of cultural and natural heritage as such, it has accepted that the protection of that heritage is a legitimate aim that the State may pursue when interfering with individual rights, especially with the right to property enshrined in Article 1 of Protocol No. 1.

36. For instance, in the case of *Beyeler v. Italy* ([GC], no. 33202/96, ECHR 2000-I), the applicant complained of the exercise by the Italian Ministry of Cultural Heritage of its right of pre-emption over a Van Gogh painting that he had bought through an antiques dealer in Rome. Although the Court found a violation of the right to property for the lack of fair balance in the way in which the right of pre-emption was exercised (much later than the invalid sale and creating a situation of uncertainty), the Court considered that the control by the State of the market in works of art is a “*legitimate aim*” for the purposes of protecting a country’s cultural and artistic heritage (§ 112). As regards works of art of foreign artists, the Court recognised that, in relation to works of art lawfully on its territory and belonging to the cultural heritage of all nations, it is legitimate for a State to take measures designed to facilitate, in the most effective way, wide public access to them, in the general interest of universal culture (§ 113). The Court referred to the concept of “*universal culture*” and “*cultural heritage of all nations*” and linked it to the right of the public to have access to it (see above, Access to culture, II).

37. In *Debelianovi v. Bulgaria* (no. 61951/00, 29 March 2007), the applicants had obtained a court order for the return of a house that had belonged to their father and had been turned into a museum in 1956 after expropriation. The building in question was regarded as the most important historic and ethnographical monument in the town. The National Assembly introduced a moratorium on restitution laws with regard to properties

classified as national cultural monuments. On the basis of this moratorium, the courts dismissed an appeal by the applicants seeking to secure effective possession of the property. Although the Court found a violation of Article 1 of Protocol No. 1, on the ground that the situation had lasted for more than 12 years and the applicants had obtained no compensation, it held that the purpose of the moratorium was to ensure the preservation of protected national heritage sites, which was a legitimate aim in the context of protecting a country's cultural heritage. The Court referred to the Council of Europe's Framework Convention on the Value of Cultural Heritage for Society.

38. In its Grand Chamber judgment *Kozacıoğlu v. Turkey* ([GC], no. 2334/03, 19 February 2009), the Court held that the failure to take special architectural or historical characteristics of a listed building into account when assessing the compensation for its expropriation amounted to a violation of Article 1 of Protocol No. 1, in so far as it had imposed an excessive and disproportionate burden on the applicant. The Grand Chamber took the opportunity to outline the importance of the protection of cultural heritage, when assessing the legitimate aim of the interference:

53. The Court also considers that the protection of a country's cultural heritage is a legitimate aim capable of justifying the expropriation by the State of a building listed as "*cultural property*". It reiterates that the decision to enact laws expropriating property will commonly involve consideration of political, economic and social issues. Finding it natural that the margin of appreciation available to the legislature in implementing social and economic policies should be a wide one, the Court will respect the legislature's judgment as to what is "*in the public interest*" unless that judgment is manifestly without reasonable foundation (see *James and Others*, cited above, § 46, and *Beyeler*, cited above, § 112). This is equally true, *mutatis mutandis*, for the protection of the environment or of a country's historical or cultural heritage.

54. The Court points out in this respect that the conservation of the cultural heritage and, where appropriate, its sustainable use, have as their aim, in addition to the maintenance of a certain quality of life, the preservation of the historical, cultural and artistic roots of a region and its inhabitants. As such, they are an essential value, the protection and promotion of which are incumbent on the public authorities (see, *mutatis mutandis*, *Beyeler*, cited above, § 112; *SCEA Ferme de Fresnoy v. France* (dec.), no. 61093/00, ECHR 2005-XIII; and *Debelianovi v. Bulgaria*, no. 61951/00, § 54, 29 March 2007; see also, *mutatis mutandis*, *Hamer v. Belgium*, no. 21861/03, § 79, ECHR 2007-...). In this connection the Court refers to the Convention for the Protection of the Architectural Heritage of Europe, which sets out tangible measures, specifically with regard to the architectural heritage (see paragraph 30 above).

39. Furthermore, concerning the level of compensation required, the Court recalled that legitimate objectives of "*public interest*" may call for less than reimbursement of the full market value of the expropriated property. The Court took the view that the protection of the historical and cultural heritage is one such objective (§§ 64 and 82).

40. The Court has stressed a number of times the importance of the protection of natural heritage in cases of property rights, while referring to the larger notion of environment (see, for instance, the protection of forests in *Hamer v. Belgium*, no. 21861/03, ECHR 2007-V, and *Turgut and Others v. Turkey*, no. 1411/03, § 90, 8 July 2008; or the protection of coastal areas in *Depalle v. France* [GC], no. 34044/02, § 81, 29 March 2010). In all these cases, the protection of the environment or natural heritage was considered to be a legitimate aim for the interference with the right to property. However, the Court can also be confronted with the protection of natural heritage and resources as a right vindicated by persons belonging to national minorities or indigenous peoples as part of their right to peaceful enjoyment of their possessions. For instance, in *Hingitaq 53 and Others v. Denmark* ((dec.), no. 18584/04, ECHR 2006-I), the applicants, members of the Inughuit tribe in Greenland, complained that they had been deprived of their homeland and hunting territories and denied the opportunity to use, enjoy and control their land, as a consequence of their forced relocation following the establishment of a US Air Base. Taking into account the compensation given by the Danish courts for the eviction and loss of hunting rights, the Court declared the complaint manifestly ill-founded.

VII. RIGHT TO SEEK HISTORICAL TRUTH

41. The Court has held that it is an integral part of freedom of expression (protected by Article 10 of the Convention) to seek historical truth and it is not its role to arbitrate the underlying historical issues, which are part of a continuing debate between historians that shapes opinion as to the events which took place and their interpretation (*Chauvy and Others v. France*, no. 64915/01, § 69, ECHR 2004-VI). It has also referred to the efforts that every country must make to debate its own history openly and dispassionately (*Monnat v. Switzerland*, no. 73604/01, § 64, ECHR 2006-X). The Court examines however whether the issue belongs to the category of clearly established historical facts – such as the Holocaust – negation or revision of which is removed from the protection of Article 10 by Article 17 of the Convention (prohibition of abuse of rights: see *Lehideux and Isorni v. France*, 23 September 1998, § 51, Reports 1998-VII, and *Garaudy v. France* (dec.), no. 65831/01, ECHR 2003-IX). In *Garaudy* the Court stated as follows:

There can be no doubt that denying the reality of clearly established historical facts, such as the Holocaust, as the applicant does in his book, does not constitute historical research akin to a quest for the truth. The aim and the result of that approach are completely different, the real purpose being to rehabilitate the National-Socialist regime and, as a consequence, accuse the victims themselves of falsifying history.

Denying crimes against humanity is therefore one of the most serious forms of racial defamation of Jews and of incitement to hatred of them. The denial or rewriting of this type of historical fact undermines the values on which the fight against racism and anti-Semitism are based and constitutes a serious threat to public order. Such acts are incompatible with democracy and human rights because they infringe the rights of others. Their proponents indisputably have designs that fall into the category of aims prohibited by Article 17 of the Convention.

42. The Court may also take into account the passage of time in assessing whether the interference is compatible with freedom of expression, for instance in cases concerning the actions of senior government officials and politicians (see *Monnat*, cited above, § 64: historical report concerning Switzerland's position during Second World War shown on a national television channel). The lapse of time means that it is not appropriate to judge the expressions in the present with the same degree of severity that might have been justified in the past. In applying these principles, the Court has recently found a violation of Article 10 in cases concerning the conviction of the publishers of a book describing torture and summary executions in the Algerian War (*Orban and Others v. France*, no. 20985/05, 15 January 2009), the conviction of a journalist (who was subsequently killed) for denigrating Turkish identity by expressing his views on the Turkish-Armenian conflict and the events of 1915 (*Dink v. Turkey*, nos. 2668/07 and others, 14 September 2010), and the obligation to publish a rectification of an article in a weekly paper in which the applicant had criticised a third person for paying tribute to a former Primer Minister who had been involved in the passing of anti-Semitic legislation (*Karsai v. Hungary*, no. 5380/07, 1 December 2009).

43. Finally, the judgment *Kenedi v. Hungary* (no. 31475/05, § 43, 26 May 2009), introduces a new aspect of the right to seek historical truth in that the Court emphasises that access to original documentary sources for legitimate historical research is an essential element of the exercise of the right to freedom of expression. The case involved the refusal to grant a historian access to documents concerning the communist era in Hungary (on the functioning of the Hungarian State Security Service).

VIII. RIGHT TO ACADEMIC FREEDOM

44. Under Article 10 of the Convention, the Court has underlined the importance of academic freedom, which “*comprises the academics’ freedom to express freely their opinion about the institution or system in which they work and freedom to distribute knowledge and truth without restriction*” (*Sorguç v. Turkey*, no. 17089/03, § 35, 23 June 2009), where a university lecturer was ordered to pay damages for having, at a scientific

conference, distributed a document criticising the procedures for recruiting and promoting assistant lecturers and where the Court found a violation of Article 10). The importance of academic freedom has also been stressed in relation to the seizure of a book which reproduced a doctoral thesis on the ‘star’ phenomenon (ordered by a court on the ground that it infringed the personality rights of a very well-known pop singer, see *Sapan v. Turkey*, no. 44102/04, 8 June 2010).

45. The case of *Cox v. Turkey* (no. 2933/03, 20 May 2010) addresses a new aspect of academic freedom of expression, namely that of a foreign university lecturer and its consequences for leave to enter and remain in a Contracting State. The applicant, an American lecturer who had taught on several occasions in Turkish universities and had expressed opinions on Kurdish and Armenian questions, was banned from re-entering Turkey on the ground that she would undermine ‘national security’. The Court found a violation of Article 10 of the Convention.

46. Freedom of academic expression protected by Article 10 also entails procedural safeguards for professors and lecturers. In *Lombardi Vallauri v. Italy* (no. 39128/05, 20 October 2010), the Council of the Law Faculty of the *Sacro Cuore* Catholic University of Milan refused to consider a job application by a lecturer who had taught philosophy of law there for more than twenty years on annual renewable contracts, on the ground that the Congregation for Catholic Education (a body of the Holy See) had not given its approval and instead had simply noted that certain statements by the applicant were “clearly at variance with Catholic doctrine”. The Court observed that the Faculty Council had not informed the applicant, or made an assessment, of the extent to which the allegedly unorthodox opinions he was accused of holding were reflected in his teaching activities, or of how they might, as a result, affect the university’s interest in providing an education based on its own religious beliefs. Furthermore, the administrative courts had limited their examination of the legitimacy of the impugned decision to the fact that the Faculty Council had noted the existence of a decision by the Congregation, thereby refusing to call into question the non-disclosure of the applicant’s allegedly unorthodox opinions, and also omitted to consider the fact that the lecturer’s ignorance of the reasons for his dismissal itself precluded any possibility of adversarial proceedings. Therefore, the Court concluded that the university’s interest in providing an education based on Catholic doctrine could not extend so far as to impair the very essence of the procedural safeguards inherent in Article 10.

ANNEX: List of Judgments and Decisions

- [Ahmet Arslan and Others v. Turkey](#)^{*}, no. 41135/98, 23 February 2010
- [Akdas v. Turkey](#)^{*}, no. 41056/04, 16 February 2010
- [Alinak v. Turkey](#), no. 40287/98, 29 March 2005
- [Appel-Irrgang v. Germany](#)^{*} (dec.), no. 45216/07, 6 October 2009
- [Aydin and Others v. Turkey](#), nos. 49197/06 and others (case communicated on 9 March 2010)
- [Baybasin v. the Netherlands](#) (dec.), no. 13600/02, 6 October 2005
- [Baylac-Ferrer and Suarez v. France](#)^{*} (dec.), no. 27977/04, 25 September 2008
- [Beveler v. Italy](#) [GC], no. 33202/96, ECHR 2000-I
- [Birk-Levy v. France](#)^{*} (dec.), no. 39426/06, 21 September 2010
- [Boulois v. Luxembourg](#)^{*}, no. 37575/04, § 64, 14 December 2010 (case referred to the Grand Chamber)
- [Bulgakov v. Ukraine](#), no. 59894/00, §§ 43-44, 11 September 2007
- [Campbell and Cosans v. the United Kingdom](#), 25 February 1982, § 33, Series A no. 48
- [Case relating to certain aspects of the laws on the use of languages in education in Belgium](#) (merits), 23 July 1968, Series A no. 6
- [Catan and Others v. Moldova and Russia](#), nos. 43770/04 and others, 15 June 2010, hearing on 9 June 2009
- [Cha'are Shalom Ve Tsedek v. France](#) [GC], no. 27417/95, ECHR 2000-VII
- [Chapman v. the United Kingdom](#) [GC], no. 27238/95, ECHR 2001-I
- [Chauvy and Others v. France](#), no. 64915/01, § 69, ECHR 2004-VI
- [Ciubotaru v. Moldova](#), no. 27138/04, 27 April 2010
- [Cox v. Turkey](#), no. 2933/03, 20 May 2010
- [Cyprus v. Turkey](#) [GC], no. 25781/94, §§ 241-247, ECHR 2001-IV
- [Debelianovi v. Bulgaria](#)^{*}, no. 61951/00, 29 March 2007
- [Demirbas and Others v. Turkey](#)^{*} (dec.), nos. 1093/08 and others, 9 November 2010
- [Depalle v. France](#) [GC], no. 34044/02, § 81, 29 March 2010
- [Dink v. Turkey](#), nos. 2668/07, 6102/08, 30079/08, 7072/09 and 7124/09, 14 September 2010
- [Dogru v. France](#), no. 27058/05, § 72, 4 December 2008
- [Enea v. Italy](#) [GC], no. 74912/01, § 106, 17 September 2009
- [Folgerø and Others v. Norway](#) [GC], no. 15472/02, ECHR 2007-III

^{*} The text is only available in French.

- [*Garaudy v. France*](#) (dec.), no. 65831/01, ECHR 2003-IX
- [*Gorzelik and Others v. Poland*](#) [GC], no. 44158/98, § 92, 17 February 2004
- [*Grzelak v. Poland*](#), no. 7710/02, § 105, 15 June 2010
- [*Güzel Erdagöz v. Turkey*](#)*, no. 37483/02, 21 October 2008
- [*Hamer v. Belgium*](#)*, no. 21861/03, ECHR 2007-V
- [*Hasan and Eylem Zengin v. Turkey*](#), no. 1448/04, 9 October 2007
- [*Hingitaq 53 and Others v. Denmark*](#) (dec.), no. 18584/04, ECHR 2006-I
- [*Irfan Temel and Others v. Turkey*](#), no. 36458/02, 3 March 2009
- [*Jankovskis v. Lithuania*](#), no. 21575/08 (case communicated 21 September 2010)
- [*Karatas v. Turkey*](#) [GC], no. 23168/94, ECHR 1999-IV, judgment of 8 July 1999
- [*Karsai v. Hungary*](#), no. 5380/07, 1 December 2009
- [*Kenedi v. Hungary*](#), no. 31475/05, § 43, 26 May 2009
- [*Kemal Taskin and Others v. Turkey*](#)*, nos. 30206/04, 37038/04, 43681/04, 45376/04, 412881/05, 28697/05, 32797/05 and 45609/05, 2 February 2010
- [*Khurshid Mustafa and Tarzibachi v. Sweden*](#), no. 23883/06, 16 December 2008
- [*Kjeldsen, Busk Madsen and Pedersen v. Denmark*](#), judgment of 7 December 1976, Series A no. 23
- [*Konrad and Others v. Germany*](#) (dec.), no. 35504/03, 11 September 2006
- [*Kozacioglu v. Turkey*](#) [GC], no. 2334/03, 19 February 2009
- [*Lehideux and Isorni v. France*](#), judgment of 23 September 1998, § 51, Reports 1998-VII
- [*Leyla Sahin v. Turkey*](#) [GC], no. 44774/98, § 116, ECHR 2005-XI
- [*Lindon, Otchakovsky-Laurens and July v. France*](#) [GC], nos. 21279/02 and 36448/02, ECHR 2007-IV
- [*Lombardi Vallauri v. Italy*](#)*, no. 39128/05, 20 October 2010
- [*Mehmet Nuri Özen and Others v. Turkey*](#)*, nos. 15672/08, 24462/08, 27559/08, 28302/08, 28312/08, 34823/08, 40738/08, 41124/08, 43197/08, 51938/08 and 58170/08, 11 January 2011 (not final)
- [*Mentzen v. Latvia*](#) (dec.), no. 71074/01, ECHR 2004-XII
- [*Monnat v. Switzerland*](#), no. 73604/01, § 64, ECHR 2006-X
- [*Müller and Others v. Switzerland*](#), 24 May 1988, Series A no. 133
- [*Muñoz Díaz v. Spain*](#), no. 49151/07, 8 December 2009
- [*Orban and Others v. France*](#)*, no. 20985/05, 15 January 2009
- [*Otto-Preminger-Institut v. Austria*](#), 20 September 1994, Series A no. 295-A
- [*Podkolzina v. Latvia*](#), no. 46726/99, ECHR 2002-II
- [*Sapan v. Turkey*](#)*, no. 44102/04, 8 June 2010

- [*Sejdic and Finci v. Bosnia and Herzegovina*](#) [GC], nos. 27996/06 and 34836/06, § 43, 22 December 2009
- [*Senger v. Germany*](#) (dec.), no. 32524/05, 3 February 2009
- [*Sidiropoulos and Others v. Greece*](#), 10 July 1998, *Reports of Judgments and Decisions* 1998-IV
- [*Sinan Isik v. Turkey*](#)^{*}, no. 21924/05, 2 February 2010
- [*Sorguç v. Turkey*](#), no. 17089/03, § 35, 23 June 2009
- [*Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*](#), nos. 29221/95 and 29225/95, ECHR 2001-IX
- [*Tourkiki Enosi Xanthis and Others v. Greece*](#)^{*}, no. 26698/05, § 56, 27 March 2008
- [*Turgut and Others v. Turkey*](#)^{*}, no. 1411/03, § 90, 8 July 2008
- [*Ulusoy and Others v. Turkey*](#)^{*}, no. 34797/03, 3 May 2007
- [*Vereinigung Bildender Künstler v. Austria*](#), no. 68354/01, 25 January 2007

^{*} The text is only available in French.